

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

SENATE BILL NO. 175

(By Mr. Watts & Jackson)

PASSED March 9 1957

In Effect 90 days from Passage

ENROLLED

Senate Bill No. 175

(By MR. MOATS AND MR. JACKSON, OF LINCOLN)

[Passed March 9, 1957; in effect ninety days from passage.]

AN ACT to amend chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, relating to the entry of the state of West Virginia into an interstate compact on mental health.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 14. INTERSTATE COMPACT ON
MENTAL HEALTH

Section 1. *Governor to Execute Compact.*—The gover-
2 nor of this state is hereby authorized and directed to
3 execute a compact on behalf of the state of West Virginia
4 with any state or states of the United States legally join-
5 ing therein in form substantially as follows:

6 INTERSTATE COMPACT ON MENTAL HEALTH

7 The contracting states solemnly agree that:

8 **Article I**

9 The party states find that the proper and expeditious
10 treatment of the mentally ill and mentally deficient can
11 be facilitated by cooperative action, to the benefit of the
12 patients, their families, and society as a whole. Further,
13 the party states find that the necessity of and desirability
14 for furnishing such care and treatment bears no primary
15 relation to the residence or citizenship of the patient but
16 that, on the contrary, the controlling factors of com-
17 munity safety and humanitarianism require that facili-
18 ties and services be made available for all who are in
19 need of them. Consequently, it is the purpose of this

20 compact and of the party states to provide the necessary
21 legal basis for the institutionalization or other appro-
22 priate care and treatment of the mentally ill and mentally
23 deficient under a system that recognizes the paramount
24 importance of patient welfare and to establish the re-
25 sponsibilities of the party states in terms of such wel-
26 fare.

27 **Article II**

28 As used in this compact:

29 (a) "Sending state" shall mean a party state from
30 which a patient is transported pursuant to the provisions
31 of the compact or from which it is contemplated that a
32 patient may be so sent.

33 (b) "Receiving state" shall mean a party state to
34 which a patient is transported pursuant to the provisions
35 of the compact or to which it is contemplated that a
36 patient may be so sent.

37 (c) "Institution" shall mean any hospital or other
38 facility maintained by a party state or political sub-
39 division thereof for the care and treatment of mental
40 illness or mental deficiency.

41 (d) "Patient" shall mean any person subject to or
42 eligible as determined by the laws of the sending state,
43 for institutionalization or other care, treatment, or super-
44 vision pursuant to the provisions of this compact.

45 (e) "After-care" shall mean care, treatment and ser-
46 vices provided a patient, as defined herein, on conva-
47 cent status or conditional release.

48 (f) "Mental illness" shall mean mental disease to such
49 extent that a person so afflicted requires care and treat-
50 ment for his own welfare, or the welfare of others, or
51 of the community.

52 (g) "Mental deficiency" shall mean mental deficiency
53 as defined by appropriate clinical authority to such ex-
54 tent that a person so afflicted is incapable of managing
55 himself and his affairs, but shall not include mental ill-
56 ness as defined herein.

57 (h) "State" shall mean any state, territory or pos-
58 session of the United States, the District of Columbia,
59 and the Commonwealth of Puerto Rico.

60

Article III

61 (a) Whenever a person physically present in any

62 party state shall be in need of institutionalization by
63 reason of mental illness or mental deficiency, he shall
64 be eligible for care and treatment in an institution in
65 that state irrespective of his residence, settlement or
66 citizenship qualifications.

67 (b) The provisions of paragraph (a) of this article
68 to the contrary notwithstanding, any patient may be
69 transferred to an institution in another state whenever
70 there are factors based upon clinical determinations in-
71 dicating that the care and treatment of said patient
72 would be facilitated or improved thereby. Any such in-
73 stitutionalization may be for the entire period of care
74 and treatment or for any portion or portions thereof.
75 The factors referred to in this paragraph shall include
76 the patient's full record with due regard for the loca-
77 tion of the patient's family, character of the illness and
78 probable duration thereof, and such other factors as shall
79 be considered appropriate.

80 (c) No state shall be obliged to receive any patient
81 pursuant to the provisions of paragraph (b) of this arti-
82 cle unless the sending state has given advance notice

83 of its intention to send the patient; furnished all avail-
84 able medical and other pertinent records concerning the
85 patient; given the qualified medical or other appropriate
86 clinical authorities of the receiving state an opportunity
87 to examine the patient if said authorities so wish; and
88 unless the receiving state shall agree to accept the
89 patient.

90 (d) In the event that the laws of the receiving state
91 establish a system of priorities for the admission of
92 patients, an interstate patient under this compact shall
93 receive the same priority as a local patient and shall be
94 taken in the same order and at the same time that he
95 would be taken if he were a local patient.

96 (e) Pursuant to this compact, the determination as
97 to the suitable place of institutionalization for a patient
98 may be reviewed at any time and such further transfer
99 of the patient may be made as seems likely to be in the
100 best interest of the patient.

