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WEST VIRGINIA LEGISLATURE

GEORGE WEST VIRGINIA
SECRETARY OF STATE

SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009



ENROLLED

COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 414

(SENATORS PREZIOSO, FOSTER, JENKINS,
STOLLINGS, CARUTH, LAIRD, UNGER, MINARD
AND KESSLER, *original sponsors*)

[Passed May 28, 2009; in effect ninety days from passage.]

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AN ACT to repeal §5-16-7b of the Code of West Virginia, 1931, as amended; to repeal §5A-3C-1, §5A-3C-2, §5A-3C-3, §5A-3C-4, §5A-3C-5, §5A-3C-6, §5A-3C-7, §5A-3C-8, §5A-3C-9, §5A-3C-10, §5A-3C-11, §5A-3C-12, §5A-3C-13, §5A-3C-14, §5A-3C-15, §5A-3C-16 and §5A-3C-17 of said code; to amend and reenact §5F-2-2 of said code; to amend and reenact §16-29H-1, §16-29H-2, §16-29H-3, §16-29H-4 and §16-29H-5 of said code; and to amend said code by adding thereto five new sections, designated §16-29H-6, §16-29H-7, §16-29H-8, §16-29H-9 and §16-29H-10, all relating generally to the creation of the Governor's Office

of Health Enhancement and Lifestyle Planning; setting forth legislative findings; setting forth the powers and duties of the office; transferring the powers and duties of the Pharmaceutical Cost Management Council to the office; creating the position of director; setting forth the qualifications of the director; setting forth the powers and duties of the director; providing for staff; creating an advisory council; setting forth the membership of the advisory council; setting forth terms of office for the advisory council; setting forth powers and duties of the advisory council; requiring the development of a five-year strategic plan; providing for legislative rule-making authority; providing for coordination with various state agencies, departments, boards, bureaus and commissions; requiring reporting to the Governor and the Legislature; establishing pilot projects for patient-centered medical homes; setting forth legislative findings; defining terms; evaluating existing medical home pilot programs; establishing criteria for pilot projects for patient-centered medical homes; defining four types of pilot projects; setting forth evaluation criteria; granting rule-making authority; and exempting the office from Purchasing Division requirements.

Be it enacted by the Legislature of West Virginia:

That §5-16-7b of the Code of West Virginia, 1931, as amended, be repealed; that §5A-3C-1, §5A-3C-2, §5A-3C-3, §5A-3C-4, §5A-3C-5, §5A-3C-6, §5A-3C-7, §5A-3C-8, §5A-3C-9, §5A-3C-10, §5A-3C-11, §5A-3C-12, §5A-3C-13, §5A-3C-14, §5A-3C-15, §5A-3C-16 and §5A-3C-17 of said code be repealed; that §5F-2-2 of said code be amended and reenacted; that §16-29H-1, §16-29H-2, §16-29H-3, §16-29H-4 and §16-29H-5 of said code be amended and reenacted; and that said code be amended by adding thereto five new sections, designated §16-29H-6, §16-29H-7, §16-29H-8, §16-29H-9 and §16-29-10, all to read as follows:

**CHAPTER 5F. ORGANIZATION OF THE EXECUTIVE
BRANCH OF STATE GOVERNMENT.**

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-2. Power and authority of secretary of each department.

1 (a) Notwithstanding any other provision of this code to
2 the contrary, the secretary of each department shall have
3 plenary power and authority within and for the depart-
4 ment to:

5 (1) Employ and discharge within the office of the
6 secretary employees as may be necessary to carry out the
7 functions of the secretary, which employees shall serve at
8 the will and pleasure of the secretary;

9 (2) Cause the various agencies and boards to be oper-
10 ated effectively, efficiently and economically and develop
11 goals, objectives, policies and plans that are necessary or
12 desirable for the effective, efficient and economical
13 operation of the department;

14 (3) Eliminate or consolidate positions, other than
15 positions of administrators or positions of board members
16 and name a person to fill more than one position;

17 (4) Transfer permanent state employees between
18 departments in accordance with the provisions of section
19 seven of this article;

20 (5) Delegate, assign, transfer or combine responsibilities
21 or duties to or among employees, other than administra-
22 tors or board members;

23 (6) Reorganize internal functions or operations;

24 (7) Formulate comprehensive budgets for consideration
25 by the Governor and transfer within the department funds
26 appropriated to the various agencies of the department
27 which are not expended due to cost savings resulting from

28 the implementation of the provisions of this chapter:
29 *Provided*, That no more than twenty-five percent of the
30 funds appropriated to any one agency or board may be
31 transferred to other agencies or boards within the depart-
32 ment: *Provided, however*, That no funds may be trans-
33 ferred from a special revenue account, dedicated account,
34 capital expenditure account or any other account or funds
35 specifically exempted by the Legislature from transfer,
36 except that the use of appropriations from the State Road
37 Fund transferred to the office of the Secretary of the
38 Department of Transportation is not a use other than the
39 purpose for which the funds were dedicated and is permit-
40 ted: *Provided further*, That if the Legislature by subse-
41 quent enactment consolidates agencies, boards or func-
42 tions, the appropriate secretary may transfer the funds
43 formerly appropriated to the agency, board or function in
44 order to implement consolidation. The authority to
45 transfer funds under this section shall expire on June 30,
46 2010;

