

# WEST VIRGINIA LEGISLATURE

## LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY

2007- 2008 Interims

### SENATE MEMBERS

Senator Roman W. Prezioso, Jr. Chair  
Senator Jon Blair Hunter  
Senator William R. Sharpe  
Senator Dan Foster  
Senator Donna J. Boley  
Senator Don Caruth  
Senator Ron Stollings

### HOUSE MEMBERS

Delegate Don Perdue, Chair  
Delegate Staggers  
Delegate Larry Border  
Delegate Barbara Hatfield  
Delegate Marshall Long  
Delegate Brent Boggs

Delegate Clif Moore - *nonvoting*  
Delegate Ricky Moye - *nonvoting*  
Delegate Ralph Rodighiero - *nonvoting*  
Delegate Lock Wysong - *nonvoting*  
Delegate Jack Yost - *nonvoting*

### Final Report of

## LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY

The Legislative Oversight Commission on Health and Human Resources Accountability was appointed pursuant to the provisions of West Virginia Code §16-29E-1, *et seq.* following the 2006 Regular Session of the 77<sup>th</sup> Legislature.

During the course of the 2007- 2008 interim period the Legislative Oversight Commission on Health and Human Resources Accountability met and received information on various topics of study and other important healthcare issues from state agencies, political subdivisions, advocacy groups and other pertinent sources. The only specific study topic transferred to this commission from Select Committee D on Health was HCR 58, studying rebalancing the long-term care system. The commission therefore spent their time reviewing different programs of DHHR and different topics that were of interest in the previous interim period. The Commission **REPORTS** as follows:

## **MEDICAID REDESIGN**

The Commission heard from Patrick Flood, Commissioner of the Department of Disabilities, Aging and Independent Living in Waterbury, Vermont regarding Medicaid redesign. Commissioner Flood has been instrumental in the “rebalancing” of Vermont’s Medicaid and other public support systems resources and has been called upon by other states that are exploring the many related issues. Commissioner Flood discussed issues involving the development of community based supports and the reduction of institutional settings for the aged and disabled. He particularly focused on the fact that Vermont has made home and community based services an entitlement just as nursing home care has been for many years. This is a shift in thinking and has proved to be no more and possibly less expensive than the previous methodology of funding nursing home care first.

The Commission also heard from Marsha Morris, Commissioner, Bureau for Medical Services, Department of Health and Human Resources who provided an update regarding Mountain State Health Choices. Mountain Health Choices is designed to ensure that members receive the right care, at the right time and by the right provider through care coordination. It provides a medical home, where primary health care is provided and records are kept, for every Medicaid member. Mountain State Choices gives members a choice of benefit plans, requires responsibility, sets expectations for behavior and rewards success. It is designed to encourage healthy habits for all West Virginia Medicaid members.

The Commission **RECOMMENDS** that this topic be continued for the next Interim period and that the Legislature receive additional reports on the successes of the program and any problems that arise as the program expands statewide.

## **HEALTHY LIFESTYLES COALITION**

The Commission met jointly with the Legislative Oversight Commission on Education Accountability regarding the Healthy Lifestyles Coalition (eg after-school programs and school-based programs.) Several testimonies were heard from a variety of sources. Those presenting were: Sandy Murphy, Chair, Implementing an Early Care and Education System; Dr. Carol Harris and Dr. Drew Bradlyn, Health Research Center, WVU; Lynn Sobolov, Co-Chair, Vision 4 Our Children; Janny Seline, Member, Morgantown City Council; Jane Hange, Director, WV Statewide Afterschool Network; Brian Crist, President, WV School-Based Health Assembly and Executive Director, Lincoln Primary Care Association; Teri Harlan, Past President, WV School-based Health Assembly and Director, School Based Health Program, New River Health Association and Rebecca King, Office of Healthy Schools, WV Department of Education.

The Commission **RECOMMENDS** that the legislation being offered by Select Committee D on Health relating to soft drinks in the schools be supported.

## **UNISYS SYSTEM**

Pat Miller, Director of the Office of MMIS Operations and IT Support, Bureau of Medical Services, DHHR, addressed the Commission regarding the UNISYS system by offering statistics on medicaid claims, providers and members. The system has now been approved for CMS certification.

## **PERSONAL OPTIONS PROGRAM/ AGED AND DISABLED WAIVER PROGRAM**

Cindy Beane, Office Director and Administrative Services, Bureau of Medical Services, DHHR discussed personal options program which BMS provides through the aged and disabled waiver program.

Patricia Snyder Nisbet, Program Manager, MR/DD Specialized Care and Community Placement, updated and provided the Commission an overview of the Family Specialized Care Program and the West Virginia Center for Excellence in Disabilities.

