

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-25-79

Time 4:30 p.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED

Committee Substitute for
SENATE BILL NO. 185

(By Mr. Huffman)

PASSED March 10, 1979

In Effect July 1, 1979 ~~Passage~~

No. 185



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 185

(MR. HUFFMAN, *original sponsor*)

[Passed March 10, 1979; in effect July 1, 1979.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-f, relating to public disclosure of the financial position of certain health care facilities in the state of West Virginia; stating legislative findings and purposes; defining terms; relating to powers and duties of the director; providing for the promulgation of rules and regulations by the director; empowering the director to require financial reporting by health care facilities; publication of certain reports; right of inspection; providing for enforcement of reporting by the attorney general; penalty.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-f, to read as follows:

ARTICLE 5F. HEALTH CARE FACILITY FINANCIAL DISCLOSURE.

§16-5F-1. Legislative findings; purpose; and intent of article.

- 1 (1) The West Virginia Legislature finds that the rising
2 cost of health care and services provided by health care
3 facilities are matters of vital concern to the people of this
4 state and have a direct relationship to the ability of the
5 people to obtain necessary health care.
- 6 (2) The citizens of this state have an inherent right to
7 receive and have available to them health care programs

8 and services which are capable of meeting individual
9 needs.

10 (3) Such services should be available to all citizens in
11 all regions of this state.

12 (4) The furnishing of health care services is an essen-
13 tial public service.

14 (5) The public has a right to know the financial posi-
15 tion of hospitals and related facilities.

16 It is the purpose of this article to provide that the fa-
17 cilities covered herein shall make a public disclosure of
18 their financial position and to bring about a review as to
19 the costs of health care services.

*REASONABLENESS
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§16-5F-2. Definitions.

1 As used in this article:

2 (1) "Annual report" means an annual financial report
3 for the covered facility's fiscal year prepared by an ac-
4 countant or the covered facility's auditor.

5 (2) "Department of Health" means the West Virginia
6 department of health.

7 (3) "Director" means the director of the department of
8 health.

9 (4) "Covered facility" means any hospital or other
10 health care facility with fifteen or more inpatient beds,
11 whether publicly owned, operated for profit or operated
12 as a not for profit facility and whether licensed, or un-
13 license, but shall not include personal care homes as the
14 same are defined in section two, article five-c, chapter
15 sixteen of the code of West Virginia, one thousand nine
16 hundred thirty-one, as amended.

17 (5) "Rates" means all rates, fees or charges imposed by
18 any covered facility for health care services.

19 (6) "Records" includes accounts, books, charts, con-
20 tracts, documents, files, maps, papers, profiles, reports,
21 annual and otherwise, schedules and any other fiscal data,
22 however recorded or stored.

23 (7) "Health systems agency" means any agency created
24 by Public Law 93-641.

§16-5F-3. General powers and duties of the director of the department of health regarding reporting and review.

1 (a) In addition to the powers granted to the director
2 of the department of health elsewhere in this article, the
3 director shall have the powers as indicated by this section
4 and it shall be his duty to:

5 (1) Promulgate rules and regulations in accordance
6 with the provisions of article three, chapter twenty-nine-
7 a of this code, to implement and make effective the pow-
8 ers, duties and responsibilities contained in the provisions
9 of this article.

10 (2) Require the filing of fiscal information by covered
11 facilities relating to any matter affecting the cost of
12 health care services in this state.

13 (3) Exercise, subject to the limitations and restrictions
14 herein imposed, all other powers which are reasonably
15 necessary or essential to carry out the expressed purposes
16 of this article.

17 (b) The director shall also investigate and recommend
18 to the Legislature whether other health care providers
19 should be made subject to the provisions of this article.

20 (c) The director shall, not later than December thirty-
21 first of each year, prepare and transmit to the governor
22 and to the clerks of both houses of the Legislature a re-
23 port containing the material and data as required by
24 section four of this article, based upon the most recent
25 data available.

26 (d) The director shall distribute an identical copy of
27 the published annual report and the report containing
28 the material and data as required by section four of this
29 article to the West Virginia health systems agency for
30 distribution to regional health advisory bodies or such
31 other official activities of the health systems agency.

§16-5F-4. Reports required to be published and filed; form of reports; right of inspection.

1 (a) Every covered facility as defined in this article,
2 within one hundred twenty days after the end of each
3 covered facility's fiscal year, unless an extension be

4 granted by the director for good cause shown, shall be
5 required to file with the director and publish, as a Class I
6 legal advertisement, pursuant to section two, article three,
7 chapter fifty-nine of the code of West Virginia, in a
8 qualified newspaper published within the county within
9 which such covered facility is located, an annual report
10 prepared by the covered facility's auditor or an independ-
11 ent accountant.