101 **Article IV**

102 (a) Whenever, pursuant to the laws of the state in
103 which a patient is physically present, it shall be de-

104 terminated that the patient should receive after-care or
105 supervision, such care or supervision may be provided
106 in a receiving state. If the medical or other appropriate
107 clinical authorities having responsibility for the care
108 and treatment of the patient in the sending state shall
109 have reason to believe that after-care in another state
110 would be in the best interest of the patient and would
111 not jeopardize the public safety, they shall request the
112 appropriate authorities in the receiving state to investi-
113 gate the desirability of affording the patient such after-
114 care in said receiving state, and such investigation shall
115 be made with all reasonable speed. The request for in-
116 vestigation shall be accompanied by complete informa-
117 tion concerning the patient's intended place of residence
118 and the identity of the person in whose charge it is pro-
119 posed to place the patient, the complete medical history
120 of the patient, and such other documents as may be
121 pertinent.

122 (b) If the medical or other appropriate clinical
123 authorities having responsibility for the care and treat-
124 ment of the patient in the sending state and the ap-

125 propriate authorities in the receiving state find that the
126 best interest of the patient would be served thereby, and
127 if the public safety would not be jeopardized thereby,
128 the patient may receive after-care or supervision in the
129 receiving state.

130 (c) In supervising, treating, or caring for a patient
131 on after-care pursuant to the terms of this article, a re-
132 ceiving state shall employ the same standards of visita-
133 tion, examination, care, and treatment that it employs
134 for similar local patients.

135

Article V

136 Whenever a dangerous or potentially dangerous pa-
137 tient escapes from an institution in any party state, that
138 state shall promptly notify all appropriate authorities
139 within and without the jurisdiction of the escape in a
140 manner reasonably calculated to facilitate the speedy
141 apprehension of the escapee. Immediately upon the ap-
142 prehension and identification of any such dangerous or
143 potentially dangerous patient, he shall be detained in
144 the state where found pending disposition in accordance
145 with law.

146

Article VI

147 The duly accredited officers of any state party to this
148 compact, upon the establishment of their authority and
149 the identity of the patient, shall be permitted to trans-
150 port any patient being moved pursuant to this compact
151 through any and all states party to this compact, without
152 interference.

153

Article VII

154 (a) No person shall be deemed a patient of more
155 than one institution at any given time. Completion of
156 transfer of any patient to an institution in a receiving
157 state shall have the effect of making the person a patient
158 of the institution in the receiving state.

159 (b) The sending state shall pay all costs of and inci-
160 dental to the transportation of any patient pursuant to
161 this compact, but any two or more party states may, by
162 making a specific agreement for that purpose, arrange
163 for a different allocation of costs as among themselves.

164 (c) No provision of this compact shall be construed
165 to alter or affect any internal relationships among the
166 departments, agencies and officers of and in the govern-

167 ment of a party state, or between a party state and its
168 subdivisions, as to the payment of costs, or responsibili-
169 ties therefor.

170 (d) Nothing in this compact shall be construed to pre-
171 vent any party state or subdivision thereof from assert-
172 ing any right against any person, agency or other entity
173 in regard to costs for which such party state or subdi-
174 vision thereof may be responsible pursuant to any pro-
175 vision of this compact.

176 (e) Nothing in this compact shall be construed to
177 invalidate any reciprocal agreement between a party
178 state and a non-party state relating to institutionaliza-
179 tion, care or treatment of the mentally ill or mentally
180 deficient, or any statutory authority pursuant to which
181 such agreements may be made.

182 **Article VIII**

183 (a) Nothing in this compact shall be construed to
184 abridge, diminish, or in any way impair the rights, duties,
185 and responsibilities of any patient's guardian on his own
186 behalf or in respect of any patient for whom he may
187 serve, except that where the transfer of any patient to

188 another jurisdiction makes advisable the appointment of
189 a supplemental or substitute guardian, any court of com-
190 petent jurisdiction in the receiving state may make such
191 supplemental or substitute appointment and the court
192 which appointed the previous guardian shall upon being
193 duly advised of the new appointment, and upon the
194 satisfactory completion of such accounting and other
195 acts as such court may by law require, relieve the pre-
196 vious guardian of power and responsibility to whatever
197 extent shall be appropriate in the circumstances: *Pro-*
198 *vided, however,* That in the case of any patient having
199 settlement in the sending state, the court of competent
200 jurisdiction in the sending state shall have the sole dis-
201 cretion to relieve a guardian appointed by it or con-
202 tinue his power and responsibility, whichever it shall
203 deem advisable. The court in the receiving state may in
204 its discretion confirm or reappoint the person or persons
205 previously serving as guardian in the sending state in
206 lieu of making a supplemental or substitute appoint-
207 ment.

208 (b) The term "guardian" as used in paragraph (a)

209 of this article shall include any guardian, trustee, legal
210 committee, conservator, or other person or agency how-
211 ever denominated who is charged by law with power to
212 act for or responsibility for the person or property of
213 a patient.

214

Article IX

215 (a) No provision of this compact except article V
216 shall apply to any person institutionalized while under
217 sentence in a penal or correctional institution or while
218 subject to trial on a criminal charge, or whose institu-
219 tionalization is due to the commission of an offense for
220 which, in the absence of mental illness or mental defi-
221 ciency, said person would be subject to incarceration in
222 a penal or correctional institution.

