

HB 2409 -- Redline

Introduced to Committee Substitute -- Updating cooperative agreements

Deletions ~~struck~~ · Insertions underlined

CS for HB 2409 WEST VIRGINIA LEGISLATURE REGULAR SESSION ~~Introduced~~Committee Substitute for House Bill 2409 By Delegates ~~Hornby, Worrell, Maynor, Willis, Ward, Horst, and Anders, Horst White, [Originating and in Kimble]~~the [Introduced Standing February Committee 17, on 2025; Health and Human Resources; referred Reported to the Committee on Health March and 25, Human 2025] Resources~~CS then for the Judiciary]~~
Intr HB ~~2025R2897~~2409 A BILL to amend and reenact Sec.16-29B-28 of the Code of West Virginia, 1931, as amended, ~~by adding a new article, designated Sec.26-12-1, Sec.26-12-2, Sec.26-12-3, Sec.26-12-4, Sec.26-12-5, Sec.26-12-6, Sec.26-12-7, Sec.26-12-8, Sec.26-12-9, Sec.26-12-10, Sec.26-12-11, and Sec.26-12-12 all relating to the cooperative creation agreements. of the Hospital Transparency Act and providing for the administration of the Act.~~

ARTICLE~~CHAPTER~~ 12-16.

THE~~PUBLIC~~ HOSPITAL~~HEALTH.~~ TRANSPARENCY ACT.

~~Sec.26-12-1.~~ ARTICLE 29B.

~~Short~~HEALTH ~~Title.~~ CARE AUTHORITY.

~~This~~Sec.16-29B-28. ~~Act shall be known and may be cited as the Hospital Price Transparency Act.~~

~~Sec.26-12-2.~~ Review of Cooperative agreements.

~~Purpose.~~ (a) Definitions.

~~The-- purpose~~As of used in this Act~~section is the to following require terms healthcare have facilities the to following disclose meanings: prices for certain items and services provided by certain medical facilities;~~

~~provide~~ (1) administrative ~~"Academic penalties; medical center" means an accredited medical school, one or more faculty practice plans affiliated with the medical school or one or more affiliated hospitals which meet the requirements set forth in 42 C.~~

~~prohibit~~ F. collective action of debt for non-compliant facilities.

~~Sec.26-12-3.~~ R.

~~Definitions.~~ 411.355(e).

~~The~~ (2) following ~~"Accredited definitions academic shall hospital" apply means for a the hospital purposes or of health this system article; that sponsor four or more approved medical education programs.~~

~~(1)(3) "Ancillary" Cooperative service~~ "agreement" means a an facility agreement item between or a service qualified that hospital which is a facility member customarily of provides an as academic part medical of center a and shoppable one service or more other hospitals or other health care providers.

~~(2) The "Chargemaster" agreement means shall provide for the list sharing, of allocation, all consolidation facility by items merger or other combination of assets, or referral of patients, personnel, instructional programs, support services maintained and by facilities a or facility medical, for diagnostic, which or the laboratory facility facilities has or established procedures a or charge other services traditionally offered by hospitals or other health care providers.~~

~~(3)(4) "DHF" "Commercial health plan" means the a Department plan of offered Health by Facilities, any third party payor that negotiates with a party to a cooperative agreement with respect to patient care services rendered by health care providers.~~

~~(4)(5) "De-identified" Health maximum care negotiated provider" charge" means the highest same charge as that a term facility is has defined negotiated in with section all three third-party of payors this for article. a facility item or service.~~

~~(5) "Hospital" "De-identified minimum negotiated charge" means the lowest charge that a facility has licensed negotiated pursuant with to all the third-party provisions payors of for Sec.16B-3-1 a et facility seq. item or service.~~

~~(6) of "Discounted this cash code price" 1 means "Person" the shall charge mean that any applies natural to person a or individual persons, who pays cash, or a any cash corporation, equivalent, partnership, for company, a trust facility or item association or of service persons.~~

~~(7)(6) "Facility" "Teaching hospital" means a hospital licensed or under medical Sec.16-5b-1 center at that seq. provides clinical education and training to future and current health professionals whose main building or campus is located in the same county as the main campus of a medical school operated by a state university.~~

~~(7) "Qualified hospital" means an academic medical center or teaching accredited academic hospital, which has entered into a cooperative agreement with one or more hospitals or other health care providers but is not a critical access hospital for purposes of this code section.~~

~~Intr (b) HB Findings. 2025R2897 (8) "Facility items or services" means all items and services, including~~

~~individual items and services and service packages, that may be provided by a facility to a patient in connection with an inpatient admission or an outpatient department visit, as applicable, for which the facility has established a standard charge, including:~~

~~(A)(1) Supplies~~The Legislature finds that the state's schools of medicine, affiliated universities and procedures; teaching hospitals are critically important in the training of physicians and other healthcare providers who practice health care in this state.