47 (8) Enter into contracts or agreements requiring the
48 expenditure of public funds and authorize the expenditure
49 or obligation of public funds as authorized by law: *Pro-*
50 *vided*, That the powers granted to the secretary to enter
51 into contracts or agreements and to make expenditures or
52 obligations of public funds under this provision shall not
53 exceed or be interpreted as authority to exceed the powers
54 granted by the Legislature to the various commissioners,
55 directors or board members of the various departments,
56 agencies or boards that comprise and are incorporated into
57 each secretary's department under this chapter;

58 (9) Acquire by lease or purchase property of whatever
59 kind or character and convey or dispose of any property of
60 whatever kind or character as authorized by law: *Pro-*
61 *vided*, That the powers granted to the secretary to lease,
62 purchase, convey or dispose of such property shall be
63 exercised in accordance with the provisions of articles

64 three, ten and eleven, chapter five-a of this code: *Provided,*
65 *however,* That the powers granted to the secretary to lease,
66 purchase, convey or dispose of such property shall not
67 exceed or be interpreted as authority to exceed the powers
68 granted by the Legislature to the various commissioners,
69 directors or board members of the various departments,
70 agencies or boards that comprise and are incorporated into
71 each secretary's department under this chapter;

72 (10) Conduct internal audits;

73 (11) Supervise internal management;

74 (12) Promulgate rules, as defined in section two, article
75 one, chapter twenty-nine-a of this code, to implement and
76 make effective the powers, authority and duties granted
77 and imposed by the provisions of this chapter in accor-
78 dance with the provisions of chapter twenty-nine-a of this
79 code;

80 (13) Grant or withhold written consent to the proposal
81 of any rule, as defined in section two, article one, chapter
82 twenty-nine-a of this code, by any administrator, agency
83 or board within the department. Without written consent,
84 no proposal for a rule shall have any force or effect;

85 (14) Delegate to administrators the duties of the
86 secretary as the secretary may deem appropriate, from
87 time to time, to facilitate execution of the powers, author-
88 ity and duties delegated to the secretary; and

89 (15) Take any other action involving or relating to
90 internal management not otherwise prohibited by law.

91 (b) The secretaries of the departments hereby created
92 shall engage in a comprehensive review of the practices,
93 policies and operations of the agencies and boards within
94 their departments to determine the feasibility of cost
95 reductions and increased efficiency which may be
96 achieved therein, including, but not limited to, the follow-
97 ing:

98 (1) The elimination, reduction and restriction of the
99 state's vehicle or other transportation fleet;

100 (2) The elimination, reduction and restriction of state
101 government publications, including annual reports,
102 informational materials and promotional materials;

103 (3) The termination or rectification of terms contained
104 in lease agreements between the state and private sector
105 for offices, equipment and services;

106 (4) The adoption of appropriate systems for accounting,
107 including consideration of an accrual basis financial
108 accounting and reporting system;

109 (5) The adoption of revised procurement practices to
110 facilitate cost-effective purchasing procedures, including
111 consideration of means by which domestic businesses may
112 be assisted to compete for state government purchases;
113 and

114 (6) The computerization of the functions of the state
115 agencies and boards.

116 (c) Notwithstanding the provisions of subsections (a)
117 and (b) of this section, none of the powers granted to the
118 secretaries herein shall be exercised by the secretary if to
119 do so would violate or be inconsistent with the provisions
120 of any federal law or regulation, any federal-state pro-
121 gram or federally delegated program or jeopardize the
122 approval, existence or funding of any program.

123 (d) The layoff and recall rights of employees within the
124 classified service of the state as provided in subsections (5)
125 and (6), section ten, article six, chapter twenty-nine of this
126 code shall be limited to the organizational unit within the
127 agency or board and within the occupational group
128 established by the classification and compensation plan
129 for the classified service of the agency or board in which

130 the employee was employed prior to the agency or board's
131 transfer or incorporation into the department: *Provided*,
132 That the employee shall possess the qualifications estab-
133 lished for the job class. The duration of recall rights
134 provided in this subsection shall be limited to two years or
135 the length of tenure, whichever is less. Except as provided
136 in this subsection, nothing contained in this section shall
137 be construed to abridge the rights of employees within the
138 classified service of the state as provided in sections ten
139 and ten-a, article six, chapter twenty-nine of this code.

140 (e) Notwithstanding any other provision of this code to
141 the contrary, the secretary of each department with
142 authority over programs which have an impact on the
143 delivery of health care services in the state or are payors
144 for health care services or are payors for prescription
145 drugs, including, but not limited to, the Public Employees
146 Insurance Agency, the Department of Health and Human
147 Resources, the Bureau of Senior Services, the Children's
148 Health Insurance Program, the Health Care Authority, the
149 Office of the Insurance Commissioner, the Division of
150 Corrections, the Division of Juvenile Services, the Re-
151 gional Jail and Correctional Facility Authority, state
152 colleges and universities, public hospitals, state or local
153 institutions including nursing homes and veterans' homes,
154 the Division of Rehabilitation Services, public health
155 departments, the Bureau for Medical Services and other
156 programs, which have an impact on the delivery of health
157 care services or are payors for health care services or are
158 payors for prescription drugs, in West Virginia shall
159 cooperate with the Governor's Office of Health Enhance-
160 ment and Lifestyle Planning established pursuant to
161 article twenty-nine-h, chapter sixteen of this code for the
162 purpose of improving the health care delivery services in
163 West Virginia for any program over which they have
164 authority.

