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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

Committee Substitute for

SENATE BILL NO. 320

(By Mr. *McGraw, Jr. President, et al*)



PASSED *March 12* 1983

In Effect *from* Passage



ENROLLED
COMMITTEE SUBSTITUTION ^E *ok/ya*

FOR

Senate Bill No. 320

(MR. MCGRAW, MR. PRESIDENT, MR. NELSON, MS. CHACE, MS. LUCHT, MR. HECK, MR. HOLLIDAY, MR. HOLMES, MR. BOETTNER, MR. STACY AND MR. DAVIS, *original sponsors*)

[Passed March 12, 1983; in effect from passage.]

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 twenty-nine-b, all relating to legislative findings, definitions; freeze on hospital rates and cap on revenues, penalty, notice; creation of the West Virginia health care cost review authority within the department of health; qualifications, oath, chairman, terms, vacancies, compensation; advisory council; staff; powers generally, budget, funding; annual report; jurisdiction, authority designated as state's health planning agency and to assume certificate of need functions as of July one, one thousand nine hundred eighty-four; hearings; administrative procedures applicable; examiner; subpoena power; review of final orders; injunctions and mandamus; refusal to comply; start-up period; uniform system of accounts and financing, reporting; annual reporting by hospitals; rate-setting powers; commencement of review activities; determination of rates; procedure for initial rate schedules; adjustments and revisions; incentives; utilization review and quality assurance; powers with respect to insurance policies; public disclosure; exemptions from antitrust laws; criminal penalties for violations; effective date and termination date.

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 twenty-nine-b, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29B. WEST VIRGINIA HEALTH CARE COST REVIEW AUTHORITY.

§16-29B-1. Legislative findings: purpose.

1 The Legislature hereby finds and declares that the
2 health and welfare of the citizens of this state is being
3 threatened by unreasonable increases in the cost of acute
4 care hospital services. In order to alleviate this threat,
5 information on hospital cost must be gathered, a system
6 of cost control must be developed and an entity of state
7 government must be given authority to ensure the con-
8 tainment of acute care hospital costs. Therefore, the
9 purpose of this article is to protect the health and well-
10 being of the citizens of this state by guarding against
11 unreasonable loss of economic resources as well as to
12 ensure the continuation of appropriate acute care hos-
13 pital services.

§16-29B-2. Short title.

1 This article may be cited as the "West Virginia Health
2 Care Cost Review Authority."

§16-29B-3. Definitions.

1 As used in this article, unless a different meaning
2 clearly appears from the context:
3 (a) "Charges" means the economic value established
4 for accounting purposes of the goods and services a hospi-
5 tal provides for all classes of purchasers;
6 (b) "Class of purchaser" means a group of potential
7 hospital patients with common characteristics affecting
8 the way in which their hospital care is financed. Examples
9 of classes of purchasers are medical beneficiaries, welfare
10 recipients, subscribers of corporations established and
11 operated pursuant to article twenty-four, chapter thirty-

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12 three of this code, members of health maintenance organ-
13 izations and other groups as defined by the board;

14 (c) "Board" means the three member board of directors
15 of the West Virginia health care cost review authority, an
16 autonom^ous division within the state department of health;

17 (d) "Health care provider" means a person, partner-
18 ship, corporation, facility or institution licensed, certified
19 or authorized by law to provide professional health care
20 service in this state to an individual during this indi-
21 vidual's medical care, treatment or confinement;

22 (e) "Hospital" means a facility subject to licensure as
23 such under the provisions of article five-b of this chapter
24 and any acute care facility operated by the state govern-
25 ment which is primarily engaged in providing to in-
26 patients, by or under the supervision of physicians,
27 diagnostic and therapeutic services for medical diagnosis,
28 treatment and care of injured, disabled or sick persons,
29 and does not include state mental health facilities or
30 state long-term care facilities;

31 (f) "Person" means an individual, trust, estate, part-
32 nership, committee, corporation, association or other
33 organization such as a joint stock company, estate or
34 political subdivision or instrumentality thereof;

35 (g) "Purchaser" means a consumer of patient care
36 services, a natural person who is directly or indirectly
37 responsible for payment for such patient care services
38 rendered by a hospital, but does not include third party
39 payors;

40 (h) "Rates" means all value given or money payable
41 to hospitals for health care services, including fees,
42 charges and cost reimbursements;

43 (i) "Records" means accounts, books and other data
44 related to health care costs at health care facilities sub-
45 ject to the provisions of this article which do not in-
46 clude privileged medical information, individual per-
47 sonal data, confidential information, the disclosure of
48 which is prohibited by other provisions of this code and
49 the laws enacted by the federal government, and in-

50 formation, the disclosure of which would be an invasion
51 of privacy; and

52 (j) "Third party payor" means any natural person,
53 person, corporation or government entity responsible for
54 ~~payment of~~ patient care services rendered by hospitals.

§16-29B-4. Freeze on rates, cap on revenues; penalty; notice.

1 All rates for hospital services provided on the first day
2 of February, one thousand nine hundred eighty-three,
3 shall remain the same for such services on and after that
4 date except as adjustments are provided in this article.
5 Until such time as the board created in section five of
6 this article establishes the initial rate schedule for a hospi-
7 tal pursuant to the provisions of section twenty-one, said
8 hospital's gross patient revenues as most recently re-
9 ported to the department of health pursuant to article
10 five-f of this chapter shall not increase by more than
11 twelve percent per annum. Any hospital altering its
12 payor mix by increasing or decreasing the proportion
13 of medicare, medicaid or charity care patients during this
14 period shall have its allowed twelve percent per annum
15 increased or decreased in proportion to the change in
16 its patient mix.

17 Any hospital whose gross patient revenues exceed
18 those allowed as set forth in this section shall pay back
19 the excess to the board. Within thirty days of passage
20 of this article, the health department shall notify each
21 hospital of the provisions of this section: *Provided*, That
22 prior to the first day of July, one thousand nine hundred
23 eighty-four, or until such earlier time as the board may
24 determine, the director of the state department of health
25 shall be empowered to approve temporary rate increases
26 for hospitals subject to the provisions of this article, in
27 accordance with the provisions of section twenty-one,
28 subsection (c) of this article. The board shall have
29 authority to develop rules and regulations to administer
30 the provisions of this section.

§16-29B-5. Establishment of the West Virginia Health care cost review authority; creation of the board, qualifications, terms, oath, compensation and expenses of members; vacancies, appointment of chairman, and meetings of the board. *ok*

1 There is created within the department of health an
2 autonomus division, the "West Virginia Health Care
3 Cost Review Authority," hereinafter referred to as the
4 board.

