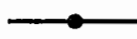


SB 0563

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 563

(By Senator WALKER)



PASSED MARCH 11, 1995

In Effect 90 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.

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

8 (b) The task force shall be composed of three members
9 of the Senate appointed by the president from the
10 membership of the Senate standing committee on health
11 and human resources, three members of the House of
12 Delegates appointed by the speaker from the member-
13 ship of the House of Delegates standing committee on
14 health and human resources and a number of citizens
15 appointed jointly by the president and speaker which, in
16 their discretion, adequately provides for the appropriate
17 representation of the interests of the providers of health
18 care services, the providers of health care insurance,
19 state departments involved in the administration of
20 health care and health care related programs and the
21 citizens of this state. Of the members of the Senate
22 appointed by the president, not more than two shall be
23 from the same political party. Of the members of the
24 House of Delegates appointed by the speaker, not more
25 than two shall be from the same political party.

26 (c) Members originally appointed to the task force shall
27 serve for terms beginning on the date of appointment
28 and ending on the thirtieth day of June, one thousand
29 nine hundred ninety-five, unless sooner replaced by the
30 president or the speaker as applicable, or, in the discre-
31 tion of the president and the speaker, unless the work of
32 the task force is completed or the need for the task force
33 no longer exists prior to that date. The task force shall

34 cease to exist on the thirtieth day of June, one thousand
35 nine hundred ninety-five. The duties of the task force, as
36 defined in this section, shall be assumed by the legisla-
37 tive oversight commission on health and human re-
38 sources accountability created pursuant to the provisions
39 of article twenty-nine-e of this chapter.

40 (d) The task force shall meet on such dates as may be
41 approved by the joint committee on government and
42 finance for the regular meetings of its subcommittees
43 unless approval is first obtained from the joint commit-
44 tee on government and finance for additional meetings.
45 The task force shall conduct studies on the amount of
46 funds expended by hospitals and other health care
47 providers of this state for services to persons who are
48 unable to pay for those services and for which they
49 receive no other form of reimbursement, the extent to
50 which persons in this state forego needed medical
51 services because of insufficient income and assets to pay
52 for those services, the extent to which the state is
53 maximizing available federal programs and moneys in
54 providing health care services to the citizens of this
55 state, the operation of the programs and funds created
56 by this article and the roles of the public, private and
57 private nonprofit sectors in providing health care
58 services to the citizens of this state. The task force shall
59 also study the state medicaid program in order to
60 determine if the state medicaid agency, as the payor of
61 last resort, is expending maximum effort to identify
62 alternate private insurance resources for medicaid
63 beneficiaries and shall study the feasibility and financial
64 impact upon the state of assuring increased access to
65 medicaid beneficiaries to primary health care in the
66 nonhospital setting by requiring enrollment in a primary
67 care clinic program, if available, and of the establish-
68 ment of different and lesser schedules of payment for
69 primary health services delivered by a hospital emer-
70 gency room as compared to the schedule of payments for
71 emergency room services of a true medical emergency
72 nature.

73 (e) The task force shall file an interim report with the
74 joint committee on government and finance and the
75 Legislature on the date of the last meeting of the joint
76 committee on government and finance prior to com-
77 mencement of the regular session of the Legislature in
78 each year before the final report of the task force is filed
79 with the joint committee on government and finance and
80 the Legislature on or before the thirtieth day of June,
81 one thousand nine hundred ninety-five.

82 (f) The members of the task force shall be entitled to
83 compensation at the rate authorized for members of the
84 Legislature participating in legislative interim meetings
85 and to reimbursement for reasonable and necessary
86 expenses actually incurred in attending meetings of the
87 task force, except that any employee of the state ap-
88 pointed to the task force is not entitled to such compen-
89 sation. Funds necessary for the work of the task force
90 shall be paid from joint appropriations to the Senate and
91 House of Delegates but no such funds shall be spent or
92 obligations incurred in the conduct of such work without
93 prior approval of the joint committee on government and
94 finance.

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

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

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

§16-29E-1. Findings and purpose.

1 The Legislature hereby finds and declares that:
2 (1) A crisis exists in the funding of health and social
3 programs of this state;
4 (2) These programs exist to provide federal and state
5 supported services to citizens in need;
6 (3) The health and well-being of these citizens is

7 jeopardized when uncontrolled growth in various
8 programs uses a disproportionate share of the available
9 funding;

10 (4) State programs are often developed and imple-
11 mented with limited private or federal grant moneys,
12 which require future funding from the limited state
13 resources; and

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

§16-29E-2. Legislative intent.

