APPROVED AND SIGNED BY THE GOVERNOR

Date 3-23-82

# WEST VIRGINIA LEGISLATURE

**REGULAR SESSION, 1982**

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# ENROLLED

Com. Sub. for

**HOUSE BILL No.** 1921

(By Mr. Tompkins & Mr. Tucker)

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Passed March 12, 1982

In Effect Ninety Days From Passage

C-641

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

# H. B. 1921

(By Mr. Tompkins and Mr. Tucker)

[Passed March 12, 1982; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-d, relating to coordinating delivery of public and private continuum of care services within this state; setting forth the legislative intent; definitions; creating state policy board for continuum of care for elderly, disabled and terminally ill including representatives from public and private providers and consumers; providing for meetings and election of officers; allowing the commissioner of the state department of welfare, and the directors of the state departments of health, commission on aging, division of vocational rehabilitation and the insurance commissioner to designate employees to carry out work of board; delineating the board's purposes; directing the board to establish and promote a comprehensive program for terminally ill; directing the board to evaluate the program and report to Legislature; authorizing application and acceptance of funds for implementation of the program; promulgation of rules and regulations; requiring insurance carriers to make available supplemental insurance to cover the whole continuum of care; and providing for pilot project for single point of entry and care management for continuum of care for elderly.

*Be it enacted by the Legislature of West Virginia:*

That chapter sixteen of the code of West Virginia, one thousand nine hundred thitry-one, as mended, be amended by adding thereto a new article, designated article five-d, to read as follows:

## ARTICLE 5D. COORDINATION OF CONTINUUM OF CARE SERVICES FOR ELDERLY, IMPAIRED AND TERMINALLY ILL.

### §16-5D-1. Legislative intent.

The Legislature hereby declares it to be the policy of this state to establish, encourage and promote the availability and delivery of continuum of care services within the state and its communities to the elderly, disabled, terminally ill and their families.

It is the further intention of the Legislature that within the system of continuum of care particular attention be given to establishing, encouraging and promoting a system of care that provides alternatives and personal freedom for the terminally ill and their families. The Legislature further intends that the terminally ill and their families have access to, and receive, a comprehensive and coordinated program of home and inpatient care which treats the patient and family as a unit, providing palliative and supportive care to meet the special needs arising out of the physical, psychological, spiritual, social and economic stresses experienced during the final stages of illness and the period of bereavement.

The Legislature recognizes the present problems involved in the delivery of such continuum of care services to the elderly, disabled, terminally ill and their families and intends to provide for coordinated effort, among the West Virginia department of health, West Virginia department of welfare, the West Virginia commission on aging and the West Virginia division of vocational rehabilitation as well as other public and private and other providers of such continuum of care services, in order to achieve for the integration of the delivery of those services at both the state and local levels so as to ensure maximum availability of such services in all communities of this state.

**§16-5D-2. Definitions.**

As used in this article:

(1) "Case management" means assessing individually a client or beneficiary's situation and identifying the services necessary to meet those needs, including, but not limited to, procurement of services such as counseling, providing information to link the person needing help to available community and institutional services and coordinating an assessment of a client's service and medical or other needs, developing a service plan with the cooperation of the client and family, which includes objectives to meet the client's service needs, specified services to meet those objectives and identifies available services; arranging for implementation of the service plan, including service delivery arrangements with the client, and providing for appointments and transportation thereto; developing a process for monitoring the service or component of service a client receives; evaluating the impact of services and their components on the client; developing a feedback mechanism to the provider, to the community and to the board which identifies the need for the development of new services and the expansion or elimination of existing services, including documentation in the service plan of gaps or barriers between client service needs and effective available providers; and assuring continuity of care for the client and the monitoring of changes in the client's service needs, to ensure that services are provided in an appropriate manner and to identify and correct problems within the service system that prevent the client from receiving needed services.

(2) "Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration which provides palliative and supportive medical and other health services to terminally ill patients and their families. Hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs which are experienced during the final stages of illness, and during dying and bereavement.

(3) "Interdisciplinary team" means the patient and the patient's family, the attending physician and the following hospice personnel: Physician, nurse, social worker, clergy and trained volunteer. Providers of special services, such as mental health, pharmaceutical and any other appropriate allied health services may also be included on the team as the needs of the patient dictate.

(4) "Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process, rather than treatment designed for investigation and intervention for the purpose of cure or prolongation of life.

(5) "Provider" means any public or private agency or individual which offers continuum of care services to the elderly, disabled or terminally ill.

(6) "Continuum of care" means a system of services such as nursing, medical and other health and social services available to an individual in an appropriate setting over an extended period of time as a result of such individuals changing health status.

(7) "Disabled" means a person who has temporary or permanent impairments which cause him to need or who is likely, in the foreseeable future, to need services within the continuum of care.

**§16-5D-3. Creation and composition continuum of care board.**

There is hereby created a state continuum of care board for the elderly, disabled and terminally ill, hereinafter referred to as the board. The board shall consist of the commissioner of the West Virginia department of welfare, the director of the West Virginia department of health, the director of the West Vriginia commission on aging, the insurance commissioner of West Virginia and the director of the West Virginia division of vocational rehabilitation or their respective designees.

In addition, such commissioners and directors shall at their discretion appoint not less than four, nor more than six addi-

tional members to the board. In appointing such additional members, the commissioners and directors shall appoint in equal numbers individuals representing private providers of continuum of care services and individuals representing consumers of continuum of care services. Of the individuals representing providers, at least one shall be a registered professional nurse and at least one shall be a physician licensed to practice medicine in this state who regularly treats long-term care patients. Of the individuals representing consumers, at least one shall be an immediate relative of a continuum of care patient at the time of his or her appointment. Such additional members shall serve at the will and pleasure of the commissioners and directors on the board.