CHAPTER 16. PUBLIC HEALTH.

**ARTICLE 29H. GOVERNOR'S OFFICE OF HEALTH ENHANCEMENT AND
LIFESTYLE PLANNING.**

§16-29H-1. Legislative findings.

1 The Legislature finds:

2 (1) Rising health care costs have a significant impact
3 not only on the citizens of the state, but also the state's
4 ability to develop a competitive advantage in seeking new
5 business. Reducing this level of costs and developing new,
6 more effective options for reducing growth in health care
7 spending is essential to ensuring the health of West Vir-
8 ginia's citizens and to the advancement of a well-devel-
9 oped workforce.

10 (2) West Virginia spends thirteen percent more per
11 person on health care than the national average. More-
12 over, the growth in spending in the state is higher than the
13 national average. These rising costs have contributed to
14 fewer employers, particularly small employers, offering
15 health insurance as a benefit of employment. This is an
16 occurrence that may further drive up health care costs
17 throughout the state.

18 (3) West Virginia is among the highest in such health
19 care indicators as childhood and adult obesity which
20 provides a direct connection to higher rates of diabetes,
21 hypertension, hyperlipidemia, heart disease, pulmonary
22 disorders and comorbid depression experienced in West
23 Virginia. Nearly one third of the rise in health care costs
24 can be attributed to the rise in obesity throughout the
25 state and the nation. Additionally, high rates of chronic
26 illness represents a substantial reduction in worker
27 productivity.

28 (4) To address the concerns over rising costs, West
29 Virginia must change the way it pays for care, shifting the

30 focus to primary care and prevention. Seventy-five
31 percent of health care spending is associated with treat-
32 ment of chronic diseases requiring ongoing medical
33 management over time. Patients with chronic diseases,
34 however, only receive fifty-six percent of the clinically
35 recommended preventive services. This lack of preventive
36 services creates a seventy-five percent increase in health
37 care spending.

38 (5) Health care delivery in West Virginia needs to be
39 modernized. This will require substantial changes in how
40 health care is delivered to the chronically ill, an increase
41 in information technology tools used for patient manage-
42 ment, a simplification of health care processing and a
43 broad overhaul in our perceptions of wellness and preven-
44 tion.

45 (6) West Virginians must be challenged to engage in a
46 more healthy lifestyle, they must alter the focus of their
47 perception of health care from one of episodic care to
48 prevention and wellness efforts. Equally as important, is
49 that health care providers must be engaged with their
50 patients and in the process of delivery of health care and
51 strive for continuous improvement of the quality of care
52 they provide.

53 (7) West Virginia must develop a health care system
54 that is sufficient to meet the needs of its citizens; equita-
55 ble, fair and sustainable, but that is also accountable for
56 quality, access, cost containment and service delivery.

**§16-29H-2. Creation of the Governor's Office of Health En-
hancement and Lifestyle Planning; duties.**

1 (a) There is created the Governor's Office of Health
2 Enhancement and Lifestyle Planning. The purpose of this
3 office is to coordinate all state health care system reform
4 initiatives among executive branch agencies, departments,
5 bureaus and offices. The office shall be under the direct

6 supervision of the director, who is responsible for the
7 exercise of the duties and powers assigned to the office
8 under the provisions of this article.

9 (b) All state agencies that have responsibility for the
10 development, improvement and implementation of any
11 aspect of West Virginia's health care system, including,
12 but not limited to, the Public Employees Insurance
13 Agency, the Bureau of Senior Services, the Children's
14 Health Insurance Program, Office of the Pharmaceutical
15 Advocate, the Health Care Authority, the West Virginia
16 Health Information Network, the Insurance Commission,
17 the Department of Health and Human Resources, state
18 colleges and universities, the Pharmaceutical Advocate,
19 public hospitals, state or local institutions such as nursing
20 homes, veterans' homes, the Division of Rehabilitation
21 Services, public health departments, shall cooperate with
22 the Governor's Office of Health Enhancement and Life-
23 style Planning established for the purpose of coordinating
24 the health care delivery system in West Virginia for any
25 program over which they have authority.

**§16-29H-3. Director of the Governor's Office of Health En-
hancement and Lifestyle Planning appoint-
ment; qualifications; oath; salary.**

1 (a) The office is under the supervision of the director.
2 The director is the executive and administrative head of
3 the office and shall be appointed by the Governor with
4 advice and consent of the Senate. The director shall be
5 qualified by training and experience to direct the opera-
6 tions of the Governor's Office of Health Enhancement and
7 Lifestyle Planning and serves at the will and pleasure of
8 the Governor. The duties of the director include, but are
9 not limited to, the management and administration of the
10 Governor's Office of Health Enhancement and Lifestyle
11 Planning.

12 (b) The director:

13 (1) Serves on a full-time basis and may not be engaged
14 in any other profession or occupation;

15 (2) May not hold political office in the government of
16 the state either by election or appointment while serving
17 as the director;

18 (3) Shall be a citizen of the United States and West
19 Virginia and become a resident of the state within ninety
20 days of appointment;

21 (4) Is ineligible for civil service coverage as provided in
22 section four, article six, chapter twenty-nine of this code.
23 Any other employee hired by the director is also ineligible
24 for civil service coverage; and

25 (5) Is entitled to receive an annual salary as provided by
26 the Governor.

27 (c) Before entering upon the discharge of the duties as
28 director, the director shall take and subscribe to the oath
29 of office prescribed in section five, article IV of the
30 Constitution of West Virginia. The executed oath shall be
31 filed in the Office of the Secretary of State.

