

H. B. 2301

(By Delegate Andes)

[Introduced January 12, 2011; referred to the
Committee on Health and Human Resources then the
Judiciary.]

A BILL to repeal §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-4a,
§16-2D-4b, §16-2D-5, §16-2D-5a, §16-2D-6, §16-2D-7, §16-2D-7a,
§16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-
13, §16-2D-14 and §16-2D-15 of the Code of West Virginia,
1931, as amended; to repeal §16-29A-20; to repeal §16-42-6 of
said code; to repeal §49-7-30 of said code; to amend and
reenact §9-5-19 of said code; to amend and reenact §16-1-4 of
said code; to amend and reenact §16-29B-1, §16-29B-8, §16-29B-
11 and §16-29B-19a of said code; to amend and reenact §16-29I-
6 of said code; and to amend and reenact §33-15B-5 of said
code, all relating to elimination of the requirement that
health facilities receive a certificate of need before
opening.

Be it enacted by the Legislature of West Virginia:

That §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-4a, §16-

1 2D-4b, §16-2D-5, §16-2D-5a, §16-2D-6, §16-2D-7, §16-2D-7a, §16-2D-
 2 8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14
 3 and §16-2D-15 of the Code of West Virginia, 1931, as amended, be
 4 repealed; that §16-29A-20 of said code be repealed; that §16-42-6
 5 of said code be repealed; that §49-7-30 of said code be repealed;
 6 that §9-5-19 of said code be amended and reenacted; that §16-1-4 of
 7 said code be amended and reenacted; that §16-29B-1, §16-29B-8, §16-
 8 29B-11 and §16-29B-19a of said code be amended and reenacted; that
 9 §16-29I-6 of said code be amended and reenacted; and that §33-15B-5
 10 of said code be amended and reenacted, all to read as follows:

11 **CHAPTER 9. HUMAN SERVICES.**

12 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

13 **§9-5-19. Summary review for certain behavioral health facilities**
 14 **and services.**

15 (a) A certificate of need as provided in article two-d,
 16 chapter sixteen of this code is not required by an entity proposing
 17 additional behavioral health care services, but only to the extent
 18 necessary to gain federal approval of the Medicaid MR/DD waiver
 19 program, if a summary review is performed in accordance with the
 20 provisions of this section.

21 (b) Prior to initiating any summary review, the secretary
 22 shall direct the revision of the state Mental Health Plan as
 23 required by the provisions of 42 U.S.C. 300x and section four,
 24 article one-a, chapter twenty-seven of this code. In developing

1 those revisions, the secretary is to appoint an advisory committee
2 composed of representatives of the associations representing
3 providers, child care providers, physicians and advocates. The
4 secretary shall appoint the appropriate department employees
5 representing regulatory agencies, reimbursement agencies and
6 oversight agencies of the behavioral health system.

7 (c) If the Secretary of the Department of Health and Human
8 Resources determines that specific services are needed but
9 unavailable, he or she shall provide notice of the department's
10 intent to develop those services. Notice may be provided through
11 publication in the State Register, publication in newspapers or a
12 modified request for proposal as developed by the secretary.

13 (d) The secretary may initiate a summary review of additional
14 behavioral health care services, but only to the extent necessary
15 to gain federal approval of the Medicaid MR/DD waiver program, by
16 recommending exemption from the provisions of article two-d,
17 chapter sixteen of this code to the Health Care Authority. The
18 recommendation is to include the following findings:

19 (1) That the proposed service is consistent with the state
20 health plan and the state Mental Health Plan;

21 (2) That the proposed service is consistent with the
22 department's programmatic and fiscal plan for behavioral health
23 services;

24 (3) That the proposed service contributes to providing

1 services that prevent admission to restrictive environments or
2 enables an individual to remain in a nonrestrictive environment;

3 (4) That the proposed service contributes to reducing the
4 number of individuals admitted to inpatient or residential
5 treatment programs or services;

6 (5) If applicable, that the proposed service will be
7 community-based, locally accessible, provided in an appropriate
8 setting consistent with the unique needs and potential of each
9 client and his or her family and located in an area that is
10 unserved or underserved or does not allow consumers a choice of
11 providers; and

12 (6) That the secretary is determining that sufficient funds
13 are available for the proposed service without decreasing access to
14 or provision of existing services. The secretary may, from time to
15 time, transfer funds pursuant to the general provisions of the
16 budget bill.