12 Such report shall contain a complete statement of the
13 following:

- 14 (1) Assets and liabilities;
- 15 (2) Income and expenses;
- 16 (3) Profit or loss for the period reported;
- 17 (4) A statement of ownership for persons owning more
18 than five percent of the capital stock outstanding and the
19 dividends paid thereon, if any, and to whom paid for the
20 period reported unless the covered facility be duly regis-
21 tered on the New York stock exchange, American stock
22 exchange, any regional stock exchange, or its stock traded
23 actively over the counter. Such statement shall further
24 contain a disclosure of ownership by any parent company
25 or subsidiary, if applicable.

26 Such annual report shall also include a prominent no-
27 tice that the details concerning the contents of the adver-
28 tisement, together with the other reports, statements and
29 schedules required to be filed with the director by the
30 provisions of this section, shall be available for public
31 inspection and copying at the director's office.

32 (b) Every covered facility shall also file with the direc-
33 tor the following statements, schedules or reports in such
34 form and at such intervals as may be specified by the
35 director, but at least annually:

- 36 (1) A statement of services available and services
37 rendered;
- 38 (2) A statement of the total financial needs of such
39 covered facility and the resources available or expected
40 to become available to meet such needs;
- 41 (3) A complete schedule of such covered facility's then
42 current rates with costs allocated to each category of

43 costs, in accordance with the rules and regulations as
44 promulgated by the director pursuant to section three
45 hereof;

46 (4) A copy of such reports made or filed with the fed-
47 eral health care financing administration, or its successor,
48 as the director may deem necessary or useful to accom-
49 plish the purposes of this article;

50 (5) A statement of all charges, fees or salaries for goods
51 or services rendered to the covered facility for the period
52 reported which shall exceed the sum of fifty-five thousand
53 dollars and a statement of all charges, fees or other sums
54 collected by the covered facility for or on the account of
55 any person, firm, partnership, corporation or other entity,
56 however structured, which shall exceed the sum of fifty-
57 five thousand dollars during the period reported;

58 (6) Such other reports of the costs incurred in render-
59 ing services as the director may prescribe. The director
60 may require the certification of specified financial reports
61 by the covered facility's auditor or independent accoun-
62 tant.

63 (c) Notwithstanding any provision to the contrary
64 herein, any data or material that is furnished to the direc-
65 tor pursuant to the provisions of subparagraph four of
66 subsection(b) of this section need not be duplicated by
67 any other requirements of this section requiring the filing
68 of data and material.

69 (d) No report, statement, schedule or other filing re-
70 quired or permitted to be filed hereunder shall contain
71 any medical or individual information personally identifi-
72 able to a patient or a consumer of health services, wheth-
73 er directly or indirectly. All such reports, statements
74 and schedules filed with the director under this section
75 shall be open to public inspection and shall be available
76 for examination during regular hours. Copies of such
77 reports shall be made available to the public upon request
78 and the director may establish fees reasonably calculated
79 to reimburse the department for its actual costs in making
80 copies of such reports.

81 Whenever further fiscal information is deemed neces-
82 sary to verify the accuracy of any information set forth

83 in any statement, schedule or report filed by a covered
84 facility under the provisions of this article, the director
85 shall have the authority to require the production of any
86 records necessary to verify such information.

87 (f) From time to time, the director shall engage in or
88 carry out analyses and studies relating to health care
89 costs, the financial status of any covered facility or any
90 other appropriate related matters, and make determina-
91 tions of whether, in his opinion, the rates charged by a
92 covered facility are economically justified.

§16-5F-5. Injunctions.

1 Whenever it appears that any covered facility, required
2 to file or publish such reports, as provided in this article,
3 has failed to file or publish such reports, the attorney gen-
4 eral upon the request of the director, may apply in the
5 name of the state to, and the circuit court of the county
6 in which such covered facility is located shall have juris-
7 diction for the granting of a mandatory injunction to
8 compel compliance with the provisions of this article.

**§16-5F-6. Failure to make, publish or distribute reports; pen-
alty.**

1 Every covered facility failing to make and transmit to
2 the director any of the reports required by law or failing
3 to publish or distribute the reports as so required, shall
4 forthwith be notified by the director and, if such failure
5 continues for ten days after receipt of said notice, such
6 delinquent facility shall be subject to a penalty of one
7 thousand dollars for each day thereafter that such failure
8 continues, such penalty to be recovered by the director
9 through the attorney general in a civil action and paid
10 into the state treasury to the account of the general fund.
11 Review of any final judgment or order of the circuit court
12 shall be by appeal to the West Virginia supreme court of
13 appeals.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chestnut Jr.
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1979.

J. Dillan, Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

W. B. Baskin
President of the Senate

Hyde H. Bee, Jr.
Speaker House of Delegates

The within *is approved* this the *25*
day of *March*, 1979.

John R. Ralph
Governor

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