

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #6

**Do Not Mark In this Box**

FILED IN THE OFFICE OF  
THE SECRETARY OF STATE  
THIS DATE April 10, 1992  
ADMINISTRATIVE LAW DIVISION

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Health Care Cost Review Authority TITLE NUMBER: 65

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 NEW RULE BEING PROPOSED: 20

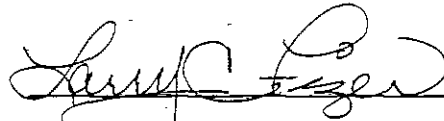
TITLE OF RULE BEING PROPOSED: Conversion of Acute Care Beds To  
Skilled Nursing Care Beds

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 1

SECTION 64-5-3(r), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: April 10, 1992



LARRY C. FIZER  
Chairman

4.10

TITLE 65  
WEST VIRGINIA LEGISLATIVE RULE  
HEALTH CARE COST REVIEW AUTHORITY

SERIES 20

Title: CONVERSION OF ACUTE CARE BEDS  
TO SKILLED NURSING CARE BEDS

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§ 65-20-1 General

1.1. Scope - This rule establishes the criteria and standards for certificate of need review for the conversion by hospitals of acute care beds to skilled nursing care beds which are medicare certified only by licensed hospitals as provided by W. Va. Code § 16-2D-5(i).

1.2. Authority - W. Va. Code §§ 16-2D-5(i), 16-2D-8.

1.3. Filing Date - \_\_\_\_\_.

1.4. Effective Date - \_\_\_\_\_.

§ 65-20-2 Introduction

This rule implements certain provisions of Enrolled Committee Substitute for House Bill 2194 which was passed by the Legislature on March 6, 1991, and was signed by the Governor on March 20, 1991. The bill created a new code section, W. Va. § Code 16-2D-5(i). This section authorizes

the Health Care Cost Review Authority to promulgate rules for the certificate of need review of applications for the conversion by hospitals of acute care beds to skilled care beds which are only medicare certified.

§ 65-20-3      Definitions

As used in these regulations, all terms have the same meaning as provided in the definition section of West Virginia Code ~~section two, article two-d, chapter sixteen (§16-2D-2)~~. ~~Verbatim definitions, therefore, are not repeated here.~~ Definitions set forth below in this section amplify and clarify the statutory definitions or define terms not specifically set forth in the statute.

3.1.      Acute-care bed complement - The number of licensed hospital beds designated for acute care services exclusive of skilled nursing facility (SNF) and/or intermediate care facility (ICF) long-term care beds and personal care beds.

3.2.      DRG - Diagnostic related group - a classification system utilized by medicare to group patients with respect to resource use.

3.3.      Licensed bed capacity - The total number of hospital beds a hospital is currently authorized ~~for a hospital~~ to operate by the Department of Health and Human Resources.

3.4. Skilled nursing bed - A long-term care bed designated as an SNF (skilled nursing facility bed) and certified as such under Medicare Title XVIII reimbursement.

§ 65-20-4 Review Procedures and Process Application

4.1. ~~Letters of intent and preapplication conference.~~ An application for a certificate of need shall be on forms approved by the board. The original and three (3) copies of the application must be submitted to the board. The application must be verified under oath by the Chief Executive Officer.

4.2. Application required for Certificate of Need. Information required for the application ~~shall~~ includes the following:

- (a) The identification of the applicant;
- (b) An authorization to pursue the project;
- (c) A description of the project;
- (d) A timetable for implementation of the project;
- (e) An analysis of the need for the project;
- (f) The policies for patient admission and provision of fully or partially uncompensated care;

- (g) An analysis of alternatives to the project;
- (h) An analysis of the project's relationship to the existing long term skilled care services in the area;
- (i) An analysis of the relationship of the project to the hospital's long-range plan;
- (j) An analysis of competitive factors;
- (k) The relationship of the project to licensure, certification, accreditation and safety standards;
- (l) The availability of resources and manpower;
- (m) A preliminary financial feasibility study - the hospital must demonstrate that the proposed project is financially feasible and at a minimum provide the following:
  - (1) Statements of (a) revenues and expenses, (b) balance sheet, (c) statement of changes in fund balances, and (d) statement of cash flow for the last two years. Audited financial statements shall be submitted, if available;
  - (2) A Ppreliminary financial feasibility study and cash flow statements for the proposed medicare skilled nursing care unit for a three year period including, at a minimum, pro forma financial statements for the current fiscal

year and three future years along with all assumptions upon which the projections were based.