17 (e) The secretary's findings required by this section shall be
18 filed with the secretary's recommendation and appropriate
19 documentation. If the secretary's findings are supported by the
20 accompanying documentation, the proposal does not require a
21 certificate of need.

22 ~~(f) Any entity that does not qualify for summary review is~~
23 ~~subject to a certificate of need review.~~

24 ~~(g)~~ (f) Any provider of the proposed services denied

1 authorization to provide those services pursuant to the summary
2 review has the right to appeal that decision to the state agency in
3 accordance with the provisions of section ten, article two-d,
4 chapter sixteen of this code.

5 **CHAPTER 16. PUBLIC HEALTH.**

6 **ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

7 **§16-1-4. Proposal of rules by the secretary.**

8 The secretary may propose rules in accordance with the
9 provisions of article three, chapter twenty-nine-a of this code
10 that are necessary and proper to effectuate the purposes of this
11 chapter. The secretary may appoint or designate advisory councils
12 of professionals in the areas of hospitals, nursing homes, barbers
13 and beauticians, postmortem examinations, mental health and mental
14 retardation centers and any other areas necessary to advise the
15 secretary on rules.

16 The rules may include, but are not limited to, the regulation
17 of:

18 (a) Land usage endangering the public health: *Provided*, That
19 no rules may be promulgated or enforced restricting the subdivision
20 or development of any parcel of land within which the individual
21 tracts, lots or parcels exceed two acres each in total surface area
22 and which individual tracts, lots or parcels have an average
23 frontage of not less than one hundred fifty feet even though the
24 total surface area of the tract, lot or parcel equals or exceeds

1 two acres in total surface area, and which tracts are sold, leased
2 or utilized only as single-family dwelling units. Notwithstanding
3 the provisions of this subsection, nothing in this section may be
4 construed to abate the authority of the department to: (1)
5 Restrict the subdivision or development of a tract for any more
6 intense or higher density occupancy than a single-family dwelling
7 unit; (2) propose or enforce rules applicable to single-family
8 dwelling units for single-family dwelling unit sanitary sewerage
9 disposal systems; or (3) restrict any subdivision or development
10 which might endanger the public health, the sanitary condition of
11 streams or sources of water supply;

12 (b) The sanitary condition of all institutions and schools,
13 whether public or private, public conveyances, dairies,
14 slaughterhouses, workshops, factories, labor camps, all other
15 places open to the general public and inviting public patronage or
16 public assembly, or tendering to the public any item for human
17 consumption and places where trades or industries are conducted;

18 (c) Occupational and industrial health hazards, the sanitary
19 conditions of streams, sources of water supply, sewerage facilities
20 and plumbing systems and the qualifications of personnel connected
21 with any of those facilities, without regard to whether the
22 supplies or systems are publicly or privately owned; and the design
23 of all water systems, plumbing systems, sewerage systems, sewage
24 treatment plants, excreta disposal methods and swimming pools in

1 this state, whether publicly or privately owned;

2 (d) Safe drinking water, including:

3 (1) The maximum contaminant levels to which all public water
4 systems must conform in order to prevent adverse effects on the
5 health of individuals and, if appropriate, treatment techniques
6 that reduce the contaminant or contaminants to a level which will
7 not adversely affect the health of the consumer. The rule shall
8 contain provisions to protect and prevent contamination of
9 wellheads and well fields used by public water supplies so that
10 contaminants do not reach a level that would adversely affect the
11 health of the consumer;

12 (2) The minimum requirements for: Sampling and testing;
13 system operation; public notification by a public water system on
14 being granted a variance or exemption or upon failure to comply
15 with specific requirements of this section and rules promulgated
16 under this section; record keeping; laboratory certification; as
17 well as procedures and conditions for granting variances and
18 exemptions to public water systems from state public water systems
19 rules; and

