

ENROLLED

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 414

(SENATORS PREZIOSO, FOSTER, JENKINS, STOLLINGS,

CARUTH, LAIRD, UNGER, MINARD AND KESSLER, *original sponsors*)

[Passed May 28, 2009; in effect ninety days from passage.]

AN ACT to repeal §5-16-7b of the Code of West Virginia, 1931, as amended; to repeal §5A-3C-1, §5A-3C-2, §5A-3C-3, §5A-3C-4, §5A-3C-5, §5A-3C-6, §5A-3C-7, §5A-3C-8, §5A-3C-9, §5A-3C-10, §5A-3C-11, §5A-3C-12, §5A-3C-13, §5A-3C-14, §5A-3C-15, §5A-3C-16 and §5A-3C-17 of said code; to amend and reenact §5F-2-2 of said code; to amend and reenact §16-29H-1, §16-29H-2, §16-29H-3, §16-29H-4 and §16-29H-5 of said code; and to amend said code by adding thereto five new sections, designated §16-29H-6, §16-29H-7, §16-29H-8, §16-29H-9 and §16-29H-10, all relating generally to the creation of the Governor's Office of Health Enhancement and Lifestyle Planning; setting forth

legislative findings; setting forth the powers and duties of the office; transferring the powers and duties of the Pharmaceutical Cost Management Council to the office; creating the position of director; setting forth the qualifications of the director; setting forth the powers and duties of the director; providing for staff; creating an advisory council; setting forth the membership of the advisory council; setting forth terms of office for the advisory council; setting forth powers and duties of the advisory council; requiring the development of a five-year strategic plan; providing for legislative rule-making authority; providing for coordination with various state agencies, departments, boards, bureaus and commissions; requiring reporting to the Governor and the Legislature; establishing pilot projects for patient-centered medical homes; setting forth legislative findings; defining terms; evaluating existing medical home pilot programs; establishing criteria for pilot projects for patient-centered medical homes; defining four types of pilot projects; setting forth evaluation criteria; granting rule-making authority; and exempting the office from Purchasing Division requirements.

Be it enacted by the Legislature of West Virginia:

That §5-16-7b of the Code of West Virginia, 1931, as amended, be repealed; that §5A-3C-1, §5A-3C-2, §5A-3C-3, §5A-3C-4, §5A-3C-5, §5A-3C-6, §5A-3C-7, §5A-3C-8, §5A-3C-9, §5A-3C-10, §5A-3C-11, §5A-3C-12, §5A-3C-13, §5A-3C-14, §5A-3C-15, §5A-3C-16 and §5A-3C-17 of said code be repealed; that §5F-2-2 of said code be amended and

reenacted; that §16-29H-1, §16-29H-2, §16-29H-3, §16-29H-4 and §16-29H-5 of said code be amended and reenacted; and that said code be amended by adding thereto five new sections, designated §16-29H-6, §16-29H-7, §16-29H-8, §16-29H-9 and §16-29-10, all to read as follows:

**CHAPTER 5F. ORGANIZATION OF THE EXECUTIVE BRANCH OF STATE
GOVERNMENT.**

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-2. Power and authority of secretary of each department.

(a) Notwithstanding any other provision of this code to the contrary, the secretary of each department shall have plenary power and authority within and for the department to:

(1) Employ and discharge within the office of the secretary employees as may be necessary to carry out the functions of the secretary, which employees shall serve at the will and pleasure of the secretary;

(2) Cause the various agencies and boards to be operated effectively, efficiently and economically and develop goals, objectives, policies and plans that are necessary or desirable for the effective, efficient and economical operation of the department;

(3) Eliminate or consolidate positions, other than positions of administrators or positions of board members and name a person to fill more than one position;

(4) Transfer permanent state employees between departments in accordance with the provisions of section seven of this article;

(5) Delegate, assign, transfer or combine responsibilities or duties to or among employees, other than administrators or board members;

(6) Reorganize internal functions or operations;

(7) Formulate comprehensive budgets for consideration by the Governor and transfer within the department funds appropriated to the various agencies of the department which are not expended due to cost savings resulting from the implementation of the provisions of this chapter: *Provided*, That no more than twenty-five percent of the funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: *Provided, however*, That no funds may be transferred from a special revenue account, dedicated account, capital expenditure account or any other account or funds specifically exempted by the Legislature from transfer, except that the use of appropriations from the State Road Fund transferred to the office of the Secretary of the Department of Transportation is not a use other than the purpose for which the funds were dedicated and is permitted: *Provided further*, That if the Legislature by subsequent enactment consolidates agencies, boards or functions, the appropriate secretary may transfer the funds formerly appropriated to the agency, board or function in order to implement consolidation. The authority to transfer funds under this section shall expire on June 30, 2010;