~~(B) They Room provide access to healthcare and board;~~enhance quality healthcare for the citizens of this state.

~~(C)(2) Use~~A medical education is enhanced when medical students, residents and fellows have access to modern facilities, state of the facility art equipment and other areas, full the range charges of for clinical which services are and generally that, referred in many instances, the accessibility to as facilities, facility equipment fees; and clinical services can be achieved more economically and efficiently through a cooperative agreement among a qualified hospital and one or more hospitals or other health care providers.

~~(D)(c) Services~~Legislative of purpose. physicians and non-physician practitioners, employed by the facility, the charges for which are generally referred to as professional charges;

~~and-- (E) The Any Legislature other encourages item cooperative or agreements service if for the which likely a benefits facility of has such established agreements outweigh any disadvantages attributable to a standard reduction charge in competition.~~

~~(9) When "Gross a charge" cooperative means agreement, and the charge planning for and a negotiations facility of item cooperative or agreements, service might that be anticompetitive within the meaning and intent of state and federal antitrust laws the Legislature believes it is reflected in on the a state's facility's best charge master, interest absent to any supplant discounts, such laws with regulatory approval and oversight by the Health Care Authority as set out in this article.~~

~~(10) The "Machine-readable authority format" has means the a power digital to representation review, of approve information or in deny a cooperative file agreements, ascertain that can they be are imported beneficial or to read citizens into of a the computer state system and for to further medical processing, education, to ensure compliance with the provisions of the 2 cooperative agreements relative to the commitments made by the qualified hospital and conditions imposed by the Health Care Authority.~~

~~The (d) term Cooperative includes Agreements. XML, JSON, and CSV formats.~~

~~(11)-- "Payor-specific (1) negotiated A charge" qualified means hospital the may charge negotiate that and a enter facility into has a negotiated cooperative agreement with a other third-party hospitals payor or for health a care facility providers item in or the service state:~~

~~(12)(A) "Service In package" order means to an enhance aggregation or preserve medical education opportunities through collaborative efforts and to ensure and maintain the economic viability of individual medical facility education items in or this services state into and to single achieve service the with goals a hereinafter single set charge forth;~~

~~(13) and "Shoppable (B) service" When means the a likely service benefits that outweigh may any be disadvantages scheduled attributable by to a health reduction care in consumer competition in that advance, may result from the proposed cooperative agreement.~~

~~(14)(2) "Standard The charge" goal means of the any regular cooperative rate agreement established would by be the to: facility for a facility item or service provided to a specific group of paying patients.~~

~~The (A) term Improve includes access all to of care; the following, as defined under this section:~~

~~(A)(B) The Advance gross health charge; status;~~

~~Inter (C) HB Target 2025 R2897 regional (B) health The issues; payor-specific negotiated charge;~~

~~(C)(D) The Promote de-identified technological minimum advancement; negotiated charge;~~

~~(D)(E) The Ensure de-identified accountability maximum of negotiated the charge; cost of care;~~

~~and (F) (E) Enhance The academic discounted engagement cash in price, regional health;~~

~~(15)(G) "Third Preserve party and payor" improve means medical a education entity opportunities; that is, by statute, contract, or agreement, legally responsible for payment of a claim for a facility item or service.~~

~~Sec.26-12-4. (H) Strengthen the workforce for health-related careers;~~

~~Public and availability (I) of Improve price health information entity required, collaboration and regional integration, where appropriate.~~

~~Notwithstanding (3) any A other qualified law, hospital located in this state may submit an application for approval of a facility proposed must cooperative make agreement public; to the authority.~~

~~(a) The Application digital shall file state in a detail machine-readable the format nature that contains a list of all the standard proposed charges arrangement for including all the facility goals items and or methods services for as achieving: described by Sec.26-12-5 of this Code;~~

~~and (A) (b) Population A health consumer-friendly improvement; list of standard charges for a limited set of shoppable services as provided in Sec.26-12-6 of this Code.~~

~~Sec. 26-12-5. (B) Improved access to health care services;~~

~~List (C) of improved standard quality; charges required.~~

~~(a) 3 A (D) facility cost must; efficiencies;~~

~~(1) (E) Maintain ensuring affordability list of all care; standard charges for all facility items or services in accordance with this section;~~

