

COMMITTEE SUBSTITUTE

for

H. B. 2652

(BY DELEGATE(S) ELLINGTON, HOUSEHOLDER,
ASHLEY, BOGGS, FOLK, HAMILTON, HOWELL, MCGEEHAN,
STORCH AND ZATEZALO)

(Originating in the House Committee on Finance)
[February 23, 2015]

A BILL to amend and reenact §16-29B-3 and §16-29B-8 of the Code of West Virginia, 1931, as amended, relating to annual assessments on hospitals by the West Virginia Health Care Authority; adding definitions; changing the basis for the annual assessment.

Be it enacted by the Legislature of West Virginia:

That §16-29B-3 and §16-29B-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-3. Definitions.

1 Definitions of words and terms defined in articles two-d and
2 five-f of this chapter are incorporated in this section unless this
3 section has different definitions.

4 As used in this article, unless a different meaning clearly
5 appears from the context:

6 (a) "Charges" means the economic value established for
7 accounting purposes of the goods and services a hospital
8 provides for all classes of purchasers;

9 (b) "Class of purchaser" means a group of potential hospital
10 patients with common characteristics affecting the way in which
11 their hospital care is financed. Examples of classes of purchasers
12 are Medicare beneficiaries, welfare recipients, subscribers of
13 corporations established and operated pursuant to article twenty-
14 four, chapter thirty-three of this code, members of health
15 maintenance organizations and other groups as defined by the
16 board;

17 (c) "Board" means the three-member board of directors of
18 the West Virginia Health Care Authority, an autonomous

19 division within the State Department of Health and Human
20 Resources;

21 (d) “Contractual allowances” means the difference between
22 net revenue at established rates and amounts realizable from
23 third-party payors under contractual agreements.

24 (e) “Gross receipts” means the amount received or
25 receivable, whether in cash or in kind, from patients, third-party
26 payors and others for hospital services furnished by the provider,
27 including retroactive adjustments under reimbursement
28 agreements with third-party payors, without any deduction for
29 operating expenses of any kind: *Provided, That* accrual basis
30 providers shall be allowed to reduce gross receipts by their
31 contractual allowances, to the extent such allowances are
32 included therein, and by bad debts, to the extent the amount of
33 such bad debts was previously included in gross receipts upon
34 which the assessment imposed by this section was paid.

35 ~~(d)~~ (f) “Health care provider” means a person, partnership,
36 corporation, facility, hospital or institution licensed, certified or
37 authorized by law to provide professional health care service in
38 this state to an individual during this individual’s medical,

39 remedial, or behavioral health care, treatment or confinement.
40 For purposes of this article, “health care provider” shall not
41 include the private office practice of one or more health care
42 professionals licensed to practice in this state pursuant to the
43 provisions of chapter thirty of this code.

44 ~~(e)~~ (g) “Hospital” means a facility subject to licensure as
45 such under the provisions of article five-b of this chapter, and
46 any acute care facility operated by the state government which
47 is primarily engaged in providing to inpatients, by or under the
48 supervision of physicians, diagnostic and therapeutic services for
49 medical diagnosis, treatment and care of injured, disabled or sick
50 persons, and does not include state mental health facilities or
51 state long-term care facilities;

52 ~~(f)~~ (h) “Person” means an individual, trust, estate,
53 partnership, committee, corporation, association or other
54 organization such as a joint stock company, a state or political
55 subdivision or instrumentality thereof or any legal entity
56 recognized by the state;

57 ~~(g)~~ (i) “Purchaser” means a consumer of patient care
58 services, a natural person who is directly or indirectly

59 responsible for payment for such patient care services rendered
60 by a health care provider, but does not include third-party
61 payers;

62 ~~(h)~~ (j) “Rates” means all value given or money payable to
63 health care providers for health care services, including fees,
64 charges and cost reimbursements;

65 ~~(i)~~ (k) “Records” means accounts, books and other data
66 related to health care costs at health care facilities subject to the
67 provisions of this article which do not include privileged medical
68 information, individual personal data, confidential information,
69 the disclosure of which is prohibited by other provisions of this
70 code and the laws enacted by the federal government, and
71 information, the disclosure of which would be an invasion of
72 privacy;

