

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 558

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[Introduced January 21, 2020; referred
to the Committee on the Workforce]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5B-2J-1, §5B-2J-2, §5B-2J-3, §5B-2J-4, and §5B-2J-5, all relating to the
 3 study of the health care workforce and sustainability; setting forth legislative findings;
 4 defining terms; directing the Department of Commerce to research, survey, study, and
 5 issue a report; setting forth the contents of the research, survey, study, and report; and
 6 deeming any documentary material, data, or other writing made or received by the
 7 department for the purpose of conducting the research, survey, study, or report to be
 8 confidential trade secrets which are exempt from disclosure.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2J. WEST VIRGINIA HEALTH CARE WORKFORCE SUSTAINABILITY
STUDY.

§5B-2J-1. Legislative Findings.

1 The Legislature hereby finds:

2 (1) The demand for skilled workforce across the health care industry continues to grow as
 3 the supply of available workforce steadily declines across the state.

4 (2) As the population in West Virginia continues to become more dependent upon the
 5 health care industry, the lack of available skilled workers in the health care industry jeopardizes
 6 the availability of quality care.

7 (3) Over the past 10 years, there has been greater reliance on care outside of the
 8 traditional hospital setting that necessitates specialized workers able to provide quality of care to
 9 patients with higher acuities and complexities outside of a hospital setting.

10 (4) The current health care industry is presently strained and becoming more reliant on
 11 contract or agency professionals to support the demand.

12 (5) The future demands of the state’s aging population, as well as those suffering from the
 13 effects of dementia, mental illness, and substance abuse disorder, will necessitate greater

14 demand of a specialized workforce across the continuum of care.

§5B-2J-2. Definitions.

1 As used in this article, the following words and terms have the following meanings unless
2 the context indicates another or different meaning or intent:

3 “Continuum of Care” means the following health care providers or facilities, singularly or
4 consecutively, that provide care for an individual:

5 (A) Assisted Living residence, as regulated and defined by W.Va. Code § 16-5D-1 et seq.;

6 (B) Behavioral Health Service, as defined by W.Va. Code § 16-2D-2(7);

7 (C) Hospice, as regulated and defined by W.Va. Code § 16-5I-1 et seq.;

8 (D) Hospitals, as regulated and defined by W.Va. Code § 16-5B-1 et seq.;

9 (E) Home Health Agency, as regulated and defined by W.Va. Code § 16-2C-1 et seq.; and

10 (F) Skilled Nursing Facility/Nursing Home, as regulated and defined by W.Va. Code § 16-
11 5C-1 et seq.

12 “Department” means the Department of Commerce, including any and all agencies within
13 the Department of Commerce.

14 “Entity” means an individual, partnership, corporation, or other legal entity that employs or
15 plans to employ skilled workers.

16 “Government agency” means any state, county, municipal, or local public agency, board,
17 committee, or division, including educational, vocational and technical schools.

18 “Health care facility” means a publicly or privately owned facility, agency or entity that
19 offers or provides health services, whether a for-profit or nonprofit entity and whether or not
20 licensed, or required to be licensed, in whole or in part;

21 “Health care provider” means a person authorized by law to provide professional health
22 services in this state to an individual;

23 “Health services” means clinically related preventive, diagnostic, treatment, or
24 rehabilitative services;

25 “Private third-party” means an individual, partnership, corporation, or other legal entity that
26 employs or plans to employ skilled workers in the workforce or that teaches, trains, certifies, or
27 provides licensure for individuals in the workforce.

28 “Report” means the report required to be completed and issued by the secretary pursuant
29 to this article.

30 “Secretary” means the Secretary of the Department Commerce.

31 “Workforce” means an individual employed by an entity within the continuum of care.

§5B-2J-3. Commerce to Study; Report findings.

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

4 (b) In addition to being made publicly available, the completed report shall be provided to
5 the Legislative Oversight Commission on Health and Human Resources Accountability
6 (LOCHHRA), created pursuant to W.Va. Code 16-29E-1 et seq.

