WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Com. Lab. for
HOUSE BILL No. 4225

(By Delegates Douglas, Gallagher, Fairchild,
Compton, Linch, Rigsby)

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 confiden-
ality, as modified; authorizing the division of health to pro-
mulgate legislative rules relating to personal care home licen-
sure, as modified and amended.

Be it enacted by the Legislature of West Virginia:

That article five, chapter sixty-four of the code of West Vir-
ginia, 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.

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

(b) The legislative rules filed in the state register on
the thirty-first day of July, one thousand nine hundred
ninety-five, authorized under the authority of section
seven, article one, chapter sixteen of this code, 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 sixth day of December, one thousand
nine hundred ninety-five, relating to the division of health
(standards for local boards of health, 64 CSR 73), are
authorized.

(c) The legislative rules filed in the state register on the
fourth day of August, one thousand nine hundred
ninety-five, authorized under the authority of section
eight, article three-c, chapter sixteen of this code, 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-third day of January, one thou-
sand nine hundred ninety-six, relating to the division of
health (AIDS-related medical testing and confidentiality,
64 CSR 64), are authorized.
(d) The legislative rules filed in the state register on the fourth day of January, one thousand nine hundred ninety-six, authorized under the authority of section five, article five-c, chapter sixteen of this code, 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-third day of January, one thousand nine hundred ninety-six, relating to the division of health (personal care home licensure, 64 CSR 14), are authorized with the amendments set forth below:

"On page nine, section 4.3.1.d, after the word 'provisions' by inserting the words 'in policy';

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

On page seventeen, section 4.10.4, by striking out the word 'State' and inserting in lieu thereof the word 'Secretary';

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

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

On page twenty-four, section 5.8.2, after the word 'day' by striking out the words 'and evening shifts' and inserting in lieu thereof the word 'shift';
On page twenty-four in section 5.8.2, after the words 'to have' by striking out the words 'no more than';

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

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

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

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

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

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

On page thirty-five, section 7.3.9, after the words 'personal care home' by striking out the words 'in need of nursing services as specified in this rule' and inserting the following: 'The frequency with which a registered professional nurse shall provide services to the personal care home not providing limited and intermittent nursing services shall be based upon the needs of the residents, but not less than weekly.,'

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

On page thirty-five, section 7.3.9, after the words 'professional registered nurse.' by striking out the following: 'The frequency with which a registered professional
nurse shall provide services to the personal care home not
providing limited and intermittent nursing services shall be
based upon the needs of the residents.'

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

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

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

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

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

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

On page fifty-seven, section 11.4.10, after the word
'area.' at the end of subsection ten by adding the following
sentence: 'In existing facilities residents' rooms shall have
an outside exposure through a vertical transparent win-
dow. In existing facilities rooms extending below ground
level shall be allowed only if approved by the Secretary.';
On page fifty-eight, section 11.5.2, after the word 'every' by striking out the words 'four (4)' and inserting in lieu thereof the words 'five (5)';

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

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

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

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

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

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

And,

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 7th day of March, 1996.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/20/90
Time 4:15 PM