WEST VIRGINIA CODE: §16-2D-2

§16-2D-2. Definitions.

As used in this article:

(1) "Affected person" means:

(A) The applicant;

(B) An agency or organization representing consumers;

(C) An individual residing within the geographic area but within this state served or to be served by the applicant;

(D) An individual who regularly uses the health care facilities within that geographic area;

(E) A health care facility located within this state which provide services similar to the services of the facility under review and which will be significantly affected by the proposed project;

(F) A health care facility located within this state which, before receipt by the authority of the proposal being reviewed, has formally indicated an intention to provide similar services within this state in the future;

(G) Third-party payors who reimburse health care facilities within this state; or

(H) An organization representing health care providers;

(2) "Ambulatory health care facility" means a facility that provides health services to noninstitutionalized and nonhomebound persons on an outpatient basis;

(3) "Ambulatory surgical facility" means a facility not physically attached to a health care facility that provides surgical treatment to patients not requiring hospitalization;

(4) "Applicant" means a person applying for a certificate of need, exemption or determination of review;

(5) "Authority" means the West Virginia Health Care Authority as provided in §16-29B-1 *et seq*. of this code;

(6) "Bed capacity" means the number of beds licensed to a health care facility or the number of adult and pediatric beds permanently staffed and maintained for immediate use by inpatients in patient rooms or wards in an unlicensed facility;

(7) "Behavioral health services" means services provided for the care and treatment of

WV Legislature

persons with mental illness or developmental disabilities;

(8) "Birthing center" means a short-stay ambulatory health care facility designed for low-risk births following normal uncomplicated pregnancy;

(9) "Campus" means the physical area immediately adjacent to the hospital's main buildings, other areas, and structures that are not strictly contiguous to the main buildings, but are located within 250 yards of the main buildings;

(10) "Capital expenditure" means:

(A) (i) An expenditure made by or on behalf of a health care facility, which:

(I) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(II) Is made to obtain either by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

(ii) (I) Exceeds the expenditure minimum;

(II) Is a substantial change to the bed capacity of the facility with respect to which the expenditure is made; or

(III) Is a substantial change to the services of such facility;

(B) The transfer of equipment or facilities for less than fair market value if the transfer of the equipment or facilities at fair market value would be subject to review; or

(C) A series of expenditures, if the sum total exceeds the expenditure minimum and if determined by the authority to be a single capital expenditure subject to review. In making this determination, the authority shall consider: Whether the expenditures are for components of a system which is required to accomplish a single purpose; or whether the expenditures are to be made within a two-year period within a single department such that they will constitute a significant modernization of the department.

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

(12) "Community mental health and intellectual disability facility" means a facility which provides comprehensive services and continuity of care as emergency, outpatient, partial hospitalization, inpatient or consultation and education for individuals with mental illness, intellectual disability;

(13) "Diagnostic imaging" means the use of radiology, ultrasound, and mammography;

WV Legislature

(14)"Drug and Alcohol Rehabilitation Services" means a medically or psychotherapeutically supervised process for assisting individuals through the processes of withdrawal from dependency on psychoactive substances;

(15) "Expenditure minimum" means the cost of acquisition, improvement, expansion of any facility, equipment, or services including the cost of any studies, surveys, designs, plans, working drawings, specifications and other activities, including staff effort and consulting at and above $100 million;

(16) "Health care facility" means a publicly or privately owned facility, agency or entity that offers or provides health services, whether a for-profit or nonprofit entity and whether or not licensed, or required to be licensed, in whole or in part;

(17) "Health care provider" means a person authorized by law to provide professional health services in this state to an individual;

(18) "Health services" means clinically related preventive, diagnostic, treatment or rehabilitative services;

(19) "Home health agency" means an organization primarily engaged in providing professional nursing services either directly or through contract arrangements and at least one of the following services:

(A) Home health aide services;

(B) Physical therapy;

(C) Speech therapy;

(D) Occupational therapy;

(E) Nutritional services; or

(F) Medical social services to persons in their place of residence on a part-time or intermittent basis.