7 (c) In order to effectuate the report required in this article in the most cost-effective and
8 efficient manner, the secretary may seek or obtain grants to facilitate the research, survey and
9 study; may enter into agreements with other governmental agencies, committees, research
10 divisions, including educational institutions, for the collection and analysis of information; and may
11 contract with private persons or companies: *Provided*, That any and all agreements, grants or
12 contracts for the assistance or sharing of information shall include confidentiality provisions
13 consistent with the provisions of this article.

14 (d) The findings in the report shall summarize the data collected utilizing the categories
15 and professions contained in section four of this article. In presenting the findings, the report shall
16 also breakdown its summaries on a statewide, regional, and county basis.

17 (e) The report, or any other disclosure of collected data, shall not identify specific entities,
18 providers or facilities, nor make specific correlation between an entity, provider or facility and the

19 workforce numbers at that entity, provider or facility.

20 (f) To facilitate the timely collection and accuracy of data, the department is expressly
21 authorized to seek, and specifically request, information from any entity, government agency,
22 health care provider, health care facility, or private third-party: *Provided*, That the department shall
23 only request information reasonably designed to elicit the information that is sought by this article,
24 and in a manner intended to minimize obstruction to the requested entities providing necessary
25 health services. Any entity, government agency, health care provider, health care facility, or private
26 third-party in receipt of a survey or request for information from the department shall comply with
27 the request and provide any and all requested information pertinent to the research, survey, and
28 study.

§5B-2J-4. Contents of Study; Report.

1 (a) The department shall research, survey and study the following aspects of the
2 continuum of care workforce:

- 3 (1) The number of individuals employed;
- 4 (2) The number of full-time and part-time individuals so employed;
- 5 (3) The number of contracts, agencies, or traveling nurses or specialists utilized;
- 6 (4) The number of vacancies;
- 7 (5) The average number of patients/residents treated at each entity;
- 8 (6) The overall number of individuals licensed or certified by the state to work in the health
9 care continuum;

10 (7) The current rate of licensure or certification by the state to work in the health care
11 continuum;

12 (8) The anticipated growth in the number of individuals that will be licensed or certified in
13 the state to work in the continuum of care over the next 15 years;

14 (9) The availability of classes or courses offered by secondary, vocational, technical,
15 community, and higher education schools or institutions to train those necessitating licensure or

16 certification to work in the health care continuum; and

17 (10) The average number of graduates per year in those classes or courses offered to
18 train those necessitating licensure or certification to work in the health care continuum.

19 (b) In collecting and reporting the data, the department shall utilize, at a minimum, the
20 following categories and professions within the continuum of care:

21 (1) Categories of entities:

22 (i) Assisted Living;

23 (ii) Behavioral Health;

24 (iii) Hospice;

25 (iv) Hospital;

26 (v) Home Health; and

27 (vii) Skilled Nursing Facility/Nursing Home.

28 (2) Job Professions:

29 (i) Physician (M.D./D.O.);

30 (ii) Physician Assistant;

31 (iii) Nurse Practitioner;

32 (iv) Registered Nurse;

33 (v) Licensed Professional Nurse;

34 (vi) Certified Nurse Aide;

35 (vii) Medical Assistant;

36 (viii) Certified Dietician;

37 (ix) Social Worker;

38 (x) Physical Therapist;

39 (xi) Occupational Therapist;

40 (xii) Speech Therapist;

41 (xiii) Respiratory Therapist; and

42 (xiv) MDS/coding specialist

§5B-2J-5. Confidentiality of contributed material.

1 Any documentary material, data or other writing made or received by the department for
2 the purpose of conducting the research, survey, study, or report, is deemed to be confidential
3 trade secrets which are exempt from disclosure under the provisions of §29B-1-4 of this code,
4 and the provisions of §5B-2-1 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.