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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

— ● —

ENROLLED

Committee Substitute for

HOUSE BILL No. 714

(By Mr. *Chapin & Mr. Shaffer*)

— ● —

PASSED *February 24,* 1976

In Effect *ninety days from* Passage



FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE *3/4/76*

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 714

(By MR. CHAFIN and MR. SHAFFER)

(Originating in the Committee on Health and Welfare)

[Passed February 24, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact sections three, four and five, article one-a, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to changing the director of the department of mental health to the commissioner of the department of mental health; relating to the appointment of a deputy commissioner for clinical services; prescribing qualifications of the commissioner; and prescribing certain powers and duties of the commissioner.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1A. DEPARTMENT OF MENTAL HEALTH.

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

1 The governor shall appoint the commissioner of the de-
2 partment of mental health by and with the consent of the
3 Senate; he shall be known as the commissioner of mental
4 health. Before entering upon the duties of his office, the

5 commissioner shall take and subscribe the oath of office
6 prescribed by section five, article four of the constitution of
7 this state, the certificate whereof shall be filed in the office
8 of the secretary of state, and he shall give bond in the penalty
9 of ten thousand dollars, conditioned as required by law. The
10 commissioner shall serve at the will and pleasure of the gov-
11 ernor. The salary of the commissioner shall be the salary
12 specified in section two-a, article seven, chapter six of the
13 code and in addition thereto he shall be reimbursed for all
14 necessary travel and other expenses incurred in the perfor-
15 mance of his duties. The commissioner shall be either a quali-
16 fied psychiatrist or physician with both clinical and adminis-
17 trative experience, or, a qualified administrator who has at
18 least a masters degree in business administration, hospital ad-
19 ministration, or a related field, and not less than four years'
20 experience in health services administration or hospital ad-
21 ministration, and with general knowledge of accounting, pur-
22 chasing and personnel practices as related to the rendition of
23 health and health related services: *Provided*, That if the
24 commissioner is other than a psychiatrist or physician there
25 shall be appointed by the commissioner a deputy commissioner
26 for clinical services who shall be a psychiatrist.

27 Notwithstanding any other provision of this code to the
28 contrary, whenever in this code there is a reference to the
29 director of the department of mental health, it shall be con-
30 strued to mean and shall be a reference to the commissioner
31 of the department of mental health.

**§27-1A-4. Powers and duties of the commissioner; power of emi-
nent domain.**

1 The commissioner shall be the executive head of the de-
2 partment, and as such shall have the following powers and
3 duties:

4 (a) To develop and maintain a state plan which sets forth
5 needs of the state in the areas of mental health and mental
6 retardation; goals and objectives for meeting those needs; plan
7 of operation for achieving the stated goals and objectives,
8 including organizational structure; and statement of require-
9 ments in personnel funds and authority for achieving the goals
10 and objectives.

11 (b) To appoint deputies and assistants to supervise the de-
12 partmental programs, including hospital and residential ser-
13 vices, and such other assistants and employees as may be
14 necessary for the efficient operation of the department and
15 all its programs.

16 (c) To promulgate rules and regulations clearly specifying
17 the respective duties and responsibilities of program directors
18 and fiscal administrators, making a clear distinction between
19 the respective functions of these officials.

20 (d) To delegate to any of his appointees, assistants or
21 employees all powers and duties vested in the commissioner,
22 including the power to execute contracts and agreements in
23 the name of the department as provided in this article, but
24 the commissioner shall be responsible for the acts of such
25 appointees, assistants and employees.

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

31 (f) To transfer a patient from any state hospital to any
32 other state hospital or clinic under his control and, by
33 agreement with the state commissioner of public institutions,
34 transfer a patient from a state hospital to an institution,
35 other than correctional, under the supervision of the state
36 commissioner of public institutions.

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

43 The commissioner of mental health shall have all of the
44 authority vested in the divisions of the department, as here-
45 inafter provided.

46 The commissioner is hereby authorized and empowered to
47 accept and use for the benefit of a state hospital, center or

48 institution, or for any other mental health purpose specified
49 in this chapter, any gift or devise of any property or thing
50 which lawfully may be given. If such a gift or devise is
51 for a specific purpose or for a particular state hospital,
52 center or institution, it shall be used as specified. Any gift
53 or devise of any property or thing which lawfully may be
54 given and whatever profit may arise from its use or invest-
55 ment shall be deposited in a special revenue fund with the
56 state treasurer, and shall be used only as specified by the
57 donor or donors.

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

§27-1A-5. Division of administration; deputy; deputy commissioner; deputy commissioner's qualifications, powers and duties.

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

10 (a) To keep the records in the department.

11 (b) To receive and disburse funds for the department as
12 the agent of the commissioner of the department.

13 (c) To assemble and analyze departmental budget estimates,
14 review requests for transfer of funds and maintain depart-
15 mental appropriation and fiscal records.

16 (d) To make rules and regulations governing the administra-
17 tion and business management of the state hospitals, formulate
18 standard fiscal procedures, and make recommendations for
19 improvement; to make regulations concerning any superin-

20 tendent's trustee funds heretofore established by authority of
21 section three-a, article one, chapter twenty-five of the code of
22 West Virginia, one thousand nine hundred thirty-one, as
23 amended.

24 (e) To have the responsibility for the maintenance of the
25 land, buildings and equipment of state hospitals.

26 (f) To review requisitions for supplies and equipment, and
27 cooperate with the division of purchases in development and
28 drafting of specifications.

29 (g) To handle the personnel records of the department
30 and to process payrolls.

31 (h) To enter into contracts for the department consistent
32 with his assigned duties.

33 (i) To develop job classifications and standards for em-
34 ployees of the department.

35 (j) To perform any other duties assigned to the division by
36 the commissioner.

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

James L. Davis
Chairman Senate Committee

Lawrence C. Thurston
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Joseph J. Kelly Jr.
Clerk of the Senate

W. B. Lamberson
Clerk of the House of Delegates

W. B. Brattain Jr.
President of the Senate

Lewis N. McManis
Speaker House of Delegates

The within approved this the 3rd
day of March, 1976.

Anna Shaw
Governor

PRESENTED TO THE
GOVERNOR

Date 2/26/76

Time 3:25 p.m.

RECEIVED
FEB 27 1976
GOVERNOR'S OFFICE