(8) Enter into contracts or agreements requiring the expenditure of public funds and authorize the expenditure or obligation of public funds as authorized by law: *Provided*, That the powers granted to

the secretary to enter into contracts or agreements and to make expenditures or obligations of public funds under this provision shall not exceed or be interpreted as authority to exceed the powers granted by the Legislature to the various commissioners, directors or board members of the various departments, agencies or boards that comprise and are incorporated into each secretary's department under this chapter;

(9) Acquire by lease or purchase property of whatever kind or character and convey or dispose of any property of whatever kind or character as authorized by law: *Provided*, That the powers granted to the secretary to lease, purchase, convey or dispose of such property shall be exercised in accordance with the provisions of articles three, ten and eleven, chapter five-a of this code: *Provided*, however, That the powers granted to the secretary to lease, purchase, convey or dispose of such property shall not exceed or be interpreted as authority to exceed the powers granted by the Legislature to the various commissioners, directors or board members of the various departments, agencies or boards that comprise and are incorporated into each secretary's department under this chapter;

(10) Conduct internal audits;

(11) Supervise internal management;

(12) Promulgate rules, as defined in section two, article one, chapter twenty-nine-a of this code, to implement and make effective the powers, authority and duties granted and imposed by the provisions of this chapter in accordance with the provisions of chapter twenty-nine-a of this code;

(13) Grant or withhold written consent to the proposal of any rule, as defined in section two, article one, chapter twenty-nine-a of this code, by any administrator, agency or board within the department. Without written consent, no proposal for a rule shall have any force or effect;

(14) Delegate to administrators the duties of the secretary as the secretary may deem appropriate, from time to time, to facilitate execution of the powers, authority and duties delegated to the secretary; and

(15) Take any other action involving or relating to internal management not otherwise prohibited by law.

(b) The secretaries of the departments hereby created shall engage in a comprehensive review of the practices, policies and operations of the agencies and boards within their departments to determine the feasibility of cost reductions and increased efficiency which may be achieved therein, including, but not limited to, the following:

(1) The elimination, reduction and restriction of the state's vehicle or other transportation fleet;

(2) The elimination, reduction and restriction of state government publications, including annual reports, informational materials and promotional materials;

(3) The termination or rectification of terms contained in lease agreements between the state and private sector for offices, equipment and services;

(4) The adoption of appropriate systems for accounting,

including consideration of an accrual basis financial accounting and reporting system;

(5) The adoption of revised procurement practices to facilitate cost-effective purchasing procedures, including consideration of means by which domestic businesses may be assisted to compete for state government purchases; and

(6) The computerization of the functions of the state agencies and boards.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, none of the powers granted to the secretaries herein shall be exercised by the secretary if to do so would violate or be inconsistent with the provisions of any federal law or regulation, any federal-state program or federally delegated program or jeopardize the approval, existence or funding of any program.

(d) The layoff and recall rights of employees within the classified service of the state as provided in subsections (5) and (6), section ten, article six, chapter twenty-nine of this code shall be limited to the organizational unit within the agency or board and within the occupational group established by the classification and compensation plan for the classified service of the agency or board in which the employee was employed prior to the agency or board's transfer or incorporation into the department: *Provided*, That the employee shall possess the qualifications established for the job class. The duration of recall rights provided in this subsection shall be limited to two years or the length of tenure, whichever is less. Except as provided in this subsection, nothing contained

in this section shall be construed to abridge the rights of employees within the classified service of the state as provided in sections ten and ten-a, article six, chapter twenty-nine of this code.