5 (a) The board shall consist of three members, ap-
6 pointed by the governor, with the advice and consent of
7 the Senate. The board members shall be citizens and
8 residents of this state. No more than two of said board
9 members may be members of the same political party.
10 One board member shall have a background in health
11 care finance or economics, one board member shall have
12 previous employment experience in human services, busi-
13 ness administration or substantially related fields and
14 one board member shall be a consumer of health services
15 with a demonstrated interest in health care issues.

16 (b) Each board member shall, before entering upon
17 the duties of his office, take and subscribe to the oath
18 provided by section five, article four of the constitution
19 of the state of West Virginia, which oath shall be filed
20 in the office of the secretary of state. The governor shall
21 designate one of the board members to serve as chair-
22 man at the governor's will and pleasure. The chairman
23 shall be the chief administrative officer of the board.
24 The governor may remove any board member only for
25 incompetency, neglect of duty, gross immorality, mal-
26 feasance in office or violation of the provisions of this
27 article. The governor shall appoint three board mem-
28 bers, one for a term of two years, one for a term of four
29 years and one for a term of six years, with all the terms
30 beginning on the effective date of this article. All future
31 appointments shall be for terms of six years, except that
32 an appointment to fill a vacancy shall be for the unex-
33 pired term only. No board member shall serve more
34 than two consecutive six-year terms.

35 (c) No person while in the employ of, or holding any

36 official relation to, any hospital subject to the provi-
37 sions of this article, or who has any pecuniary interest
38 therein, may serve as a member of the board or as an
39 employee thereof. Nor may any such board member be
40 a candidate for or hold public office or be a member of
41 any political committee while acting as such board mem-
42 ber; nor may any board member or employee of said
43 board receive anything of value, either directly or in-
44 directly from any hospital subject to the provisions of
45 this article. Should any of the board members become a
46 candidate for any public office or for membership on any
47 political committee, the governor shall remove said board
48 member from the board and shall appoint a new board
49 member to fill the vacancy created. No board member
50 may accept employment with any hospital subject to the
51 jurisdiction of the board within two years after said
52 board member ceases to be a board member.

53 (d) The concurrent judgment of two of the board
54 members when in session as the board shall be deemed
55 the action of the board. A vacancy in the board shall not
56 affect the right or duty of the remaining board members
57 to function as a board.

58 (e) The annual salary of the chairman of the board
59 shall be forty thousand dollars. The annual salary of the
60 other board members shall be thirty-six thousand, five
61 hundred dollars.

§16-29B-6. Advisory council.

1 There is created the West Virginia health care cost
2 review council, hereinafter referred to as the council.

3 (a) The council shall be composed of twelve members.
4 Five members shall serve in an ex officio capacity and
5 have no vote, and those members being the director of
6 health, the commissioner of welfare, the commissioner of
7 insurance, the chairman of the public employees insur-
8 ance board, and the director of the division of vocational
9 rehabilitation, or their respective designated representa-
10 tives. The seven voting members shall be appointed by
11 the governor, with the advice and consent of the Senate,
12 and shall be selected as follows: One representative of

13 the health insurance industry, one administrator of a
14 large hospital, one administrator of a small hospital,
15 and four members who are consumers of health services.
16 When selecting the members who are consumers of health
17 services, in addition to other factors, consideration shall
18 be given to constituencies of organized labor, major pur-
19 chasers of health insurance and senior citizens.

20 (b) No more than four of the voting members of the
21 council may belong to the same political party, and no
22 more than two may reside in the same congressional dis-
23 trict. Selection of all voting members of the council shall
24 be made with due diligence to ensure membership there-
25 on by persons representing all cultural, demographic,
26 and ethnic segments of the population of this state. Mem-
27 bers of the council shall be appointed for terms of three
28 years each, except that of the voting members first ap-
29 pointed, three members shall be appointed for terms of
30 one year, two members for terms of two years, and two
31 members for terms of three years. Members shall be
32 eligible for reappointment for a second three-year term.
33 Vacancies shall be filled in the same manner as the ori-
34 ginal appointments, for the duration of the unexpired
35 term. The board shall appoint a chairman of the council
36 who shall serve at the will and pleasure of the board.

37 (c) The presence of a majority of the voting members
38 of the council shall constitute a quorum for the trans-
39 action of business. The council shall elect from among
40 its voting members a vice-chairman and such other of-
41 ficers as it shall deem necessary. The council shall meet
42 no less than four times during the calendar year, and
43 additional meetings shall be held upon a call of the
44 chairman or a majority of the voting members, or the
45 board.

46 (d) The council shall serve as an advisory body to
47 the board on the development of health care cost con-
48 tainment policy, strategies and methods, and shall re-
49 view and from time to time make recommendations in
50 regard thereto and on state-of-the-art concepts in health
51 care policy at the national, state and local level and their
52 application to the deliberations of the board. The coun-

53 cil shall serve as a conduit for the collection and trans-
54 mission of information to the board regarding the con-
55 sequences of board policy upon health care cost con-
56 tainment and upon hospitals that are subject to the pro-
57 visions of this article. The council shall serve as a means
58 for coordinating health care cost containment policy
59 among departments of state government. The council
60 shall review decisions of the board and make public
61 comments thereon as it sees fit.

62 (e) In order to assist with the council's deliberations,
63 board's staff shall gather information on cost containment
64 efforts, including, but not limited to, the provision of
65 alternative delivery systems, prospective payment sys-
66 tems, alternative rate-making methods, and programs of
67 consumer education. The council shall pay particular at-
68 tention to the economic and health status impact of such
69 efforts on purchasers or classes of purchasers, particularly
70 the elderly and those on low or fixed incomes.

71 (f) Board staff shall further gather information on
72 state-of-the-art advances in medical technology, the cost
73 effectiveness of such advances and their impact on health
74 care advances in hospital and health care management
75 practices, and any other state-of-the-art concepts relating
76 to health care cost containment, health care improve-
77 ment or other issues the council finds revelant and directs
78 staff to investigate. The board staff shall prepare and
79 keep a register of such information and update it on an
80 annual basis.

81 (g) The board shall consider any recommendations of
82 the council regarding additions or modifications to the
83 board's rate setting and cost containment responsibilities
84 as well as other responsibilities under the board's pur-
85 view.

