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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 350

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HOSPITAL COSTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter I, Chapter 99, Title 16 of the Delaware Code by making deletions as shown by
2 strike through and insertions as shown by underline as follows:

3 § 9903. Duties and authority of the Commission.

4 (l) The Commission is responsible for the administration of the Diamond State Hospital Cost Review Board. The
5 Commission shall have such other duties and authorities with respect to the Diamond State Hospital Cost Review Board
6 which are necessary to carry out the intent of the General Assembly as expressed in this chapter.

7 Section 2. Amend Chapter 99, Title 16 of the Delaware Code by making deletions as shown by strike through and
8 insertions as shown by underline as follows:

9 Subchapter VI. Hospital Budget Review

10 § 9951. Definitions.

11 As used in this subchapter:

12 (1) “Board” means the Diamond State Hospital Cost Review Board established by § 9952 of this title.

13 (2) “Hospital” means as defined in § 1001 of this title.

14 (3) “Insurers” means as defined in § 9903 of this title.

15 (4) “Payer” means as defined in § 9903 of this title.

16 (5) “Public programs” means as defined in § 9903 of this title.

17 (4) “Spending benchmark” means as defined in § 9903 of this title.

18 § 9952. Diamond State Hospital Cost Review Board.

19 (a) There is established the Diamond State Hospital Cost Review Board for the purpose of carrying out hospital
20 budget reviews under § 9953 of this title.

21 (b) (1) The Board consists of 5 members as follows:

22 a. Three members appointed by the Governor.

23 b. One member appointed by the Speaker of the House of Representatives.

24 c. One member appointed by the President Pro Tempore of the Senate.

25 (2) Of the initial members, 2 must be appointed for a 2-year term and 3 must be appointed for a 4-year term.

26 Thereafter, all members shall serve 4-year terms. Any vacancy shall be filled by the appointing authority for the
27 balance of the unexpired term. A member of the Board is eligible for reappointment.

28 (3) At its first meeting, the Board shall elect a Chair from among its members. Whenever the office of Chair
29 becomes vacant, the Board shall elect a new Chair at its next meeting.

30 (c) All members of the Board must possess the following qualifications:

31 (1) Knowledge of health care policy, health care delivery, or business, finance, or accounting expertise.

32 (2) Knowledge, experience, and characteristics that complement those of the remaining members of the
33 Board.

34 (3) Impartiality and the ability to remain free from undue influence by a personal, business, or professional
35 relationship with any person subject to supervision or regulation by the Board.

36 (d) The Chair of the Delaware Health Care Commission shall set the date for the initial meeting of the Board and
37 shall set the date of the next meeting if the Chair is vacant.

38 (e) The Board shall promulgate rules and regulations necessary for the implementation of this subchapter including
39 a schedule for submission of information required from hospitals under § 9953 of this title.

40 § 9953. Budget Review.

41 (a) Hospitals shall submit a proposed budget to the Board at the time and place and in the manner established by
42 the Board. A proposed budget shall include all of the following supporting materials:

43 (1) A budget for the forthcoming year, including expenditures and revenues.

44 (2) Spending and revenue data from the previous year.

45 (3) Financial information, including costs of operations, revenues, assets, liabilities, fund balances, rates,
46 charges, units of service, and wage and salary data.

47 (4) Scope of services and volume of service information, including inpatient services, outpatient services, and
48 ancillary services by type of service provided.

49 (5) Utilization information.

50 (6) New hospital services and programs proposed for the forthcoming year.

51 (7) Projected 3-year capital budget.

52 (8) Contract information with public and private payers.

53 (9) A comparison of the hospital's cost of service to other comparable hospitals in the MidAtlantic region.

54 (10) Other information the Board determines to be relevant to the budget review process.

55 (b) Hospitals shall submit audited financial statements to the Board beginning with calendar year 2023, within 30
56 days of such audited financial statements becoming finalized.

57 (c) The Board shall conduct reviews of each hospital's proposed budget based on the information provided
58 pursuant to subsection (a) of this section.

59 (d) In connection with budget reviews, the Board shall do all of the following:

60 (1) Review utilization information.

