WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5620

By Delegate Fluharty

[Introduced February 12, 2024; Referred to the

Committee on Senior, Children, and Family Issues

then Health and Human Resources]

1	A BILL to amend and reenact §16-5C-3 od the Code of West Virginia, 1931, as amended, relating
2	to authorizing the installation of monitors in long-term care facilities.
	Be it enacted by the Legislature of West Virginia:
	ARTICLE 5C. NURSING HOMES.
1	§16-5C-3. Powers, duties, and rights of secretary.
1	In the administration of this article, the secretary shall have the following powers, duties,
2	and rights:
3	(a) To enforce rules and standards promulgated hereunder for nursing homes;
4	(b) To exercise as sole authority all powers relating to the issuance, suspension, and
5	revocation of licenses of nursing homes;
6	(c) To enforce rules promulgated hereunder governing the qualification of applicants for
7	nursing home licenses, including, but not limited to, educational requirements, financial
8	requirements, personal, and ethical requirements;
9	(d) To receive and disburse federal funds and to take whatever action not contrary to law as
10	may be proper and necessary to comply with the requirements and conditions for the receipt of
11	such federal funds;
12	(e) To receive and disburse for authorized purposes any moneys appropriated to the
13	department by the Legislature;
14	(f) To receive and disburse for purposes authorized by this article any funds that may come
15	to the department by gift, grant, donation, bequest, or devise, according to the terms thereof, as
16	well as funds derived from the department's operation, or otherwise;
17	(g) To make contracts, and to execute all instruments necessary or convenient in carrying
18	out the secretary's functions and duties; and all such contracts, agreements, and instruments will
19	be executed by the secretary;
20	(h) To appoint officers, agents, employees, and other personnel and fix their
21	compensation;

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(i) To offer and sponsor educational and training programs for nursing homes for clinical,
administrative, management, and operational personnel;

(j) To undertake survey, research and planning projects, and programs relating to
administration and operation of nursing homes and to the health, care, treatment, and service in
general of such homes;

27 (k) To assess civil penalties for violations of facility standards, in accordance with §16-5C28 10 of this code;

(I) To inspect any nursing home and any records maintained therein that are necessary to
determine compliance with licensure laws or Medicare or Medicaid certification, subject to the
provisions of §16-5C-9 and §16-5C-10 of this code;

(m) To establish and implement procedures, including informal conferences,
investigations, and hearings, subject to applicable provisions of §29A-3-1 et seq. of this code, and
to enforce compliance with the provisions of this article and with rules issued hereunder;

(n) To subpoen witnesses and documents, administer oaths and affirmations, and to examine witnesses under oath for the conduct of any investigation or hearing. Upon failure of a person without lawful excuse to obey a subpoena to give testimony, and upon reasonable notice to all persons affected thereby, the secretary may apply to the circuit court of the county in which the hearing is to be held for an order compelling compliance;

40 (o) To make complaint or cause proceedings to be instituted against any person or persons 41 for the violation of the provisions of this article or of rules issued hereunder. Such action may be 42 taken by the secretary without the sanction of the prosecuting attorney of the county in which 43 proceedings are instituted if the officer fails or refuses to discharge his or her duty. The circuit court 44 of the county in which the conduct has occurred or, if emergency circumstances require, the Circuit 45 Court of Kanawha County shall have jurisdiction in all civil enforcement actions brought under this 46 article and may order equitable relief without bond. In no such case may the secretary or any 47 person acting under the secretary's direction be required to give security for costs;

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48 (p) To delegate authority to the secretary's employees and agents to perform all functions49 of the secretary;

50 (q) To make available to the Governor, the Legislature, and the public at all times online 51 access through the Office of Health Facility Licensure and Certification website the following 52 information. The online information will describe the licensing and investigatory activities of the 53 department during the year. The online information will include a list of all nursing homes in the 54 state, whether such homes are proprietary or nonproprietary; the name of the administrator or 55 administrators; the total number of beds; the legal name of the facility; state identification number; 56 health investigations information and reports; life safety investigations information and reports; 57 and whether or not those nursing homes listed accept Medicare and Medicaid residents; and 58 (r) To establish a formal process for licensed facilities to file complaints about the 59 inspection process or inspectors; and

60 (s) To authorize the installation of monitors in long-term care facilities.

NOTE: The purpose of this bill is to authorize the installation of monitors in long-term care facilities.

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