

SB 724
HELGES

FILED

2009 MAY 12 PM 4:01

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

—●—
ENROLLED

COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 724

(SENATORS HELMICK, McCABE, PLYMALE
AND KESSLER, *original sponsors*)

[Passed April 11, 2009; in effect niney days from passage.]

FILED

2009 MAY 12 PM 4:01

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 724

(SENATORS HELMICK, MCCABE, PLYMALE AND KESSLER, *original sponsors*)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §11-27-16 of the Code of West Virginia, 1931, as amended, relating to the health care provider tax; providing a definition of the term “physicians’ services”; and specifying legislative intent as to activities that qualify as physicians’ services.

Be it enacted by the Legislature of West Virginia:

That §11-27-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-16. Imposition of tax on providers of physicians' services.

1 (a) *Imposition of tax.* – For the privilege of engaging or
2 continuing within this state in the business of providing
3 physicians' services, there is hereby levied and shall be
4 collected from every person rendering such service an
5 annual broad-based health care-related tax.

6 (b) *Rate and measure of tax.* – The tax imposed in
7 subsection (a) of this section shall be two percent of the
8 gross receipts derived by the taxpayer from furnishing
9 physicians' services in this state.

10 (c) *Definitions.* –

11 (1) "Gross receipts" means the amount received or
12 receivable, whether in cash or in kind, from patients,
13 third-party payors and others for physicians' services
14 furnished by the provider, including retroactive adjust-
15 ments under reimbursement agreements with third-party
16 payors, without any deduction for any expenses of any
17 kind: *Provided*, That accrual basis providers shall be
18 allowed to reduce gross receipts by their contractual
19 allowances, to the extent such allowances are included
20 therein, and by bad debts, to the extent the amount of such
21 bad debts was previously included in gross receipts upon
22 which the tax imposed by this section was paid.

23 (2) "Contractual allowances" means the difference
24 between revenue (gross receipts) at established rates and
25 amounts realizable from third-party payors under con-
26 tractual agreements.

27 (3) "Physicians' services" means and is limited to those
28 services furnished by a physician within the scope of the
29 practice of medicine or osteopathy, as defined by the laws
30 of this state, whether furnished in the physician's office,

31 the recipient's home, a hospital, a skilled nursing facility
32 or any other location.

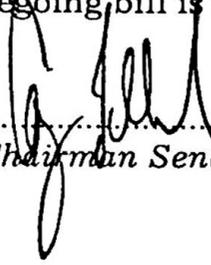
33 (A) The term "physicians' services" includes those
34 professional services directly furnished by a physician in
35 the scope of his or her employment by a hospital. Other
36 services rendered in conjunction with hospital-employed
37 physicians' services, such as the use of hospital facilities,
38 staff, equipment, drugs and supplies ordinarily furnished
39 by a hospital, are not considered physicians' services
40 pursuant to this section: *Provided*, That hospitals that own
41 and operate freestanding physician offices or primary care
42 clinics in office buildings or other locations separate and
43 apart from a hospital whereby employed physicians
44 provide services ordinarily provided by physicians in a
45 freestanding physicians' office may class all revenue from
46 such services as physicians' services. The status of a
47 physician as a hospital employee shall be determined in
48 accordance with criteria established under the United
49 States Internal Revenue Code and United States Treasury
50 regulations issued pursuant thereto.

51 (B) Any other service provided by a hospital may not be
52 classified as physicians' services, notwithstanding the fact
53 that such services are provided under the direct or indirect
54 supervision of a physician who is not an employee of the
55 hospital or provided or performed by a physician who
56 holds privileges at the hospital or who works as an inde-
57 pendent contractor for the hospital or for any other entity
58 for the provision of health care services.

59 (C) The amendment to this definition enacted during
60 the 2009 regular legislative session is intended to clarify
61 the intent of the Legislature as to the activities that
62 qualify as physicians' services.

63 (d) *Effective date.* — The tax imposed by this section
64 shall apply to gross receipts received or receivable by
65 providers after May 31, 1993.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

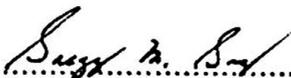

.....
Chairman Senate Committee


.....
Chairman House Committee

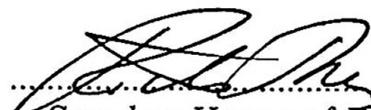
Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 12th
Day of May, 2009.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 8 2009

Time 10:35 *AM*