1 It is the intent of the Legislature that all actions taken
2 pursuant to the provisions of this article by the Legisla-
3 ture and the various agencies within the department of
4 health and human resources serve the following core set
5 of principles:

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

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

15 (3) That policy changes, not made by legislative rule, be
16 discussed with the commission for purposes of coordi-
17 nating those policies with existing programs and stated
18 goals;

19 (4) That programs or policies implemented in accor-
20 dance with federal mandates be communicated to the
21 commission;

22 (5) That in developing and implementing programs
23 with private or federal grant moneys, the various agen-
24 cies communicate their efforts to the commission to
25 ensure and facilitate future state funding; and

26 (6) That agencies previously exempted from rule-
27 making review by federal or state statutes advise the
28 commission of program changes which may affect the
29 health and well-being of the citizens of West Virginia.

§16-29E-3. Definitions.

1 As used in this article:

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

8 (b) "Commission" means the legislative oversight
9 commission on health and human resources accountabil-
10 ity; and

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

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

1 (a) There is hereby created a joint commission of the
2 Legislature known as the legislative oversight commis-
3 sion on health and human resources accountability. The
4 commission shall be composed of six members of the
5 Senate appointed by the president of the Senate and six
6 members of the House of Delegates appointed by the
7 speaker of the House of Delegates. No more than five of
8 the six members appointed by the president of the
9 Senate and the speaker of the House of Delegates,
10 respectively, may be members of the same political
11 party. In addition, the president of the Senate and
12 speaker of the House of Delegates shall be ex officio
13 nonvoting members of the commission and shall desig-
14 nate the cochairpersons. At least one of the Senate
15 appointees and one of the House of Delegates appointees
16 shall be the chairperson of the committee on health and
17 human resources of the Senate and House of Delegates,

18 respectively, and at least one of the Senate appointees
19 and at least one of the House of Delegates appointees
20 shall be a member of the committee on finance of the
21 Senate and House of Delegates, respectively. The
22 members shall serve until their successors shall have
23 been appointed as heretofore provided.

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

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

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

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

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

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

9 (3) Review program development by the various
10 agencies of the department of health and human re-

11 sources if those programs impact the physical, emotional
12 or social well-being of the citizens of West Virginia;

13 (4) Conduct studies on:

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

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

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

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

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

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

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

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

45 (8) Conduct a study on the effects of rural health

46 networks, including effects on the quality, cost and
47 availability of care; and

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

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

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

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

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

11 (c) To compel the attendance of witnesses at such
12 hearings or the production of any books, records, docu-
13 ments, papers or any other tangible thing, the commis-
14 sion is hereby empowered and authorized to issue
15 subpoenas, signed by one of the cochairpersons, in
16 accordance with section five, article one, chapter four of
17 this code. Such subpoenas shall be served by any person
18 authorized by law to serve and execute legal process and
19 service shall be made without charge. Witnesses subpoe-
20 naed to attend hearings shall be allowed the same
21 mileage and per diem as is allowed witnesses before any
22 petit jury in this state.

23 (d) If any person subpoenaed to appear at any hearing
24 shall refuse to appear or to answer inquiries there
25 propounded, or shall fail or refuse to produce books,
26 records, documents, papers or any other tangible thing
27 within his control when the same are demanded, the
28 commission shall report the facts to the circuit court of
29 Kanawha county or any other court of competent juris-
30 diction and such court may compel obedience to the
31 subpoena as though such subpoena had been issued by
32 such court in the first instance.

§16-29E-7. Legislative reports.

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

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

10 (A) The implementation of health care or social ser-
11 vices programs;

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

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

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

18 (2) Other information considered by the commission to
19 be important, including recommendations for statutory,
20 fiscal or policy reforms and reasons for such recommen-
21 dations.

22 (b) The reports may specify in what manner any
23 practice, policy or procedure may or should be modified
24 to satisfy the goal of efficient and effective delivery of

25 health and social services programs and to improve the
26 quality of health and social services available in this
27 state.

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

Randy Schoonover
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Elms
.....
Clerk of the Senate

Donald L. Hoff
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul E. C. C. C.
.....
Speaker House of Delegates

The within is approved..... this the *24th*.....

day of *March*..... 1995.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/24/95

Time

4:02 PM