

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 689

(By Mr. Banks & Mrs. Shaffer)

PASSED March 9 1972

In Effect July 1, 1972 Passage

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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

FILED IN THE OFFICE
JOHN D. CORNFELDER, IV
SECRETARY OF STATE

THIS DATE 3-29-72

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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 con-
2 sent of the Senate, appoint a superintendent for each
3 institution under the control of the commissioner of pub-
4 lic institutions.

5 The superintendent of each institution shall have the
6 power to appoint all assistants and employees required
7 for the management of the institution in his charge;
8 but the number of such assistants and employees,
9 and their compensation, shall first be fixed by the state
10 commissioner of public institutions. The superintendent
11 of any institution may, with the exception of any person
12 covered under the provisions of article six, chapter
13 twenty-nine of this code, at his pleasure, discharge any
14 other person employed in such institution. It shall be the
15 duty of the commissioner of public institutions to in-
16 vestigate any complaint made against the superin-
17 tendent of any institution, and also against any
18 other officer or employee thereof, if the same has not
19 been investigated. The commissioner shall have the
20 power to recommend to the governor the removal of
21 any such superintendent or other officer or employee,
22 setting forth in such recommendation the reasons for the
23 same.

24 The commissioner shall fix the salaries or compen-
25 sation of the officers and employees of the institutions
26 named in section three of this article. The salaries or
27 compensation of all officers and employees of the sev-

28 eral institutions under the control of the commissioner
29 of public institutions shall be paid monthly, to include
30 the last day of each month. The superintendents and
31 other officers and employees of each of such institutions
32 shall be paid salaries commensurate with their duties
33 and responsibilities, but no meals or other emoluments
34 of any kind shall be furnished, given or paid to such
35 superintendents, officers or employees as all or part of
36 their salary; however, such superintendents, officers and
37 employees may be provided meals, household facilities
38 and supplies as may be necessary for them to perform
39 their duties, if such superintendents, officers and em-
40 ployees agree to pay the reasonable cost thereof as
41 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.

1 (a) The tuberculosis sanitarium heretofore establish-
2 ed at Beckley, for the care and treatment of persons
3 afflicted with tuberculosis, shall be continued and shall
4 be known as Pinecrest Hospital, and shall be managed,
5 directed and controlled as prescribed in article one, chap-
6 ter twenty-five and in section eight, article one, chap-
7 ter sixteen of this code. The chief executive officer of
8 such hospital shall be the superintendent, who shall
9 be a college graduate and have a minimum of two years'
10 experience in either hospital administration, health ser-
11 vices administration or business administration with
12 broad knowledge of accounting, purchasing and per-
13 sonnel practices as related to the rendition of health and
14 health related services.

15 (b) A superintendent is the person having the fiscal
16 responsibility of the hospital and the authority to man-
17 age and administer the financial, business and personnel
18 affairs of the hospital.

19 A clinical director is the person having the respon-
20 sibility for decisions involving clinical and medical treat-
21 ment of patients, and who shall be a duly qualified phy-
22 sician licensed to practice medicine in the state of West
23 Virginia.

24 (c) The provisions of this section relating to the
25 qualification of persons eligible to serve as superinten-
26 dent shall not apply to any person serving in the capac-
27 ity of business manager on the effective date hereof,
28 and who has served in such capacity for at least six con-
29 secutive months next preceding such effective date.

ARTICLE 6. DENMAR STATE HOSPITAL.

§26-6-1. Continuation, management; superintendent; qualifi- cations of superintendent; division of fiscal, admin- istrative and clinical duties; certain persons ex- empted from qualification requirements.

1 (a) Denmar State Hospital, heretofore established,
2 shall be continued as a hospital for the chronically ill
3 which shall be managed, directed and controlled as pre-
4 scribed in article one, chapter twenty-five of this code.
5 The chief executive officer thereof shall be the super-
6 intendent, who shall be a college graduate and have a
7 minimum of two years' experience in either hospital
8 administration, health services administration or bus-
9 iness administration with broad knowledge of account-
10 ing, purchasing and personnel practices as related to
11 the rendition of health and health related services.

12 (b) A superintendent is the person having the fiscal
13 responsibility of the hospital and the authority to man-
14 age and administer the financial, business and personnel
15 affairs of the hospital.

16 A clinical director is the person having the respon-
17 sibility for decisions involving clinical and medical treat-
18 ment of patients, and who shall be a duly qualified phy-
19 sician licensed to practice medicine in the state of West
20 Virginia.

