

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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## ENROLLED

*Com. Sub. For*  
**HOUSE BILL No. 4225**

(By Delegates *Doughlas, Gallagher, Faircloth,*  
*Compton, Linck, Riggs*)

— • —

Passed *March 8* 1996

In Effect *From* Passage

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**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 4225**

(BY DELEGATES DOUGLAS, GALLAGHER, FAIRCLOTH,  
COMPTON, LINCH AND RIGGS)

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[Passed March 8, 1996; in effect from passage.]

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AN ACT to repeal and replace article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing the division of health to promulgate legislative rules relating to the cancer registry, as filed; authorizing the division of health to promulgate legislative rules relating to standards for local boards of health, as modified; authorizing the division of health to promulgate legislative rules relating to AIDS-related medical testing and confidenti-

ality, as modified; authorizing the division of health to promulgate legislative rules relating to personal care home licensure, as modified and amended.

*Be it enacted by the Legislature of West Virginia:*

That article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

**§64-5-1. State board of health; division of health.**

1 (a) The legislative rules filed in the state register on the  
2 thirty-first day of July, one thousand nine hundred  
3 ninety-five, authorized under the authority of section  
4 two-a, article five-a, chapter sixteen of this code, relating to  
5 the division of health (cancer registry, 64 CSR 68), are  
6 authorized.

7 (b) The legislative rules filed in the state register on  
8 the thirty-first day of July, one thousand nine hundred  
9 ninety-five, authorized under the authority of section  
10 seven, article one, chapter sixteen of this code, modified  
11 by the division of health to meet the objections of the  
12 legislative rule-making review committee and refiled in the  
13 state register on the sixth day of December, one thousand  
14 nine hundred ninety-five, relating to the division of health  
15 (standards for local boards of health, 64 CSR 73), are  
16 authorized.

17 (c) The legislative rules filed in the state register on the  
18 fourth day of August, one thousand nine hundred  
19 ninety-five, authorized under the authority of section  
20 eight, article three-c, chapter sixteen of this code, modified  
21 by the division of health to meet the objections of the  
22 legislative rule-making review committee and refiled in the  
23 state register on the twenty-third day of January, one thou-  
24 sand nine hundred ninety-six, relating to the division of  
25 health (AIDS-related medical testing and confidentiality,  
26 64 CSR 64), are authorized.

27 (d) The legislative rules filed in the state register on  
28 the fourth day of January, one thousand nine hundred  
29 ninety-six, authorized under the authority of section five,  
30 article five-c, chapter sixteen of this code, modified by the  
31 division of health to meet the objections of the legislative  
32 rule-making review committee and refiled in the state  
33 register on the twenty-third day of January, one thousand  
34 nine hundred ninety-six, relating to the division of health  
35 (personal care home licensure, 64 CSR 14), are authorized  
36 with the amendments set forth below:

37 "On page nine, section 4.3.1.d, after the word 'provi-  
38 sions' by inserting the words 'in policy';

39 On page nine, section 4.3.1.d, by striking out the fol-  
40 lowing: 'The provisions may be in the form of a bond, a  
41 property lien, or other form of guaranty acceptable to the  
42 secretary. The guaranty shall be in the amount of three  
43 hundred dollars (\$300) per resident or ten thousand dol-  
44 lars (\$10,000), whichever is greater.' and inserting in lieu  
45 thereof the following: 'If the owner does not provide  
46 continuing care to all residents during this thirty (30) day  
47 period, any expenses incurred by the Department to pro-  
48 vide continuing resident care (i.e., food, staff, etc.) during  
49 this thirty (30) day period, is the responsibility of the  
50 owner.';

51 On page seventeen, section 4.10.4, by striking out the  
52 word 'State' and inserting in lieu thereof the word 'Secre-  
53 tary';

54 On page seventeen, section 4.10.4, after the words 'for  
55 each of the residents' by inserting the words 'affected by  
56 the waiver request,';

57 On page twenty-four, section 5.8.2, after the words 'an  
58 additional' by striking out the words 'direct care' and  
59 inserting in lieu thereof the words 'personal care';

60 On page twenty-four, section 5.8.2, after the word  
61 'day' by striking out the words 'and evening shifts' and  
62 inserting in lieu thereof the word 'shift';

63 On page twenty-four in section 5.8.2, after the words  
64 'to have' by striking out the words 'no more than';

65 On page twenty-four in section 5.8.2, after the words  
66 'two (2)' by inserting the words 'or more';

67 On page twenty-four, line sixty-seven, by striking out  
68 the words 'no more than';

69 On page twenty-four, section 5.8.2, after 'residents.'  
70 by inserting the following sentence: 'At a minimum, an  
71 additional personal care staff will be available on the eve-  
72 ning shift for each fifteen (15) residents identified on their  
73 functional needs assessment to have no more than two (2)  
74 or more of the above care needs.';

