

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4434**

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[Originating in the Committee on Health and Human

Resources; January 28, 2020.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding there to a new section,  
2 designated §5B-1-9, relating to the study of the health care workforce; defining terms;  
3 directing the Department of Commerce to issue a report; setting forth the contents of the  
4 report; requiring certain entities to report information; and deeming any information  
5 received by the department for the purpose of creating the report to be confidential trade  
6 secrets which are exempt from disclosure.

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

1 (a) As used in this section, the following words and terms have the following meanings:

2 (1) "Continuum of Care" means the following health care providers or facilities, singularly  
3 or consecutively, that provide care for an individual:

4 (A) Assisted Living residence, as regulated and defined by §16-5D-1 et seq. of this code;

5 (B) Behavioral Health service, as defined by §16-2D-2(7) of this code;

6 (C) Hospice, as regulated and defined by §16-5I-1 et seq. of this code;

7 (D) Hospitals, as regulated and defined by §16-5B-1 et seq. of this code;

8 (E) Home Health agency, as regulated and defined by §16-2C-1 et seq. of this code; and

9 (F) Skilled Nursing Facility/Nursing Home, as regulated and defined by §16-5C-1 et seq.

10 of this code.

11 (2) "Department" means the Department of Commerce, including any and all agencies  
12 within the Department of Commerce.

13 (3) "Direct-care status" means health care providers that for the majority of time deliver  
14 care or services to individuals in such a manner that the provider could be personally identifiable  
15 by the recipient of services.

16 (4) "Entity" means an individual, partnership, corporation, or other legal entity that employs  
17 or plans to employ skilled workers.

18 (5) "Government agency" means any state, county, municipal, or local public agency,  
19 board, committee, or division, including educational, vocational, and technical schools.

20 (6) "Health care facility" means a publicly or privately owned facility, agency, or entity that  
21 offers or provides health services, whether a for-profit or nonprofit entity and whether or not  
22 licensed, or required to be licensed, in whole or in part.

23 (7) "Health care provider" means a person authorized by law to provide professional health  
24 services in this state to an individual.

25 (8) "Health services" means clinically related preventive, diagnostic, treatment, or  
26 rehabilitative services.

27 (9) "Indirect-care status" means health care providers that for the majority of time perform  
28 managerial or administrative functions and are not in direct contact with consumers of care.

29 (10) "New graduate employee" means a health care provider within 18 months of  
30 graduation from a program qualifying the individual as a health care provider.

31 (11) "Private third-party" means an individual, partnership, corporation, or other legal entity  
32 that employs or plans to employ skilled workers in the workforce or that teaches, trains, certifies,  
33 or provides licensure for individuals in the workforce.

34 (12) "Report" means the report required to be completed and issued by the Secretary  
35 pursuant to this article.

36 (13) "Secretary" means the Secretary of the Department of Commerce.

37 (14) "Separations" means the number of full-time or part-time employees leaving an entity  
38 voluntarily or involuntarily excluding per diem, contract, agency, or traveling health care  
39 professionals.

40 (15) "Workforce" means an individual employed by an entity within the continuum of care.

41 (b) On or before February 1, 2021, the Secretary shall research, survey, study, and issue  
42 a public report on the existing workforce in the continuum of care, as well as the anticipated future  
43 workforce needs over the next 15 years.

44 (c) In addition to being made publicly available, the completed report shall be provided to  
45 the Legislative Oversight Commission on Health and Human Resources Accountability  
46 (LOCHHRA), created pursuant to §16-29E-1 et seq. of this code.

47 (d) In order to create the report required in this section in the most cost-effective and  
48 efficient manner, the Secretary may seek or obtain grants to facilitate the research, survey, and  
49 study; may enter into agreements with other governmental agencies, committees, research  
50 divisions, including educational institutions, for the collection and analysis of information; and may  
51 contract with private persons or companies: *Provided*, That any and all agreements, grants, or  
52 contracts for the assistance or sharing of information shall include confidentiality provisions  
53 consistent with the provisions of this section.

