

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **Senate Bill 29**

BY SENATOR MARONEY

[Introduced January 8, 2020; referred  
to the Committee on Health and Human Resources; and  
then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §27-5-2a, relating to permitting an authorized physician to order the  
3 involuntary hospitalization of an individual whom the physician believes is addicted or  
4 mentally ill; setting forth a procedure; defining terms; and limiting liability.

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

## **ARTICLE 5. INVOLUNTARY HOSPITALIZATION.**

### **§27-5-2a. Involuntary hospitalization order by a physician.**

1 (a) As used in this section:

2 “Addiction” as used in this section shall have the same meaning as the term is defined in  
3 §27-1-11 of this code.

4 “Authorized staff physician” means a physician, authorized pursuant to the provisions of  
5 §30-3-1 et seq. or §30-14-1 et seq. of this code, who is a bona fide member of the hospital’s  
6 medical staff.

7 “Hospital” means a facility licensed pursuant to the provisions of §16-5b-1 et. seq. of this  
8 code, and any acute care facility operated by the state government, that primarily provides  
9 inpatient diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under  
10 the supervision of physicians.

11 (b)(1) An authorized staff physician may order the involuntary hospitalization of a person  
12 who is present at, or presented at, a hospital if the authorized staff physician believes that the  
13 individual is addicted or is mentally ill and, because of his or her addiction or mental illness, is  
14 likely to cause serious harm to themselves or to others if allowed to remain at liberty.

15 (2) Within 24 hours of the involuntary hospitalization under this section, the authorized  
16 staff physician ordering the involuntary hospitalization of the individual shall certify in the  
17 individual’s health record that in his or her professional opinion the individual should be  
18 involuntarily hospitalized because the individual is addicted or is mentally ill and, because of his  
19 or her addiction or mental illness, is likely to cause serious harm to themselves or to others if

20 allowed to remain at liberty.

21 (3) An individual who is involuntarily hospitalized pursuant to this section shall be released  
22 from the hospital within 72 hours, unless further detained under the applicable provisions of this  
23 article.

24 (c) Each health care provider which provides services under this section shall be paid for  
25 the services at the same rate the health care provider negotiates with the patient's insurer. If the  
26 patient is uninsured, the health care provider may file a claim with the West Virginia Legislative  
27 Claims Commission for payment.

28 (d) Persons carrying out duties or rendering professional opinions as provided in this  
29 section are free of personal liability for the actions, if the actions are performed in good faith and  
30 within the scope of his or her professional duties and in a manner consistent with accepted  
31 professional practices.

NOTE: The purpose of this bill is to permit an authorized physician to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill. The bill sets forth a procedure. The bill defines terms. The bill limits liability.

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