

WEST VIRGINIA LEGISLATURE
2023 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 109

By Delegates Kelly and Skaff

(By Request of the Executive)

[Introduced August 6, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15A-4-13a, relating to inmate medical care; prohibiting the use of state funds
3 for certain procedures or benefits that are not medically necessary for persons in the
4 custody of the commissioner; authorizing the commissioner to establish rules, policies, or
5 regulations relating to certain levels of care; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-13a. Prohibition on use of taxpayer resources for certain medical procedures.

1 (a) For purposes of this section:

2 (1) "Medical procedure" means health care services or products, surgery, in-patient or out-
3 patient treatment, or the prescribing or dispensing of drugs or biologicals for the purpose of
4 treating an illness, injury, disease, condition, or the symptoms thereof.

5 (2) "Medically necessary" means health care services or products that a prudent provider
6 of health care would provide to a patient to prevent, diagnose, or treat an illness, injury, or disease,
7 or any symptoms thereof, that are necessary and:

8 (A) Provided in accordance with generally accepted standards of medical practice;

9 (B) Clinically appropriate with regard to type, frequency, extent, location, and duration;

10 (C) Not provided primarily for the convenience of the patient or provider of health care;

11 (D) Required to improve a specific health condition of a patient or to preserve the existing
12 state of health of the patient; and

13 (E) The most clinically appropriate level of health care that may be safely provided to the
14 patient.

15 A provider of health care prescribing, ordering, recommending, or approving a health care service
16 or product does not, by itself, make that health care service or product medically necessary.

17 (b) No funds authorized or appropriated by state law shall be expended, directly or
18 indirectly, for any medical procedure that the Commissioner of Corrections and Rehabilitation, or

19 his or her designee or agent, determines is not medically necessary for any individual who is in the
20 custody of the Division of Corrections and Rehabilitation.

21 (c) No funds authorized or appropriated by state law may be expended, directly or
22 indirectly, for health benefits that cover any medical procedure that the Commissioner of
23 Corrections and Rehabilitation, or his or her designee or agent, determines is not medically
24 necessary for any individual who is in the custody of the Division of Corrections and Rehabilitation.

25 (d) The commissioner is authorized to establish written rules, policies, and regulations
26 regarding medical procedures which may distinguish between inmates based upon, among other
27 grounds, length of incarceration.

NOTE: The purpose of this bill is to prohibit the use of state funds for medical procedures determined not to be medically necessary for individuals in the custody of the commissioner.

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