20 (3) The requirements covering the production and distribution
21 of bottled drinking water and may establish requirements governing
22 the taste, odor, appearance and other consumer acceptability
23 parameters of drinking water;

24 (e) Food and drug standards, including cleanliness,

1 proscription of additives, proscription of sale and other
2 requirements in accordance with article seven of this chapter as
3 are necessary to protect the health of the citizens of this state;

4 (f) The training and examination requirements for emergency
5 medical service attendants and emergency medical care technician-
6 paramedics; the designation of the health care facilities, health
7 care services and the industries and occupations in the state that
8 must have emergency medical service attendants and emergency
9 medical care technician-paramedics employed and the availability,
10 communications and equipment requirements with respect to emergency
11 medical service attendants and to emergency medical care
12 technician-paramedics: *Provided*, That any regulation of emergency
13 medical service attendants and emergency medical care technician-
14 paramedics may not exceed the provisions of article four-c of this
15 chapter;

16 (g) The health and sanitary conditions of establishments
17 commonly referred to as bed and breakfast inns. For purposes of
18 this article, "bed and breakfast inn" means an establishment
19 providing sleeping accommodations and, at a minimum, a breakfast
20 for a fee: *Provided*, That the secretary may not require an owner
21 of a bed and breakfast providing sleeping accommodations of six or
22 fewer rooms to install a restaurant-style or commercial food
23 service facility: *Provided, however*, That the secretary may not
24 require an owner of a bed and breakfast providing sleeping

1 accommodations of more than six rooms to install a restaurant-type
2 or commercial food service facility if the entire bed and breakfast
3 inn or those rooms numbering above six are used on an aggregate of
4 two weeks or less per year;

5 (h) Fees for services provided by the Bureau for Public Health
6 including, but not limited to, laboratory service fees,
7 environmental health service fees, health facility fees and permit
8 fees;

9 (i) The collection of data on health status, the health system
10 and the costs of health care;

11 (j) Opioid treatment programs duly licensed and operating
12 under the requirements of chapter twenty-seven of this code. ~~The~~
13 ~~Health Care Authority shall develop new certificate of need~~
14 ~~standards, pursuant to the provisions of article two d of this~~
15 ~~chapter, that are specific for opioid treatment program facilities.~~
16 ~~No applications for a certificate of need for opioid treatment~~
17 ~~programs shall be approved by the Health Care Authority as of the~~
18 ~~effective date of the 2007 amendments to this subsection.~~ The
19 secretary shall promulgate revised emergency rules to govern
20 licensed programs: *Provided*, That there is a moratorium on the
21 licensure of new opioid treatment programs that do not have a
22 certificate of need as of the effective date of the 2007 amendments
23 to this subsection, which shall continue until the Legislature
24 determines that there is a necessity for additional opioid

1 treatment facilities in West Virginia. The secretary shall file
2 revised emergency rules with the Secretary of State to regulate
3 opioid programs in compliance with subsections (1) through (9),
4 inclusive, of this section: *Provided, however,* That any opioid
5 treatment program facility that has received a certificate of need
6 pursuant to article two-d of this chapter by the Health Care
7 Authority shall be permitted to proceed to license and operate the
8 facility. All existing opioid treatment programs shall be in
9 compliance within one hundred eighty days of the effective date of
10 the revised emergency rules as required herein. The revised
11 emergency rules shall provide at a minimum:

12 (1) That the initial assessment prior to admission for entry
13 into the opioid treatment program shall include an initial drug
14 test to determine whether an individual is either opioid addicted
15 or presently receiving methadone for an opioid addiction from
16 another opioid treatment program. The patient may be admitted to
17 the program if there is a positive test for either opioids or
18 methadone or there are objective symptoms of withdrawal, or both,
19 and all other criteria set forth in the rule for admission into an
20 opioid treatment program are met: *Provided,* That admission to the
21 program may be allowed to the following groups with a high risk of
22 relapse without the necessity of a positive test or the presence of
23 objective symptoms: Pregnant women with a history of opioid abuse,
24 prisoners or parolees recently released from correctional

1 facilities, former clinic patients who have successfully completed
2 treatment but who believe themselves to be at risk of imminent
3 relapse and HIV patients with a history of intravenous drug use.