(3) An Impact analysis or study that demonstrates the effect of the proposed project on the hospital's overall financial condition.

~~4.3. Review for completeness:~~

~~(a) Within fifteen days of receipt of the application, the Health Care Cost Review Authority shall determine if the application is complete. The Health Care Cost Review Authority may request additional information. Declaration of an application as being complete means that sufficient information is in the application for the Health Care Cost Review Authority to make an informed decision, not that the information in the application warrants an approval of the application.~~

~~(b) The Health Care Cost Review Authority shall not accept an application from a hospital subject to the financial disclosure provisions of W. Va. Code, § 16-5F-1 et seq. until such facility has filed all reports required therein.~~

~~(c) Applications for the conversion of acute care beds to medicare skilled nursing care beds, shall be reviewed on an expedited application in cycles beginning every week. A sixty (60) day review cycle shall then begin on the applications in accordance with W. Va. Code, §§ 16-2D-7(g) and (h).~~

~~(d) If, after a review has begun, the Health Care Cost Review Authority requires additional information from the applicant, the applicant shall be provided at least ten days to submit the information and the Health Care Cost Review Authority shall, at the request of the applicant, extend the review period by ten days.~~

~~(e) The Health Care Cost Review Authority may conduct a hearing on the application in accordance with W. Va. Code, § 16-2D-7(l).~~

~~(f) A request for a public hearing during the review of an application must be in writing and received by the Health Care Cost Review Authority within thirty days of the date of notification of the beginning of the review as provided in W. Va. Code § 16-2D-7(g). The request shall be addressed to: General Counsel, West Virginia Health Care Cost Review Authority, Certificate of Need Program, 100 Dee Drive, Suite 201, Charleston, West Virginia 25311.~~

~~(g) If a public hearing is not conducted during the review of an application, the Health Care Cost Review Authority shall close the review of the application on the thirty first day of the review. The Health Care Cost Review Authority may extend the file closing for good cause.~~

~~4.4. Holds and extensions on review periods.~~

~~(a) Holds at any time during a review of an application, the Health Care Cost Review Authority may grant an applicant's request that a hold be put~~

~~on the running of the review period on its application. An application under review and placed on hold for a period of more than one year shall be considered withdrawn, and a new letter of intent and application must be filed if the applicant desires to pursue the project.~~

~~(b) Extensions If the Health Care Cost Review Authority finds it is not practicable to complete a review on an application within the time provided in Section 4.3(c) of these rules, the Health Care Cost Review Authority may extend the review process for a maximum of thirty days.~~

~~(c) File closing date extensions If an application is put on hold or the review period is extended, the Health Care Cost Review Authority may extend the file closing date, and if the file closing date has passed when the review is extended or the hold is imposed, the Health Care Cost Review Authority may reopen the file and reestablish the file closing date.~~

~~(d) If a public rehearing is scheduled or if a file closing date is extended or reestablished, or if a hold or extension is put on a review, all affected persons shall be notified of the reasons.~~

#### ~~4.5. Reconsideration Requests~~

~~An affected person may request in writing a public hearing for purposes of reconsideration of the Health Care Cost Review Authority decision in accordance with W. Va. Code, § 16-2D-7(r). The request shall be addressed to~~

~~General Counsel, West Virginia Health Care Cost Review Authority, Certificate of Need Program, 100 Dee Drive, Suite 201, Charleston, West Virginia 25311.~~

§65-20-5      Additional Information or Amendments to Application

5.1. After the review of an application has begun, the board may require the applicant to submit additional information. If no hearing is requested upon the application, and the applicant fails to submit the information within the time directed, or if the applicant submits a substantial amendment to its application, the board may:

(a) Extend the review cycle pursuant to the provisions of 65 C.S.R. 7, section 13;

(b) Enter an order closing the file ten (10) days from the entry of such order; or

(c) Withdraw the application from review.