John Sassi, Community Services Coordinator, Bureau for Behavioral Health & Health Facilities, DHHR and Frank Kirkland, Director of the Division of Developmental Disabilities, Bureau for Behavioral Health & Health Facilities spoke before the Commission regarding the MR/DD Waiver Program.

The Commission **RECOMMENDS** that the Legislature consider an increase in funding for this program to reduce or eliminate the currently existing waiting list for the MR/DD waiver program.

## **PHARMACEUTICAL ADVOCATES**

Shana Phares, Acting Pharmaceutical Advocate, updated the Commission on the Pharmaceutical advocate and the work of the Pharmaceutical Cost Management Council. .

At this time, the council has made no decision to request the support of the commission on any legislation.

## **PERINATAL PROJECT**

Dr. Clark Hansbarger, Chair, Perinatal Partnership Central Advisory Council, Associate Vice President for Health Sciences, WVU School of Medicine-Charleston Division spoke before the Commission regarding outcomes and recommendations of the perinatal project.

The Commission **RECOMMENDS** that the attached legislation to establish a maternal mortality

review team and to establish a prenatal screening tool to be used to screen all pregnant women be offered by the commission.

### **LONG TERM HEALTH CARE**

Nancy Tyler, Chair of the Vision Shared Long Term Task Force spoke before the Commission concerning long term care in West Virginia and shared what the task force has been doing.

The Commission **RECOMMENDS** that the coordination of long-term care services be a continuing issue of study due to the critical importance of preparing for the significant increase in needed services and that if the Legislature decides to support the legislation offered by the Vision Shared project to create a LTC Commission that regular reporting to the commission be an important aspect of any proposed legislation.

### **OVERSIGHT AUTHORITY/ PROGRESS REPORTS**

The Commission heard updates from Sonia Chambers, Chair of the Health Care Authority, for a progress report of the Pre-Paid Insurance Program.

The Commission also heard from Rebecca King, School Health Services, WV Department of Education, for a progress report on the Diabetes Care Plan Act.

Respectfully submitted:

Senator Roman W. Prezioso, Jr.  
Co-Chair

Delegate Don Perdue  
Co-Chair

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H. B. /

(By Delegates /)

[Introduced ; referred to the  
Committee on .]

10 A BILL to amend the Code of West Virginia, 1931,, as amended, by  
11 adding thereto a new article, designated §48-25A-1, §48-25A-2  
12 and §48-25A-3, all relating to the creation of a maternal  
13 mortality review team, its members and responsibilities.

14 *Be it enacted by the Legislature of West Virginia:*

15 That The Code of West Virginia, 1931, as amended, be amended  
16 by adding thereto a new article, designated §48-25A-1, §48-25A-2  
17 and §48-25A-3m all to read as follows:

18 **ARTICLE 25A. MATERNAL MORTALITY REVIEW TEAM.**

19 **§48-25A-1. Legislative Findings.**

20 The Legislature finds that there is a need for a process to study  
21 the causes of maternal deaths. It has been found that  
22 comprehensive studies indicate that maternal mortalities are more  
23 extensive than first appears on death certificates. The  
24 Legislature finds that more extensive studies would enable a more

1 fully developed plan to avoid these deaths in the future.

2 **§48-25A-2. Maternal fatality review team.**

3 (a) The Maternal Fatality Review Team is hereby established under  
4 the office of the chief medical examiner. The Maternal Fatality  
5 Review Team is a multi-disciplinary team created to review the  
6 deaths of women who die during pregnancy, at the time of birth or  
7 within one year of the birth of a child.

8 (b) The Maternal Fatality Review Team is to consist of the  
9 following members, appointed by the governor, to serve three-year  
10 terms:

11 (1) The chief medical examiner, who is to serve as the chairperson  
12 of the maternal fatality review team and is responsible for calling  
13 and coordinating all meetings;

14 (2) the Director of the Office of Maternal Child and Family Health  
15 Program in the Bureau of Public Health or a designee;

16 (3) the Director of the Division of Vital Statistics or a designee;

17 (4) representation from each of the three medical schools in the  
18 state;

19 (5) the Director of Obstetrics, the Director of the Neonatal  
20 Intensive Care Unit and the Director of Pediatrics at each of the  
21 tertiary care hospitals in the state;

22 (6) One representative of the State Medical Association;

23 (7) One representative of the State Nurses Association;

24 (8) One representative of the State Osteopathic Association;

25 (9) One representative of private practice physicians;

1 (10) One representative of the West Virginia chapter of the State  
2 College of Nurse Midwifery;

3 (11) One representative of the West Virginia chapter of the  
4 American College of Obstetrics and Gynecology;

5 (12) One representative of the West Virginia chapter of the  
6 American Academy of Pediatrics; and

7 (13) Any additional person that the chair of the team determines  
8 is needed on a particular case being considered.

