WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
SENATE BILL NO. 406

(By Mr. ...)

PASSED .....................................................
March 2, 1984
In Effect ninety days from Passage
AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-e, relating to service providers in legally unlicensed health care facilities; stating the purpose of the article; defining terms; requiring registration of the service providers with the state director of health; prescribing the form of such registration; specifying information to be provided on the registration form; requiring the director of health to make publicly available an annual list of registered service providers; authorizing inspections by the director of health; providing modes of enforcement; and specifying criminal penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5E. REGISTRATION OF SERVICE PROVIDERS IN LEGALLY UNLICENSED HEALTH CARE FACILITIES.

§16-5E-1. Purpose.

1 It is the policy of this state to encourage the availability
2 of appropriate noninstitutional surroundings for the
3 elderly and for the care of persons in need of nursing care or personal assistance. The registration of providers of services to such consumers in unlicensed facilities will help to identify where the services are available and to ensure that individuals in unlicensed facilities are receiving care appropriate to their needs.

§16-5E-2. Definitions.

1 As used in this article, unless a different meaning appears from the context:

(a) The term “consumer” means an individual who is provided services, whether or not for a fee, by a service provided, but consumer does not include a person receiving services provided by another who is related to him or her or the spouse thereof by blood or marriage, within the degree of consanguinity of second cousin;

(b) The term “director” means the director of the West Virginia state department of health or his designee;

(c) The term “nursing care” means those procedures commonly employed in providing for the physical, emotional and rehabilitational needs of the ill or otherwise incapacitated which require technical skills and knowledge beyond that which the untrained person possesses, including, but not limited to, such procedures as: Irrigations; catheterization; application of dressings; supervision of special diets; objective observation of changes in patient condition as a means of analyzing and determining nursing care required and the need for further medical diagnosis and treatment; special procedures contributing to rehabilitation; administration of medication by any method ordered by a physician, such as hypodermically, rectally or orally; and carrying out other treatments prescribed by a physician which involve a like level of complexity and skill in administration;

(d) The term “personal assistance” means personal services, including, but not limited to, the following: Help in walking, bathing, dressing, feeding or getting in or out of bed, or supervision required because of the age or physical or mental impairment of the patient;
(e) The term "service provider" means the individual administratively responsible for providing to consumers for a period of more than twenty-four hours, whether for compensation or not, services of:

(1) Nursing care for one or two consumers; or

(2) Personal assistance for five or fewer consumers.

§16-5E-3. Registration of service providers required; form of registration; information to be provided.

(a) Service providers shall register with the director. No fee may be charged for registration. Registration information shall be provided on a registration form or may be verbally communicated to the director for placement by the director on the form, but no provision of information shall be deemed to meet the registration requirement until the signature of the service provider is recorded on the registration form.

(b) Information required for registration shall include the following:

(1) Name, address and telephone number of the service provider;

(2) Addresses and telephone numbers where services are provided to consumers and the number of consumers provided service at each address; and

(3) The services, such as nursing care or personal assistance, provided to consumers at each address.

§16-5E-4. Public availability of registry.

The director shall publish and make available to the public on an annual basis a list of service providers registered in accordance with section three of this article.

§16-5E-5. Inspections; right of entry.

The director may employ inspectors to enforce the provisions of this article. These inspectors shall have the right of entry into any place where services are provided by a service provider, to determine the number of consumers therein and the adequacy of services being
provided to them. The director may obtain a search warrant to inspect those premises that the director has reason to believe are being used to provide services.

§16-5E-6. Enforcement; criminal penalties.

(a) Any service provider who fails to register with the director within thirty days after personal service of written notice from the director of the registration requirements of this article, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars or imprisoned in the county jail not less than ten days.

(b) Any person who interferes with or impedes in any way the lawful enforcement of the provisions of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars or imprisoned in the county jail not less than ten days.

(c) The director may in his discretion bring an action to enforce compliance with the provisions of this article.

(d) The circuit court of Kanawha County shall have jurisdiction in all civil enforcement actions brought under this article and may order equitable relief without bond.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee  

Donald Culles  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 20th day of March, 1984.

Governor