

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2607

BY DELEGATES HILL, HOWELL, ROWAN, STAGGERS AND D. JEFFRIES

[Passed February 20, 2019; in effect ninety days from passage.]

1 AN ACT to repeal §16-5C-16 and §16-5C-17 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §16-5C-2, §16-5C-4, §16-5C-5, §16-5C-6, §16-5C-7, §16-5C-8, §16-
3 5C-9, §16-5C-9a, §16-5C-10, §16-5C-11, §16-5C-12, §16-5C-12a, §16-5C-13, §16-5C-
4 14, §16-5C-15, §16-5C-18, §16-5C-20, §16-5C-21, and §16-5C-22 of said code, all
5 relating to the licensure of nursing homes; repealing duplicative sections of code; defining
6 terms; clarifying rule requirements; and clarifying enforcement action and due process
7 procedures.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5C. NURSING HOMES.

§16-5C-2. Definitions.

1 As used in this article, unless a different meaning appears from the context:

2 “Deficiency” means a nursing home’s failure to meet the requirements specified in §16-
3 5C-1 *et seq.* of this code and rules promulgated thereunder.

4 “Department” means the Department of Health and Human Resources.

5 “Director” means the director of the office of Health Facility Licensure and Certification.

6 “Distance learning technologies” means computer-centered technologies delivered over
7 the internet, broadcasts, recordings, instructional videos, or videoconferencing.

8 “Household” means a private home or residence which is separate from or unattached to
9 a nursing home.

10 “Immediate jeopardy” means a situation in which the nursing home’s noncompliance with
11 one or more of the provisions of this article or rules promulgated thereunder has caused or is
12 likely to cause serious harm, impairment or death to a resident.

13 “Nursing home” or “facility” means any institution, residence or place, or any part or unit
14 thereof, however named, in this state which is advertised, offered, maintained or operated by the
15 ownership or management, whether for a consideration or not, for the express or implied purpose
16 of providing accommodations and care, for a period of more than 24 hours, for four or more

17 persons who are ill or otherwise incapacitated and in need of extensive, ongoing nursing care due
18 to physical or mental impairment or which provides services for the rehabilitation of persons who
19 are convalescing from illness or incapacitation.

20 The care or treatment in a household, whether for compensation or not, of any person
21 related by blood or marriage, within the degree of consanguinity of second cousin to the head of
22 the household, or his or her spouse, may not be deemed to constitute a nursing home within the
23 meaning of this article. Nothing contained in this article applies to nursing homes operated by the
24 federal government; or extended care facilities operated in conjunction with a hospital; or
25 institutions operated for the treatment and care of alcoholic patients; or offices of physicians; or
26 hotels, boarding homes or other similar places that furnish to their guests only room and board;
27 or to homes or asylums operated by fraternal orders pursuant to §35-3-1 *et seq.* of this code.

28 “Nursing care” means those procedures commonly employed in providing for the physical,
29 emotional and rehabilitation needs of the ill or otherwise incapacitated which require technical
30 skills and knowledge beyond that which the untrained person possesses, including, but not limited
31 to, such procedures as: Irrigations, catheterization, special procedure contributing to
32 rehabilitation, and administration of medication by any method which involves a level of
33 complexity and skill in administration not possessed by the untrained person.

34 “Person” means an individual and every form of organization, whether incorporated or
35 unincorporated, including any partnership, corporation, trust, association, or political subdivision
36 of the state.

37 “Resident” means an individual living in a nursing home.

38 “Review organization” means any committee or organization engaging in peer review or
39 quality assurance, including, but not limited to, a medical audit committee, a health insurance
40 review committee, a professional health service plan review committee or organization, a dental
41 review committee, a physician’s advisory committee, a podiatry advisory committee, a nursing

42 advisory committee, any committee or organization established pursuant to a medical assistance
43 program, any committee or organization established or required under state or federal statutes,
44 rules or regulations, and any committee established by one or more state or local professional
45 societies or institutes, to gather and review information relating to the care and treatment of
46 residents for the purposes of:

47 Evaluating and improving the quality of health care rendered; reducing morbidity or
48 mortality; or establishing and enforcing guidelines designed to keep within reasonable bounds the
49 cost of health care.

50 “Secretary” means the Secretary of the Department of Health and Human Resources or
51 his or her designee.

52 “Sponsor” means the person or agency legally responsible for the welfare and support of
53 a resident.

54 “Substantial compliance” means a level of compliance with the rules such that no
55 deficiencies exist or such that identified deficiencies pose no greater risk to resident health or
56 safety than the potential for causing minimal harm.

57 The secretary may define in the rules any term used herein which is not expressly defined.

§16-5C-4. Administrative and inspection staff.

1 The secretary may, at such time or times as he or she may deem necessary, employ such
2 administrative employees, inspectors, or other persons as may be necessary to properly carry out
3 the provisions of this article. All employees of the department shall be members of the state civil
4 service system and inspectors shall be trained to perform their assigned duties. Such inspectors
5 and other employees as may be duly designated by the secretary shall act as the secretary’s
6 representatives and, under the direction of the secretary, shall enforce the provisions of this article
7 and all duly promulgated regulations and, in the discharge of official duties, shall have the right of
8 entry into any place maintained as a nursing home.

§16-5C-5. Rules; minimum standards for nursing homes.

1 (a) All rules shall be proposed for legislative approval in accordance with the provisions of
2 §29A-3-1 *et seq.* of this code. The secretary shall recommend the adoption, amendment or repeal
3 of such rules as may be necessary or proper to carry out the purposes and intent of this article.

