

No. 407

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

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ENROLLED

Committee Substitute for
SENATE BILL NO. 407

(By Mr. Clace)

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PASSED March 10, 1984

In Effect ninety days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 407
(Ms. CHACE, original sponsor)

[Passed March 10, 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-h; and to amend and reenact sections one and three, article seventeen, chapter twenty-seven of said code, all relating to establishment and licensure of adult group homes for four to ten persons capable of self-preservation; authority of director of health to issue licenses, promulgate regulations, inspect, investigate and revoke licenses for good cause; requiring assistance from department of human services when requested by director of health; enforcement; injunction; criminal penalties; relating to group residential facilities; definition of "behavioral disability"; license; application; regulations; revocation.

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-h; and that sections one and three, article seventeen, chapter twenty-seven of said code be amended and reenacted, all to read as follows:

ARTICLE 5H. ADULT GROUP HOMES.

§16-5H-1. Definitions.

1 (a) The term "adult group home" means any residence
2 or any part or unit thereof, however named, in this state
3 which is advertised, offered, maintained or operated by the
4 ownership or management, whether for a consideration or
5 not, for the express or implied purpose of providing
6 accommodations, personal assistance and supervision, for a
7 period of more than twenty-four hours, to four to ten
8 persons who are dependent upon the services of others by
9 reason of physical or mental impairment, but who do not
10 require nursing care or personal care home services and
11 who are capable of self-preservation.

12 (b) The term "self-preservation" means that a person is,
13 at least, capable of removing his or her physical self from
14 situations involving imminent danger, such as fire.

**§16-5H-2. License from director of health; application;
regulations; revocation; assistance from
department of human services.**

1 No adult group home shall be established, maintained or
2 operated unless a license therefor shall be first obtained
3 from the director of health. The application for such license
4 shall contain such data and facts as the director may
5 reasonably require. The director may promulgate
6 reasonable regulations for the operation of such facilities,
7 and to carry out the requirements of this article, in
8 accordance with the requirements of article three, chapter
9 twenty-nine-a of this code. The director shall have the
10 authority to investigate and inspect any such facility and
11 may revoke the license of any such facility for good cause
12 after notice and hearing. The department of human services
13 shall cooperate with and assist the director of health in
14 carrying out any requirements of this section, upon request
15 of the director.

§16-5H-3. Enforcement; criminal penalties; injunction.

1 (a) Whoever establishes, maintains or operates, or is
2 engaged in establishing, maintaining or operating an adult
3 group home without a license granted under section two of
4 this article, or who prevents, interferes with or impedes in

5 any way the lawful enforcement of this article shall be
6 guilty of a misdemeanor, and, upon conviction thereof, shall
7 be punished for the first offense by a fine of not more than
8 one hundred dollars, or by imprisonment in the county jail
9 for a period of not more than ninety days, or by both such
10 fine and imprisonment, at the discretion of the court. For
11 each subsequent offense, the fine may be increased to not
12 more than two hundred fifty dollars, with imprisonment in
13 the county jail for a period of not more than ninety days, or
14 both such fine and imprisonment at the discretion of the
15 court. Each day of a continuing violation after conviction
16 shall be considered a separate offense.

17 (b) The director may in his discretion bring an action to
18 enforce compliance with this article or any rule, regulation
19 or order hereunder, whenever it shall appear to the director
20 that any person has engaged in, or is engaging in, an act or
21 practice in violation of this article, or any rule, regulation or
22 order hereunder, or whenever it shall appear to the director
23 that any person has aided, abetted, or caused, or is aiding,
24 abetting or causing such an act or practice. Upon
25 application by the director, the circuit court of the county in
26 which the conduct has occurred shall have jurisdiction to
27 grant, without bond, a permanent or temporary injunction,
28 decree or restraining order.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 17. GROUP RESIDENTIAL FACILITIES.

§27-17-1. Definitions.

1 "Developmental disability" means a chronic disability of
2 a person which: (1) Is attributable to a mental or physical
3 impairment or combination of mental and physical
4 impairments; (2) is likely to continue indefinitely; (3)
5 results in substantial functional limitations in self-
6 direction, capacity for independent living, or economic
7 self-sufficiency; and (4) reflects the person's need for a
8 combination and sequence of special, interdisciplinary, or
9 generic care, treatment, or other services which are of
10 lifelong or extended duration and are individually planned
11 and coordinated. "Behavioral disability" means a disability
12 of a person which: (1) Is attributable to severe or persistent
13 mental illness, emotional disorder, or chemical

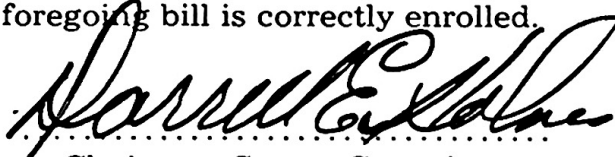
14 dependency, and (2) results in substantial functional
15 limitations in self-direction, capacity for independent
16 living, or economic self-sufficiency.

17 "Group residential facility" means a facility which: (1)
18 Provides residential services and supervision for
19 individuals who are developmentally disabled or
20 behaviorally disabled; (2) is occupied as a residence by not
21 more than eight individuals who are developmentally
22 disabled and not more than three supervisors, or is occupied
23 as a residence by not more than twelve individuals who are
24 behaviorally disabled and not more than three supervisors;
25 (3) is licensed by the department of health or the
26 department of human services; and (4) complies with the
27 state fire commission for residential facilities.

**§27-17-3. License from director of health; application;
regulations; revocation.**

1 No group residential facility shall be established,
2 maintained or operated unless a license therefor shall be
3 first obtained from the director of health, except that a
4 group residential facility for behaviorally disabled
5 juveniles shall be deemed to satisfy all requirements of this
6 section by obtaining a license from the commissioner of
7 human services. The application for such license shall
8 contain such data and facts as the director may require. The
9 director may promulgate reasonable regulations for the
10 conduct of such facilities, including, but not limited to, a
11 statement of the rights of patients in group residential
12 facilities for the mentally and physically impaired to ensure
13 the adequate care and supervision of such patients, and
14 shall have the authority to investigate and inspect any such
15 facility, and may revoke the license of any such facility for
16 good cause after notice and hearing.


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



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Chairman Senate Committee

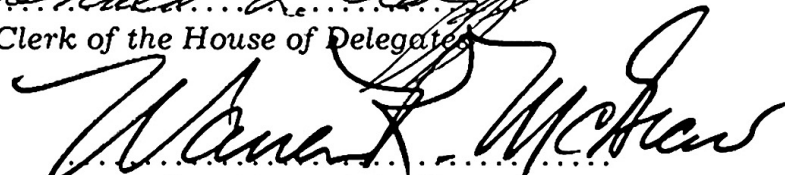

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.



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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within incurred this the 15
day of March, 1984.

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Governor

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