

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2758

By Delegates Tully, Shamblin, Forsht, Miller, Heckert,
and Petitto

[Introduced January 18, 2023; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-5C-5 of the Code of West Virginia, 1931, as amended, relating
2 to updating the minimum standards for nursing homes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5C. NURSING HOMES.

§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 care;

19 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 consent
42 of the resident; and

43 (C) Permit access to other specific persons or classes of persons consistent with state and
44 federal law; and

45 (16) Admission, transfer and discharge rights; and

46 (17) By January 1, 2024, resident rooms shall be limited to two residents.

47 (c) To ensure compliance with §29A-3-11(b)(3), the secretary shall amend his or her

48 legislative rule to exempt federally certified Medicare and Medicaid nursing facilities from
49 provisions addressed in the federal regulations.

50 (d) The director shall permit the nonclinical instruction portions of a nurse aide training
51 program approved by the Office of Health Facility Licensure and Certification to be provided
52 through distance learning technologies.

NOTE: The purpose of this bill is to limit nursing home rooms to 2 residents.

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