4 (b) The secretary shall recommend rules establishing minimum standards of operation of
5 nursing homes including, but not limited to, the following:

6 (1) Administrative policies, including:

7 (A) An affirmative statement of the right of access to nursing homes by members of
8 recognized community organizations and community legal services programs whose purposes
9 include rendering assistance without charge to residents, consistent with the right of residents to
10 privacy;

11 (B) A statement of the rights and responsibilities of residents in nursing homes which
12 prescribe, as a minimum, such a statement of residents' rights as included in the United States
13 Department of Health and Human Services regulations, in force on the effective date of this article,
14 governing participation of nursing homes in the Medicare and Medicaid programs pursuant to 42
15 U.S.C.A. §§ 1395 *et seq.* and 1396 *et seq.*;

16 (C) The process to be followed by applicants seeking a license;

17 (D) The clinical, medical, resident, and business records to be kept by the nursing home;

18 (E) The procedures and inspections for the review of utilization and quality of resident
19 care; and

20 (F) The procedures for informal dispute resolution, independent informal dispute
21 resolution, and administrative due process, and when such remedies are available;

22 (2) Minimum numbers of administrators, medical directors, nurses, aides and other
23 personnel according to the occupancy of the facility;

24 (3) Qualifications of the facility's administrators, medical directors, nurses, aides, and other
25 personnel;

- 26 (4) Safety requirements;
- 27 (5) Sanitation requirements;
- 28 (6) Personal services to be provided;
- 29 (7) Dietary services to be provided;
- 30 (8) Medical records;
- 31 (9) Social and recreational activities to be made available;
- 32 (10) Pharmacy services;
- 33 (11) Nursing services;
- 34 (12) Medical services;
- 35 (13) Physical facility;
- 36 (14) Resident rights;
- 37 (15) Visitation privileges that:
 - 38 (A) Permit immediate access to a resident, subject to the resident's right to deny or
 - 39 withdraw consent at any time, by immediate family or other relatives of the resident;
 - 40 (B) Permit immediate access to a resident, subject to reasonable restrictions and the
 - 41 resident's right to deny or withdraw consent at any time, by others who are visiting with the
 - 42 consent of the resident; and
 - 43 (C) Permit access to other specific persons or classes of persons consistent with state
 - 44 and federal law; and
 - 45 (16) Admission, transfer and discharge rights.
 - 46 (c) To ensure compliance with §29A-3-11(b)(3), the secretary shall amend his or her
 - 47 legislative rule to exempt federally certified Medicare and Medicaid nursing facilities from
 - 48 provisions addressed in the federal regulations.
 - 49 (d) The director shall permit the nonclinical instruction portions of a nurse aide training
 - 50 program approved by the Office of Health Facility Licensure and Certification to be provided
 - 51 through distance learning technologies.

§16-5C-6. License required; application; fees; duration; renewal.

1 No person may establish, operate, maintain, offer, or advertise a nursing home within this
2 state unless and until he or she obtains a valid license therefor as hereinafter provided, which
3 license remains unsuspended, unrevoked, and unexpired. No public official or employee may
4 place any person in, or recommend that any person be placed in, or directly or indirectly cause
5 any person to be placed in, any nursing home, as defined in §16-5C-2 of this code, which is being
6 operated without a valid license from the secretary. The procedure for obtaining a license is as
7 follows:

8 (a) The applicant shall submit an application to the director on a form to be prescribed by
9 the secretary, containing such information as may be necessary to show that the applicant is in
10 compliance with the standards for nursing homes, as established by this article and the rules
11 lawfully promulgated hereunder. The application and any exhibits thereto shall provide the
12 following information:

13 (1) The name and address of the applicant;

14 (2) The name, address, and principal occupation:

15 (A) Of each person who, as a stockholder or otherwise, has a proprietary interest of 10
16 percent or more in the applicant;

17 (B) Of each officer and director of a corporate applicant;

18 (C) Of each trustee and beneficiary of an applicant which is a trust; and

19 (D) Where a corporation has a proprietary interest of 25 percent or more in an applicant,
20 the name, address, and principal occupation of each officer and director of the corporation;

21 (3) The name and address of the owner of the premises of the nursing home or proposed
22 nursing home, if he or she is a different person from the applicant, and in such case, the name
23 and address:

24 (A) Of each person who, as a stockholder or otherwise, has a proprietary interest 10
25 percent or more in the owner;

- 26 (B) Of each officer and director of a corporate applicant; and
- 27 (C) Of each trustee and applicant, the name, address, and principal occupation of each
- 28 officer and director of the corporation;
- 29 (4) Where the applicant is the lessee or the assignee of the nursing home or the premises
- 30 of the proposed nursing home, a signed copy of the lease and any assignment thereof;
- 31 (5) The name and address of the nursing home or the premises of the proposed nursing
- 32 home;
- 33 (6) A description of the nursing home to be operated;
- 34 (7) The bed quota of the nursing home;
- 35 (8) An organizational plan for the nursing home indicating the number of persons
- 36 employed or to be employed and the positions and duties of all employees;
- 37 (9) The name and address of the individual who is to serve as administrator;
- 38 (10) Such evidence of compliance with applicable laws and rules governing zoning,
- 39 buildings, safety, fire prevention, and sanitation as the secretary may require;
- 40 (11) A listing of other states in which the applicant owns, operates, or manages a nursing
- 41 home or long-term care facility;
- 42 (12) Such additional information as the secretary may require; and
- 43 (13) Assurances that the nursing home is in compliance with the provisions of §16-20-1 *et*
- 44 *seq.* of this code.
- 45 (b) Upon receipt and review of an application for license made pursuant to §16-5C-6(a)
- 46 of this code, and inspection of the applicant nursing home pursuant to §16-5C-9 and §16-5C-10
- 47 of this code, the secretary shall issue a license if he or she finds:
- 48 (1) That an individual applicant, and every partner, trustee, officer, director, and controlling
- 49 person of an applicant which is not an individual, is a person responsible and suitable to operate
- 50 or to direct or participate in the operation of a nursing home by virtue of financial capacity,
- 51 appropriate business or professional experience, a record of compliance with lawful orders of the

52 department, if any, and lack of revocation of a license during the previous five years or consistent
53 poor performance in other states;

54 (2) That the facility is under the supervision of an administrator who is licensed pursuant
55 to the provisions of §30-25-1 *et seq.* of this code; and

56 (3) That the facility is in substantial compliance with standards established pursuant to
57 §16-5C-5 of this code, and such other requirements for a license as may be established by rule
58 under this article.

59 Any license issued by the secretary shall state the maximum bed capacity for which it is
60 issued, the date the license was issued, and the expiration date. Such licenses shall be issued
61 for a period not to exceed 15 months for nursing homes: *Provided*, That any license in effect for
62 which timely application for renewal, together with payment of the proper fee has been made to
63 the secretary in conformance with the provisions of this article and the rules issued thereunder,
64 and prior to the expiration date of the license, shall continue in effect until:

65 (A) Six months following the expiration date of the license; or

66 (B) The date of the revocation or suspension of the license pursuant to the provisions of
67 this article; or

68 (C) The date of issuance of a new license, whichever date first occurs.

