# H. B. 2797

(By Delegate Andes)

[Introduced March 1, 2013; referred to the Committee on Health and Human Resources then the Judiciary.]

A BILL to repeal §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-4a, §16-2D-4b, §16-2D-5, §16-2D-5a, §16-2D-6, §16-2D-7, §16-2D-7a, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14 and §16-2D-15 of the Code of West Virginia, 1931, as amended; to repeal §16-29A-20; to repeal §16-42-6 of said code; to repeal §49-7-30 of said code; to amend and reenact §9-5-19 of said code; to amend and reenact §16-1-4 of said code; to amend and reenact §16-29B-1, §16-29B-8, §16-29B-11 and §16-29B-19a of said code; to amend and reenact §16-29I-6 of said code; and to amend and reenact §33-15B-5 of said code, all relating to elimination of the requirement that health facilities receive a certificate of need before opening.

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

That §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-4a, §16-

2D-4b, §16-2D-5, §16-2D-5a, §16-2D-6, §16-2D-7, §16-2D-7a, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14 and §16-2D-15 of the Code of West Virginia, 1931, as amended, be repealed; that §16-29A-20 of said code be repealed; that §16-42-6 of said code be repealed; that §49-7-30 of said code be repealed; that §9-5-19 of said code be amended and reenacted; that §16-1-4 of said code be amended and reenacted; that §16-29B-1, §16-29B-8, §16-29B-11 and §16-29B-19a of said code be amended and reenacted; that §16-29I-6 of said code be amended and reenacted; and that §33-15B-5 of said code be amended and reenacted, all to read as follows:

**CHAPTER 9. HUMAN SERVICES.**

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-19. Summary review for certain behavioral health facilities and services.**

(a) A certificate of need as provided in article two-d, chapter sixteen of this code is not required by an entity proposing additional behavioral health care services, but only to the extent necessary to gain federal approval of the Medicaid MR/DD waiver program, if a summary review is performed in accordance with the provisions of this section.

(b) Prior to initiating any summary review, the secretary shall direct the revision of the state Mental Health Plan as required by the provisions of 42 U.S.C. 300x and section four,

article one-a, chapter twenty-seven of this code. In developing those revisions, the secretary is to appoint an advisory committee composed of representatives of the associations representing providers, child care providers, physicians and advocates. The secretary shall appoint the appropriate department employees representing regulatory agencies, reimbursement agencies and oversight agencies of the behavioral health system.

(c) If the Secretary of the Department of Health and Human Resources determines that specific services are needed but unavailable, he or she shall provide notice of the department's intent to develop those services. Notice may be provided through publication in the State Register, publication in newspapers or a modified request for proposal as developed by the secretary.

(d) The secretary may initiate a summary review of additional behavioral health care services, but only to the extent necessary to gain federal approval of the Medicaid MR/DD waiver program, by recommending exemption from the provisions of article two-d, chapter sixteen of this code to the Health Care Authority. The recommendation is to include the following findings:

(1) That the proposed service is consistent with the state health plan and the state mental health plan;

(2) That the proposed service is consistent with the department's programmatic and fiscal plan for behavioral health services;

(3) That the proposed service contributes to providing services that prevent admission to restrictive environments or enables an individual to remain in a nonrestrictive environment;

(4) That the proposed service contributes to reducing the number of individuals admitted to inpatient or residential treatment programs or services;

(5) If applicable, that the proposed service will be community-based, locally accessible, provided in an appropriate setting consistent with the unique needs and potential of each client and his or her family and located in an area that is unserved or underserved or does not allow consumers a choice of providers; and

(6) That the secretary is determining that sufficient funds are available for the proposed service without decreasing access to or provision of existing services. The secretary may, from time to time, transfer funds pursuant to the general provisions of the budget bill.

(e) The secretary's findings required by this section shall be filed with the secretary's recommendation and appropriate documentation. If the secretary's findings are supported by the accompanying documentation, the proposal does not require a certificate of need.

~~(f) Any entity that does not qualify for summary review is subject to a certificate of need review.~~

~~(g)~~ (f) Any provider of the proposed services denied authorization to provide those services pursuant to the summary review has the right to appeal that decision to the state agency in accordance with the provisions of section ten, article two-d, chapter sixteen of this code.

