WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999

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ENROLLED

Committee Substitute for
SENATE BILL NO. 305

(By Senator ___Ross, ET AL____)

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PASSED [March 10, 1999]

In Effect [From Passage]
AN ACT to amend and reenact section one, 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 two, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; 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; autho-
rizing certain of the agencies to promulgate legislative rules
with various modifications presented to and recommended by
the legislative rule-making review committee; directing
certain of the agencies to propose and promulgate certain
legislative rules; authorizing the department of health and
human resources health care authority to promulgate a
legislative rule relating to benchmarking and discount
contracts; authorizing the department of health and human
resources division of health to promulgate a legislative rule
relating to public water systems; authorizing the department
of health and human resources division of health to promul-
gate a legislative rule relating to reportable diseases, events
and conditions; authorizing the department of health and human
resources division of health to promulgate a legislative rule
relating to sanitation; authorizing the department of health and
human resources division of health to promulgate a legislative
rule relating to lead abatement licensing; authorizing the
department of health and human resources division of health
to promulgate a legislative rule relating to legally unlicensed
health care homes; authorizing the
department of health and human resources division of health
to promulgate a legislative rule relating to infectious medical
waste; authorizing the department of health and human
resources division of health to promulgate a legislative rule
relating to medication administration by unlicensed personnel;
authorizing the department of health and human
resources division of health to promulgate a legislative rule
relating to public water systems capacity development;
authorizing the department of health and human resources
division of health to promulgate a legislative rule relating to
the interstate compact on mental health; authorizing the
department of health and human resources division of health
to promulgate a legislative rule relating to licensed behav-
ioral health service responsibilities and consumer rights;
directing the department of health and human resources
division of health to promulgate an emergency and legislative
rule relating to residential care communities; authorizing the
department of health and human resources division of health
to promulgate a legislative rule relating to tuberculosis
control; and authorizing the department of health and human
resources division of health to promulgate a legislative rule
relating to radon licensure.
Be it enacted by the Legislature of West Virginia:

That section one, 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 two, all to read as follows:

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

§64-5-1. Health care authority.

The legislative rule filed in the state register on the eighteenth day of December, one thousand nine hundred ninety-eight, under the authority of sections eight and twenty, article twenty-nine-b, chapter sixteen, of this code, modified by the health care authority 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-nine, relating to the health care authority (bench-marking and discount contracts, 65 CSR 26), is authorized, with the amendment set forth below:

On page 11, subsection 23.4.c after the word "Authority" by striking out the comma and the words "minus deprecation and interest".

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

(a) The legislative rule filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of section nine-a, 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 twenty-eighth day of December, one thousand nine hundred ninety-eight, relating to the division of health (public water systems, 64 CSR 3), is authorized.
(b) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, authorized under the authority of section one, article three, 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 twentieth day of January, one thousand nine hundred ninety-nine, relating to the division of health (reportable diseases, events and conditions, 64 CSR 7), is authorized with the amendments set forth below:

On page four, section 3.3.b., by striking out everything after the words “Category I.A diseases and conditions reportable by health care providers and health care facilities are:” and inserting in lieu thereof the following:

3.3.b.1. Anthrax;
3.3.b.2. Botulism;
3.3.b.3. Brucellosis;
3.3.b.4. Cholera;
3.3.b.5. Dengue Fever;
3.3.b.6. Diphtheria;
3.3.b.7. E. Coli O157:H7 Disease;
3.3.b.8. Foodborne Disease;
3.3.b.9. Haemophilus influenzae, Invasive Disease;
3.3.b.10. Hemolytic Uremic Syndrome, postdiarrheal;
3.3.b.11. Hepatitis A, Acute;
3.3.b.12. Hepatitis B, Acute or perinatal;
3.3.b.13. Hepatitis D;
3.3.b.14. Meningococcal Disease, Invasive;
3.3.b.15. An outbreak or cluster of any illness or condition - suspect or confirmed;
3.3.b.16. Pertussis (Whooping Cough);
3.3.b.17. Plague;
3.3.b.18. Poliomyelitis;
3.3.b.19. Rabies in Animals or in Humans;
3.3.b.20. Rubella (German Measles);
3.3.b.21. Rubeola (Measles);
3.3.b.22. Tuberculosis (All Forms, include antibiotic susceptibility patterns)*;
3.3.b.23. Tularemia;
3.3.b.24. Typhoid Fever;
3.3.b.25. Waterborne Disease; and
3.3.b.26. Yellow Fever.