4 (2) That within seven days of the admission of a patient, the
5 opioid treatment program shall complete an initial assessment and
6 an initial plan of care. Subsequently, the opioid treatment
7 program shall develop a treatment plan of care by the thirtieth day
8 after admission and attach to the patient's chart no later than
9 five days after such plan is developed. The treatment plan is to
10 reflect that detoxification is an option for treatment and
11 supported by the program.

12 (3) That each opioid treatment program shall report and
13 provide statistics to the Department of Health and Human Resources
14 at least semiannually which includes the total number of patients;
15 the number of patients who have been continually receiving
16 methadone treatment in excess of two years, including the total
17 number of months of treatment for each such patient; the state
18 residency of each patient; the number of patients discharged from
19 the program, including the total months in the treatment program
20 prior to discharge and whether the discharge was for:

21 (A) Termination or disqualification;

22 (B) Completion of a program of detoxification;

23 (C) Voluntary withdrawal prior to completion of all
24 requirements of detoxification as determined by the opioid

1 treatment program; or

2 (D) An unexplained reason.

3 (4) That random drug testing of patients be conducted during
4 the course of treatment. For purposes of these rules, random drug
5 testing shall mean that each patient of an opioid treatment program
6 facility has a statistically equal chance of being selected for
7 testing at random and at unscheduled times. Any refusal to
8 participate in a random drug test shall be considered a positive
9 test: *Provided*, That nothing contained in this section or the
10 legislative rules promulgated in conformity herewith will preclude
11 any opioid treatment program from administering such additional
12 drug tests as determined necessary by the opioid treatment program.

13 (5) That all random drug tests conducted by an opioid
14 treatment program shall, at a minimum, test for the following:

15 (A) Opiates, including oxycodone at common levels of dosing;

16 (B) Methadone and any other medication used by the program as
17 an intervention;

18 (C) Benzodiazepine including diazepam, lorazepam, clonazepam
19 and alprazolam;

20 (D) Cocaine;

21 (E) Methamphetamine or amphetamine; and

22 (F) Other drugs determined by community standards, regional
23 variation or clinical indication.

24 A positive test is a test that results in the presence of any

1 drug or substance listed in this schedule and any other drug or
2 substance prohibited by the opioid treatment program;

3 (6) That a positive drug test result after the first six
4 months in an opioid treatment program shall result in the
5 following:

6 (A) Upon the first positive drug test result, the opioid
7 treatment program shall:

8 (1) Provide mandatory and documented weekly counseling to the
9 patient, which shall include weekly meetings with a counselor who
10 is licensed, certified or enrolled in the process of obtaining
11 licensure or certification in compliance with the rules and on
12 staff at the opioid treatment program;

13 (2) Immediately revoke the take-home methadone privilege for
14 a minimum of thirty days; and

15 (B) Upon a second positive drug test result within six months
16 of a previous positive drug test result, the opioid treatment
17 program shall:

18 (1) Provide mandatory and documented weekly counseling, which
19 shall include weekly meetings with a counselor who is licensed,
20 certified or enrolled in the process of obtaining licensure or
21 certification in compliance with the rules and on staff at the
22 opioid treatment program;

23 (2) Immediately revoke the take-home methadone privilege for
24 a minimum of sixty days; and

1 (3) Provide mandatory documented treatment team meetings with
2 the patient.

3 (C) Upon a third positive drug test result within a period of
4 six months the opioid treatment program shall:

5 (1) Provide mandatory and documented weekly counseling, which
6 shall include weekly meetings with a counselor who is licensed,
7 certified or enrolled in the process of obtaining licensure or
8 certification in compliance with the rules and on staff at the
9 opioid treatment program;

10 (2) Immediately revoke the take-home methadone privilege for
11 a minimum of one hundred twenty days; and

12 (3) Provide mandatory and documented treatment team meetings
13 with the patient which will include, at a minimum: The need for
14 continuing treatment; a discussion of other treatment alternatives;
15 and the execution of a contract with the patient advising the
16 patient of discharge for continued positive drug tests.

