

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 333

*An Act to amend and reenact §§ 15.1-24, 32.1-332, 32.1-333, 32.1-334, 32.1-335, 32.1-337, and 32.1-338 of the Code of Virginia, relating to the Virginia Indigent Health Care Trust Fund.*

[H 2260]

Approved March 16, 1995

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.1-24, 32.1-332, 32.1-333, 32.1-334, 32.1-335, 32.1-337, and 32.1-338 of the Code of Virginia are amended and reenacted as follows:**

§ 15.1-24. Donations to the Virginia Indigent Health Care Trust Fund, charitable institutions and associations.

Counties, cities and towns of this Commonwealth are authorized to make appropriations of public funds, of personal property or of any real estate to *the Virginia Indigent Health Care Trust Fund and to any charitable institution or association, located within their respective limits or outside their limits if such institution or association provides services to residents of the locality; provided, however, such institution or association is shall not be controlled in whole or in part by any church or sectarian society.* The words "sectarian society" shall not be construed to mean a nondenominational Young Men's Christian Association or a nondenominational Young Women's Christian Association. Nothing in this section shall be construed to prohibit any county or city from making contracts with any sectarian institution for the care of indigent, sick or injured persons.

*Nothing in this section shall be construed to obligate any local governing body to appropriate funds to any entity, including the Virginia Indigent Health Care Trust Fund. Any such charitable contributions shall be voluntary.*

§ 32.1-332. Definitions.

As used in this chapter unless the context requires a different meaning:

"Board" means the Board of Medical Assistance Services.

"Charity care" means hospital care for which no payment is received and which is provided to any person whose gross annual family income is equal to or less than 100 percent of the federal nonfarm poverty level as published for the then current year in the Code of Federal Regulations.

"The Fund" means the Virginia Indigent Health Care Trust Fund created by this chapter.

"Hospital" means any acute care hospital which is required to be licensed as a hospital pursuant to Chapter 5 (§ 32.1-123 et seq.) of this title.

"Panel" means the Technical Advisory Panel appointed pursuant to the provisions of this chapter.

"Pilot health care project" means any arrangement for purchasing or providing health care, including, but not limited to, any accident and sickness insurance, health services plan, or health care plan.

"Voluntary contributions or donations" means any money voluntarily contributed or donated to the fund by hospitals or other private *or public* sources, *including local governments*, for the purpose of subsidizing pilot health care projects for the uninsured.

§ 32.1-333. Creation of fund; administration.

A. There is hereby created the Virginia Indigent Health Care Trust Fund whose purpose is to receive moneys appropriated by the Commonwealth and contributions from certain hospitals and others for the purpose of distributing these moneys to certain hospitals subject to restrictions as provided in this chapter.

B. The fund shall be the responsibility of the Board and Department of Medical Assistance Services and shall be maintained and administered separately from any other program or fund of the Board and Department. However, all funds voluntarily contributed or donated to the fund for the purpose of subsidizing pilot health care projects for the uninsured, *including any funds voluntarily contributed by local governments*, shall be administered by the Technical Advisory Panel in accordance with Board regulations.

C. The Board may promulgate rules and regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) for the administration of the fund consistent with this chapter, including but not limited to:

1. Uniform eligibility criteria to define those medically indigent persons whose care shall qualify a hospital for reimbursement from the fund. Such criteria shall define medically indigent persons as only those individuals whose gross family income is equal to or less than 100 percent of the federal nonfarm poverty level as published for the then current year in the Code of Federal Regulations.

2. Hospital inpatient and outpatient medical services qualifying for reimbursement from the fund. Such medical services shall be limited to those categories of inpatient and outpatient hospital services covered under the Medical Assistance Program, but shall exclude any durational or newborn infant

service limitations.

3. A mechanism to ensure that hospitals are compensated from the fund only for charity care as defined in this chapter.

4. Terms, conditions, and reporting requirements for hospitals participating in the fund.

5. Terms, conditions, and reporting requirements for pilot health care projects for the uninsured.

§ 32.1-334. Fund contributions.

The fund shall be comprised of such moneys as may be appropriated by the General Assembly for the purposes of the fund and by contributions from hospitals made in accordance with the provisions of this chapter. The fund may also receive voluntary contributions from hospitals and other entities, *including local governments*, as specified by law.

§ 32.1-335. Technical Advisory Panel.

The Board shall annually appoint a Technical Advisory Panel whose duties shall include recommending to the Board (i) policy and procedures for administration of the fund, (ii) methodology relating to creation of charity care standards, eligibility and service verification, and (iii) contribution rates and distribution of payments. The Panel shall also advise the Board on any matters relating to the governance or administration of the fund as may from time to time be appropriate and on the establishment of pilot health care projects for the uninsured. In addition to these duties, the Panel shall, in accordance with Board regulations, establish pilot health care projects for the uninsured and shall administer any money voluntarily contributed or donated to the fund by private *or public* sources, *including local governments*, for the purpose of subsidizing pilot health care projects for the uninsured.