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

**§16-1-4. Proposal of rules by the secretary.**

(a) The secretary may propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code that are necessary and proper to effectuate the purposes of this chapter. The secretary may appoint or designate advisory councils of professionals in the areas of hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and intellectual disability centers and any other areas necessary to advise the secretary on rules.

(b) The rules may include, but are not limited to, the regulation of:

(1) Land usage endangering the public health: *Provided,* That no rules may be promulgated or enforced restricting the subdivision or development of any parcel of land within which the individual tracts, lots or parcels exceed two acres each in total surface area and which individual tracts, lots or parcels have an average

frontage of not less than one hundred fifty feet even though the total surface area of the tract, lot or parcel equals or exceeds two acres in total surface area, and which tracts are sold, leased or utilized only as single-family dwelling units. Notwithstanding the provisions of this subsection, nothing in this section may be construed to abate the authority of the department to:

(A) Restrict the subdivision or development of a tract for any more intense or higher density occupancy than a single-family dwelling unit;

(B) Propose or enforce rules applicable to single-family dwelling units for single-family dwelling unit sanitary sewerage disposal systems; or

(C) Restrict any subdivision or development which might endanger the public health, the sanitary condition of streams or sources of water supply;

(2) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities and plumbing systems and the qualifications of personnel connected

with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods and swimming pools in this state, whether publicly or privately owned;

(4) Safe drinking water, including:

(A) The maximum contaminant levels to which all public water systems must conform in order to prevent adverse effects on the health of individuals and, if appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(B) The minimum requirements for: Sampling and testing; system operation; public notification by a public water system on being granted a variance or exemption or upon failure to comply with specific requirements of this section and rules promulgated under this section; record keeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems rules; and

(C) The requirements covering the production and distribution of bottled drinking water and may establish requirements governing

the taste, odor, appearance and other consumer acceptability parameters of drinking water;

(5) Food and drug standards, including cleanliness, proscription of additives, proscription of sale and other requirements in accordance with article seven of this chapter as are necessary to protect the health of the citizens of this state;

(6) The training and examination requirements for emergency medical service attendants and emergency medical care technician-paramedics; the designation of the health care facilities, health care services and the industries and occupations in the state that must have emergency medical service attendants and emergency medical care technician-paramedics employed and the availability, communications and equipment requirements with respect to emergency medical service attendants and to emergency medical care technician-paramedics. Any regulation of emergency medical service attendants and emergency medical care technician- paramedics may not exceed the provisions of article four-c of this chapter;

(7) The health and sanitary conditions of establishments commonly referred to as bed and breakfast inns. For purposes of this article, "bed and breakfast inn" means an establishment providing sleeping accommodations and, at a minimum, a breakfast for a fee. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer rooms to install a restaurant-style or commercial food service facility.

The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of more than six rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;

(8) Fees for services provided by the Bureau for Public Health including, but not limited to, laboratory service fees, environmental health service fees, health facility fees and permit fees;

(9) The collection of data on health status, the health system and the costs of health care;

(10) Opioid treatment programs duly licensed and operating under the requirements of chapter twenty-seven of this code.

~~(A) The Health Care Authority shall develop new certificate of need standards, pursuant to the provisions of article two-d of this chapter, that are specific for opioid treatment program facilities.~~

~~(B) No applications for a certificate of need for opioid treatment programs may be approved by the Health Care Authority as of the effective date of the 2007 amendments to this subsection.~~

~~(C)~~ (A) There is a moratorium on the licensure of new opioid treatment programs that do not have a certificate of need as of the effective date of the 2007 amendments to this subsection, which shall continue until the Legislature determines that there is a necessity for additional opioid treatment facilities in West

Virginia.

~~(D)~~ (B) The secretary shall file revised emergency rules with the Secretary of State to regulate opioid treatment programs in compliance with the provisions of this section. Any opioid treatment program facility that has received a certificate of need pursuant to article two-d, of this chapter by the Health Care Authority shall be permitted to proceed to license and operate the facility.

