WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 1059

(By Mr. Banks and Miss Shepperd)

PASSED March 9, 1972

In Effect July 1, 1972—Passage
ENROLLED

House Bill No. 689
(By Mr. Burke and Mr. Shaffer)

[Passed March 9, 1972; in effect July 1, 1972.]

AN ACT to amend and reenact section eleven, article one, chapter twenty-five; section one, article five, section one, article six, section one, article eight, and section one, article nine, chapter twenty-six; section seven, article one, sections three, four and five, article one-a, and section two, article two, chapter twenty-seven, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the appointment of superintendents or wardens at the various state institutions; the qualifications of the superintendents at the various hospitals and benevolent institutions; the exemption of certain persons from complying with such qualification requirements; the separation of the fiscal, administrative and personnel functions from the clinical functions at such institutions; the appointment, qualifications, powers and duties of the director of the department of mental health; the creation of the office of deputy director for administration within the department of mental health; the appointment, qualifications, powers and duties of such deputy director; the separation of the fiscal administrative and personnel functions within the department of mental health from the clinical functions; the qualifications of the superintendents of the various hospitals within the department of mental health; and providing for exemption of certain persons from complying with such qualification requirements.
Be it enacted by the Legislature of West Virginia:

That section eleven, article one, chapter twenty-five; section one, article five, section one, article six, section one, article eight, and section one, article nine, chapter twenty-six; section seven, article one, sections three, four and five, article one-a, and section two, article two, chapter twenty-seven, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

CHAPTER 25. COMMISSIONER OF PUBLIC INSTITUTIONS.

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITUTIONS.

§25-1-11. Officers and employees of certain state institutions.
1 The governor shall, by and with the advice and consent of the Senate, appoint a superintendent for each institution under the control of the commissioner of public institutions.
2 The superintendent of each institution shall have the power to appoint all assistants and employees required for the management of the institution in his charge; but the number of such assistants and employees, and their compensation, shall first be fixed by the state commissioner of public institutions. The superintendent of any institution may, with the exception of any person covered under the provisions of article six, chapter twenty-nine of this code, at his pleasure, discharge any other person employed in such institution. It shall be the duty of the commissioner of public institutions to investigate any complaint made against the superintendent of any institution, and also against any other officer or employee thereof, if the same has not been investigated. The commissioner shall have the power to recommend to the governor the removal of any such superintendent or other officer or employee, setting forth in such recommendation the reasons for the same.
4 The commissioner shall fix the salaries or compensation of the officers and employees of the institutions named in section three of this article. The salaries or compensation of all officers and employees of the sev-
eral institutions under the control of the commissioner of public institutions shall be paid monthly, to include the last day of each month. The superintendents and other officers and employees of each of such institutions shall be paid salaries commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given or paid to such superintendents, officers or employees as all or part of their salary; however, such superintendents, officers and employees may be provided meals, household facilities and supplies as may be necessary for them to perform their duties, if such superintendents, officers and employees agree to pay the reasonable cost thereof as established by the commissioner of public institutions.

CHAPTER 26. STATE BENEVOLENT INSTITUTIONS.

ARTICLE 5. PINECREST HOSPITAL.

§26-5-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) The tuberculosis sanitarium heretofore established at Beckley, for the care and treatment of persons afflicted with tuberculosis, shall be continued and shall be known as Pinecrest Hospital, and shall be managed, directed and controlled as prescribed in article one, chapter twenty-five and in section eight, article one, chapter sixteen of this code. The chief executive officer of such hospital shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.
A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.

ARTICLE 6. DENMAR STATE HOSPITAL.

§26-6-1. Continuation, management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) Denmar State Hospital, heretofore established, shall be continued as a hospital for the chronically ill which shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer thereof shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.

A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and
who has served in such capacity for at least six consecutive months next preceding such effective date.

ARTICLE 8. EMERGENCY HOSPITALS.

§26-8-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) The hospitals heretofore established and known, respectively, as Welch Emergency Hospital and Fairmont Emergency Hospital shall be continued and shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer of each of said hospitals shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.

A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.
ARTICLE 9. HOPEMONT STATE HOSPITAL.

§26-9-1. Establishment and continuation; name and location; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) Hopemont State Hospital, heretofore established, shall be continued as a hospital for both chronically ill and infirm, which hospital shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer thereof shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§27-1-7. Superintendent and clinical director.

(a) A superintendent is the person having the fiscal responsibility of a state institution and the authority to manage and administer the financial business and personnel affairs of the institution.
(b) A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

ARTICLE 1A. DEPARTMENT OF MENTAL HEALTH.

§27-1A-3. Appointment of director; qualifications; term; oath; bond; salary and expenses.