86 (h) The council shall make its own report to the
87 board, the governor and the Legislature within thirty
88 days of the close of each fiscal year. This report shall
89 include summaries of all meetings of the council, any
90 public comments on board decisions, together with any
91 suggestions and policy recommendations.

92 (i) Council members shall be reimbursed from the

93 board fund for sums necessary to carry out its responsi-
94 bilities and for reasonable travel expenses to attend coun-
95 cil meetings.

§16-29B-7. Staff.

1 (a) The board may employ such persons as may be
2 necessary to effect the provisions of this article. The
3 board shall set the respective salaries or compensations of
4 all staff. Any person employed by the board other than
5 on a part-time basis shall devote full time to the per-
6 formance of his or her duties as such employee during
7 the regular working hours of the board.

8 (b) The board shall appoint general counsel, who
9 shall act as legal counsel to the board. The general
10 counsel shall serve at the will and pleasure of the board.

11 (1) The general counsel may act to bring and to
12 defend actions on behalf of the board in the courts of the
13 state and in federal courts.

14 (2) In all adjudicative matters before the board, the
15 general counsel shall advise the board. The staff shall
16 represent itself in all such actions before the board.

17 (c) The board may contract with third parties, in-
18 cluding state agencies, for any services that may be nec-
19 essary to perform the duties imposed upon it by this
20 article where such contractual agreements will promote
21 economy, avoid duplication of effort or make the best
22 use of available expertise.

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

1 (a) In addition to the powers granted to the board
2 elsewhere in this article, the board may:

3 (1) Adopt, amend and repeal necessary, appropriate
4 and lawful policy guidelines, rules and regulations in ac-
5 cordance with article three, chapter twenty-nine-a of
6 this code;

7 (2) Hold public hearings, conduct investigations and
8 require the filing of information relating to matters af-
9 fecting the costs of services in hospitals subject to the
10 provisions of this article and may subpoena witnesses,

11 papers, records, documents and all other data in connec-
12 tion therewith. The board may administer oaths or af-
13 firmations in any hearing or investigation;

14 (3) Apply for, receive and accept gifts, payments and
15 other funds and advances from the United States, the
16 state or any other governmental body, agency or agencies
17 or from any other private or public corporation or person
18 (with the exception of hospitals subject to the provisions
19 of this article, or associations representing them, doing
20 business in the state of West Virginia, except in accord-
21 ance with subsection (c) of this section), and enter into
22 agreements with respect thereto, including the under-
23 taking of studies, plans, demonstrations or projects. Any
24 such gifts or payments that may be received or any such
25 agreements that may be entered into shall be used or
26 formulated only so as to pursue legitimate, lawful pur-
27 poses of the board, and shall in no respect inure to the
28 private benefit of a board member, staff member, donor
29 or contracting party;

30 (4) Lease, rent, acquire, purchase, own, hold, con-
31 struct, equip, maintain, operate, sell, encumber and as-
32 sign rights or dispose of any property, real or personal,
33 consistent with the objectives of the board as set forth
34 in this article: *Provided*, That such acquisition or pur-
35 chase of real property or construction of facilities shall
36 be consistent with planning by the state building board
37 and subject to the approval of the Legislature;

38 (5) Contract and be contracted with and execute all
39 instruments necessary or convenient in carrying out the
40 board's functions and duties; and

41 (6) Exercise, subject to limitations or restrictions here-
42 in imposed, all other powers which are reasonably nec-
43 essary or essential to effect the express objectives and
44 purposes of this article.

45 (b) The board shall annually prepare a budget for
46 the next fiscal year for submission to the governor and
47 the Legislature which shall include all sums necessary
48 to support the activities of the board and its staff.

49 (c) Each hospital subject to the provisions of this

50 article shall be assessed by the board on a pro rata
51 basis using the gross revenues of each hospital as reported
52 under the authority of section eighteen of this article as
53 the measure of the hospital's obligation. The amount of
54 such fee shall be determined by the board except that in
55 no case shall a hospital's obligation exceed one tenth of
56 one percent of its gross revenue. Such fees shall be paid
57 on or before the first day of July in each year and shall
58 be paid into the state treasury and kept as a special
59 revolving fund, designated "health care cost review
60 fund," with the moneys in such fund being expendable
61 after appropriation by the Legislature for purposes con-
62 sistent with this article. Any balance remaining in said
63 fund at the end of any fiscal year shall not revert to the
64 treasury, but shall remain in said fund and such moneys
65 shall be expendable after appropriation by the Legisla-
66 ture in ensuing fiscal years.

67 (d) During the board's start-up period, before the
68 first day of July, one thousand nine hundred eighty-four,
69 each hospital subject to the provisions of this article shall
70 be assessed by the board on a pro rata basis using the
71 gross revenues of each hospital as reported under the
72 provisions of article five-f, chapter sixteen of this code.
73 Within sixty days of passage of this article, the depart-
74 ment of health shall notify each hospital of the amount
75 of such fee, which in no case shall exceed one tenth of
76 one percent of the gross revenue of each hospital, the
77 total amount of which fees shall not in any event exceed
78 five hundred thousand dollars during said start-up period.
79 Such fees shall be paid into the aforementioned special
80 fund in two equal installments, the first of which shall
81 be paid on the first day of April, one thousand nine
82 hundred eighty-three, the second of which shall be paid
83 on the first day of January, one thousand nine hundred
84 eighty-four.

85 (e) Each hospital's assessment shall be treated as an
86 allowable expense ^{of} the board. *ok*

87 (f) The board is empowered to withhold rate ap-
88 provals of any such fees remain unpaid.

§16-29B-9. Annual report.

1 The board shall, within thirty days of the close of the
2 fiscal year, or from time to time as requested by the
3 Legislature, prepare and transmit to the governor and
4 the Legislature a report of its operations and activities
5 for the preceding fiscal year. This report shall include
6 summaries of all reports made by the hospitals subject to
7 this article, together with facts, suggestions and policy
8 recommendations the board considers necessary. The
9 board shall, after rate review and determination in ac-
10 cordance with the provisions of this article, include such
11 rate schedules in its annual report or other reports as
12 may be requested by the Legislature.

§16-29B-10. Jurisdiction of the board.

1 (a) Notwithstanding any other provisions of state law,
2 after the first day of July, one thousand nine hundred
3 eighty-four, the jurisdiction of the board as to rates for
4 health services care shall extend to all hospitals as de-
5 fined herein doing business in the state of West Virginia
6 (with the exception of hospitals owned and operated by
7 the federal government).