§16-29H-4. Director of the Governor's Office of Health Enhancement and Lifestyle Planning; powers and duties, hiring of staff.

1 (a) The director has the power and authority to:

2 (1) Purchase or enter into contracts or agreements as
3 necessary to achieve the purposes of this article;

4 (2) File suit;

5 (3) At the request of a state agency that has responsibility for any aspect of West Virginia's health care system,
6 evaluate and advise the agency on ways that can better
7 achieve the purposes of this article. In addition, the
8 director may determine in collaboration with the agencies
9

10 responsible for health systems in the state to improve
11 efficiencies and reduce costs through interagency agree-
12 ments to enter into contracts. Contracts may only be
13 renegotiated if there is a demonstrated and measurable
14 cost savings for the state and the agencies are in agree-
15 ment;

16 (4) Enter into contracts with public or private entities
17 in this state, governments of other states and jurisdictions
18 and their individual departments, agencies, authorities,
19 institutions, programs, quasi-public corporations and
20 political subdivisions in the event that such contracts
21 would be a collaboration between the health system
22 agencies involved and agreed to by all parties.

23 (5) Participate in regional or multistate purchasing
24 alliances or consortia, formed for the purpose of pooling
25 the combined purchasing power of the individual members
26 and increasing purchasing power with agreement of all
27 participating parties and financially advantageous to each
28 party. This power does not affect individual state agencies
29 from participating in any purchasing alliance or consor-
30 tium as established in their own program. If the director
31 participates in any cooperative purchasing agreement,
32 alliance or consortium which is comprised of at least five
33 million covered lives, the cooperative purchasing agree-
34 ment, alliance or consortium may employ an agreed-upon
35 pricing schedule that, in the judgment of the director and
36 the other participating entities, will maximize savings to
37 the broadest percentage of the population of this state:
38 *Provided*, That any pharmaceutical manufacturer that
39 deals with such cooperative purchasing agreements,
40 alliances or consortia may request a waiver from such
41 pricing schedule in West Virginia or any other participat-
42 ing state for a particular drug that should be granted if the
43 director finds that the development, production, distribu-
44 tion costs, other reasonable costs and reasonable profits
45 excluding marketing, advertising and promotional costs

46 not essential to bringing the product to market are more
47 than the schedule price of the pharmaceutical or in those
48 cases in which the pharmaceutical in question has a sole
49 source. The director shall determine fees to be paid by the
50 applicant at the time of the waiver application and proof
51 required to be submitted at the time of the waiver request
52 to support the validity of the request.

53 (6) Make recommendations to the Governor and the
54 Legislature regarding strategies that could more effec-
55 tively make the health care delivery system in West
56 Virginia more timely, more patient centered, provide
57 greater patient access and quality of service and control
58 health care costs;

59 (7) Develop and implement other programs, projects
60 and initiatives to achieve the purposes of this article,
61 including initiating, evaluating and promoting primary-
62 care medical homes pursuant to section six of this article
63 and other strategies that result in greater access to health
64 care, assure greater quality of care and result in reduced
65 costs for health care delivery services to the citizens of
66 West Virginia: *Provided*, That interagency agreements
67 shall be utilized for services that would be duplicative;

68 (8) Work with the Health Care Authority to ensure that
69 the preventive health care pilots are implementing a
70 primary-care medical home model as defined in this
71 article;

72 (9) Develop a five-year strategic plan as set forth in
73 section six of this article for implementation of West
74 Virginia's health care system reform initiatives together
75 with recommendations for administration, policy, legisla-
76 tive rules or legislation. This plan shall be reported to the
77 Joint Committee on Government and Finance, the Legisla-
78 tive Oversight Commission on Health and Human Re-
79 sources Accountability and the Governor on or before
80 December 31, 2009;

81 (10) Provide professional development on emerging
82 health care policies and contracting for health care
83 services; and

84 (11) Evaluate and offer, if resources become available,
85 a grant program for local communities to encourage
86 healthy lifestyles in collaboration with the Healthy
87 Lifestyles Coalition.

88 (b) The director shall employ such professional, clerical,
89 technical and administrative personnel as may be neces-
90 sary to carry out the provisions of this article and with
91 consideration of the appropriation provided by the
92 Legislature.

93 (c) The director shall prepare and submit to the Gover-
94 nor and the Legislature annual proposed appropriations
95 for the next fiscal year which shall include sums necessary
96 to support the activities of the Governor's Office of Health
97 Enhancement and Lifestyle Planning.

98 (d) The director shall submit an annual report separate
99 from the strategic plan by January 1 of each year to the
100 Governor and the Legislative Oversight Commission on
101 Health and Human Resources Accountability on the
102 condition, operation and functioning of the Governor's
103 Office of Health Enhancement and Lifestyle Planning.

104 (e) The director shall supervise the fiscal management
105 and responsibilities of the Governor's Office of Health
106 Enhancement and Lifestyle Planning.

107 (f) The director shall keep an accurate and complete
108 record of all the Governor's Office of Health Enhancement
109 and Lifestyle Planning proceedings, records and file all
110 bonds and contracts and assume responsibility for the
111 custody and preservation of all papers and records of the
112 office.

