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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

SENATE BILL NO. 406

(By Ms. Glaze)

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PASSED March 2. 1984

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 406
(BY MS. CHACE)

[Passed March 2, 1984; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-e, relating to service providers in legally unlicensed health care facilities; stating the purpose of the article; defining terms; requiring registration of the service providers with the state director of health; prescribing the form of such registration; specifying information to be provided on the registration form; requiring the director of health to make publicly available an annual list of registered service providers; authorizing inspections by the director of health; providing modes of enforcement; and specifying criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-e, to read as follows:

**ARTICLE 5E. REGISTRATION OF SERVICE PROVIDERS IN
LEGALLY UNLICENSED HEALTH CARE FACILITIES.**

§16-5E-1. Purpose.

1 It is the policy of this state to encourage the availability
2 of appropriate noninstitutional surroundings for the

3 elderly and for the care of persons in need of nursing
4 care or personal assistance. The registration of providers
5 of services to such consumers in unlicensed facilities will
6 help to identify where the services are available and to
7 ensure that individuals in unlicensed facilities are receiv-
8 ing care appropriate to their needs.

§16-5E-2. Definitions.

1 As used in this article, unless a different meaning
2 appears from the context:

3 (a) The term "consumer" means an individual who is
4 provided services, whether or not for a fee, by a service
5 provided, but consumer does not include a person receiv-
6 ing services provided by another who is related to him
7 or her or the spouse thereof by blood or marriage, within
8 the degree of consanguinity of second cousin;

9 (b) The term "director" means the director of the West
10 Virginia state department of health or his designee;

11 (c) The term "nursing care" means those procedures
12 commonly employed in providing for the physical, emo-
13 tional and rehabilitational needs of the ill or otherwise
14 incapacitated which require technical skills and knowl-
15 edge beyond that which the untrained person possesses,
16 including, but not limited to, such procedures as: Irriga-
17 tions; catheterization; application of dressings; supervi-
18 sion of special diets; objective observation of changes in
19 patient condition as a means of analyzing and determin-
20 ing nursing care required and the need for further medi-
21 cal diagnosis and treatment; special procedures contribut-
22 ing to rehabilitation; administration of medication by
23 any method ordered by a physician, such as hypodermi-
24 cally, rectally or orally; and carrying out other treat-
25 ments prescribed by a physician which involve a like
26 level of complexity and skill in administration;

27 (d) The term "personal assistance" means personal
28 services, including, but not limited to, the following:
29 Help in walking, bathing, dressing, feeding or getting in
30 or out of bed, or supervision required because of the age
31 or physical or mental impairment of the patient;

32 (e) The term "service provider" means the individual
33 administratively responsible for providing to consumers
34 for a period of more than twenty-four hours, whether
35 for compensation or not, services of:

36 (1) Nursing care for one or two consumers; or

37 (2) Personal assistance for five or fewer consumers.

§16-5E-3. Registration of service providers required; form of registration; information to be provided.

1 (a) Service providers shall register with the director.
2 No fee may be charged for registration. Registration in-
3 formation shall be provided on a registration form or may
4 be verbally communicated to the director for placement
5 by the director on the form, but no provision of informa-
6 tion shall be deemed to meet the registration require-
7 ment until the signature of the service provider is
8 recorded on the registration form.

9 (b) Information required for registration shall include
10 the following:

11 (1) Name, address and telephone number of the ser-
12 vice provider;

13 (2) Addresses and telephone numbers where services
14 are provided to consumers and the number of consumers
15 provided service at each address; and

16 (3) The services, such as nursing care or personal as-
17 sistance, provided to consumers at each address.

§16-5E-4. Public availability of registry.

1 The director shall publish and make available to the
2 public on an annual basis a list of service providers
3 registered in accordance with section three of this article.

§16-5E-5. Inspections; right of entry.

1 The director may employ inspectors to enforce the
2 provisions of this article. These inspectors shall have
3 the right of entry into any place where services are
4 provided by a service provider, to determine the number
5 of consumers therein and the adequacy of services being

6 provided to them. The director may obtain a search
7 warrant to inspect those premises that the director has
8 reason to believe are being used to provide services.

§16-5E-6. Enforcement; criminal penalties.

1 (a) Any service provider who fails to register with the
2 director within thirty days after personal service of
3 written notice from the director of the registration re-
4 quirements of this article, is guilty of a misdemeanor,
5 and, upon conviction thereof, shall be fined not less than
6 five hundred dollars or imprisoned in the county jail not
7 less than ten days.

8 (b) Any person who interferes with or impedes in
9 any way the lawful enforcement of the provisions of
10 this article is guilty of a misdemeanor, and, upon con-
11 viction thereof, shall be fined not less than five hundred
12 dollars or imprisoned in the county jail not less than ten
13 days.

14 (c) The director may in his discretion bring an action
15 to enforce compliance with the provisions of this article.

16 (d) The circuit court of Kanawha County shall have
17 jurisdiction in all civil enforcement actions brought
18 under this article and may order equitable relief without
19 bond.

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

James L. Davis
Chairman Senate Committee

Donald Aullo
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Hulse
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Warren R. McFarlane
President of the Senate

W. M. Lee, Jr.
Speaker House of Delegates

The within is approved this the 30

day of March, 1984.

Paul D. Boyer
Governor

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SECY. OF STATE