8 (b) Those costs or charges associated with individual
9 health care providers or health care provider groups
10 providing inpatient or outpatient services under a con-
11 tractual agreement with hospitals (excluding simple ad-
12 mitting privileges) shall be under the jurisdiction of the
13 board. The jurisdiction of the board shall not extend to
14 the regulation of rates of private health care providers
15 or health care groups providing inpatient or outpatient
16 services under a contractual agreement with hospitals
17 when the provision of such service is outside the hospital
18 setting, and shall not extend to the regulation of rates
19 of all other private health care providers practicing out-
20 side the hospital setting: *Provided*, That such practice
21 outside of the hospital setting is not found to be an
22 evasion of the purposes of this article.

§16-29B-11. Designation of board as the state's health planning agency.

1 (a) On and after the first day of July, one thousand

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2 nine hundred eighty-four, notwithstanding any provision
3 of this code to the contrary, the board shall be the state's
4 health planning and development agency, as provided
5 by section 1521 of the United States Public Health Services
6 Act, as amended, and it shall carry out and perform all
7 the functions set forth in section 1523 of that act, includ-
8 ing review and approval or disapproval of capital ex-
9 penditures for health care facilities or services as de-
10 lined in article two-d of this chapter.

11 (b) On and after the first day of July, one thousand
12 nine hundred eighty-four, the board shall serve as the
13 planning agency designated in the agreement between
14 the state and the secretary of the department of health
15 and human services pursuant to Title 42, United States
16 Code sections *1320a-1* (1976), as amended, in which the
17 use of federal funds for capital expenditures is limited to
18 those projects approved by the planning agency.

19 (c) This article does not affect proceedings that were
20 begun or rights or powers enforceable under the pro-
21 visions of article two-d of this chapter at any time before
22 the first day of July, one thousand nine hundred eighty-
23 four.

**§16-29B-12. Hearings; administrative procedures act applic-
able; hearings examiner; subpoenas.**

1 (a) The board may conduct such hearings as it deems
2 necessary for the performance of its functions and shall
3 hold hearings when required by the provisions of this
4 chapter or upon a written demand therefor by a person
5 aggrieved by any act or failure to act by the board or by
6 any rule, regulation or order of the board. All hearings
7 of the board shall be announced in a timely manner and
8 shall be open to the public except as may be necessary
9 to conduct business of an executive nature.

10 (b) All pertinent provisions of article five, chapter
11 twenty-nine-a of this code shall apply to and govern the
12 hearing and administrative procedures in connection with
13 and following the hearing except as specifically stated
14 to the contrary in this article.

15 (c) Any hearing may be conducted by members of the
16 board or by a hearing examiner appointed for such pur-
17 pose. Any member of the board may issue subpoenas
18 and subpoenas duces tecum which shall be issued and
19 served pursuant to the time, fee and enforcement speci-
20 fications in section one, article five, chapter twenty-nine-
21 a of this code.

22 (d) Notwithstanding any other provision of state law,
23 when a hospital alleges that a factual determination made
24 by the board is incorrect, the burden of proof shall be
25 on the hospital to demonstrate that such determination
26 is, in light of the total record, not supported by substantial
27 evidence. The burden of proof remains with the hospital
28 in all cases.

29 (e) After any hearing, after due deliberation, and in
30 consideration of all the testimony, the evidence and the
31 total record made, the board shall render a decision in
32 writing. The written decision shall be accompanied by
33 findings of fact and conclusions of law as specified in
34 section three, article five, chapter twenty-nine-a of this
35 code, and a copy of the decision and accompanying find-
36 ings and conclusions shall be served by certified mail,
37 return receipt requested, upon the party demanding the
38 hearing, and upon its attorney of record, if any.

39 (f) Any interested individual, group or organization
40 shall be recognized as affected parties upon written re-
41 quest from the individual, group or organization. Af-
42 fected parties shall have the right to bring relevant evi-
43 dence before the board and testify thereon. Affected
44 parties shall have equal access to records, testimony and
45 evidence before the board, and shall have equal access
46 to the expertise of the board's staff. The board shall
47 have authority to develop rules and regulations to ad-
48 minister provisions of this section.

49 (g) The decision of the board is final unless reversed,
50 vacated or modified upon judicial review thereof, in ac-
51 cordance with the provisions of section thirteen of this
52 chapter.

§16-29B-13. Review of final orders of board.

1 (a) A final decision of the board and the record upon

2 which it was made shall, upon request of any affected
 3 party, be reviewed by the agency of the state designated
 4 by the governor to hear appeals under the provisions of
 5 article two-d of this chapter. To be effective, such re-
 6 quest must be received within thirty days after the date
 7 upon which all parties received notice of the board
 8 decision, and the hearing shall commence within thirty
 9 days of receipt of the request.

10 (b) For the purpose of administrative reviews of board
 11 decisions, the review agency shall conduct its proceed-
 12 ings in conformance with the West Virginia rules of civil
 13 procedure for trial courts of record and the local rules
 14 for use in the civil courts of Kanawha County and shall
 15 review appeals in accordance with the provisions gov-
 16 erning the judicial review of contested administrative
 17 cases in section four, article five, chapter twenty-nine-a
 18 of this code, notwithstanding the exceptions of section
 19 five, article five, chapter twenty-nine-a of this code.

20 (c) The decision of the review agency shall be made
 21 in writing within forty-five days after the conclusion of
 22 such hearing.

23 (d) The written findings of the review agency shall
 24 be sent to all affected parties, and shall be made avail-
 25 able by the commission to others upon request.

26 (e) The decision of the review agency shall be con-
 27 sidered the final decision of the board; however, the re-
 28 view agency may remand the matter to the board for
 29 further action or consideration.

30 (f) Upon the entry of a final decision by the review
 31 agency, any affected party may within thirty days after
 32 the date upon which all affected parties receive notice
 33 of the decision of the review agency, appeal said decision
 34 in the circuit court of Kanawha County. The decision
 35 of the review agency shall be reviewed by that circuit
 36 court in accordance with the provisions ~~of~~ *of the judicial*
 37 review of administrative decisions contained in section
 38 four, article five, chapter twenty-nine-a of this code.

§16-29B-14. Injunction; mandamus.

1 The board may compel obedience to its lawful orders

2 by injunction or mandamus or other proper proceedings
3 in the name of the state in any circuit court having juris-
4 diction of the parties or of the subject matter, or the
5 supreme court of appeals direct, and such proceedings
6 shall be determined in an expeditious manner.

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§16-29B-15. Refusal to comply.

