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WEST VIRGINIA
GOVERNMENT OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2010



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4176

(By Delegates Perdue, Border, Hatfield,
Staggers, Moore, Moye and Rodighiero)



Passed March 11, 2010

In Effect Ninety Days From Passage

HB 4176

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FOR

OFFICE OF THE CLERK
SECRETARY OF STATE

H. B. 4176

(BY DELEGATES PERDUE, BORDER, HATFIELD,
STAGGERS, MOORE, MOYE AND RODIGHIERO)

[Passed March 11, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §16-1A-1, §16-1A-2, §16-1A-3, §16-1A-4 and §16-1A-5 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto five new sections, designated §16-1A-6, §16-1A-7, §16-1A-8, §16-1A-9 and §16-1A-10, all relating to providing for uniform credentialing for health care practitioners; establishing a single statewide credentialing verification organization and a uniform recredentialing calendar; setting forth legislative findings, defining terms; increasing the membership of the advisory committee; authorizing the Secretary and Insurance Commissioner to, no later than July 1, 2015, select and contract with a qualified credentialing verification organization that will be the sole source for primary source verification for all credentialing entities; reviewing operations of the statewide credentialing verification organization; setting forth qualifications for a credentialing verification organization; giving preference to a credentialing verification organization organized within this state; suspending mandatory use of statewide credentialing verification organization by credentialing entities by the

Secretary and Insurance Commissioner for certain failures of the statewide credentialing verification organization; setting forth an application process; providing for the confidentiality of information and exceptions; setting forth legislative rulemaking authority; providing for the establishment by rule of penalties; and granting immunity to credentialing entity for reliance upon information provided by the statewide credentialing verification organization.

Be it enacted by the Legislature of West Virginia:

That §16-1A-1, §16-1A-2, §16-1A-3, §16-1A-4 and §16-1A-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto five new sections, designated §16-1A-6, §16-1A-7, §16-1A-8, §16-1A-9 and §16-1A-10, all to read as follows:

ARTICLE 1A. UNIFORM CREDENTIALING FOR HEALTH CARE PRACTITIONERS.

§16-1A-1. Legislative findings; purpose.

1 (a) The Legislature finds:

2 (1) Credentialing, required by hospitals, insurance
3 companies, prepaid health plans, third party administrators,
4 provider networks and other health care entities, is necessary
5 to assess and verify the education, training and experience of
6 health care practitioners to ensure that qualified professionals
7 treat the citizens of this state.

8 (2) Although uniform credentialing and recredentialing
9 application forms have been created to reduce duplication
10 and increase efficiency, each credentialing entity continues
11 to perform primary source verification for the practitioners
12 who apply to that entity for affiliation. Moreover, because

13 credentialing entities do not follow a common calendar,
14 practitioners are required to respond to requests throughout
15 the year from various credentialing entities seeking
16 essentially similar information. This duplication of primary
17 source verification is time consuming and costly.

18 (3) The Secretary of the Department of Health and
19 Human Resources and the Insurance Commissioner share
20 regulatory authority over the entities requiring credentialing.

21 (b) The purpose of this article is to continue the advisory
22 committee previously established to assist in developing a
23 uniform credentialing process through the development of
24 legislative rules to govern how a single credentialing
25 verification organization will operate in this state and, except
26 with respect to health care facilities, the establishment of a
27 common credentialing calendar.

§16-1A-2. Development of uniform credentialing application forms and the credentialing process.

1 Notwithstanding any provision of this code to the
2 contrary, the Secretary of the Department of Health and
3 Human Resources and the Insurance Commissioner shall
4 jointly propose rules for legislative approval in accordance
5 with the provisions of article three, chapter twenty-nine-a of
6 this code governing the development and use of uniform
7 application forms for credentialing, recredentialing or
8 updating information of health care practitioners required to
9 use the forms and the improvement of the credentialing
10 process, including creation of a credentialing verification
11 organization and a uniform recredentialing calendar.

§16-1A-3. Definitions.

1 For the purposes of this article, the following definitions
2 apply:

3 (a) “Credentialing” means the process used to assess and
4 validate the qualifications of a health care practitioner,
5 including, but not limited to, an evaluation of licensure status,
6 education, training, experience, competence and professional
7 judgment.

8 (b) “Credentialing entity” means any health care facility,
9 as that term is defined in subsection (j), section two, article
10 two-d of this chapter, or payor or network that requires
11 credentialing of health care practitioners.

12 (c) “Credentialing Verification Organization” means an
13 entity that performs primary source verification of a health
14 care practitioner’s training, education, experience; “statewide
15 credentialing verification organization” means the
16 credentialing verification organization selected pursuant to
17 the provisions of section five of this article.

