
WEST VIRGINIA CODE CHAPTER 27
ARTICLE 17

WV Legislature

§27-17-1. Definitions.

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

(b) "Behavioral disability" means a disability of a person which: (1) Is attributable to severe or persistent mental illness, emotional disorder or chemical dependency; and (2) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency.

(c) "Group residential facility" means a facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than 12 individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the Office of Health Facility Licensure and Certification; and (4) complies with the state Fire Commission for residential facilities.

(d) "Group residential home" means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in this article.

§27-17-2. Permitted use of group residential facilities; restrictions.

Both a group residential facility and a group residential home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts. No county commission, governing board of a municipality or planning commission shall require a group residential facility, its owner or operator, to obtain a conditional use permit, special use permit, special exception or variance for location of such facility in any zone or district.

§27-17-3. License from Office of Health Facility Licensure and Certification; regulations; and penalties.

(a) No group residential facility shall be established or operated unless a license is obtained from the Office of Health Facility Licensure and Certification. The Inspector General shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.*, including the operation of the group residential facility; a statement of the rights of patients in group residential facilities to ensure the adequate care and supervision of patients; and shall have the authority to investigate and inspect a facility, and may impose a civil money penalty, suspend or revoke the license for good cause after notice, hearing, and other due process rights as provided by legislative rule.

(b) A group residential home is not required to obtain a license from the Inspector General.

§27-17-4. Exclusion by private agreement void.

Any restriction, reservation, condition, exception or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease or use of property which would permit residential use of property but prohibit the use of such property as a group residential facility or group residential home shall, to the extent of such prohibition, be void as against the public policy of this state and shall be given no legal or equitable force or effect.