1 (a) Whenever a hospital fails or refuses to furnish to
2 the board any records or information requested under
3 the provisions of this article or otherwise fails or refuses
4 to comply with the requirements of this article or any
5 reasonable rule and regulation promulgated by the board
6 under the provisions of this article, the board may make
7 and enter an order of enforcement and serve a copy
8 thereof on the hospital in question by certified mail, re-
9 turn receipt requested.

10 (b) The hospital shall be granted a hearing on the
11 order of enforcement if, within twenty days after receipt
12 of a copy thereof, it files with the board a written demand
13 for hearing. A demand for hearing shall operate auto-
14 matically to stay or suspend the execution of the order of
15 enforcement, with the exception of orders relating to rate
16 increases.

17 (c) Upon receipt of a written demand for a hearing,
18 the board shall set a time and place therefor, not less
19 than ten and no more than thirty days thereafter. Any
20 scheduled hearings may be continued by the board upon
21 motion for good cause shown by the hospital demanding
22 the hearing.

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§16-29B-16. Start-up period.

1 (a) The department of health shall cooperate to the
2 fullest extent possible and transfer all data, records, re-
3 ports, analyses and summaries filed, collected or devel-
4 oped by the department of health pursuant to article
5 five-f of this chapter, upon request of the board. With
6 the approval of the board the department of health shall
7 expend out of any funds available for the purpose such
8 moneys as are necessary for the use of its staff by the
9 board during the start-up period, and the department of
10 health shall be reimbursed by the board for any such

11 expenses so incurred. During the lifetime of the board
12 the functions and responsibilities set forth in article five-f
13 of this chapter shall be performed by the board, and
14 whenever in this code reference is made to said article
15 five-f, said reference shall be deemed to mean reference
16 to the board.

17 (b) The board shall then compile all other relevant
18 financial and accounting data in order to have available
19 the statistical information necessary to properly con-
20 duct rate review and approval. Such data shall include
21 necessary operating expenses, appropriate expenses in-
22 curred for rendering services to patients who cannot or
23 do not pay, all properly incurred interest charges, and
24 reasonable depreciation expenses based on the expected
25 useful life of the property and equipment involved. The
26 board shall also obtain from each hospital a current rate
27 schedule as well as any subsequent amendments or
28 modifications of that schedule as it may require.

29 (c) Prior to the commencement of review activities,
30 the board may examine rate-making methods used by
31 other regulatory agencies in the state and hospital rate-
32 making agencies in other states before adopting a method
33 or methods for determining rates for the hospitals sub-
34 ject to this article.

35 (d) Upon appointment, the board shall enter into
36 negotiations with the health care financing administra-
37 tion within the United States department of health and
38 human services to seek approval and assurances from,
39 and enter into agreements with the United States depart-
40 ment of health and human services so that the afore-
41 mentioned federal agency and affected state agencies al-
42 low reimbursement to hospitals subject to the provisions
43 of this article in accordance with rates approved by the
44 board. The absence of such approval and assurances
45 from, and agreements with the health care financing
46 administration within the department of health and
47 human services shall not diminish the authority of the
48 board to set rates of payment for other payors.

49 (e) On or before June one, one thousand nine hundred
50 eighty-four, the board shall submit its application for

51 purposes of entering into an agreement with the secretary
52 of the department of health and human services so that
53 the aforementioned federal agency agrees to allow pay-
54 ment for services provided by hospitals subject to the
55 provisions of this article in accordance with rates ap-
56 proved by the board. If such agreement is not obtained
57 by the board from the department of health and human
58 ~~business~~ services on or before December one, one thousand
59 nine hundred eighty-four, then the board, its functions,
60 this article, and all rules and regulations promulgated
61 thereunder shall terminate, and be void and of no further
62 effect.

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63 (f) No later than the first day of June, one thousand
64 nine hundred eighty-three, every hospital shall provide
65 to the board a full and complete verified statement of
66 services offered as of the first day of February, one
67 thousand nine hundred eighty-three, together with a
68 verified statement of rates in effect as of the first day of
69 February, one thousand nine hundred eighty-three, for
70 such services.

**§16-29B-17. Uniform system of accounts and financing; re-
porting.**

1 (a) The board shall develop and specify a uniform sys-
2 tem of accounting and financial reporting, including cost
3 allocation methods by which hospitals shall record their
4 revenues, income, expenses, capital outlay, assets, lia-
5 bilities and units of service. The development and speci-
6 fication process aforementioned shall be conducted in ^a
7 manner determined by the board to be most efficient for
8 that purpose notwithstanding the provisions of chapter
9 twenty-nine-a of this code. Each hospital shall adopt this
10 uniform system for the purpose of reporting costs and
11 revenues to the board effective for the fiscal year be-
12 ginning on or after twelve months from the effective
13 date of this article.

14 (b) The board may provide for modification in the
15 accounting and reporting system in order to correctly
16 reflect differences in the scope or type of services and
17 financial structures of the various categories, sizes and

18 types of hospitals and in a manner consistent with the
19 purposes of this article.

20 (c) The board may provide technical assistance to
21 those hospitals which request it and which evidence
22 sufficient need for assistance in the establishment of a
23 data collection system to the extent that funds are avail-
24 able to the board for this purpose.

25 (d) The board shall, after consultation with health
26 care providers, purchasers, classes of purchasers and
27 third-party payors, adopt a mandatory form for report-
28 ing to the board, at its request, medical diagnosis, treat-
29 ment and other services rendered to each purchaser by
30 health care providers subject to the provisions of this
31 article.

32 (e) Following public hearing, the board shall establish
33 a program to minimize the administrative burden on
34 hospitals by eliminating unnecessary duplication of
35 financial and operational reports; and to the extent pos-
36 sible, notwithstanding any other law, coordinate reviews,
37 reports, and inspections performed by federal, state, local
38 and private agencies.

§16-29B-18. Hospital annual financial reporting.

1 (a) It shall be the duty of every hospital which comes
2 under the jurisdiction of this article to file with the board
3 the following financial statements or reports in a form
4 and at intervals specified by the commission, but at least
5 annually:

6 (1) A balance sheet detailing the assets, liabilities,
7 and net worth of the hospital for its preceding fiscal
8 year;

9 (2) A statement of income and expenses for the pre-
10 ceding fiscal year;

11 (3) A statement of services rendered and services
12 available; and

13 (4) Such other reports as the board may prescribe.

14 Where more than one licensed hospital is operated by
15 the reporting organization, the information required by
16 this section shall be reported for each hospital separately.