~~and (F) (2) Enhancing ensure and that preserving the medical listed education is programs; available at all times to the public, including by posting the list electronically in the manner provided by this section.~~

~~(b) and The (G) standard supporting charges contained in the list authority's required goals to and be strategic maintained mission, by a facility under this section must reflect the standard charges applicable to that location of the facility, regardless of whether the facility operates in more than one location or operates under the same license as another applicable facility.~~

~~(c) (4) The (A) list An required application under for review of a cooperative agreement as provided in this section must shall include be submitted and approved prior to the following finalization items, of as the applicable cooperative agreement, if the cooperative agreement involves the merger, consolidation or acquisition of a hospital.~~

~~(1) located A within description a distance of each twenty facility highway item miles or of service the provided main by campus of the facility; qualified hospital.~~

~~(2) (B) The In following reviewing charges an application for each cooperative individual agreement, facility the item authority or shall service give when deference provided to in the either policy an statements inpatient of setting the or Federal an Trade outpatient Commission. department setting, as applicable:~~

~~Intr (C) HB If 2025R2897 an (A) application The for gross a charge; review of a cooperative agreement is not required the qualified hospital may apply to the authority for approval of the cooperative agreement either before or after the finalization of the cooperative agreement.~~

~~(B) (e) The (d) de-identified Procedure minimum for negotiated review charge; of cooperative agreements.~~

~~(C) (1) The Upon de-identified receipt maximum of negotiated an charge; application, the authority shall determine whether the application is complete.~~

~~(D) If The the discounted authority cash determines price; the application is incomplete, it shall notify the applicant in writing of additional items required to complete the application.~~

~~and A (E) copy The payor-specific negotiated charge, listed by the name of the third-party complete payor application and shall plan be associated provided with by the charge parties and to displayed the in Office a of manner the that Attorney clearly General associates simultaneous the charge with each the third-party submission payor to and the plan; authority.~~

~~and If (3) an Any applicant code believes used by the facility materials for submitted purposes contain of proprietary accounting information or that billing is for required the to facility remain item confidential, or such service, information including must the be Current clearly Procedural identified Terminology and (CPT) code, the Healthcare applicant Common shall Procedures submit Coding duplicate System applications, (HCPGS) one code, with the full Diagnosis information Related for Group the (DRG) authority's code, use the and National one Drug redacted Code application (NDC), available or for other release common to identifier the public.~~

~~(d) (2) The information authority contained shall in upon the receipt list of required a under completed subsection application. (a) publish must notification be of published the in application a on single its digital website file as that well is as provide notice of such application placed in a the machine-readable State format Register.~~

~~(e) The list public required may under submit subsection written (a) comments must regarding be displayed in a prominent location on the home application page within often the days facility's following publicly publication. accessible Internet website or accessible by selecting a dedicated link that is prominently displayed on the home page of the facility's publicly accessible Internet website.~~

~~If following the facility close operates of multiple locations and maintains a single Internet website, the list written required comment under period, subsection (a) must be posted for each location the facility authority operates shall in review a manner that clearly associates the list 4 with application the as applicable set location forth of in the this facility section.~~

~~(f) Within The thirty list days required of under the subsection receipt (a) of must a complete application the authority may:~~

~~(1) (i) Be Issue available: a certificate of approval which shall contain any conditions the authority finds necessary for the approval;~~

~~(A) (ii) Free Deny of the charge; application;~~

~~(B) or Without (iii) having Order a public hearing if the authority finds it necessary to establish make a an user informed account decision or on password; the application.~~

~~(C) (3) Without The having authority to shall submit issue personal a identifying written information; decision within seventy-five days from receipt of the completed application.~~

~~and The (D) authority Without may having request to additional overcome information any in other which impediment, case including they entering shall a have code an additional fifteen days following receipt of~~

the supplemental information to access approve or deny the list; proposed cooperative agreement.

