



West Virginia Developmental Disabilities Council

110 Stockton Street
Charleston, WV 25387

WV Developmental Disabilities Council Statement on HB 4366 Related to the addition of ICF/IID beds

The WV Developmental Disabilities Council is a 31-member organization consisting of citizens with developmental disabilities, family members, and representatives from State agencies and private organizations concerned with the provision of services to people with developmental disabilities. Over 60% are citizen members who are appointed by the Governor.

The mission of the Council is to assure that West Virginians with developmental disabilities receive the services, supports, and other forms of assistance needed to achieve independence, productivity, integration, and inclusion in the community. One of the ways the Council carries out its mission is to provide information to policymakers on issues that may affect people with developmental disabilities.

The Council opposes HB 4366. Intermediate Care Facilities for individuals with intellectual and other developmental disabilities (ICFs/IID) are institutional facilities as defined by the Centers for Medicare and Medicaid Services (CMS). Moving individuals from one institutional setting to another is not movement from a more restrictive setting to a less restrictive one as asserted in the bill language. Saying that the settings and services are “less restrictive” does not change the fact that the people will still be institutionalized. The settings are still segregated facilities placed into communities, and the residents continue to be isolated. Life in the existing 68 facilities across the state (four to eight beds each) is strikingly different than is experienced by people with severe developmental disabilities who live in typical homes in West Virginia communities. The cost for those institutional facilities is more expensive on whole than similar people’s costs to live in more typical homes.

West Virginia could solve the problem of people residing in institutional settings by devoting less money to such settings and spending it for Home and Community based services and settings instead. The Council believes all individuals with developmental disabilities should and can be served in integrated, inclusive settings in their communities rather than in institutional settings.

This bill leaves wide open the possibility for the addition of many more than the initial 24 (group facility) beds. If beds are built, the owner/operators and system will find a way to fill them. When would there be enough? West Virginia closed its state-run institutions (ICFs/IID) for people with developmental disabilities in the 1990s as a result of Civil Rights law suits in Federal and State courts, the change in State Code by the Legislature in 1995, and the general realization that those settings and services were fundamentally wrong for the people housed there and were much more expensive than true community living options. Why, decades later, would we move backward rather than forward in providing home and community services? These are some of the key reasons the prohibition on the development of additional ICF/IID beds (per Chapter 16-2D-9 in State Code and per the related Kanawha County circuit court order of August 3, 1989) was put in place.

The *Olmstead* US Supreme Court case, was decided in 1999 and amended the *Americans with Disabilities Act* to make clear that people with disabilities are to be served in the **most integrated settings**. (This “most integrated” standard replaced the old “least restrictive” standard for community settings and Long Term Services and Supports.) **The DD Council believes adding more institutional beds would be a direct violation of that Olmstead standard and court decision.**

For further information, contact the WV DD Council at 304.558.0416

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