WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

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ENROLLED
Com. Sub for
HOUSE BILL No. 2612

(By Del. M. Burke & White)

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Passed April 7, 1989
In Effect Ninety Days from Passage
AN ACT to amend article two-d, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section four-a, relating to conversion of hospital acute beds to skilled nursing beds.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-4a. Conversion of hospital acute beds to skilled nursing beds.

1 (a) Legislative findings and purpose.—The Legislature hereby finds and declares that a need exists for skilled nursing health care beds in this state due to a shortage of existing facilities with adequate bed capacity and lack of willingness to provide such services; that patients in need of skilled nursing services have sometimes been retained in an inappropriate level of
care facility; that such practices have resulted in malutilization of health care facilities and resources; that there currently exists a surplus of acute care beds in hospitals, particularly those in rural areas within this state; that the surplus of acute care beds is, for the foreseeable future, permanent in nature; that the same excess capacity of acute care beds promotes economic inefficiencies in operation while failing to meet community needs; that nursing homes are unable under subsection (h), section five of this article, to add intermediate or dually certified beds to skilled nursing beds at the present time in numbers in excess of ten percent or not more than ten beds, whichever is less; and that remedial action by the Legislature is necessary to effectuate relief of these problems to promote the health and welfare of the citizens of the state by allowing, in certain instances, for the conversion of acute care beds to skilled nursing beds by hospitals, but with no increase in overall hospital bed capacity.

(b) Notwithstanding the provisions of subsection (h), section five of this article, and, further, notwithstanding the provisions of subsection (d), section three of this article, the state agency shall adopt rules pursuant to section eight of this article, to exempt from review the conversion of acute-care beds to skilled nursing care beds by a licensed hospital by the state department of health if the hospital meets the following conditions:

(1) It is located in a nonmetropolitan statistical area as defined by the bureau of census of the federal government;

(2) It has experienced an average occupancy rate of less than fifty percent for the twelve months preceding the date of request for this exemption; and

(3) The nursing home service area within which the hospital is located is under the bed ceiling as calculated by the thirty beds per thousand population formula as set forth in the long-term care chapter of the state health plan, except for the purposes of this article existing nursing home beds shall be used in the calculation.
(c) The state agency shall include in its rules requirements that:

(1) In converting beds, the hospital must change one acute care bed into one skilled nursing care bed;

(2) All acute care beds converted shall be permanently deleted from the hospital’s acute-care bed complement and the hospital may not thereafter add, by conversion or otherwise, acute-care beds to its bed complement without satisfying the requirements of subsection (d), section three of this article, for which purposes such an addition, whether by conversion or otherwise, such be considered a substantial change to the bed capacity of the hospital notwithstanding the definition of that term found at subsection (ee), section two of this article;

(3) The hospital shall meet all applicable federal and state licensing requirements for the provisions of skilled nursing services including a requirement that all skilled care beds created under this exemption shall be located in distinct-part, long-term care units;

(4) No hospital is permitted to convert more than twenty-five percent of its licensed bed capacity in any twenty-four month period pursuant to this exemption; however, in the event that subsection (h), section five of this article, is repealed and to the extent that other methods of converting acute care beds are available under this article, the hospital may request certificate of need approval of such conversions;

(5) The hospital shall undergo substantial compliance review of a conversion under this exemption under such terms and at such a time as set by the state agency in its rules.

(d) Nothing in this section negatively affects the rights of inspection and certification which are elsewhere required by federal law or regulations or by this code or duly adopted regulation of an authorized state entity.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 21st
day of April, 1989.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/19/89
Time 10:36