

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 553**

BY SENATORS SYPOLT, AZINGER, CLEMENTS, GRADY,  
HAMILTON, KARNES, MARTIN, MAYNARD, PHILLIPS,  
ROBERTS, SMITH, STOVER, SWOPE, TAKUBO, TARR,  
TRUMP, WELD, WOODRUM, RUCKER, AND NELSON  
[Originating in the Committee on Government  
Organization; reported on February 18, 2022]



1 A BILL to amend and reenact §16-29B-8, §16-29B-24, and §16-29B-25 of the Code of West  
2 Virginia, 1931, as amended, all relating to the powers of the West Virginia Health Care  
3 Authority; removing authority to adopt, amend, and repeal policy guidelines; making  
4 technical changes; requiring legislative rulemaking regarding the uniform bill; permitting  
5 fees for custom data request; and requiring the Secretary of the Department of Health and  
6 Human Resources to give notice and file legislative rules when assuming the West Virginia  
7 Health Care Authority's data repository powers and duties.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 29B. HEALTH CARE AUTHORITY.**

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

1 ~~(a)~~ The authority may:

2 (1) ~~Adopt, amend and repeal necessary, appropriate and lawful policy guidelines, and in~~  
3 In cooperation with the secretary, propose legislative rules in accordance with §29A-3-1 *et seq.*  
4 of this code;

5 (2) Hold public hearings, conduct investigations, and require the filing of information  
6 relating to matters affecting the costs of health care services subject to the provisions of this  
7 article, and may subpoena witnesses, papers, records, documents, and all other data in  
8 connection therewith. The board may administer oaths or affirmations in any hearing or  
9 investigation; and

10 (3) Exercise, subject to limitations or restrictions herein imposed, all other powers which  
11 are reasonably necessary or essential to affect the express objectives and purposes of this article.

12 ~~(4) Assess a fee on a pro rata basis on hospitals, except critical access hospital, using net~~  
13 ~~patient revenue, as defined under generally accepted accounting principles. The assessment~~  
14 ~~may not exceed a total five one hundredths of one percent of its net patient revenue in a fiscal~~  
15 ~~year. The amount of the assessment shall be determined by the authority based upon the~~  
16 ~~information provided in a hospital's most recent audited financial statement. The authority shall~~

17 collect the assessment on a semi-annual basis. Two hundred and fifty thousandths of one percent  
18 shall be collected on July 1<sup>st</sup>. The amount of the second assessment shall be based upon the  
19 projected expenses to perform the duties consistent with article twenty nine b, chapter sixteen,  
20 and article two-d, chapter sixteen, but may not exceed two hundred and fifty thousandths of one  
21 percent and shall be collected after the first of January of the next year. The assessment shall be  
22 paid into the state treasury and kept as a special revolving fund designated "Health Care Cost  
23 Review Fund", with the moneys in the fund being expendable after appropriation by the  
24 Legislature for purposes consistent with article twenty nine b, chapter sixteen, article two-d,  
25 chapter sixteen. The Secretary may use any balance remaining in the "Health Care Cost Review  
26 Fund" at the end of June 30, 2017 to support the financial viability of certain critical access  
27 hospitals that operate rural health clinics in West Virginia. Any balance remaining in the fund at  
28 the end of June 30, 2018 and thereafter shall not revert to the treasury, but shall remain in said  
29 fund and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal  
30 years. The assessment shall terminate on July 1, 2020.

31 (b) The Legislature finds that health care services will be disrupted and important data  
32 could be lost which could create significant hardships upon health care providers and the citizens  
33 of this state, therefore an emergency exists and the authority shall promulgate emergency rules  
34 pursuant to the provisions of section fifteen, article three, chapter twenty nine of this code, to  
35 effectuate the changes in this article by July 1, 2017

**§16-29B-24. Reports required to be filed; and legislative rulemaking regarding uniform bill database.**

1 (a) A covered facility, within 120 days after the end of its fiscal year, unless granted an  
2 extension ~~be granted~~ by the authority, shall file with the authority its annual financial report  
3 prepared by an accountant or auditor.

