

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2424**

BY DELEGATES STAGGERS, C. THOMPSON AND S. BROWN

[Introduced January 15, 2019; Referred  
to the Committee on Health and Human Resources  
then Government Organization.]

1 A BILL to amend and reenact §16-29B-1, §16-29B-3, and §16-29B-5 of the Code of West Virginia,  
 2 1931, as amended, all relating to changing the name of the Health Care Authority to the  
 3 Health Care Cost Review Authority; requiring the Health Care Cost Review Authority to  
 4 provide extensive information to the public in order to make informed decisions on what  
 5 health care providers to use; requiring annual public reports at no cost to the public; and  
 6 requiring rule-making.

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

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

**§16-29B-1. Legislative findings; purpose; rule-making.**

1 (a) The Legislature hereby finds that the health and welfare of the citizens of this state is  
 2 being threatened by unreasonable increases in the cost of health care services, a fragmented  
 3 system of health care, lack of integration and coordination of health care services, unequal access  
 4 to primary and preventative care, lack of a comprehensive and coordinated health information  
 5 system to gather and disseminate data to promote the availability of cost-effective, high-quality  
 6 services and to permit effective health planning and analysis of utilization, clinical outcomes and  
 7 cost and risk factors. In order to alleviate these threats: (1) Information on health care costs must  
 8 be gathered; and (2) an entity of state government must be given authority to ~~ensure the~~  
 9 ~~containment of health care costs, to~~ gather and disseminate health care information. ~~to analyze~~  
 10 ~~and report on changes in the health care delivery system as a result of evolving market forces,~~  
 11 ~~and to assure that the state health plan, certificate of need program, and information systems~~  
 12 ~~serve to promote cost containment, access to care, quality of services and prevention. Therefore,~~  
 13 ~~the~~

14 (b) The purpose of this article is to protect the health and well-being of the citizens of this  
 15 state by ~~guarding against unreasonable loss of economic resources as well as to ensure the~~  
 16 ~~continuation of appropriate access to cost-effective, high-quality health care services~~ providing  
 17 West Virginians access to accurate and reliable information on the quality and cost-effectiveness

18 of health care providers in the state. In so doing, the West Virginia Health Care Review Authority  
19 shall gather and provide extensive information comparing health care providers outcomes, costs,  
20 and other key data so that the health care consumer may ultimately make an informed choice as  
21 to what provider to use. This information shall be made available to the public at no charge no  
22 later than March 31 of each year beginning in the year 2020 in a manner, content, and form that  
23 will easily and readily enable West Virginians to compare health care providers and select the  
24 one(s) that best fit their individual needs.

25 (c) The Secretary of the Department of Health and Human Resources shall propose rules  
26 for legislative approval in accordance with §29A-3-1 et seq. of this code to implement this section.

**§16-29B-3. Definitions.**

1 (a) Definitions of words and terms defined in §16-2D-1 et seq. of this code are incorporated  
2 in this section unless this section has different definitions.

3 (b) As used in this article, unless a different meaning clearly appears from the context:

4 ~~(1)~~ "Authority" means the Health Care Cost Review Authority created pursuant to the  
5 provisions of this article;

6 ~~(2)~~ "Board" means the five-member board of directors of the West Virginia Health Care  
7 Cost Review Authority;

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

10 ~~(4)~~ "Class of purchaser" means a group of potential hospital patients with common  
11 characteristics affecting the way in which their hospital care is financed. Examples of classes of  
12 purchasers are Medicare beneficiaries, welfare recipients, subscribers of corporations  
13 established and operated pursuant to §33-24-1 et seq. of this code, members of health  
14 maintenance organizations and other groups as defined by the authority;

15 ~~(5)~~ "Covered facility" means a hospital, behavioral health facility, kidney disease treatment  
16 center, including a free-standing hemodialysis unit; ambulatory health care facility; ambulatory

17 surgical facility; home health agency; rehabilitation facility; or community mental health or  
18 intellectual disability facility, whether under public or private ownership or as a profit or nonprofit  
19 organization and whether or not licensed or required to be licensed, in whole or in part, by the  
20 state: *Provided*, That nonprofit, community-based primary care centers providing primary care  
21 services without regard to ability to pay which provide the secretary with a year-end audited  
22 financial statement prepared in accordance with generally accepted auditing standards and with  
23 governmental auditing standards issued by the Comptroller General of the United States shall be  
24 deemed to have complied with the disclosure requirements of this section.

