CHAPTER 54

HOSPITAL RATE SETTING

54.01 Statement of purpose. In creating the hospital rate-setting commission and council and establishing a mandatory hospital rate-setting program, the legislature intends to reduce the rate of hospital cost increases while preserving the quality of health care in all parts of the state and taking into account the financial viability of economically and efficiently operated hospitals.

History: 1983 a. 27.

54.03 Definitions. In this chapter:

(1) "Commission" means the hospital rate-setting commission.

(2) "Hospital" has the meaning provided in s. 50.33 (2), except that "hospital" does not include a center for developmentally disabled as defined in s. 51.01 (3).

(3) "Rates" means individual charges of a hospital for the services it provides or, if authorized under s. 54.17 (3), means the aggregate charges based on case mix measurements.

History: 1983 a. 27; 1985 a. 29.

54.04 Authorizations, orders and rates. Any condition consistent with this chapter which was imposed on a hospital by the Wisconsin hospital rate review program under s. 146.60, 1983 stats., and which is in effect on February 1, 1985, remains in effect until the condition expires, as provided by the Wisconsin hospital rate review program, or until the condition is affected by rules promulgated by the commission under this chapter, whichever is sooner.

History: 1985 a. 29.

54.05 Prospective rate setting. On or before July 1, 1984, the commission shall submit to the legislative council under s. 227.15 (1) its proposed rules for implementing this chapter. These rules may not take effect before January 1, 1985. On and after the effective date of these rules, the commission shall establish and may regularly revise maximum hospital rates on a prospective basis. The commission shall publish biennial reports showing its proceedings, together with information necessary to describe the rate of hospital cost increases and the financial condition of hospitals.

History: 1983 a. 27; 1985 a. 182 s. 57.

54.07 Requests for a rate change. (1) The commission shall create a schedule allowing each hospital to request rate changes annually, on or after the date the hospital receives its audited financial statements. The commission may schedule a review of the hospital's rates and revise the rates on its own initiative or at the request of any person when good cause is shown. A hospital may submit a rate request on or after the scheduled date.

(2) Within 10 days after it submits a rate request under sub. (1) the hospital shall publish a class 1 notice under ch. 985. If the hospital fails to submit a rate request by the scheduled date and the commission schedules a review under sub. (1), the commission shall publish a class 1 notice under ch. 985 within 10 days after it schedules the review. This notice shall inform the public of the review, summarize the rate sought, if any, and state the process by which interested persons may become parties to the review. Any person may become a party to the review only by notifying the commission in writing within 30 days after the date the notice is published.

(3) Each hospital shall submit its proposed financial requirements to the commission at the same time it submits a rate request. Except as provided in s. 54.17 (4) (g), each hospital shall provide the commission with information the commission determines is necessary to perform its responsibilities with respect to rate setting and monitoring established rates. Patient care and other organizations and hospital corporate affiliates that generate financial requirements of a hospital under review shall also release to the commission financial or other statistical information related to the financial requirements which the commission determines is necessary to perform its responsibilities with respect to rate setting and monitoring established rates.

(4) The commission may require hospitals to conform with a uniform reporting system.

(5) The commission shall establish and regularly publish a list of the 25 most heavily used charge elements for hospitals.

History: 1983 a. 27; 1985 a. 29.

54.09 Financial requirements. (1) Financial requirements of each hospital that submits a rate request shall include:

(a) Necessary operating expenses, including wages, employe fringe benefits, purchased services, professional fees, repairs and maintenance, dietary and medical supplies, pharmaceuticals, utilities, insurance, standby costs and applicable taxes. Any amount representing the value of services performed by members of a religious order or other organized religious group may only be included if actually paid to members of the religious group and shall be equivalent to the amounts paid to employes for similar work. The commission may not use previously accumulated depreciation of capitalized assets to offset operating expenses.

(b) Interest expenses on debt incurred for capital or operating costs. Interest payments on debts incurred for capital costs shall be offset by income earned on investments unless the income is assigned by the donor. For the purpose of calculating the interest expense on debt incurred for capital costs to be included as financial requirements after the sale and revaluation of a hospital, the debt may not exceed the revalued price of the hospital, as provided in sub. (4).