~~Intr(4) HB Notice 2025R2897 (2) Be accessible to a common commercial operator of an any Internet hearing search engine be to sent the by extent certified necessary mail for the search engine to index the list applicants and display all the persons, list groups as or a organizations result who in have response submitted to written a comments search on query of a user of the search proposed engine; cooperative agreement.~~

~~(3) Any Be individual, formatted group in or a organization manner who prescribed submitted by written comments regarding the Department application and wishes to present evidence at the public hearing shall request to be recognized as an affected party as set forth in article two-d of Health this Facilities; chapter.~~

~~(4) The Be hearing digitally shall searchable; be held no later than forty-five days after receipt of the application.~~

~~and The (5) authority Use shall the publish following notice naming of convention the specified hearing by on the Centers authority's for website Medicare fifteen and days Medicaid prior Services, to specifically; the hearing.~~

~~<in>_<facility-name>_standard charges.[jsonxmlcsv] The (g) authority In shall prescribing additionally the provide format timely notice of the such list hearing required in by this section, the Department State of Register. Health Facilities must:~~

~~(1) (5) Develop Parties a may template file that a each motion facility for must an use expedited in decision. formatting the list;~~

~~and (f) (2) (e) In Standards developing for the review template of required cooperative by agreements. this section;~~

~~(A) -- Consider (1) any In applicable its federal review guidelines of for an formatting application similar for lists approval required of by a federal cooperative law agreement or submitted rule pursuant and to ensure this that section, the design authority of may consider the template proposed enables cooperative health agreement care and researchers any to supporting compare documents the submitted charges by contained the in applicant, the any lists written maintained comments submitted by each any facility; person and any written or oral comments submitted, or evidence presented, at any public hearing.~~

~~and (2) (B) The Design authority the shall template consult to with be substantially similar to the template Attorney used General by of the this Centers state for regarding Medicare his and or Medicaid her Services 5 for assessment similar purposes, if the Department of Health whether Facilities or determines not that to designing approve the template proposed in cooperative that agreement. manner serves the purposes of this section and that the Department of Health Facilities benefits from developing and requiring that substantially similar design.~~

~~(h) (3) The facility authority must shall update approve a proposed cooperative agreement and issue a certificate of approval if it determines, with the list written required concurrence under of this the section Attorney at General, least that once the each benefits year, likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement.~~

~~The (4) facility In must evaluating clearly indicate the date potential on benefits which of the a list proposed was cooperative most agreement, recently the updated, authority either shall on consider the whether list one or in more a of manner the that following is benefits clearly may associated result with from the list, proposed cooperative agreement:~~

~~Sec. 26-12-6. (A) Enhancement and preservation of existing academic and clinical educational programs;~~

~~Consumer friendly (B) list Enhancement of shoppable the services, quality of hospital and hospital-related care, including mental health services and treatment of substance abuse provided to citizens served by the authority;~~

~~(a) (C) Except Enhancement as of provided population by health this status section, consistent a with facility must maintain and make publicly available a list of the standard health charges goals described established by this chapter for each of at least 300 shoppable services Intr HB 2025R2897 provided by the facility authority;~~

~~The (D) facility Preservation may of select hospital the facilities shoppable in services geographical proximity to be the included communities in traditionally the served list, by except those that facilities the to list ensure must access include to care;~~

~~(1) (E) The Gains 70 in services the specified cost-efficiency as of shoppable services provided by the Centers hospitals for involved; Medicare and Medicaid Services;~~

~~or (F) (2) Improvements If in the facility utilization does not provide all of the hospital shoppable resources services and described equipment; by subdivision (1), as many of those shoppable services the facility does provide.~~

~~(b) (G) In Avoidance selecting of a duplication shoppable service for purposes of inclusion hospital in resources; the list required under this section, a facility must:~~

~~(1) (H) Consider Participation how in frequently the facility state provides Medicaid the program; service and the facility's billing rate for that service;~~

~~and (2) (I) Prioritize Constraints the on selection increases of in services that are among the services total~~

~~most cost frequently of provided care, by the facility.~~

~~(c)(5) If the authority's facility evaluation does not show any provided disadvantages attributable to the facility, any reduction in competition must likely result from the total proposed number of services included, that but the need facility not provide be in limited to, manner that otherwise complies with the requirements following of factors: this section.~~

~~(d)(A) The list, extent required of under any this likely section, adverse as impact applicable, of must: the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;~~

~~(1)(B) Include: The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;~~

~~(A)(C) The plain language extent description of each any shoppable likely service adverse included impact on patients in the list; quality, availability and price of health care services;~~

~~(B) and (D) The payor-specific availability negotiated of charge arrangements that apply are to less each restrictive shoppable to service competition included and on achieve the list same and benefits any or ancillary a service, more listed favorable by balance the name of the benefits third-party over payor disadvantages and attributable plan to associated any with reduction the charge and displayed in a competition manner likely that to clearly result associates from the charge proposed with cooperative the agreement, third-party payor and plan;~~