25 ~~(6)~~ "Executive Director" or "Director" means the administrative head of the Health Care  
26 Review Authority as set forth in §16-29B-5a of this code;

27 ~~(7)~~ "Health care provider" means a person, partnership, corporation, facility, hospital or  
28 institution licensed, certified or authorized by law to provide professional health care service in  
29 this state to an individual during this individual's medical, remedial, or behavioral health care,  
30 treatment or confinement. For purposes of this article, "health care provider" shall not include the  
31 private office practice of one or more health care professionals licensed to practice in this state  
32 pursuant to the provisions of chapter 30 of this code;

33 ~~(8)~~ "Hospital" means a facility subject to licensure as such under the provisions of §16-5B-  
34 1 *et seq.* of this code, and any acute care facility operated by the state government which is  
35 primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic  
36 and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick  
37 persons, and does not include state mental health facilities or state long-term care facilities;

38 ~~(9)~~ "Person" means an individual, trust, estate, partnership, committee, corporation,  
39 association or other organization such as a joint stock company, a state or political subdivision or  
40 instrumentality thereof or any legal entity recognized by the state;

41 ~~(10)~~ "Purchaser" means a consumer of patient care services, a natural person who is  
42 directly or indirectly responsible for payment for such patient care services rendered by a health

43 care provider, but does not include third-party payers;

44 (44) "Rates" means all value given or money payable to health care providers for health  
45 care services, including fees, charges and cost reimbursements;

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

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

57 (44) "Secretary" means the Secretary of the Department of Health and Human Resources;  
58 and

59 (45) "Third-party payor" means any natural person, person, corporation or government  
60 entity responsible for payment for patient care services rendered by health care providers.

**§16-29B-5. West Virginia Health Care Cost Review Authority; composition of the board;  
qualifications; terms; oath; expenses of members; vacancies; appointment of  
chairman, and meetings of the board.**

1 (a) The "West Virginia Health Care Cost Review Authority" is continued as a division of  
2 the Department of Health and Human Resources. Any references in this code to the West Virginia  
3 Health Care ~~Cost Review~~ Authority means the West Virginia Health Care Cost Review Authority.

4 (b) There is created a board of review to serve as the adjudicatory body of the authority  
5 and shall conduct all hearings as required in this article, and §16-2D-1 *et seq.* of this code.

6 (1) The board shall consist of five members, appointed by the Governor, with the advice  
7 and consent of the Senate. The board members are not permitted to hold political office in the  
8 government of the state either by election or appointment while serving as a member of the board.  
9 The board members are not eligible for civil service coverage as provided in §29-6-4 of this code.  
10 The board members shall be citizens and residents of this state.

11 (2) No more than three of the board members may be members of the same political party.  
12 One board member shall have a background in health care finance or economics, one board  
13 member shall have previous employment experience in human services, business administration  
14 or substantially related fields, one board member shall have previous experience in the  
15 administration of a health care facility, one board member shall have previous experience as a  
16 provider of health care services, and one board member shall be a consumer of health services  
17 with a demonstrated interest in health care issues.

18 (3) Each member appointed by the Governor shall serve staggered terms of six years.  
19 Any member whose term has expired shall serve until his or her successor has been appointed.  
20 Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall  
21 be eligible for reappointment. In cases of vacancy in the office of member, such vacancy shall be  
22 filled by the Governor in the same manner as the original appointment.

23 (4) Each board member shall, before entering upon the duties of his or her office, take and  
24 subscribe to the oath provided by section five, article IV of the Constitution of the State of West  
25 Virginia, which oath shall be filed in the office of the Secretary of State.

26 (5) The Governor shall designate one of the board members to serve as chairman at the  
27 Governor's will and pleasure.

28 (6) The Governor may remove any board member only for incompetency, neglect of duty,  
29 gross immorality, malfeasance in office or violation of the provisions of this article.

30 (7) No person while in the employ of, or holding any official relation to, any hospital or  
31 health care provider subject to the provisions of this article, or who has any pecuniary interest in

32 any hospital or health care provider, may serve as a member of the board. Nor may any board  
33 member be a candidate for or hold public office or be a member of any political committee while  
34 acting as a board member; nor may any board member or employee of the board receive anything  
35 of value, either directly or indirectly, from any third-party payor or health care provider. If any of  
36 the board members become a candidate for any public office or for membership on any political  
37 committee, the Governor shall remove the board member from the board and shall appoint a new  
38 board member to fill the vacancy created. No board member or former board member may accept  
39 employment with any hospital or health care provider subject to the jurisdiction of the board in  
40 violation of the West Virginia governmental ethics act, chapter 6B of this code: *Provided*, That  
41 the act may not apply to employment accepted after termination of the board.

42 (8) The concurrent judgment of three of the board members shall be considered the action  
43 of the board. A vacancy in the board does not affect the right or duty of the remaining board  
44 members to function as a board.

45 (9) Each member of the board shall serve without compensation, but shall receive  
46 expense reimbursement for all reasonable and necessary expenses actually incurred in the  
47 performance of the duties of the office, in the same amount paid to members of the Legislature  
48 for their interim duties as recommended by the citizens legislative compensation commission and  
49 authorized by law. No member may be reimbursed for expenses paid by a third party.

NOTE: The purpose of this bill is to change the name of the Health Care Authority to the Health Care Cost Review Authority. The bill requires the Health Care Cost Review Authority to provide extensive information to the public in order to make informed decisions on what health care providers to use. The bill requires annual public reports at no cost to the public, and requires rule-making.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.