18 (d) “Health care practitioner or “practitioner” means a
19 person required to be credentialed using the uniform forms
20 set forth in the rule promulgated pursuant to the authority
21 granted in section two, article one-a of this chapter.

22 (e) “Insurance Commissioner” or “Commissioner” means
23 the Insurance Commissioner of the State of West Virginia as
24 set forth in article two, chapter thirty-three of this code.

25 (f) “Joint Commission” formerly known as the Joint
26 Commission on Accreditation of Healthcare Organizations or
27 JCAHO, is a private sector, United States-based, not-for-
28 profit organization that operates voluntary accreditation
29 programs for hospitals and other health care organizations.

30 (g) “National Committee for Quality Assurance” or
31 “NCQA” is a private, 501(c)(3) not-for-profit organization
32 that evaluates and certifies credentialing verification
33 organizations.

34 (h) “Network” means an organization that represents or
35 contracts with a defined set of health care practitioners under
36 contract to provide health care services to a payor’s enrollees.

37 (i) “Payor” means a third party administrator as defined
38 in section two, article forty-six , chapter thirty-three of this
39 code and including third party administrators that are
40 required to be registered pursuant to section thirteen, article
41 forty-six, chapter thirty-three of this code, any insurance
42 company, health maintenance organization, health care
43 corporation or any other entity required to be licensed under
44 chapter thirty-three of this code and that, in return for
45 premiums paid by or on behalf of enrollees, indemnifies such
46 enrollees or reimburses health care practitioners for medical
47 or other services provided to enrollees by health care
48 practitioners.

49 (j) “Primary source verification procedure” means the
50 procedure used by a credentialing verification organization
51 to, in accordance with national committee for quality
52 assurance standards, collect, verify and maintain the accuracy
53 of documents and other credentialing information submitted
54 in connection with a health care practitioner’s application to
55 be credentialed.

56 (k) “Secretary” means the Secretary of the West Virginia
57 Department of Health and Human Resources as set forth in
58 chapter sixteen, article one of this code.

59 (l) “Uniform application form” or “uniform form” means
60 the blank uniform credentialing or recredentialing form
61 developed and set forth in a joint procedural rule
62 promulgated pursuant to section two of this article.

§16-1A-4. Advisory committee.

1 (a) The Secretary of the Department of Health and Human
2 Resources and the Insurance Commissioner shall jointly
3 establish an advisory committee to assist them in the
4 development and implementation of the uniform credentialing
5 process in this state. The advisory committee shall consist of
6 fourteen appointed members. Six members shall be appointed
7 by the Secretary of the Department of Health and Human
8 Resources: One member shall represent a hospital with one
9 hundred beds or less; one member shall represent a hospital
10 with more than one hundred beds; one member shall represent
11 another type of health care facility requiring credentialing; one
12 member shall be a person currently credentialing on behalf of
13 health care practitioners; and two of the members shall
14 represent the health care practitioners subject to credentialing.
15 Five members shall be representative of the entities regulated
16 by the Insurance Commissioner that require credentialing and
17 shall be appointed by the Insurance Commissioner: One
18 member shall represent an indemnity health care insurer; one
19 member shall represent a preferred provider organization; one
20 member shall represent a third party administrator; one
21 member shall represent a health maintenance organization
22 accredited by URAC; and one member shall represent a health
23 maintenance organization accredited by the national committee
24 on quality assurance. The Secretary of the Department of Health
25 and Human Resources and the Insurance Commissioner, or the
26 designee of either or both, shall be nonvoting ex officio
27 members. Upon the effective date of this legislation, the state
28 hospital association, the state association of licensing boards
29 and state medical association shall each designate to the
30 department one person to represent their respective
31 associations and members and those designees shall be
32 appointed to the advisory committee by the secretary of the
33 department.

34 (b) At the expiration of the initial terms, successors will
35 be appointed to terms of three years. Members may serve an

36 unlimited number of terms. When a vacancy occurs as a
37 result of the expiration of a term or otherwise, a successor of
38 like qualifications shall be appointed. Representatives of the
39 hospital association, the association of licensing boards and
40 the state medical association shall serve for three-year terms.

41 (c) The advisory committee shall meet at least annually
42 to review the status of uniform credentialing in this state, and
43 may make further recommendations to the Secretary of the
44 Department of Health and Human Resources and the
45 Insurance Commissioner as are necessary to carry out the
46 purposes of this article. Any uniform forms and the list of
47 health care practitioners required to use the uniform forms as
48 set forth in legislative rule proposed pursuant to section two
49 of this article may be amended as needed by procedural rule.

§16-1A-5. Credentialing Verification Organization.