~~(C)(6) The (A) discounted After cash a price complete that review applies of to the each record, shoppable including, service but included not on limited to, the list factors set out in subsection (e) of this section, any commitments made by the applicant or applicants and any ancillary conditions service imposed or, by the authority, if the facility authority does determine not that offer the a benefits discounted likely cash to price result for from one the or proposed more cooperative of agreement outweigh the shoppable disadvantages or likely ancillary to services result on from the a list, reduction in competition from the gross proposed charge cooperative for agreement, the shoppable authority services shall or approve ancillary the service, proposed as cooperative applicable; agreement.~~

~~Inter (B) HB 2025R2897 (D) The de-identified authority minimum may negotiated reasonably charge condition that approval applies upon to each shoppable service included on the list parties' and commitments any to: ancillary service;~~

~~(E)(i) The Achieving de-identified improvements maximum in negotiated population charge health; that applies to each shoppable service included on the list and any ancillary service;~~

~~and (ii) (F) Access Any to code health used care by services; the facility for purposes of accounting or billing for each shoppable service included on the list and any ancillary service, including the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other common identifier;~~

~~(iii) Quality and (2) cost If efficiencies applicable, identified by the parties in support of their application for approval of the proposed cooperative agreement;~~

~~(A) State each location at which the facility provides the shoppable service and whether (iv) the Any standard additional charges commitments included made in by the list parties apply at that location to the provision cooperative of agreement, that shoppable service in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable;~~

~~and Any (B) conditions Indicate set if one or more of the shoppable services specified by the Centers authority for shall Medicare be and fully Medicaid enforceable Services is not provided by the facility authority.~~

~~(c) No The condition list imposed required by under the subsection authority, (a) however, shall limit or (c), interfere as with applicable, the must right be: of a hospital to adhere to 7 religious or ethical directives established by its governing board.~~

~~(1)(7) Displayed The in authority's the decision manner to prescribed approve by or Sec. 26-12-5 deny of an this application code shall for constitute a final order or decision pursuant to the list West required Virginia under Administrative that Procedure section; Act (Sec. 29A-1-1, et seq.).~~

~~(2) The Available: authority may enforce commitments and conditions imposed by the authority in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.~~

~~(A)(g) Free (f) Enforcement and supervision of charge; cooperative agreements.~~

~~(B)-- Without The having authority to shall register enforce or and establish supervise a any user approved account cooperative of agreement password; for compliance.~~

~~(C)(1) Without The having authority is authorized to submit promulgate personal legislative identifying rules information; in furtherance of this section.~~

and Additionally, (D) the Without authority having shall promulgate emergency rules pursuant to overcome the any provisions other of impediment, section including fifteen, entering article a three, chapter twenty-nine-a of this code to access accomplish the list, goals of this section.

(3) These Searchable rules by shall service include, description, at billing a code, minimum: and payor;

Inter (A) HB An 2025R2897 annual (4) report Updated in the manner prescribed by Sec. 26-12-5 of this code for the list parties required to under a that cooperative section; agreement.

(5) This Accessible report to is are required common commercial operator of an Internet search engine to the include: extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine;

and (i) (6) Information Formatted about in the a extent manner of that is consistent with the format benefits prescribed realized by and the compliance Department with of other Health terms Facilities and under conditions Sec. 26-12-5 of this the code; approval;

Sec. 26-12-7. (ii) A description of the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the authority as a condition for approval of the cooperative agreement;

Reporting (iii) Requirement. Information relating to price, cost, quality, access to care and population health improvement;

Each (iv) time Disclosure of any reimbursement contract between a facility party updates to a list cooperative as agreement required approved under pursuant to this article, section the and facility a must commercial submit health the plan updated or list insurer entered into subsequent to the Department finalization of Health the Facilities cooperative agreement.

The This Department shall include the amount, if any, by which an increase in the average rate of Health reimbursement Facilities exceeds, must with prescribe respect to inpatient services for such year, the form increase in which the Consumer Price Index for all Urban Consumers for hospital inpatient 8 services as published by the updated Bureau list of must Labor be Statistics submitted for such year and, with respect to outpatient services, the Department increase of in Health the Facilities Consumer Price Index for all Urban Consumers for hospital outpatient services for such year;

Sec. 26-12-8. and (v) Any additional information required by the authority to ensure compliance with the cooperative agreement.

Monitoring (B) If an approved application involves the combination of hospitals, disclosure of the performance of each hospital with respect to a representative sample of quality metrics selected annually by the authority from the most recent quality metrics published by the Centers for Medicare and enforcement Medicaid Services.