69 Each license shall be issued only for the premises and persons named in the application
70 and is not transferable or assignable: *Provided*, That in the case of the transfer of ownership of
71 a facility with an unexpired license, the application by the proposed new owner shall be filed with
72 the secretary no later than 30 days before the proposed date of transfer. Upon receipt of proof of
73 the transfer of ownership, the application shall have the effect of a license for three months. The
74 secretary shall issue or deny a license within three months of the receipt of the proof of the transfer
75 of ownership. Every license shall be posted in a conspicuous place in the nursing home for which
76 it is issued so as to be accessible to and in plain view of all residents of and visitors to the nursing
77 home.

78 (c) A license is renewable, conditioned upon the licensee filing timely application for the
79 extension of the term of the license accompanied by the fee, and contingent upon evidence of
80 compliance with the provisions of this article and rules promulgated hereunder. Any application
81 for renewal of a license shall include a report by the licensee in such form and containing such
82 information as shall be prescribed by the secretary, including a statement of any changes in the
83 name, address, management, or ownership information on file with the secretary. All holders of
84 facility licenses as of the effective date of this article shall include, in the first application for
85 renewal filed thereafter, such information as is required for initial applicants under the provisions
86 of §16-5C-6(a) of this code.

87 (d) In the case of an application for a renewal license, if all requirements of §16-5C-5 of
88 this code are not met, the secretary may at his or her discretion issue a provisional license,
89 provided that care given in the nursing home is adequate for resident needs and the nursing home
90 has demonstrated improvement and evidences potential for substantial compliance within the
91 term of the license: *Provided*, That a provisional license may not be issued for a period greater
92 than six months, may not be renewed, and may not be issued to any nursing home that is a poor
93 performer.

94 (e) A nonrefundable application fee in the amount of \$200 for an original nursing home
95 license shall be paid at the time application is made for the license. Direct costs of initial licensure
96 inspections or inspections for changes in licensed bed capacity shall be borne by the applicant
97 and shall be received by the secretary prior to the issuance of an initial or amended license. The
98 license fee for renewal of a license shall be at the rate of \$15 per bed per year for nursing homes,
99 except the annual rate per bed may be assessed for licenses issued for less than 15 months.
100 Annually, the secretary may adjust the licensure fees for inflation based upon the increase in the
101 consumer price index during the last 12 months. All such license fees shall be due and payable
102 to the secretary, annually, and in the manner set forth in the rules promulgated hereunder. The
103 fee and application shall be submitted to the secretary who shall retain both the application and

104 fee pending final action on the application. All fees received by the secretary under the provisions
105 of this article shall be deposited in accordance with §16-1-13 of this code.

§16-5C-7. Cost disclosure; surety for resident funds.

1 (a) Each nursing home shall disclose in writing to all residents at the time of admission a
2 complete and accurate list of all costs which may be incurred by them; and shall notify the
3 residents 30 days in advance of changes in costs. The nursing home shall make available copies
4 of the list in the nursing home's business office for inspection. Residents may not be liable for any
5 cost not so disclosed.

6 (b) If the nursing home handles any money for residents within the facility, the licensee
7 or his or her authorized representative shall either: (1) Give a bond; or (2) obtain and maintain
8 commercial insurance with a company licensed in this state in an amount consistent with this
9 subsection and with the surety as the secretary shall approve. The bond or insurance shall be
10 upon condition that the licensee shall hold separately and in trust all residents' funds deposited
11 with the licensee; shall administer the funds on behalf of the resident in the manner directed by
12 the depositor; shall render a true and complete account to the depositor and the secretary when
13 requested, and at least quarterly to the resident; and upon termination of the deposit, shall account
14 for all funds received, expended, and held on hand. The licensee shall file a bond or obtain
15 insurance in a sum at least 1.25 times the average amount of funds deposited with the nursing
16 home during the nursing home's previous fiscal year.

17 This insurance policy shall specifically designate the resident as the beneficiary or payee
18 reimbursement of lost funds. Regardless of the type of coverage established by the facility, the
19 facility shall reimburse, within 30 days, the resident for any losses directly and seek
20 reimbursement through the bond or insurance itself. Whenever the secretary determines that the
21 amount of any bond or insurance required pursuant to this subsection is insufficient to adequately
22 protect the money of residents which is being handled, or whenever the amount of any such bond
23 or insurance is impaired by any recovery against the bond or insurance, the secretary may require

24 the licensee to file an additional bond or insurance in such amount as necessary to adequately
25 protect the money of residents being handled.

26 The provisions of this subsection do not apply if the licensee handles less than \$35 per
27 resident per month in the aggregate. Nursing homes certified to accept payment by Medicare and
28 Medicaid must meet the requirements for surety bonds as listed in the applicable federal
29 regulations.

§16-5C-8. Investigation of complaints.

1 (a) The secretary shall establish rules for prompt investigation of all complaints of alleged
2 violations by nursing homes of applicable requirements of state law or rules, except for such
3 complaints that the secretary determines are willfully intended to harass a licensee or are without
4 any reasonable basis. Such procedures shall include provisions for ensuring the confidentiality of
5 the complainant and for promptly informing the complaint and the nursing home involved of the
6 results of the investigation.

7 (b) If, after its investigation, the secretary determines that the complaint has merit, the
8 secretary shall take appropriate disciplinary action and shall advise any injured party of the
9 possibility of a civil remedy.

10 (1) A nursing home or licensee adversely affected by an order or citation of a deficient
11 practice issued pursuant to this section may request the independent informal dispute resolution
12 process contained in §16-5C-12a of this code.

13 (2) No later than 20 working days following the last day of a complaint investigation, the
14 secretary shall transmit to the nursing home a statement of deficiencies committed by the facility.
15 Notification of the availability of the independent informal dispute resolution process and an
16 explanation of the independent informal dispute resolution process shall be included in the
17 transmittal.

18 (c) No nursing home may discharge or in any manner discriminate against any resident,
19 legal representative, or employee for the reason that the resident, legal representative, or

20 employee has filed a complaint or participated in any proceeding specified in this article. Violation
21 of this prohibition by any nursing home constitutes ground for the suspension or revocation of the
22 license of the nursing home as provided in §16-5C-11 and §16-5C-12 of this code. Any type of
23 discriminatory treatment of a resident, legal representative, or employee by whom, or upon whose
24 behalf, a complaint has been submitted to the secretary, or any proceeding instituted under this
25 article, within 120 days of the filing of the complaint or the institution of such action, shall raise a
26 rebuttable presumption that such action was taken by the nursing home in retaliation for such
27 complaint or action.

