

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4909**

By Delegates Summers, Forsht, Horst, Coop-

Gonzalez, C. Pritt, Tully, and Kimble

By Introduced January 18, 2024; Referred to the

Committee on Health and Human Resources

1 A BILL to repeal §9-5-19 of the Code of West Virginia, 1931, as amended; to amend and reenact  
 2 §16-2D-1 of said code; to repeal §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-6,  
 3 §16-2D-7, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-  
 4 14, §16-2D-15, §16-2D-16, §16-2D-16a, §16-2D-17, §16-2D-18, §16-2D-19 and §16-2D-  
 5 20 of said code; to repeal §16-2N-3 of said code; to amend and reenact §16-5Y-3 of said  
 6 code; to repeal §16-5Y-12 of said code; to repeal §16-29A-20 of said code; to repeal §16-  
 7 29B-1, §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-5a, §16-29B-8, §16-29B-12, §16-29B-  
 8 13, §16-29B-14, §16-29B-15, §16-29B-24, §16-29B-25, §16-29B-26, §16-29B-28, §16-  
 9 29B-30, §16-29B-31 of said code; to amend and reenact §33-15B-5 of said code; and to  
 10 repeal §49-2-124 of said code; all relating to eliminating the certificate of need program for  
 11 health services; prohibiting certain actions; fixing an effective date; deleting references to  
 12 the certificate of need program throughout the code; and making technical corrections.

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

**CHAPTER 9. HUMAN SERVICES.**

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

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

1 [Repealed]

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 2D. CERTIFICATE OF NEED.**

**§16-2D-1. ~~Legislative findings.~~ Termination of certificate of need.**

1 It is declared to be the public policy of this state:

2 ~~(1) That the offering or development of all health services shall be accomplished in a~~  
 3 ~~manner which is orderly, economical and consistent with the effective development of necessary~~  
 4 ~~and adequate means of providing for the health services of the people of this state and to avoid~~  
 5 ~~unnecessary duplication of health services, and to contain or reduce increases in the cost of~~

6 ~~delivering health services.~~

7 ~~(2) That the general welfare and protection of the lives, health and property of the people of~~  
8 ~~this state require that the type, level and quality of care, the feasibility of providing such care and~~  
9 ~~other criteria as provided for in this article, including certificate of need standards and criteria~~  
10 ~~developed by the authority pursuant to provisions of this article, pertaining to health services within~~  
11 ~~this state, be subject to review and evaluation before any health services are offered or developed~~  
12 ~~in order that appropriate and needed health services are made available for persons in the area to~~  
13 ~~be served~~

14 Notwithstanding any other provision of this code to the contrary, the certificate of need  
15 program and the Health care Authority previously authorized is terminated as of July 1, 2024. Any  
16 reference elsewhere in this code to a certificate of need as required by this article shall cease to be  
17 enforceable as of that time. A health care facility may not be required to obtain a certificate of need  
18 or similar authorization after that date before operating in this state.

**§16-2D-2. Definitions.**

1 [Repealed]

**§16-2D-3. Powers and duties of the authority.**

1 [Repealed]

**§16-2D-4. Rulemaking.**

1 [Repealed]

**§16-2D-5. Fee; special revenue account; administrative fines.**

1 [Repealed]

**§16-2D-6. Changes to certificate of need standards.**

1 [Repealed]

**§16-2D-7. Determination of reviewability.**

1 [Repealed]

**§16-2D-8. Proposed health services that require a certificate of need.**

1 [Repealed]

**§16-2D-9. Health services that cannot be developed.**

1 [Repealed]

**§16-2D-10. Exemptions from certificate of need.**

1 [Repealed]

**§16-2D-11. Exemptions from certificate of need which require the submission of information to the authority.**

1 [Repealed]

**§16-2D-12. Minimum criteria for certificate of need reviews.**

1 [Repealed]

**§16-2D-13. Procedures for certificate of need reviews.**

1 [Repealed]

**§16-2D-14. Procedure for an uncontested application for a certificate of need.**

1 [Repealed]

**§16-2D-15. Authority to render final decision; issue certificate of need; write findings; specify capital expenditure maximum.**

1 [Repealed]

**§16-2D-16. Appeal of certificate of need a decision.**

1 [Repealed]