~~(E)~~ (C) All existing opioid treatment programs shall be subject to monitoring by the secretary. All staff working or volunteering at opioid treatment programs shall complete the minimum education, reporting and safety training criteria established by the secretary. All existing opioid treatment programs shall be in compliance within one hundred eighty days of the effective date of the revised emergency rules as required herein. The revised emergency rules shall provide at a minimum:

(i) That the initial assessment prior to admission for entry into the opioid treatment program shall include an initial drug test to determine whether an individual is either opioid addicted or presently receiving methadone for an opioid addiction from another opioid treatment program.

(ii) The patient may be admitted to the opioid treatment program if there is a positive test for either opioids or methadone or there are objective symptoms of withdrawal, or both, and all

other criteria set forth in the rule for admission into an opioid treatment program are met. Admission to the program may be allowed to the following groups with a high risk of relapse without the necessity of a positive test or the presence of objective symptoms: Pregnant women with a history of opioid abuse, prisoners or parolees recently released from correctional facilities, former clinic patients who have successfully completed treatment but who believe themselves to be at risk of imminent relapse and HIV patients with a history of intravenous drug use.

(iii) That within seven days of the admission of a patient, the opioid treatment program shall complete an initial assessment and an initial plan of care.

(iv) That within thirty days after admission of a patient, the opioid treatment program shall develop an individualized treatment plan of care and attach the plan to the patient's chart no later than five days after the plan is developed. The opioid treatment program shall follow guidelines established by a nationally recognized authority approved by the secretary and include a recovery model in the individualized treatment plan of care. The treatment plan is to reflect that detoxification is an option for treatment and supported by the program; that under the detoxification protocol the strength of maintenance doses of methadone should decrease over time, the treatment should be limited to a defined period of time, and participants are required

to work toward a drug-free lifestyle.

(v) That each opioid treatment program shall report and provide statistics to the Department of Health and Human Resources at least semiannually which includes the total number of patients; the number of patients who have been continually receiving methadone treatment in excess of two years, including the total number of months of treatment for each such patient; the state residency of each patient; the number of patients discharged from the program, including the total months in the treatment program prior to discharge and whether the discharge was for:

(A) Termination or disqualification;

(B) Completion of a program of detoxification;

(C) Voluntary withdrawal prior to completion of all requirements of detoxification as determined by the opioid treatment program;

(D) Successful completion of the individualized treatment care plan; or

(E) An unexplained reason.

(vi) That random drug testing of all patients shall be conducted during the course of treatment at least monthly. For purposes of these rules, "random drug testing" means that each patient of an opioid treatment program facility has a statistically equal chance of being selected for testing at random and at unscheduled times. Any refusal to participate in a random drug

test shall be considered a positive test. Nothing contained in this section or the legislative rules promulgated in conformity herewith will preclude any opioid treatment program from administering such additional drug tests as determined necessary by the opioid treatment program.

(vii) That all random drug tests conducted by an opioid treatment program shall, at a minimum, test for the following:

(A) Opiates, including oxycodone at common levels of dosing;

(B) Methadone and any other medication used by the program as an intervention;

(C) Benzodiazepine including diazepam, lorazepan, clonazepam and alprazolam;

(D) Cocaine;

(E) Methamphetamine or amphetamine;

(F) Tetrahydrocannabinol, delta-9-tetrahydrocannabinol or dronabinol or other similar substances; or

(G) Other drugs determined by community standards, regional variation or clinical indication.

(viii) That a positive drug test is a test that results in the presence of any drug or substance listed in this schedule and any other drug or substance prohibited by the opioid treatment program. A positive drug test result after the first six months in an opioid treatment program shall result in the following:

(A) Upon the first positive drug test result, the opioid

treatment program shall:

(1) Provide mandatory and documented weekly counseling of no less than thirty minutes to the patient, which shall include weekly meetings with a counselor who is licensed, certified or enrolled in the process of obtaining licensure or certification in compliance with the rules and on staff at the opioid treatment program;

(2) Immediately revoke the take home methadone privilege for a minimum of thirty days; and

(B) Upon a second positive drug test result within six months of a previous positive drug test result, the opioid treatment program shall:

(1) Provide mandatory and documented weekly counseling of no less than thirty minutes, which shall include weekly meetings with a counselor who is licensed, certified or enrolled in the process of obtaining licensure or certification in compliance with the rules and on staff at the opioid treatment program;

(2) Immediately revoke the take-home methadone privilege for a minimum of sixty days; and

(3) Provide mandatory documented treatment team meetings with the patient.

