

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

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1988 JUL 19 AM 11:37
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Health Care Cost Review Authority TITLE NUMBER: \$16-5F

CITE AUTHORITY: W.Va. Code, \$16-5F-3(a), \$16-29B-8(a) and -16(a)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 13

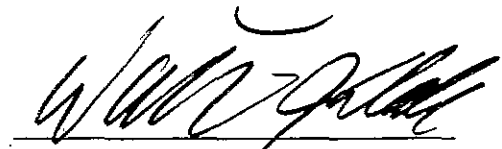
TITLE OF RULE BEING FILED AS AN EMERGENCY: Financial Disclosure Rule

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The West Virginia Health Care Facility Financial Disclosure Act, W. VA. Code, \$16-5F-1 et seq., has operated since 1977 without formal regulations. An informal set of guidelines was adopted by the Health Department and those guidelines have been in use since then. Recently, several facilities have refused to submit disclosure items covered by the Act because the guidelines were not properly adopted rules. In order to keep the program functional, it is necessary to implement a formal legislative rule at once. Section 1(5) of the Act states that "The public has a right to know the financial position of hospitals and related facilities." Without this rule, that right will be defeated.

Use Additional Sheets If Necessary.



Walter J. Dale, Chairman

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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Rule Title: Financial Disclosure Rule

Type of Rule: Legislative Interpretive Procedural

Agency Health Care Cost Review Authority Address Suite 201, 100 Dee Drive
Charleston, WV 25311

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The program formally implemented by this rule has been operating since 1977. No new duties are imposed on the agency or the covered facilities.

3. Objectives of these rules:

To formally implement the provisions of the Health Care Facility Financial Disclosure Act, W. Va. Code, § 16-5F-1 et seq., by specifying the materials to be filed, the time periods for doing so, and penalties for failure to file.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

No new impact. The act has been in place and operating since 1977.
Total cost for complying with the act averages about \$3,000.00.

C. Economic Impact on Citizens/Public at Large.

No economic impact. The citizens/public will benefit in making
their own choice of health care providers by availing themselves of
this data.

Date: July 18, 1988

Signature of Agency Head or Authorized Representative



WALTER J. DALE
Chairman

EMERGENCY
WEST VIRGINIA LEGISLATIVE RULE
HEALTH CARE COST REVIEW AUTHORITY
CHAPTER §16-5F

SERIES XIII

Title: FINANCIAL DISCLOSURE RULE

- Section 1. General
2. Introduction
 3. Definitions
 4. Newspaper Advertisements
 5. Non-Hospital Covered Facilities
 6. Covered Facilities That Are Hospitals
 7. Additional Information
 8. Hearings
 9. Confidentiality
 10. Public Access To Information
 11. Injunctions
 12. Penalties For Failure To Comply
 13. Severability

EMERGENCY
WEST VIRGINIA LEGISLATIVE RULE
HEALTH CARE COST REVIEW AUTHORITY
CHAPTER §16-5F

SERIES XIII

FILED
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Title: FINANCIAL DISCLOSURE RULE

§ 65-13-1. General.

1.1. Scope - This legislative rule implements the provisions of the Health Care Facility Financial Disclosure Act (hereinafter referred to as "the Act"), West Virginia Code, § 16-5F-1 et seq. Pursuant to the provisions of West Virginia Code, § 16-29B-16(a), the board of the Health Care Cost Review Authority replaced the Director of the Department of Health for the administration of the Act.

1.2. Authority. - West Virginia Code, § 16-5F-3(a), § 16-29B-8(a), and -16(a).

1.3. Filing Date. - July 19, 1988.

1.4. Effective Date. - July 19, 1988.

§ 65-13-2. Introduction.

2.1. The purpose of this rule is to formally implement the provisions of the Act. Heretofore, the board and before it the Department of Health implemented the Act with a set of informal guidelines. This rule is intended to

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bring the program into conformity with the provisions of West Virginia Code, § 29A-3-1 et seq.

2.2. It is not the purpose of this rule to replace, modify, amend, or limit in any fashion the programs implemented by the board under the provisions of West Virginia Code, § 16-29B-17 & -18 (Uniform Reporting System and Annual Wage and Salary Survey), § 16-29B-22 ("Legislative Rules To Implement Utilization And Quality Assurance Program - Phase 1", 65 C.S.R. 4 (1985)), or West Virginia Code, § 16-29B-10(b) (Professional Services Vendor Contracts). Those programs shall continue until they are specifically amended elsewhere. However, to some extent the present rule requires the submission of the same or similar information. Because the definition of "covered facility" under the Act includes a "hospital" as that term is defined at West Virginia Code, § 16-29B-3(e), certain provisions of this rule will duplicate the other filing requirements. In no event shall this rule be construed as requiring duplicate filings from any such "hospital." A single filing containing all of the required information shall be sufficient for the purpose of both statutes.