113 (g) The director may convene a series of focus groups,
114 polls and any other available research tool to determine
115 issues of importance to all stakeholders after a thorough
116 review of available research currently in existence. The
117 development of these survey tools shall be done in con-
118 junction with employers, health care providers and
119 consumers. Data received from this research should be
120 easily available to the public and utilized in the develop-
121 ment and design of health benefit programs. The data
122 should also be accessible to providers to allow them to
123 meet the needs of the health care market.

124 (h) The director may propose rules for legislative
125 approval in accordance with the provisions of article
126 three, chapter twenty-nine-a of this code to accomplish
127 the goals and purposes of this article.

**§16-29H-5. Creation of the Health Enhancement and Lifestyle
Planning Advisory Council.**

1 (a) The Health Enhancement and Lifestyle Planning
2 Advisory Council is hereby created. The advisory council
3 is an independent, self-sustaining council that has the
4 powers and duties specified in this article.

5 (b) The advisory council is a part-time council whose
6 members perform such duties as specified in this article.
7 The ministerial duties of the advisory council shall be
8 administered and carried out by the Governor's Office of
9 Health Enhancement and Lifestyle Planning.

10 (c) Each member of the advisory council shall devote
11 the time necessary to carry out the duties and obligations
12 of the office. Those members appointed by the Governor
13 may pursue and engage in another business or occupation
14 or gainful employment that is not in conflict with the
15 duties of the advisory council.

16 (d) The advisory council is self-sustaining and inde-
17 pendent, however it, its members, the director and em-
18 ployees of the Governor's Office of Health Enhancement
19 and Lifestyle Planning are subject to article nine-a,
20 chapter six of this code and chapters six-b, twenty-nine-a
21 and twenty-nine-b of this code.

22 (e) The advisory council is comprised of the following
23 governmental officials: The Secretary of the Department
24 of Health and Human Resources, or his or her designee,
25 the Director of the Public Employees Insurance Agency, or
26 his or her designee, the Commissioner of the Office of the
27 Insurance Commissioner, or his or her designee, the Chair
28 of the West Virginia Health Care Authority, or his or her
29 designee and the director of the West Virginia Children's
30 Health Insurance Program or his or her designee. The
31 council shall also consist of the following public members:
32 One public member shall represent an organization of
33 senior citizens with at least ten thousand members within
34 the state, one public member shall represent the West
35 Virginia Academy of Family Physicians, one public
36 member shall represent the West Virginia Chamber of
37 Commerce, one public member shall represent a federally
38 qualified health center, one public member shall represent
39 the largest labor organization in the state, one public
40 interest organization that represents the interests of
41 consumers, one public member shall represent West
42 Virginia Hospital Association, one public member shall
43 represent the West Virginia Medical Association, one
44 public member shall represent the West Virginia Nurse's
45 Association and two ex-officio nonvoting members shall
46 be the Speaker of the House, or his or her designee, and
47 the President of the Senate, or his or her designee.

48 (f) Public members shall be appointed by the Governor
49 with advice and consent of the Senate. Each public
50 member shall serve for a term of four years. Of the public
51 members of the advisory council first appointed, one shall

52 be appointed for a term ending June 30, 2010, and two
53 each for terms of three and four years. The remainder
54 shall be appointed for the full four-year terms as provided
55 in this section. Each public member serves until his or her
56 successor is appointed and has qualified. The Director of
57 the Governor's Office of Health Enhancement and Life-
58 style Planning shall serve as chairperson of the advisory
59 council.

60 (g) Advisory council members may not be compensated
61 in their capacity as members but shall be reimbursed for
62 reasonable expenses incurred in the performance of their
63 duties.

64 (h) The advisory council shall meet within the state at
65 such times as the chair may decide, but at least once
66 annually. The advisory council shall also meet upon a call
67 of seven or more members upon seventy-two hours'
68 written notice to each member.

69 (i) Eight members of the advisory council are a quorum
70 for the transaction of business.

71 (j) A majority vote of the members present is required
72 for any final determination by the advisory council.
73 Voting by proxy is not allowed.

74 (k) The advisory council shall keep a complete and
75 accurate record of all its meetings according to section
76 five, article nine-a, chapter six of this code.

77 (l) Notwithstanding the provisions of section four,
78 article six, chapter six of this code, the Governor may
79 remove any advisory council member for incompetence,
80 misconduct, gross immorality, misfeasance, malfeasance
81 or nonfeasance in office.

82 (m) The advisory council has general responsibility to
83 review and provide advice and comment to the Governor's
84 Office of Health Enhancement and Lifestyle Planning on

85 its policies and procedures relating to the delivery of
86 health care services or the purchase of prescription drugs.
87 The advisory council shall offer advice to the director on
88 matters over which the office has authority and oversight.
89 This includes, but is not limited to:

90 (1) Hiring of professional, clerical, technical and
91 administrative personnel as may be necessary to carry out
92 the provisions of this article;

93 (2) Contracts or agreements;

94 (3) Rule-making authority; and

95 (4) Development of policy necessary to meet the duties
96 and responsibilities of the Governor's Office of Health
97 Enhancement and Lifestyle Planning pursuant to the
98 provisions of this article.

§16-29H-6. Development of a strategic plan.