(c) Direct and indirect costs of medical education, allied education and research programs approved by the commis-

sion, to the extent the costs are reasonable and necessary to maintain the quality of these programs. Costs under this paragraph shall be reduced by tuition, scholarships, endowments, gifts, grants and similar sources of revenue.

(d) Costs of services, facilities and supplies that organizations related to the hospital by common ownership or control furnish to the hospital. These costs shall be calculated as the charge of the furnishing organization, but may not exceed a reasonable amount in relation to the price of comparable services, facilities or supplies that could be purchased elsewhere.

(e) Unrecovered costs from private parties who fail to pay the full charge for care provided, unless the hospital fails to maintain sound credit and collection policies to minimize these costs.

(f) Fees assessed by the commission or other regulatory agencies.

(g) Operating fund working capital requirements. In this paragraph, "working capital requirements" means capital in use to operate the hospital at a level sufficient to avoid unnecessary borrowing, including cash, accounts receivable, inventory and prepaid expenses less accounts payable and accrued interest. Working capital requirements shall be calculated independently of available funds, as defined in par. (i) 1. Working capital requirements shall be calculated based on the net change in the estimated year-end balance of the hospital's year under review, compared to the year-end balance of the hospital's prior fiscal year, for the following accounts:

1. Cash.
2. Accounts receivable.
3. Inventories.
4. Prepaid expenses.
5. Trade accounts payable.
6. Accrued interest payable.

(h) An amount necessary to establish and maintain a contingency fund in cash and investments equal to 2% of the budgeted gross revenue for the hospital's year under review. The hospital shall use cash and investments to establish and maintain its contingency fund and shall use the fund to meet unexpected expenses. The commission may review any expenditure of contingency funds in a prior year that requires restoration in the hospital's year under review for reasonableness, consistent with the nature of the unexpected expense.

(i) Capital requirements, calculated as the greater of historical, straight-line depreciation of plant and equipment or the cost of proposed capital purchases as offset by available funds, plus debt retirement expenses, prospective accumulation and capitalized interest. In this paragraph:

1. "Available funds" includes cash and investments that are not assigned by the donor and are available to meet capital needs. Available funds do not include operating fund working capital requirements, prospective accumulations that are authorized by the commission, donor-restricted or creditor-restricted funds, grants, commitments for capital requirements, debt retirement expenses or the amounts disallowed under s. 54.13 (1) (b). The commission may authorize prospective accumulations if a project approved under ch. 150 has lending requirements that necessitate such an accumulation or can lower its interest costs by borrowing, or if financial needs of a hospital occur because of balloon payments. The commission may also authorize prospective accumulations to finance a capital project during the 2 1/2 years prior to the date the hospital applies to the department for approval of the project under ch. 150, if the cost of the project equals or exceeds 25% of the hospital's gross patient revenue for the current fiscal year, the hospital has submitted a 3-year capital expenditure plan to the commission and the department indicates that the project is consistent with the projected needs of the community and the state medical facilities plan under s. 150.83. No approval of prospective accumulations under this subdivision requires the department to approve the project under ch. 150.

2. "Capital purchases" includes minor remodeling and the purchase of equipment, land, land improvements and leasehold improvements.

3. "Depreciation" means the rational allocation of the historical cost of capitalized assets throughout their useful lives.

4. "Prospective accumulation" does not include funds that exceed the cost of the project for which the funds are accumulated.

(j) The amount by which estimated payments by government payers exceed actual payments under s. 54.17 (1) (a).

(k) Financial incentives. The commission shall, by rule, allow financial incentives as additional financial requirements to efficiently operated hospitals.

(2) Hospitals may collect revenue from sources other than patients, including gifts and grants, investment income or income from activities incidental to patient care. Revenues from endowment funds or donor-restricted gifts to provide services for designated patients shall offset the cost of those services. No revenue from general endowment funds or unrestricted gifts may be used to offset operating expenses except that revenue from these funds or gifts may be used to offset interest expenses. Revenues received to finance special projects or wages paid to special project employes shall offset the cost of patient services. Revenues from meals sold to visitors or employes, from drugs sold to persons who are not patients, from the operation of gift shops or parking lots or from the provision of televisions, radios or telephones to patients shall offset the cost of these services, subject to the limitation that the amount of revenue offset from any of these services may not exceed the cost of the service.