(e) Notwithstanding any other provision of this code to the contrary, the secretary of each department with authority over programs which have an impact on the delivery of health care services in the state or are payors for health care services or are payors for prescription drugs, including, but not limited to, the Public Employees Insurance Agency, the Department of Health and Human Resources, the Bureau of Senior Services, the Children's Health Insurance Program, the Health Care Authority, the Office of the Insurance Commissioner, the Division of Corrections, the Division of Juvenile Services, the Regional Jail and Correctional Facility Authority, state colleges and universities, public hospitals, state or local institutions including nursing homes and veterans' homes, the Division of Rehabilitation Services, public health departments, the Bureau for Medical Services and other programs, which have an impact on the delivery of health care services or are payors for health care services or are payors for prescription drugs, in West Virginia shall cooperate with the Governor's Office of Health Enhancement and Lifestyle Planning established pursuant to article twenty-nine-h, chapter sixteen of this code for the purpose of improving the health care delivery services in West Virginia for any program over which they have authority.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29H. GOVERNOR'S OFFICE OF HEALTH ENHANCEMENT AND LIFESTYLE

PLANNING.

§16-29H-1. Legislative findings.

The Legislature finds:

(1) Rising health care costs have a significant impact not only on the citizens of the state, but also the state's ability to develop a competitive advantage in seeking new business. Reducing this level of costs and developing new, more effective options for reducing growth in health care spending is essential to ensuring the health of West Virginia's citizens and to the advancement of a well-developed workforce.

(2) West Virginia spends thirteen percent more per person on health care than the national average. Moreover, the growth in spending in the state is higher than the national average. These rising costs have contributed to fewer employers, particularly small employers, offering health insurance as a benefit of employment. This is an occurrence that may further drive up health care costs throughout the state.

(3) West Virginia is among the highest in such health care indicators as childhood and adult obesity which provides a direct connection to higher rates of diabetes, hypertension, hyperlipidemia, heart disease, pulmonary disorders and comorbid depression experienced in West Virginia. Nearly one third of the rise in health care costs can be attributed to the rise in obesity throughout the state and the nation. Additionally, high rates of chronic illness represents a substantial reduction in worker

productivity.

(4) To address the concerns over rising costs, West Virginia must change the way it pays for care, shifting the focus to primary care and prevention. Seventy-five percent of health care spending is associated with treatment of chronic diseases requiring ongoing medical management over time. Patients with chronic diseases, however, only receive fifty-six percent of the clinically recommended preventive services. This lack of preventive services creates a seventy-five percent increase in health care spending.

(5) Health care delivery in West Virginia needs to be modernized. This will require substantial changes in how health care is delivered to the chronically ill, an increase in information technology tools used for patient management, a simplification of health care processing and a broad overhaul in our perceptions of wellness and prevention.

(6) West Virginians must be challenged to engage in a more healthy lifestyle, they must alter the focus of their perception of health care from one of episodic care to prevention and wellness efforts. Equally as important, is that health care providers must be engaged with their patients and in the process of delivery of health care and strive for continuous improvement of the quality of care they provide.

(7) West Virginia must develop a health care system that is sufficient to meet the needs of its citizens; equitable, fair and sustainable, but that is also accountable for quality, access, cost containment and service delivery.

§16-29H-2. Creation of the Governor's Office of Health Enhancement and Lifestyle Planning; duties.

(a) There is created the Governor's Office of Health Enhancement and Lifestyle Planning. The purpose of this office is to coordinate all state health care system reform initiatives among executive branch agencies, departments, bureaus and offices. The office shall be under the direct supervision of the director, who is responsible for the exercise of the duties and powers assigned to the office under the provisions of this article.

(b) All state agencies that have responsibility for the development, improvement and implementation of any aspect of West Virginia's health care system, including, but not limited to, the Public Employees Insurance Agency, the Bureau of Senior Services, the Children's Health Insurance Program, Office of the Pharmaceutical Advocate, the Health Care Authority, the West Virginia Health Information Network, the Insurance Commission, the Department of Health and Human Resources, state colleges and universities, the Pharmaceutical Advocate, public hospitals, state or local institutions such as nursing homes, veterans' homes, the Division of Rehabilitation Services, public health departments, shall cooperate with the Governor's Office of Health Enhancement and Lifestyle Planning established for the purpose of coordinating the health care delivery system in West Virginia for any program over which they have authority.

§16-29H-3. Director of the Governor's Office of Health Enhancement

**and Lifestyle Planning appointment; qualifications;
oath; salary.**

(a) The office is under the supervision of the director. The director is the executive and administrative head of the office and shall be appointed by the Governor with advice and consent of the Senate. The director shall be qualified by training and experience to direct the operations of the Governor's Office of Health Enhancement and Lifestyle Planning and serves at the will and pleasure of the Governor. The duties of the director include, but are not limited to, the management and administration of the Governor's Office of Health Enhancement and Lifestyle Planning.