1 The director shall develop a five-year strategic plan for
2 implementation of any and all health care system reform
3 initiatives. These initiatives shall be included, but are not
4 limited to:

5 (1) Development of pilot projects for patient-centered
6 medical homes as set forth in section nine of this article;

7 (2) Prioritization of chronic conditions to be targeted
8 for purposes of resource allocation and for greater chronic
9 care management. This should include pilot projects for
10 community-based health teams for the development of
11 care plans for healthy children and adults to maintain
12 good health and for at risk populations to prevent devel-
13 opment of preventable chronic diseases;

14 (3) Development of standardized prior authorization
15 requirements and processes from insurers;

16 (4) Coordination with the State Board of Education as
17 set forth in article two, chapter eighteen of this code to
18 provide for:

19 (i) The preservation and allocation of recess time away
20 from instruction and separate from physical education
21 classes in the state schools;

22 (ii) Continuing education for school food personnel and
23 a career hierarchy for food personnel that offers rewards
24 for continuing education hours and credits;

25 (iii) School-based physical education coordinators; and

26 (iv) Placement of a dietician in each regional education
27 service area throughout the state;

28 (5) Implementation of school-based initiatives to
29 achieve greater dietary consistency in West Virginia's
30 school system and to gain greater physical fitness from
31 students;

32 (6) Development of community-based projects designed
33 for the construction, development and maintenance of
34 bicycle and pedestrian trails and sidewalks;

35 (7) Development and implementation of universal
36 wellness and health promotion benefits;

37 (8) Continued promotion and support for efforts to
38 decrease the number of West Virginians using tobacco
39 products;

40 (9) Any necessary changes that will increase small
41 businesses who offer available health insurance as a
42 benefit of employment;

43 (10) Development of goals to further improve health
44 care delivery in West Virginia. This should include a
45 means to evaluate progress toward achieving these goals
46 in a simple and timely manner;

47 (11) Measurement of progress of health care providers
48 and physicians to the adoption and use of electronic
49 medical records in their offices;

50 (12) Collaboration on health information technology
51 with the West Virginia Health Information Network, the
52 Bureau for Medical Services and other appropriate entities
53 which shall include:

54 (i) Working through the West Virginia Health Informa-
55 tion Network, the Bureau for Medical Services and other
56 appropriate entities, to develop a collaborative approach
57 for health information exchange;

58 (ii) Facilitating and encouraging of ongoing projects
59 such as electronic medical record resources in community
60 health clinics;

61 (iii) Encouragement of continued development of
62 hospital systems and deployment of hospital-supported
63 electronic medical records when available for hospital-
64 based, hospital-employed and nonhospital-employed
65 physicians;

66 (iv) Development of strategies to implement tax incen-
67 tives, vendor discounts, enhanced reimbursement and
68 other means to individual physician offices and clinics to
69 encourage greater adoption and use of electronic medical
70 records;

71 (v) Development of recommended electronic medical
72 record best practices utilizing the Certification Commis-
73 sion for Health Care Information Technology as the
74 minimum standard;

75 (vi) Development of funding mechanisms that provide
76 initial start up funds and a mechanism for sustainability
77 of electronic medical records; and

78 (vii) Exploration of federal funding to ensure the most
79 efficient and cost-effective means of meeting the state's
80 health information technology objectives.

§16-29H-7. Coordination with higher education.

1 The director shall consult with all the colleges and
2 universities in the state, both public and private, with the
3 state's three medical schools, with community and techni-
4 cal colleges and with the Higher Education Policy Com-
5 mission. The purpose of this collaboration would be:

6 (1) The development of curricula focused on a chronic
7 care model to reflect the multidisciplinary team approach
8 to the delivery of health care services in West Virginia as
9 contemplated by the development of a patient-centered
10 medical home as that term is defined in section nine of this
11 article; and

12 (2) The development of technology-centered jobs that
13 would further the state's efforts in moving toward the
14 broader use of electronic health records.

**§16-29H-8. Continuing efforts to reduce prescription drug
prices.**

1 (a) The rule-making authority previously granted to the
2 Pharmaceutical Cost Management Council in article
3 three-c, chapter five-a of this code to require the reporting
4 of pharmaceutical advertising costs is here transferred to
5 the Governor's Office of Health Enhancement and Life-
6 style Planning.

7 (b) Advertising costs for prescription drugs, based on
8 aggregate national data, shall be reported to the Gover-
9 nor's Office of Health Enhancement and Lifestyle Plan-
10 ning by all manufacturers and labelers of prescription
11 drugs dispensed in this state that employs, directs or
12 utilizes marketing representatives. The reporting shall
13 assist this state in its role as a purchaser of prescription

14 drugs and an administrator of prescription drug programs,
15 enabling this state to determine the scope of prescription
16 drug advertising costs and their effect on the cost, utiliza-
17 tion and delivery of health care services and furthering the
18 role of this state as guardian of the public interest.

19 (c) The Governor's Office of Health Enhancement and
20 Lifestyle Planning shall establish by legislative rule
21 pursuant to the provisions of article three, chapter twenty-
22 nine-a of this code the reporting requirements of informa-
23 tion by labelers and manufacturers which shall include all
24 national aggregate expenses associated with advertising
25 and direct promotion of prescription drugs through radio,
26 television, magazines, newspapers, direct mail and tele-
27 phone communications as they pertain to residents of this
28 state.

