

SB 0430

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SENATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

**ENROLLED**

SENATE BILL NO. 430

(By Senator HELMICK, ET AL)

PASSED March 6, 1995  
In Effect May 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)

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

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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
- 2 appears from the context:
- 3 (a) The term "director" means the secretary of the
- 4 department of health and human resources or his or her
- 5 designee;

6 (b) The term "facility" means any nursing home,  
7 personal care home or residential board and care home  
8 as defined in subdivisions (d), (e) and (f) of this section:  
9 *Provided*, That the care or treatment in a household,  
10 whether for compensation or not, of any person related  
11 by blood or marriage, within the degree of consanguinity  
12 of second cousin to the head of the household, or his or  
13 her spouse, may not be deemed to constitute a nursing  
14 home, personal care home or residential board and care  
15 home within the meaning of this article. Nothing  
16 contained in this article applies to hospitals, as defined  
17 under section one, article five-b of this chapter; or state  
18 institutions, as defined under section three, article one,  
19 chapter twenty-five of this code or section six, article  
20 one, chapter twenty-seven of this code; or nursing homes  
21 operated by the federal government or the state govern-  
22 ment; or institutions operated for the treatment and care  
23 of alcoholic patients; or offices of physicians; or hotels,  
24 boarding homes or other similar places that furnish to  
25 their guests only room and board; or extended care  
26 facilities operated in conjunction with a hospital; or to  
27 homes or asylums operated by fraternal orders pursuant  
28 to article three, chapter thirty-five of this code;

29 (c) The term "limited and intermittent nursing care"  
30 means care which may only be provided when the need  
31 for such care meets these factors: (1) The resident  
32 requests to remain in the facility; (2) the resident is  
33 advised of the availability of other specialized health  
34 care facilities to treat his or her condition; and (3) the  
35 need for such care is the result of a medical pathology or  
36 a result of the normal aging process. Limited and  
37 intermittent nursing care shall only be provided by or  
38 under the direct supervision of a registered professional  
39 nurse and in accordance with rules promulgated by the  
40 board of health;

41 (d) The term "nursing home" means any institution,  
42 residence or place, or any part or unit thereof, however  
43 named, in this state which is advertised, offered, main-  
44 tained or operated by the ownership or management,

45 whether for a consideration or not, for the express or  
46 implied purpose of providing accommodations and care,  
47 for a period of more than twenty-four hours, for four or  
48 more persons who are ill or otherwise incapacitated and  
49 in need of extensive, on-going nursing care due to  
50 physical or mental impairment or which provides  
51 services for the rehabilitation of persons who are conva-  
52 lescent from illness or incapacitation;

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

70 (f) The term "residential board and care home" means  
71 any residence or place, or any part or unit thereof,  
72 however named, in this state which is advertised, of-  
73 fered, maintained or operated by the ownership or  
74 management, whether for consideration or not, for the  
75 express or implied purpose of providing accommodations  
76 and personal assistance and supervision, for a period of  
77 more than twenty-four hours, to four to ten persons who  
78 are not related to the owner or manager by blood or  
79 marriage within the degree of consanguinity of second  
80 cousin and are dependent upon the services of others by  
81 reason of physical or mental impairment or who may  
82 require limited and intermittent nursing care but are  
83 capable of self-preservation and are not bedfast, includ-

84 ing those individuals who qualify for and are receiving  
85 services coordinated by a licensed hospice: *Provided*,  
86 That services utilizing equipment which requires auxil-  
87 iary electrical power in the event of a power failure may  
88 not be used unless the residential board and care home  
89 has a backup power generator;

90 (g) The term "nursing care" means those procedures  
91 commonly employed in providing for the physical,  
92 emotional and rehabilitational needs of the ill or other-  
93 wise incapacitated which require technical skills and  
94 knowledge beyond that which the untrained person  
95 possesses, including, but not limited to, such procedures  
96 as: Irrigations, catheterizations, special procedure  
97 contributing to rehabilitation and administration of  
98 medication by any method which involves a level of  
99 complexity and skill in administration not possessed by  
100 the untrained person;

101 (h) The term "personal assistance" means personal  
102 services, including, but not limited to, the following:  
103 Help in walking, bathing, dressing, feeding or getting in  
104 or out of bed, or supervision required because of the age  
105 or mental impairment of the resident;

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

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

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

113 (l) The term "person" means an individual and every  
114 form of organization, whether incorporated or unincor-  
115 porated, including any partnership, corporation, trust,  
116 association or political subdivision of the state.

117 The director may define in regulations any term used  
118 herein which is not expressly defined.

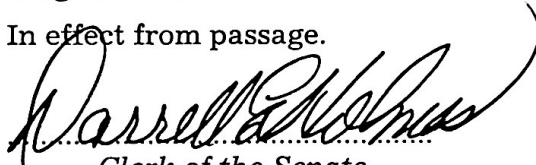
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
 .....  
 Chairman Senate Committee

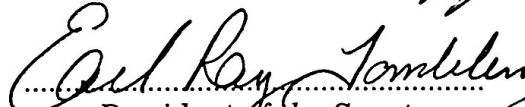
  
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 Chairman House Committee

Originated in the Senate.

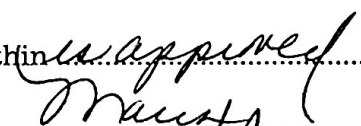
In effect from passage.

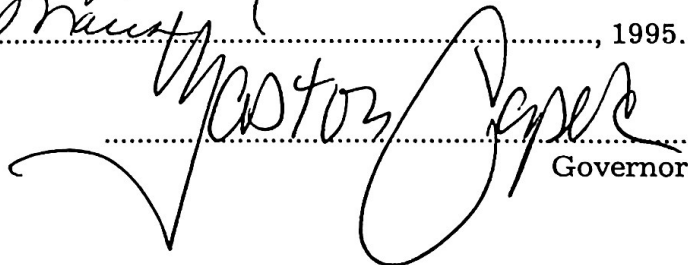
  
 .....  
 Clerk of the Senate

  
 .....  
 Clerk of the House of Delegates

  
 .....  
 President of the Senate

  
 .....  
 Speaker House of Delegates

The within  this the 13<sup>th</sup>  
 day of March, 1995.

  
 .....  
 Governor

PRESENTED TO THE

GOVERNOR

Date 3/8/95

Time 4:52 pm