

Preliminary Performance Review

Care Home Advisory Board

**The Care Home Advisory Board Is Expected
To Have All Of Its Work Completed By
The End Of 2003**



JOINT COMMITTEE ON GOVERNMENT OPERATIONS

Senate

Edwin J. Bowman
Chair

Billy Wayne Bailey, Jr.
Vice Chair

Walt Helmick

Joseph M. Minard

Sarah M. Minear

House Of Delegates

J.D. Beane
Chair

Earnest H. Kuhn
Vice Chair

Joe Talbott

Craig P. Blair

Otis Leggett

Scott G. Varner, Ex
Officio Non-Voting
Member

Citizen Members

Dwight Calhoun

John Canfield

James Willison

W. Joseph McCoy

(Vacancy)



OFFICE OF THE LEGISLATIVE AUDITOR

Aaron Allred
Legislative Auditor

John Sylvia
Director

Brian Armentrout
Research Manager

Osagie Ayanru
Research Analyst

Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305
(304) 347-4890

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

August 4, 2003

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Full Performance Evaluation of the *Division of Motor Vehicles*, which will be presented to the Joint Committee on Government Operations on Monday, August 4, 2003. The issue covered herein is "The Division of Motor Vehicles Should Follow West Virginia Code by Taxing Vehicle Title Transactions at Present Market Value."

We transmitted a draft copy of the report to the Division of Motor Vehicles on July 16, 2003. We held an exit conference with the DMV on July 24, 2003. We received the agency response on July 24, 2003.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

Joint Committee on Government and Finance

Contents

Executive Summary	5
Review Objective, Scope and Methodology	7
Issue 1: The Care Home Advisory Board Is Expected To Have All Of Its Work Completed by the End Of 2003	9

List Of Appendices

Appendix A: Transmittal Letter to Agency	13
Appendix B: Agency Response	15

Executive Summary

Issue 1: The Care Home Advisory Board Is Expected to Have All of Its Work Completed By the End of 2003.

The Care Home Advisory Board was created in 2001 by the Legislature to gather information on personal care homes, residential board and care homes and make its findings and recommendations to the Governor and the Legislature.

The Care Home Advisory Board was created in 2001 by the Legislature to gather information on personal care homes, residential board and care homes and make its findings and recommendations to the Governor and the Legislature. The Board was originally expected to be terminated by July 31, 2003 but was extended to December 31, 2003 as recommended by the Board and passed with SB 405 during the 2003 Legislative Session.

The activities of the Board resulted in the re-designation of personal care homes and residential board and care homes as assisted living facilities, through the passage of SB 405 during the 2003 Legislative Session. Another recommendation by the Board, is the improvement of the ability of nursing homes and physicians access to affordable liability insurance that should include personal care homes and residential board and care homes. This recommendation passed with HB 2122 during the 2003 Legislative Session. This bill relates to professional medical liability generally.

The Board's recommendation that the Legislature approve all or part of Department of Health and Human Resources improvement package of \$4.8 million will be implemented administratively by the Department. Furthermore, the Board is awaiting the result of a study by the Medicaid Division of the DHHR in November. The study is to determine whether it is feasible and affordable to include services provided by personal care homes and residential board and care homes as Medicaid covered services. This is the remaining issue the Board has to resolve and accordingly, make recommendations to the Governor and the Legislature.

Recommendation 1

The Legislative Auditor recommends that the Care Home advisory Board be sunsetted on its legislated expiration date of December 31, 2003 provided the Board completes the remaining incomplete task.

Review Objective, Scope and Methodology

The West Virginia Sunset Law, §4-10-5 of the code requires a Preliminary Performance Review be conducted on the Care Home Advisory Board. The Board was created to gather information on personal care homes, residential board and care homes and make its findings and recommendations to the Governor and the Legislature.

Objective

The objective of this review is to determine if the Care Home Advisory Board has fulfilled its mandate of gathering information on personal care homes, residential board and care homes and made its recommendations to the Governor and the Legislature as stipulated in the code.

Scope

The scope of this Preliminary Performance Review covers the period from calendar years 2001 through 2003.

