

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3445

By Delegate Young

[Introduced March 17, 2025; referred to the
Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §16B-22-1, §16B-22-2, §16B-22-3, §16B-22-4, §16B-22-5, and §16B-22-6,
3 relating to regulating private alternative adolescent residential or outdoor programs;
4 providing definitions; requiring a license issued by the West Virginia Office of Health
5 Facility Licensure and Certification within the Office of the Inspector General to operate the
6 programs; authorizing promulgation of rules by the Inspector General; providing for
7 suspension of licenses, violations, injunctions, appeal, and misdemeanor penalty for
8 violations.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 22. PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR
PROGRAMS.**

§16B-22-1. Definitions.

1 As used in the article:

2 "Director" means the director of the Office of Health Facility Licensure and Certification or
3 his or her designee.

4 "Direct access" means that an individual has or likely will have person-to-person spoken or
5 physical contact with or access to a program participant.

6 "Inspector General" means the Inspector General of the Office of the Inspector General as
7 described in §16B-2-1 of this code, or his or her designee.

8 "License" means a written document issued by the department that the license holder has
9 complied with this part and the applicable standards and rules for programs.

10 "Licensee" means the holder of a license issued by the department in accordance with the
11 provisions of this part.

12 "Office of Health Facility Licensure and Certification" means the West Virginia Office of
13 Health Facility Licensure and Certification within the Office of the Inspector General.

14 "Person associated with the program" means any owner, partner, member, employee, or
15 contractor providing professional or occupational services to a program.

16 "Program" means a private alternative adolescent residential or outdoor program that
17 provides a structured, private, alternative residential setting for youth who are experiencing
18 emotional, behavioral, or learning problems and who have a history of failing in academic, social,
19 moral, or emotional development at home or in less-structured traditional settings.

20 The term does not include: recreational programs such as boy scouts, girl scouts, or 4-H
21 clubs; organizations, boarding schools, or residential schools with a sole focus on academics;
22 residential training or vocational programs with a sole focus on education and vocational training;
23 youth camps with a focus on recreation and faith-related activities; or an organization, boarding
24 school, or residential school that is an adjunct ministry of a church.

25 "Program participant" means any adolescent to whom services are being provided by the
26 program.

§16B-22-2. Programs to obtain license.

1 The Inspector General shall designate the director of the Office of Health Facility Licensure
2 and Certification to enforce the provisions of this article, except as otherwise stated.

3 No person, partnership, association, or corporation, or any local governmental unit or any
4 division, department, board or agency thereof may operate a program unless the operation has
5 been approved and licensed by the director in accordance with the provisions of this article and the
6 rules lawfully promulgated hereunder.

§16B-22-3. Licensure requirements.

1 (a) The director shall require applicants and licensees to submit a set of fingerprints for
2 each person associated with the program who has direct access to program participants for the
3 purpose of conducting a criminal and child protection background check according to §16B-15-1
4 et seq. of this code.

5 (b) In developing minimum standards for licensed programs, the director shall adopt

6 legislative rules that pertain to ensuring the health and safety of program participants, including:

7 (1) A procedure for a licensed program to report the use of a medical, chemical, or physical
8 restraint or seclusion to the department within one business day after the day on which the use of
9 the medical, chemical, or physical restraint or seclusion occurs;

10 (2) Guidelines for written policies and procedures of the licensed program, including
11 policies and procedures on suicide prevention and for implementation of the requirements and
12 restrictions in subsections (c) and (d) of this section;

13 (3) A procedure for the department to review and approve the licensed program's policies
14 and procedures; and

15 (4) A procedure for submitting a complaint about a licensed program to the department and
16 law enforcement and a requirement that each licensed program publicly post information that
17 describes how to submit a complaint about the licensed program to the department and law
18 enforcement.

19 (c) A licensed program may not: (1) use physical discipline or the threat of physical
20 discipline as a punishment, deterrent, or incentive; (2) deprive a youth of basic necessity or
21 inherent right, including education; (3) admit a youth who is under the age approved in the
22 licensure or has a condition not allowed to be treated under the licensure; or (4) sexually abuse,
23 exploit, or harass an enrolled youth.

24 (d) A licensed program shall allow a parent or guardian to remove a youth from the
25 licensed program and, unless otherwise prohibited by law or court order, facilitate weekly
26 confidential video communication between a youth and the youth's parents, guardians, or foster
27 parents.

28 (e) A licensed program shall provide a fixed number telephone to the child abuse hotline
29 operated by the Department of Human Services that is readily available to enrolled participants 24
30 hours a day.

§16B-22-4. Inspector General to establish legislative rules.

The Inspector General shall promulgate rules not in conflict with any provision of this article, as he or she finds necessary in order to ensure adequate care and accommodations for consumers of programs.

§16B-22-5. **Suspension;** **revocation.**

(a) The director, in consultation with the Inspector General, may suspend or revoke a
license issued hereunder if the provisions of this article or of the rules are violated.

(b) Before any such license is suspended or revoked, written notice shall be given the licensee, stating the grounds of the complaint, and the date, time, and place set for the hearing on the complaint, which date may not be less than 30 days from the time notice is given. The notice shall be sent by registered mail to the licensee at the address where the hospice concerned is located. The licensee may be represented by legal counsel at the hearing.

(c) If a license is revoked as herein provided, a new application for a license shall be considered by the director, in consultation with the Inspector General, if, when and after the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished. A new license shall be granted after proper inspection has been made and all provisions of this article and rules promulgated hereunder have been satisfied.

(d) All of the pertinent provisions of §29A-5-1 *et seq.* of this code shall apply to and govern any hearing authorized and required by the provisions of this article and the administrative procedure in connection with and following any such hearing, as if the provisions of §29A-5-1 *et seq.* of this code were set forth in extenso in this section.

(e) Any applicant or licensee who is dissatisfied with the decision of the Board of Review as a result of the hearing provided in this section may, within 30 days after receiving notice of the decision, appeal to the West Virginia Intermediate Court of Appeals for judicial review of the decision.

21 (f) The court may affirm, modify, or reverse the decision of the Board of Review and
22 either the applicant or licensee or the Inspector General may appeal from the court's decision to
23 the Supreme Court of Appeals.

§16B-22-6. Violations; penalties; injunction.

1 Any person, partnership, association or corporation, and any local governmental unit or
2 any division, department, board, or agency thereof establishing, conducting, managing or
3 operating a program without first obtaining a license therefor as herein provided, or violating any
4 provisions of this article or any legislative rule lawfully promulgated thereunder, is guilty of a
5 misdemeanor, and, upon conviction thereof, shall be punished for the first offense by a fine of not
6 more than \$500 or confined in jail not more than 90 days, or both fined and confined. Each day of
7 a continuing violation after conviction shall be considered a separate offense.

NOTE: The purpose of this bill is to regulating private alternative adolescent residential or outdoor programs by the Director of the Office of Health Facility Licensure and Certification.

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