17 (b) The annual financial statements filed pursuant to
18 this section shall be prepared in accordance with the
19 system of accounting and reporting adopted under sec-
20 tion seventeen of this article. The board may require
21 attestations from responsible officials of the hospital that
22 such reports have to the best of their knowledge been
23 prepared truthfully and in accordance with the prescribed
24 system of accounting and reporting.

25 (c) All reports filed under any provisions of this
26 article, except personal medical information personally
27 identifiable to a purchaser, shall be open to public in-
28 spection and shall be available for examination at the
29 offices of the board during regular business hours.

30 (d) Whenever a further investigation is deemed nec-
31 essary or desirable to verify the accuracy of any in-
32 formation set forth in any statement, schedule or report
33 filed by a hospital under the provisions of this section,
34 the board may require a full or partial audit of the
35 records of the hospital.

§16-29B-19. Rate-setting powers generally.

1 (a) The board shall have power: (1) To initiate re-
2 views and investigations of hospital rates and establish
3 and approve such rates; (2) to initiate reviews and in-
4 vestigations of hospital rates for specific services and the
5 component factors which determine such rates; (3) to
6 initiate reviews and investigations of hospital budgets
7 and the specific components of such budgets; and (4) to
8 approve or disapprove hospital rates and budgets taking
9 into consideration the criteria set forth in section twenty
10 of this article.

11 The board shall commence reviews no sooner than
12 twelve months and no later than fifteen months after the
13 effective date of this article.

14 (b) In the interest of promoting the most efficient and
15 effective use of hospital service, the board may adopt
16 and approve alternative methods of rate determination.
17 The board may also adopt methods of charges and pay-
18 ments of an experimental nature which are in the public
19 interest and consistent with the purpose of this article.

§16-29B-20. Rate determination.

1 (a) Upon commencement of review activities, no rates
2 may be approved by the board nor payment be made for
3 services provided by hospitals under the jurisdiction of
4 the board by any purchaser or third-party payor to or
5 on behalf of any purchaser or class of purchasers unless:

6 (1) The costs of the hospital's services are reasonably
7 related to the services provided and the rates are reason-
8 ably related to the costs;

9 (2) The rates are equitably established among all
10 purchasers or classes of purchasers within a hospital
11 without discrimination unless federal or state statutes
12 or regulations conflict with this requirement. Equity
13 among classes of purchasers may be achieved by con-
14 sidering demonstrated differences in the financial re-
15 quirements of hospitals resulting from service, coverage
16 and payment characteristics of a class of purchasers. The
17 provision for differentials in rates among classes of pur-
18 chasers should be carried out in the context of each
19 hospital's total financial requirements for the efficient
20 provision of necessary services. The board shall institute
21 a study of objective methods of computing the percentage
22 differential to be utilized for all hospitals in determining
23 appropriate projected gross revenues under subsection
24 (b) of this section. Such study shall include a review
25 and determination of the relevant and justifiable econ-
26 omic factors which can be considered in setting such
27 differential. The differential shall be allowed for only
28 those activities and programs which result in quantifiable
29 savings to the hospital with respect to patient care costs,
30 bad debts, free care or working capital, or reductions in
31 the payments of other payors. Each component utilized
32 in determining the differential shall be individually
33 quantified so that the differential shall equal the value
34 assigned to each component. The board shall consider
35 such matters as coverage to individual subscribers, the
36 elderly and small groups, payment practices, savings in
37 hospital administrative costs, cost containment programs
38 and working capital. The study shall also provide for
39 a method of annual recomputation of the differential and

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40 triennial recomputation of all other components. The
41 board may contract with any person or entity to assist
42 the board in the discharge of its duties as herein stated.
43 Whoever obstructs any person or entity conducting a
44 study authorized under the provisions of this section shall
45 be deemed to be in violation of this article and shall be
46 subject to any appropriate actions, including injunctive
47 relief, as may be necessary for the enforcement of this
48 section;

49 (3) The rates of payment for medicaid are reasonable
50 and adequate to meet the costs which must be incurred by
51 efficiently and economically operated hospitals subject
52 to the provisions of this article. The rates shall take into
53 account the situation of hospitals which serve dispro-
54 portionate numbers of low income patients and assure
55 that individuals eligible for medicaid have reasonable
56 access, taking into account geographic location and rea-
57 sonable travel time, to inpatient hospital services of
58 adequate quality;

59 (4) The rates are equitable in comparison to prevail-
60 ing rates for similar services in similar hospitals as
61 determined by the commission.

62 (b) In the interest of promoting efficient and ap-
63 propriate utilization of hospital services the board shall
64 review and make findings on the appropriateness of
65 projected gross revenues for a hospital as such revenues
66 relate to charges for services and anticipated incidence
67 of service. The board shall further render a decision as
68 to the amount of net revenue over expenditures that is
69 appropriate for the effective operation of the hospital.

70 (c) When applying the criteria set forth above, the
71 board shall consider all relevant factors including, but not
72 limited to, the following: The economic factors in the
73 hospital's area; the hospital's efforts to share services;
74 the hospital's efforts to employ less costly alternatives for
75 delivering substantially similar services or producing
76 substantially similar or better results in terms of the
77 health status of those served; the efficiency of the hospital
78 as to cost and delivery of health care; the quality of care;
79 occupancy level; a fair return on invested capital, not

80 otherwise compensated for; whether the hospital is oper-
 81 ated for profit or not for profit; costs of education; and,
 82 income from any investments and assets not associated
 83 with patient care, including, but not limited to, parking
 84 garages, residences, office buildings, and income from
 85 foundations and restricted funds whether or not so as-
 86 sociated.

87 (d) Wages, salaries and benefits paid to or on behalf
 88 of nonsupervisory employees of hospitals subject to this
 89 article shall not be subject to review unless the board
 90 ~~board~~ first determines that such wages, salaries and bene-
 91 fits may be unreasonably or uncustomarily high or low.
 92 Said exemption does not apply to accounting and report-
 93 ing requirements contained in this article, nor to any that
 94 may be established by the commission. "Nonsupervisory
 95 personnel", for the purposes of this section, means but is
 96 not limited to, employees of hospitals subject to the pro-
 97 visions of this article who are paid on an hourly basis.