(b) The director:

(1) Serves on a full-time basis and may not be engaged in any other profession or occupation;

(2) May not hold political office in the government of the state either by election or appointment while serving as the director;

(3) Shall be a citizen of the United States and West Virginia and become a resident of the state within ninety days of appointment;

(4) Is ineligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code. Any other employee hired by the director is also ineligible for civil service coverage; and

(5) Is entitled to receive an annual salary as provided by the Governor.

(c) Before entering upon the discharge of the duties as director,

the director shall take and subscribe to the oath of office prescribed in section five, article IV of the Constitution of West Virginia.

The executed oath shall be filed in the Office of the Secretary of State.

§16-29H-4. Director of the Governor's Office of Health Enhancement and Lifestyle Planning; powers and duties, hiring of staff.

(a) The director has the power and authority to:

(1) Purchase or enter into contracts or agreements as necessary to achieve the purposes of this article;

(2) File suit;

(3) At the request of a state agency that has responsibility for any aspect of West Virginia's health care system, evaluate and advise the agency on ways that can better achieve the purposes of this article. In addition, the director may determine in collaboration with the agencies responsible for health systems in the state to improve efficiencies and reduce costs through interagency agreements to enter into contracts. Contracts may only be renegotiated if there is a demonstrated and measurable cost savings for the state and the agencies are in agreement;

(4) Enter into contracts with public or private entities in this state, governments of other states and jurisdictions and their individual departments, agencies, authorities, institutions, programs, quasi-public corporations and political subdivisions in the event that such contracts would be a collaboration between the health system agencies involved and agreed to by all parties.

(5) Participate in regional or multistate purchasing alliances or consortia, formed for the purpose of pooling the combined purchasing power of the individual members and increasing purchasing power with agreement of all participating parties and financially advantageous to each party. This power does not affect individual state agencies from participating in any purchasing alliance or consortium as established in their own program. If the director participates in any cooperative purchasing agreement, alliance or consortium which is comprised of at least five million covered lives, the cooperative purchasing agreement, alliance or consortium may employ an agreed-upon pricing schedule that, in the judgment of the director and the other participating entities, will maximize savings to the broadest percentage of the population of this state: *Provided*, That any pharmaceutical manufacturer that deals with such cooperative purchasing agreements, alliances or consortia may request a waiver from such pricing schedule in West Virginia or any other participating state for a particular drug that should be granted if the director finds that the development, production, distribution costs, other reasonable costs and reasonable profits excluding marketing, advertising and promotional costs not essential to bringing the product to market are more than the schedule price of the pharmaceutical or in those cases in which the pharmaceutical in question has a sole source. The director shall determine fees to be paid by the applicant at the time of the waiver application and proof required to be submitted at the time of the waiver request to support the validity of the request.

(6) Make recommendations to the Governor and the Legislature regarding strategies that could more effectively make the health care delivery system in West Virginia more timely, more patient centered, provide greater patient access and quality of service and control health care costs;

(7) Develop and implement other programs, projects and initiatives to achieve the purposes of this article, including initiating, evaluating and promoting primary-care medical homes pursuant to section six of this article and other strategies that result in greater access to health care, assure greater quality of care and result in reduced costs for health care delivery services to the citizens of West Virginia: *Provided*, That interagency agreements shall be utilized for services that would be duplicative;

(8) Work with the Health Care Authority to ensure that the preventive health care pilots are implementing a primary-care medical home model as defined in this article;

(9) Develop a five-year strategic plan as set forth in section six of this article for implementation of West Virginia's health care system reform initiatives together with recommendations for administration, policy, legislative rules or legislation. This plan shall be reported to the Joint Committee on Government and Finance, the Legislative Oversight Commission on Health and Human Resources Accountability and the Governor on or before December 31, 2009;

(10) Provide professional development on emerging health care policies and contracting for health care services; and

(11) Evaluate and offer, if resources become available, a grant

program for local communities to encourage healthy lifestyles in collaboration with the Healthy Lifestyles Coalition.

(b) The director shall employ such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this article and with consideration of the appropriation provided by the Legislature.

(c) The director shall prepare and submit to the Governor and the Legislature annual proposed appropriations for the next fiscal year which shall include sums necessary to support the activities of the Governor's Office of Health Enhancement and Lifestyle Planning.

