

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

INTERIM
BILL

Senate Bill 205

By Senators Deeds, Grady, Plymale, Takubo,
Woodrum, Woelfel, and Maroney

[Introduced January 11, 2024; referred to the
Committee on Health and Human Resources; and
then to the Committee on Government Organization]

1 A BILL to amend and reenact §16-29E-2, §16-29E-3, §16-29E-5, §16-29E-6, and §16-29E-7 of
 2 the Code of West Virginia, 1931, as amended; and to amend said code by adding
 3 thereto four new sections, designated §16-29E-8, §16-29E-9, §16-29E-10, and §16-29E-
 4 11, all relating to the Legislative Oversight Commission on Health and Human Resources
 5 Accountability; providing legislative finding; defining terms; updating the powers of the
 6 commission; permitting the commission to enter into executive sessions; exempting
 7 certain information from the Freedom of Information Act; requiring the development of
 8 performance measures; requiring departments to submit annual reports; and updating
 9 information the commission is required to report.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 29E. LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN
 RESOURCES ACCOUNTABILITY.**

§16-29E-2. Legislative intent.

1 (a) It is the intent of the Legislature that all actions taken pursuant to the provisions of
 2 this article by the Legislature and the various agencies within the ~~Department of Health and~~
 3 ~~Human Resources~~ departments serve the following core set of principles:

4 (1) That all health and social programs offered under state authority be coordinated to
 5 maximize efficiencies and minimize competition within the various agencies thereby addressing
 6 the needs of the citizens more effectively; address the needs of citizens and be coordinated to
 7 maximize efficiencies. The goal of the departments is to assist individuals and families to
 8 become self-sufficient.

9 (2) That communication be facilitated among the various agencies within the ~~Department~~
 10 ~~of Health and Human Resources~~ departments and between the ~~department~~ departments and
 11 the Legislature;

12 (3) That policy changes, not made by legislative rule, be discussed with the commission

13 for purposes of coordinating those policies with existing programs and stated goals;

14 (4) That programs or policies implemented in accordance with federal mandates be
15 communicated to the commission;

16 (5) That in developing and implementing programs with private or federal grant moneys,
17 the various agencies communicate their efforts to the commission to ensure and facilitate future
18 state funding; ~~and~~

19 (6) That agencies previously exempted from rule-making review by federal or state
20 statutes advise the commission of program changes which may affect the health and well-being
21 of the citizens of West Virginia; and

22 (b) The Legislature finds that:

23 (1) Waste and inefficiency in state programs undermine the confidence of the people in
24 government and reduces the ability to adequately address vital public needs;

25 (2) State managers are disadvantaged in their efforts to improve program efficiency and
26 effectiveness, because of insufficient articulation of program goals and inadequate information
27 on program performance; and

28 (3) State policymaking, spending decisions, and program oversight are seriously
29 hindered by insufficient attention to program outcome measures.

30 (c) The purposes of this article are to:

31 (1) Improve the confidence of the people in the capability of the departments by
32 systematically holding it accountable for developing program goals and achieving program
33 results by measuring program performance against those goals, and reporting publicly on their
34 progress;

35 (2) Improve state program effectiveness and public accountability by promoting a new
36 focus on results, service quality, and customer satisfaction;

37 (4) Help state managers improve service delivery, by requiring that they plan for meeting
38 program objectives and by providing them with information about program results and service

39 quality;

40 (5) Improve state decision making by providing more objective information on achieving
41 statutory objectives, and on the relative effectiveness and efficiency of state programs and
42 spending; and

43 (6) Improve internal management of state government.

§16-29E-3.

Definitions.

1 As used in this article:

2 (a) "Agency" means those various agencies, authorities, boards, committees, and
3 ~~commissions or departments of the Department of Health and Human Resources~~ with authority
4 to ~~promulgate legislative rules pursuant to this chapter that~~ regulate health care providers,
5 practitioners, or consumers; or those offering social services programs within the departments.

6 (b) "Commission" means the Legislative Oversight Commission on Health and Human
7 Resources Accountability; and

8 (c) ~~"Department" means the Department of Health and Human Resources, and any~~
9 ~~successor agencies.~~

10 "Departments" means the Department of Health, the Department of Human Services; the
11 Department of Health Facilities; the Office of the Inspector General and all of their bureaus,
12 offices, and programs.

13 "Outcome measures" means an assessment of the results of a program activity
14 compared to its intended goal and purpose and this goal shall be compared to a state and
15 national rate;

16 "Output measure" means the tabulation, calculation, or recording of activity or effort and
17 can be expressed in a quantitative or qualitative manner;

18 "Performance goal" means a target level of performance expressed as a tangible,
19 measurable objective, against which achievement shall be compared, including a goal
20 expressed as a quantitative standard, value or rate;

21 "Performance indicator" means a particular value or characteristic used to measure
22 output or outcome;

23 "Program activity" means a specific activity related to the mission of the departments;

24 "Program evaluation" means an assessment, through objective and systemic analysis, of
25 the manner to which the departments achieved intended objectives.