75 On page twenty-four, section 5.8.2, after the words 'An  
76 additional' by striking out the word 'employee' and insert-  
77 ing in lieu thereof the words 'personal care staff';

78 On page twenty-four, section 5.8.2, after the word  
79 'with' by striking out the words 'one (1)' and inserting in  
80 lieu thereof the words 'two (2)';

81 On page twenty-seven, section 6.1.7, after the words  
82 'valid for' by striking out the words 'six (6) months' and  
83 inserting in lieu thereof the words 'one (1) year';

84 On page thirty-five, section 7.3.9, after the words 'per-  
85 sonal care home' by striking out the words 'in need of  
86 nursing services as specified in this rule' and inserting the  
87 following: 'The frequency with which a registered profes-  
88 sional nurse shall provide services to the personal care  
89 home not providing limited and intermittent nursing ser-  
90 vices shall be based upon the needs of the residents, but  
91 not less than weekly.';

92 On page thirty-five, subsection 7.3.9, after the word  
93 'Section' by striking out the number '13' and inserting in  
94 lieu thereof the number '12';

95 On page thirty-five, section 7.3.9, after the words  
96 'professional registered nurse.' by striking out the follow-  
97 ing: 'The frequency with which a registered professional

98 nurse shall provide services to the personal care home not  
99 providing limited and intermittent nursing services shall be  
100 based upon the needs of the residents.'

101 On page fifty-four, section 11.3.1, by striking out the  
102 sentence 'Existing and newly constructed buildings to be  
103 offered, maintained, and operated as personal care homes  
104 shall provide for accessibility in their entirety to individu-  
105 als with a physical disability.' and inserting in lieu thereof  
106 the sentence 'Those personal care homes housing any  
107 resident with a physical disability shall provide access to  
108 areas used in common by all residents as well as to the  
109 resident's personal area.';

110 On page fifty-five, section 11.3.8, in the second sen-  
111 tence, after the word 'widths' by inserting the words 'for  
112 new construction';

113 On page fifty-five, section 11.3.10, after the words  
114 'shall have a' by striking out the word 'central';

115 On page fifty-five, section 11.3.10, after the word  
116 'weather' by striking out the following: 'Individual room  
117 units known as 'through the wall heating and cooling units'  
118 are acceptable.';

119 On page fifty-five, section 11.3.17, after the word  
120 'residents.' by adding the following: 'However, if existing  
121 facilities cannot comply with the janitor closet requirement  
122 on each floor, the facility must demonstrate a sanitary  
123 means of disposal of wastewater in an area that is not a  
124 resident sleeping area.';

125 On page fifty-seven, section 11.4.10, at the beginning  
126 of the first sentence, by striking out the word 'The' and  
127 inserting in lieu thereof the words 'In new facilities the';

128 On page fifty-seven, section 11.4.10, after the word  
129 'area.' at the end of subsection ten by adding the following  
130 sentence: 'In existing facilities residents' rooms shall have  
131 an outside exposure through a vertical transparent win-  
132 dow. In existing facilities rooms extending below ground  
133 level shall be allowed only if approved by the Secretary.';

134       On page fifty-eight, section 11.5.2, after the word  
135 'every' by striking out the words 'four (4)' and inserting in  
136 lieu thereof the words 'five (5)';

137       On page fifty-eight, section 11.5.3, after the word 'per'  
138 by striking out the words 'five (5)' and inserting in lieu  
139 thereof the words 'ten (10)';

140       On page fifty-eight, section 11.5.3, after the word  
141 'residents.' by striking out the following sentence: 'If the  
142 facility can show a process that functions well for resi-  
143 dents, upon application, the secretary will grant a waiver of  
144 this requirement.'

145       On page sixty-one, section 11.13.3.a, at the beginning  
146 of the first sentence, by striking out the word 'Outlets' and  
147 inserting in lieu thereof the words 'In new facilities electri-  
148 cal outlets';

149       On page sixty-one, section 11.13.3.a, after the word  
150 'walls;' by inserting a period and the words 'In existing  
151 facilities electrical outlets to meet the needs of the resi-  
152 dents shall be provided;;

153       On page sixty-six, section 12.2.5.a, after the word  
154 'services' by striking out the words 'through daily contact  
155 with the home and visits to the residents at least eight (8)  
156 hours a week'; and inserting in lieu thereof the words 'to  
157 residents';

158       On page sixty-six, by striking out section 12.2.5.d;

159       And,

160       By relettering the remaining subdivisions."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schomaker  
Chairman Senate Committee

Randy Seacrest  
Chairman House Committee

Originating in the House.

Takes effect from passage.

David B. Baker  
Clerk of the Senate

Burgess M. Bragg  
Clerk of the House of Delegates

Carl Guy Tomblin  
President of the Senate

Robert L. Williams  
Speaker of the House of Delegates

The within is approved this the 29th  
day of March, 1996.

Easton Capenator  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/26/96

Time 4:15pm