(3) Purchase discounts, the amount by which actual payments by government payers exceed estimated payments under s. 54.17 (1) (a) and allowances and refunds of expenses shall be subtracted from the calculation of financial requirements under sub. (1). Revenues from invested funds shall also be subtracted from the calculation of financial requirements but may not offset an amount that exceeds the hospital's interest expenses. No costs associated with a project that fails to receive an approval under ch. 150 may be considered part of a hospital's financial requirements.

(4) After the sale of a hospital, the commission may calculate depreciation under sub. (1) based on a revaluation of the hospital's plant and equipment in order to determine its reasonable value. The revaluation shall be based on appraisals conducted by 2 independent appraisers, one of whom shall be selected by the hospital and one by the commission. The hospital shall pay the cost of both appraisals.

History: 1983 a. 27; 1985 a. 29.

54.11 Standards for decision making. The commission and its staff shall review and evaluate each hospital's proposed financial requirements and rate request in light of a variety of standards for decision making, including:

(1) The purposes of the hospital rate-setting program specified in s. 54.01.

(2) Comparisons with prudently administered hospitals of similar size or providing similar services that offer quality health care with sufficient staff. In classifying hospitals, the commission shall consider volume, intensity, educational programs and special services provided by hospitals.

(3) A variety of cost-related trend factors based on nationally or regionally recognized economic models.

(4) The special circumstances of rural hospitals and teaching hospitals.

(5) The past budget and rate experiences of the hospital that submits the rate request.

(6) Findings of the utilization review program under s. 54.23 (3) concerning the hospital that submits the rate request.

History: 1983 a. 27.

54.13 Initial determinations. (1) After reviewing a hospital's proposed financial requirements the commission may disallow the following:

(a) Costs associated with medical services that a utilization review program under s. 54.23 determines are medically unnecessary or inappropriate.

(b) Forty percent of the amount by which patient revenue generated by the hospital during its previous fiscal year exceeds 104% of the hospital's budgeted patient revenue for that year, if the hospital's annual gross patient revenue is less than $5,000,000, adjusted as provided in s. 54.26, or exceeds 102% of the hospital's budgeted patient revenue for that year, if the hospital's annual gross patient revenue equals or exceeds $5,000,000, adjusted as provided in s. 54.26. The commission shall, by rule, establish a procedure under which hospitals whose variable costs exceed 65% are subject to a lesser disallowance under this paragraph.

(c) Rate overcharges of the hospital that occurred in a prior year for which payers have not been reimbursed.

(d) The amount by which incremental expenses that are associated with the cost of a project approved under ch. 150 exceed 105% of the expenses projected in the hospital's application for approval of the project. This paragraph does not apply if:

1. The hospital demonstrates to the satisfaction of the commission that the excess was due to conditions beyond its control.

2. The excess occurs more than 3 years after completion of the project.

(e) Costs that the commission determines under s. 54.11 are unreasonable.

(f) Wages the record demonstrates to be excessive. In making determinations under this paragraph, the commission shall consider the wage levels offered by hospitals located in a relevant geographic area surrounding the hospital that submitted the rate request as well as by hospitals of similar size or providing similar services. In addition, the commission shall consider the hospital's ability to attract adequate staff and wage trends in nonregulated, related sectors of the Wisconsin economy.

(g) Amounts paid for services regulated under s. 111.18 (2).

(2) (a) After reviewing the hospital's financial requirements and rate request, the commission staff shall suggest any disallowances authorized under sub. (1) and shall submit its rate recommendations to the hospital and commission. If it considers the hospital proposal unacceptable, the commission staff shall explain to the hospital what facts and standards cause it to disagree and submit alternate recommendations. A hospital that fails to accept any part of the commission staff's recommendations shall request a settlement conference under s. 54.15.

(b) 1. Except as provided in subd. 2, commission staff shall submit its recommendations under par. (a) within 60 days after the date that review commences under s. 54.07 (1), even if the commission staff determines that the data provided by the hospital for a scheduled review are incomplete, but the commission staff may recommend a disallowance or an alternate rate, including no rate increase, on the grounds of insufficient data.

2. a. The commission staff may extend the deadline specified in subd. 1 by 15 days if it determines that the rate request submitted involves particularly complex issues of fact.

b. The deadline specified in subd. 1 may be extended with the consent of the hospital and the commission staff.