(a) The Department representative of sample Health shall Facilities be must published monitor by each facility's compliance with the requirements authority of on this its chapter website, using any of the following methods:

(1) (C) Evaluating A complaints procedure made for by a persons corrective to action plan where the Department average performance score of Health the Facilities parties regarding to noncompliance the cooperative agreement in any calendar year is below the fiftieth percentile for all United States hospitals with respect to the quality metrics as set forth in (B) of this chapter; subsection.

(2) The Reviewing corrective any action analysis plan prepared is regarding required noncompliance to: with this chapter;

(3) (i) Auditing Be the submitted Internet one websites hundred of twenty facilities days for from compliance the with commencement this of chapter; the next calendar year;

and (4) (ii) Confirming Provide that for a rebate to each facility commercial submitted health the plan lists or required insurer under with Sec. 26-12-7 which they have contracted an amount not in excess of this one code percent of the amount paid to them by such commercial health plan or insurer for hospital services during such two-year period if in any two consecutive year period the average performance score is below the fiftieth percentile for all United States hospitals.

(b) The If amount the to Department be of rebated Health shall Facilities be determines reduced that by a the facility amount is of not any reduction in compliance reimbursement with which may be imposed by a provision commercial of health this plan chapter, or the insurer Department under of a Health quality Facilities incentive must or take awards program in which the following hospital actions: is a participant.

(1) (D) Provide A a procedure written where notice if to the excess above the facility increase that in clearly the explains Consumer Price Index for all Urban Consumers for hospital inpatient services or hospital outpatient services is two percent or greater the manner authority in may order the rebate of the amount which exceeds the facility respective is indices not 9 in by compliance two with percent this or chapter; more to all health plans or insurers which paid such excess unless the party provides written justification of such increase satisfactory to the authority taking into account case mix index, outliers and extraordinarily high cost outpatient procedure utilizations.

(2) (E) Request The a ability corrective of action plan from the facility authority if to the investigate, facility as has needed, materially to violated ensure a compliance provision with of the this cooperative

~~chapter, agreement, as determined under Sec. 26-12-9 of this code;~~

~~and (F) Intr HB 2025R2897 (3) Impose an administrative penalty, as determined in Sec. 26-12-10 of this code on the facility authority and to publicize take the appropriate penalty action, on including the revocation Department of Health Facilities certificate Internet of website approval, if the facility determines fail that: to:~~

~~(A)(i) Respond The parties to the Department agreement are not complying with the terms of Health the Facilities agreement request or to the submit terms a and corrective conditions action of plan; approval; or (ii) (B) The Comply authority's with approval the was requirements obtained of as a corrective result action of plan an submitted intentional to material the misrepresentation; Department of Health Facilities. (c)(iii) Beginning The not parties later to than 90 days after the date agreement of the enactment of this Act, the Department of Health Facilities must create and maintain a publicly available list on its website of hospitals that have been failed found to have pay violated the hospital price transparency rule, that has been issued an administrative penalty or sent a warning notice, a request for a corrective action plan, or any other required written fee; communication from the Department of Health Facilities.~~

~~Such or penalties, (iv) notices, The and benefits communications resulting must from be the subject approved agreement no longer outweigh the disadvantages attributable to public the disclosure reduction under in 5 competition U.S.C. resulting from the agreement.~~

~~552, (G) notwithstanding If any the exemptions authority determines the parties to an approved cooperative agreement have engaged in conduct that is contrary to state policy or exclusion the public interest, including the failure to take action required by state policy or the contrary, public in interest, full the without authority redaction, may initiate a proceeding to determine whether to require the parties to refrain from taking such action or requiring the parties to take such action, regardless of whether or not the benefits of the cooperative agreement continue to outweigh its disadvantages.~~

~~Such Any list determination will by be the updated authority at shall least be every final, 30 days thereafter.~~

~~(d) The Notwithstanding authority any is provision specifically of authorized law to the enforce contrary, its determination in considering the ancircuit application court for renewal of a Kanawha hospital's County license or certification, the department circuit must court consider where whether the hospital principal is place or of has business been of in a compliance party with to hospital the price cooperative transparency agreement laws is located.~~

~~Sec. 26-12-9. (H) Fees as set forth in subsection (h).~~

~~Material (2) violation; Until the promulgation of the emergency rules, the authority shall monitor and regulate cooperative agreements to ensure that their conduct is in the public interest and shall have the 10 powers set forth in subdivision (1) of this subsection, including the power of enforcement set forth in paragraph (G), subdivision (1) of this subsection.~~

