WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 563

(By Senator WALKER)

PASSED MARCH 11, 1995
In Effect 50 Days From Passage
ENROLLED

Senate Bill No. 563

(BY SENATOR WALKER)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections four and five, article twenty-nine-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter by adding thereto a new article, designated article twenty-nine-e, all relating to the state health care and human services programs generally, including, but not limited to, terminating the uncompensated health care and medicaid expenditures task force and transferring their duties to the legislative oversight commission on health and human resources accountability; creating a legislative oversight commission on health and human resources accountability; appointments; compensation and expenses; powers and duties; studies; and annual reports to the Legislature.

Be it enacted by the Legislature of West Virginia:

That sections four and five, article twenty-nine-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said chapter be further amended by adding thereto a
new article, designated article twenty-nine-e, all to read as follows:

ARTICLE 29C. INDIGENT CARE.

§16-29C-4. Legislative study; appointment of members; expenses; reports; termination.

(a) Not later than the first day of June, one thousand nine hundred eighty-five, the president of the Senate and speaker of the House of Delegates of the West Virginia Legislature shall appoint a legislative task force on uncompensated health care and medicaid expenditures which shall meet, study and make recommendations as herein provided.

(b) The task force shall be composed of three members of the Senate appointed by the president from the membership of the Senate standing committee on health and human resources, three members of the House of Delegates appointed by the speaker from the membership of the House of Delegates standing committee on health and human resources and a number of citizens appointed jointly by the president and speaker which, in their discretion, adequately provides for the appropriate representation of the interests of the providers of health care services, the providers of health care insurance, state departments involved in the administration of health care and health care related programs and the citizens of this state. Of the members of the Senate appointed by the president, not more than two shall be from the same political party. Of the members of the House of Delegates appointed by the speaker, not more than two shall be from the same political party.

(c) Members originally appointed to the task force shall serve for terms beginning on the date of appointment and ending on the thirtieth day of June, one thousand nine hundred ninety-five, unless sooner replaced by the president or the speaker as applicable, or, in the discretion of the president and the speaker, unless the work of the task force is completed or the need for the task force no longer exists prior to that date. The task force shall
cease to exist on the thirtieth day of June, one thousand nine hundred ninety-five. The duties of the task force, as defined in this section, shall be assumed by the legislative oversight commission on health and human resources accountability created pursuant to the provisions of article twenty-nine-e of this chapter.

(d) The task force shall meet on such dates as may be approved by the joint committee on government and finance for the regular meetings of its subcommittees unless approval is first obtained from the joint committee on government and finance for additional meetings. The task force shall conduct studies on the amount of funds expended by hospitals and other health care providers of this state for services to persons who are unable to pay for those services and for which they receive no other form of reimbursement, the extent to which persons in this state forego needed medical services because of insufficient income and assets to pay for those services, the extent to which the state is maximizing available federal programs and moneys in providing health care services to the citizens of this state, the operation of the programs and funds created by this article and the roles of the public, private and private nonprofit sectors in providing health care services to the citizens of this state. The task force shall also study the state medicaid program in order to determine if the state medicaid agency, as the payor of last resort, is expending maximum effort to identify alternate private insurance resources for medicaid beneficiaries and shall study the feasibility and financial impact upon the state of assuring increased access to medicaid beneficiaries to primary health care in the nonhospital setting by requiring enrollment in a primary care clinic program, if available, and of the establishment of different and lesser schedules of payment for primary health services delivered by a hospital emergency room as compared to the schedule of payments for emergency room services of a true medical emergency nature.
(e) The task force shall file an interim report with the joint committee on government and finance and the Legislature on the date of the last meeting of the joint committee on government and finance prior to commencement of the regular session of the Legislature in each year before the final report of the task force is filed with the joint committee on government and finance and the Legislature on or before the thirtieth day of June, one thousand nine hundred ninety-five.