History: 1983 a. 27; 1985 a. 29 ss. 1136, 1137, 3202 (27).

54.15 Review of determinations. (1) Any hospital that disputes any part of the recommendations of commission staff under s. 54.13 shall, within 10 days after the recommendations are submitted under s. 54.13 (2), request a settlement conference between its representatives and the commission staff for the purpose of resolving their differences or defining more precisely the nature of their differences. The chairperson of the commission, or a commissioner designated by the chairperson, shall preside over each settlement conference. Within 20 days after the hospital requests a settlement conference, the settlement conference shall be completed.

(2) Any hospital that is dissatisfied with the results of its settlement conference under sub. (1) is entitled to a hearing before the commission under sub. (3) if it submits a timely request. Each request for a hearing shall be submitted to the commission within 10 days following completion of the settlement conference. The hospital may present testimony based on any standard for decision making listed in s. 54.11. All questions of fact shall be determined without ascribing greater weight to evidence presented by commission staff than to evidence presented by any other party, solely due to its presentation by the staff.

(3) (a) Informal hearings shall be conducted before at least 2 commissioners. Sworn testimony is required only if the presiding commissioners so specify. The commissioners may establish time limits for cross-examination of witnesses and rebuttal arguments and limit the number of persons who may appear at the hearing. Rules of evidence, except the rule that evidence be relevant to the issues presented, do not apply to informal hearings.

(b) A hospital that requests an informal hearing shall present the reasons supporting its proposed rate increase and financial requirements. Commission staff shall respond by explaining its disagreement and its alternate recommendations. Within the time limits specified in par. (a), the hospital, parties to the review and commission staff may each cross-examine witnesses and rebut arguments presented. The hospital, parties to the review and the commission staff may use outside experts to present their position. The presiding commissioners may impose an overall time limit on the length of the hearing.

(c) The commission may, by order, conduct a class 1 contested case proceeding under ch. 227 in place of an informal hearing under pars. (a) and (b).

(5) The commission shall keep a complete record of all hearings and investigations conducted under sub. (3) using a stenographic, electronic or other method to record all testimony presented. The commission shall provide a transcribed, certified copy of all or any part of this record on the request of any party to a hearing or investigation but may charge the requester for the costs involved.

(6) (a) Any person may request a hearing under s. 227.42, regardless of whether any other hearing is authorized by law or is authorized at the discretion of the commission or whether any other proceeding is authorized by rule of the commission, subject to the limitation that no person may

receive more than one contested case hearing concerning a particular act or failure to act by the commission.

(b) Notwithstanding par. (a), no person may request a hearing under s. 227.42 pertaining to the subject matter of a hearing under sub. (3).

(c) The right to a hearing under s. 227.42, as specified in this subsection, applies only to subject matter pertaining to this chapter.

History: 1983 a. 27; 1985 a. 29; 1985 a. 182 s. 57.

54.17 Commission orders. (1) (a) The commission shall determine allowable financial requirements under s. 54.09 and disallowances under s. 54.13. From the difference between these amounts the commission shall subtract the hospital's estimated general relief payments under s. 49.02, medical assistance payments under ss. 49.43 to 49.47 and medicare payments under 42 USC 1395 to 1395xx, unless the commission determines that the hospital's estimates are incorrect, in which case it shall subtract its own estimated general relief, medical assistance and medicare payments. The commission shall, by order, establish maximum rates that allow the hospital to generate revenue sufficient to provide this remainder. The commission shall by rule establish acceptable methods of estimating payments by general relief, medical assistance and medicare under this paragraph. Each hospital shall choose one of these methods and use it consistently unless the commission authorizes the hospital to change its method.

(b) Unless the hospital requests a hearing under s. 54.15 (3) the commission shall issue its order under par. (a) 15 days after the commission staff submits its recommendations or, if the hospital requests a settlement conference under s. 54.15 (1), within 15 days after the commission determines that the hospital will not seek a hearing following the conclusion of the settlement conference. If the hospital disputes only part of the recommendations of the commission staff the commission may establish maximum rates under par. (a) concerning the recommendations with which the hospital agrees prior to the conclusion of the hearing under s. 54.15 (3).