~~corrective (h) action Fees. plan.~~

~~(a)-- The Department authority of may Health set Facilities fees must for impose the an approval administrative of penalty on a facility cooperative in agreement. accordance with Sec. 16-5B-1 et seq. of These this fees code shall if be for all reasonable and actual costs incurred by the facility authority fails in to its review and approval of any cooperative agreement pursuant to this section.~~

~~(1) These Respond fees to shall the not Department exceed of \$75,000. Health Facilities request to submit a corrective action plan;~~

~~or Additionally, (2) the Comply authority with may assess an annual fee not to exceed \$75,000 for the requirements supervision of any corrective cooperative action agreement plan approved submitted pursuant to this section and to support the Department implementation and administration of Health the Facilities provisions of this section.~~

~~(b)(i) The Miscellaneous Department provisions. of Health Facilities must impose an administrative penalty on a facility Intr HB 2025R2897 for a violation of each requirement of this chapter.~~

~~The -- Department (1) of (A) Health An Facilities agreement must entered set into the by penalty a in hospital an party amount to sufficient a to cooperative ensure agreement compliance and by any facilities state official or state agency imposing certain restrictions on rate increases shall be enforceable in accordance with the its provisions terms of and this may chapter be subject considered to by the limitations authority prescribed in by determining subsection whether (c) to approve or deny the application.~~

~~(c) Nothing For in at this facility chapter with shall one undermine of the following validity total of gross any revenues such as agreement reported between to a the hospital Centers party for Medicare and Medicaid Services or to another entity designated by Department of Health Facilities rule in the year Attorney preceding General the entered year before in which a penalty is imposed, the penalty effective imposed date by the Department of Health this Facilities Legislation. must not be lower than:~~

~~(1) (B) In At least ninety days prior to the case implementation of any increase in rates for inpatient and outpatient hospital services and at least sixty days prior to the execution of any reimbursement agreement with a six-bed third count party payor, a hospital party to a cooperative agreement involving the combination of 30 two or fewer, more \$600 hospitals for through each merger, day consolidation in or~~

acquisition which has been approved by the authority shall submit any proposed increase in rates for inpatient and outpatient hospital services and any such reimbursement agreement to comply the Office of the West Virginia Attorney General together with such requirements; information concerning costs, patient volume, acuity, payor mix and other data as the Attorney General may request.

~~(2) Should the Attorney General determine that the case proposed of rates amay hospital inappropriately with exceed a competitive bed rates count for that comparable is services greater in than the 30 hospital's and market equal area to which would result in unwarranted consumer harm or fewer impair than consumer 550, access \$20 to per health bed care, for the each Attorney day General in may which request the hospital authority fails to evaluate the 11 proposed rate increase and to comply provide with its such recommendations requirements; to the Office of the Attorney General.~~

~~or The (3) Attorney In General the may case approve, of reject a or hospital modify with the a proposed bed rate count increase that and is shall greater communicate than his 550, or \$11,000 per for decision each to day in which the hospital fails no to later comply than with 30 such days requirements prior (d) to Each the day proposed a implementation violation date. continues is considered a separate violation.~~

~~(e) The In hospital determining may the then amount only of implement the penalty, increase the approved Department by of the Health Attorney Facilities General. must consider.~~

~~(1) Should Previous the violations Attorney by General determine that a reimbursement agreement with a third party payor includes pricing terms at anti-competitive levels, the facility's Attorney operator; General may reject the reimbursement agreement and communicate such rejection to the parties thereto together with the rationale therefor in a timely manner.~~

~~(2) The seriousness authority of shall maintain on file all cooperative agreements the violation; authority has approved, including any conditions imposed by the authority.~~

~~(3) The Any demonstrated party good to faith a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the facility's authority operator; thirty days after termination.~~

~~and (4) Any No other hospital matters which as is justice a party to a cooperative agreement for which approval is required pursuant to this section may require, knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement until approved by the authority.~~

~~(f) Additionally, Anno administrative hospital penalty which collected is under a this party chapter to must a be cooperative deposited agreement to may the knowingly credit bill of or an charge account for in health the services general resulting revenue from, fund or administered associated by with, the such Department cooperative of agreement Health for Facilities. which approval has been revoked or terminated.~~

~~Money (5) in By submitting an application for review of a cooperative agreement pursuant to this section, the account hospitals must or health care providers shall be appropriated deemed only to have agreed to submit to the Department regulation and supervision of Health the Facilities. authority as provided in this section.~~