98 (e) Reimbursement of capital and operating costs for
 99 new services and capital projects subject to article two-d
 100 of this chapter shall not be allowed by the board if such
 101 costs were incurred subsequent to the eight day of July,
 102 one thousand nine hundred seventy-seven, unless they
 103 were exempt from review or approved by the state plan-
 104 ning development agency prior to the first day of July,
 105 one thousand nine hundred eighty-four, pursuant to the
 106 provisions of article two-d of this chapter.

107 (f) The board shall consult with relevant licensing
 108 agencies and may require them to provide written find-
 109 ings with regard to their statutory functions and in-
 110 formation obtained by them in the pursuit of those func-
 111 tions. Any licensing agency empowered to suggest or
 112 mandate changes in buildings or operations of hospitals,
 113 shall give notice to the board together with any findings.

114 (g) Rates shall be set by the board in advance of the
 115 year during which they apply except for the procedure
 116 set forth in subsection (c), section twenty-one of this
 117 article and shall not be adjusted for costs actually in-
 118 curred.

119 (h) All determinations, orders and decisions of the

120 board with respect to rates and revenues shall be prospec-
121 tive in nature.

122 (i) No hospital may charge for services at rates in
123 excess of those established in accordance with the re-
124 quirements of and procedures set forth in this article.

**§16-29B-21. Procedure for obtaining initial rate schedule; ad-
justments and revisions of rate schedules.**

1 (a) The board shall propose the initial schedule of
2 rates and shall notify the affected hospital and commun-
3 ity by registered mail and announcement in the local
4 media respectively. Any hospital may contest its pro-
5 posed rate schedule by written notice to the board within
6 twenty days after receipt of the proposed schedule. The
7 board shall, in a contested proceeding, issue a final order
8 with regard to the initial schedule of rates within ninety
9 days after the board first submits the proposed initial
10 schedule. If no notice of contest is filed, the proposed
11 rates shall go into effect sixty days from the date first
12 proposed.

13 (b) After the issuance of the order establishing the
14 initial rate schedule, no hospital subject to this article
15 may change or amend its schedule of rates except in
16 in accordance with the following procedures:

17 (1) Any request for a change in rate schedules or
18 other changes must be filed in writing to the board with
19 such supporting data as the hospital seeking to change
20 its rates considers appropriate, in the form prescribed by
21 the board. Upon receipt of notice, the board, if it con-
22 siders necessary, may hold a public hearing on the pro-
23 posed change. Such hearings shall be held no later than
24 forty-five days after receipt of the notice. The review of
25 the proposed change may not exceed an overall period
26 of one hundred eighty days from the date of filing to the
27 date of the board's order. If the board fails to complete
28 its review of the proposed change within the time period
29 specified for the review, the proposed change shall be
30 deemed to have been approved by the board. Any pro-
31 posed change shall go into effect upon the date specified
32 in the order;

33 (2) Each hospital shall establish, in a written report
34 which shall be incorporated into each proposed rate
35 application, that it has thoroughly investigated and con-
36 sidered:

37 (A) The economic and social impact of any proposed
38 rate increase, or service decrease, on hospital cost con-
39 tainment and upon health care purchasers, including
40 classes of purchasers, such as the elderly and low and
41 fixed income persons;

42 (B) State-of-the-art advances in health care cost con-
43 tainment, hospital management and rate design, as al-
44 ternatives to or in mitigation of any rate increase, or
45 service decrease, which report shall describe the state-
46 of-the-art advances considered and shall contain specific
47 findings as to each consideration, including the reasons
48 for adoption or rejection of each;

49 (C) Implementation of cost control systems, including
50 the elimination of unnecessary or duplicative facilities
51 and services, promotion of alternative forms of care,
52 and other cost control mechanisms;

53 (D) Initiatives to create alternative delivery systems;
54 and

55 (E) Efforts to encourage third-party payors, includ-
56 ing, but not limited to, insurers, health service, care, and
57 maintenance organizations, to control costs, including a
58 combination of education, persuasion, financial incentives
59 and disincentives to control costs;

60 (3) In the event the board modifies the request of a
61 hospital for a change in its rates so that the hospital
62 obtains only a partial increase in its rate schedule, the
63 hospital shall have the right to accept the benefits of the
64 partial increase in rates and charge its purchasers ac-
65 cordingly without in any way adversely affecting or
66 waiving its right to appeal that portion of the decision
67 and order of the board which denied the remainder of
68 the requested rate increase.

69 (c) Whether before or after the issuance of the order
70 establishing the initial rate schedule for a hospital sub-
71 ject to the provisions of this article, the board, or the

72 director of the state department of health as stated in
73 section four of this article, shall have the discretionary
74 authority to allow a temporary change in a hospital's rates
75 which may be effective immediately upon filing and in
76 advance of review procedures when it has been de-
77 termined that such temporary rate changes are in the
78 public interest, and are necessary to prevent insolvency,
79 to maintain accreditation or for emergency repairs or to
80 relieve undue financial hardship. When considering such
81 temporary rate change requests, the board or the director
82 shall extend preference to hospitals demonstrating im-
83 mediate risk of insolvency, or demonstrating substantial
84 financial hardship, to main accreditation or for emergency
85 repairs which in the discretion of the board or the
86 director justifies temporary rate changes prior to com-
87 mencement of or full review of said rate changes by the
88 board as set forth in this article. The board or the director
89 when considering requests for temporary rate changes
90 shall consider:

91 (1) The financial burden imposed upon purchasers or
92 classes of purchasers by such change;

93 (2) Whether such change is in the public interest;

94 (3) Other factors determined to be relevant to the
95 merits of a temporary rate change request.

96 The board or the director shall make public its find-
97 ings concerning a temporary rate change request.

98 The board shall develop standards and criteria in order
99 to assure that any temporary rate change is in the public
100 interest and necessary to prevent harm to the public
101 interest and to prevent insolvency or to relieve undue
102 financial hardship. For temporary rate setting and review
103 functions performed by the director of the state depart-
104 ment of health pursuant to the provisions of this article,
105 the board shall reimburse said department for all reason-
106 able and necessary expenses incurred by the department
107 in fulfillment of its responsibilities, duties, and functions
108 hereunder, until such time as the board assumes such
109 responsibilities, duties, and functions unto itself pur-
110 suant to the provisions of this article.

