WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 430

(By Senator HEWICK, ET AL.)

PASSED March 24, 1995
In Effect on Passage
ENROLLED

Senate Bill No. 430

(By Senators Helmick, Wiedebusch, Ross, Whitlow, Scott, Manchin, Tomblin, Mr. President, Sharpe, Walker, Buckalew, Kimble, Love, Wagner, Bailey, Anderson, Wooton, Craigo, Chafin, White, Schoonover, Bowman, Deem, Plymale and Jackson)

[Passed March 6, 1995; in effect from passage.]

AN ACT to amend and reenact section two, article five-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to nursing, personal and residential care homes; and exempting fraternal homes from the licensing requirements.

Be it enacted by the Legislature of West Virginia:

That section two, article five-c, 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 5C. NURSING AND PERSONAL CARE HOMES AND RESIDENTIAL BOARD AND CARE HOMES.

§16-5C-2. Definitions.

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

3 (a) The term “director” means the secretary of the department of health and human resources or his or her designee;
(b) The term "facility" means any nursing home, personal care home or residential board and care home as defined in subdivisions (d), (e) and (f) of this section: Provided, That the care or treatment in a household, whether for compensation or not, of any person related by blood or marriage, within the degree of consanguinity of second cousin to the head of the household, or his or her spouse, may not be deemed to constitute a nursing home, personal care home or residential board and care home within the meaning of this article. Nothing contained in this article applies to hospitals, as defined under section one, article five-b of this chapter; or state institutions, as defined under section three, article one, chapter twenty-five of this code or section six, article one, chapter twenty-seven of this code; or nursing homes operated by the federal government or the state government; or institutions operated for the treatment and care of alcoholic patients; or offices of physicians; or hotels, boarding homes or other similar places that furnish to their guests only room and board; or extended care facilities operated in conjunction with a hospital; or to homes or asylums operated by fraternal orders pursuant to article three, chapter thirty-five of this code; (c) The term "limited and intermittent nursing care" means care which may only be provided when the need for such care meets these factors: (1) The resident requests to remain in the facility; (2) the resident is advised of the availability of other specialized health care facilities to treat his or her condition; and (3) the need for such care is the result of a medical pathology or a result of the normal aging process. Limited and intermittent nursing care shall only be provided by or under the direct supervision of a registered professional nurse and in accordance with rules promulgated by the board of health; (d) The term "nursing home" means any institution, residence or place, 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 and care,
for a period of more than twenty-four hours, for four or
more persons who are ill or otherwise incapacitated and
in need of extensive, on-going nursing care due to
physical or mental impairment or which provides
services for the rehabilitation of persons who are conva-
lescing from illness or incapacitation;

(e) The term "personal care home" means any institu-
tion, residence or place, or any part or unit thereof,
however named, in this state which is advertised, of-
fered, maintained or operated by the ownership or
management, whether for a consideration or not, for the
express or implied purpose of providing accommodations
and personal assistance and supervision, for a period of
more than twenty-four hours, to four or more persons
who are dependent upon the services of others by reason
of physical or mental impairment who may require
limited and intermittent nursing care, including those
individuals who qualify for and are receiving services
coordinated by a licensed hospice: Provided, That
services utilizing equipment which requires auxiliary
electrical power in the event of a power failure may not
be used unless the personal care home has a backup
power generator;

(f) The term "residential board and care home" means
any residence or place, or any part or unit thereof,
however named, in this state which is advertised, of-
fered, maintained or operated by the ownership or
management, whether for consideration or not, for the
express or implied purpose of providing accommodations
and personal assistance and supervision, for a period of
more than twenty-four hours, to four to ten persons who
are not related to the owner or manager by blood or
marriage within the degree of consanguinity of second
cousin and are dependent upon the services of others by
reason of physical or mental impairment or who may
require limited and intermittent nursing care but are
capable of self-preservation and are not bedfast; inclu-
ing those individuals who qualify for and are receiving services coordinated by a licensed hospice: Provided, That services utilizing equipment which requires auxiliary electrical power in the event of a power failure may not be used unless the residential board and care home has a backup power generator;

(g) 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, catheterizations, special procedure contributing to rehabilitation and administration of medication by any method which involves a level of complexity and skill in administration not possessed by the untrained person;

(h) 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 mental impairment of the resident;

(i) The term "patient" means an individual under care in a nursing home;

(j) The term "resident" means an individual living in a personal care home or a residential board and care home;

(k) The term "sponsor" means the person or agency legally responsible for the welfare and support of a patient or resident;

(l) The term "person" means an individual and every form of organization, whether incorporated or unincorporated, including any partnership, corporation, trust, association or political subdivision of the state.

The director may define in regulations any term used herein which is not expressly defined.
That 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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 13th day of January, 1995.

Governor