WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1994

ENROLLED

SENATE BILL NO. 1006

(By Senator Burdette, Mr. President, and Bailey, by Request of the Executive)

PASSED March 15, 1994
In Effect from Passage
AN ACT to amend and reenact sections one, two and eight, article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section nine, all relating generally to the promulgation of administrative rules and regulations by the governmental agencies within the department of health and human resources; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative rule-making review committee and as amended by the Legislature; authorizing the department of health and human resources to promulgate legislative rules relating to public water systems, as modified; authorizing the department of health
and human resources to promulgate legislative rules relating to distribution of state aid funds to local boards of health, as modified; authorizing the department of health and human resources to promulgate legislative rules relating to hospital licensure, as modified and amended; authorizing the division of health to promulgate legislative rules relating to cancer registry, as modified; authorizing the human rights commission to promulgate legislative rules relating to the discrimination against individuals with disabilities, as modified and amended; and authorizing the commission on aging to promulgate legislative rules relating to West Virginia long-term care ombudsman program, as modified.

Be it enacted by the Legislature of West Virginia:

That sections one, two and eight, article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section nine, all to read as follows:

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

§64-5-1. Department of health and human resources.

(a) The legislative rules filed in the state register on the twenty-second day of January, one thousand nine hundred ninety, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the secretary of the department of health and human resources (implementation of omnibus health care act), are authorized.

(b) The legislative rules filed in the state register on the twenty-second day of January, one thousand nine hundred ninety, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the secretary of the department of health and human resources (implementation of omnibus health care act), are authorized.
committee and refiled in the state register on the twenty-
fifth day of January, one thousand nine hundred ninety-
relating to the secretary of the department of health and
human resources (implementation of omnibus health
care act payment provisions), are authorized.

(c) The legislative rules filed in the state register on the
twentieth day of March, one thousand nine hundred
ninety-two, modified by the department of health and
human resources to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the seventeenth day of November, one
thousand nine hundred ninety-two, relating to the
department of health and human resources (infectious
medical waste), are authorized with the amendments set
forth below:

"On page seventeen, subsection 8.2, by after the words
(45) days.’ by inserting the following language: ‘Facili-
ties that treat infectious medical waste on-site shall not
store the infectious medical waste more than thirty (30)
days.’;

On page twenty-one, subdivision 10.1.2., by after the
words ‘disposed of' striking out the words ‘as solid
waste' and inserting in lieu thereof the words ‘in the
same manner as ash from solid waste incineration and as
provided in subdivision 10.2.5. of this rule.’;

On page twenty-six, subsection 11.7., by after the
words ‘permit to’ inserting the words ‘own, operate and’;

On page twenty-six, subsection 11.7., by striking out
the word ‘publish’ and inserting in lieu thereof the words
‘announce the public hearing required by subsection
11.9. of this rule by publishing’;

On page twenty-six, by further amending subsection
11.7. by adding thereto a new subdivision, designated
subdivision 11.7.1.4. to read as follows: ‘The announce-
ment of the date, time and place where the hearing is to
be conducted, shall be made at least fourteen (14) but not
more than forty-five (45) days prior to the hearing;
Enr. S. B. No. 1006]

4

And,

53 On page twenty-six, subsection 11.9, by after the words
54 'proposing to' inserting the words 'own, construct and'.

55 (d) The legislative rules filed in the state register on the
56 third day of September, one thousand nine hundred
57 ninety-two, modified by the department of health and
58 human resources to meet the objections of the legislative
59 rule-making review committee and refiled in the state
60 register on the twenty-seventh day of January, one
61 thousand nine hundred ninety-three, relating to the
62 department of health and human resources (residential
63 board and care homes), are authorized.

64 (e) The legislative rules filed in the state register on the
65 third day of May, one thousand nine hundred ninety-
66 three, modified by the department of health and human
67 resources to meet the objections of the legislative rule-
68 making review committee and refiled in the state register
69 on the eighth day of July, one thousand nine hundred
70 ninety-three, relating to the department of health and
71 human resources (public water systems), are authorized.