§16-5C-9. Inspections.

1 The secretary and any duly designated employee or agent shall have the right to enter
2 upon and into the premises of any nursing home at any time for which a license has been issued,
3 for which an application for license has been filed with the secretary, or which the secretary has
4 reason to believe is being operated or maintained as a nursing home without a license. If entry is
5 refused by the owner or person in charge of the nursing home, the secretary may apply to the
6 circuit court of the county in which the nursing home is located or the Circuit Court of Kanawha
7 County for a warrant authorizing inspection to conduct the following inspections:

8 (1) An initial inspection prior to the issuance of a license pursuant to §16-5C-6 of this
9 code;

10 (2) A license inspection for a nursing home, which shall be conducted at least once every
11 15 months, if the nursing home has not applied for and received an exemption from the
12 requirement as provided for in this section;

13 (3) The secretary, by the secretary's authorized employees or agents, shall conduct at
14 least one inspection prior to issuance of a license pursuant to §16-5C-6 of this code, and shall
15 conduct periodic unannounced inspections thereafter, to determine compliance by the nursing
16 home with applicable rules promulgated thereunder. All facilities shall comply with regulations of

17 the State Fire Commission. The State Fire Marshal, by his or her employees or authorized agents,
18 shall make all fire, safety, and like inspections. The secretary may provide for such other
19 inspections as the secretary may deem necessary to carry out the intent and purpose of this
20 article. Any nursing home aggrieved by a determination or assessment made pursuant to this
21 section, shall have the right to an administrative appeal as set forth in §16-5C-12 of this code;

22 (4) A complaint inspection based on a complaint received by the secretary. If, after
23 investigation of a complaint, the secretary determines that the complaint is substantiated, the
24 secretary may invoke any applicable remedies available pursuant to §16-5C-11 of this code.

§16-5C-9a. Exemptions.

1 (a) The secretary may grant an exemption from a license inspection if a nursing home
2 was found to be in substantial compliance with the provisions of this chapter at its most recent
3 inspection and there have been no substantiated complaints thereafter. The secretary may not
4 grant more than one exemption in any two-year period.

5 (b) The secretary may grant an exemption to the extent allowable by federal law from a
6 standard survey, only if the nursing home was found to be in substantial compliance with
7 certification participation requirements at its previous standard inspection and there have been
8 no substantiated complaints thereafter.

9 (c) The secretary may grant an exemption from periodic license inspections if a nursing
10 home receives accreditation by an accrediting body approved by the secretary and submits a
11 complete copy of the accreditation report. The accrediting body shall identify quality of care
12 measures that assure continued quality care of residents. The secretary may not grant more than
13 one exemption in any two-year period.

14 (d) If a complaint is substantiated, the secretary has the authority to immediately remove
15 the exemption.

§16-5C-10. Reports of inspections; plans of correction; assessment of penalties and use of funds derived therefrom; hearings.

1 (a) Reports of all inspections made pursuant to §16-5C-8 and §16-5C-9 of this code shall
2 be in writing and filed with the secretary and shall list all deficiencies in the nursing home's
3 compliance with the provisions of this article and the rules adopted hereunder.

4 (1) No later than 10 working days following the last day of the inspection, the director shall
5 transmit to the nursing home a copy of such report and shall specify a time within which the
6 nursing home shall submit a plan for correction of such deficiencies.

7 (2) Additionally, notification of the availability of the independent informal dispute
8 resolution process and an explanation of the independent informal dispute resolution process
9 shall be included in the transmittal.

10 (3) A nursing home adversely affected by an order or citation of a deficient practice issued
11 pursuant to this section may request the independent informal dispute resolution process
12 contained in §16-5C-12a of this code.

13 (4) The plan submitted by the nursing home shall be approved, rejected, or modified by
14 the director.

15 (5) The inspectors or the nursing home shall allow audio taping of the exit conference
16 with the expense to be paid by the requesting party.

17 (b) With regard to a nursing home with deficiencies and upon its failure to submit a plan
18 of correction which is approved by the director, or to correct any deficiency within the time
19 specified in an approved plan of correction, the secretary may assess civil penalties as hereinafter
20 provided or may initiate any other legal or disciplinary action as provided by this article: *Provided,*
21 That any action by the secretary shall be stayed until federal proceedings arising from the same
22 deficiencies are concluded.

23 (c) Nothing in this section may be construed to prohibit the secretary from enforcing a
24 rule, administratively or in court, without first affording formal opportunity to make correction under

25 this section, where, in the opinion of the secretary, the violation of the rule jeopardizes the health
26 or safety of residents, or where the violation of the rule is the second or subsequent such violation
27 occurring during a period of 12 full months.

28 (d) Civil penalties assessed against nursing home shall not be less than \$50 nor more
29 than \$8,000: *Provided*, That the secretary may not assess a penalty under state licensure for the
30 same deficiency or violation cited under federal law and may not assess a penalty against a
31 nursing home if the nursing home corrects the deficiency within 20 days of receipt of written notice
32 of the deficiency unless it is a repeat deficiency or the nursing home is a poor performer.

33 (e) In determining whether to assess a penalty, and the amount of penalty to be assessed,
34 the secretary shall consider:

- 35 (1) How serious the noncompliance is in relation to direct resident care and safety;
- 36 (2) The number of residents the noncompliance is likely to affect;
- 37 (3) Whether the noncompliance was noncompliance during a previous inspection;
- 38 (4) The opportunity the nursing home has had to correct the noncompliance; and
- 39 (5) Any additional factors that may be relevant.

40 (f) The range of civil penalties shall be as follows:

41 (1) For a deficiency which presents immediate jeopardy to the health, safety, or welfare
42 of one or more residents, the secretary may impose a civil penalty of not less than \$3,000 nor
43 more than \$8,000;

44 (2) For a deficiency which actually harms one or more residents, the secretary may
45 impose a civil penalty of not less than \$1,000 nor more than \$3,000;

46 (3) For a deficiency which has the potential to harm one or more residents, the secretary
47 may impose a civil penalty of not less than \$50 nor more than \$1,000;

48 (4) For a repeated deficiency, the secretary may impose a civil penalty of up to 150
49 percent of the penalties provided in §16-5C-10(f)(1) through §16-5C-10(f)(3) of this code; and

50 (5) If no plan of correction is submitted as established in this rule, a penalty may be
51 assessed in the amount of \$100 a day unless a reasonable explanation has been provided and
52 accepted by the secretary.

