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
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 cost of health care and services provided by health care facilities are matters of vital concern to the people of this state and have a direct relationship to the ability of the people to obtain necessary health care.
2 (2) The citizens of this state have an inherent right to receive and have available to them health care programs
and services which are capable of meeting individual needs.

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

(4) The furnishing of health care services is an essential public service.

(5) The public has a right to know the financial position of hospitals and related facilities.

It is the purpose of this article to provide that the facilities covered herein shall make a public disclosure of their financial position and to bring about a review as to the costs of health care services.

§16-5F-2. Definitions.

As used in this article:

(1) "Annual report" means an annual financial report for the covered facility's fiscal year prepared by an accountant or the covered facility's auditor.

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

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

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

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

(6) "Records" includes accounts, books, charts, contracts, documents, files, maps, papers, profiles, reports, annual and otherwise, schedules and any other fiscal data, however recorded or stored.

(7) "Health systems agency" means any agency created by Public Law 93-641.
§16-5F-3. General powers and duties of the director of the department of health regarding reporting and review.

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

(1) Promulgate rules and regulations in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement and make effective the powers, duties and responsibilities contained in the provisions of this article.

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

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

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

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

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

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

(a) Every covered facility as defined in this article, within one hundred twenty days after the end of each covered facility’s fiscal year, unless an extension be
granted by the director for good cause shown, shall be
required to file with the director and publish, as a Class I
legal advertisement, pursuant to section two, article three,
chapter fifty-nine of the code of West Virginia, in a
qualified newspaper published within the county within
which such covered facility is located, an annual report
prepared by the covered facility's auditor or an independ-
ent accountant.

Such report shall contain a complete statement of the
following:

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

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

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

(1) A statement of services available and services
rendered;
(2) A statement of the total financial needs of such
covered facility and the resources available or expected
to become available to meet such needs;
(3) A complete schedule of such covered facility's then
current rates with costs allocated to each category of
costs, in accordance with the rules and regulations as promulgated by the director pursuant to section three hereof;

(4) A copy of such reports made or filed with the federal health care financing administration, or its successor, as the director may deem necessary or useful to accomplish the purposes of this article;

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

(6) Such other reports of the costs incurred in rendering services as the director may prescribe. The director may require the certification of specified financial reports by the covered facility's auditor or independent accountant.

(c) Notwithstanding any provision to the contrary herein, any data or material that is furnished to the director pursuant to the provisions of subparagraph four of subsection (b) of this section need not be duplicated by any other requirements of this section requiring the filing of data and material.

(d) No report, statement, schedule or other filing required or permitted to be filed hereunder shall contain any medical or individual information personally identifiable to a patient or a consumer of health services, whether directly or indirectly. All such reports, statements and schedules filed with the director under this section shall be open to public inspection and shall be available for examination during regular hours. Copies of such reports shall be made available to the public upon request and the director may establish fees reasonably calculated to reimburse the department for its actual costs in making copies of such reports.

Whenever further fiscal information is deemed necessary to verify the accuracy of any information set forth
in any statement, schedule or report filed by a covered facility under the provisions of this article, the director shall have the authority to require the production of any records necessary to verify such information.

From time to time, the director shall engage in or carry out analyses and studies relating to health care costs, the financial status of any covered facility or any other appropriate related matters, and make determinations of whether, in his opinion, the rates charged by a covered facility are economically justified.

§16-5F-5. Injunctions.

Whenever it appears that any covered facility, required to file or publish such reports, as provided in this article, has failed to file or publish such reports, the attorney general upon the request of the director, may apply in the name of the state to, and the circuit court of the county in which such covered facility is located shall have jurisdiction for the granting of a mandatory injunction to compel compliance with the provisions of this article.

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

Every covered facility failing to make and transmit to the director any of the reports required by law or failing to publish or distribute the reports as so required, shall forthwith be notified by the director and, if such failure continues for ten days after receipt of said notice, such delinquent facility shall be subject to a penalty of one thousand dollars for each day thereafter that such failure continues, such penalty to be recovered by the director through the attorney general in a civil action and paid into the state treasury to the account of the general fund. Review of any final judgment or order of the circuit court shall be by appeal to the West Virginia supreme court of appeals.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence E. Chastain Jr.  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1979.

J. Dillau Jr.  
Clerk of the Senate

W. Blankenship  
Clerk of the House of Delegates

W. Bullock  
President of the Senate

Chaple H. Bell, Jr.  
Speaker House of Delegates

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

Johnny Roach  
Governor