73 ~~(j)~~ (l) “Third-party payor” means any natural person, person,
74 corporation or government entity responsible for payment for
75 patient care services rendered by health care providers; and

76 ~~(k)~~ (m) “Related organization” means an organization,
77 whether publicly owned, nonprofit, tax-exempt or for profit,
78 related to a health care provider through common membership,

79 governing bodies, trustees, officers, stock ownership, family
80 members, partners or limited partners including, but not limited
81 to, subsidiaries, foundations, related corporations and joint
82 ventures. For the purposes of this subsection family members
83 shall mean brothers and sisters, whether by whole or half blood,
84 spouse, ancestors and lineal descendants.

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

1 (a) In addition to the powers granted to the board elsewhere
2 in this article, the board may:

3 (1) Adopt, amend and repeal necessary, appropriate and
4 lawful policy guidelines and rules in accordance with article
5 three, chapter twenty-nine-a of this code: *Provided*, That
6 subsequent amendments and modifications to any rule
7 promulgated pursuant to this article and not exempt from the
8 provisions of article three, chapter twenty-nine-a of this code
9 may be implemented by emergency rule;

10 (2) Hold public hearings, conduct investigations and require
11 the filing of information relating to matters affecting the costs of
12 health care services subject to the provisions of this article and
13 may subpoena witnesses, papers, records, documents and all

14 other data in connection therewith. The board may administer
15 oaths or affirmations in any hearing or investigation;

16 (3) Apply for, receive and accept gifts, payments and other
17 funds and advances from the United States, the state or any other
18 governmental body, agency or agencies or from any other private
19 or public corporation or person (with the exception of hospitals
20 subject to the provisions of this article, or associations
21 representing them, doing business in the state of West Virginia,
22 except in accordance with subsection (c) of this section), and
23 enter into agreements with respect thereto, including the
24 undertaking of studies, plans, demonstrations or projects. Any
25 such gifts or payments that may be received or any such
26 agreements that may be entered into shall be used or formulated
27 only so as to pursue legitimate, lawful purposes of the board, and
28 shall in no respect inure to the private benefit of a board
29 member, staff member, donor or contracting party;

30 (4) Lease, rent, acquire, purchase, own, hold, construct,
31 equip, maintain, operate, sell, encumber and assign rights or
32 dispose of any property, real or personal, consistent with the
33 objectives of the board as set forth in this article: *Provided*, That

34 such acquisition or purchase of real property or construction of
35 facilities shall be consistent with planning by the state building
36 commissioner and subject to the approval of the Legislature;

37 (5) Contract and be contracted with and execute all
38 instruments necessary or convenient in carrying out the board's
39 functions and duties; and

40 (6) Exercise, subject to limitations or restrictions herein
41 imposed, all other powers which are reasonably necessary or
42 essential to effect the express objectives and purposes of this
43 article.

44 (b) The board shall annually prepare a budget for the next
45 fiscal year for submission to the governor and the Legislature
46 which shall include all sums necessary to support the activities
47 of the board and its staff.

48 (c) Each hospital subject to the provisions of this article shall
49 be assessed by the board on a pro rata basis using the gross
50 ~~revenues~~ receipts of each hospital as reported under the authority
51 of section eighteen of this article as the measure of the hospital's
52 obligation. The amount of such fee shall be determined by the
53 board except that in no case shall the hospital's obligation

54 exceed one tenth of one percent of its gross ~~revenue~~ receipts.
55 Such fees shall be paid on or before the first day of July in each
56 year and shall be paid into the state treasury and kept as a special
57 revolving fund designated “health care cost review fund”, with
58 the moneys in such fund being expendable after appropriation by
59 the Legislature for purposes consistent with this article. Any
60 balance remaining in said fund at the end of any fiscal year shall
61 not revert to the treasury, but shall remain in said fund and such
62 moneys shall be expendable after appropriation by the
63 Legislature in ensuing fiscal years.

64 (d) Each hospital’s assessment shall be treated as an
65 allowable expense by the board.

66 (e) The board is empowered to withhold rate approvals,
67 certificates of need and rural health system loans and grants if
68 any such fees remain unpaid, unless exempted under subsection
69 (g), section four, article two-d of this chapter.