53 (g) The secretary shall assess a civil penalty of not more than \$1,000 against an individual
54 who willfully and knowingly certifies a material and false statement in a resident assessment.
55 Such penalty shall be imposed with respect to each such resident assessment. The secretary
56 shall impose a civil penalty of not more than \$5,000 against an individual who willfully and
57 knowingly causes another individual to certify a material and false statement in a resident
58 assessment. Such penalty shall be imposed with respect to each such resident assessment.

59 (h) The secretary shall assess a civil penalty of not more than \$2,000 against any
60 individual who notifies, or causes to be notified, a nursing home of the time or date on which an
61 inspection is scheduled to be conducted under this article or under 42 U.S.C.A. §§ 1395 *et seq.*
62 and 1396 *et seq.*

63 (i) If the secretary assesses a penalty under this section, the secretary shall cause delivery
64 of notice of such penalty by personal service or by certified mail. Said notice shall state the amount
65 of the penalty, the action or circumstance for which the penalty is assessed, the requirement that
66 the action or circumstance violates, and the basis upon which the secretary assessed the penalty
67 and selected the amount of the penalty.

68 (j) The secretary shall, in a civil judicial proceeding, recover any unpaid assessment which
69 has not been contested under §16-5C-12 of this code within 30 days of receipt of notice of such
70 assessment, or which has been affirmed under the provisions of that section and not appealed
71 within 30 days of receipt of the Board of Review's final order, or which has been affirmed on
72 judicial review, as provided in §16-5C-13 of this code. All money collected by assessments of civil
73 penalties or interest shall be paid into a special resident benefit account and shall be applied by
74 the secretary for:

75 (1) The protection of the health or property of facility residents;

76 (2) Long-term care educational activities;

77 (3) The costs arising from the relocation of residents to other nursing homes when no
78 other funds are available; and

79 (4) In an emergency situation in which there are no other funds available, the operation
80 of a facility pending correction of deficiencies or closure.

81 (k) The opportunity for a hearing on an action taken under this section shall be as provided
82 in §16-5C-12 of this code.

§16-5C-11. Ban on admissions; closure; transfer of residents; appointment of temporary management; assessment of interest; collection of assessments; promulgation of rules to conform with federal requirements.

1 (a) The secretary may reduce the bed quota of the nursing home or impose a ban on new
2 admissions, where he or she finds upon inspection of the nursing home that the licensee is not
3 providing adequate care under the nursing home's existing bed quota, and that reduction in quota
4 or ban on new admissions, or both, would place the licensee in a position to render adequate
5 care. A reduction in bed quota or a ban on new admissions, or both, may remain in effect until the
6 nursing home is determined by the secretary to be in substantial compliance with the rules. In
7 addition, the secretary shall determine that the facility has the management capability to ensure
8 continued substantial compliance with all applicable requirements. The secretary shall evaluate
9 the continuation of the admissions ban or reduction in bed quota on a continuing basis, and may
10 make a partial lifting of the admissions ban or reduction in bed quota consistent with the purposes
11 of this section. If the residents of the facility are in immediate jeopardy of their health, safety,
12 welfare, or rights, the secretary may seek an order to transfer residents out of the nursing home
13 as provided for in §16-5C-11(d) of this code. Any notice to a licensee of reduction in bed quota or
14 a ban on new admissions shall include the terms of such order, the reasons therefor, and a date
15 set for compliance.

16 (b) The secretary may deny, limit, suspend, or revoke a license issued under this article
17 or take other action as set forth in this section, if he or she finds upon inspection that there has
18 been a substantial failure to comply with the provisions of this article or the standards or rules
19 promulgated pursuant hereto.

20 (c) The suspension, expiration, forfeiture, or cancellation by operation of law or order of
21 the secretary of a license issued by the director, or the withdrawal of an application for a license
22 after it has been filed with the secretary, may not deprive the secretary of the secretary's authority
23 to institute or continue a disciplinary proceeding, or a proceeding for the denial of a license
24 application, against the licensee or applicant upon any ground provided by law or to enter an
25 order denying the license application, suspending, or revoking the license, or otherwise taking
26 disciplinary action on any such ground.

27 (d) In addition to other remedies provided in this article, upon petition from the secretary,
28 a circuit court in the county in which a facility is located, or in Kanawha County if emergency
29 circumstances occur, may determine that a nursing home's deficiencies under this article, or
30 under 42 U.S.C.A. §§ 1395 *et seq.* and 1396 *et seq.*, if applicable, constitute an emergency
31 immediately jeopardizing the health, safety, welfare, or rights of its residents, and issue an order
32 to:

33 (1) Close the nursing home;

34 (2) Transfer residents in the nursing home to other nursing homes; or

35 (3) Appoint temporary management to oversee the operation of the facility and to assure
36 the health, safety, welfare, and rights of the nursing home's residents, where there is a need for
37 temporary management while:

38 (A) There is an orderly closure of the facility; or

39 (B) Improvements are made in order to bring the nursing home into compliance with all
40 the applicable requirements of this article and, if applicable, 42 U.S.C.A. §§ 1395 *et seq.* and 1396
41 *et seq.*

42 If the secretary petitions a circuit court for the closure of a nursing home, the transfer of
43 residents, or the appointment of temporary management, the circuit court shall hold a hearing no
44 later than seven days thereafter, at which time the secretary and the licensee or operator of the
45 nursing home may participate and present evidence. The burden of proof is on the secretary.

46 A circuit court may divest the licensee or operator of possession and control of a nursing
47 home in favor of temporary management. The temporary management shall be responsible to
48 the court and shall have such powers and duties as the court may grant to direct all acts necessary
49 or appropriate to conserve the property and promote the health, safety, welfare, and rights of the
50 residents of the nursing home, including, but not limited to, the replacement of management and
51 staff, the hiring of consultants, the making of any necessary expenditures to close the nursing
52 home, or to repair or improve the nursing home so as to return it to compliance with applicable
53 requirements, and the power to receive, conserve, and expend funds, including Medicare,
54 Medicaid, and other payments on behalf of the licensee or operator of the nursing home. Priority
55 shall be given to expenditures for current direct resident care or the transfer of residents.
56 Expenditures other than normal operating expenses totaling more than \$20,000 shall be approved
57 by the circuit court.

