

WEST VIRGINIA CODE: §16-2D-17

§16-2D-17. Nontransference, time period compliance and withdrawal of certificate of need.

(a) A certificate of need is nontransferable and is valid for a maximum of one year from the date of issuance. Upon the expiration of the certificate or during the certification period, the person proposing the proposed health service shall provide the authority information on the development of the project as the authority may request. The authority shall periodically monitor capital expenditures obligated under certificates, determine whether sufficient progress is being made in meeting the timetable specified in the approved application for the certificate and whether there has been compliance with the application and any conditions of certification. The certificate of need may be extended by the authority for additional periods of time as are reasonably necessary to expeditiously complete the project.

(b) A certificate of need may no longer be in effect, and may no longer be required, after written notice of substantial compliance with the approved application and any conditions of certification is issued to the applicant, after the activity is undertaken for which the certificate of need was issued, and after the authority is provided written notice of such undertaking.

(c) A person proposing a proposed health service may not be issued a license, if applicable, until the authority has issued a written notice of substantial compliance with the approved application and any conditions of certification, nor may a proposed health service be used until the person has received such notice. A proposed health service may not be found to be in substantial compliance with the approved application and any conditions of certification if there is a substantial change in the approved proposed health service for which change a certificate of need has not been issued.

(d) (1) A certificate of need may be withdrawn by the authority for:

(A) Noncompliance with any conditions of certification;

(B) A substantial change in an approved proposed health service for which change a certificate of need has not been issued;

(C) Material misrepresentation by an applicant upon which the authority relied in making its decision; or

(D) Other reasons that may be established by the authority in legislative rules adopted pursuant to section four of this article.

(2) Any decision of the authority to withdraw a certificate of need shall be based solely on:

(A) The provisions of this article and on legislative rules adopted in accordance with section

four of this article; and

(B) The record established in administrative hearing held with respect to the authority's proposal to withdraw the certificate.

(3) In the case of a proposed withdrawal of a certificate of need:

(A) After commencement of an administrative hearing on the authority's proposal to withdraw a certificate of need and before a decision is made on withdrawal, there may be no ex parte contacts between:

(i) The holder of the certificate of need, any person acting on behalf of the holder, or any person in favor of the withdrawal; and

(ii) Any person in the authority who exercises responsibility respecting withdrawal of the certificate;

(B) The authority shall follow the review procedure established in section thirteen; and

(C) Appeals of withdrawals of certificates of need shall be made pursuant to section sixteen of this article.

(4) A proposed health service may not be acquired, offered, or developed within this state if a certificate of need authorizing that proposed health service has been withdrawn by the authority and the acquisition, offering, or developing of the proposed health service is subject to review under this article.