(c) If the hospital disputes the recommendations of the commission staff and requests a hearing under s. 54.15 (3), the commission shall establish by order maximum rates for the hospital's year under review at the conclusion of the hearing. If the commission conducts an informal hearing, it shall issue its order within 50 days after the date the hospital requested the hearing.

(d) 1. The commission shall state findings of fact and the reasons supporting each order it issues concerning financial requirements and rates. If the commission denies any part of a rate request it shall also specify, as part of its order, any financial requirements it has disallowed.

2. Any hospital may apply an increase in its rates selectively, if the aggregate increase in its rates does not exceed the amount authorized by the commission. Prior to instituting its rate increase, the hospital shall explain to the commission its method of applying the rate increase and allow the commission 5 working days, as defined in s. 227.01 (14), to determine if the aggregate increase in rates exceeds the authorized amount. Failure to disapprove the hospital's method of applying the rate increase within this period constitutes an approval. If the commission approves the hospital's method of applying the rate increase, the commission may not challenge the method prior to the date of a succeeding review under s. 54.07 (1) except as provided in sub. (4) (b). If the commission disapproves the hospital's method of applying the rate increase it shall recommend an alternate method. If the hospital fails to modify its method of applying the rate increase the commission may challenge the method in circuit court. In addition to any other remedy the court may impose under s. 54.25, if the court finds that the hospital's method generates an aggregate increase in the hospital's rates that is inconsistent with the amount authorized by the commission the hospital shall forfeit an amount equal to 50% of the amount overcharged and shall comply with the alternate method recommended by the commission or with any other method ordered by the court that the court finds more consistent with the commission's order. No hospital may change a method of applying its rate increase that has received the commission's approval without submitting the changes to the commission for its approval under this subdivision.

3. Any hospital receiving a rate increase that may only commence between the 2nd and 7th months of its fiscal year may make an adjustment to the rate increase, that applies to that fiscal year only, in order to generate an amount of revenue equal to the amount that would have been generated if the hospital could have commenced the rate increase beginning with the first month of its fiscal year.

(e) Except as provided in s. 54.19, even if a party seeks judicial review of a commission order the affected hospital may continue to bill payers at the rates established by the commission. No hospital that bills payers under this paragraph adversely affects its right to contest the rates established by the commission.

(1m) Notwithstanding sub. (1) (b) and ss. 54.07 (1), 54.13 (2) and 54.15, at the request of a hospital the commission may waive the procedures for review of a rate request and issue an interim order in an emergency.

(2) The commission shall determine the rates of each hospital independently using criteria specified in s. 54.11, but in making these determinations the commission may use methods of identifying similar hospitals.

(3) The commission may promulgate rules establishing a system that defines rates as aggregate charges based on case mix measurements if the commission submits its proposed system to the joint committee on finance under s. 13.10, receives that committee's approval and holds a public hearing prior to promulgating its rules. Such a system may not take effect prior to January 1, 1987, shall be consistent with the statement of purpose under s. 54.01, shall take into account the reasonable financial requirements of hospitals and shall ensure quality of care and a reasonable cost to patients.

(4) The commission may not:

(a) Require any hospital to use a uniform accounting system.

(b) Reduce rates it has established, prior to the date the commission schedules a succeeding review under s. 54.07 (1), unless the hospital misstated any material fact at a prior rate-setting proceeding. Projections on the volume of hospital services utilized do not constitute material facts under this paragraph.

(bm) During a succeeding review under s. 54.07 (1), reduce rates from levels it has previously established, except in the situations listed in this paragraph. In any of these situations the commission may reduce the hospital's rates if, during the course of its determinations under sub. (1) (a), it finds that a reduction is appropriate. The commission may reduce a hospital's rates during a succeeding review under s. 54.07 (1) only in the following situations:

1. The hospital implements an unauthorized increase in its approved rates, unless the increase is trivial.

2. The hospital fails to use the funds it has prospectively accumulated pursuant to an order issued under this chapter for a project that is subject to ch. 150.

3. The hospital uses funds for a project that is subject to ch. 150 without receiving an approval under that chapter.

4. The hospital's actual total revenue for its fiscal year exceeds it actual total financial requirements by more than 10%.