58 The person charged with temporary management shall be an officer of the court, is not
59 liable for conditions at the nursing home which existed or originated prior to his or her
60 appointment, and is not personally liable, except for his or her own gross negligence and
61 intentional acts which result in injuries to persons or damage to property at the nursing home
62 during his or her temporary management. All compensation and per diem costs of the temporary
63 manager shall be paid by the nursing home. The costs for the temporary manager for any 30-day
64 period may not exceed the 75th percentile of the allowable administrator's salary as reported on
65 the most recent cost report for the nursing home's peer group as determined by the secretary.
66 The temporary manager shall bill the nursing home for compensation and per diem costs. Within

67 15 days of receipt of the bill, the nursing home shall pay the bill or contest the costs for which it
68 was billed to the court. Such costs shall be recoverable through recoupment from future
69 reimbursement from the state Medicaid agency in the same fashion as a benefits overpayment.

70 The temporary management shall promptly employ at least one person who is licensed
71 as a nursing home administrator in West Virginia.

72 A temporary management established for the purpose of making improvements in order
73 to bring a nursing home into compliance with applicable requirements may not be terminated until
74 the court has determined that the nursing home has the management capability to ensure
75 continued compliance with all applicable requirements, except if the court has not made such
76 determination within six months of the establishment of the temporary management, the
77 temporary management terminates by operation of law at that time, and the nursing home shall
78 be closed. After the termination of the temporary management, the person who was responsible
79 for the temporary management shall make an accounting to the court, and after deducting from
80 receipts the costs of the temporary management, expenditures, civil penalties, and interest no
81 longer subject to appeal, in that order, any excess shall be paid to the licensee or operator of the
82 nursing home.

83 (e) The assessments for penalties and for costs of actions taken under this article shall
84 have interest assessed at five percent per annum beginning 30 days after receipt of notice of such
85 assessment or 30 days after receipt of the Board of Review's final order following a hearing,
86 whichever is later. All such assessments against a nursing home that are unpaid shall be added
87 to the nursing home's licensure fee and may be filed as a lien against the property of the licensee
88 or operator of the nursing home. Funds received from such assessments shall be deposited as
89 funds received in §16-5C-10 of this code.

90 (f) The opportunity for a hearing on an action by the secretary taken under this section
91 shall be as provided in §16-5C-12 of this code.

§16-5C-12. License denial, limitation, suspension, or revocation.

1 (a) The secretary shall deny, limit, suspend, or revoke a license issued if the provisions
2 of this article or if the rules promulgated pursuant to this article are violated. The secretary may
3 revoke a nursing home's license and prohibit all physicians and licensed disciplines associated
4 with that nursing home from practicing at the nursing home location based upon an annual,
5 periodic, complaint, verification, or other inspection and evaluation.

6 (b) Before any such license is denied, limited, suspended, or revoked, however, written
7 notice shall be given to the licensee, stating the grounds for such denial, limitation, suspension,
8 or revocation.

9 (c) An applicant or licensee has 10 working days after receipt of the order denying,
10 limiting, suspending, or revoking a license to request a formal hearing contesting the denial,
11 limitation, suspension, or revocation of a license under this article. If a formal hearing is requested,
12 the applicant or licensee and the secretary shall proceed in accordance with the provisions of
13 §29A-5-1 *et seq.* of this code.

14 (d) If a license is denied or revoked as herein provided, a new application for license shall
15 be considered by the secretary if, when, and after the conditions upon which the denial or
16 revocation was based have been corrected and evidence of this fact has been furnished. A new
17 license shall then be granted after proper inspection, if applicable, has been made and all
18 provisions of this article and rules promulgated pursuant to this article have been satisfied.

19 (e) If the license of a nursing home is denied, limited, suspended, or revoked, the
20 administrator or owner or lessor of the nursing home property shall cease to operate the facility
21 as a nursing home as of the effective date of the denial, limitation, suspension, or revocation. The
22 owner or lessor of the nursing home property is responsible for removing all signs and symbols
23 identifying the premises as a nursing home within 30 days. Any administrative appeal of such
24 denial, limitation, suspension, or revocation shall not stay the denial, limitation, suspension, or
25 revocation.

26 (f) Upon the effective date of the denial, limitation, suspension, or revocation, the
27 administrator of the nursing home shall advise the secretary and the Board of Pharmacy of the
28 disposition of all medications located on the premises. The disposition is subject to the supervision
29 and approval of the secretary. Medications that are purchased or held by a nursing home that is
30 not licensed may be deemed adulterated.

31 (g) The period of suspension for the license of a nursing home shall be prescribed by the
32 secretary but may not exceed one year.

§16-5C-12a. Independent informal dispute resolution.

1 (a) A facility or licensee adversely affected by an order or citation of a deficient practice
2 issued pursuant to this article or by a citation issued for a deficient practice pursuant to federal
3 law may request the independent informal dispute resolution process. A facility may contest a
4 cited deficiency as contrary to law or unwarranted by the facts or both.

5 (b) The secretary shall contract with up to three independent review organizations to
6 conduct an independent informal dispute resolution process for facilities. The independent review
7 organization shall be accredited by the Utilization Review Accreditation Commission.

8 (c) The independent informal dispute resolution process is not a formal evidentiary
9 proceeding and utilizing the independent informal dispute resolution process does not waive the
10 facility's right to a formal hearing.

11 (d) The independent informal dispute resolution process consists of the following:

12 (1) No later than 10 working days following the last day of the survey or inspection, or no
13 later than 20 working days following the last day of a complaint investigation, the secretary shall
14 transmit to the facility a statement of deficiencies committed by the facility. Notification of the
15 availability of the independent informal dispute resolution process and an explanation of the
16 independent informal dispute resolution process shall be included in the transmittal;

17 (2) When the facility returns its plan to correct the cited deficiencies to the secretary, the
18 facility may request in writing the independent informal dispute resolution process to refute the
19 cited deficiencies;

20 (3) Within five working days of receipt of the written request for the independent informal
21 dispute resolution process made by a facility, the secretary shall refer the request to an
22 independent review organization from the list of certified independent review organizations
23 approved by the state. The secretary shall vary the selection of the independent review
24 organization on a rotating basis. The secretary shall acknowledge in writing to the facility that the
25 request for independent review has been received and forwarded to an independent review
26 organization for review. The notice shall include the name and address of the independent review
27 organization.