§16-29E-5. Powers and duties of commission.

1 ~~(a) The powers, duties, and responsibilities of The commission shall: include the~~
2 ~~following:~~

3 (1) Make a continuing investigation, study and review of the practices, policies and
4 procedures of the health care and social services agencies in this state;

5 (2) Make a continuing investigation, study and review of all matters related to health and
6 social policy in the state;

7 (3) Review program development by the various agencies; ~~of the department of Health~~
8 ~~and Human Resources;~~

9 (4) Conduct studies on health and human services;

10 ~~(5) Review and study the state Medicaid program in order to determine if the state~~
11 ~~Medicaid agency, as the payor of last resort, is expending maximum effort to identify alternate~~
12 ~~private insurance resources for Medicaid beneficiaries;~~

13 ~~(6) Review and study the feasibility and financial impact upon the state by ensuring~~
14 ~~increased access for Medicaid beneficiaries to primary health care in the nonhospital setting by~~
15 ~~requiring enrollment in a primary care clinic program, if available;~~

16 ~~(7) Review and study the feasibility and financial impact upon the state of the~~
17 ~~establishment of different and lesser schedules of payment for primary health services delivered~~
18 ~~by a hospital emergency room as compared to the schedule of payments for emergency room~~
19 ~~services of a true medical emergency nature;~~

20 ~~(8) (5) Make an~~ evaluation of the adequacy and availability of care delivery networks

21 throughout the health care continuum from primary care to postmortem settings; and

22 ~~(9)~~ (6) Make a continuing investigation, study, and review of all matters related to any
23 area of concern that exists within the ~~department of Health and Human Resources, and any~~
24 ~~successor agencies,~~ departments including, but not limited to, financial, administrative,
25 programmatic, and systemic issues.

26 ~~(b) The commission shall make an annual reports to the Legislature regarding the results~~
27 ~~of all investigations, studies and reviews. pursuant to §16-29E-7 of this code~~
§16-29E-6. Examination and subpoena powers; contempt proceedings.

1 (a) For purposes of carrying out its duties, the commission ~~is hereby empowered and~~
2 ~~authorized to~~ may examine witnesses and to subpoena such persons and books, records,
3 documents, papers or any other tangible things as it believes should be examined to make a
4 complete investigation.

5 (b) All witnesses appearing before the commission ~~under subpoena~~ shall testify under
6 oath or affirmation. Any member of the commission may administer oaths or affirmations. ~~to~~
7 ~~such witnesses.~~

8 (c) To compel the attendance of witnesses at such hearings or the production of any
9 books, records, documents, papers or any other tangible thing, the commission ~~is hereby~~
10 ~~empowered and authorized to~~ may issue subpoenas, signed by one of the cochairpersons, in
11 accordance with §4-1-5 of this code. ~~Such~~ The subpoenas shall be served by any person
12 authorized by law to serve and execute legal process and service shall be made without charge.
13 Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as
14 is allowed witnesses before any petit jury in this state.

15 (d) If any person subpoenaed to appear at any hearing ~~shall refuse~~ refuses to appear or
16 to answer inquiries there propounded, or ~~shall fail or refuse~~ fails or refuses to produce books,
17 records, documents, papers or any other tangible thing within his or her control when ~~the same~~
18 these are demanded, the commission shall report the facts to the circuit court of Kanawha

19 County or any other court of competent jurisdiction and ~~such~~ the court may compel obedience to
 20 the subpoena as though ~~such~~ the subpoena had been issued by ~~such~~ the court in the first
 21 instance: Provided, That prior to seeking circuit court relief, the commission may, first demand
 22 the head of the public agency in which an employee has failed to appear or which has failed to
 23 produce requested or subpoenaed material to appear before the commission and address the
 24 basis for the failure to comply and whether compliance will be forthcoming.

§16-29E-7. Executive sessions.