(d) The director shall submit an annual report separate from the strategic plan by January 1 of each year to the Governor and the Legislative Oversight Commission on Health and Human Resources Accountability on the condition, operation and functioning of the Governor's Office of Health Enhancement and Lifestyle Planning.

(e) The director shall supervise the fiscal management and responsibilities of the Governor's Office of Health Enhancement and Lifestyle Planning.

(f) The director shall keep an accurate and complete record of all the Governor's Office of Health Enhancement and Lifestyle Planning proceedings, records and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and records of the office.

(g) The director may convene a series of focus groups, polls and any other available research tool to determine issues of

importance to all stakeholders after a thorough review of available research currently in existence. The development of these survey tools shall be done in conjunction with employers, health care providers and consumers. Data received from this research should be easily available to the public and utilized in the development and design of health benefit programs. The data should also be accessible to providers to allow them to meet the needs of the health care market.

(h) The director may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to accomplish the goals and purposes of this article.

§16-29H-5. Creation of the Health Enhancement and Lifestyle Planning Advisory Council.

(a) The Health Enhancement and Lifestyle Planning Advisory Council is hereby created. The advisory council is an independent, self-sustaining council that has the powers and duties specified in this article.

(b) The advisory council is a part-time council whose members perform such duties as specified in this article. The ministerial duties of the advisory council shall be administered and carried out by the Governor's Office of Health Enhancement and Lifestyle Planning.

(c) Each member of the advisory council shall devote the time necessary to carry out the duties and obligations of the office.

Those members appointed by the Governor may pursue and engage in another business or occupation or gainful employment that is not in conflict with the duties of the advisory council.

(d) The advisory council is self-sustaining and independent, however it, its members, the director and employees of the Governor's Office of Health Enhancement and Lifestyle Planning are subject to article nine-a, chapter six of this code and chapters six-b, twenty-nine-a and twenty-nine-b of this code.

(e) The advisory council is comprised of the following governmental officials: The Secretary of the Department of Health and Human Resources, or his or her designee, the Director of the Public Employees Insurance Agency, or his or her designee, the Commissioner of the Office of the Insurance Commissioner, or his or her designee, the Chair of the West Virginia Health Care Authority, or his or her designee and the director of the West Virginia Children's Health Insurance Program or his or her designee. The council shall also consist of the following public members: One public member shall represent an organization of senior citizens with at least ten thousand members within the state, one public member shall represent the West Virginia Academy of Family Physicians, one public member shall represent the West Virginia Chamber of Commerce, one public member shall represent a federally qualified health center, one public member shall represent the largest labor organization in the state, one public interest organization that represents the interests of consumers, one public member shall represent West Virginia Hospital Association, one public member shall represent the West

Virginia Medical Association, one public member shall represent the West Virginia Nurse's Association and two ex-officio nonvoting members shall be the Speaker of the House, or his or her designee, and the President of the Senate, or his or her designee.

(f) Public members shall be appointed by the Governor with advice and consent of the Senate. Each public member shall serve for a term of four years. Of the public members of the advisory council first appointed, one shall be appointed for a term ending June 30, 2010, and two each for terms of three and four years. The remainder shall be appointed for the full four-year terms as provided in this section. Each public member serves until his or her successor is appointed and has qualified. The Director of the Governor's Office of Health Enhancement and Lifestyle Planning shall serve as chairperson of the advisory council.

(g) Advisory council members may not be compensated in their capacity as members but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(h) The advisory council shall meet within the state at such times as the chair may decide, but at least once annually. The advisory council shall also meet upon a call of seven or more members upon seventy-two hours' written notice to each member.

(i) Eight members of the advisory council are a quorum for the transaction of business.

(j) A majority vote of the members present is required for any final determination by the advisory council. Voting by proxy is not allowed.

(k) The advisory council shall keep a complete and accurate record of all its meetings according to section five, article nine-a, chapter six of this code.

(l) Notwithstanding the provisions of section four, article six, chapter six of this code, the Governor may remove any advisory council member for incompetence, misconduct, gross immorality, misfeasance, malfeasance or nonfeasance in office.

