

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 609

BY SENATOR PLYMALE

[Introduced February 16, 2016;

Referred to the Committee on Health and Human
Resources; and then to the Committee on Finance.]

1 A BILL to amend and reenact §16-29B-26 of the Code of West Virginia, 1931, as amended; and
 2 to amend said code by adding thereto two new sections, designated §16-29B-28 and §16-
 3 29B-29, all relating to jurisdiction of the Health Care Authority; establishing exemption from
 4 state and federal antitrust laws; providing legislative findings; setting forth intent and
 5 purpose; and establishing the Health Care Authority as state regulatory body over certain
 6 hospital functions in this state.

Be it enacted by the Legislature of West Virginia:

1 That §16-29B-26 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that said code be amended by adding thereto two new sections designated §16-
 3 29B-28 and §16-29B-29, all to read as follows:

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-26. Exemptions from state antitrust laws.

1 Actions of the board shall be exempt from antitrust action ~~as provided in section five, article~~
 2 ~~eighteen, chapter forty-seven of this code~~ under state and federal antitrust laws. Any actions of
 3 health care providers under the board's jurisdiction, when made in compliance with orders,
 4 directives, rules, approvals or regulations issued or promulgated by the board, shall likewise be
 5 exempt. Health care providers shall be subject to the antitrust guidelines of the federal trade
 6 commission and the department of justice.

§16-29B-28. State regulatory program.

1 (a) The Legislature finds:

2 (1) That the state has a duty to all of its citizens to provide access to adequate and
 3 available health care. Due to the high rate of our citizens who receive their health care through a
 4 government sponsored program and because of our rural nature and geography, West Virginia is
 5 faced with unique challenges in the delivery of health care services;

6 (2) To maintain access to health care and hospital services in West Virginia there is
 7 required a certain amount of supervision and regulation by the state to ensure the services are

8 provided in a uniform, safe and consistent manner;

9 (3) This regulation comes in many forms. Most notable are licensing of providers as
10 provided in various articles in chapter thirty of this code, regulation of hospitals through the
11 certificate of need process set forth in article two-d of this chapter and through various legislative
12 rules promulgated by agencies such as the Department of Health and Human Resources and the
13 Health Care Authority;

14 (4) This regulation is to ensure the provision of health care services fosters improvements
15 in the quality of health care, provides for a lack of proliferation of unnecessary services, and
16 improves access to needed services;

17 (5) To accomplish this, entities of state government must establish health goals directed
18 at improving access to care, advancing health status, targeting regional health issues, promoting
19 technological advancement, ensuring accountability of the cost of care, enhancing academic
20 engagement in regional health, strengthening the workforce for health-related careers, and
21 improving health entity collaboration and regional integration, where appropriate;

22 (6) West Virginia has been forced to develop a health care system that is sufficient to meet
23 the needs of its citizens, be equitable, fair and sustainable, but account for quality, access, cost
24 containment and service delivery. This system must also account for the unique nature of our
25 citizenry and our geography; and

26 (7) Developing appropriate state regulation for delivery of health care services has been
27 especially challenging as it relates to hospitals due in large part to the rural nature of the state.

§16-29B-29. Legislative purpose and intent.

1 (a) It is the intent of the Legislature that this article vest with the Health Care Authority the
2 jurisdiction to ascertain the need for specified services, facilities and equipment to encourage
3 cooperation and collaboration among hospitals and health care providers. This would include,
4 but is not limited to:

5 (1) Services covered by the requirements of certificate of need as set forth in article two-

- 6 d of this chapter;
- 7 (2) Determinations relative to affected parties in certificate of need matters;
- 8 (3) Review of the number and location of acute care beds in this state;
- 9 (4) Review of negotiated agreements between hospitals and health care providers who
10 may be considered competitors due to their proximity in this state;
- 11 (5) Maintain the delicate balance of facilities in this state to avoid over proliferation which
12 could potentially affect the quality and delivery of hospital services;
- 13 (6) Development of the state health plan as defined in article two-d of this chapter; and
- 14 (7) Any other power or duty granted to the Health Care Authority by this code.
- 15 (b) It is the purpose of this regulation to allow the state to retain control within the state of
16 how best to allocate our health care resources, including location of health care facilities.
17 Moreover, the Legislature recognizes that it is the responsibility of the state to provide regulation
18 over hospitals and health care services in this state to ensure quality health care to our citizens.
19 This is a state and local concern and the state is best situate to define the manner in which
20 services should be delivered to our communities.

NOTE: The purpose of this bill is to clearly define the jurisdiction of the Health Care Authority as it relates to delivery of hospital services.

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