Methodology

Information used in this report was gathered from the West Virginia Code, documents, correspondence and telephone conversation with the agency. Information received from the agency included: minutes of meetings, a report to the Legislature, expense information and a list of Board members. Every aspect of this review complied with the Generally Accepted Government Auditing Standards (GAGAS).

ISSUE 1

The Care Home Advisory Board Is Expected to Have All of Its Work Completed By the End of 2003.

The Care Home Advisory Board (CHAB) was created to gather information on personal care homes, residential board and care homes and make its findings and recommendations to the Governor and the Legislature.

The Care Home Advisory Board (CHAB) was created by the Legislature under WVC B16-5T-1 in 2001 to gather information on personal care homes, residential board and care homes and make its findings and recommendations to the Governor and the Legislature. The Board is made up of the following seven members:

The president of the Senate or his or her designee; the speaker of the House of Delegates or his or her designee; the secretary of the department of health and human resources or his or her designee; an operator of a personal care home licensed in this state; an operator of a residential board and care home licensed in this state; and two members of the public at large, one of which shall be an advocate for consumer rights.

Members to the Board are appointed by the Governor with the advice and consent of the Senate.

Issues identified by the Board during its meetings include the following areas:

- i The need for available and affordable professional liability insurance for facilities that are operating with the same coverage at substantially higher cost or are operating with reduced coverage at increased cost, or are operating with no coverage at all.
- ii The need for improving medication management to regulate the administration of medication by unlicensed persons.
- iii Inadequate reimbursement rates for state-subsidized residents affects the general inability of facilities to cover the cost of services provided to residents.
- iv Hiring and retaining qualified staff is difficult for state-subsidized facilities that are having difficulty covering the costs of providing services to residents receiving supplemental social security income (SSI).
- v Confusion among consumers regarding categories of care such as personal care, residential board and

care, assisted living and nursing care.

- i Federal legislative considerations geared towards developing a model set of regulations nationwide for states to implement.
- ii Regulatory issues that cover accountability, affordability, residents, staffing and medication.

The Board submitted a report to the Governor and the Legislature that addresses many of the subjects it discussed in its meetings. Most of the Board's recommendations have been adopted. The Board plans to have all of its work done by the end of 2003.

The Board Has Achieved the Objective of Its Mandate

The Care Home Advisory Board has achieved the objective of its mandate. It was created to gather information on personal care homes, residential board and care homes and make its findings and recommendations to the Governor and the Legislature. The Board made its findings and recommendations known to the Governor and the Legislature through a report that was submitted on December 5, 2002. The recommendations are derived and based on the issues studied by the Board for serious consideration by the Governor and the Legislature. The recommendations and results are stated below:

The Board made its findings and recommendations known to the Governor and the Legislature through a report that was submitted on December 5, 2002.

1. The Board recommended that improving the ability for nursing homes and physicians access to affordable liability insurance should include personal care homes and residential board and care homes. In fact, the Board did note its inability to make specific recommendations for addressing this problem created in part, by the stock market decline, large non health care insurance losses and a greater reliance by insurance companies on underwriting profits. However, the Board found that, personal care homes and residential board and care homes, face severe crisis as facilities are operating with coverage at substantially higher costs if they are able to find or obtain it, or are operating with reduced coverage at increased cost or are operating with no coverage at all. This issue was the predominantly recurring problem mentioned by providers in their presentation to the Board. This recommendation passed with HB 2122 during the 2003 Legislative Session. This bill relates to professional medical liability generally.