(c) Interfere directly in the personal or decision-making relationships between a patient and the patient's physician, except as provided in ss. 54.23 and 54.25 (2). This paragraph does not limit the commission's ability to make determinations under sub. (1) (a) or s. 54.13.

(d) Control directly the volume or intensity of hospital utilization, except as provided in ss. 54.23 and 54.25 (2). This paragraph does not limit the commission's ability to make determinations under sub. (1) (a) or s. 54.13.

(e) Restrict the freedom of patients to receive care at a hospital consistent with their religious preferences or request a hospital that is affiliated with a religious group to act in a manner contrary to the mission and philosophy of the religious group.

(f) Restrict directly the freedom of hospitals to exercise management decisions in complying with the rates established by the commission, unless a hospital agrees to a condition attached to the establishment of particular rates.

(g) Require the submission of nonrelated financial data from religious groups affiliated with a hospital.

History: 1983 a. 27; 1985 a. 29, 120; 1985 a. 182 s. 57; 1985 a. 332 ss. 103, 253.

54.19 Injunctions of commission orders. No injunction may be issued to suspend or stay enforcement of an order of the commission unless all of the following occur:

(1) All parties to the proceeding from which the commission's order was issued are notified of the petition seeking an injunction, given an opportunity to appear at a hearing prior to the issuance of the injunction and are made parties to the proceeding in circuit court.

(2) The party seeking the injunction enters into an undertaking by at least 2 sureties at a level that the circuit court finds sufficient to guarantee the payment of all damages the hospital may sustain by delaying the effect of the commission's order. This subsection does not apply to a hospital that was a party to the proceeding from which the commission's order was issued.

History: 1983 a. 27.

54.21 Expedited review, expedited cases and exempt hospitals. (1) The commission may promulgate rules under which hospitals meeting specific criteria receive expedited review of rate requests under this chapter.

(2) (a) A hospital whose gross annual patient revenue is less than $10,000,000, adjusted as provided in s. 54.26, for the hospital's last fiscal year is eligible to receive automatic approval of its rate request if it meets all of the following criteria:

1. The commission has conducted a complete review of the hospital's rates and has set the hospital's rates in a preceding year.

2. The hospital requests a rate increase that is less than an inflationary index consisting of an average of the consumer price index and of the hospital market basket index.

(b) Any hospital that receives automatic approval of its rate request under this subsection shall publish as a class 1 notice under ch. 985, in one or more newspapers likely to give notice to its patients and payers, a list of the price adjustments it is making to 100 of its charge elements as specified by the commission. The hospital shall publish this notice prior to implementing its rate increase.

(c) The commission may, by rule, extend automatic approval status under this subsection to other hospitals.

(2m) The commission may grant hospitals whose gross annual patient revenue is less than $10,000,000, adjusted as provided in s. 54.26, a rate increase that takes effect over a 2-year period with an automatic escalation clause taking effect at the end of the first year. A hospital that receives a 2-year rate increase is not required to request a rate increase at the end of the first year.

(3) The hearing and determination of any judicial proceeding affecting a rule or decision of the commission shall be granted priority over all other pending civil proceedings.

History: 1983 a. 27; 1985 a. 29; 1985 a. 332 s. 251 (1).

54.23 Utilization review program. (1) The commission shall approve an all-patient utilization review program for each hospital. The commission may evaluate these programs as part of its monitoring functions under s. 54.07 (3).

(2) The commission shall contract with one or more independent utilization review programs to develop review standards and may contract with any person to monitor implementation of these programs by hospitals and perform peer review functions for hospitals that fail to meet the performance standards adopted by the commission. The commission may not contract with state agencies, other than the university of Wisconsin system, under this subsection.

(3) Each program the commission approves shall include a general summary of utilization within the hospital. These programs need not otherwise be identical but shall meet minimum standards established by the commission and shall:

(a) Evaluate the medical necessity or appropriateness of care relative to admissions, lengths of stay and ancillary services.

(b) Report to the commission, in conjunction with each hospital's submission of proposed financial requirements, any findings it has made regarding unnecessary or inappropriate medical care utilization and associated costs.

History: 1983 a. 27.

54.25 Enforcement. (1) (a) Until the commission establishes different rates under this chapter, no hospital may charge any payer an amount exceeding the rates established under s. 146.60, 1983 stats. No hospital may charge any payer an amount exceeding the rates established under this chapter.