29 (d) The following are exempt from disclosure require-
30 ments:

31 (1) All free samples of prescription drugs intended to be
32 distributed to patients;

33 (2) All marketing items of a value less than \$100;

34 (3) All payments of reasonable compensation and
35 reimbursement of expenses in connection with a bona fide
36 clinical trial. As used in this subdivision, "clinical trial"
37 means an approved clinical trial conducted in connection
38 with a research study designed to answer specific ques-
39 tions about vaccines, new therapies or new ways of using
40 known treatments;

41 (4) All scholarship or other support for medical stu-
42 dents, residents and fellows to attend significant educa-
43 tional, scientific or policy making conference of national,
44 regional or specialty medical or other professional associa-
45 tion if the recipient of the scholarship or other support is
46 selected by the association; and

47 (5) Any data that identifies specific prescription drugs
48 or pharmaceuticals by individual name, any group of
49 individuals or specific individual by name and any specific
50 physician or pharmacy or group of physicians or pharma-
51 cies by name.

52 (e) The Governor's Office of Health Enhancement and
53 Lifestyle Planning, with advice of the advisory council, is
54 authorized to revise existing legislative rules that establish
55 time lines, the documentation, form and manner of
56 reporting required, and determine necessary changes to
57 existing legislative rules to effectuate the purposes of this
58 article. The director shall include in his or her annual
59 report to the Legislature, in an aggregate form, the
60 information provided in the required reporting.

61 (f) Notwithstanding any provision of law to the con-
62 trary, information submitted to the director pursuant to
63 this section is confidential and is not a public record and
64 is not available for release pursuant to the West Virginia
65 Freedom of Information Act codified in chapter
66 twenty-nine-b, article one of this code. Data compiled in
67 aggregate form by the director for the purposes of report-
68 ing required by this section is a public record as defined in
69 the West Virginia Freedom of Information Act as long as
70 it does not reveal trade information that is protected by
71 state or federal law or specific prescription drugs or
72 pharmaceuticals by individual name, any group of individ-
73 uals or specific individual by name and any specific
74 physician or pharmacy or group of physicians or pharma-
75 cies by name.

76 (g) The director is authorized to consider strategies by
77 which West Virginia may manage the increasing costs of
78 prescription drugs and increase access to prescription
79 drugs for all of the state's residents, including the author-
80 ity to:

81 (1) Explore discount prices or rebate programs for
82 seniors and persons without drug coverage;

83 (2) Explore and if in the best interest of the state and
84 financially feasible, a counter-detailing program aimed at
85 education health care practitioners about the relative costs
86 and benefits of various prescription drugs with an empha-
87 sis on generic drugs;

88 (3) Explore purchasing agreements with public or
89 private sector entities that could be beneficial in the cost
90 of pharmaceuticals; and

91 (4) Explore other strategies, as permitted under state
92 and federal law, aimed at managing escalating prescrip-
93 tion drug cost and increasing access for citizens of the
94 state and develop necessary legislation to implement such
95 strategies.

§16-29H-9. Patient-centered medical homes.

1 (a) *Legislative findings.* –

2 The Legislature finds that:

3 (1) There is a need in the state to transform the health
4 care services delivery model toward primary prevention
5 and more proactive care management through the devel-
6 opment of patient-centered medical homes;

7 (2) The concept of a patient-centered medical home
8 would promote a partnership between the individual
9 patient, the patient's various health care providers, the
10 patient's family and, if necessary, the community. It
11 integrates the patient as an active participant in their own
12 health and well-being;

13 (3) The patient-centered medical home provides care
14 through a multidisciplinary health team consisting of
15 physicians, nurse practitioners, nurses, physicians assis-
16 tants, behavioral health providers, pharmacists, social

17 workers, physical therapists, dental and eye care providers
18 and dieticians to meet the health care needs of a patient in
19 all aspects of preventative, acute, chronic and end-of-life
20 care using evidence-based medicine and technology;

21 (4) In a patient-centered medical home each patient has
22 an ongoing relationship with a personal physician. The
23 physician would lead a team of health care providers who
24 take responsibility for the care of the patient or for
25 arranging care with other qualified professionals;

26 (5) Transitioning health care delivery services to a
27 patient-centered medical home would provide greater
28 quality of care, increase patient safety and ensure greater
29 access to health care;

30 (6) Currently there are medical home pilot projects
31 underway at the Bureau for Medical Services and the
32 Public Employees Insurance Agency that should be
33 reviewed and evaluated for efficiency and a means to
34 expand these to greater segments of the state's population,
35 most importantly the uninsured.

36 (b) The patient-centered medical home is a health care
37 setting that facilitates partnerships between individual
38 patients and their personal physicians and, when appro-
39 priate, the patients' families and communities. A pa-
40 tient-centered medical home integrates patients as active
41 participants in their own health and well-being. Patients
42 are cared for by a physician or physician practice that
43 leads a multidisciplinary health team, which may include,
44 but is not limited to, nurse practitioners, nurses, physi-
45 cian's assistants, behavioral health providers, pharmacists,
46 social workers, physical therapists, dental and eye care
47 providers and dieticians to meet the needs of the patient in
48 all aspects of preventive, acute, chronic care and end-of-
49 life care using evidence-based medicine and technology.
50 At the point in time that the Center for Medicare and
51 Medicaid Services includes the nurse practitioner as a

52 leader of the multidisciplinary health team, this state will
53 automatically implement this change.