(m) The advisory council has general responsibility to review and provide advice and comment to the Governor's Office of Health Enhancement and Lifestyle Planning on its policies and procedures relating to the delivery of health care services or the purchase of prescription drugs. The advisory council shall offer advice to the director on matters over which the office has authority and oversight. This includes, but is not limited to:

(1) Hiring of professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this article;

(2) Contracts or agreements;

(3) Rule-making authority; and

(4) Development of policy necessary to meet the duties and responsibilities of the Governor's Office of Health Enhancement and Lifestyle Planning pursuant to the provisions of this article.

§16-29H-6. Development of a strategic plan.

The director shall develop a five-year strategic plan for implementation of any and all health care system reform initiatives.

These initiatives shall be included, but are not limited to:

(1) Development of pilot projects for patient-centered medical homes as set forth in section nine of this article;

(2) Prioritization of chronic conditions to be targeted for purposes of resource allocation and for greater chronic care management. This should include pilot projects for community-based health teams for the development of care plans for healthy children and adults to maintain good health and for at risk populations to prevent development of preventable chronic diseases;

(3) Development of standardized prior authorization requirements and processes from insurers;

(4) Coordination with the State Board of Education as set forth in article two, chapter eighteen of this code to provide for:

(i) The preservation and allocation of recess time away from instruction and separate from physical education classes in the state schools;

(ii) Continuing education for school food personnel and a career hierarchy for food personnel that offers rewards for continuing education hours and credits;

(iii) School-based physical education coordinators; and

(iv) Placement of a dietician in each regional education service area throughout the state;

(5) Implementation of school-based initiatives to achieve greater dietary consistency in West Virginia's school system and to gain greater physical fitness from students;

(6) Development of community-based projects designed for the construction, development and maintenance of bicycle and pedestrian

trails and sidewalks;

(7) Development and implementation of universal wellness and health promotion benefits;

(8) Continued promotion and support for efforts to decrease the number of West Virginians using tobacco products;

(9) Any necessary changes that will increase small businesses who offer available health insurance as a benefit of employment;

(10) Development of goals to further improve health care delivery in West Virginia. This should include a means to evaluate progress toward achieving these goals in a simple and timely manner;

(11) Measurement of progress of health care providers and physicians to the adoption and use of electronic medical records in their offices;

(12) Collaboration on health information technology with the West Virginia Health Information Network, the Bureau for Medical Services and other appropriate entities which shall include:

(i) Working through the West Virginia Health Information Network, the Bureau for Medical Services and other appropriate entities, to develop a collaborative approach for health information exchange;

(ii) Facilitating and encouraging of ongoing projects such as electronic medical record resources in community health clinics;

(iii) Encouragement of continued development of hospital systems and deployment of hospital-supported electronic medical records when available for hospital-based, hospital-employed and nonhospital-employed physicians;

(iv) Development of strategies to implement tax incentives, vendor discounts, enhanced reimbursement and other means to individual physician offices and clinics to encourage greater adoption and use of electronic medical records;

(v) Development of recommended electronic medical record best practices utilizing the Certification Commission for Health Care Information Technology as the minimum standard;

(vi) Development of funding mechanisms that provide initial start up funds and a mechanism for sustainability of electronic medical records; and

(vii) Exploration of federal funding to ensure the most efficient and cost-effective means of meeting the state's health information technology objectives.

§16-29H-7. Coordination with higher education.

The director shall consult with all the colleges and universities in the state, both public and private, with the state's three medical schools, with community and technical colleges and with the Higher Education Policy Commission. The purpose of this collaboration would be:

(1) The development of curricula focused on a chronic care model to reflect the multidisciplinary team approach to the delivery of health care services in West Virginia as contemplated by the development of a patient-centered medical home as that term is defined in section nine of this article; and

(2) The development of technology-centered jobs that would further the state's efforts in moving toward the broader use of

electronic health records.

§16-29H-8. Continuing efforts to reduce prescription drug prices.

(a) The rule-making authority previously granted to the Pharmaceutical Cost Management Council in article three-c, chapter five-a of this code to require the reporting of pharmaceutical advertising costs is here transferred to the Governor's Office of Health Enhancement and Lifestyle Planning.

(b) Advertising costs for prescription drugs, based on aggregate national data, shall be reported to the Governor's Office of Health Enhancement and Lifestyle Planning by all manufacturers and labelers of prescription drugs dispensed in this state that employs, directs or utilizes marketing representatives. The reporting shall assist this state in its role as a purchaser of prescription drugs and an administrator of prescription drug programs, enabling this state to determine the scope of prescription drug advertising costs and their effect on the cost, utilization and delivery of health care services and furthering the role of this state as guardian of the public interest.