(b) The attorney general may seek a judicial remedy to enforce compliance with par. (a) until January 1, 1985, if the attorney general first notifies the hospital and provides the hospital a reasonable time to correct a violation. The commission may seek a judicial remedy to enforce compliance with any statutory requirement or with any rule or order of the commission if it first notifies the hospital and provides the hospital a reasonable time to correct a violation. The commission shall commence any action under this paragraph in the circuit court of the county in which the hospital is located.

(c) Any court that finds an intentional failure to comply with the rates under this subsection may impose a forfeiture of up to $5,000. Each week that a hospital continues its intentional failure to comply with the rates constitutes a separate violation.

(2) Neither a hospital nor a physician may be paid for a service that a utilization review program under s. 54.23 determines is medically unnecessary or inappropriate. If the hospital or physician has already been paid the hospital or physician shall reimburse the payer within 30 days. The commission may commence an action to enforce this subsec-

tion in the circuit court of the county in which the hospital is located.

(3) Any court with jurisdiction over an action brought under this section may adopt remedies it finds necessary to enforce compliance. Remedies under this section apply notwithstanding the existence or pursuit of any other remedy.

(4) Any person who intentionally violates an order of a hearing examiner issued under s. 227.46 (7) to protect trade secrets shall forfeit $5,000.

History: 1983 a. 27; 1985 a. 29 s. 3202 (27); 1985 a. 182 s. 57.

54.26 Annual adjustments. The limits on gross annual patient revenue in ss. 54.13 (1) (b) and 54.21 (2) (a) (intro.) and (2m) shall be adjusted annually to reflect annual changes in the average of the consumer price index and of the hospital market basket index.

History: 1985 a. 29.

54.27 Staffing the commission. The commission may employ counsel, who may appear in any hearing or trial of the commission or in which the commission is a party, and may employ staff. The commission may employ a staff director, who shall be in the unclassified service. Commission staff shall offer its services to the hospital rate-setting council and shall, at the request of the department, review applications for approval of hospital projects under subch. III of ch. 150 and submit their assessments of these projects to the department for consideration. Commission staff may also appear at hearings concerning these projects. Assessments of these projects by commission staff may be incorporated into proceedings involving rate requests submitted by the hospital.

History: 1983 a. 27.

54.29 Hospital rate-setting council. The hospital rate-setting council shall:

(1) Advise the commission on matters relating to implementing this chapter, to containing hospital costs and to maintaining the quality of health care.

(2) Review and comment on proposed commission rules prior to the date the commission proposes its rules in final draft form. The council shall complete its review and submit its comments to the commission within time limits specified by the commission. The commission shall transmit the written majority and minority comments, if any, of the council to the presiding officer of each house of the legislature under s. 227.19 (2).

(3) Periodically issue reports concerning:

(a) The performance of the commission and its operations.

(b) Recommended alternate rate-setting methodologies.

(c) The degree to which general relief under s. 49.02, medical assistance under ss. 49.43 to 49.47 and medicare under 42 USC 1395 to 1395xx do not pay rates equal to the rates paid by nongovernment payers. Reports under this paragraph shall be issued annually and shall discuss these effects on both a statewide and individual hospital basis.

(d) The policy implications to hospitals and nongovernment payers of discounts granted to nongovernment payers. Reports under this paragraph shall be issued annually.

(4) Issue recommendations concerning methods of scheduling rate requests.

(5) Prepare written minutes of each of its meetings.

History: 1983 a. 27; 1985 a. 29, 120; 1985 a. 182 s. 57.

54.31 Financing the commission's operations. Commencing July 1, 1986, the commission shall annually, within 90 days after the commencement of each fiscal year, estimate its total expenditures during the ensuing calendar year. The commission shall assess the amount to the hospitals in proportion to each hospital's respective gross private-pay patient revenues during the hospital's last entire fiscal year. Each hospital shall pay its assessment for the ensuing year on or before December 1. All payments shall be deposited in the appropriation under s. 20.441 (1) (g).

History: 1983 a. 27; 1985 a. 29, 120.

54.33 Applicability. This chapter does not apply after July 1, 1987.

History: 1983 a. 27; 1985 a. 29.