28 (4) Within 10 working days of receipt of the written request for the independent informal
29 dispute resolution process made by a facility, the independent review organization shall hold an
30 independent informal dispute resolution conference unless additional time is requested by the
31 facility. Before the independent informal dispute resolution conference, the facility may submit
32 additional information.

33 (5) The facility may not be accompanied by counsel during the independent informal
34 dispute resolution conference. The manner in which the independent informal dispute resolution
35 conference is held is at the discretion of the facility, but is limited to:

- 36 (A) A desk review of written information submitted by the facility;
- 37 (B) A telephonic conference; or
- 38 (C) A face-to-face conference held at the facility or a mutually agreed upon location.

39 (6) If the independent review organization determines the need for additional information,
40 clarification, or discussion after conclusion of the independent informal dispute resolution
41 conference, the director and the facility shall present the requested information.

42 (7) Within 10 calendar days of the independent informal dispute resolution conference,
43 the independent review organization shall provide and make a determination, based upon the
44 facts and findings presented, and shall transmit a written decision containing the rationale for its
45 determination to the facility and the director.

46 (8) If the secretary disagrees with the determination, the secretary may reject the
47 determination made by the independent review organization and shall issue an order setting forth
48 the rationale for the reversal of the independent review organization's decision to the facility within
49 10 calendar days of receiving the independent review organization's determination.

50 (9) If the secretary accepts the determination, the secretary shall issue an order affirming
51 the independent review organization's determination within 10 calendar days of receiving the
52 independent review organization's determination.

53 (10) If the independent review organization determines that the original statement of
54 deficiencies should be changed as a result of the independent informal dispute resolution process
55 and the secretary accepts the determination, the secretary shall transmit a revised statement of
56 deficiencies to the facility within 10 calendar days of the independent review organization's
57 determination.

58 (11) Within 10 calendar days of receipt of the secretary's order and the revised statement
59 of deficiencies, the facility shall submit a revised plan to correct any remaining deficiencies to the
60 secretary.

61 (e) A facility has 10 calendar days after receipt of the secretary's order to request a formal
62 hearing for any deficient practice cited under this article. If the facility requests a formal hearing,
63 the secretary and the facility shall proceed in accordance with the provisions of §29A-5-1 *et seq.*
64 of this code.

65 (f) Under the following circumstances, the facility is responsible for certain costs of the
66 independent informal dispute resolution review, which shall be remitted to the secretary within 60
67 days of the informal hearing order:

68 (1) If the facility requests a face-to-face conference, the facility shall pay any costs
69 incurred by the independent review organization that exceed the cost of a telephonic conference,
70 regardless of which part ultimately prevails.

71 (2) If the independent review organization's decision supports the originally written
72 contested deficiency or adverse action taken by the director, the facility shall reimburse the
73 secretary for the cost charged by the independent review organization. If the independent review
74 organization's decision supports some of the originally written contested deficiencies, but not all
75 of them, the facility shall reimburse the secretary for the cost charged by the independent review
76 organization on a pro rata basis.

§16-5C-13. Judicial Review.

1 (a) Any applicant or licensee who is dissatisfied with the decision of the formal hearing as
2 a result of the hearing provided for in §16-5C-12 of this code may, within 30 days after receiving
3 notice of the decision, petition the Circuit Court of Kanawha County, in term or in vacation, for
4 judicial review of the decision.

5 (b) The court may affirm, modify, or reverse the decision of the Board of Review and
6 either the applicant, licensee, or secretary may appeal from the court's decision to the Supreme
7 Court of Appeals.

8 (c) The judgment of the circuit court shall be final unless reversed, vacated, or modified
9 on appeal to the Supreme Court of Appeals in accordance with the provisions of §29A-6-1 *et seq.*
10 of this code.

§16-5C-14. Legal counsel and services of the department.

1 (a) Legal counsel and services for the department in all administrative hearings may be
2 provided by the Attorney General or a staff attorney and all proceedings in any circuit court and
3 the Supreme Court of Appeals shall be provided by the Attorney General, or his or her assistants,
4 or an attorney employed by the department in proceedings in any circuit court, by the prosecuting
5 attorney of the county as well, all without additional compensation.

6 (b) The Governor may appoint counsel for the department, who shall perform such legal
7 services in representing the interests of residents in nursing homes in matters under the
8 jurisdiction of the secretary as the Governor shall direct. It shall be the duty of such counsel to

9 appear for the residents in all cases where they are not represented by counsel. The
10 compensation of such counsel shall be fixed by the Governor.

§16-5C-15. Unlawful acts; penalties; injunctions; private right of action.

1 (a) Whoever establishes, maintains, or is engaged in establishing or maintaining a nursing
2 home without a license granted under §16-5C-6, or who prevents, interferes with or impedes in
3 any way the lawful enforcement of this article is guilty of a misdemeanor and, upon conviction
4 thereof, shall be punished for the first offense by a fine of not more than \$100, or by confinement
5 in jail for a period of not more than 90 days, or by both fine and confinement, at the discretion of
6 the court. For each subsequent offense, the fine may be increased to not more than \$250, with
7 confinement in jail for a period of not more than 90 days, or by both fine and confinement, at the
8 discretion of the court. Each day of a continuing violation after conviction is considered a separate
9 offense.

10 (b) The secretary may in his or her discretion bring an action to enforce compliance with
11 this article or any rule or order hereunder whenever it appears to the secretary that any person
12 has engaged in, or is engaging in, an act or practice in violation of this article or any rule or order
13 hereunder, or whenever it appears to the secretary that any person has aided, abetted or caused,
14 or is aiding, abetting or causing, such an act or practice. Upon application by the secretary, the
15 circuit court of the county in which the conduct has occurred or is occurring, or if emergency
16 circumstances occur the circuit court of Kanawha County, has jurisdiction to grant without bond a
17 permanent or temporary injunction, decree or restraining order.