5.2. The board may examine the extent of the additional information provided or any amendment made by the applicant regarding the application currently under consideration by the board and its impact and determine that the application is a new proposal subject to a new review cycle. The board shall notify the applicant of any such determination, in writing, and further advise the applicant of the dates in the new review cycle. A notice shall also be published by the board pursuant to 65 C.S.R. 7, subsection 11.6.

§65-20-6

Application Withdrawal

6.1. An application under consideration by the board may be withdrawn by the applicant at any time prior to the issuance of a final decision and written findings. The withdrawal of the application is without prejudice.

6.2. A written notice withdrawing the application must be filed with the board before the issuance of a final decision.

§65-20-7

Batching of Applications

7.1. All applications shall be batched in the appropriate batching category pursuant to 65 C.S.R. 7, section 10.

7.2. Applications will be reviewed in four annual cycles. On the first Friday of the months of February, May, August and November, the board will collect by batching categories all applications determined to be complete since the previous cycle. The board shall then establish a ninety (90) day review cycle for each category. For consideration in any batch cycle, the application must be submitted no later than fifteen (15) days prior to the beginning of the batch.

8.1. Applicants must file a letter of intent with the board at least fifteen (15) days before the submission of a formal application. The letter of intent must contain sufficient information to advise the board of the nature, scope, cost and timing of the project, as well as the location and name of the proposed applicant. Letters of intent are effective for one year from the date of their filing.

8.2. Upon receipt of a certificate of need application, the board shall determine whether the application is complete or whether additional information is required. A declaration by the board that an application is complete means that there is sufficient information contained in the application for the board to make an informed decision. It does not mean that the approval of the application is warranted. Except in emergency situations that pose a threat to the public health, an application shall not be declared complete if:

(a) A long-range plan with a sufficient level of detail acceptable to the board and adopted by the applicant within the preceding five (5) years is not on file with the board;

(b) The applicant is a health care facility subject to the financial disclosure provisions of W. Va. Code §16-5F-1 et seq. or W. Va. Code §16-29B-1 et seq., and the health care facility has failed to file with the board all reports, records, data or other information required by the Code.

8.3. A determination of completeness must be made by the board within fifteen (15) days of its receipt of the application. If the board determines that the application is not complete, it shall request additional information or ask additional questions. Upon receipt of the additional information, the board has fifteen (15) days within which to determine if the application is complete. If the applicant fails to respond within one hundred eighty (180) days, the application is considered withdrawn. If the applicant later desires to pursue the project, a new letter of intent and application must be filed.

8.4. Upon a determination by the board that an application is complete, the board shall publish a notice declaring its completeness in the Saturday Charleston newspapers, and the State Register. The notice shall, at a minimum, contain the following:

- (a) The name of the applicant;
- (b) A description of the proposed project;
- (c) The date the review cycle begins;
- (d) The last date for an affected person to request a public hearing;
- (e) The file closing date if no public hearing is requested;
- (f) The date upon which a decision will be issued by the board; and

(g) If applicable, that the application is considered potentially unnecessarily duplicative of other applications under review.

8.5. Once a determination of completeness has been made by the board and the appropriate notice published or mailed, the board shall provide a minimum of thirty (30) days from the beginning of the review period for affected persons to request a public hearing. A request for a public hearing must be in writing and shall be addressed to: General Counsel, West Virginia Health Care Cost Review Authority, Certificate of Need Program, 100 Dee Drive, Suite 201, Charleston, West Virginia 25311.

8.6. The board shall hold a public hearing on an application if requested to do so by any affected person. The board may also hold a public hearing upon its own initiative.

8.7. If a public hearing is held on an application, and other applications have been determined to be potentially unnecessarily duplicative thereof, the public hearing shall be held on the application and all other applications that are potentially unnecessarily duplicative.

8.8. When a public hearing is scheduled to be conducted upon an application, the board shall, prior to the hearing, provide notice to all parties and publish notice in the Saturday Charleston newspapers and the State Register. The notice shall, at a minimum, contain the following:

(a) The name of the applicant;

- (b) A description of the proposed project;
- (c) The date of the public hearing;
- (d) The date of any prehearing conference; and

The hearing shall be conducted in accordance with the requirements for administrative hearings found in W. Va. Code §29A-5-1 et seq., and the provisions of 65 C.S.R. 17.