17 (D) Upon a fourth positive drug test within a six-month
18 period, the patient shall be immediately discharged from the opioid
19 treatment program or, at the option of the patient, shall
20 immediately be provided the opportunity to participate in a twenty-
21 one day detoxification plan, followed by immediate discharge from
22 the opioid treatment program.

23 (7) That the opioid treatment program must report and provide
24 statistics to the Department of Health and Human Resources

1 demonstrating compliance with the random drug test rules including
2 confirmation that:

3 (A) The random drug tests were truly random in regard to both
4 the patients tested and to the times random drug tests were
5 administered by lottery or some other objective standard so as not
6 to prejudice or protect any particular patient.

7 (B) The total number and the number of positive results; and

8 (C) The number of expulsions from the program.

9 (8) That all opioid treatment facilities be open for business
10 seven days per week: *Provided*, That the opioid treatment center
11 may be closed for eight holidays and two training days per year.

12 (9) That the Office of Health Facility Licensure and
13 Certification develop policies and procedures in conjunction with
14 the Board of Pharmacy that will allow access to the Prescription
15 Drug Registry maintained by the Board of Pharmacy before
16 administration of methadone or other treatment in an opioid
17 treatment program, after any positive drug test, and at each
18 ninety-day treatment review to ensure the patient is not seeking
19 prescription medication from multiple sources.

20 (k) The secretary shall propose a rule for legislative
21 approval in accordance with the provisions of article three,
22 chapter twenty-nine-a or this code for the distribution of state
23 aid to local health departments and basic public health services
24 funds.

1 (1) The rule shall include the following provisions:

2 (A) Base allocation amount for each county;

3 (B) Establishment and administration of an emergency fund of
4 no more than two percent of the total annual funds of which unused
5 amounts are to be distributed back to local boards of health at the
6 end of each fiscal year;

7 (C) A calculation of funds utilized for state support of local
8 health departments;

9 (D) Distribution of remaining funds on a per capita weighted
10 population approach which factors coefficients for poverty, health
11 status, population density and health department interventions for
12 each county and a coefficient which encourages counties to merge in
13 the provision of public health services;

14 (E) A hold-harmless provision to provide that each local
15 health department receives no less in state support for a period
16 of three years beginning in the 2009 budget year.

17 (2) The Legislature finds that an emergency exists and,
18 therefore, the secretary shall file an emergency rule to implement
19 the provisions of this section pursuant to the provisions of
20 section fifteen, article three, chapter twenty-nine-a of this code.
21 The emergency rule is subject to the prior approval of the
22 Legislative Oversight Commission on Health and Human Resources
23 Accountability prior to filing with the Secretary of State.

24 (1) Other health-related matters which the department is

1 authorized to supervise and for which the rule-making authority has
2 not been otherwise assigned.

3 **ARTICLE 29B. HEALTH CARE AUTHORITY.**

4 **§16-29B-1. Legislative findings; purpose.**

5 The Legislature hereby finds and declares that the health and
6 welfare of the citizens of this state is being threatened by
7 unreasonable increases in the cost of health care services, a
8 fragmented system of health care, lack of integration and
9 coordination of health care services, unequal access to primary and
10 preventative care, lack of a comprehensive and coordinated health
11 information system to gather and disseminate data to promote the
12 availability of cost-effective, high-quality services and to permit
13 effective health planning and analysis of utilization, clinical
14 outcomes and cost and risk factors. In order to alleviate these
15 threats: (1) Information on health care costs must be gathered;
16 (2) a system of cost control must be developed; and (3) an entity
17 of state government must be given authority to ensure the
18 containment of health care costs, to gather and disseminate health
19 care information; to analyze and report on changes in the health
20 care delivery system as a result of evolving market forces,
21 including the implementation of managed care; and to assure that
22 the state health plan, ~~certificate of need program,~~ rate regulation
23 program and information systems serve to promote cost containment,
24 access to care, quality of services and prevention. Therefore, the

1 purpose of this article is to protect the health and well-being of
2 the citizens of this state by guarding against unreasonable loss of
3 economic resources as well as to ensure the continuation of
4 appropriate access to cost-effective, high-quality health care
5 services.