On page five, section 3.3.d., by striking out everything after the words "Category I.B diseases and conditions reportable by laboratories are:" and inserting in lieu thereof the following:

3.3.d.1. Bacillus anthracis;
3.3.d.2. Bordatella pertussis, microbiologic evidence;
3.3.d.3. Brucellosis, microbiologic or serologic evidence;
3.3.d.4. Clostridium botulinum, microbiologic or toxicologic evidence;
3.3.d.5. Corynebacterium diphtheriae, microbiologic or histopathologic evidence;
3.3.d.6. Dengue Fever, serologic evidence;
3.3.d.7. E. Coli O157:H7 from any site;
3.3.d.8. E. Coli O157:NM, Shiga-like toxin-producing, from any clinical specimen;
3.3.d.9. Haemophilus influenzae from any normally sterile body site;
70 3.3.d.10. Hepatitis A, positive IgM;
71 3.3.d.11. Hepatitis B, positive anti-HBc IgM or HBsAg;
72 3.3.d.12. Hepatitis D, positive serology;
73 3.3.d.13. Neisseria meningitidis from a normally sterile site;
75 3.3.d.14. Outbreak or cluster of any illness or condition - suspect or confirmed;
77 3.3.d.15. Poliomyelitis, virologic or serologic evidence;
78 3.3.d.16. Rabies, animal or human;
79 3.3.d.17. Rubella, virologic or serologic evidence;
80 3.3.d.18. Rubeola, virologic or serologic evidence;
81 3.3.d.19. Salmonella typhi from any site;
82 3.3.d.20. Tularemia, culture, antigen or serologic evidence;
84 3.3.d.21. Vibrio cholerae, microbiologic or serologic evidence;
86 3.3.d.22. Yellow Fever, virologic or serologic evidence;
87 3.3.d.23. Yersinia pestis, microbiologic or serologic evidence; and
89 3.3.d.24 Other laboratory evidence suggestive of current infection with any of the diseases or conditions listed in Category I.A.

On page 6, section 3.4.b., by striking out everything after the words “Category II.A diseases reportable by health care providers and health care facilities are:” and inserting in lieu thereof the following:

96 3.4.b.1. Amebiasis;
97 3.4.b.2. Campylobacteriosis;
98 3.4.b.3. Chickenpox (numerical totals only);
99 3.4.b.4. Cryptosporidiosis;
3.4.b.5. Cyclospora;
3.4.b.6. Encephalitis, Arboviral;
3.4.b.7. Encephalitis, Other primary and unspecified;
3.4.b.8. Giardiasis;
3.4.b.9. Hantavirus Disease;
3.4.b.10. Hepatitis C / Other non-A or non-B, acute;
3.4.b.11. Influenza-like Illness (numerical totals only);
3.4.b.12. Leptospirosis;
3.4.b.13. Listeria;
3.4.b.14. Lyme Disease;
3.4.b.15. Malaria;
3.4.b.16. Meningitis, Other Bacterial (cases not reported as other specific disease types);
3.4.b.17. Meningitis, Viral or Aseptic;
3.4.b.18. Mumps;
3.4.b.19. Psittacosis;
3.4.b.20. Rheumatic Fever;
3.4.b.21. Rocky Mountain Spotted Fever;
3.4.b.22. Rubella, Congenital Syndrome;
3.4.b.23. Salmonellosis (except Typhoid Fever);
3.4.b.24. Shigellosis;
3.4.b.25. Streptococcal Disease, Invasive Group A, (Streptococcus pyogenes);
3.4.b.26. Streptococcal Toxic Shock Syndrome;
3.4.b.27. Streptococcus pneumoniae, drug resistant invasive disease, (include antibiotic susceptibility patterns);
3.4.b.28. Tetanus;
3.4.b.29. Trichinosis; and

3.4.b.30. Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance.

