WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
Committee Substitute for
SENATE BILL NO. 407

(By Mr. Chace)

PASSED March 10, 1984
In Effect ninety days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 407
(Ms. CHACE, original sponsor)

[Passed March 10, 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-h; and to amend and reenact sections one and three, article seventeen, chapter twenty-seven of said code, all relating to establishment and licensure of adult group homes for four to ten persons capable of self-preservation; authority of director of health to issue licenses, promulgate regulations, inspect, investigate and revoke licenses for good cause; requiring assistance from department of human services when requested by director of health; enforcement; injunction; criminal penalties; relating to group residential facilities; definition of “behavioral disability”; license; application; regulations; revocation.

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-h; and that sections one and three, article seventeen, chapter twenty-seven of said code be amended and reenacted, all to read as follows:
ARTICLE 5H. ADULT GROUP HOMES.

§16-5H-1. Definitions.

(a) The term "adult group home" means any residence or any part or unit thereof, however named, in this state which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of providing accommodations, personal assistance and supervision, for a period of more than twenty-four hours, to four to ten persons who are dependent upon the services of others by reason of physical or mental impairment, but who do not require nursing care or personal care home services and who are capable of self-preservation.

(b) The term "self-preservation" means that a person is, at least, capable of removing his or her physical self from situations involving imminent danger, such as fire.

§16-5H-2. License from director of health; application; regulations; revocation; assistance from department of human services.

No adult group home shall be established, maintained or operated unless a license therefor shall be first obtained from the director of health. The application for such license shall contain such data and facts as the director may reasonably require. The director may promulgate reasonable regulations for the operation of such facilities, and to carry out the requirements of this article, in accordance with the requirements of article three, chapter twenty-nine-a of this code. The director shall have the authority to investigate and inspect any such facility and may revoke the license of any such facility for good cause after notice and hearing. The department of human services shall cooperate with and assist the director of health in carrying out any requirements of this section, upon request of the director.

§16-5H-3. Enforcement; criminal penalties; injunction.

(a) Whoever establishes, maintains or operates, or is engaged in establishing, maintaining or operating an adult group home without a license granted under section two of this article, or who prevents, interferes with or impedes in
any way the lawful enforcement of this article shall be
guilty of a misdemeanor, and, upon conviction thereof, shall
be punished for the first offense by a fine of not more than
one hundred dollars, or by imprisonment in the county jail
for a period of not more than ninety days, or by both such
fine and imprisonment, at the discretion of the court. For
each subsequent offense, the fine may be increased to not
more than two hundred fifty dollars, with imprisonment in
the county jail for a period of not more than ninety days, or
both such fine and imprisonment at the discretion of the
court. Each day of a continuing violation after conviction
shall be considered a separate offense.
(b) The director may in his discretion bring an action to
enforce compliance with this article or any rule, regulation
or order hereunder, whenever it shall appear to the director
that any person has engaged in, or is engaging in, an act or
practice in violation of this article, or any rule, regulation or
order hereunder, or whenever it shall appear to the director
that any person has aided, abetted, or caused, or is aiding,
abetting or causing such an act or practice. Upon
application by the director, the circuit court of the county in
which the conduct has occurred shall have jurisdiction to
grant, without bond, a permanent or temporary injunction,
decree or restraining order.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 17. GROUP RESIDENTIAL FACILITIES.

§27-17-1. Definitions.

“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. “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.

"Group residential facility" means a facility 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 twelve individuals who are
behaviorally disabled and not more than three supervisors;
(3) is licensed by the department of health or the
department of human services; and (4) complies with the
state fire commission for residential facilities.

§27-17-3. License from director of health; application;
regulations; revocation.

No group residential facility shall be established,
maintained or operated unless a license therefor shall be
first obtained from the director of health, except that a
group residential facility for behaviorally disabled
juveniles shall be deemed to satisfy all requirements of this
section by obtaining a license from the commissioner of
human services. The application for such license shall
contain such data and facts as the director may require. The
director may promulgate reasonable regulations for the
conduct of such facilities, including, but not limited to, a
statement of the rights of patients in group residential
facilities for the mentally and physically impaired to ensure
the adequate care and supervision of such patients, and
shall have the authority to investigate and inspect any such
facility, and may revoke the license of any such facility for
good cause after notice and hearing.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

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...inscribed....this the...to...

day of...March......., 1984.

Governor