223 (b) To every extent possible, it shall be the policy of
224 states party to this compact that no patient shall be
225 placed or detained in any prison, jail or lockup, but such
226 patient shall, with all expedition, be taken to a suitable
227 institutional facility for mental illness or mental de-
228 ficiency.

229

Article X

230 (a) Each party state shall appoint a "compact ad-
231 ministrator" who, on behalf of his state, shall act as
232 general coordinator of activities under the compact in
233 his state and who shall receive copies of all reports, cor-
234 respondence, and other documents relating to any pa-
235 tient processed under the compact by his state either
236 in the capacity of sending or receiving state. The com-
237 pact administrator or his duly designated representative
238 shall be the official with whom other party states shall
239 deal in any matter relating to the compact or any pa-
240 tient processed thereunder.

241 (b) The compact administrators of the respective party
242 states shall have power to promulgate reasonable rules
243 and regulations to carry out more effectively the terms
244 and provisions of this compact.

245

Article XI

246 The duly constituted administrative authorities of any
247 two or more party states may enter into supplementary
248 agreements for the provision of any service or facility
249 or for the maintenance of any institution on a joint or

250 cooperative basis whenever the states concerned shall
251 find that such agreements will improve services, facili-
252 ties, or institutional care and treatment in the fields of
253 mental illness or mental deficiency. No such supple-
254 mentary agreement shall be construed so as to relieve
255 any party state of any obligation which it otherwise
256 would have under other provisions of this compact.

257 **Article XII**

258 This compact shall enter into full force and effect as
259 to any state when enacted by it into law and such state
260 shall thereafter be a party thereto with any and all
261 states legally joining therein.

262 **Article XIII**

263 (a) A state party to this compact may withdraw
264 therefrom by enacting a statute repealing the same. Such
265 withdrawal shall take effect one year after notice thereof
266 has been communicated officially and in writing to the
267 governors and compact administrators of all other party
268 states. However, the withdrawal of any state shall not
269 change the status of any patient who has been sent to

270 said state or sent out of said state pursuant to the pro-
271 visions of the compact.

272 (b) Withdrawal from any agreement permitted by
273 article VII (b) as to costs or from any supplementary
274 agreement made pursuant to article XI shall be in accord-
275 ance with the terms of such agreement.

276 **Article XIV**

277 This compact shall be liberally construed so as to
278 effectuate the purposes thereof. The provisions of this
279 compact shall be severable and if any phrase, clause,
280 sentence or provision of this compact is declared to be
281 contrary to the constitution of any party state or of the
282 United States or the applicability thereof to any gov-
283 ernment, agency, person or circumstance is held invalid,
284 the validity of the remainder of this compact and the
285 applicability thereof to any government, agency, person
286 or circumstance shall not be affected thereby. If this
287 compact shall be held contrary to the constitution of
288 any state party thereto, the compact shall remain in full
289 force and effect as to the remaining states and in full

290 force and effect as to the state affected as to all severable
291 matters.

Sec. 2. *Mental Health Administration.*—The director of
2 mental health shall be the compact administrator and,
3 acting jointly with like officers of other party states, shall
4 have power to promulgate rules and regulations to carry
5 out more effectively the terms of the compact. The com-
6 pact administrator is hereby authorized, empowered and
7 directed to cooperate with all departments, agencies and
8 officers of and in the government of this state and its sub-
9 divisions in facilitating the proper administration of the
10 compact or of any supplementary agreement or agree-
11 ments entered into by this state thereunder.

Sec. 3. *Supplementary Agreements.*—The compact ad-
2 ministrator is hereby authorized and empowered to enter
3 into supplementary agreements with appropriate officials
4 of other states pursuant to articles VII and XI of the
5 compact. In the event that any such supplementary
6 agreements shall require or contemplate the use of any
7 institution or facility of this state or require or contem-
8 plate the provision of any service by this state, no such

9 agreement shall have force or effect until approved by
10 the head of the department or agency under whose
11 jurisdiction said institution or facility is operated or
12 whose department or agency will be charged with the
13 rendering of such service.

Sec. 4. *Financial Arrangements.*—The compact ad-
2 ministrator, subject to the approval of the state auditor,
3 may make or arrange for any payments necessary to dis-
4 charge any financial obligations imposed upon this state
5 by the compact or by any supplementary agreement
6 entered into thereunder.

Sec. 5. *Transmittal of Copies of Article.*—Duly authen-
2 ticated copies of this article shall, upon its approval, be
3 transmitted by the secretary of state to the governor of
4 each state, the attorney general and the secretary of state
5 of the United States, and the council of state govern-
6 ments.

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

E. H. McCourt
Chairman Senate Committee

W. H. H. [Signature]
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 15th day of March, 1957.

[Signature]
Governor



Filed In the Office of the Secretary of State of West Virginia. **MAR 15 1957**

D. PITT O'BRIEN
SECRETARY OF STATE