21 (c) The provisions of this section relating to the
22 qualification of persons eligible to serve as superinten-
23 dent shall not apply to any person serving in the capacity
24 of business manager on the effective date hereof, and

25 who has served in such capacity for at least six con-
26 secutive months next preceding such effective date.

ARTICLE 3. EMERGENCY HOSPITALS.

**§26-8-1. Continuation; management; superintendent; qualifi-
cations of superintendent; division of fiscal, admin-
istrative and clinical duties; certain persons ex-
empted from qualification requirements.**

1 (a) The hospitals heretofore established and known,
2 respectively, as Welch Emergency Hospital and Fair-
3 mont Emergency Hospital shall be continued and shall
4 be managed, directed and controlled as prescribed in
5 article one, chapter twenty-five of this code. The chief
6 executive officer of each of said hospitals shall be the
7 superintendent, who shall be a college graduate and
8 have a minimum of two years' experience in either
9 hospital administration, health services administration
10 or business administration with broad knowledge of
11 accounting, purchasing and personnel practices as re-
12 lated to the rendition of health and health related ser-
13 vices.

14 (b) A superintendent is the person having the fiscal
15 responsibility of the hospital and the authority to man-
16 age and administer the financial, business and personnel
17 affairs of the hospital.

18 A clinical director is the person having the respon-
19 sibility for decisions involving clinical and medical treat-
20 ment of patients, and who shall be a duly qualified phy-
21 sician licensed to practice medicine in the state of West
22 Virginia.

23 (c) The provisions of this section relating to the
24 qualification of persons eligible to serve as superinten-
25 dent shall not apply to any person serving in the capacity
26 of business manager on the effective date hereof, and
27 who has served in such capacity for at least six con-
28 secutive 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.

1 (a) Hopemont State Hospital, heretofore established,
2 shall be continued as a hospital for both chronically ill
3 and infirm, which hospital shall be managed, directed
4 and controlled as prescribed in article one, chapter
5 twenty-five of this code. The chief executive officer there-
6 of shall be the superintendent, who shall be a college
7 graduate and have a minimum of two years' experience
8 in either hospital administration, health services admin-
9 istration or business administration with broad knowl-
10 edge of accounting, purchasing and personnel practices
11 as related to the rendition of health and health related
12 services.

13 (b) A superintendent is the person having the fiscal
14 responsibility of the hospital and the authority to man-
15 age and administer the financial, business and personnel
16 affairs of the hospital.

17 A clinical director is the person having the responsi-
18 bility for decisions involving clinical and medical treat-
19 ment of patients, and who shall be a duly qualified physi-
20 cian licensed to practice medicine in the state of West
21 Virginia.

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

CHAPTER 27. MENTALLY ILL PERSONS.**ARTICLE 1. WORDS AND PHRASES DEFINED.**

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

1 (a) A superintendent is the person having the fiscal
2 responsibility of a state institution and the authority to
3 manage and administer the financial business and per-
4 sonnel affairs of the institution.

5 (b) A clinical director is the person having the re-
6 sponsibility for decisions involving clinical and medical
7 treatment of patients, and who shall be a duly qualified
8 physician licensed to practice medicine in the state of
9 West Virginia.

ARTICLE 1A. DEPARTMENT OF MENTAL HEALTH.

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

1 The governor shall appoint the director of the depart-
2 ment of mental health by and with the consent of the
3 Senate; he shall be known as the director of mental
4 health. Before entering upon the duties of his office, the
5 director shall take and subscribe the oath of office pre-
6 scribed by section five, article four of the constitution of
7 this state, the certificate whereof shall be filed in the
8 office of the secretary of state, and he shall give bond in
9 the penalty of ten thousand dollars, conditioned as re-
10 quired by law. The director shall serve at the will and
11 pleasure of the governor. The salary of the director shall
12 be the salary specified in section two-a, article seven,
13 chapter six of the code and in addition thereto he shall
14 be reimbursed for all necessary travel and other expenses
15 incurred in the performance of his duties. The director
16 shall be a qualified psychiatrist with both clinical and
17 administrative experience.

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

1 The director shall be the executive head of the depart-
2 ment, and as such shall have the following powers and
3 duties:
4 1. To develop and maintain a state plan which sets
5 forth needs of the state in the areas of mental health and
6 mental retardation; goals and objectives for meeting
7 those needs; plan of operation for achieving the stated
8 goals and objectives, including organizational structure;
9 and statement of requirements in personnel funds and
10 authority for achieving the goals and objectives.
11 2. To appoint deputies and assistants to supervise the
12 departmental programs, including hospital and residential
13 services, and such other assistants and employees as may

14 be necessary for the efficient operation of the department
15 and all its programs.