**§16-2D-16a. Transfer of appellate jurisdiction to Intermediate Court of Appeals.**

1 [Repealed]

**§16-2D-17. Nontransference, time period compliance and withdrawal of certificate of need.**

1 [Repealed]

**§16-2D-18. Denial or revocation of license for operating without certificate.**

1 [Repealed]

**§16-2D-19. Injunctive relief; civil penalty.**

1 [Repealed]

**§16-2D-20. Statute of limitations.**

1 [Repealed]

**ARTICLE 2N. NEONATAL ABSTINENCE CENTERS.**

**§16-2N-3. Certificate of need; exemption from moratorium.**

1 [Repealed]

**ARTICLE 5Y. MEDICATION-ASSISTED TREATMENT PROGRAM LICENSING ACT.**

**§16-5Y-3. Opioid treatment programs to obtain license; application; fees and inspections.**

1 (a) No person, partnership, association or corporation may operate an opioid treatment  
2 program without first obtaining a license from the secretary in accordance with the provisions of  
3 this article and the rules lawfully promulgated pursuant to this article.

4 (b) Any person, partnership, association or corporation desiring a license to operate an  
5 opioid treatment program in this state shall file with the Office of Health Facility Licensure and  
6 Certification an application in such form and with such information as the secretary shall prescribe  
7 and furnish accompanied by an application fee.

8 (c) The Director of the Office of Health Facility Licensure and Certification or his or her  
9 designee shall inspect each facility and review all documentation submitted with the application.  
10 The director shall then provide a recommendation to the secretary whether to approve or deny the  
11 application for a license. The secretary shall issue a license if the facility is in compliance with the  
12 provisions of this article and with the rules lawfully promulgated pursuant to this article.

13 (d) A license shall be issued in one of three categories:

14 (1) An initial twelve month license shall be issued to an opioid treatment program  
15 establishing a new program or service for which there is insufficient consumer participation to  
16 demonstrate substantial compliance with this article and with all rules promulgated pursuant to this  
17 article;

18 (2) A provisional license shall be issued when an opioid treatment program seeks a  
19 renewal license, or is an existing program as of the effective date of this article and is seeking an  
20 initial license, and the opioid treatment program is not in substantial compliance with this article  
21 and with all rules promulgated pursuant to this article, but does not pose a significant risk to the  
22 rights, health and safety of a consumer. It shall expire not more than six months from the date of  
23 issuance, and may not be consecutively reissued; or

24 (3) A renewal license shall be issued when an opioid treatment program is in substantial  
25 compliance with this article and with all rules promulgated pursuant to this article. A renewal  
26 license shall expire not more than one year from the date of issuance.

27 (e) At least sixty days prior to the license expiration date, an application for renewal shall  
28 be submitted by the opioid treatment program to the secretary on forms furnished by the secretary.  
29 A license shall be renewed if the secretary determines that the applicant is in compliance with this  
30 article and with all rules promulgated pursuant to this article. A license issued to one program  
31 location pursuant to this article is not transferrable or assignable. Any change of ownership of a  
32 licensed medication-assisted treatment program requires submission of a new application. The  
33 medication-assisted treatment program shall notify the secretary of any change in ownership  
34 within ten days of the change and must submit a new application within the time frame prescribed  
35 by the secretary.

36 (f) Any person, partnership, association or corporation that seeks to obtain or renew a  
37 license for an opioid treatment program in this state must submit to the secretary the following  
38 documentation:

- 39 (1) Full operating name of the program as advertised;
- 40 (2) Legal name of the program as registered with the West Virginia Secretary of State;
- 41 (3) Physical address of the program;
- 42 (4) Preferred mailing address for the program;
- 43 (5) Email address to be used as the primary contact for the program;