72 (f) The legislative rules filed in the state register on the
73 ninth day of September, one thousand nine hundred
74 ninety-three, modified by the department of health and
75 human resources to meet the objections of the legislative
76 rule-making review committee and refiled in the state
77 register on the twenty-fourth day of January, one
78 thousand nine hundred ninety-four, relating to the
79 department of health and human resources (distribution
80 of state aid funds to local boards of health), are
81 authorized.

82 (g) The legislative rules filed in the state register on the
83 seventh day of January, one thousand nine hundred
84 ninety-four, modified by the department of health and
85 human resources to meet the objections of the legislative
86 rule-making review committee and refiled in the state
87 register on the twenty-fourth day of January, one
88 thousand nine hundred ninety-four, relating to the
department of health and human resources (hospital
licensure), are authorized with the amendments set forth
below:

"On page 4, section 3.20, by striking out all of section
3.20 and inserting in lieu thereof the following: "Section
6a Hospital — A nonprofit hospital, as identified in W.
Va. Code §16-5-B-6a, whether governed by an in-state or
out-of-state board of directors, or a hospital owned by a
county, city or other political subdivision of the State of
West Virginia, except for existing nonprofit hospitals
which are owned or operated by a corporation which was
incorporated in another state prior to March 9, 1983:
Provided, however, this definition does not include the
corporation defined in W. Va. Code §18-11C-1(d) and";

On page 16, section 8.3.2. by striking the comma after
the word “safety” and inserting in lieu thereof the word
"or";

On page 16, section 8.3.2. after the word “et seq.,” by
striking out the words “or involves a cost in excess of
two hundred thousand dollars ($200,000)”; and

On page 17, section 8.4.2. by striking the comma after
the word “safety” and inserting in lieu thereof the word
"or";

On page 17, section 8.4.2. after the word “et seq.,” by
striking out the words “or involves a cost in excess of
two hundred thousand dollars ($200,000)”; and

On page 45, section 12, by striking all of subdivision
12.2.1 and inserting in lieu thereof a new subdivision
12.2.1 to read as follows:

12.2.1. All general acute care hospitals shall provide
emergency services: Provided, That the Director may
grant exceptions to this requirement based upon (a) the
need to avoid an unnecessary duplication of services, (b)
a recognition of practical economies of scale within the
community, or (c) other such appropriate factors relating
to the optimum delivery of emergency services within
available resources and deemed by the director to be substantial. The requirement of this subdivision for the provision of emergency services shall be waived by the director in the case of a rural primary care hospital if such hospital has entered into an appropriate patient transfer agreement with another referral hospital to provide for emergency services. If the hospital provides emergency services, it shall have an emergency room which is located so as to permit easy access from automobiles and ambulances. The emergency service shall be of a size comparable to the need imposed upon it and shall be adequately equipped to provide whatever life-saving measures may be needed for patients admitted to this service."

§64-5-2. State board of health; division of health.

(a) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (waste water treatment works operations), are authorized.

(b) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (laboratory reporting of syphilis and gonorrhea), are authorized.

(c) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (public water supply operators) with the modification of §11.02 as presented to the legislative rule-making review committee on the ninth day of November, one thousand nine hundred eighty-two, are authorized.

(d) The legislative rules filed in the state register on the twenty-second day of October, one thousand nine hundred eighty-two, relating to the state board of health (sewage systems) with the modification presented to the legislative rule-making review committee on the sixth day of December, one thousand nine hundred eighty-two, are authorized except lines ten through seventeen,
page eight of the rules shall be stricken in their entirety and the remaining paragraphs renumbered.

(e) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (approval of laboratories), are authorized.

(f) The legislative rules filed in the state register on the twenty-fourth day of November, one thousand nine hundred eighty-two, relating to the state board of health (permit fees), are authorized.