(f) The members of the task force shall be entitled to compensation at the rate authorized for members of the Legislature participating in legislative interim meetings and to reimbursement for reasonable and necessary expenses actually incurred in attending meetings of the task force, except that any employee of the state appointed to the task force is not entitled to such compensation. Funds necessary for the work of the task force shall be paid from joint appropriations to the Senate and House of Delegates but no such funds shall be spent or obligations incurred in the conduct of such work without prior approval of the joint committee on government and finance.

§16-29C-5. Effective date and termination date.

This article shall be effective from passage and, notwithstanding the provisions of section four of this article, shall terminate on the thirtieth day of June, one thousand nine hundred ninety-five.

ARTICLE 29E. LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY.

§16-29E-1. Findings and purpose.

The Legislature hereby finds and declares that:

(1) A crisis exists in the funding of health and social programs of this state;

(2) These programs exist to provide federal and state supported services to citizens in need;

(3) The health and well-being of these citizens is
jeopardized when uncontrolled growth in various programs uses a disproportionate share of the available funding;

(4) State programs are often developed and implemented with limited private or federal grant moneys, which require future funding from the limited state resources; and

(5) The problem is exacerbated when various state agencies make competing or conflicting policy decisions.

§16-29E-2. Legislative intent.

It is the intent of the Legislature that all actions taken pursuant to the provisions of this article by the Legislature and the various agencies within the department of health and human resources serve the following core set of principles:

(1) That all health and social programs offered under state authority be coordinated to maximize efficiencies and minimize competition within the various agencies thereby addressing the needs of the citizens more effectively;

(2) That communication be facilitated among the various agencies within the department of health and human resources and between the department and the Legislature;

(3) That policy changes, not made by legislative rule, be discussed with the commission for purposes of coordinating those policies with existing programs and stated goals;

(4) That programs or policies implemented in accordance with federal mandates be communicated to the commission;

(5) That in developing and implementing programs with private or federal grant moneys, the various agencies communicate their efforts to the commission to ensure and facilitate future state funding; and
(6) That agencies previously exempted from rule-making review by federal or state statutes advise the commission of program changes which may affect the health and well-being of the citizens of West Virginia.

§16-29E-3. Definitions.

As used in this article:

(a) "Agency" means those various agencies, authorities, boards, committees, commissions or departments of the department of health and human resources with authority to promulgate legislative rules pursuant to this chapter that regulate health care providers, practitioners or consumers; or those offering social services programs;

(b) "Commission" means the legislative oversight commission on health and human resources accountability; and

(c) "Department" means the department of health and human resources.

§16-29E-4. Creation of a legislative oversight commission on health and human resources accountability.

(a) There is hereby created a joint commission of the Legislature known as the legislative oversight commission on health and human resources accountability. The commission shall be composed of six members of the Senate appointed by the president of the Senate and six members of the House of Delegates appointed by the speaker of the House of Delegates. No more than five of the six members appointed by the president of the Senate and the speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the president of the Senate and speaker of the House of Delegates shall be ex officio nonvoting members of the commission and shall designate the cochairpersons. At least one of the Senate appointees and one of the House of Delegates appointees shall be the chairperson of the committee on health and human resources of the Senate and House of Delegates,
respectively, and at least one of the Senate appointees
and at least one of the House of Delegates appointees
shall be a member of the committee on finance of the
Senate and House of Delegates, respectively. The
members shall serve until their successors shall have
been appointed as heretofore provided.

(b) Members of the commission shall receive such
compensation and expenses as provided in article two-a,
chapter four of this code. Such expenses and all other
expenses including those incurred in the employment of
legal, technical, investigative, clerical, stenographic,
advisory and other personnel shall be paid from an
appropriation to be made expressly for the legislative
oversight commission on health and human resources
accountability: Provided, That if no such appropriation
be made, such expenses shall be paid from the appropri-
ation under “Fund No. 0175 for Joint Expenses” created
pursuant to the provisions of said chapter: Provided,
however, That no expense of any kind payable under the
account for joint expenses shall be incurred unless first
approved by the joint committee on government and
finance.

(c) The commission shall meet at any time both during
sessions of the Legislature and in the interim or as often
as may be necessary.