6 **§16-29B-8. Powers generally; budget expenses of the board.**

7 (a) In addition to the powers granted to the board elsewhere
8 in this article, the board may:

9 (1) Adopt, amend and repeal necessary, appropriate and lawful
10 policy guidelines and rules in accordance with article three,
11 chapter twenty-nine-a of this code: *Provided*, That subsequent
12 amendments and modifications to any rule promulgated pursuant to
13 this article and not exempt from the provisions of article three,
14 chapter twenty-nine-a of this code may be implemented by emergency
15 rule;

16 (2) Hold public hearings, conduct investigations and require
17 the filing of information relating to matters affecting the costs
18 of health care services subject to the provisions of this article
19 and may subpoena witnesses, papers, records, documents and all
20 other data in connection therewith. The board may administer oaths
21 or affirmations in any hearing or investigation;

22 (3) Apply for, receive and accept gifts, payments and other
23 funds and advances from the United States, the state or any other
24 governmental body, agency or agencies or from any other private or

1 public corporation or person (with the exception of hospitals
2 subject to the provisions of this article, or associations
3 representing them, doing business in the State of West Virginia,
4 except in accordance with subsection (c) of this section), and
5 enter into agreements with respect thereto, including the
6 undertaking of studies, plans, demonstrations or projects. Any
7 such gifts or payments that may be received or any such agreements
8 that may be entered into shall be used or formulated only so as to
9 pursue legitimate, lawful purposes of the board, and shall in no
10 respect inure to the private benefit of a board member, staff
11 member, donor or contracting party;

12 (4) Lease, rent, acquire, purchase, own, hold, construct,
13 equip, maintain, operate, sell, encumber and assign rights or
14 dispose of any property, real or personal, consistent with the
15 objectives of the board as set forth in this article: *Provided,*
16 That such acquisition or purchase of real property or construction
17 of facilities shall be consistent with planning by the state
18 building commissioner and subject to the approval of the
19 Legislature;

20 (5) Contract and be contracted with and execute all
21 instruments necessary or convenient in carrying out the board's
22 functions and duties; and

23 (6) Exercise, subject to limitations or restrictions herein
24 imposed, all other powers which are reasonably necessary or

1 essential to effect the express objectives and purposes of this
2 article.

3 (b) The board shall annually prepare a budget for the next
4 fiscal year for submission to the Governor and the Legislature
5 which shall include all sums necessary to support the activities of
6 the board and its staff.

7 (c) Each hospital subject to the provisions of this article
8 shall be assessed by the board on a pro rata basis using the gross
9 revenues of each hospital as reported under the authority of
10 section eighteen of this article as the measure of the hospital's
11 obligation. The amount of such fee shall be determined by the
12 board except that in no case shall the hospital's obligation exceed
13 one tenth of one percent of its gross revenue. Such fees shall be
14 paid on or before July 1, in each year and shall be paid into the
15 state Treasury and kept as a special revolving fund designated
16 Health Care Cost Review Fund", with the moneys in such fund being
17 expendable after appropriation by the Legislature for purposes
18 consistent with this article. Any balance remaining in said fund
19 at the end of any fiscal year shall not revert to the treasury, but
20 shall remain in said fund and such moneys shall be expendable after
21 appropriation by the Legislature in ensuing fiscal years.

22 (d) Each hospital's assessment shall be treated as an
23 allowable expense by the board.

24 (e) The board is empowered to withhold rate approvals

1 ~~certificates of need~~ and rural health system loans and grants if
 2 any such fees remain unpaid, unless exempted under subsection (g),
 3 section four, article two-d of this chapter.