- 44 (6) Federal Employer Identification Number assigned to the program;
- 45 (7) All business licenses issued to the program by this state, the state Tax Department, the  
46 Secretary of State and all other applicable business entities;
- 47 (8) Brief description of all services provided by the program;
- 48 (9) Hours of operation;
- 49 (10) Legal Registered Owner Name – name of the person registered as the legal owner of  
50 the program. If more than one legal owner (i.e., partnership, corporation, etc.) list each legal  
51 owner separately, indicating the percentage of ownership;
- 52 (11) Medical director's full name, medical license number, Drug Enforcement  
53 Administration registration number, and a list of all current certifications;
- 54 (12) For each employee of the program, provide the following:
- 55 (A) Employee's role and occupation within the program;
- 56 (B) Full legal name;
- 57 (C) Medical license, if applicable;
- 58 (D) Drug Enforcement Administration registration number, if applicable;
- 59 (E) Drug Enforcement Administration identification number to prescribe buprenorphine for  
60 addiction, if applicable; and
- 61 (F) Number of hours per week worked at program;
- 62 (13) Name and location address of all programs owned or operated by the applicant;
- 63 (14) Notarized signature of applicant;
- 64 (15) Check or money order for licensing fee and inspection fee;
- 65 (16) Verification of education and training for all physicians, counselors and social workers  
66 practicing at or used by referral by the program such as fellowships, additional education,  
67 accreditations, board certifications and other certifications; and
- 68 (17) Board of Pharmacy Controlled Substance Prescriber Report for each prescriber  
69 practicing at the program for the three months preceding the date of application. and

70 ~~(18) If applicable, a copy of a valid Certificate of Need or a letter of exemption from the~~  
71 ~~West Virginia Health Care Authority~~

72 (g) Upon satisfaction that an applicant has met all of the requirements of this article, the  
73 secretary shall issue a license to operate an opioid treatment program. An entity that obtains this  
74 license may possess, have custody or control of, and dispense drugs indicated and approved by  
75 the United States Food and Drug Administration for the treatment of substance use disorders.

76 (h) The opioid treatment program shall display the current license in a prominent location  
77 where services are provided and in clear view of all patients.

78 (i) The secretary or his or her designee shall inspect on a periodic basis all opioid  
79 treatment programs that are subject to this article and all rules adopted pursuant to this article to  
80 ensure continued compliance.

81 (j) Any license in effect at the time of the passage of this section in the 2016 regular session  
82 of the Legislature shall remain in effect until such time as new legislative rules promulgated  
83 pursuant to this article become effective. Upon the effective date of the new rules any licensee  
84 shall file for a new license within six months pursuant to the licensing procedures and  
85 requirements of this section and the new rules promulgated hereunder. The existing license shall  
86 remain effective until receipt of the new license.

**§16-5Y-12. Moratorium; certificate of need.**

1 [Repealed]

**ARTICLE 29A. WEST VIRGINIA HOSPITAL FINANCE AUTHORITY ACT.**

**§16-29A-20. Certificate of need.**

1 [Repealed]

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

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

1 [Repealed]

	<b>§16-29B-2.</b>	<b>Effective</b>	<b>Date.</b>
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1 [Repealed]

	<b>§16-29B-3.</b>		<b>Definitions.</b>
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1 [Repealed]

**§16-29B-5. West Virginia Health Care Authority; composition of the board; qualifications; terms; oath; expenses of members; vacancies; appointment of chairman, and meetings of the board.**

1 [Repealed]

**§16-29B-5a. Executive Director of the authority; powers and duties.**

1 [Repealed]

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

1 [Repealed]

**§16-29B-12. Certificate of need hearings; administrative procedures act applicable; hearings examiner; subpoenas.**

1 [Repealed]

**§16-29B-13. Review of final orders of board.**

1 [Repealed]

**§16-29B-14. Injunction; mandamus.**

1 [Repealed]

**§16-29B-15. Refusal to comply.**

1 [Repealed]

**§16-29B-24. Reports required to be filed; and legislative rulemaking regarding uniform bill database.**

1 [Repealed]

**§16-29B-25. Data repository.**

1 [Repealed]

**§16-29B-26. Exemptions from state antitrust laws.**

1 [Repealed]

**§16-29B-28. Review of Cooperative agreements.**

1 [Repealed]

**§16-29B-30. Applicability; transition plan.**

1 [Repealed]

**§16-29B-31. Hospice need standard review; membership; report to the Legislative Oversight Committee on Health and Human Resources.**

1 [Repealed]

**CHAPTER 33. INSURANCE.**

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

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

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

**CHAPTER 49. CHILD WELFARE.**

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-124. Certificate of need not required; conditions; review.**

1 [Repealed]

NOTE: The purpose of this bill is to eliminate the Health Care Authority and the certificate of need.

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