1 ~~(a) The commission shall submit annual reports to the Legislature, as required by §16-~~
 2 ~~29E-5 of this code, which such reports shall describe and evaluate in a concise manner:~~

3 ~~(1) The major activities of the several health and human resources agencies for the fiscal~~
 4 ~~year immediately past, including important policy decisions reached on initiatives undertaken~~
 5 ~~during that year, especially as such activities, decisions and initiatives relate to:~~

- 6 ~~(A) The implementation of health care or social services programs;~~
- 7 ~~(B) Improving the accessibility of appropriate health care in all areas of this state;~~
- 8 ~~(C) Improving the health status of the citizens of this state; and~~
- 9 ~~(D) Coordinating social services programs to reflect a cohesive delivery of transitional~~
 10 ~~services.~~

11 ~~(2) Other information considered by the commission to be important, including~~
 12 ~~recommendations for statutory, fiscal or policy reforms and reasons for such recommendations.~~

13 ~~(b) The reports may specify in what manner any practice, policy or procedure may or~~
 14 ~~should be modified to satisfy the goal of efficient and effective delivery of health and social~~
 15 ~~services programs and to improve the quality of health and social services available in this state.~~

16 ~~(c) The commission may require the Department of Health and Human Resources to~~
 17 ~~submit reports on a routine or as needed basis. These reports shall be submitted to the~~
 18 ~~commission. The submission instructions and format for the reports may be designated by the~~
 19 ~~commission or the Joint Committee on Government and Finance.~~

20 The commission may conduct proceedings in a confidential executive session for the
21 purpose of reviewing investigations and questioning a witness or witnesses. If a witness desires
22 a public or open hearing the witness may demand an open hearing and may not be heard
23 otherwise: *Provided*, That if a witness desires a hearing in an executive session, the witness
24 may so request and may not be heard otherwise. Members of the staff of the commission may
25 be permitted to attend executive sessions.

§16-29E-8. Investigations exempt from public disclosure requirements.

1 The investigations conducted by the commission and the materials, placed in the
2 custody of the commission as a result of an investigation are exempt from public disclosure
3 under §29B-1-4 of this code.

§16-29E-9. Performance plans.

1 The departments shall prepare an annual performance plan covering each program
2 activity set forth in the departments' budget, which shall be included in an annual performance
3 report. The plan shall:

4 (1) Establish performance goals to define the level of performance to be achieved by a
5 program activity;

6 (2) Express such goals in an objective, quantifiable, and measurable form;

7 (3) Briefly describe the operational processes, skills and technology, and the human,
8 capital, information or other resources required to meet the performance goals;

9 (4) Establish performance indicators to be used in measuring or assessing the relevant
10 outputs, service levels, and outcomes of each program activity;

11 (5) Provide a basis for comparing actual program results with the established
12 performance goals; and

13 (6) Describe the means to be used to verify and validate measured value

§16-29E-10. Program performance reports.

1 (a) The departments shall submit an annual program performance report to the

2 commission beginning on July 1, 2024.

3 (b) The program performance report shall set forth the performance indicators
4 established in the departments' plan, along with the actual program performance achieved
5 compared with the performance goals expressed in the plan for that fiscal year.

6 (c) The report for fiscal year 2024 shall include actual results for the preceding fiscal
7 year, the report for fiscal year 2025 shall include actual results for the two preceding fiscal years
8 and the report for fiscal year 2026 and all subsequent reports shall include actual results for
9 three preceding fiscal years.

10 (d) A report shall:

11 (1) Review the success of achieving performance goals of the fiscal year:

12 (2) Evaluate the performance plan for the current fiscal year relative to the performance
13 achieved towards the performance goals in the fiscal year covered by the report;

14 (3) Explain and describe, where a performance goal has not been met including when a
15 program activity's performance is determined not to have met criteria of a successful program
16 state:

17 (A) Why the goal was not met;

18 (B) Those plans and schedules for achieving the established performance goal;

19 (C) If the performance goal is impractical or infeasible, why that is the case; and

20 (D) What action is recommended.

21 (4) The report shall include the summary findings of those program evaluations
22 completed during the fiscal year covered by the report.

23 (5) The report, strategic plan, performance plans, and program performance reports
24 required under this article shall be performed only by employees of the department.

§16-29E-11. Legislative reports.

1 (a) The commission shall submit an annual report to the Legislature, which shall
2 describe and evaluate in a concise manner:

3 (1) The major activities for the year immediately past, including important policy
4 decisions reached on initiatives undertaken during that year;

5 (2) Other information considered by the commission to be important, including
6 recommendations for statutory, fiscal or policy reforms and reasons for such recommendations.

7 (b) The report may specify in what manner any practice, policy or procedure may or
8 should be modified to satisfy the goal of efficient and effective delivery of health and social
9 services programs and to improve the quality of health and social services available in this state.

10 (c) The commission may require the department to submit reports on a routine or as
11 needed basis. These reports shall be submitted to the commission. The submission instructions
12 and format for the reports may be designated by the commission or the Joint Committee on
13 Government and Finance.

NOTE: The purpose of this bill is to update the authority of LOCHHRA.

This bill was recommended for passage during the 2024 legislative session by the Legislative Oversight Commission of Health and Human Resources Accountability.

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