§ 65-13-3. Definitions.

3.1. The term "the Act" means the Health Care Facility Financial Disclosure Act, West Virginia Code, § 16-5F-1 et seq.

3.2. The term "annual report" means an annual financial report for the covered facility's fiscal year prepared by an accountant or the covered facility's auditor.

3.3. The term "the board" means the three-member body created by West Virginia Code, § 16-29B-5, and which is designated to administer the programs under the Act.

3.4. The term "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 does not include personal care homes as the same are defined at West Virginia Code, § 16-5C-2. The term does include any facility which provides either skilled nursing care or intermediate nursing care, or both.

3.5. The term "hospital" means any health care facility licensed as such under the provisions of West Virginia Code, § 16-5B-1, and any other acute care facility operated by the state government which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons; but, does not include any federally owned or operated facility or state owned or operated mental health facilities or state owned or operated long-term care facilities. The term does include speciality hospitals such as, but not limited to, acute care psychiatric and rehabilitation hospitals.

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3.6. The term "rates" means all rates, fees, or charges imposed by any covered facility for health care services.

3.7. The term "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.

§ 65-13-4. Newspaper Advertisements.

4.1. Every covered facility shall cause to be published as a Class I legal advertisement, pursuant to West Virginia Code, § 59-3-2, in a qualified daily newspaper published within the county within which the covered facility is located, an annual report prepared by the covered facility's auditor or an independent accountant.

4.2. If no daily newspaper is published within the county, then the covered facility shall select a qualified newspaper which is published outside the county but which has the widest circulation within the covered facility's county.

4.3. The newspaper advertisement must be published within one hundred and twenty (120) days after the end of each covered facility's fiscal year. Upon a showing of good cause, the board may grant an extension of this time period. A copy of the advertisement must be filed with the board within thirty (30) days of its publication.

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4.4. The annual report shall pertain to the individual covered facility; that is, if the covered facility is a division or a subsidiary of another entity which owns or operates other covered facilities, then the annual report shall apply to the division or subsidiary and shall not pertain to the aggregate of the covered facilities of the other entity.

4.5. The annual report shall contain a complete statement of the following:

4.5.1. Assets and liabilities.

4.5.2. Income and expenses.

4.5.3. Profit or loss for the period reported.

4.5.4. A statement of ownership for persons owning more than five percent (5%) of the capital stock outstanding and the dividends paid thereon, if any, and to whom paid for the period reported unless the covered facility is duly registered on the New York stock exchange, American stock exchange, any regional stock exchange, or its stock is traded actively over the counter. Such statement shall further contain a disclosure of ownership by any parent company or subsidiary, if applicable.

4.5.5. A prominent notice that the details concerning the contents of the advertisement, together with the other reports, statements and schedules required to be filed with the board shall be available for public inspection and copying at the board's office.

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4.6. Under the provisions of West Virginia Code, § 59-3-2, a Class I legal advertisement must be published in only one newspaper and need not be published in two (2) newspapers of opposite politics. In selecting the newspaper within which to publish its annual report, the covered facility shall select the one of widest, daily circulation in its county.

4.7. Further, West Virginia Code, § 59-3-2, also prohibits the use of a Sunday edition of any newspaper.

§ 65-13-5. Non-Hospital Covered Facilities.

5.1. In addition to the newspaper advertisement that must be published pursuant to section 4 of this rule, each covered facility that is not a hospital (either in whole or in part) shall file with the board annual reports, records, and other information. Except where another time period is stated, all such annual reports, records, and other information shall be filed with the board by the facility within one hundred and twenty (120) days after the end of the facility's fiscal year; except that, upon a showing of good cause, the board may grant an extension of this time period.

5.2. The facility shall file an annual, audited financial report in its entirety as prepared and presented by the facility's auditor or independent accountant together with all accompanying notes, schedules, and documents as required by the American Institute of Certified Public Accountant's (AICPA)

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audit guides. In the event that an audited financial report is not prepared by the facility, the facility shall submit the following:

- 5.2.1. A statement of revenue and expenses.
- 5.2.2. A statement of changes in fund balance or in financial position.
- 5.2.3. A balance sheet.

5.3. The annual, audited financial report (or the substituted documents specified in subsection 5.2.1 et al.) shall pertain to the individual facility; that is, if the facility is a division or a subsidiary of another entity which owns or operates other covered facilities, then the annual, audited financial report (or its substitute) shall apply to the division or subsidiary and shall not pertain to the aggregate of the facilities of the other entity.

