

RECEIVED

96 MAR 23 PM 4:30

OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES
STATE HOUSE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

Com. Sub. For
HOUSE BILL No. 4225

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



Passed March 8 1996

In Effect From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 4225

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

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

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-

APR 11 1996
09:41:02 AM '96
LEGISLATIVE

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 Schomover
Chairman Senate Committee

Randy Seavert
Chairman House Committee

Originating in the House.

Takes effect from passage.

Robert B. Baker
Clerk of the Senate

Burgess M. Boag
Clerk of the House of Delegates

Carl Guy Tomblin
President of the Senate

Robert Bellarmine
Speaker of the House of Delegates

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

Robert Bellarmine
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/96

Time 4:15pm