

No: 295

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



# ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 295

(By Senator *Joseph M. President, et al*)



PASSED *March 12,* 1987

In Effect *ninety days from* Passage



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 295**

(SENATORS TONKOVICH, MR. PRESIDENT AND BOETTNER, *original  
sponsors*)

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[Passed March 12, 1987; in effect ninety days from passage.]

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AN ACT to amend and reenact section five, article five-i, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to rules and regulations for consent to hospice services.

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

That section five, article five-i, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5I. HOSPICE LICENSURE ACT.**

**§16-5I-5. State board of health to establish rules and regulations.**

- 1 The state board of health, after soliciting the advice and
- 2 recommendations of the West Virginia continuum of care

3 board, shall promulgate reasonable rules and regulations  
4 for the licensure of hospice programs as it finds necessary in  
5 order to ensure adequate care, treatment, health, safety,  
6 welfare and comfort of hospice patients.

7 Such regulations shall provide that for purposes of  
8 hospice services, including medicare reimbursement for  
9 such services, where there has been no adjudication of  
10 incompetence of a terminally ill patient and where there is  
11 no durable power of attorney for such patient but where  
12 such patient is unable to execute an election for hospice  
13 services due to physical or mental incapacity as  
14 documented in such patient's health care records by two  
15 physicians licensed to practice medicine and surgery in this  
16 state, the following persons shall be deemed the patient's  
17 representative, and authorized to consent to hospice  
18 services for such patient, and in the order of priority set  
19 forth below:

- 20 (1) The patient's spouse;
- 21 (2) An adult child of the patient;
- 22 (3) A parent of the patient;
- 23 (4) An adult sibling of the patient;
- 24 (5) The nearest living relative of the patient:

25 *Provided*, That there is no reason to believe that hospice  
26 services are contrary to the terminally ill patient's religious  
27 beliefs and no actual notice of opposition by a member of  
28 the same or a prior class.

29 These rules and regulations shall also include, but not be  
30 limited to:

- 31 (a) The qualifications and supervision of licensed and  
32 nonlicensed personnel;
- 33 (b) The provision and coordination of inpatient care and  
34 in-home treatment services, including the development of a  
35 written plan of care;
- 36 (c) The management, operation, staffing and equipping  
37 of the hospice program;
- 38 (d) The clinical and business records kept by the  
39 hospice;
- 40 (e) The procedures for the review of utilization and  
41 quality of patient care; and
- 42 (f) Such other requirements as the board of health  
43 determines to be appropriate.

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

*Bruce O. Williams*  
.....  
Chairman Senate Committee

*Bernard V. Kelly*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Jedd C. Hill*  
.....  
Clerk of the Senate

*Donald L. Voff*  
.....  
Clerk of the House of Delegates

*Sam Tomlinson*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *approved* ..... this the *19th*  
*March* day of ..... 1987.

*Auba Shade Jr.*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/17/87

Time 4:18 p.m.