(g) The legislative rules filed in the state register on the third day of June, one thousand nine hundred eighty-two, relating to the state board of health (certificate of need), are authorized.

(h) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred eighty-two, relating to the state board of health (eyes of newborn children), are authorized.

(i) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred eighty-two, and filed with amendments on the eleventh day of January, one thousand nine hundred eighty-three, relating to the state board of health (nursing home licensure), are authorized with the amendment of §5.15.02 of those rules as set forth below:

By striking the word “and” at the end of subdivision (f), by changing the period at the end of subdivision (g) to a semicolon, and by adding the following after subdivision (g): “(h) One (1) member who represents social work services.”

(j) The legislative rules filed in the state register on the twenty-fourth day of November, one thousand nine hundred eighty-two, relating to the state board of health (guardianship service), are authorized with the exception of section 9.3 of those rules which may not be promulgated.
(k) The legislative rules filed in the state register on the third day of June, one thousand nine hundred eighty-two, relating to the state board of health (controlled substances research program and certification), are authorized.

(l) The legislative rules filed in the state register on the fifth day of November, one thousand nine hundred eighty-two, relating to the state board of health (chemical test for intoxication), are authorized.

(m) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-three, relating to the state board of health (birthing center licensure), are authorized.

(n) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred eighty-three, relating to the state board of health (licensure of behavioral health centers), are authorized with the amendment set forth below:

Page 45, §12.8.2. In the first sentence delete the words "without delay" and insert in lieu thereof the words "within twenty-four hours after receiving a report of a complaint."

(o) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-three, relating to the state board of health (procedures for recovery of corneal tissue for transplant), are authorized.

(p) The legislative rules filed in the state register on the seventh day of September, one thousand nine hundred eighty-three, relating to the state board of health (well water regulations), are authorized with the amendments set forth below:

§4.1. In the first sentence delete the word “obtaining” and insert in lieu thereof the words “applying for”. In the second sentence after “4.3” add “and 4.5.”

§4.2. At the end of the second sentence, strike the
period and add the words "unless emergency conditions prevail as noted under §4.3."

With the balance of §4.2 and create a new §4.3 with the following changes: In the first sentence delete the word "deadline" and insert in lieu thereof the word "requirements." Add after the first sentence the sentence, "Emergency conditions and unavoidable circumstances are those conditions involving acts of God, water outages or disruption of water service, unsatisfactory water quality or quantity or public health threats." In the third sentence delete the word "exceed" and insert in lieu thereof the words "be made in excess of."

Renumber §4.3 as §4.4 and add the following two sentences at the end of the section: "Such standards shall constitute the minimum standards for the installation, the alteration or the deepening of water wells. Any plans approved by the director pursuant to these regulations shall be in substantial compliance with the heretofore mentioned standards."

Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7 as §4.8 and §4.8 as §4.9.

And,

§5.2. Delete the words "four (4)" and insert in lieu thereof the words "two (2)" and delete the words "active, continuous."

(q) The legislative rules filed in the state register on the third day of October, one thousand nine hundred eighty-four, relating to the state board of health (trauma center designation), are authorized.

(r) The legislative rules filed in the state register on the twenty-first day of December, one thousand nine hundred eighty-four, relating to the state board of health (reportable diseases), are authorized.

(s) The legislative rules filed in the state register on the twenty-first day of December, one thousand nine hundred eighty-four, relating to the state board of health
(licensure of medical adult day care centers), are authorized.

(t) The legislative rules filed in the state register on the third day of October, one thousand nine hundred eighty-four, relating to the state board of health (retail food store sanitation), are authorized.

(u) The legislative rules filed in the state register on the seventeenth day of December, one thousand nine hundred eighty-five, modified by the director of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of January, one thousand nine hundred eighty-six, relating to the director of health (adult group home licensure), are authorized.