1 The Secretary and the Insurance Commissioner shall,
2 with the advice of the advisory committee, take such steps as
3 are necessary to select and contract with a credentialing
4 verification organization that will, beginning no later than
5 July 1, 2015, be the sole source for primary source
6 verification for all credentialing entities. The credentialing
7 verification organization selected shall be responsible for the
8 receipt of all uniform applications, the primary source
9 verification of the information provided on such applications,
10 and the updating and maintenance of all information
11 generated by such activities. The dates on which the use of
12 this statewide credentialing verification organization is
13 mandatory with respect to the credentialing of the different
14 classes of health care practitioners shall be determined by
15 emergency and legislative rules promulgated pursuant to the
16 authority in section ten of this article.

§16-1A-6. Contract with statewide credentialing verification organization; requirements.

1 The Secretary and Insurance Commissioner shall assure
2 that:

3 (1) Any contract executed with a credentialing
4 verification organization shall be for an initial contract period
5 of at least three years, subject to renewals, and the Secretary
6 and Insurance Commissioner shall, in consultation with the
7 advisory committee, periodically review the statewide
8 credentialing verification organization's operations no less often
9 than prior to every renewal.

10 (2) A credentialing verification organization selected
11 pursuant to this article must, at a minimum, be certified by
12 the national committee for quality assurance, be able to
13 demonstrate compliance with the joint commission's
14 standards for credentialing and with all federal and state
15 credentialing regulations, and maintain an errors and
16 omissions insurance policy in amounts deemed to be
17 adequate by the Secretary and Insurance Commissioner.

18 (3) Preference shall be given to credentialing verification
19 organizations organized within the State of West Virginia.

§16-1A-7. Verification process; suspension of requirements.

1 (a) The statewide credentialing verification organization
2 shall provide electronic access to the uniform credentialing
3 application forms developed pursuant to section two of this
4 article.

5 (b) A health care practitioner seeking to be credentialed
6 must attest to and submit a completed uniform application
7 form to the statewide credentialing verification organization
8 and must provide any additional information requested by
9 such credentialing verification organization: *Provided*, That
10 a failure to comply with a reasonable request for additional

11 information within thirty days may be grounds for the
12 statewide credentialing verification organization to submit its
13 report to any credentialing entity with identification of
14 matters deemed to be incomplete.

15 (c) Except as provided in subsection (d) of this section,
16 a credentialing entity may not require a person seeking to be
17 credentialed or recredentialed to provide verification of any
18 information contained in the uniform application: *Provided,*
19 That nothing in this article is considered to prevent a
20 credentialing entity from collecting or inquiring about
21 information unavailable from or through the statewide
22 credentialing verification organization or from making
23 inquires to the National Practitioner Data Bank.

24 (d) A credentialing entity other than a health care facility
25 must issue a credentialing decision within sixty days after
26 receiving the statewide credentialing verification
27 organization's completed report and, with respect to
28 affirmative credentialing decisions, payments pursuant to the
29 contract shall be retroactive to the date of the decision.

30 (e) If the statewide credentialing verification organization
31 fails to maintain national committee for quality assurance
32 certification or, in the opinion of the Secretary and Insurance
33 Commissioner, is unable to satisfy compliance with the joint
34 commission's standards or federal and state credentialing
35 regulations, the Secretary and Insurance Commissioner may,
36 under terms and conditions deemed necessary to maintain the
37 integrity of the credentialing process, notify credentialing
38 entities that the requirement, relating to the mandatory use of
39 the statewide credentialing verification organization, is being
40 suspended.

41 (f) Notwithstanding any other provision of this code,
42 credentialing entities may contract with the statewide

43 credentialing verification organization or another
44 credentialing verification organization to perform
45 credentialing services, such as site visits to health care
46 practitioners' offices, in addition to those services for which
47 the statewide credentialing verification organization is the
48 sole source.

**§16-1A-8. Release and uses of information collected;
confidentiality.**

1 (a) Upon execution of a release by the health care
2 practitioner, the statewide credentialing verification
3 organization shall, under terms established in rule, provide
4 the credentialing entity with electronic access to data
5 generated.

6 (b) In order to assure that information in its files is
7 current, the statewide credentialing verification organization
8 shall establish processes to update information as required by
9 credentialing entities.

10 (c) Except as provided in subsection (d) of this section,
11 all information collected by the statewide credentialing
12 verification organization from any source is confidential in
13 nature, is exempt from disclosure pursuant to subpoena or
14 discovery, is exempt from disclosure under the provisions of
15 article one, chapter twenty-nine-b of this code, and shall be
16 used solely by a credentialing entity to review the
17 professional background, competency and qualifications of
18 each health care practitioner applying to be credentialed.