§16-29E-5. Powers and duties of commission.

(a) The powers, duties and responsibilities of the
commission shall include the following:

(1) Make a continuing investigation, study and review
of the practices, policies and procedures of the health
care and social services agencies in this state;

(2) Make a continuing investigation, study and review
of all matters related to health and social policy in the
state;

(3) Review program development by the various
agencies of the department of health and human re-
sources if those programs impact the physical, emotional
or social well-being of the citizens of West Virginia;

(4) Conduct studies on:

(A) The amount of funds expended by hospitals and
other health care providers of this state for services to
persons who are unable to pay for those services and for
which they receive no other form of reimbursement;

(B) The extent to which persons in this state forego
needed medical services because of insufficient income
and assets to pay for those services;

(C) The extent to which the state is maximizing avail-
able federal programs and moneys in providing health
care services to the citizens of this state;

(D) The operation of the programs and funds created
by article twenty-nine-c of this chapter; and

(E) The roles of the public, private and private non-
profit sectors in providing health care services to the
citizens of this state;

(5) Review and study the state medicaid program in
order to determine if the state medicaid agency, as the
payor of last resort, is expending maximum effort to
identify alternate private insurance resources for medic-
aid beneficiaries;

(6) Review and study the feasibility and financial
impact upon the state of assuring increased access to
medicaid beneficiaries to primary health care in the
nonhospital setting by requiring enrollment in a primary
care clinic program, if available;

(7) Review and study the feasibility and financial
impact upon the state of the establishment of different
and lesser schedules of payment for primary health
services delivered by a hospital emergency room as
compared to the schedule of payments for emergency
room services of a true medical emergency nature;

(8) Conduct a study on the effects of rural health
networks, including effects on the quality, cost and availability of care; and

(9) Meet jointly with the advisory committee created in article thirty-five of this chapter to determine methods for coordinating the collection and analysis of health care information within the state, including the development of health information systems that will allow for the electronic transmittal of data and access by the various agencies of government.

(b) The commission shall make annual reports to the Legislature regarding the results of all investigations, studies and reviews pursuant to the provisions of section seven of this article.

§16-29E-6. Examination and subpoena powers; contempt proceedings.

(a) For purposes of carrying out its duties, the commission is hereby empowered and authorized to examine witnesses and to subpoena such persons and books, records, documents, papers or any other tangible things as it believes should be examined to make a complete investigation.

(b) All witnesses appearing before the commission under subpoena shall testify under oath or affirmation. Any member of the commission may administer oaths or affirmations to such witnesses.

(c) To compel the attendance of witnesses at such hearings or the production of any books, records, documents, papers or any other tangible thing, the commission is hereby empowered and authorized to issue subpoenas, signed by one of the cochairpersons, in accordance with section five, article one, chapter four of this code. Such subpoenas shall be served by any person authorized by law to serve and execute legal process and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.
(d) If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers or any other tangible thing within his control when the same are demanded, the commission shall report the facts to the circuit court of Kanawha county or any other court of competent jurisdiction and such court may compel obedience to the subpoena as though such subpoena had been issued by such court in the first instance.

§16-29E-7. Legislative reports.

(a) The commission shall submit annual reports to the Legislature, as required by the provisions of section five of this article, which such reports shall describe and evaluate in a concise manner:

(1) The major activities of the several health and human resources agencies for the fiscal year immediately past, including important policy decisions reached on initiatives undertaken during that year, especially as such activities, decisions and initiatives relate to:

(A) The implementation of health care or social services programs;

(B) Improving the accessibility of appropriate health care in all areas of this state;

(C) Improving the health status of the citizens of this state; and

(D) Coordinating social services programs to reflect a cohesive delivery of transitional services.

(2) Other information considered by the commission to be important, including recommendations for statutory, fiscal or policy reforms and reasons for such recommendations.

(b) The reports may specify in what manner any practice, policy or procedure may or should be modified to satisfy the goal of efficient and effective delivery of
health and social services programs and to improve the quality of health and social services available in this state.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 is approved this the 24th day of March, 1995.

Governor