(v) The legislative rules filed in the state register on the twenty-ninth day of October, one thousand nine hundred eighty-five, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of December, one thousand nine hundred eighty-five, relating to the state board of health (licensure of hospice care programs), are authorized.

(w) The legislative rules filed in the state register on the thirty-first day of October, one thousand nine hundred eighty-five, modified by the director of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of December, one thousand nine hundred eighty-five, relating to the director of health (rules governing emergency medical services), are authorized with the amendments set forth below:

On page 3, §3.9 shall read as follows:

"3.9 Quorum — When applied to the EMSAC, a majority of the members thereof, except in the instance when at any meeting of the EMSAC, where a quorum is not present and the director causes to be deposited in the United States mail, postage prepaid, return receipt
168 requested, to each member of the EMSAC within three
169 days, a notice calling a meeting of the EMSAC at some
170 convenient place in the state of West Virginia two weeks
171 after the meeting at which no quorum was present.
172 Quorum means any number of members of the EMSAC
173 who attend such subsequent meeting. Any member
174 missing two consecutive meetings shall be removed from
175 the EMSAC."
176
177 On page 6, §4.7.1 shall be deleted in its entirety;
178
179 On page 7, §4.10.1 shall read as follows:
180 "4.10.1 every applicant for certification as an EMSP
181 prior to such certification, shall demonstrate his or her
182 knowledge and ability by undergoing a written examina-
183 tion and a demonstration of skills, and by attaining a
184 passing score on the same. Passing score shall be the
185 same for all testing programs."
186
187 (x) The legislative rules filed in the state register on the
188 fifth day of September, one thousand nine hundred
189 eighty-five, relating to the state department of health
190 (revising the list of hazardous substances), are autho-
191 rized.
192
193 (y) The legislative rules filed in the state register on the
194 thirteenth day of August, one thousand nine hundred
195 eighty-six, modified by the director of the department of
196 health to meet the objections of the legislative rule-
197 making review committee and refiled in the state register
198 on the sixteenth day of October, one thousand nine
199 hundred eighty-six, relating to the director of the
200 department of health (hazardous material treatment
201 information repository), are authorized.
202
203 (z) The legislative rules filed in the state register on the
204 seventeenth day of July, one thousand nine hundred
205 eighty-six, modified by the state board of health to meet
206 the objections of the legislative rule-making review
207 committee and refiled in the state register on the
The legislative rules filed in the state register on the sixteenth day of October, one thousand nine hundred eighty-six, relating to the state board of health (methods and standards for chemical tests for intoxication), are authorized.

(aa) The legislative rules filed in the state register on the twenty-first day of November, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of December, one thousand nine hundred eighty-six, relating to the state board of health (licensure of behavioral health centers), are authorized.

(bb) The legislative rules filed in the state register on the eighteenth day of April, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of October, one thousand nine hundred eighty-six, relating to the state board of health (hospital licensure), are authorized.

(cc) The legislative rules filed in the state register on the ninth day of December, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of December, one thousand nine hundred eighty-six, relating to the state board of health (hospital licensure and allowing hospitals to have licensed hospital professionals, other than licensed physicians, on their medical staff), are authorized.

(dd) The legislative rules filed in the state register on the ninth day of December, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of December, one thousand nine hundred eighty-six, relating to the state board of health (vital statistics), are authorized.
(ee) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred eighty-seven, relating to the director of the department of health (immunization criteria for transfer students), are authorized.

(ff) The legislative rules filed in the state register on the sixteenth day of November, one thousand nine hundred eighty-seven, relating to the director of the department of health (hazardous substances), are authorized with the amendment set forth below:

Page 33, section 8, line 8 (unnumbered), by adding at the end of section 8 the following proviso: "Provided, that the owner’s or operator’s submissions are based on the threshold reporting requirements contained in section 5, article 31, chapter 16."

(gg) The legislative rules filed in the state register on the eighteenth day of November, one thousand nine hundred eighty-seven, relating to the director of the department of health (trauma center or facility designation), are authorized.