9 (c) Each member shall serve for a term of five years. Of the members  
10 of the commission first appointed, one shall be appointed for a  
11 term ending the thirtieth day of June two thousand nine, and one  
12 each for terms ending one, two, three and four years thereafter.

13 (d) Members of the Maternal Fatality Review Team shall, unless  
14 sooner removed, continue to serve until their respective terms  
15 expire and until their successors have been appointed and have  
16 qualified.

17 (e) An appointment of a physician, whether for a full term or to  
18 fill a vacancy, is to be made by the governor from among three  
19 nominees selected by the West Virginia state medical association or  
20 the organization to be represented on the team. When an  
21 appointment is for a full term, the nomination is to be submitted  
22 to the governor not later than eight months prior to the date on  
23 which the appointment is to become effective. In the case of an  
24 appointment to fill a vacancy, the nominations are to be submitted  
25 to the governor within thirty days after the request for the

1 nomination has been made by the governor to the chairperson or  
2 president of the organization. When an association fails to submit  
3 to the governor nominations for the appointment in accordance with  
4 the requirements of this section, the governor may make the  
5 appointment without nominations.

6 (e) Each member of the Maternal Fatality Review Team shall serve  
7 without additional compensation and may not be reimbursed for any  
8 expenses incurred in the discharge of his or her duties under the  
9 provisions of this article.

10 **§48-25A-3. Responsibilities of the Maternal Mortality Review Team.**

11 (a) The Maternal Fatality Review Team shall, pursuant to the  
12 provisions of chapter twenty-nine-a, promulgate rules applicable to  
13 the following:

14 (1) The standard procedures for the establishment, formation and  
15 conduct of the Maternal Fatality Review Team; and

16 (2) The protocols for the review of maternal mortalities.

17 (b) The Maternal Fatality Review Team shall:

18 (1) Review all deaths of women who die during pregnancy, at the  
19 time of birth or within one year of the birth of a child.

20 (2) Establish the trends, patterns and risk factors;

21 (3) Provide statistical analysis regarding the causes of maternal  
22 fatalities in West Virginia; and

23 (4) Promote public awareness of the incidence and causes of  
24 maternal fatalities, including recommendations for their reduction.

25 (c) The maternal fatality review team shall submit an annual report



1 to the governor and to the Legislature concerning its activities  
2 and the incidents of maternal fatalities within the state. The  
3 report is due annually on the first day of December. The report is  
4 to include statistics setting forth the number of maternal  
5 fatalities, identifiable trends in maternal fatalities in the  
6 state, including possible causes, if any, and recommendations to  
7 reduce the number of preventable maternal fatalities in the state.  
8 The report is to also include the number of mothers whose deaths  
9 have been determined to have been unexpected or unexplained.

10 ((d) The Maternal Fatality Review Team, in the exercise of its  
11 duties as defined in this section, may not:

12 (1) Call witnesses or take testimony from individuals involved in  
13 the investigation of a maternal fatality;

14 (2) Contact a family member of the deceased mother, except if a  
15 member of the team is involved in the investigation of the death  
16 and must contact a family member in the course of performing his or  
17 her duties outside of the team; or

18 (3) Enforce any public health standard or criminal law or otherwise  
19 participate in any legal proceeding, except if a member of the team  
20 is involved in the investigation of the death or resulting  
21 prosecution and must participate in a legal proceeding in the  
22 course of performing in his or her duties outside of the team.

23 (e) Proceedings, records and opinions of the maternal fatality  
24 review team are confidential, in accordance with section one,  
25 article seven, chapter forty-nine of this code, and are not subject

1 to discovery, subpoena or introduction into evidence in any civil  
2 or criminal proceeding. Nothing in this subsection is to be  
3 construed to limit or restrict the right to discover or use in any  
4 civil or criminal proceeding anything that is available from  
5 another source and entirely independent of the proceedings of the  
6 Maternal Fatality Review Team.

7 (f) Members of the Maternal Fatality Review Team may not be  
8 questioned in any civil or criminal proceeding regarding  
9 information presented in or opinions formed as a result of a  
10 meeting of the team. Nothing in this subsection may be construed  
11 to prevent a member of the Maternal Mortality Review Team from  
12 testifying to information obtained independently of the team or  
13 which is public information.

