

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3191

By Delegates Summers, Tully and Pushkin

[Introduced January 31, 2023; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-5B-1 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring licensure for certain health facilities operated by the state and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

**§16-5B-1. Health facilities and certain other facilities operated in connection therewith to
 obtain license; exemptions; meaning of hospital, etc.**

1 No person, partnership, association, corporation, or any state or local governmental unit or
 2 any division, department, board or agency thereof shall establish, conduct, or maintain in the State
 3 of West Virginia any ambulatory health care facility, ambulatory surgical facility, freestanding or
 4 operated in connection with a hospital, hospital or extended care facility operated in connection
 5 with a hospital, or mental health facility without first obtaining a license therefor in the manner
 6 hereinafter provided: *Provided*, That only one license shall be required for any person,
 7 partnership, association, corporation or any state or local governmental unit or any division,
 8 department, board or agency thereof who operates any combination of an ambulatory health care
 9 facility, ambulatory surgical facility, hospital, extended care facility operated in connection with a
 10 hospital, mental health facility, or more than one thereof, at the same location. Ambulatory health
 11 care facilities, ambulatory surgical facilities, hospitals, or extended care facilities operated in
 12 connection with a hospital operated by the federal government ~~or the state government~~ shall be
 13 exempt from the provisions of this article.

14 A "hospital" or "extended care facility operated in connection with a hospital", within the
 15 meaning of this article, shall mean any institution, place, building or agency in which an
 16 accommodation of five or more beds is maintained, furnished or offered for the hospitalization of
 17 the sick or injured: *Provided*, That nothing contained in this article shall apply to nursing homes,
 18 rest homes, personal care facilities, homes for the aged, extended care facilities not operated in
 19 connection with a hospital, boarding homes, homes for the infirm or chronically ill, convalescent
 20 homes, hotels or other similar places that furnish to their guests only board and room, or either of

21 them: *Provided, however,* That the hospitalization, care or treatment in a household, whether for
22 compensation or not, of any person related by blood or marriage, within the degree of
23 consanguinity of second cousin to the head of the household, or his or her spouse, shall not be
24 deemed to constitute the premises a hospital or extended care facility operated in connection with
25 a hospital, within the meaning of this article. "Hospital" shall include state hospitals as defined by
26 §27-1-6 of this code.

27 An "ambulatory health care facility" shall include a3.32ny facility which provides health
28 care or mental health care to noninstitutionalized persons on an outpatient basis. This definition
29 does not include the legally authorized practice of medicine by any one or more persons in the
30 private office of any health care provider.

31 "Ambulatory surgical facility" means a facility which provides surgical treatment to patients
32 not requiring hospitalization. This definition does not include the legally authorized practice of
33 surgery by any one or more persons in the private office of any health care provider.

34 "Mental health facility" shall mean a facility as defined by §27-1-9 of this code.

35 Nothing in this article or the rules and regulations adopted pursuant to the provisions of this
36 article shall be construed to authorize the licensure, supervision, regulation or control in any
37 manner of (1) private offices of physicians, dentists or other practitioners of the healing arts; (2)
38 dispensaries and first aid stations located within business or industrial establishments maintained
39 solely for the use of employees: *Provided,* That such facility does not contain inpatient or resident
40 beds for patients or employees who generally remain in the facility for more than 24 hours.

41 Nothing in this article shall authorize any person, partnership, association, corporation, or
42 any state or local governmental unit or any division, department, board or agency thereof to
43 engage in any manner in the practice of medicine, as defined by law. This article shall not be
44 construed to restrict or modify any statute pertaining to the placement or adoption of children.

NOTE: The purpose of this bill is to clarify that certain health care facilities are required to
be licensed as hospitals.

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