(hh) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, relating to the state board of health (licensure of hospice care programs), are authorized.

(ii) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the third day of November, one thousand nine hundred eighty-eight, relating to the state board of health (water wells), are authorized with the amendment set forth below:
On page 2, §3.8, shall read as follows:

"3.8 Water Well — Any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through an aquifer for purposes that may include, but are not limited to: A water supply, exploration for water, dewatering or heat pump wells, except that this definition shall not include ground water monitoring activities and all activities for the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources which are regulated under chapter 22, 22a or 22b of the code."

(jj) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, relating to the state board of health (plumbing requirements), are authorized.

(kk) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, relating to the state board of health (public water supply operators), are authorized.

(ll) The legislative rules filed in the state register on the nineteenth day of October, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of December, one thousand nine hundred eighty-eight, relating to the state board of health (volatile synthetic organic chemicals), are authorized.

(mm) The legislative rules filed in the state register on
the second day of January, one thousand nine hundred ninety, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred ninety, relating to the division of health (asbestos abatement licensing), are authorized.

(nn) The legislative rules filed in the state register on the thirtieth day of August, one thousand nine hundred eighty-nine, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of November, one thousand eight hundred eighty-nine, relating to the division of public health (AIDS-related medical testing and confidentiality), are authorized.

(oo) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-nine, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety, relating to the state board of health (nursing home licensure), are authorized.

(pp) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-nine, relating to the state board of health (licensure of behavioral health centers), are authorized.

(qq) The legislative rules filed in the state register on the twenty-eighth day of December, one thousand nine hundred eighty-nine, relating to the state board of health (methods and standards for chemical test for intoxication), are authorized.

(rr) The legislative rules filed in the state register on the twenty-third day of July, one thousand nine hundred ninety, modified by the board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety, relating to the division of health (asbestos abatement licensing), are authorized.
committee and refilled in the state register on the fifth
day of September, one thousand nine hundred ninety,
relating to the board of health (fees for permits), are
authorized with the amendments set forth below:

On page two, subsection 3.6, by striking out all of the
subsection and renumbering the subsequent subsections.

On page four, subsection 5.4, by striking out all of the
subsection and renumbering the subsequent subsections.

And,

On page six, Table 64-30c, by striking out Table 64-30c
and inserting in lieu thereof a new table, to read as
follows:

<table>
<thead>
<tr>
<th>Type of System</th>
<th>Fees for Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I (New or Modified)</td>
<td>$100</td>
</tr>
<tr>
<td>Class II (New or Modified)</td>
<td>$100</td>
</tr>
<tr>
<td>Home Aeration Unit</td>
<td>$100</td>
</tr>
</tbody>
</table>

(ss) The legislative rules filed in the state register on
the seventh day of December, one thousand nine
hundred ninety, modified by the board of health to meet
the objections of the legislative rule-making review
committee and refilled in the state register on the twenty-
second day of January, one thousand nine hundred
ninety-one, relating to the board of health (public water
systems, bottled water and laboratory certification), are
authorized.

(tt) The legislative rules filed in the state register on
the thirteenth day of December, one thousand nine
hundred ninety, modified by the board of health to meet
the objections of the legislative rule-making review
committee and refilled in the state register on the twenty-
second day of January, one thousand nine hundred
ninety-one, relating to the board of health (vital statistics), are authorized.

(uu) The legislative rules filed in the state register on the seventh day of January, one thousand nine hundred ninety-one, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, one thousand nine hundred ninety-one, relating to the division of health (fees for services), are authorized.

(vv) The legislative rules filed in the state register on the twenty-eighth day of December, one thousand nine hundred ninety, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of July, one thousand nine hundred ninety-one, relating to the division of health (specialized health procedures), are authorized.

(ww) The legislative rules filed in the state register on the second day of January, one thousand nine hundred ninety-one, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of May, one thousand nine hundred ninety-one, relating to the division of health (emergency medical services), are authorized.