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16 The purpose of this bill is to create a maternal mortality review  
17 team and to establish its members and responsibilities.

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19 This article is new: therefore, strike-throughs and underscoring  
20 have been omitted.

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**Senate Bill No.**

(By )

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[Introduced , 2007;

referred to the Committee on ]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4D-1, §16-4D-2, §16-4D-3, §16-4D-4 and §16-4D-5 all relating to development of a maternal risk assessment advisory council; providing for legislative findings; setting forth responsibilities of the advisory council; providing for legislative rule making authority within the Bureau for Public Health to develop a uniform maternal risk screening tool and providing for applicability of the screening tool once developed.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-4D-1, §16-4D-2, §16-4D-3, §16-4D-4 and §16-4D-5 all to read as follows:

**ARTICLE 4D. UNIFORM MATERNAL SCREENING ACT.**

**§16-4D-1. Legislative findings.**

1           The Legislature finds that there is a need for a more  
2 comprehensive and uniform approach to any screening conducted by  
3 physicians and midwives to discover at-risk and high-risk  
4 pregnancies. A uniform approach would simplify the process,  
5 standardize the procedure and better identify those pregnancies  
6 that need more in-depth care and monitoring. Additionally, a  
7 uniform application would provide better and more measurable data  
8 regarding at-risk and high-risk pregnancies. This would allow  
9 public health officials to gain a better understanding of those  
10 conditions that are most frequently observed and to develop  
11 methodology to address those concerns.

12 **§16-4D-2. Establishment of an advisory council on maternal risk**  
13 **assessment.**

14           (a) There is hereby created within the Department of Health  
15 and Human Resources, Bureau for Public Health, Office of Maternal,  
16 Child and Family Health, an the advisory council on maternal risk  
17 assessment to provide assistance in the development of a uniform  
18 maternal risk screening tool.

19           (b) The Office of Maternal, Child and Family Health is charged  
20 with convening the advisory council at least annually and providing  
21 administrative and technical assistance to the advisory council as  
22 needed. The members of the advisory council shall be appointed by  
23 the Commissioner of the Bureau for Public Health.

24           (c) The advisory council shall be comprised of:

- 1 (1) At least one private provider of maternity services;
- 2 (2) At least one public provider of maternity services;
- 3 (3) One representative from each of the state's three medical
- 4 schools;
- 5 (4) The Commissioner of the Bureau for Public Health, or his
- 6 or her designee;
- 7 (5) The Director of the Office of Maternal, Child and Family
- 8 Health, or his or her designee;
- 9 (6) At least one representative of a tertiary care center; and
- 10 (7) At least one certified nurse midwife.

11 **§16-4D-3. Responsibilities of the Advisory Council on Maternal**  
12 **Risk Assessment.**

13 This advisory council shall:

- 14 (a) Advise the Bureau for Public Health, Office of Maternal,
- 15 Child and Family Health with respect to the implementation of this
- 16 article;
- 17 (b) Offer expert advice to the Office of Maternal, Child and
- 18 Family Health on the development of a uniform risk screening tool
- 19 and review the tool at least annually to offer suggested updates
- 20 based upon current medical knowledge.;
- 21 (b) Provided comments to the Office of Maternal, Child and
- 22 Family Health on any legislative rules necessary for the
- 23 accomplishment of the any requirements of this article;
- 24 (c) Develop in conjunction with the Office of Maternal, Child

1 and Family Health a statistical matrix to measure incidents of  
2 high-risk and at-risk pregnancies for planning purposes by public  
3 health officials.

4 **§16-4D-4. Legislative rulemaking authority.**

5 The Department of Health and Human Resources shall propose  
6 rules for legislative approval in accordance with the provisions of  
7 article three, chapter twenty-nine-a of this code. Such  
8 legislative rules shall include a uniform maternal risk screening  
9 tool to identify women at risk for a preterm birth or other high-  
10 risk condition.

11 **§16-4D-5. Applicability of the screening tool.**

12 Once developed, all health care providers offering maternity  
13 services shall be required to utilize the uniform maternal risk  
14 screening tool in their examinations of any pregnant woman.  
15 Additionally they shall notify the woman of any high-risk condition  
16 which they identify along with any necessary referral and report  
17 the results in the manner provided in the legislative rule.

NOTE: The purpose of this bill is to establish an advisory council on maternal risk assessment within the Office of Maternal, Child and Family Health and to grant legislative rule making authority to the Bureau for Public Health to develop a uniform maternal risk screening tool to serve as a alert to medical care providers of the need for greater evaluation and assessment of high-risk pregnancies.

This is a new article, therefore, underscoring and strike-throughs have been omitted.