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WEST VIRGINIA LEGISLATURE
SERIALS ACQUISITION

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2077

(By Mr. Speaker, Mr. Kiss)



Passed February 18, 2003

In Effect Ninety Days from Passage

7000

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7000

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2077

(BY MR. SPEAKER, MR. KISS)

[Passed February 18, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section one-b, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing the requirement that the Joint Committee on Government and Finance be given reports on the Colin Anderson closure and relocation of patients.

Be it enacted by the Legislature of West Virginia:

That section one-b, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.

§27-2-1b. Deinstitutionalization of residents at Colin Anderson.

1 (a) Notwithstanding any other provisions in this code to
2 the contrary, the secretary of the department of health and
3 human resources shall close the Colin Anderson Center on
4 or before the thirty-first day of December, one thousand
5 nine hundred ninety-six: *Provided*, That prior to any transfer
6 of any resident from Colin Anderson Center as a result of
7 action taken pursuant to this section, the secretary must
8 design and be able to implement a detailed plan providing
9 for the ongoing appropriate care, placement and transfer of
10 said resident in accordance with subsection (b) of this
11 section.

12 (b) The plan for providing for the ongoing appropriate
13 care, placement and transfer of each resident at Colin
14 Anderson Center shall be designed in accordance with the
15 criteria set forth in this subsection. Each resident must have
16 a plan of service developed to meet his or her individual
17 medical, physical and emotional needs. The plan of service
18 shall be developed by a team which shall include, but not be
19 limited to, the following persons: The resident; the immedi-
20 ate family of the resident, if the immediate family of the
21 resident is willing to participate; the guardian of the resident,
22 if the guardian is willing to participate; representatives of the
23 Colin Anderson Center; community behavioral health
24 service providers; and such other persons as may be
25 appointed to the team by the secretary of the department.
26 The plan shall not compromise the health, safety and well-
27 being of the resident. The plan will be implemented in a
28 timely manner. However, no plan shall be implemented until
29 the needed services are in place, adequate staff training has
30 been completed and an appropriate transition has been
31 provided. Each resident, or his or her guardian, shall have

32 access to and be informed of the written appeal process
33 which shall be established by the department.

34 (c) In designing and implementing the placement plan,
35 the secretary of the department of health and human
36 resources shall transfer funds from the hospital services
37 revenue account created pursuant to section fifteen-a, article
38 one, chapter sixteen of this code and the consolidated
39 medical service fund to a special revenue account created in
40 the state treasury, designated the "Colin Anderson Transfer
41 Fund" for the specific purposes of caring for residents in
42 alternative placement settings: *Provided*, That transfers in
43 excess of a total of ten million dollars in any one fiscal year
44 shall require the prior approval of the governor and shall be
45 reported forthwith to the joint committee on government and
46 finance. Moneys deposited in the "Colin Anderson Transfer
47 Fund" shall be expended directly from the fund for pay-
48 ments related to care of persons affected by the provisions
49 of this section and may be expended by the transfer of
50 moneys from this fund to match the state's share of
51 medicaid payments necessary to effectuate the purposes of
52 this section. The secretary shall prepare a quarterly report of
53 all transfers made from the hospital services revenue
54 account and the consolidated medical service fund explain-
55 ing the specific reason for the transfer. In submitting a
56 budget to the Legislature for the fiscal year following the
57 closure of Colin Anderson, the secretary shall include
58 funding necessary for the continued care of each resident in
59 the appropriate account and the authority of the secretary to
60 transfer funds pursuant to this section shall be void and of
61 no further effect.

62 (d) All savings accruing to the state as a result of actions
63 taken pursuant to this section shall be deposited in the

64 medical services trust fund established by section two-a,
65 article four-a, chapter nine of this code.

66 (e) The department of health and human resources, the
67 bureau of employment programs, the public employees
68 retirement system, the public employees insurance agency,
69 any state agency or local community action agency receiv-
70 ing job training partnership act funds and any other agency
71 of the state involved with benefits or services to the unem-
72 ployed shall work individually with all employees whose
73 jobs have been terminated by this section in order to
74 recommend benefits, services, training, interagency employ-
75 ment transfer or other employment. The secretary of the
76 department of health and human resources and secretaries
77 of all other state agencies shall use best efforts to employ
78 qualified employees who were employed at the facility
79 immediately prior to its closure: *Provided*, That notwith-
80 standing any other provision of this code to the contrary, in
81 filling vacancies at other facilities or other state agencies, the
82 secretary and the directors of other agencies shall, for a
83 period of twelve months after the closure, give preference
84 over all but existing employees to qualified employees who
85 were permanently employed at the facility immediately prior
86 to its closure: *Provided, however*, That qualified persons
87 who were permanently employed at Colin Anderson
88 immediately prior to its closure shall not supersede those
89 employees with recall rights in other state agencies. The
90 secretary of the department of health and human resources
91 is directed to encourage vendors providing mental health
92 related services for the department to hire employees who
93 were separated from service as a result of the closure of
94 Colin Anderson.