(C) Upon a third positive drug test result within a period of six months the opioid treatment program shall:

(1) Provide mandatory and documented weekly counseling of no less than thirty minutes, which shall include weekly meetings with

a counselor who is licensed, certified or enrolled in the process of obtaining licensure or certification in compliance with the rules and on staff at the opioid treatment program;

(2) Immediately revoke the take-home methadone privilege for a minimum of one hundred twenty days; and

(3) Provide mandatory and documented treatment team meetings with the patient which will include, at a minimum: The need for continuing treatment; a discussion of other treatment alternatives; and the execution of a contract with the patient advising the patient of discharge for continued positive drug tests.

(D) Upon a fourth positive drug test within a six-month period, the patient shall be immediately discharged from the opioid treatment program or, at the option of the patient, shall immediately be provided the opportunity to participate in a twenty-one day detoxification plan, followed by immediate discharge from the opioid treatment program: *Provided,* That testing positive solely for tetrahydrocannabinol, delta-9-tetrahydrocannabinol or dronabinol or similar substances shall not serve as a basis for discharge from the program.

(ix) That the opioid treatment program must report and provide statistics to the Department of Health and Human Resources demonstrating compliance with the random drug test rules, including:

(A) Confirmation that the random drug tests were truly random

in regard to both the patients tested and to the times random drug tests were administered by lottery or some other objective standard so as not to prejudice or protect any particular patient;

(B) Confirmation that the random drug tests were performed at least monthly for all program participants;

(C) The total number and the number of positive results; and

(D) The number of expulsions from the program.

(x) That all opioid treatment facilities be open for business seven days per week; however, the opioid treatment center may be closed for eight holidays and two training days per year. During all operating hours, every opioid treatment program shall have a health care professional as defined by rule promulgated by the secretary actively licensed in this state present and on duty at the treatment center and a physician actively licensed in this state available for consultation.

(xi) That the Office of Health Facility Licensure and Certification develop policies and procedures in conjunction with the Board of Pharmacy that will allow physicians treating patients through an opioid treatment program access to the Controlled Substances Monitoring Program database maintained by the Board of Pharmacy at the patient's intake, before administration of methadone or other treatment in an opioid treatment program, after the initial thirty days of treatment, prior to any take-home medication being granted, after any positive drug test, and at each

ninety-day treatment review to ensure the patient is not seeking prescription medication from multiple sources. The results obtained from the Controlled Substances Monitoring Program database shall be maintained with the patient records.

(xii) That each opioid treatment program shall establish a peer review committee, with at least one physician member, to review whether the program is following guidelines established by a nationally recognized authority approved by the secretary. The secretary shall prescribe the procedure for evaluation by the peer review. Each opioid treatment program shall submit a report of the peer review results to the secretary on a quarterly basis.

(xiii) The secretary shall propose a rule for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the distribution of state aid to local health departments and basic public health services funds.

The rule shall include the following provisions:

Base allocation amount for each county;

Establishment and administration of an emergency fund of no more than two percent of the total annual funds of which unused amounts are to be distributed back to local boards of health at the end of each fiscal year;

A calculation of funds utilized for state support of local health departments;

Distribution of remaining funds on a per capita weighted population approach which factors coefficients for poverty, health status, population density and health department interventions for each county and a coefficient which encourages counties to merge in the provision of public health services;

A hold-harmless provision to provide that each local health department receives no less in state support for a period of four years beginning in the 2009 budget year.

The Legislature finds that an emergency exists and, therefore, the secretary shall file an emergency rule to implement the provisions of this section pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code. The emergency rule is subject to the prior approval of the Legislative Oversight Commission on Health and Human Resources Accountability prior to filing with the Secretary of State.