-
2. The Board recommended that legislation be passed to extend the life of the Board, with its present membership, until December 31, 2003; an additional six months beyond its currently legislated termination date of July 31, 2003. This recommendation passed with SB 405 during the 2003 Legislative Session.
 3. The Board recommended to re-designate ipersonal care homes and residential board and care homes as assisted living facilities. The Board noted that such a change would resolve confusion that currently exists on the part of consumers and would result in improved rules. The new article would refer to homes as either large assisted living providers (17 beds or more) or small assisted living providers (4-16 beds). The new legislation would then replace ipersonal care home and residential board and care home with the single more commonly used phrase, assisted living, which is being adopted by a growing number of state legislatures. Consumers nationwide, also recognize the proposed term as a service for persons who are in need of a lesser level of care than is provided by nursing homes. In addition, the Board noted that the passage of a single code would pave the way for the promulgation of new legislative rules that would be less confusing and burdensome for providers. This recommendation was passed with SB 405 during the 2003 Legislative Session.
 4. The Board recommended that the Legislature approve all or part of the Department of Health and Human Resources (DHHR) proposed improvement package that requests an additional \$4.8 million to increase the subsidy to ipersonal care homes and residential board and care homes that admit SSI residents. This issue was handled administratively by the DHHR. Therefore, no legislation was required to implement this recommendation as the DHHR was able to provide funds to increase the subsidy.
 5. The Board recommended that the Medicaid Division of the DHHR do a study to determine whether it is feasible and affordable to include services provided by ipersonal care homes and residential board and care homes, as Medicaid covered services. The rationale for the study is based on the fact that the majority of states offer these services under a waiver option as a means of delaying entry into the higher cost nursing home setting. Once the Medicaid Division has completed its study, which is scheduled for November, the Board will determine if such an approach will offset any of the state subsidy now going for these services and whether it is an opportunity for slowing the growth of the Medicaid budget deficit. **This is the remaining issue that the Board has to resolve and accordingly make recommendations**

to the Governor and the Legislature.

Conclusion

The Care Home Advisory Board has been successful in achieving the objectives of its mandate. This is reflected by the passage of SB 405 and HB 2122 as stated above. Furthermore, the conclusion of the study on increased subsidy for those SSI residents in assisted living settings was done administratively, thus requiring no legislation for its implementation. All that is outstanding for the Board to do is to receive the Medicaid Division's feasibility study on including services provided by assisted living facilities as Medicaid covered services and make appropriate recommendations to the Governor and Legislature. The Board expects to complete its work by December 31, 2003.

Recommendation 1

The Legislative Auditor recommends that the Care Home Advisory Board be sunsetted on its legislated expiration date of December 31, 2003 provided the Board completes the remaining incomplete task.

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

July 17, 2003

John M. Wilkinson, Director
Office of Health Facility Licensure and Certification
350 Capitol Street, Room 204
Charleston, WV 25301

Dear Mr. Wilkinson:

This is to transmit a draft copy of the Preliminary Performance Review of the Care Home Advisory Board. This report is scheduled to be presented at the August 3-5, 2003 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. When we are notified of the exact day, time and location of the meeting we will inform you.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us by Tuesday, July 22, 2003. In addition, we will need a written response by Wednesday, July 23, 2003 in order for it to be printed in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Operations staff at 340-3192 by Thursday, July 31, 2003 to make arrangements.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Brian Armentrout".

Brian Armentrout
Research Manager

Enclosure

Joint Committee on Government and Finance

Appendix B: Agency Response



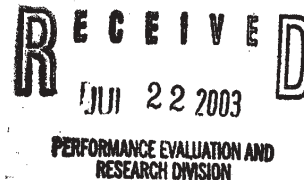
STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bob Wise
Governor

Bureau for Public Health
Office of Health Facility Licensure and Certification
350 Capitol Street, Room 206
Charleston, WV 25301-3718
Telephone: (304) 558-0050 Fax: (304) 558-2515

Paul L. Nusbaum
Secretary

July 22, 2003



Mr. Brian Armentrout, Research Manager
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
Charleston, WV 25305-0610

Dear Mr. Armentrout:

I have received and reviewed your draft copy of the Preliminary Performance Review of the Care Home Advisory Board by letter dated July 17, 2003.

I find your research of and analysis of the Board's work contained in your narrative to be complete and accurate. I also concur with the Performance Evaluation and Research Division's conclusion that the Board has satisfied its legislative mandate and agree with your recommendation that the Board be sunsetted at the date of its legislated expiration of December 31, 2003.

I, someone from my staff, or someone from the Board will attend the August interims at which your report is made to the Joint Committee on Government Operations. Please notify me of the date of that meeting so that we can identify the person attending. If you need additional input from us prior to that meeting, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "John M. Wilkinson".

John M. Wilkinson, Director
Office of Health Facility Licensure
and Certification