§65-20-9      Stays and Extensions of Review Periods

9.1. At any time during the board's review of an application, the board may grant the applicant's request that the running of the review period be stayed. An application under review and stayed at the request of the applicant for a total period exceeding one hundred eighty (180) days during any review period shall be considered withdrawn, and a new letter of intent and application must be filed if the applicant desires to pursue the project.

9.2. Upon a finding by the board that it would not be practicable to complete the review of an application within the time provided by this rule, the board may extend the review process for up to an additional thirty (30) days. All applications within the batching category that are in the same review cycle shall be similarly extended.

9.3. Situations which would make it impracticable for the board to complete its review within the time provided by this rule include, but are not limited to the following:

(a) A project is of such a comprehensive nature that to review it within the time provided by this rule would not do justice to the applicant or to the population which the proposed project would serve;

(b) Additional information has been requested from the applicant and the applicant has failed to provide the information to the board in the time frame directed by the board; and

(c) Weather conditions or other natural disasters have prevented the review process from taking place in a timely manner.

9.4. If the board grants a stay or issues an extension of the review period, it may also extend the file closing date. If the file closing date has already passed when the stay is imposed or the review is extended, the board may reopen the file and reestablish the file closing date.

9.5. If a public hearing is rescheduled, a file closing date is extended or reestablished, or a stay or extension is placed on a review, the board shall notify all affected persons of the reasons therefor.

Statement of Purpose: In order to ensure an appropriate supply of health services to the citizens of West Virginia while discouraging unnecessary duplication and high costs, the Health Care Cost Review Authority shall conduct a through public review and evaluation of proposed projects.

The goal of the Certificate of Need Program is to provide for the continued orderly development of the health care system in West Virginia through a public review of proposed applications that are evaluated in accordance with established Criteria and Standards. The purpose of the Criteria and Standards is twofold: (1) To serve as guidelines in the continued orderly development of the health care system in West Virginia in accordance with the Certificate of Need statute; and (2) To promote cost-effective alternatives to higher-cost services.

510.1. An existing hospital may apply to convert acute care beds to skilled nursing beds.

(a) There shall be a minimum of ten beds and a maximum of twenty-five beds per unit or per application.

(b) The hospital must convert at least one acute care bed into one medicare certified only skilled nursing care bed. The Authority may require a hospital to delicense up to and including three acute care beds for each medicare certified only skilled nursing bed.

(c) All acute care beds converted shall be permanently deleted from the hospital's acute care bed complement and the hospital may not thereafter add, by conversion or otherwise, acute care beds to its bed complement without satisfying the requirements of W. Va. Code, § 16-2D-3(d) for which purposes such an addition, whether by conversion or otherwise, ~~shall be~~ is considered a substantial change to the bed capacity of the hospital notwithstanding the definition of that term found in W. Va. Code, § 16-2D-2(ee).

(d) The hospital must use existing space for the medicare certified only skilled nursing care beds. Under no circumstances shall the hospital construct new space, lease or acquire additional space for the purpose of developing a skilled nursing care unit.

(e) The hospital must provide evidence that an acute care patient prior to transfer to the medicare skilled nursing care unit, will be notified of the existence of facilities with skilled nursing care beds which are located in or near the patient's county of residence and of the availability of admission to such nursing facility.

(f) The hospital shall meet all federal and state licensing certification and operational requirements applicable to nursing homes including a requirement that all skilled care beds converted shall be located in distinct-part, long-term care unit.

(g) The hospital must demonstrate a need for the number of medicare skilled nursing care beds proposed for the distinct-part unit. The

methodology for demonstrating need shall be quantitative and be directly related to the hospital proposing the conversion to skilled nursing care beds. The methodology shall be DRG based and involve 94 DRG's which have a high probability of resulting in skilled nursing services. A complete listing of the 94 DRG's is attached ~~hereto~~ at the end of this rule. The first step is to determine a discharge base by finding the number of discharges with a length-of-stay of 8 days or more. A need projection can then be calculated by multiplying the number of discharges of 8 days or more times 15, the average length of stay for a skilled nursing unit. This product is divided by 365 days and again divided by .90 (average acceptable occupancy rate for a skilled nursing unit) to determine the projected need for skilled nursing beds which the hospital can demonstrate from its own patient data.