(xiv) Other health-related matters which the department is authorized to supervise and for which the rule-making authority has not been otherwise assigned.

**ARTICLE 29B. HEALTH CARE AUTHORITY.**

**§16-29B-1. Legislative findings; purpose.**

The Legislature hereby finds and declares that the health and welfare of the citizens of this state is being threatened by unreasonable increases in the cost of health care services, a fragmented system of health care, lack of integration and

coordination of health care services, unequal access to primary and preventative care, lack of a comprehensive and coordinated health information system to gather and disseminate data to promote the availability of cost-effective, high-quality services and to permit effective health planning and analysis of utilization, clinical outcomes and cost and risk factors. In order to alleviate these threats: (1) Information on health care costs must be gathered; (2) a system of cost control must be developed; and (3) an entity of state government must be given authority to ensure the containment of health care costs, to gather and disseminate health care information; to analyze and report on changes in the health care delivery system as a result of evolving market forces, including the implementation of managed care; and to assure that the state health plan, ~~certificate of need program,~~ rate regulation program and information systems serve to promote cost containment, access to care, quality of services and prevention. Therefore, the purpose of this article is to protect the health and well-being of the citizens of this state by guarding against unreasonable loss of economic resources as well as to ensure the continuation of appropriate access to cost-effective, high-quality health care services.

**§16-29B-8. Powers generally; budget expenses of the board.**

(a) In addition to the powers granted to the board elsewhere in this article, the board may:

(1) Adopt, amend and repeal necessary, appropriate and lawful policy guidelines and rules in accordance with article three, chapter twenty-nine-a of this code: *Provided,* That subsequent amendments and modifications to any rule promulgated pursuant to this article and not exempt from the provisions of article three, chapter twenty-nine-a of this code may be implemented by emergency rule;

(2) Hold public hearings, conduct investigations and require the filing of information relating to matters affecting the costs of health care services subject to the provisions of this article and may subpoena witnesses, papers, records, documents and all other data in connection therewith. The board may administer oaths or affirmations in any hearing or investigation;

(3) Apply for, receive and accept gifts, payments and other funds and advances from the United States, the state or any other governmental body, agency or agencies or from any other private or public corporation or person (with the exception of hospitals subject to the provisions of this article, or associations representing them, doing business in the State of West Virginia, except in accordance with subsection (c) of this section), and enter into agreements with respect thereto, including the undertaking of studies, plans, demonstrations or projects. Any such gifts or payments that may be received or any such agreements that may be entered into shall be used or formulated only so as to

pursue legitimate, lawful purposes of the board, and shall in no respect inure to the private benefit of a board member, staff member, donor or contracting party;

(4) Lease, rent, acquire, purchase, own, hold, construct, equip, maintain, operate, sell, encumber and assign rights or dispose of any property, real or personal, consistent with the objectives of the board as set forth in this article: *Provided,* That such acquisition or purchase of real property or construction of facilities shall be consistent with planning by the state building commissioner and subject to the approval of the Legislature;

(5) Contract and be contracted with and execute all instruments necessary or convenient in carrying out the board's functions and duties; and

(6) Exercise, subject to limitations or restrictions herein imposed, all other powers which are reasonably necessary or essential to effect the express objectives and purposes of this article.

(b) The board shall annually prepare a budget for the next fiscal year for submission to the Governor and the Legislature which shall include all sums necessary to support the activities of the board and its staff.

(c) Each hospital subject to the provisions of this article shall be assessed by the board on a pro rata basis using the gross

revenues of each hospital as reported under the authority of section eighteen of this article as the measure of the hospital's obligation. The amount of such fee shall be determined by the board except that in no case shall the hospital's obligation exceed one tenth of one percent of its gross revenue. Such fees shall be paid on or before July 1, in each year and shall be paid into the State Treasury and kept as a special revolving fund designated Health Care Cost Review Fund", with the moneys in such fund being expendable after appropriation by the Legislature for purposes consistent with this article. Any balance remaining in said fund at the end of any fiscal year shall not revert to the treasury, but shall remain in said fund and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal years.