~~Sec. 26-12-10. (j) To ensure protection from antitrust action under state and federal antitrust laws a hospital which has merged, consolidated or acquired a hospital after January 1, 2017 shall file a cooperative agreement under the provisions of this section before January 1, 2026.~~

~~Administrative 12- penalty.~~

~~(a) The Department of Health Facilities must impose an administrative penalty on a facility in accordance with Sec. 16-5B-1 et seq.~~

~~of this code if the facility fails to:~~

~~Intr HB 2025R2897 (1) Respond to the Department of Health Facilities request to submit a corrective action plan;~~

~~or (2) Comply with the requirements of a corrective action plan submitted to the Department of Health Facilities.~~

~~(b) The Department of Health Facilities must impose an administrative penalty on a facility for a violation of each requirement of this chapter.~~

~~The Department of Health Facilities must set the penalty in an amount sufficient to ensure compliance by facilities with the provisions of this article.~~

~~(c) For a facility with one of the following total gross revenues as reported to the Centers for Medicare and Medicaid Services or to another entity designated by Department of Health Facilities rule in the year preceding the year in which a penalty is imposed, the penalty imposed by the Department of Health Facilities must not be lower than:~~

~~(1) In the case of a hospital with a six-bed count of 30 or fewer, \$600 for each day in which the hospital fails to comply with such requirements;~~

~~(2) In the case of a hospital with a bed count that is greater than 30 and equal to or fewer than 550, \$20 per bed for each day in which the hospital fails to comply with such requirements;~~

~~or (3) In the case of a hospital with a bed count that is greater than 550, \$11,000 for each day in which the hospital fails to comply with such requirements.~~

~~(d) Each day a violation continues is considered a separate violation.~~

~~(e) In determining the amount of the penalty, the Department of Health Facilities must consider:~~

~~(1) Previous violations by the facility's operator;~~

~~(2) The seriousness of the violation;~~

~~(3) The demonstrated good faith of the facility's operator;~~

~~and (4) Any other matters as justice may require.~~

~~(f) An administrative penalty collected under this chapter must be deposited to the credit of an account in the general revenue fund administered by the Department of Health Facilities.~~

~~Intr HB 2025R2897 Money in the account must be appropriated only to the Department of Health Facilities. Sec.26-12-11.~~

~~Legislative recommendations.~~

~~The Department of Health Facilities must propose to the legislature recommendations for amending this chapter, including recommendations in response to amendments by the Centers for Medicare and Medicaid Services to 45 C.F.R.~~

~~Part 180.~~

~~Sec.26-12-12.~~

~~Failure to comply with hospital price transparency laws;
prohibiting collection of debt;
penalties.~~

~~(a) Except as provided in Sec.26-12-12(1)(b) of this code, on and after the effective date of this section, a hospital that is not in material compliance with hospital price transparency laws on the date that items or services are purchased from or provided to a patient by the hospital must not initiate or pursue a collection action against the patient or patient guarantor for a debt owed for the items or services.~~

~~(b) If a patient believes that a hospital was not in material compliance with hospital price transparency laws on a date on or after the effective date of this section that items or services were purchased by or provided to the patient, and the hospital takes a collection action against the patient or patient guarantor, the patient or patient guarantor may file suit to determine if the hospital was materially out of compliance with the hospital price transparency laws and rules and regulations on the date of service, and the noncompliance is related to the items or services.~~

~~The hospital must not take a collection action against the patient or patient guarantor while the lawsuit is pending.~~

~~(c) A hospital that has been found by a judge or jury, considering compliance standards issued by the Federal Centers for Medicare and Medicaid Services, to be materially out of compliance with hospital price transparency laws and rules and regulations:~~

~~(1) Must refund the payer any amount of the debt the payer has paid and must pay a penalty to the patient or patient guarantor in an amount equal to the total amount of the debt;~~

~~(2) Must dismiss or cause to be dismissed any court action with prejudice and pay any Intr HB 2025R2897 attorney fees and costs incurred by the patient or patient guarantor relating to the action;~~

~~and (3) Remove or cause to be removed from the patient's or patient guarantor's credit report any report made to a consumer reporting agency relating to the debt.~~

~~(d) Nothing in this article:~~

~~(1) Prohibits a hospital from billing a patient, patient guarantor, or third-party payer, including health insurer, for items or services provided to the patient;~~

~~or (2) Requires a hospital to refund any payment made to the hospital for items or services provided to the patient, so long as no collection action is taken.~~

~~NOTE:~~

~~The purpose of this bill is to create the Hospital Transparency Act and providing for the administration of the Act.~~

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