16 3. To promulgate rules and regulations clearly specify-
17 ing the respective duties and responsibilities of program
18 directors and fiscal administrators, making a clear dis-
19 tinction between the respective functions of these offi-
20 cials.

21 4. To delegate to any of his appointees, assistants or
22 employees all powers and duties invested in the director,
23 including the power to execute contracts and agreements
24 in the name of the department as provided in this ar-
25 ticle, but the director shall be responsible for the acts
26 of such appointees, assistants and employees.

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

32 6. To transfer a patient from any state hospital to any
33 other state hospital or clinic under his control and, by
34 agreement with the state commissioner of public institu-
35 tions, transfer a patient from a state hospital to an insti-
36 tution, other than correctional, under the supervision of
37 the state commissioner of public institutions.

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

44 The director of mental health shall have all of the au-
45 thority vested in the divisions of the department, as here-
46 inafter provided.

47 The director is hereby authorized and empowered to
48 accept and use for the benefit of a state hospital or hos-
49 pitals, or for any other mental health purpose specified
50 in this chapter, any gift or devise of any property or thing
51 which lawfully may be given. If such a gift or devise is
52 for a specific purpose or for a particular state hospital or
53 hospitals, it shall be used as specified. Any gift or devise
54 of any property or thing which lawfully may be given
55 and whatever profit may arise from its use or investment

56 shall be deposited in a special revenue fund with the
57 state treasurer, and shall be used only as specified by the
58 donor or donors.

59 Whenever it shall become necessary, the department of
60 mental health may condemn any interest, right, or priv-
61 ilege, land or improvement, which in its opinion may be
62 necessary, in the manner provided by law, for the ac-
63 quisition by this state of property for public purposes.

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

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

11 1. To keep the records in the department.

12 2. To receive and disburse funds for the department
13 as the agent of the director of the department.

14 3. To assemble and analyze departmental budget esti-
15 mates, review requests for transfer of funds and main-
16 tain departmental appropriation and fiscal records.

17 4. To make rules and regulations governing the ad-
18 ministration and business management of the state hos-
19 pitals, formulate standard fiscal procedures, and make
20 recommendations for improvement; to make regulations
21 concerning any superintendent's trustee funds heretofore
22 established by authority of section three-a, article one,
23 chapter twenty-five of the code of West Virginia, one
24 thousand nine hundred thirty-one, as amended.

25 5. To have the responsibility for the maintenance of
26 the land, buildings and equipment of state hospitals.

27 6. To review requisitions for supplies and equipment,
28 and cooperate with the division of purchases in develop-
29 ment and drafting of specifications.

30 7. To handle the personnel records of the department
31 and to process payrolls.

32 8. To enter into contracts for the department consis-
33 tent with his assigned duties.

34 9. To develop job classifications and standards for em-
35 ployees of the department.

36 10. To perform any other duties assigned to the divi-
37 sion by the director of the department.

ARTICLE 2. STATE HOSPITALS AND CENTERS.

§27-2-2. Superintendents; qualifications and exceptions there- from.

1 The superintendent of a state hospital shall be ap-
2 pointed for an indefinite period. He shall be a college
3 graduate and have a minimum of two years' experience in
4 business administration, health services administration
5 or hospital administration with broad knowledge of ac-
6 counting, purchasing and personnel practices as related
7 to the rendition of health and health related services.

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

14 The superintendents and other officers and employees
15 of each state hospital or center shall be paid salaries
16 commensurate with their duties and responsibilities, but
17 no meals or other emoluments of any kind shall be fur-
18 nished, given or paid to such superintendents, officers
19 or employees as all or part of their salary; however, such
20 superintendents, officers and employees may be provided
21 meals, household facilities and supplies as may be neces-
22 sary for them to perform their duties, if such superinten-
23 dents, officers and employees agree to pay the reason-
24 able cost thereof as established by the director of the
25 department of mental health.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell H. Beall

Chairman Senate Committee

Phyllis J. Rutledge

Chairman House Committee

Originated in the House.

In Effect July 1, 1972.

Howard W. Carson

Clerk of the Senate

Ch. Blankenship

Clerk of the House of Delegates

E. H. McCourt

President of the Senate

Lewis M. McManus

Speaker House of Delegates

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

Arch A. Starnes Jr.

Governor



3/20/72

10:17 a.m.