(d) Each hospital's assessment shall be treated as an allowable expense by the board.

(e) The board is empowered to withhold rate approvals ~~certificates of need~~ and rural health system loans and grants if any such fees remain unpaid, unless exempted under subsection (g), section four, article two-d of this chapter.

**§16-29B-11. Related programs.**

In addition to carrying out its duties under this article, the board shall carry out its information disclosure functions set forth in article five-f of this chapter and its functions set forth in article two-d of this chapter, including health planning,

issuing grants and loans to financially vulnerable health care entities located in underserved areas, and the review and approval or disapproval of capital expenditures for health care facilities or services. ~~In making decisions in the certificate of need review process, the board shall be guided by the state health plan approved by the Governor.~~

**§16-29B-19a. Additional legislative directives; studies, findings and recommendations.**

(a) The Legislature finds and declares that changing market forces require periodic changes in the regulatory structure for health care providers and hereby directs the board to study the following:

~~(1) The certificate of need program, including the effect of any changes on managed care and access for uninsured and rural consumers; determining which services or capital expenditures should be exempt and why; and the status of similar programs in other states;~~

~~(2)~~ (1) The hospital rate-setting methodology, including the need for hospital rate-setting and the development of alternatives to the cost-based reimbursement methodology;

~~(3)~~ (2) Managed care markets, including the need for regulatory programs in managed care markets; and

~~(4)~~ (3) Barriers or obstacles, if any, presented by the ~~certificate of need program or~~ standards in the state health plan

to health care providers' need to reduce excess capacity, restructure services and integrate the delivery of services.

(b) The board may form task forces to assist it in addressing these issues and it shall prepare a report on its findings and recommendations, which is to be filed with the Governor, the President of the Senate and the Speaker of the House of Delegates on or before October 1, 1998 identifying each problem and recommendation with specificity and the effect of each recommendation on cost, access and quality of care. The task forces, if formed, shall be composed of representatives of consumers, businesses, providers, payors and state agencies.

(c) The board shall report quarterly to the Legislative Oversight Commission on health and human resources accountability regarding the appointment, direction and progress of the studies.

**ARTICLE 29I. WEST VIRGINIA HEALTH CARE AUTHORITY REVOLVING LOAN AND GRANT FUND.**

**§16-29I-6. Review of hospital restructuring plans.**

(a) The board shall review and may approve or reject hospital restructuring plans submitted to it from time to time. Upon approval of any submitted plan, the board may in its sole discretion provide from the fund a loan, low-interest loan, or no-interest loan, in a form and on those terms and conditions as the board considers appropriate to assist in the implementation of the

hospital restructuring plan. Prior to approving any plan, the board shall make a factual determination that the implementation of the hospital restructuring plan will rationalize and restructure the delivery of health care services provided by the hospital or combination of hospitals submitting the plan, and shall further determine that the implementation of the plan will provide a cost savings for hospital services delivered by the hospital or combination of hospitals for both public and private health care payors.

(b) The board may approve hospital restructuring plans and loans from the revolving fund contingent upon any conditions considered necessary by the board to assure the repayment of any loan, which may include, but need not be limited to, the successful implementation of the cost containment objectives of any hospital restructuring plan.

(c) The board may withhold future rate approvals ~~certificates of need~~ and rural health system loans and grants if any of the terms or conditions of the loan provided by the board are not subsequently satisfied or met by the hospital or combination of hospitals receiving the loan from the fund.

**CHAPTER 33. INSURANCE.**

**ARTICLE 15B. UNIFORM HEALTH CARE ADMINISTRATION ACT.**

**§33-15B-5. Penalties for violation.**

Any person, partnership, corporation, limited liability company, professional corporation, health care provider, insurer or other payer, or other entity violating any provision of this article shall be subject to a fine imposed by the commissioner of not more than $1000 for each violation. ~~and, in addition to or in lieu of any fine imposed, the West Virginia Health Care Authority is empowered to withhold rate approval or a certificate of need for any health care provider violating any provision of this article.~~

NOTE: The purpose of this bill is to end the requirement that health facilities acquire a certificate of need to open.

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