(h) A hospital with an existing skilled nursing care unit is not eligible to apply for additional skilled nursing care beds until the existing unit exceeds an aggregate average occupancy rate of 90% for the previous twelve months.

(i) A hospital which converts acute care beds to medicare certified only skilled nursing beds is prohibited from billing for any medicaid reimbursement for any beds so converted pursuant to this rule.

## SKILLED NURSING UNIT DRG'S

<u>DRG GROUP NUMBER</u>	<u>DESCRIPTION</u>
009	Spinal Disorders & Injuries
010	Nervous System Neoplasms With CC
012	Degenerative Nervous Neoplasms With CC
014	Specific Cerebrovascular Disorders Except TIA
018	Cranial & Peripheral Nerve Disorders With CC
024	Seizure & Headache Age > 17 With CC
034	Other Disorders Of Nervous System With CC
044	Acute Major Eye Infections
075	Major Chest Procedures
078	Pulmonary Embolism
079	Respiratory Infections & Inflammations Age > 17 With CC
082	Respiratory Neoplasms
083	Major Chest Trauma With CC
085	Pleural Effusion With CC
087	Pulmonary Edema & Respiratory Failure
088	Chronic Obstructive Pulmonary Disease
089	Simple Pneumonia & Pleurisy Age > 17 With CC
094	Pneumothorax With CC
096	Bronchitis & Asthma Age > 17 With CC
101	Other Respiratory System Diagnoses With CC
106	Cornary Bypass With Cardiac Cath
107	Cornary Bypass W/O Cardiac Cath
110	Major Cardiovascular Procedures With CC
113	Amputation For Circ System Disorders Except Upper Limb & Toe
115	Perm Cardiac Pacemaker Implant With Ami, Heart Failure or Shock
121	Circulatory Disorders With Ami & C.V. Comp. Disch. Alive
126	Acute & Subacute Endocarditis
127	Heart Failure & Shock
128	Deep Vein Thrombophlebitis
130	Peripheral Vascular Disorders With CC
132	Atherosclerosis With CC
134	Hypertension

**DRG  
GROUP  
NUMBER**

**DESCRIPTION**

135	Cardiac Congenital & Valvular Disorders Age >17 With CC
138	Cardiac Arrhythmia & Conduction Disorders With CC
140	Angina Pectoris
144	Other Circulatory System Diagnoses With CC
146	Rectal Resection With CC
148	Major Small & Large Bowel Procedures With CC
150	Peritoneal Adhesiolysis Age >69 And/Or CC
164	Appendectomy With Complicated Princ. Diag Age >69 /And/Or CC
172	Digestive Malignancy Age >69 And/Or CC
174	G I. Hemorrhage Age >69 And/Or CC
179	Inflammatory Bowel Disease
180	G.I. Obstruction With CC
182	Esophagitis, Gastroent. & Misc. Digest. Disorders Age >17 With CC
188	Other Digestive System Diagnoses Ages >69 And/Or CC
191	Major Pancreas, Liver & Shunt Procedures With CC
195	Total Cholecystectomy W C.D.E. With CC
197	Total Cholecystectomy W/O C.D.E. With CC
203	Malignancy Of Hepatobiliary System Or Pancreas
204	Disorders Of Pancreas Except Malignancy
205	Disorders Of Liver Exc Malig. Cirr. Alc Hepa With CC
207	Disorders Of the Biliary Tract With CC
209	Major Joint And Limb Reattachment Procedures
210	Hip & Femur Procedures Except Major Joint Age >17 With CC
213	Amputations For Musculoskeletal System & Conn. Tissue Disorders
217	Wnd Debrid & Skn Grft Exc Hand, For Muscskeletal & Conn. Tiss. Dis.
221	Major Shoulder/Elbow Proc. Or Other Upper Extremity Proc. W CC
223	Upper Extremity Proc Exc Humerus + Hand Age >69 And/Or CC
233	Other Musculoskelet Sys & Conn Tiss O.R. Proc With CC
235	Fractures Of Femur
236	Fractures Of Hip & Pelvis
238	Osteomyelitis
239	Pathological Fractures & Musculoskeletal & Conn. Tiss. Malignancy
240	Connective Tissue Disorders With CC