18 Whenever the secretary has refused to grant or renew a license, or has revoked a license
19 required by law to operate or conduct a nursing home, or has ordered a person to refrain from
20 conduct violating the rules of the secretary, and the person has appealed the action of the
21 secretary, the court may, during pendency of the appeal, issue a restraining order or injunction
22 upon proof that the operation of the nursing home or its failure to comply with the order of the
23 secretary adversely affects the well being or safety of the residents of the nursing home. Should

24 a person who is refused a license or the renewal of a license to operate or conduct a nursing
25 home or whose license to operate is revoked or who has been ordered to refrain from conduct or
26 activity which violates the rules of the secretary fails to appeal or should the appeal be decided
27 favorably to the secretary, then the court shall issue a permanent injunction upon proof that the
28 person is operating or conducting a nursing home without a license as required by law, or has
29 continued to violate the rules of the secretary.

30 (c) Any nursing home that deprives a resident of any right or benefit created or established
31 for the well-being of this resident by the terms of any contract, by any state statute or rule, or by
32 any applicable federal statute or regulation, shall be liable to the resident for injuries suffered as
33 a result of such deprivation. Upon a finding that a resident has been deprived of such a right or
34 benefit, and that the resident has been injured as a result of such deprivation, and unless there is
35 a finding that the nursing home exercised all care reasonably necessary to prevent and limit the
36 deprivation and injury to the resident, compensatory damages shall be assessed in an amount
37 sufficient to compensate the resident for such injury. In addition, where the deprivation of the right
38 or benefit is found to have been willful or in reckless disregard of the lawful rights of the resident,
39 punitive damages may be assessed. A resident may also maintain an action pursuant to this
40 section for any other type of relief, including injunctive and declaratory relief, permitted by law.
41 Exhaustion of any available administrative remedies is not required prior to commencement of
42 suit under this subsection.

43 (d) The amount of damages recovered by a resident, in an action brought pursuant to this
44 section, is exempt for purposes of determining initial or continuing eligibility for medical assistance
45 under §9-4-1 *et seq.* of this code, and may neither be taken into consideration, nor required to be
46 applied toward the payment or part payment of the cost of medical care or services available
47 under that article.

48 (e) Any waiver by a resident or his or her legal representative of the right to commence
49 an action under this section, whether oral or in writing, is void as contrary to public policy.

50 (f) The penalties and remedies provided in this section are cumulative and are in addition
51 to all other penalties and remedies provided by law.

52 (g) Nothing in this section or any other section of the code shall limit the protections
53 afforded nursing homes or their health care providers under §55-7b-1 *et seq.* of this code. Nursing
54 homes and their health care providers shall be treated in the same manner as any other health
55 care facility or health care provider under §55-7b-1 *et seq.* of this code. The terms “health care
56 facility” and “health care provider” as used in this subsection shall have the same meaning as set
57 forth in §55-7b-2(f) and (g) of this code.

58 (h) The proper construction of this section and the limitations and provisions of §55-7b-
59 1 *et seq.* of this code shall be determined by principles of statutory construction.

§16-5C-16. Availability of reports and records.

1 [Repealed.]

§16-5C-17. Licenses and rules in force.

1 [Repealed.]

**§16-5C-18. Separate accounts for residents’ personal funds; consent for use; records;
penalties.**

1 (a) Each nursing home subject to the provisions of this article shall hold in a separate
2 account and in trust each resident’s personal funds deposited with the nursing home.

3 (b) No person may use or cause to be used for any purpose the personal funds of any
4 resident admitted to any such nursing home unless consent for the use thereof has been obtained
5 from the resident or from a committee or guardian or relative.

6 (c) Each nursing home shall maintain a true and complete record of all receipts for any
7 disbursements from the personal funds account of each resident in the nursing home, including
8 the purpose and payee of each disbursement, and shall render a true account of such record to
9 the resident or his or her representative upon demand and upon termination of the resident’s stay
10 in the nursing home.

11 (d) Any person or corporation who violates any subsection of this section is guilty of a
12 misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned in
13 jail not more than one year, or both fined and imprisoned.

14 (e) Reports provided to review organizations are confidential unless inaccessibility of
15 information interferes with the secretary's ability to perform his or her oversight function as
16 mandated by federal regulations and this section.

17 (f) Notwithstanding §16-5C-18(b) of this code or any other provision of this code, upon
18 the death of a resident, any funds remaining in his or her personal account shall be made payable
19 to the person or probate jurisdiction administering the estate of said resident: *Provided*, That if
20 after 30 days there has been no qualification over the decedent resident's estate, those funds are
21 presumed abandoned and are reportable to the State Treasurer pursuant to the West Virginia
22 Uniform Unclaimed Property Act, §36-8-1 *et seq.* of this code.

§16-5C-20. Hospice palliative care required to be offered.

1 (a) When the health status of a nursing home facility resident declines to the state of
2 terminal illness or when the resident receives a physician's order for "comfort measures only",
3 the facility shall notify the resident with information about the option of receiving hospice palliative
4 care. If a nursing home resident is incapacitated, the facility shall also notify any person who has
5 been given the authority of guardian, a medical power of attorney, or health care surrogate over
6 the resident, information stating that the resident has the option of receiving hospice palliative
7 care.

8 (b) The facility shall document that it has notified the resident, and any person who has
9 been given a medical power of attorney or health care surrogate over the resident, information
10 about the option of hospice palliative care and maintain the documentation so that the secretary
11 may inspect the documentation, to verify the facility has complied with this section.

§16-5C-21. Employment restrictions.

1 All personnel of a nursing home by virtue of ownership, employment, engagement, or
2 agreement with a provider or contractor shall be subject to the provisions of the West Virginia

3 Clearance for Access: Registry and Employment Screening Act, §16-49-1 *et seq.* of this code and
4 the rules promulgated pursuant thereto.

§16-5C-22. Jury trial waiver to be a separate document.

1 (a) Every written agreement containing a waiver of a right to a trial by jury that is entered
2 into between a nursing home and a person for the nursing care of a resident, must have as a
3 separate and stand alone document any waiver of a right to a trial by jury.

4 (b) Nothing in this section may be construed to require a court of competent jurisdiction
5 to determine that the entire agreement or any portion thereof is enforceable, unenforceable,
6 conscionable, or unconscionable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, House Committee

.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

.....
Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2019.

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Governor