The governor shall appoint the director of the department of mental health by and with the consent of the Senate; he shall be known as the director of mental health. Before entering upon the duties of his office, the director shall take and subscribe the oath of office prescribed by section five, article four of the constitution of this state, the certificate whereof shall be filed in the office of the secretary of state, and he shall give bond in the penalty of ten thousand dollars, conditioned as required by law. The director shall serve at the will and pleasure of the governor. The salary of the director shall be the salary specified in section two-a, article seven, chapter six of the code and in addition thereto he shall be reimbursed for all necessary travel and other expenses incurred in the performance of his duties. The director shall be a qualified psychiatrist with both clinical and administrative experience.

§27-1A-4. Powers and duties of the director.

The director shall be the executive head of the department, and as such shall have the following powers and duties:

1. To develop and maintain a state plan which sets forth needs of the state in the areas of mental health and mental retardation; goals and objectives for meeting those needs; plan of operation for achieving the stated goals and objectives, including organizational structure; and statement of requirements in personnel funds and authority for achieving the goals and objectives.

2. To appoint deputies and assistants to supervise the departmental programs, including hospital and residential services, and such other assistants and employees as may
be necessary for the efficient operation of the department and all its programs.

3. To promulgate rules and regulations clearly specifying the respective duties and responsibilities of program directors and fiscal administrators, making a clear distinction between the respective functions of these officials.

4. To delegate to any of his appointees, assistants or employees all powers and duties invested in the director, including the power to execute contracts and agreements in the name of the department as provided in this article, but the director shall be responsible for the acts of such appointees, assistants and employees.

5. To supervise and coordinate the operation of the state hospitals named in article two of this chapter and any other state hospitals, centers or institutions hereafter created for the care and treatment of the mentally ill or mentally retarded, or both.

6. To transfer a patient from any state hospital to any other state hospital or clinic under his control and, by agreement with the state commissioner of public institutions, transfer a patient from a state hospital to an institution, other than correctional, under the supervision of the state commissioner of public institutions.

7. To make periodic reports to the governor and to the Legislature on the condition of the state hospitals, or on other matters within his authority, which shall include recommendations for improvement of the state hospitals and any other matters affecting the mental health of the people of the state.

The director of mental health shall have all of the authority vested in the divisions of the department, as hereinafter provided.

The director is hereby authorized and empowered to accept and use for the benefit of a state hospital or hospitals, or for any other mental health purpose specified in this chapter, any gift or devise of any property or thing which lawfully may be given. If such a gift or devise is for a specific purpose or for a particular state hospital or hospitals, it shall be used as specified. Any gift or devise of any property or thing which lawfully may be given and whatever profit may arise from its use or investment
shall be deposited in a special revenue fund with the
state treasurer, and shall be used only as specified by the
donor or donors.
Whenever it shall become necessary, the department of
mental health may condemn any interest, right, or privi-
lege, land or improvement, which in its opinion may be
necessary, in the manner provided by law, for the ac-
quision by this state of property for public purposes.

§27-1A-5. Division of administration; deputy director; appointment by governor; director's qualifications, powers and duties.

There shall be a division of administration in the de-
partment of mental health. The chief executive of this
division shall be the deputy director for administration.
The deputy director shall be a college graduate with not
less than two years' experience in business administration,
health services administration or hospital administration,
with broad knowledge of accounting, purchasing and per-
sonnel practices as related to the rendition of health and
health related services. He shall have the following
duties:

1. To keep the records in the department.
2. To receive and disburse funds for the department
   as the agent of the director of the department.
3. To assemble and analyze departmental budget esti-
mates, review requests for transfer of funds and main-
tain departmental appropriation and fiscal records.
4. To make rules and regulations governing the ad-
ministration and business management of the state hos-
pitals, formulate standard fiscal procedures, and make
recommendations for improvement; to make regulations
concerning any superintendent's trustee funds heretofore
established by authority of section three-a, article one,
chapter twenty-five of the code of West Virginia, one
thousand nine hundred thirty-one, as amended.
5. To have the responsibility for the maintenance of
the land, buildings and equipment of state hospitals.
6. To review requisitions for supplies and equipment,
and cooperate with the division of purchases in develop-
ment and drafting of specifications.
ARTICLE 2. STATE HOSPITALS AND CENTERS.

§27-2-2. Superintendents; qualifications and exceptions therefrom.

The superintendent of a state hospital shall be appointed for an indefinite period. He shall be a college graduate and have a minimum of two years' experience in business administration, health services administration or hospital administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.

The superintendents and other officers and employees of each state hospital or center shall be paid salaries commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given or paid to such superintendents, officers or employees as all or part of their salary; however, such superintendents, officers and employees may be provided meals, household facilities and supplies as may be necessary for them to perform their duties, if such superintendents, officers and employees agree to pay the reasonable cost thereof as established by the director of the department of mental health.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell A. Beard
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the House.

In Effect July 1, 1972.

Howard G. Carson
Clerk of the Senate

Ch. Blankenship
Clerk of the House of Delegates

E. H. McCourt
President of the Senate

Louis W. M. Morris
Speaker House of Delegates

The within approved this the 27th day of March, 1972.

Governor