WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

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ENROLLED
Committee Substitute for
HOUSE BILL No. 714

(By Mr. Chapline & Mr. Shaffer)

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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
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 department of mental health by and with the consent of the Senate; he shall be known as the commissioner of mental health. Before entering upon the duties of his office, the
commissioner 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 commissioner shall serve at the will and pleasure of the governor. The salary of the commissioner 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 commissioner shall be either a qualified psychiatrist or physician with both clinical and administrative experience, or, a qualified administrator who has at least a masters degree in business administration, hospital administration, or a related field, and not less than four years' experience in health services administration or hospital administration, and with general knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services: Provided, That if the commissioner is other than a psychiatrist or physician there shall be appointed by the commissioner a deputy commissioner for clinical services who shall be a psychiatrist.

Notwithstanding any other provision of this code to the contrary, whenever in this code there is a reference to the director of the department of mental health, it shall be construed to mean and shall be a reference to the commissioner of the department of mental health.

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

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

(a) 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.
(b) 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.

(c) 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.

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

(e) 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.

(f) 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.

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

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

The commissioner is hereby authorized and empowered to accept and use for the benefit of a state hospital, center or
institution, 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,
center or institution, 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 invest-
ment 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 privilege,
land or improvement, which in its opinion may be necessary,
in the manner provided by law, for the acquisition by this
state of property for public purposes.

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

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

(a) To keep the records in the department.

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

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

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

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

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

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

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

(i) To develop job classifications and standards for employees of the department.

(j) To perform any other duties assigned to the division by the commissioner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor
PRESENTED TO THE GOVERNOR

Date 2/26/17
Time 3:25 p.m.