**DRG  
GROUP  
NUMBER**

**DESCRIPTION**

242	Septic Arthritis
244	Bone Diseases & Specific Arthropathies With CC
257	Total Mastectomy For Malignancy With CC
259	Subtotal Mastectomy For Malignancy With CC
263	Skin-Grafts And/Or Debrid Ulcer Or Cellulitis With CC
271	Skin Ulcers
272	Major Skin Disorders With CC
274	Malignant Breast Disorders With CC
277	Cellulitis Age >17 With CC
285	Amputation Of Lower Limb For Endocrine, Nutritional & Metabolic Dis.
294	Diabetes Age = >35
296	Nutritional & Misc. Metabolic Disorders With CC
300	Endocrine Disorders Age >69 And/Or CC
306	Prostatectomy With CC
310	Transurethral Procedures With CC
318	Kidney & Urinary Tract Neoplasms Age >17 With CC
320	Kidney & Urinary Tract Infections Age >17 With CC
331	Other Kidney & Urinary Tract Diagnoses Age >17 With CC
336	Transurethral Prostatectomy With CC
346	Malignancy, Male Reproductive System With CC
366	Malignancy, Female Reproductive System With CC
400	Lymphoma And Leukemia With Major O.R. Procedure
401	Lymphoma And Non-Acute Leukemia With Other O.R Proc With CC
403	Lymphoma And Non-Acute Leukemia With CC
416	Septicemia Age >17
423	Other Infectious & Parasitic Diseases Diagnoses
444	Traumatic Injury Age >17 With CC
449	Poisoning And Toxic Effects Of Drugs Age >69 And/Or CC
462	Rehabilitation



KEN HECHLER  
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help we can get)

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**STATE OF WEST VIRGINIA**

**SECRETARY OF STATE**

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

TO: Marianne Stonestreet

AGENCY: Health Care Cost Review

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 19, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

**PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.**

SERIES: 20 TITLE: 65 Health Care Cost Review

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Marianne L. Stonestreet

TITLE OF PERSON SIGNING: General Counsel

DATE: 5-4-93

**NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.**

Bill HCCRA, Conversion 65 20

H. B. 4284

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the  
Committee on Health & Human Resources then the Judiciary)

1  
2  
3  
4  
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7  
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9  
10 A BILL to amend and reenact section three, article five, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 health care cost review authority to promulgate legislative  
14 rules relating to the conversion of acute care beds to  
15 skilled nursing care beds.

16 Be it enacted by the Legislature of West Virginia:

17 That section three, article five, chapter sixty-four of the  
18 code of West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended and reenacted, to read as follows:

20 ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN  
21 RESOURCES TO PROMULGATE LEGISLATIVE RULES.

22 §64-5-3. Health care cost review authority.

23 (a) The legislative rules filed in the state register on the  
24 twenty-first day of October, one thousand nine hundred

1 eighty-three, relating to the health care cost review authority  
2 (limitation on hospital gross patient revenue), are authorized.

3 (b) The legislative rules filed in the state register on the  
4 nineteenth day of December, one thousand nine hundred  
5 eighty-three, relating to the health care cost review authority  
6 (freeze on hospital rates and granting temporary rate increases),  
7 are authorized.

8 (c) The legislative rules filed in the state register on the  
9 twenty-first day of December, one thousand nine hundred  
10 eighty-four, relating to the health care cost review authority  
11 (implementation of the utilization review and quality assurance  
12 program), are authorized.

13 (d) The legislative rules filed in the state register on the  
14 fifteenth day of August, one thousand nine hundred eighty-four,  
15 relating to the health care cost review authority (hospital cost  
16 containment methodology), are authorized.

17 (e) The legislative rules filed in the state register on the  
18 twenty-fifth day of November, one thousand nine hundred  
19 eighty-five, modified by the West Virginia health care cost  
20 review authority to meet the objections of the legislative  
21 rule-making review committee and refiled in the state register on  
22 the twenty-eighth day of January, one thousand nine hundred  
23 eighty-six, relating to the West Virginia health care cost review  
24 authority (interim standards for lithotripsy services), are  
25 authorized.

1 (f) The legislative rules filed in the state register on the  
2 third day of September, one thousand nine hundred eighty-seven,  
3 modified by the West Virginia health care cost review authority  
4 to meet the objections of the legislative rule-making review  
5 committee and refiled in the state register on the twenty-seventh  
6 day of January, one thousand nine hundred eighty-eight, relating  
7 to the West Virginia health care cost review authority  
8 (exemptions from certificate of need review), are authorized.

