WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

SENATE BILL NO. 125

(By Mr. Moore of Jackson)

PASSED. March 9, 1957

In Effect at 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 governor of this state is hereby authorized and directed to execute a compact on behalf of the state of West Virginia with any state or states of the United States legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this
compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

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

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

(c) “Institution” shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.
(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

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

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authority to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any
party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient’s full record with due regard for the location of the patient’s family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice
of its intention to send the patient; furnished all avail-
able medical and other pertinent records concerning the
patient; given the qualified medical or other appropriate
clinical authorities of the receiving state an opportunity
to examine the patient if said authorities so wish; and
unless the receiving state shall agree to accept the
patient.

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

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

Article IV

(a) Whenever, pursuant to the laws of the state in
which a patient is physically present, it shall be de-
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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-
appropriate authorities in the receiving state find that the
best interest of the patient would be served thereby, and
if the public safety would not be jeopardized thereby,
the patient may receive after-care or supervision in the
receiving state.

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

Article V

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

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

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

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

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the govern-
ment of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

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

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to
another jurisdiction makes advisable the appointment of
a supplemental or substitute guardian, any court of com-
petent jurisdiction in the receiving state may make such
supplemental or substitute appointment and the court
which appointed the previous guardian shall upon being
duly advised of the new appointment, and upon the
satisfactory completion of such accounting and other
acts as such court may by law require, relieve the pre-
vious guardian of power and responsibility to whatever
extent shall be appropriate in the circumstances: Pro-
vided, however, That in the case of any patient having
settlement in the sending state, the court of competent
jurisdiction in the sending state shall have the sole dis-
cretion to relieve a guardian appointed by it or con-
tinue his power and responsibility, whichever it shall
deem advisable. The court in the receiving state may in
its discretion confirm or reappoint the person or persons
previously serving as guardian in the sending state in
lieu of making a supplemental or substitute appoint-
ment.

(b) The term “guardian” as used in paragraph (a)
of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency how-
ever denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

**Article IX**

(a) No provision of this compact except article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.
Article X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

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

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or
cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

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

Article XIII

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

(b) Withdrawal from any agreement permitted by article VII (b) as to costs or from any supplementary agreement made pursuant to article XI shall be in accordance with the terms of such agreement.

**Article XIV**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full
force and effect as to the state affected as to all severable matters.

Sec. 2. Mental Health Administration.—The director of mental health shall be the compact administrator and, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Sec. 3. Supplementary Agreements.—The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to articles VII and XI of the compact. In the event that any such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such
agreement shall have force or effect until approved by
the head of the department or agency under whose
jurisdiction said institution or facility is operated or
whose department or agency will be charged with the
rendering of such service.

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

Sec. 5. Transmittal of Copies of Article.—Duly authen-
ticated copies of this article shall, upon its approval, be
transmitted by the secretary of state to the governor of
each state, the attorney general and the secretary of state
of the United States, and the council of state govern-
ments.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

To T. McCourt  
Chairman Senate Committee

Originated in the Senate.

Takes effect 60 days from passage.

Thurman Mayers  
Clerk of the Senate

C A Blankenship  
Clerk of the House of Delegates

Ralph J. Beres  
President of the Senate

W E S  
Speaker House of Delegates

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

J R Lunde  
Governor

Filed in the Office of the Secretary of State  
of West Virginia, March 5, 1957  
D PITT O'BRIEN  
SECRETARY OF STATE