The Panel shall consist of fifteen members as follows: the Chairman of the Board, the Director of the Department of Medical Assistance Services, the Executive Director of the Virginia Health Services Cost Review Council, the Commissioner of the Bureau of Insurance or his designee, the chairman of the Virginia Health Care Foundation or his designee, two additional members of the Board, one of whom shall be the representative of the hospital industry, and two chief executive officers of hospitals as nominated by the Virginia Hospital Association.

In addition, there shall be three representatives of private enterprise, who shall be executives serving in business or industry organizations. Nominations for these appointments may be submitted to the Board by associations representing constituents of the business and industry community in Virginia including, but not limited to, the Virginia Manufacturers Association, the Virginia Chamber of Commerce, the Virginia Retail Merchants Association, and the Virginia Small Business Advisory Board. There shall be two representatives from the insurance industry who shall be executives serving in insurance companies or industry organizations. Nominations for these appointments may be submitted to the Board by associations representing constituents of the insurance industry in Virginia including, but not limited to, Blue Cross/Blue Shield of Virginia, Health Insurance Association of America and the Virginia Association of Health Maintenance Organizations. There shall be one physician member. Nominations for this appointment may be submitted to the Board by associations representing medical professionals, including, but not limited to, the Medical Society of Virginia and the Old Dominion Medical Society.

§ 32.1-337. Hospital contributions; calculations.

Hospitals shall make contributions to the fund in accordance with the following:

A. A charity care standard shall be established annually as follows: For each hospital, a percentage shall be calculated of which the numerator shall be the charity care charges and the denominator shall be the gross patient revenues as reported by that hospital. This percentage shall be the charity care percent. The median of the percentages of all such hospitals shall be the standard.

B. Based upon the general fund appropriation to the fund and the contribution, a disproportionate share level shall be established as a percentage above the standard not to exceed three percent above the standard.

C. The cost of charity care shall be each hospital's charity care charges multiplied by each hospital's cost-to-charge ratio as determined in accordance with the Medicare cost finding principles. For those hospitals whose mean Medicare patient days are greater than two standard deviations below the Medicare statewide mean, the hospital's individual cost-to-charge ratio shall be used.

D. An annual contribution shall be established which shall be equal to the total sum required to support charity care costs of hospitals between the standard and the disproportionate share level. This sum shall be equally funded by hospital contributions and general fund appropriations.

E. A charity care and corporate tax credit shall be calculated, the numerator of which shall be each hospital's cost of charity care plus state corporate taxes and the denominator of which shall be each hospital's net patient revenues as defined by the Virginia Health Services Cost Review Council.

F. An annual hospital contribution rate shall be calculated, the numerator of which shall be the sum of one-half the contribution plus the sum of the product of the contributing hospitals' credits multiplied by the contributing hospitals' positive operating margins and the denominator of which shall be the sum of the positive operating margins for the contributing hospitals. The annual hospital contribution rate shall not exceed 6.25 percent of a hospital's positive operating margin.

G. For each hospital, the contribution dollar amount shall be calculated as the difference between the

rate and the credit multiplied by each hospital's operating margin. In addition to the required contribution, hospitals may make voluntary contributions or donations to the fund for the purpose of subsidizing pilot health care projects for the uninsured.

H. The fund shall be established on the books of the Comptroller so as to segregate the amounts appropriated and contributed thereto and the amounts earned or accumulated therein and any amounts voluntarily contributed or donated for the purpose of subsidizing pilot health care projects for the uninsured. No portion of the fund shall be used for a purpose other than that described in this chapter. Any money remaining in the fund at the end of a biennium shall not revert to the general fund but shall remain in the fund to be used only for the purpose described in this chapter, including any money voluntarily contributed or donated for the purpose of subsidizing pilot health care projects for the uninsured, *whether from private or public sources*.

§ 32.1-338. Distribution of fund moneys.

A. The fund shall compensate a hospital for such hospital's charity care percent less the charity care standard as follows:

1. The payment to each hospital shall be determined as the standard subtracted from each hospital's charity care percent, multiplied by each hospital's gross patient revenues, multiplied by each hospital's cost-to-charge ratio and multiplied by a percentage not to exceed sixty percent.

2. That portion of a hospital's charity care percent which is below the disproportionate share shall be paid from the total amount of the contribution.

3. That portion of a hospital's charity care percent which is above the disproportionate share shall be paid solely from general fund moneys as provided by the General Assembly in the appropriations act.

B. Each hospital eligible to receive a fund payment may elect to return such payment or a portion thereof to the fund to be used at the discretion of the Board, upon the recommendation of the Technical Advisory Panel, for the purpose of establishing pilot health care projects for the uninsured.

C. Money voluntarily contributed or donated to the fund by private *or public* sources, *including local governing bodies*, for the purpose of subsidizing pilot health care projects for the uninsured shall not be included in the calculations set forth in this section.