5.4. The facility shall file a statement of the total financial needs of the facility and the resources that are available or are expected to become available to meet such needs. The facility shall file its approved budget and its annual capital expenditures budget for the forthcoming fiscal year at least thirty (30) days prior to the start of that fiscal year. The formats for the budgets may be that customarily used by the facility for its own internal purposes; except that, at a minimum the budget must state the projected patient revenue and expenses by individual cost center and the details of other anticipated revenues and expenses.

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5.5 The facility shall file a statement of services available and of services rendered by completing and returning to the board a copy of its Annual Report of Nursing Homes within thirty (30) days of its receipt of the blank form.

5.6 The facility shall file a complete schedule of its then current rates for all patient services provided by the facility at the close of its fiscal year.

5.7 If the facility is certified under the federal medicare or medicaid programs, the facility shall file a complete copy of all cost reports that are submitted by it to the medicare intermediaries and to the medicaid state agency. If such a cost report is not prepared, then the facility shall file a complete schedule of costs allocated to each category of costs, in accordance with the standards of the state medicaid office.

5.8 The facility shall file a statement of all charges, fees, or salaries (whether in cash or other species) for goods or services rendered to the facility together with the name and address of the entity which rendered the goods or services for the period reported which exceeds the sum or the equivalent of fifty-five thousand (\$55,000.00) dollars.

5.9 The facility shall file a statement of all charges, fees, or other sums (whether in cash or other species) collected by the facility and the name and address from whom collected for or on the account of any person, firm, partnership, corporation, or other entity, however structured, which shall exceed

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the sum of or the equivalent of fifty-five thousand (\$55,000.00) dollars during the period reported.

5.10. If specifically requested by the board, a facility shall file a trial balance sheet for the period reported which request shall allow the facility at least fifteen (15) days to respond.

5.11. If the facility or its parent entity must file a form 10K with the federal Securities and Exchange Commission, then the facility shall file a copy of that form 10K with the board on an annual basis and within fifteen (15) days of the filing of the form with the federal agency.

5.12. Any data or material that is furnished to the board pursuant to the provisions of section 5.7 of this rule need not be separately refiled by the facility.

§ 65-13-6. Covered Facilities That Are Hospitals.

6.1. In addition to the newspaper advertisements that must be published pursuant to section 4 of this rule, each covered facility that is a hospital (including those hospitals that have distinct part units such as skilled nursing care, intermediate nursing care, psychiatric, or rehabilitation care) shall file with the board annual reports, records, and other information. Except where another time period is stated, all such annual reports, records, and other information shall be filed with the board by the facility within one hundred and

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twenty (120) days after the end of the facility's fiscal year; except that, upon a showing of good cause, the board may grant an extension of their time period.

6.2. The facility shall file an annual, audited financial report in its entirety as prepared and presented by the facility's auditor or independent accountant together with all accompanying notes, schedules, and documents as required by the American Institute of Certified Public Accountant's (AICPA) audit guides. In the event that an audited financial report is not prepared by the facility, the facility shall submit the following:

6.2.1. A statement of revenue and expenses.

6.2.2. A statement of changes in fund balance or in financial position.

6.2.3. A balance sheet.

6.3. The annual, audited financial report (or the substituted documents specified in subsection 6.2.1 et al.) shall pertain to the individual facility; that is, if the facility is a division or a subsidiary of another entity which owns or operates other covered facilities, then the annual, audited financial report (or its substitute) shall apply to the division or subsidiary and shall not pertain to the aggregate of the facilities of the other entity.

6.4. The facility shall file a statement of the total financial needs of the facility and the resources that are available or are expected to become available to meet such needs. The facility shall file its approved budget and its annual capital expenditures budget for the forthcoming fiscal year at least thirty (30) days prior to the start of that fiscal year. The formats for the budgets may

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be that customarily used by the facility for its own internal purposes; except that, at a minimum the budget must state the projected patient revenue and expenses by individual cost center and the details of other anticipated revenues and expenses.

6.5. The facility shall file a statement of services available and of services rendered by completing and returning to the board a copy of its annual survey report for the American Hospital Association within fifteen (15) days of its tendering the report to that Association.

6.6. The facility shall file a complete schedule of its then current rates for all patient services provided by the facility at the close of its fiscal year.

6.7. If the facility is certified under the federal medicare or medicaid programs, the facility shall file a complete copy of all cost reports that are submitted by it to the medicare intermediaries and to the medicaid state agency. If such a cost report is not prepared, then the facility shall file a complete schedule of costs allocated to each category of costs, in accordance with the standards of the state medicaid office.

6.8. The facility shall file a statement of all charges, fees, or salaries (whether in cash or other species) for goods or services rendered to the facility together with the name and address of the entity which rendered the goods or services for the period reported which exceeds the sum or the equivalent of fifty-five thousand (\$55,000.00) dollars.