111 (4) When any change affecting an increase in rates
 112 goes into effect before a final order is entered in the pro-
 113 ceedings, for whatever reasons, where it deems it nec-
 114 essary and practicable, the board may order the hospital
 115 to keep a detailed and accurate account of all amounts
 116 received by reason of the increase in rates and the pur-
 117 chasers and third-party payors from whom such amounts
 118 were received. At the conclusion of any hearing, appeal
 119 or other proceeding, the board may order the hospital
 120 to refund with interest to each affected purchaser and/or
 121 third-party payor any part of the increase in rates that
 122 may be held to be excessive or unreasonable. In the event
 123 a refund is not practicable, the hospital shall, under ap-
 124 propriate terms and conditions determined by the board,
 125 charge over and amortize by means of a temporary de-
 126 crease in rates whatever income is realized from that
 127 portion of the increase in rates which was subsequently
 128 held to be excessive or unreasonable;

129 (5) The board, upon a determination that a hospital
 130 has overcharged purchasers or charged purchasers at
 131 rates not approved by the board or charged rates which
 132 were subsequently held to be excessive or unreasonable,
 133 may prescribe rebates to purchasers and third-party
 134 payors in effect by the aggregate total of the overcharge;
 135 and

136 (d) The board may open a proceeding against any
 137 hospital at any time with regard to compliance with
 138 rates approved and the efficiency and effectiveness of the
 139 care being rendered in the hospital.

§16-29B-22. Incentives.

1 The board shall be required to allow, as an incentive
 2 to the efficient management and operation of hospitals
 3 covered by this act, that if said hospitals are more ef-
 4 ficient than anticipated, they shall retain a portion of the
 5 resulting savings and if less efficient shall bear the re-
 6 sulting deficits.

§16-29B-23. Utilization review and quality assurance.

1 (a) In order to avoid unnecessary or inappropriate
 2 utilization of hospital services and to ensure high quality

3 hospital care, the board shall establish a utilization re-
4 view and quality assurance program. The board shall
5 coordinate this program with utilization review and
6 peer review programs presently established in state
7 agencies, hospital services and health service corpora-
8 tions, hospitals or other organizations.

9 (b) With the assistance of the above-mentioned en-
10 ties, and after public hearings, the board shall develop
11 a plan for the review, on a sampling basis, of the necessity
12 of admissions, length of stay and quality of care rendered
13 at said hospitals.

14 (c) The board shall monitor identified problem areas
15 and shall impose such sanctions and provide such incen-
16 tives as necessary to ensure high quality and appropriate
17 services and utilization in hospitals under the jurisdiction
18 of this article.

**§16-29B-24. Powers with respect to insurance policies and
health organizations.**

1 (a) With respect to any policy of accident or health
2 insurance, including, but not limited to, those insurance
3 policies covered by articles fifteen, sixteen and sixteen-a,
4 chapter thirty-three of this code, and with respect to
5 any health service, care, or maintenance organization, or
6 similar health-related organizations, including, but not
7 limited to, those covered by articles twenty-four, twenty-
8 five and twenty-five-a, chapter thirty-three of this code,
9 the board shall:

10 (1) Be considered for all purposes a directly affected
11 party before the insurance commissioner for purposes
12 of any application, hearing, or appeal on insurance mat-
13 ters;

14 (2) Review requests for, and make comments on,
15 proposed rate increases or coverage decreases submitted
16 to the insurance commissioner with respect to the reason-
17 ableness of the request and impact on health care cost
18 containment;

19 (3) Comment on the advisability, reasonableness, and
20 impact on health care cost containment of any other

21 matter coming before the insurance commissioner or any
22 other governmental agency or body.

23 (b) On or before the date of filing with the insurance
24 commissioner of any rate, including any proposed in-
25 crease or decrease thereof, and any coverage matter, in-
26 cluding any proposed increase or decrease thereof, each
27 company or organization, described in paragraph (a)
28 above, shall notify the board of such filing, by copy
29 thereof or notice form, as the commission directs.

30 (c) Each company or organization, described in para-
31 graph (a) above, shall establish, in a written report
32 which shall be incorporated into each proposed rate ap-
33 plication, that it has thoroughly investigated and con-
34 sidered:

35 (1) The economic and social impact of any proposed
36 rate increase, or coverage decrease, on health care cost
37 containment and upon health care purchasers, including
38 classes of purchasers, such as the elderly and low and
39 fixed income persons;

40 (2) State-of-the-art advances in insurance and health
41 care management and rate design as alternatives to or
42 in mitigation of any rate increase, or coverage decrease,
43 which report shall describe the state-of-the-art advances
44 considered and shall contain specific findings as to each
45 consideration, including the reasons for adoption or re-
46 jection of each;

47 (3) Implementation of cost control systems, including
48 a combination of education, persuasion, financial incen-
49 tives and disincentives to control costs;

50 (4) Initiatives to create alternatives delivery systems;
51 and

52 (5) Efforts to encourage health care providers to con-
53 trol costs, including the elimination of unnecessary or
54 duplicative facilities and services, promotion of alterna-
55 tive forms of care, and other cost control mechanisms.

§16-29B-25. Public disclosure.

1 From time to time, the board shall engage in or carry
2 out analyses and studies relating to health care costs,

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3 the financial status of any hospital subject to the provi-
4 sions of this article or any other appropriate related mat-
5 ters, and it shall be empowered to publish and disseminate
6 any information which would be useful to members of
7 the general public in making informed choices about
8 hospitals.

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

1 Actions of the board shall be exempt from antitrust
2 action as provided in section five, article eighteen, chapter
3 forty-seven of this code. Any actions of hospitals under
4 the board's jurisdiction, when made in compliance with
5 orders, directives, rules or regulations issued or promul-
6 gated by the board, shall likewise be exempt.

§16-29B-27. Penalties for violations.

1 In addition to civil remedies set forth, any person or
2 hospital violating any provision of this article or any
3 valid order or rule and regulation lawfully established
4 hereunder shall be guilty of a misdemeanor and, upon
5 conviction thereof, shall be punished by a fine of not
6 more than one thousand dollars. Each day of a continuing
7 violation after conviction shall be considered a separate
8 offense. No fines assessed may be considered part of the
9 hospital's costs in the regulation of its rates.

§16-29B-28. Effective date and termination date.

1 This article shall be in effect from passage. The board
2 shall terminate under the provisions of article ten, chapter
3 four of the code, on the thirtieth day of June, one thousand
4 nine hundred eighty-seven, unless extended by legislation
5 enacted before the termination date.

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

Samuel Wilson
Chairman Senate Committee

Donald Anello
Chairman House Committee

Originated in the Senate.

In effect from passage.

Isid C. Kelly
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Walter R. McNew
President of the Senate

Wm. H. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *25*

day of *March*, 1983.

John R. ...
Governor



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SECY. OF STATE