4 (b) A covered facility, if applicable by legislative rule, shall submit, upon request of the  
5 authority, but at least annually:

6 (1) A statement of charges for all services rendered, except a behavioral health facility  
7 shall submit its gross rates for its top 30 services by utilization;

8 (2) The Health Care Authority financial report, through the uniform reporting system;

9 (3) The current uniform bill form in effect for inpatients. This data is not subject to the  
10 provisions of §16-29B-25(f) of this code: Provided, That the authority, in cooperation with the  
11 secretary, shall propose rules for legislative approval in accordance with the provisions of §29A-  
12 3-1 et seq. of this code within the applicable time limit to be considered by the Legislature during  
13 the regular session of the Legislature, 2023. The legislative rule shall include the following:

14 (A) Procedures for the collection, retention, use, and disclosure of data from the uniform  
15 bill database, including provisions and safeguards to protect the privacy, integrity, confidentiality,  
16 and availability of any data;

17 (B) Procedures for the collection of required data elements, required data format, code  
18 tables, edit specifications, thresholds required for a submission to be deemed complete, methods  
19 for submitting data, and submission schedules;

20 (C) Fees not to exceed \$50 per custom data request payable by users of the data, if any;  
21 and

22 (D) Repeal of all other existing policies, manuals, and guidelines regarding the submission  
23 of uniform bill data promulgated by the authority, as of the effective date of the legislative rule or  
24 July 1, 2024, whichever comes first.

25 (c) The authority may request from a covered facility, except hospitals, the information  
26 from §16-29B-24(a) and §16-29B-24(b) of this code from its related organization.

27 (d) A home health agency shall annually submit a utilization survey.

28 (e) A covered facility failing to submit a report to the authority shall be notified by the  
29 authority and, if the failure continues for 10 days after receipt of the notice, the delinquent facility  
30 or organization is subject to a penalty of \$1,000 for each day thereafter ~~that~~ the failure continues.

**§16-29B-25. Data repository.**

1 (a) The authority shall:

2 (1) Coordinate and oversee the health data collection of state agencies;

3 (2) Lead state agencies' efforts to make the best use of emerging technology to affect the  
4 expedient and appropriate exchange of health care information and data, including patient records  
5 and reports; and

6 (3) Coordinate database development, analysis, and report to facilitate cost management,  
7 review utilization review and quality assurance efforts by state payor and regulatory agencies,  
8 insurers, consumers, providers, and other interested parties.

9 (b) A state agency collecting health data shall work through the authority to develop an  
10 integrated system for the efficient collection, responsible use, and dissemination of data and to  
11 facilitate and support the development of statewide health information systems that will allow for  
12 the electronic transmittal of all health information and claims processing activities of a state  
13 agency within the state, and to coordinate the development and use of electronic health  
14 information systems within state government.

15 (c) The authority shall establish minimum requirements and issue reports relating to  
16 information systems of state health programs, including simplifying and standardizing forms and  
17 establishing information standards and reports for capitated managed care programs.

18 (d) The authority shall develop a comprehensive system to collect ambulatory health care  
19 data.

20 (e) The authority may access any health-related database maintained or operated by a  
21 state agency for the purposes of fulfilling its duties. The use and dissemination of information from  
22 that database shall be subject to the confidentiality provisions applicable to that database.

23 (f) A report, statement, schedule, or other filing may not contain any medical or individual  
24 information personally identifiable to a patient or a consumer of health services, whether directly  
25 or indirectly.

26 (g) A report, statement, schedule, or other filing filed with the authority is open to public  
27 inspection and examination during regular hours. A copy shall be made available to the public  
28 upon request upon payment of a fee.

29 (h) The authority may require the production of any records necessary to verify the  
30 accuracy of any information set forth in any statement, schedule, or report filed under the  
31 provisions of this article.

32 (i) The authority may provide requested aggregate data to an entity. The authority may  
33 charge a fee to an entity to obtain the data collected by the authority. The authority may not  
34 charge a fee to a covered entity to obtain the data collected by the authority.

35 (j) The authority shall provide to the Legislative Oversight Commission on Health and  
36 Human Resources Accountability before July 1, 2018, and every other year thereafter, a strategic  
37 data collection and analysis plan:

- 38 (1) What entities are submitting data;  
39 (2) What data is being collected;  
40 (3) The types of analysis performed on the submitted data;  
41 (4) A way to reduce duplicative data submissions; and  
42 (5) The current and projected expenses to operate the data collection and analysis  
43 program.

44 (k) The Secretary of the Department of Health and Human Resources may assume the  
45 powers and duties provided to the authority in this section, if the ~~Secretary~~ secretary determines  
46 it is more efficient and cost effective to have direct control over the data repository program. To  
47 the extent that the secretary assumes the powers and duties in this section, the secretary shall  
48 inform the Legislative Oversight Commission on Health and Human Resources Accountability by  
49 July 1, 2023, and on July 1 of each year thereafter, regarding each program for which he or she  
50 is exercising such authority and shall propose rules for legislative approval in accordance with the  
51 provisions of §29A-3-1 et seq. of this code within the time limit to be considered by the Legislature

52 during its next regular session. In the event the secretary has already assumed the powers and  
53 duties provided to the authority in this section, the secretary shall propose rules for legislative  
54 approval in accordance with the provisions of §29A-3-1 et seq. of this code within the time limit to  
55 be considered by the Legislature during the regular session of the Legislature, 2023.