54 (c) The Governor's Office of Health Enhancement and
55 Lifestyle Planning shall consult with the Bureau for
56 Medical Services and the Public Employees Insurance
57 Agency on current medical home pilot projects which they
58 are operating for their membership population. The
59 director shall evaluate these programs in consultation with
60 the Commissioner of the Bureau for Medical Services and
61 the Director of the Public Employees Insurance Agency for
62 a means to expand these beyond the populations currently
63 being served by these pilots. Once data is available on
64 these pilots that can be reviewed for planning purposes,
65 the director shall utilize this as a means to develop and
66 implement additional patient-centered medical home pilot
67 programs beyond the limited populations served by the
68 Bureau for Medical Services and the Public Employees
69 Insurance Agency. The director shall develop four varying
70 types of patient-centered medical home pilots based upon
71 experience gained from the projects currently in operation
72 at the Bureau for Medical Services and the Public Employ-
73 ees Insurance Agency. These patient-centered medical
74 homes shall be based upon the individual practices of
75 physicians.

76 (d) The four types of pilot programs shall be:

77 (1) *Chronic Care Model Pilots.* – This model shall focus
78 on smaller physician practices. Primary care providers
79 shall work with payers and providers to identify various
80 disease states. Through the collaborative effort of the
81 primary care provider and the payers and providers,
82 programs shall be developed to improve management of
83 agreed upon conditions of the patient. Through this
84 model, the primary care provider may utilize current
85 practices of multipayer workgroups. These groups shall be
86 comprised of the medical directors of the major health

87 care payers and the state payers along with medical
88 providers and others.

89 (2) *Individual Medical Homes Pilots.* – These pilots
90 shall focus on larger physician practices. They shall seek
91 certification from the National Committee on Quality
92 Assurance. That initial certification will be Level I
93 certification. This would be granted by virtue of certifying
94 the provider is in the process of attaining certification and
95 currently have met provisional standards as set by the
96 National Committee on Quality Assurance. This provi-
97 sional certification lasts only one year with no renewal.

98 (3) *Community-Centered Medical Home Pilots.* – This
99 approach shall link primary care practices with commu-
100 nity health teams which would grow out of the current
101 structure in place for federally qualified health centers.
102 The community health teams shall include social and
103 mental health workers, nurse practitioners, care coordina-
104 tors and community health workers. These personnel
105 largely exist in community hospitals, home health agencies
106 and other settings. These pilots shall identify these
107 resources as a separate team to collaborate with the
108 primary care practices. The teams would focus on primary
109 prevention such as smoking cessation programs and
110 wellness interventions as well as working with the primary
111 care practices to manage patients with multiple chronic
112 conditions. Within this pilot all health care agencies are
113 connected and share resources. Citizens can enter the
114 system of care from any point and receive the most
115 appropriate level of care or be directed to the most
116 appropriate care. Any financial incentives in this model
117 would involve all health care payers and could be used to
118 encourage collaboration between primary care practices
119 and the community health teams.

120 (4) *Medical Homes for the Uninsured Pilots.* – These
121 pilots shall focus on medical homes to serve the uninsured.
122 They shall include various means of providing care to the

123 uninsured with primary and preventative care. Through
124 this mechanism, a variety of pilots may be developed that
125 shall include screening, treatment of chronic disease and
126 other aspects of primary care and prevention services. The
127 pilots will be chosen based on their design meeting the
128 requirements of this subsection and the resources avail-
129 able to provide these services.

130 (e) The Governor's Office of Health Enhancement and
131 Lifestyle Planning may promulgate emergency rules
132 pursuant to the provisions of section fifteen, article three,
133 chapter twenty-nine-a of this code if they deem them
134 necessary to implement this section.

135 (1) The Governor's Office of Health Enhancement and
136 Lifestyle Planning shall establish by guidelines, criteria to
137 evaluate the pilot program and may require participating
138 providers to submit such data and other information
139 related to the pilot program as may be required by the
140 Governor's Office of Health Enhancement and Lifestyle
141 Planning. For purposes of this article, this information
142 shall be exempt from disclosure under the Freedom of
143 Information Act in article one, chapter twenty-nine-b of
144 this code.

145 (2) No later than December 1, 2009, and annually
146 thereafter during the operation of the pilot program, the
147 Governor's Office of Health Enhancement and Lifestyle
148 Planning must submit a report to the Legislative Oversight
149 Commission on Health and Human Resources Account-
150 ability as established in article twenty-nine-e of this
151 chapter on progress made by the pilot project including
152 suggested legislation, necessary changes to the pilot
153 program and suggested expansion of the pilot program.

**§16-29H-10. Exemption from Purchasing Division require-
ments.**

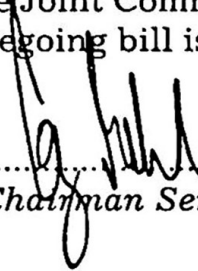
1 The provisions of article three, chapter five-a of this
2 code do not apply to the agreements and contracts exe-

29 [Enr. Com. Sub. for Com. Sub. for S. B. No. 414

3 cuted under the provisions of this article, except that the
4 contracts and agreements shall be approved as to form and
5 conformity with applicable law by the Attorney General.

Enr. Com. Sub. for Com. Sub. for S. B. No. 414] 30


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


.....
Chairman Senate Committee

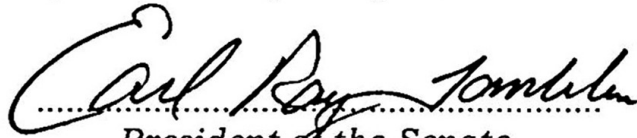

.....
Chairman House Committee

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 5th
Day of June, 2009.


.....
Governor

PRESENTED TO THE
GOVERNOR

JUN - 3 2009

Time 10:20am