9 (g) The legislative rules filed in the state register on the  
10 nineteenth day of September, one thousand nine hundred  
11 eighty-eight, modified by the health care cost review authority  
12 to meet the objections of the legislative rule-making review  
13 committee and refiled in the state register on the twenty-first  
14 day of February, one thousand nine hundred eighty-nine, relating  
15 to the health care cost review authority (financial disclosure),  
16 are authorized.

17 (h) The legislative rules filed in the state register on the  
18 fourteenth day of August, one thousand nine hundred eighty-nine,  
19 modified by the West Virginia health care cost review authority  
20 to meet the objections of the legislative rule-making review  
21 committee and refiled in the state register on the fifth day of  
22 December, one thousand nine hundred eighty-nine, relating to the  
23 West Virginia health care cost review authority (expedited review  
24 for rate changes), are authorized with the amendments set forth  
25 below:

1 On page 5, Section 4.1, after the words: "affected by the  
2 increase." by inserting the following language: "The hospital  
3 shall also reconcile any excesses in gross revenue, gross patient  
4 revenue, gross inpatient revenue or charges per discharge.  
5 Within fifteen days of submission the Authority shall inform the  
6 hospital if it accepts the justification for excesses provided by  
7 the hospital."

8 And,

9 On page 6, section 4.2, after the words "the excess in gross  
10 outpatient revenue" by striking the period and inserting the  
11 following:

12 "or if any excesses in the above categories (1 through 4)  
13 have been sufficiently justified to the Authority as required in  
14 Section 4.1 of this rule."

15 (i) The legislative rules filed in the state register on the  
16 eleventh day of September, one thousand nine hundred eighty-nine,  
17 modified by the West Virginia health care cost review authority  
18 to meet the objections of the legislative rule-making review  
19 committee and refiled in the state register on the fifth day of  
20 December, one thousand nine hundred eighty-nine, relating to the  
21 West Virginia health care cost review authority (exemption for  
22 conversion of acute care beds to skilled nursing care beds), are  
23 authorized.

24 (j) The legislative rules filed in the state register on the  
25 thirtieth day of July, one thousand nine hundred ninety, modified

1 by the health care cost review authority to meet the objections  
2 of the legislative rule-making review committee and refiled in  
3 the state register on the twenty-fifth day of September, one  
4 thousand nine hundred ninety, relating to the health care cost  
5 review authority (exemption for shared services), are authorized.

6 (k) The legislative rules filed in the state register on the  
7 thirty-first day of July, one thousand nine hundred ninety,  
8 modified by the health care cost review authority to meet the  
9 objections of the legislative rule-making review committee and  
10 refiled in the state register on the twenty-fifth day of  
11 September, one thousand nine hundred ninety, relating to the  
12 health care cost review authority (health services offered by  
13 health professionals), are authorized.

14 (l) The legislative rules filed in the state register on the  
15 eleventh day of September, one thousand nine hundred ninety,  
16 modified by the West Virginia health care cost review authority  
17 to meet the objections of the legislative rule-making review  
18 committee and refiled in the state register on the twenty-fourth  
19 day of January, one thousand nine hundred ninety-one, relating to  
20 the West Virginia health care cost review authority (conversion  
21 of acute care beds to one hundred skilled nursing care beds), are  
22 authorized.

23 (m) The legislative rules filed in the state register on the  
24 twenty-seventh day of June, one thousand nine hundred ninety-one,  
25 modified by the health care cost review authority to meet the

1 objections of the legislative rule-making review committee and  
2 refiled in the state register on the twenty-third day of  
3 September, one thousand nine hundred ninety-one, relating to the  
4 health care cost review authority (conversion of acute care beds  
5 to skilled nursing care beds) are authorized.

6

7 NOTE: The purpose of this bill is to authorize the Health  
8 Care Cost Review Authority to promulgate legislative rules  
9 relating to the conversion of acute care beds to skilled nursing  
10 care beds.

11

12 Strike-throughs indicate language that would be stricken from  
13 the present law, and underscoring indicates new language that  
14 would be added.