19 (d) Credentialing information received by a credentialing
20 entity from the statewide credentialing verification
21 organization shall not be disclosed except:

22 (1) In appeals of credentialing decisions or to peer review
23 and quality improvement committees: *Provided*, That such

24 information shall be afforded the same protection from
25 disclosure as is provided to other records used in proceedings
26 subject to section three, article three-c, chapter thirty of this
27 code;

28 (2) In any matter in which an action or order of a
29 professional licensing board or other state or federal
30 regulatory authority is at issue, including any proceeding
31 brought by or on behalf of a health care practitioner or patient
32 or by a regulatory body that challenges the actions, omissions
33 or conduct of a credentialing entity with respect to
34 credentialing decision; or

35 (3) When authorized by the health care practitioner to
36 whom the credentialing information relates: *Provided*, That
37 the health care practitioner's authorization shall only permit
38 disclosure of information that he or she provided directly to
39 the statewide credentialing verification organization.

40 (e) Upon the expiration of the contract with a statewide
41 credentialing verification organization, all information
42 collected in connection with the duties under such contract
43 shall be delivered to the Secretary and Insurance
44 Commissioner to the extent allowed by law and subject to
45 any legal requirements applicable to the sources of such
46 information.

47 (f) The statewide credentialing verification organization
48 may enter into contractual agreements to define the data type
49 and form of information to be provided to users and to give
50 users assurances of the integrity of the information collected.

§16-1A-9. Rulemaking; fees; penalties.

1 The Secretary and Insurance Commissioner, in
2 consultation with the advisory committee, shall propose rules

3 for legislative approval in accordance with the provisions of
4 article three, chapter twenty-nine-a of this code on or before
5 June 1, 2011. The legislative rules must include, but shall not
6 be limited to, the following matters:

7 (1) Performance standards for the evaluation of the
8 statewide credentialing verification organization;

9 (2) The manner in which the statewide credentialing
10 verification organization must demonstrate compliance with
11 credentialing standards and regulations;

12 (3) Penalties, including monetary sanctions, for violations
13 of any provisions of this article;

14 (4) Duties of the statewide credentialing verification
15 organization and the timelines for completion of its
16 verification duties and services;

17 (5) Procedures for maintaining healthcare practitioner
18 files;

19 (6) The payment system to cover the costs of the
20 credentialing program;

21 (7) The use and confidentiality of data generated,
22 collected and maintained by the statewide credentialing
23 verification organization;

24 (8) Except with respect to health care facilities, the
25 methodology for determination and communication of the
26 common recredentialing date for a practitioner; and

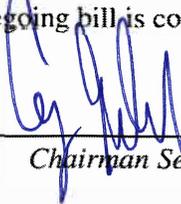
27 (9) Procedures and criteria for the bidding and selection
28 of the statewide credentialing verification organization.

§16-1A-10. Immunity.

1 (a) If the statewide credentialing verification organization
2 certifies that information in an application has been verified
3 according to its primary source verification procedures, any
4 negligence by the statewide credentialing verification
5 organization in its collection and verification of such
6 information may not be imputed to a credentialing entity that
7 receives such information and, further, such credentialing
8 entity is not liable for damages arising from its reliance on
9 such information in its credentialing process unless the
10 credentialing entity knew or should have known such
11 information was incorrect: *Provided*, That a credentialing
12 entity is otherwise liable as provided by law for damages
13 arising from its credentialing decisions.

14 (b) This article may not be interpreted as requiring a
15 credentialing entity as defined in this article, to grant medical
16 staff appointment to any practitioner nor may it be interpreted
17 as requiring a credentialing entity to permit any practitioner
18 to provide patient care or as requiring a payor or network to
19 reimburse a practitioner for services.

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



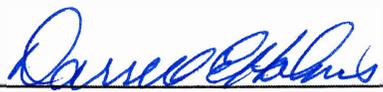
Chairman Senate Committee



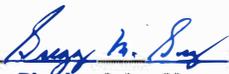
Chairman House Committee

Originating in the House.

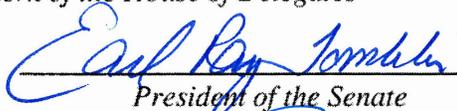
In effect ninety days from passage.



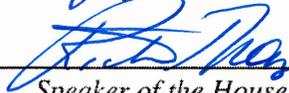
Clerk of the Senate



Clerk of the House of Delegates



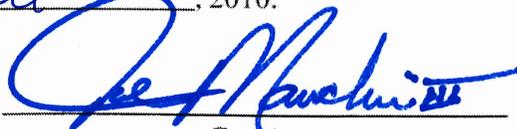
President of the Senate



Speaker of the House of Delegates

2010 APR -1 PM 4:23
HOUSE OF DELEGATES
STATE

The within is approved this the 1st
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2010

Time 1:40 pm