(20) "Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of a licensed hospice program which provides palliative and supportive medical and other health services to terminally ill individuals and their families.

(21) "Hospital" means a facility licensed pursuant to the provisions of §16-5B-1 *et seq*. of this code and any acute care facility operated by the state government, that primarily provides inpatient diagnostic, treatment or rehabilitative services to injured, disabled, or sick persons under the supervision of physicians.

WV Legislature

(22) "Hospital services" means services provided primarily to an inpatient to include, but not be limited to, preventative, diagnostic, treatment, or rehabilitative services provided in various departments on a hospital's campus;

(23) "Intermediate care facility" means an institution that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility.

(24) "Inpatient" means a patient whose medical condition, safety, or health would be significantly threatened if his or her care was provided in a less intense setting than a hospital. This patient stays in the hospital overnight.

(25) "Like equipment" means medical equipment in which functional and technological capabilities are similar to the equipment being replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and it does not constitute a substantial change in health service or a proposed health service.

(26) "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions which is used for the provision of medical and other health services and costs in excess of the expenditure minimum. This term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs ten and eleven, Section 1861(s) of such act, Title 42 U.S.C. § 1395x. In determining whether medical equipment is major medical equipment, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value.

(27) "Medically underserved population" means the population of an area designated by the authority as having a shortage of a specific health service.

(28) "Nonhealth-related project" means a capital expenditure for the benefit of patients, visitors, staff or employees of a health care facility and not directly related to health services offered by the health care facility.

(29) "Offer" means the health care facility holds itself out as capable of providing, or as having the means to provide, specified health services.

(30) "Opioid treatment program" means as that term is defined in §16-5Y-1 *et seq*. of this code.

(31)"Person" means an individual, trust, estate, partnership, limited liability corporation, committee, corporation, governing body, association and other organizations such as joint-

WV Legislature

stock companies and insurance companies, a state or a political subdivision or instrumentality thereof or any legal entity recognized by the state.

(32) "Personal care agency" means an entity that provides personal care services approved by the Bureau of Medical Services.

(33) "Personal care services" means personal hygiene; dressing; feeding; nutrition; environmental support and health-related tasks provided by a personal care agency.

(34) "Physician" means an individual who is licensed to practice allopathic medicine by the Board of Medicine or licensed to practice osteopathic medicine by the Board of Osteopathic Medicine.

(35) "Proposed health service" means any service as described in §16-2D-8 of this code.

(36) "Purchaser" means an individual who is directly or indirectly responsible for payment of patient care services rendered by a health care provider, but does not include third-party payers.

(37) "Rates" means charges imposed by a health care facility for health services.

(38) "Records" means accounts, books and other data related to health service costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy.

(39) "Rehabilitation facility" means an inpatient facility licensed in West Virginia operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services.

(40) "Related organization" means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care facility through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners, including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subdivision "family members" means parents, children, brothers and sisters whether by the whole or half blood, spouse, ancestors, and lineal descendants.

(41) "Secretary" means the Secretary of the West Virginia Department of Health;

(42) "Skilled nursing facility" means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled or sick persons.

(43) "Standard'' means a health service guideline developed by the authority and instituted

WV Legislature

under §16-2D-6 of this code.

(44) "State health plan" means a document prepared by the authority that sets forth a strategy for future health service needs in this state.

(45) "Substantial change to the bed capacity" of a health care facility means any change, associated with a capital expenditure, that increases or decreases the bed capacity or relocates beds from one physical facility or site to another, but does not include a change by which a health care facility reassigns existing beds.

(46) "Substantial change to the health services" means:

(A) The addition of a health service offered by or on behalf of the health care facility which was not offered by or on behalf of the facility within the 12-month period before the month in which the service was first offered; or

(B) The termination of a health service offered by or on behalf of the facility but does not include the termination of ambulance service, wellness centers or programs, adult day care or respite care by acute care facilities.

(47) "Telehealth" means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration.

(48) "Third-party payor" means an individual, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

(49) "To develop" means to undertake those activities which upon their completion will result in the offer of a proposed health service or the incurring of a financial obligation in relation to the offering of such a service.

WV Legislature