54 (e) The findings in the report shall summarize the data collected utilizing the categories  
55 and professions contained in this section. In presenting the findings, the report shall also break  
56 down its summaries on a statewide, regional, and county basis.

57 (f) The report, or any other disclosure of collected data, shall not identify specific entities,  
58 providers, or facilities, nor make specific correlation between an entity, provider, or facility and the  
59 workforce numbers at that entity, provider, or facility.

60 (g) To facilitate the timely collection and accuracy of data, the department is expressly  
61 authorized to seek, and specifically request, information from any entity, government agency,  
62 health care provider, health care facility, or private third-party: *Provided*, That the department shall  
63 only request information reasonably designed to elicit the information that is sought by this  
64 section, and in a manner intended to minimize obstruction to the requested entities providing  
65 necessary health services. Any entity, government agency, health care provider, health care  
66 facility, or private third-party in receipt of a survey or request for information from the department  
67 shall comply with the request and provide any and all requested information pertinent to the  
68 research, survey, and study.

69 (h) The department shall research, survey, and study the following aspects of the  
70 continuum of care workforce:

71 (1) The number of individuals employed;

72 (2) The number of full-time and part-time individuals so employed;

73 (3) The number of contract, agency, or traveling nurse or specialists utilized;

74 (4) The number of vacancies;

75 (5) The number of employee separations;

76 (6) The number of new graduate employee separations;

77 (7) The average number of patients/residents treated at each entity;

78 (8) The overall number of individuals licensed, certified, or registered by the state to work  
79 in the health care continuum;

80 (9) The current rate of licensure, certification, or registration by the state to work in the  
81 health care continuum;

82 (10) The anticipated growth in the number of individuals that will be licensed, certified, or  
83 registered in the state to work in the continuum of care over the next 15 years;

84 (11) The availability of classes or courses offered by secondary, vocational, technical,  
85 community, and higher education schools or institutions to train those necessitating licensure,  
86 certification, or registration to work in the health care continuum; and

87 (12) The average number of graduates per year in those classes or courses offered to  
88 train those necessitating licensure, certification, or registration to work in the health care  
89 continuum.

90 (i) In collecting and reporting the data, the department shall utilize, at a minimum, the  
91 following categories and professions within the continuum of care:

92 (1) Categories of entities:

93 (i) Assisted Living;

94 (ii) Behavioral Health;

- 95           (iii) Hospice;
- 96           (iv) Hospital;
- 97           (v) Home Health; and
- 98           (vi) Skilled Nursing Facility/Nursing Home.
- 99           (2) Job Professions delineated by direct-care or indirect-care status:
- 100          (i) Physician (M.D./D.O.) by specialty;
- 101          (ii) Physician Assistant;
- 102          (iii) Advanced Practice Registered Nurse by role and certification;
- 103          (iv) Registered Nurse;
- 104          (v) Licensed Professional Nurse;
- 105          (vi) Nurse Aide;
- 106          (vii) Medical Assistant;
- 107          (viii) Dietician;
- 108          (ix) Social Worker;
- 109          (x) Physical Therapist;
- 110          (xi) Physical Therapy Assistant;
- 111          (xii) Occupational Therapist;
- 112          (xiii) Occupational Therapy Assistant;
- 113          (xiv) Speech Therapist;
- 114          (xv) Respiratory Therapist;
- 115          (xvi) Psychologist;
- 116          (xvii) MDS/coding specialist;
- 117          (xviii) Pharmacist; and
- 118          (xix) Pharmacy Technician.

119           (j) Any material, data, or other writing made or received by the department for the purpose  
120 of conducting the research, survey, study, or report, is deemed to be confidential trade secrets  
121 which are exempt from disclosure under the provisions of §29B-1-4 of this code.

NOTE: The purpose of this bill is to have a statewide study and report on the existing health care workforce, as well as the workforce needs of the next 15 years.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.