

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4433

By Delegates Summers, Tully, Rohrbach, Worrell And

Espinosa

[Introduced January 10, 2024; Referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-2D-11 of the Code of West Virginia, 1931, as amended, relating
2 to exempting the acquisition and utilization of a mobile facility which performs
3 mammography or low density computerized tomography.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-11. Exemptions from certificate of need which require the submission of information to the authority.

1 (a) To obtain an exemption under this section a person shall:

2 (1) File an exemption application; and

3 (2) Provide a statement detailing which exemption applies and the circumstances justifying
4 the exemption.

5 (b) Notwithstanding §16-2D-8 ~~of this code~~ and §16-2D-10 of this code, and except as
6 provided in §16-2D-9 of this code, the Legislature finds that a need exists and these health
7 services are exempt from the certificate of need process:

8 (1) The acquisition and utilization of one computed tomography scanner with a purchase
9 price up to \$750,000 that is installed in a private office practice where at minimum 75 percent of the
10 scans are performed on the patients of the practice. The private office practice shall obtain and
11 maintain accreditation from the American College of Radiology prior to, and at all times during, the
12 offering of this service. The authority may at any time request from the private office practice
13 information relating to the number of patients who have been provided scans and proof of active
14 and continuous accreditation from the American College of Radiology. If a physician owns or
15 operates a private office practice in more than one location, this exemption only ~~apply~~ applies to
16 the physician's primary place of business and if a physician wants to expand the offering of this
17 service to include more than one computed topography scanner, ~~he or she~~ the physician shall be
18 required to obtain a certificate of need prior to expanding this service. All current certificates of
19 need issued for computed tomography services, with a required percentage threshold of scans to

20 be performed on patients of the practice in excess of 75 percent, shall be reduced to 75 percent:
21 *Provided*, That these limitations on the exemption for a private office practice with more than one
22 location shall not apply to a private office practice with more than 20 locations in the state on April
23 8, 2017.

24 (2) (A) A health care facility acquiring major medical equipment, adding health services or
25 obligating a capital expenditure to be used solely for research;

26 (B) To qualify for this exemption, the health care facility shall show that the acquisition,
27 offering, or obligation will not:

28 (i) Affect the charges of the facility for the provision of medical or other patient care
29 services other than the services which are included in the research;

30 (ii) Result in a substantial change to the bed capacity of the facility; or

31 (iii) Result in a substantial change to the health services of the facility.

32 (C) For purposes of this subdivision, the term "solely for research" includes patient care
33 provided on an occasional and irregular basis and not as part of a research program;

34 (3) The obligation of a capital expenditure to acquire, either by purchase, lease or
35 comparable arrangement, the real property, equipment or operations of a skilled nursing facility:

36 *Provided*, That a skilled nursing facility developed pursuant to subdivision (15) of this section and
37 subsequently acquired pursuant to this subdivision may not transfer or sell any of the skilled
38 nursing home beds of the acquired skilled nursing facility until the skilled nursing facility has been
39 in operation for at least 10 years.

40 (4) Shared health services between two or more hospitals licensed in West Virginia
41 providing health services made available through existing technology that can reasonably be
42 mobile. This exemption does not include providing mobile cardiac catheterization;

43 (5) The acquisition, development, or establishment of a certified interoperable electronic
44 health record or electronic medical record system;

45 (6) The addition of forensic beds in a health care facility;

46 (7) A behavioral health service selected by the Department of Health and Human
47 Resources in response to its request for application for services intended to return children
48 currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-
49 state facilities is not subject to a certificate of need;

50 (8) The replacement of major medical equipment with like equipment, only if the
51 replacement major medical equipment cost is more than the expenditure minimum;

52 (9) Renovations within a hospital, only if the renovation cost is more than the expenditure
53 minimum. The renovations may not expand the health care facility's current square footage, incur
54 a substantial change to the health services, or a substantial change to the bed capacity;

55 (10) Renovations to a skilled nursing facility;

56 (11) The donation of major medical equipment to replace like equipment for which a
57 certificate of need has been issued and the replacement does not result in a substantial change to
58 health services. This exemption does not include the donation of major medical equipment made
59 to a health care facility by a related organization;

60 (12) A person providing specialized foster care personal care services to one individual
61 and those services are delivered in the provider's home;

62 (13) A hospital converting the use of beds except a hospital may not convert a bed to a
63 skilled nursing home bed and conversion of beds may not result in a substantial change to health
64 services provided by the hospital;

65 (14) The construction, renovation, maintenance, or operation of a state-owned veterans
66 skilled nursing facilities established pursuant to the provisions of §16-1B-1 *et seq.* of this code;

67 (15) To develop and operate a skilled nursing facility with no more than 36 beds in a county
68 that currently is without a skilled nursing facility;

69 (16) A critical access hospital, designated by the state as a critical access hospital, after
70 meeting all federal eligibility criteria, previously licensed as a hospital and subsequently closed, if it
71 reopens within 10 years of its closure;

72 (17) The establishing of a health care facility or offering of health services for children under
73 one year of age suffering from Neonatal Abstinence Syndrome;

74 (18) The construction, development, acquisition, or other establishment of community
75 mental health and intellectual disability facility;

76 (19) Providing behavioral health facilities and services;

77 (20) The construction, development, acquisition, or other establishment of kidney disease
78 treatment centers, including freestanding hemodialysis units but only to a medically underserved
79 population;

80 (21) The transfer, purchase or sale of intermediate care or skilled nursing beds from a
81 skilled nursing facility or a skilled nursing unit of an acute care hospital to a skilled nursing facility
82 providing intermediate care and skilled nursing services. The Department of Health and Human
83 Resources may not create a policy which limits the transfer, purchase or sale of intermediate care
84 or skilled nursing beds from a skilled nursing facility or a skilled nursing unit of an acute care
85 hospital. The transferred beds shall retain the same certification status that existed at the nursing
86 home or hospital skilled nursing unit from which they were acquired. If construction is required to
87 place the transferred beds into the acquiring nursing home, the acquiring nursing home has one
88 year from the date of purchase to commence construction;

89 (22) The construction, development, acquisition, or other establishment by a health care
90 facility of a nonhealth related project, only if the nonhealth related project cost is more than the
91 expenditure minimum;

92 (23) The construction, development, acquisition, or other establishment of an alcohol or
93 drug treatment facility and drug and alcohol treatment services unless the construction,
94 development, acquisition, or other establishment is an opioid treatment facility or programs as set
95 forth in ~~subdivision (4) of §16-2D-9~~ §16-2D-9(4) of this code;

96 (24) Assisted living facilities and services;

97 (25) The creation, construction, acquisition, or expansion of a community-based nonprofit
98 organization with a community board that provides or will provide primary care services to people
99 without regard to ability to pay and receives approval from the Health Resources and Services
100 Administration; ~~and~~

101 (26) The acquisition and utilization of one computed tomography scanner and/or one
102 magnetic resonance imaging scanner with a purchase price of up to \$750,000 by a hospital; and

103 (27) The acquisition and utilization of a mobile facility which performs mammography or
104 low density computerized tomography.

NOTE: The purpose of this bill is to permit acquisition and utilization of a mobile facility which performs mammography or low density computerized tomography.

The bill was recommended for passage during the 2024 legislative session, by the Joint Committee on Health.

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