**§16-5D-4. Quorum; officers; meetings; designation of employees to carry out work of board.**

A majority of the board shall constitute a quorum for transaction of business. The board shall elect a chairman and such other officers as it shall deem necessary. Board meetings shall be held upon call of the chairman or a majority of its members.

The commissioner of the department of welfare, director of the department of health, the director of the commission on aging, the insurance commissioner and the director of the division of vocational rehabilitation shall have authority to designate employees within their respective departments as in their judgment may be necessary to carry out the work of the board, assisted by such representatives of private providers as the board may determine necessary or advisable.

**§16-5D-5. Purposes of board.**

(a) The board shall:

(1) Establish standards for coordination of delivery of services to the elderly, disabled and terminally ill by public and private providers of both the state and local levels; and

(2) Establish standards and procedures for case management at the local level expressly recognizing the aid of the independent community based providers, to ensure availability, coordination and delivery of services to the intended beneficiaries thereof;

(b) In addition, the board shall take action to carry out the following purposes:

(1) To ensure the implementation of the established standards and to regularly evaluate such implementation;

(2) To ensure that public funds are used to direct care to those determined to be most in need of services;

(3) To ensure that each prospective beneficiary receive a comprehensive and individual assessment of services needed;

(4) To ensure that each prospective beneficiary be made aware of the spectrum of services available, including, but not be limited to, the least restrictive environment;

(5) To ensure that a comprehenesive plan of care be developed for each beneficiary of the providers;

(6) To ensure the creation, and to promote the availability of an alternative form of care for the terminally ill known as "hospice care" providing a comprehensive and coordinated program of home and inpatient care for terminally ill;

(7) To constantly monitor the formulation and implementation of the delivery of services to the elderly, disabled and terminally ill;

(8) To document the community based long-term care services currently available to elderly, disabled and terminally ill;

(9) To identify the number of elderly, disabled and terminally ill in this state who are currently at risk of institutionalization;

(10) To identify informal supports provided by the families and friends of elderly, disabled and terminally ill persons and suggest methods for maintaining and expanding those supports;

(11) To design and effectuate a system of comprehensive, coordinated care using a full range of health and social services without gaps or duplication according to the needs of each beneficiary through individual assessment and case management; and

(12) To educate the general public with regard to continuum of care in an effort to attract volunteers.

**§16-5D-6. Availability of hospice care program.**

The board shall, consistent with the continuum of care concept and within the limits of federal and private funding therefor, establish, promote and make available within this state of a comprehensive hospice care program for the treatment of physical, emotional and mental symptoms of terminal illness. Such program shall encourage and provide funds for the formation of community based hospice programs which include interdisciplinary teams for coordinating home care and inpatient services. Where possible, the community based hospice programs shall utilize the existing resources of physicians, nurses, social workers, clergy, physical therapists and facilities to create the interdisciplinary approach consistent with the hospice care concept.

**§16-5D-7. Program evaluation; consultation.**

The board shall conduct an evaluation of the hospice care program and report its findings and recommendations to the governor and Legislature no later than the first day of July, one thousand nine hundred eighty-four. Such evaluation shall include, but not be limited to, an assessment of the following:

(1) The quality and cost effectiveness of use of layperson volunteers for hospice care, hospice care compared to traditional care for the terminally ill and institutional compared to in-home hospice care;

(2) The current and projected demand for hospice care and need for construction of hospice facilities or the use of existing facilities;

(3) The current statutory provisions which regulate the manufacture, distribution and dispensing of controlled substances; and

(4) The need to provide alternative means of financially assisting terminally ill patients who are not able to afford such services.

**§16-5D-8. Application for federal aid and other grant assistance; acceptance of funds.**

The board shall, to the maximum extent possible, apply for any available federal health care funding and grant programs and any other assistance provided by any private or national health care agency or organization, and make such funds available to qualified private community based hospice programs, provided such programs meet the standards established by the board under the provisions of this article. The board may accept gifts, grants and bequests of funds from individuals, foundations, corporations and other organizations for use in implementing the provisions of this article.

**§16-5D-9. Rules and regulations.**

The board, in collaboration with governmental and independent community based delivery level personnel, shall promulgate rules and regulations pursuant to the provisions of chapter twenty-nine-a of this code to effectuate the purposes of this article.

**§16-5D-10. Insurance.**

Not later than the first day of July, one thousand nine hundred eighty-three, every insurance carrier who shall offer for sale in this state any policy of health or accident and sickness insurance, shall make available for purchase at a reasonable rate supplemental insurance coverage for continuum of care services.

**§16-5D-11. Pilot project for single point of entry and case management.**

Within the limits of available funds and by use of existing staff and agencies, both public and private, the board shall establish in a county of its choice within this state a program within the continuum of care system for the elderly which incorporates a single focal point for entry into the system and case management.

Within the county so chosen, the board shall enter into an agreement with a public or private provider charging such provider with the responsibility of formulating, directing and

administering such program consistent within the guidelines established by the board and the purposes of this article.

The provider charged with such responsibilities shall report regularly to the board regarding the progress of such program, and the board shall continually monitor same. Additionally, the board shall submit a comprehensive report on the feasibility of establishing a similar statewide program for the entire continuum of care to the governor and the Legislature no later than the first day of July, one thousand nine hundred eighty-four.

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

*Chairman Senate Committee*

*Chairman House Committee*

Originating 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*

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The within is approved this the 29 day of March, 1982.

*Governor*