(c) The Governor's Office of Health Enhancement and Lifestyle Planning shall establish by legislative rule pursuant to the provisions of article three, chapter twenty-nine-a of this code the reporting requirements of information by labelers and manufacturers which shall include all national aggregate expenses associated with advertising and direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail and telephone communications as they pertain to residents of this state.

(d) The following are exempt from disclosure requirements:

(1) All free samples of prescription drugs intended to be distributed to patients;

(2) All marketing items of a value less than \$100;

(3) All payments of reasonable compensation and reimbursement of expenses in connection with a bona fide clinical trial. As used in this subdivision, "clinical trial" means an approved clinical trial conducted in connection with a research study designed to answer specific questions about vaccines, new therapies or new ways of using known treatments;

(4) All scholarship or other support for medical students, residents and fellows to attend significant educational, scientific or policy making conference of national, regional or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association; and

(5) Any data that identifies specific prescription drugs or pharmaceuticals by individual name, any group of individuals or specific individual by name and any specific physician or pharmacy or group of physicians or pharmacies by name.

(e) The Governor's Office of Health Enhancement and Lifestyle Planning, with advice of the advisory council, is authorized to revise existing legislative rules that establish time lines, the documentation, form and manner of reporting required, and determine necessary changes to existing legislative rules to effectuate the purposes of this article. The director shall include in his or her annual report to the Legislature, in an aggregate form, the

information provided in the required reporting.

(f) Notwithstanding any provision of law to the contrary, information submitted to the director pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in chapter twenty-nine-b, article one of this code. Data compiled in aggregate form by the director for the purposes of reporting required by this section is a public record as defined in the West Virginia Freedom of Information Act as long as it does not reveal trade information that is protected by state or federal law or specific prescription drugs or pharmaceuticals by individual name, any group of individuals or specific individual by name and any specific physician or pharmacy or group of physicians or pharmacies by name.

(g) The director is authorized to consider strategies by which West Virginia may manage the increasing costs of prescription drugs and increase access to prescription drugs for all of the state's residents, including the authority to:

(1) Explore discount prices or rebate programs for seniors and persons without drug coverage;

(2) Explore and if in the best interest of the state and financially feasible, a counter-detailing program aimed at education health care practitioners about the relative costs and benefits of various prescription drugs with an emphasis on generic drugs;

(3) Explore purchasing agreements with public or private sector entities that could be beneficial in the cost of pharmaceuticals;

and

(4) Explore other strategies, as permitted under state and federal law, aimed at managing escalating prescription drug cost and increasing access for citizens of the state and develop necessary legislation to implement such strategies.

§16-29H-9. Patient-centered medical homes.

(a) *Legislative findings.* --

The Legislature finds that:

(1) There is a need in the state to transform the health care services delivery model toward primary prevention and more proactive care management through the development of patient-centered medical homes;

(2) The concept of a patient-centered medical home would promote a partnership between the individual patient, the patient's various health care providers, the patient's family and, if necessary, the community. It integrates the patient as an active participant in their own health and well-being;

(3) The patient-centered medical home provides care through a multidisciplinary health team consisting of physicians, nurse practitioners, nurses, physicians assistants, behavioral health providers, pharmacists, social workers, physical therapists, dental and eye care providers and dieticians to meet the health care needs of a patient in all aspects of preventative, acute, chronic and end-of-life care using evidence-based medicine and technology;

(4) In a patient-centered medical home each patient has an ongoing relationship with a personal physician. The physician would

lead a team of health care providers who take responsibility for the care of the patient or for arranging care with other qualified professionals;

(5) Transitioning health care delivery services to a patient-centered medical home would provide greater quality of care, increase patient safety and ensure greater access to health care;

(6) Currently there are medical home pilot projects underway at the Bureau for Medical Services and the Public Employees Insurance Agency that should be reviewed and evaluated for efficiency and a means to expand these to greater segments of the state's population, most importantly the uninsured.

(b) The patient-centered medical home is a health care setting that facilitates partnerships between individual patients and their personal physicians and, when appropriate, the patients' families and communities. A patient-centered medical home integrates patients as active participants in their own health and well-being.

