

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 805**

By Senators Maroney and Plymale

[Introduced February 15, 2024; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new  
 2 section, designated §9-5-29a; and to amend said code by adding thereto a new section,  
 3 designated §16-5Y-12a, all relating to residential substance use disorder treatment facilities;  
 4 prohibiting payment to facilities that do not meet certain requirements; and establishing  
 5 requirements regarding the health care authority’s ability to issue a certificate of need, or  
 6 allowance of an exemption, for the addition of treatment facility beds in a certain county.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 9. HUMAN SERVICES.**

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-29a. Prohibition against payments to certain residential substance use disorder facilities.**

1 (a) Effective January 1, 2025, unless otherwise mandated by federal law or regulation,  
 2 neither the Bureau for Medical Services, nor any managed care organization contracted to provide  
 3 services on behalf of the Bureau, may reimburse providers for services rendered on or after  
 4 January 1, 2025, at a residential substance use disorder treatment facility, regardless of whether  
 5 the provider is licensed by the State of West Virginia, unless:

6 (1) At the time treatment was rendered, the facility site was actively:

7 (A) Accredited by CARF International or the Joint Commission to operate an inpatient  
 8 facility that provides behavioral health services; and

9 (B) Certified by the American Society of Addiction Medicine (ASAM) through a survey  
 10 performed by CARF International or any other accreditation entity that is approved by ASAM to  
 11 perform surveys for ASAM standards and issue certifications for ASAM levels of care on ASAM’s  
 12 behalf; and

13 (2) At the time treatment was rendered, the entity providing services at the residential  
 14 substance use disorder treatment facility had a written agreement with a physician certified in

15 addiction medicine by the American Board of Addiction Medicine, the American Board of  
16 Preventative Medicine, the American Osteopathic Association, the American Board of Psychiatry  
17 and Neurology in Addiction Psychiatry, or the International Society of Addiction Medicine in which  
18 that physician agrees to serve as medical director for all residential substance use disorder  
19 treatment facilities operated by the services provider in the State of West Virginia and in which the  
20 medical director's duties, at minimum, include supervising all medical treatment provided at the  
21 residential substance use disorder facility, including the medical treatment program, operations,  
22 and personnel providing clinical services to patients at the residential substance use disorder  
23 treatment facility.

24 (b) No later than July 1, 2024, the Bureau for Medical Services shall make all necessary  
25 filings with the Centers for Medicare and Medicaid Services and submit for public comment any  
26 changes to its provider manual that are necessary to ensure the ability to enforce the provisions of  
27 subsection (a) of this code section.

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 5Y. MEDICATION-ASSISTED TREATMENT PROGRAM LICENSING ACT.

#### **§16-5Y-12a. Prohibition against development of residential substance use disorder treatment facilities in certain counties.**

1 (a) In addition to the bed limits on residential substance use disorder treatment beds set  
2 forth in §16-2D-9(5) of this code, the health care authority may issue a certificate of need or, when  
3 permitted under this code, may issue an exemption from the requirement to obtain a certificate of  
4 need to allow an applicant to add residential substance use disorder treatment facility beds in  
5 counties where, at the time the application is submitted:

6 (1) The population is 90,000 or greater; and

7 (2) There are not more than 350 licensed residential substance use disorder treatment  
8 beds in the county where the additional substance use disorder treatment beds will be located.

9           (b) With the exception of §16-5Y-12a(c) of this code, effective January 1, 2025, in addition  
10 to the bed limits on residential substance use disorder treatment beds set forth in and §16-2D-9(5)  
11 of this code, the health care authority is prohibited from issuing exemptions from a certificate of  
12 need for residential substance use disorder treatment beds in which, at the time additional beds  
13 are applied for, the facility where the additional beds will be located does not meet the BMS  
14 payment requirements of §9-5-29a(a)(1) and §9-5-29a(a)(2) of this code;

15           (c) Notwithstanding §16-5Y-12a(b) of this code, in the event of an application for the  
16 addition of residential substance use disorder treatment facility beds submitted on or after January  
17 1, 2025 in which:

18           (1) The planned beds will be located at a facility that is not yet operating at the time the  
19 application is submitted, and:

20           (2) The applicant has a written agreement with a physician who is board certified in  
21 addiction medicine and otherwise meets the requirements of §9-5-29a(a)(2) of this code;

22           (3) The applicant can demonstrate that it is unable to achieve required accreditation or  
23 certification under the standards of the accrediting or certifying bodies set forth in §9-5-29a(a)(1) of  
24 this code until it has been operating for a specified period of time; and

25           (4) The applicant meets all other required provisions under this code for a certificate of an  
26 exemption from a certificate of need.

27           Then the authority may issue a temporary exemption which allows the facility to add  
28 residential substance use disorder treatment beds only for the specified period of time needed to  
29 acquire accreditation and certification under §9-5-29a(a)(1) of this code. This temporary  
30 exemption shall be automatically revoked by the health care authority at the end of such specified  
31 period of time, unless the facility has obtained and submitted to the authority the required  
32 accreditation and certification.

NOTE: The purpose of this bill is to ensure increase the amount of permitted residential substance use disorder treatment beds in certain West Virginia Counties, and prohibit expansion of beds, and payment for Medicaid services rendered at certain facilities which

do not meet minimum standards.

Strikethroughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.