WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

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ENROLLED
Committee Substitute for
SENATE BILL NO. 295

(By Senator [Signature], President of S)

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PASSED March 12, 1987
In Effect [Signature] from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 295
(Senators Tonkovich, Mr. President and Boettner, original sponsors)

[Passed March 12, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article five-i, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to rules and regulations for consent to hospice services.

Be it enacted by the Legislature of West Virginia:

That section five, article five-i, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5I. HOSPICE LICENSURE ACT.

§16-5I-5. State board of health to establish rules and regulations.

1 The state board of health, after soliciting the advice and
2 recommendations of the West Virginia continuum of care
3 board, shall promulgate reasonable rules and regulations
4 for the licensure of hospice programs as it finds necessary in
5 order to ensure adequate care, treatment, health, safety,
6 welfare and comfort of hospice patients.
7 Such regulations shall provide that for purposes of
8 hospice services, including medicare reimbursement for
9 such services, where there has been no adjudication of
10 incompetence of a terminally ill patient and where there is
11 no durable power of attorney for such patient but where
12 such patient is unable to execute an election for hospice
13 services due to physical or mental incapacity as
14 documented in such patient's health care records by two
15 physicians licensed to practice medicine and surgery in this
16 state, the following persons shall be deemed the patient's
17 representative, and authorized to consent to hospice
18 services for such patient, and in the order of priority set
19 forth below:
20 (1) The patient's spouse;
21 (2) An adult child of the patient;
22 (3) A parent of the patient;
23 (4) An adult sibling of the patient;
24 (5) The nearest living relative of the patient:
25 Provided, That there is no reason to believe that hospice
26 services are contrary to the terminally ill patient's religious
27 beliefs and no actual notice of opposition by a member of
28 the same or a prior class.
29 These rules and regulations shall also include, but not be
30 limited to:
31 (a) The qualifications and supervision of licensed and
32 nonlicensed personnel;
33 (b) The provision and coordination of inpatient care and
34 in-home treatment services, including the development of a
35 written plan of care;
36 (c) The management, operation, staffing and equipping
37 of the hospice program;
38 (d) The clinical and business records kept by the
39 hospice;
40 (e) The procedures for the review of utilization and
41 quality of patient care; and
42 (f) Such other requirements as the board of health
43 determines to be appropriate.
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 ...................... this the .............. day of .................. 1987.

Governor