Patients are cared for by a physician or physician practice that leads a multidisciplinary health team, which may include, but is not limited to, nurse practitioners, nurses, physician's assistants, behavioral health providers, pharmacists, social workers, physical therapists, dental and eye care providers and dieticians to meet the needs of the patient in all aspects of preventive, acute, chronic care and end-of-life care using evidence-based medicine and technology. At the point in time that the Center for Medicare and Medicaid Services includes the nurse practitioner as a leader of the multidisciplinary health team, this state will automatically

implement this change.

(c) The Governor's Office of Health Enhancement and Lifestyle Planning shall consult with the Bureau for Medical Services and the Public Employees Insurance Agency on current medical home pilot projects which they are operating for their membership population.

The director shall evaluate these programs in consultation with the Commissioner of the Bureau for Medical Services and the Director of the Public Employees Insurance Agency for a means to expand these beyond the populations currently being served by these pilots. Once data is available on these pilots that can be reviewed for planning purposes, the director shall utilize this as a means to develop and implement additional patient-centered medical home pilot programs beyond the limited populations served by the Bureau for Medical Services and the Public Employees Insurance Agency. The director shall develop four varying types of patient-centered medical home pilots based upon experience gained from the projects currently in operation at the Bureau for Medical Services and the Public Employees Insurance Agency. These patient-centered medical homes shall be based upon the individual practices of physicians.

(d) The four types of pilot programs shall be:

(1) *Chronic Care Model Pilots*. -- This model shall focus on smaller physician practices. Primary care providers shall work with payers and providers to identify various disease states. Through the collaborative effort of the primary care provider and the payers and providers, programs shall be developed to improve management of agreed upon conditions of the patient. Through this model, the

primary care provider may utilize current practices of multipayer workgroups. These groups shall be comprised of the medical directors of the major health care payers and the state payers along with medical providers and others.

(2) *Individual Medical Homes Pilots.* -- These pilots shall focus on larger physician practices. They shall seek certification from the National Committee on Quality Assurance. That initial certification will be Level I certification. This would be granted by virtue of certifying the provider is in the process of attaining certification and currently have met provisional standards as set by the National Committee on Quality Assurance. This provisional certification lasts only one year with no renewal.

(3) *Community-Centered Medical Home Pilots.* -- This approach shall link primary care practices with community health teams which would grow out of the current structure in place for federally qualified health centers. The community health teams shall include social and mental health workers, nurse practitioners, care coordinators and community health workers. These personnel largely exist in community hospitals, home health agencies and other settings. These pilots shall identify these resources as a separate team to collaborate with the primary care practices. The teams would focus on primary prevention such as smoking cessation programs and wellness interventions as well as working with the primary care practices to manage patients with multiple chronic conditions. Within this pilot all health care agencies are connected and share resources. Citizens can enter the system of care from any point

and receive the most appropriate level of care or be directed to the most appropriate care. Any financial incentives in this model would involve all health care payers and could be used to encourage collaboration between primary care practices and the community health teams.

(4) *Medical Homes for the Uninsured Pilots.* -- These pilots shall focus on medical homes to serve the uninsured. They shall include various means of providing care to the uninsured with primary and preventative care. Through this mechanism, a variety of pilots may be developed that shall include screening, treatment of chronic disease and other aspects of primary care and prevention services.

The pilots will be chosen based on their design meeting the requirements of this subsection and the resources available to provide these services.

(e) The Governor's Office of Health Enhancement and Lifestyle Planning may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code if they deem them necessary to implement this section.

(1) The Governor's Office of Health Enhancement and Lifestyle Planning shall establish by guidelines, criteria to evaluate the pilot program and may require participating providers to submit such data and other information related to the pilot program as may be required by the Governor's Office of Health Enhancement and Lifestyle Planning. For purposes of this article, this information shall be exempt from disclosure under the Freedom of Information Act in article one, chapter twenty-nine-b of this code.

(2) No later than December 1, 2009, and annually thereafter during the operation of the pilot program, the Governor's Office of Health Enhancement and Lifestyle Planning must submit a report to the Legislative Oversight Commission on Health and Human Resources Accountability as established in article twenty-nine-e of this chapter on progress made by the pilot project including suggested legislation, necessary changes to the pilot program and suggested expansion of the pilot program.

§16-29H-10. Exemption from Purchasing Division requirements.

The provisions of article three, chapter five-a of this code do not apply to the agreements and contracts executed under the provisions of this article, except that the contracts and agreements shall be approved as to form and conformity with applicable law by the Attorney General.