95 (f) No later than the thirtieth day of November, one
96 thousand nine hundred ninety-five, the department shall

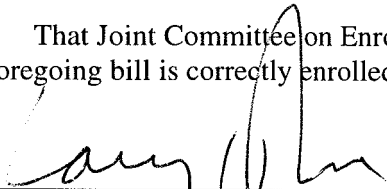
97 report to the joint committee on government and finance
98 regarding the feasibility of establishing one or more perma-
99 nent intermediate care facilities for the mentally retarded
100 which would house up to thirty residents which is con-
101 structed and/or operated by a private contractor. Prior to
102 preparing the report, the department shall solicit requests for
103 proposals from private contractors who are willing to
104 construct and/or operate such a facility within this state. In
105 formulating the feasibility report, the department shall
106 consider the availability of all necessary equipment at the
107 private facility, the cost to the state of maintaining patients
108 in the private facility and the quality of care available at the
109 privately run facility vis-a-vis the care available at a group
110 home in this state. The department shall also consider, when
111 making its report, the preference of a guardian of any
112 resident at Colin Anderson Center who prefers the more
113 restrictive placement of that resident in an intermediate care
114 facility for the mentally retarded. The department may also
115 consider and report on such other factors which are relevant
116 to the feasibility of permanently maintaining, in this state,
117 one or more intermediate care facilities for the mentally
118 retarded which would house up to an aggregate of thirty
119 residents statewide.

120 (g) In order to assist the department in completing the
121 transfer of residents at Colin Anderson Center to some other
122 appropriate placement by the thirty-first day of December,
123 one thousand nine hundred ninety-six, the health care cost
124 review authority is authorized and required to expedite any
125 certificate of need review of group homes or other facilities
126 that are necessitated as a direct result of the required closure
127 of Colin Anderson Center. For the purposes of this subsec-
128 tion only, the health care cost review authority may decrease
129 any time limitations or other requirements set forth in

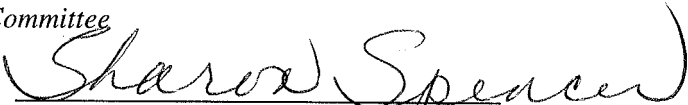
130 section seven, article two-d, chapter sixteen of this code:
131 *Provided*, That in no event may the health care cost review
132 authority fail to follow any other provision of said article.
133 The secretary of the department of health and human
134 resources shall provide the health care cost review authority
135 with a list of the applications that are to be expedited under
136 this subsection.

137 (h) The Legislature shall establish a subcommittee of the
138 joint committee on government and finance to monitor the
139 placement and care of residents transferred from Colin
140 Anderson Center as a result of the provisions of this section.
141 The subcommittee shall monitor both state and federal
142 moneys expended as a result of the implementation of this
143 section. The subcommittee, upon approval by the joint
144 committee and when the terms of the visitation are in
145 compliance with any applicable law or regulation regarding
146 confidentiality and privacy of the residents, may visit any
147 facility or placement location.

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



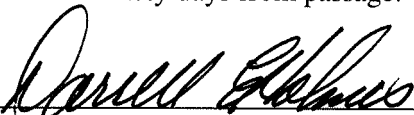
Chairman Senate Committee



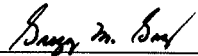
Chairman House Committee

Originating in the House.

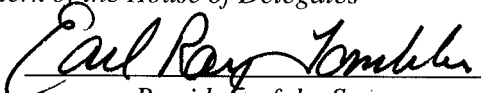
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

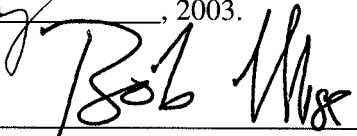


President of the Senate



Speaker of the House of Delegates

The within is approved this the 2th
day of February, 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 2/25/03

Time 2:45pm