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6.9. The facility shall file a statement of all charges, fees, or other sums (whether in cash or other species) collected by the facility and the name and address from whom collected for or on the account of any person, firm, partnership, corporation, or other entity, however structural, which shall exceed the sum of or the equivalent of fifty-five thousand (\$55,000.00) dollars during the period reported.

6.10. A trial balance sheet for the period requested.

6.11. If the facility or its parent entity must file a form 10K with the federal Securities and Exchange Commission, then the facility shall file a copy of that form 10K with the board on an annual basis and within fifteen (15) days of the filing of the form with the federal agency.

6.12. If the facility (which is a hospital for the purpose of this rule) is not subject to the provisions of the Health Care Cost Review Authority Act, West Virginia Code, § 16-29B-1 et seq., and the rules promulgated thereunder, then the facility shall also make the following filings.

6.12.1. A copy of the Health Care Cost Review Authority Financial Report (otherwise known as the Uniform Reporting System) heretofore adopted pursuant to West Virginia Code, § 16-29B-17.

6.12.2. A copy of the Health Care Cost Review Authority Annual Wage and Salary Survey.

6.12.3. Copies of any contract that the facility enters into with any individual or group of health care providers for the provision of inpatient or

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outpatient services together with a schedule of rates to be charged by the health care providers for their services under the contract or charged by the hospital for those services by the providers; except that, simple admitting privileges to the facility shall not be construed as being such a contract.

6.12.4. A complete copy of the Uniform Bill-82 (UB-82) data for each and every one of its inpatients including those that are incurred by the federal medicare and medicaid programs. If the board obtains another source for some of the data, then the board may excuse the facility of providing that portion. The UB-82 data must be submitted to the board (or its agent) on Industry Standard 1600 BPI tape or upon Wang format tape or upon similar computer tape format. If the board later chooses to specify some other format for the data, it shall issue an appropriate procedural rule specifying that format. Hard copies of the UB-82 data are not to be submitted without the prior approval of the board. It is especially directed that the board and any of its officers, employees or agents selected by it to store and manipulate the data shall maintain the confidentiality of all personal medical information personally identifiable to a purchaser. The facilities shall submit and the board's agent shall collect such confidential data from the UB-82 forms. Reference shall be made to the "Legislative Rules To Implement Utilization Review And Quality Assurance Program - Phase 1," 65 C.S.R. 4 (1985), and its successor rules in the application of this subsection 6.12.4 of this rule.

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6.12.5. The provisions of this section 6.12 and its subparts are expressly based upon the provisions of West Virginia Code, § 16-5F-3(a)(2) & (3) and § 16-5F-4(b)(6).

6.13. Any data or material that is furnished to the board pursuant to the provisions of section 6.7 of this rule need not be separately refiled by the facility.

§ 65-13-7. Additional Information.

7.1. Whenever further fiscal information is deemed by the board to be necessary to verify the accuracy of any information set forth in any statement, schedule, or report filed by a covered facility under the provision of the Act or of this rule, the board shall require the production of any records necessary to verify such information.

7.2. From time to time, the board may 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 its opinion, the rates charged by a covered facility are economically justified.

7.3. Upon at least ten (10) days notice to the covered facility, the board may specify that the facility supply it with other reports of the costs incurred in rendering services or the board may require the filing of fiscal

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information by a facility relating to any matter affecting the cost of health care services in this state.

§ 65-13-8. Hearings - Pursuant to the provisions of West Virginia Code, § 16-29B-8(a)(2) and -12, the board may conduct a hearing as part of any investigation it undertakes under the Act or this rule.

§ 65-13-9. Confidentiality - The board, its officers, employees, and agents shall maintain the confidentiality of any and all medical or individual information personally identifiable to a patient or a consumer of health services, whether directly or indirectly.

§ 65-13-10. Public Access To Information - All reports, statements, and schedules filed with the board under the Act or this rule (with the exceptions stated in subsection 6.12.3 and section 9) shall be open to public inspection and shall be available for examination during regular business hours of the board. Copies of such reports, statements, and schedules shall be made available to the public upon request and the board may charge its reasonable and customary fees in making copies of such reports.

§ 65-13-11. Injunctions - Whenever it appears that any covered facility, required to file or publish such reports, statements, and schedules as are required

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by the Act or this rule, has failed to file or publish such items, the board's general counsel or the office of the attorney general, upon the direction or request of the board, 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 the Act or of this rule.

§ 65-13-12. Penalties For Failure To Comply - Every covered facility failing to make and transmit to the board any of the reports required by law or failing to publish or distribute the reports as so required, shall forthwith be notified by the board by use of the certified United States mail, return receipt requested, 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 board through the attorney general or its general counsel 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.

§ 65-13-13. Severability - If any provision or provisions of this rule or the application thereof to any entity or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this rule which can be

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given effect without the invalid provision or provisions or application and to this
end the provision of this rule are declared to be severable.