(xx) The legislative rules filed in the state register on the tenth day of September, one thousand nine hundred ninety-one, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the third day of January, one thousand nine hundred ninety-two, relating to the secretary of the department of health and human resources (retail food store sanitation), are authorized.

(yy) The Legislature hereby authorizes and directs the division of health to promulgate the legislative rule
relating to swimming pools and bathing beaches, 64 CSR 16, effective the fifth day of May, one thousand nine hundred eighty, with the amendment set forth below:

On page five, section 11.3 by striking out the period following the word "beach" and adding the following:

"Provided, That at hotels, motels, apartment complexes, or condominiums which have swimming pools of five feet or less in depth at the deepest point, employment of lifeguards is recommended but not mandatory, whether or not the establishment charges an admission fee (gate receipt, annual pass or membership dues). If no lifeguards are employed, the management shall post a sign in a prominent location near the swimming pool stating "SWIM AT YOUR OWN RISK - ALL PERSONS UNDER THE AGE OF 14 MUST BE ACCOMPANIED BY AN ADULT."

(zz) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred ninety-two, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of November, one thousand nine hundred ninety-two, relating to the division of health (trauma center or facility designation), are authorized.

(aaa) The legislative rules filed in the state register on the second day of November, one thousand nine hundred ninety-two, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of health (primary care center seed money grants), are authorized.

(bbb) The legislative rules filed in the state register on the second day of November, one thousand nine hundred ninety-two, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred
ninety-three, relating to the division of health (primary care center uncompensated care grants), are authorized.

(ccc) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of October, one thousand nine hundred ninety-three, relating to the division of health (cancer registry), are authorized.


(a) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the human rights commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of December, one thousand nine hundred ninety, relating to the human rights commission (discrimination against the handicapped), are authorized.

(b) The legislative rules filed in the state register on the twenty-second day of March, one thousand nine hundred ninety-one, modified by the human rights commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of August, one thousand nine hundred ninety-one, relating to the human rights commission (sexual harassment), are authorized.

(c) The legislative rules filed in the state register on the twenty-second day of March, one thousand nine hundred ninety-one, modified by the human rights commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the human rights commission (exemption of private clubs), are authorized.

(d) The legislative rules filed in the state register on the twenty-second day of March, one thousand nine hundred
ninety-one, modified by the human rights commission to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
eighteenth day of November, one thousand nine hundred
ninety-one, relating to the human rights commission
(religious discrimination), are authorized.

(e) The legislative rules filed in the state register as an
emergency rule on the twenty-second day of March, one
thousand nine hundred ninety-one, relating to the
human rights commission (waiver of rights under the
human rights act), are authorized.

(f) The legislative rules filed in the state register on the
sixteenth day of August, one thousand nine hundred
ninety-three, modified by the human rights commission
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-third day of December, one thousand nine
hundred ninety-three, relating to the human rights
commission (discrimination against individuals with
disabilities), are authorized with the amendments set
forth below:

"On page 7, section 4, subsection 4.7, after the words
"hazard to" by striking the words "the safety of others"
and inserting in lieu thereof the words "his or her health
and safety or the health and safety of others";

And,

On page 7, section 4, subsection 4.8, by striking the
first sentence of subsection 4.8, and inserting in lieu
thereof the following: "In deciding whether an individual
poses a direct threat to health and safety, the employer
has the burden of demonstrating that a reasonable
probability of a materially enhanced risk of substantial
harm to the health or safety of the individual or others
cannot be eliminated or reduced by reasonable accom-
modation."

The legislative rules filed in the state register on the seventeenth day of August, one thousand nine hundred ninety-three, modified by the commission on aging to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred ninety-four, relating to the commission on aging (West Virginia long-term care ombudsman program), are authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Ernest C. Moore

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill approved this the ........... day of ........................., 1994.

Governor