4 **§16-29B-11. Related programs.**

5 In addition to carrying out its duties under this article, the
 6 board shall carry out its information disclosure functions set
 7 forth in article five-f of this chapter and its functions set forth
 8 in article two-d of this chapter, including health planning,
 9 issuing grants and loans to financially vulnerable health care
 10 entities located in underserved areas, and the review and approval
 11 or disapproval of capital expenditures for health care facilities
 12 or services. ~~In making decisions in the certificate of need review~~
 13 ~~process, the board shall be guided by the state health plan~~
 14 ~~approved by the Governor.~~

15 **§16-29B-19a. Additional legislative directives; studies, findings**
 16 **and recommendations.**

17 (a) The Legislature finds and declares that changing market
 18 forces require periodic changes in the regulatory structure for
 19 health care providers and hereby directs the board to study the
 20 following:

21 ~~(1) The certificate of need program, including the effect of~~
 22 ~~any changes on managed care and access for uninsured and rural~~
 23 ~~consumers; determining which services or capital expenditures~~
 24 ~~should be exempt and why; and the status of similar programs in~~

1 ~~other states;~~

2 ~~(2)~~ (1) The hospital rate-setting methodology, including the
3 need for hospital rate-setting and the development of alternatives
4 to the cost-based reimbursement methodology;

5 ~~(3)~~ (2) Managed care markets, including the need for
6 regulatory programs in managed care markets; and

7 ~~(4)~~ (3) Barriers or obstacles, if any, presented by the
8 ~~certificate of need program~~ or standards in the state health plan
9 to health care providers' need to reduce excess capacity,
10 restructure services and integrate the delivery of services.

11 (b) The board may form task forces to assist it in addressing
12 these issues and it shall prepare a report on its findings and
13 recommendations, which is to be filed with the Governor, the
14 President of the Senate and the Speaker of the House of Delegates
15 on or before October 1, ~~one thousand nine hundred ninety-eight,~~ 1998
16 identifying each problem and recommendation with specificity and the
17 effect of each recommendation on cost, access and quality of care.
18 The task forces, if formed, shall be composed of representatives of
19 consumers, businesses, providers, payors and state agencies.

20 (c) The board shall report quarterly to the Legislative
21 Oversight Commission on health and human resources accountability
22 regarding the appointment, direction and progress of the studies.

23 **ARTICLE 29I. WEST VIRGINIA HEALTH CARE AUTHORITY REVOLVING LOAN**

24 **AND GRANT FUND.**

1 **§16-29I-6. Review of hospital restructuring plans.**

2 (a) The board shall review and may approve or reject hospital
3 restructuring plans submitted to it from time to time. Upon
4 approval of any submitted plan, the board may in its sole discretion
5 provide from the fund a loan, low-interest loan, or no-interest
6 loan, in a form and on those terms and conditions as the board
7 considers appropriate to assist in the implementation of the
8 hospital restructuring plan. Prior to approving any plan, the board
9 shall make a factual determination that the implementation of the
10 hospital restructuring plan will rationalize and restructure the
11 delivery of health care services provided by the hospital or
12 combination of hospitals submitting the plan, and shall further
13 determine that the implementation of the plan will provide a cost
14 savings for hospital services delivered by the hospital or
15 combination of hospitals for both public and private health care
16 payors.

17 (b) The board may approve hospital restructuring plans and
18 loans from the revolving fund contingent upon any conditions
19 considered necessary by the board to assure the repayment of any
20 loan, which may include, but need not be limited to, the successful
21 implementation of the cost containment objectives of any hospital
22 restructuring plan.

23 (c) The board may withhold future rate approvals ~~certificates~~
24 ~~of need~~ and rural health system loans and grants if any of the terms

1 or conditions of the loan provided by the board are not subsequently
2 satisfied or met by the hospital or combination of hospitals
3 receiving the loan from the fund.

4 **CHAPTER 33. INSURANCE.**

5 **ARTICLE 15B. UNIFORM HEALTH CARE ADMINISTRATION ACT.**

6 **§33-15B-5. Penalties for violation.**

7 Any person, partnership, corporation, limited liability
8 company, professional corporation, health care provider or other
9 entity violating any provision of this article shall be guilty of
10 a misdemeanor and, upon conviction shall be punished by a fine of
11 not more than \$1,000. Each day of continuing violation after
12 conviction shall be considered a separate offense. ~~The West
13 Virginia Health Care Authority is empowered to withhold rate
14 approval or a certificate of need for any health care provider
15 violating any provision of this article.~~

NOTE: The purpose of this bill is to end the requirement that health facilities acquire a certificate of need to open.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.