61 (2) Consider the expenditure and revenue analysis for the previous year and the proposed expenditure and
62 revenue analysis for the forthcoming year.

63 (3) Meet with hospitals to review and discuss their budget proposals for the forthcoming year.

64 (4) Review the hospital's investments in workforce development initiatives.

65 (5) Consider the salaries for the hospital's executive and clinical leadership and the hospital's salary spread,
66 including a comparison to salaries in other states in the region.

67 (6) Offer the opportunity for the public to provide comment on hospital budgets and other aspects of hospital
68 costs.

69 (e) The Board shall approve a hospital's budget as submitted or engage with the hospital in establishing and
70 approving a revised budget for each hospital for the forthcoming year by September 15. Each hospital shall operate under
71 the original or modified budget as approved.

72 (f) Individual hospital budgets approved under this section shall:

73 (1) Adhere as closely to the spending benchmark as is reasonable given the hospital's financial position and
74 associated economic factors.

75 (2) Promote efficient and economic operations of the hospital.

76 (3) Maintain the hospital's ability to meet its financial obligations.

77 (g) The Board may, upon application, adjust a budget established under this section during the fiscal year upon
78 demonstration of need based on exceptional or unforeseen circumstances.

79 (h) A hospital's violation of the Board's standards and procedures shall be subject to enforcement under § 9954 of
80 this title.

81 § 9954. Enforcement.

82 (a) A hospital that knowingly fails to provide information related to the budget review process that is required by
83 this subchapter by a deadline set by the Board may be assessed a civil penalty of up to \$500,000.

84 (b) In the event that a hospital fails to maintain its budget in the preceding year, the Board may do any of the
85 following:

86 (1) Factor the amount of net revenues exceeding the budgeted amount of net revenues into the hospital's
87 budget for the forthcoming year.

88 (2) Allow the hospital to retain surplus funds if the surplus was achieved while the hospital stayed within its
89 budget.

90 (3) Allow the hospital to retain surplus funds generated primarily by volume in excess of what was projected
91 for the year in question.

92 (4) Impose a penalty on the hospital in an amount up to the net revenues exceeding the budgeted amount of
93 net revenues. The penalty shall be paid into a Community Health Fund, hereby created, and held in the Department of
94 Finance.

95 § 9955. Open meetings; records subject to disclosure.

96 (a) The Board is a public body, subject to the open meetings requirement of § 10004 of Title 29; provided,
97 however, that the Board may schedule and conduct private meetings with hospitals when the content of the discussion will
98 include information that is commercial or financial information of a privileged or confidential nature.

99 (b) (1) Except as provided under paragraph (b)(2) of this section, records submitted by hospitals to the Board are
100 public records and shall be publicly available on the Commission's website.

101 (2) Submissions under § 9953(a)(3) and (a)(8) of this title are not public records and may not be disclosed on
102 the Commission's website or pursuant to a Freedom of Information Act request.

103 Section 3. Amend Chapter 99, Title 16 by making deletions as shown by strike through and insertions as shown by
104 underline as follows:

105 § 9956. Temporary pricing measures for calendar year 2025.

106 For the calendar year 2025, a hospital may not charge any payer, insurer, or public program more than 250% of the
107 cost of care for any service that is charged to the Medicare program

108 Section 4. Sections 1 and 2 of this Act are effective upon enactment, and hospital budget reviews under § 9953 of
109 Title 16 shall commence in 2025 for calendar year 2026 hospital budgets.

110 Section 5. Section 3 of this Act is effective upon enactment and sunsets on January 1, 2026, unless otherwise
111 provided by a subsequent act of the General Assembly.

SYNOPSIS

This Act creates the Diamond State Hospital Cost Review Board, which will be responsible for review and approval of annual hospital budgets beginning with budgets for calendar year 2026. Hospital budgets established under this process are required to adhere as closely to the spending benchmark as is reasonable given the hospital's financial position and associated economic factors, promote efficient and economic operations of the hospital, and maintain the hospital's ability to meet its financial obligations.

As a temporary measure until the Board begins operations, hospitals are required to charge no more than 250% of Medicare costs to any payer for hospital services in calendar year 2025.