On page 7, section 3.4.d., by striking everything after the words “Category II.B condition reportable by laboratories are:” and inserting in lieu thereof the following:

3.4.d.1. Borrelia burgdorferi from culture, or diagnostic levels of IgG or IgM, (preferably followed by a western blot);

3.4.d.2. Campylobacter;

3.4.d.3. Cryptosporidium;

3.4.d.4. Cyclospora;

3.4.d.5. Encephalitis, virologic, serologic, or other evidence of arboviral or other encephalitides;

3.4.d.6. Entamoeba histolytica;

3.4.d.7. Giardia lamblia, microscopic or immunodiagnostic evidence;

3.4.d.8. Hantavirus infection, serologic, PCR, immunohistochemistry, or other evidence;

3.4.d.9. Hepatitis C, positive HCV antibody confirmed with approved supplemental test (e.g. RIBA);

3.4.d.10. Leptospirosis, virologic or serologic evidence;

3.4.d.11. Listeria monocytogenes;

3.4.d.12. Malaria organisms on smear of blood;

3.4.d.13. Meningitis, as indicated by bacterium in spinal fluid;

3.4.d.14. Meningitis, Viral, virologic or serologic evidence;

3.4.d.15. Mumps, virologic or serologic evidence;

3.4.d.16. Psittacosis, microbiologic or serologic evidence;
3.4.d.17. Rocky Mountain Spotted Fever, serologic evidence;
3.4.d.18. Salmonella (any species, excluding Salmonella typhi);
3.4.d.19. Shigella (any species);
3.4.d.20. Streptococcus pyogenes (Group A Streptococcus) from a normally sterile site;
3.4.d.21. Streptococcus pneumoniae, from a normally sterile site (include antibiotic susceptibility patterns on all isolates);
3.4.d.22. Trichinosis, demonstration of cysts or serologic evidence;
3.4.d.23. Tularemia, culture, antigen or serologic evidence;
3.4.d.24. Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance; and
3.4.d.25. Other laboratory evidence suggestive of current infection with any of the diseases or conditions listed in Category II.A.

And,

On page 15, section 9.1, by adding the following after the first sentence: “Local health departments may copy and distribute this rule to local health care providers at no cost.”.

(c) The legislative rule filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-eight, 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 twentieth day of November, one thousand nine hundred ninety-eight, relating to the division of health (general sanitation, 64 CSR 18), is authorized.
(d) The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section four, article thirty-five, 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 twentieth day of November, one thousand nine hundred ninety-eight, relating to the division of health (lead abatement licensing, 64 CSR 45), is authorized.

(e) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, 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 twenty-eighth day of December, one thousand nine hundred ninety-eight, relating to the division of health (legally unlicensed health care homes, 64 CSR 50), is authorized.

(f) The legislative rule filed in the state register on the tenth day of September, one thousand nine hundred ninety-eight, authorized under the authority of section six-a, article five-j, chapter twenty, 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-fifth day of January, one thousand nine hundred ninety-nine, relating to the division of health (infectious medical waste, 64 CSR 56), is authorized.

(g) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, authorized under the authority of section eleven, article five-o, 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 twentieth day of January, one thousand nine hundred ninety-nine, relating to the division of health (medication administration by unlicensed personnel, 64 CSR 60), is authorized.
(h) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, authorized under the authority of section two, article thirteen-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 nineteenth day of January, one thousand nine hundred ninety-nine, relating to the division of health (public water systems capacity development, 64 CSR 61), is authorized.

(i) The legislative rule filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of section two, article fourteen, chapter twenty-seven, 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 November, one thousand nine hundred ninety-eight, relating to the division of health (interstate compact on mental health, 64 CSR 72), is authorized.

(j) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, authorized under the authority of section nine, article five, chapter twenty-seven, of this code, modified by the division of health to meet the objections of the legislative rule-making review committee, refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety-nine, and withdrawn by the division on the eleventh day of February, one thousand nine hundred ninety-nine, relating to the division of health (licensed behavioral health service responsibilities and consumer rights, 64 CSR 74), is not authorized. The division of health is directed to refile the rule, with necessary modifications and in accordance with the memorandum of understanding between the division and various affected parties, as an emergency rule by the first day of July, one thousand nine hundred ninety-nine and propose said rule for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code.
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271  (k) The legislative rule filed in the state register on the
272 third day of August, one thousand nine hundred ninety-
273 eight, authorized under the authority of sections three and
274 five, article five-n, chapter sixteen, of this code, modified
275 by the division of health to meet the objections of the
276 legislative rule-making review committee and refiled in
277 the state register on the sixth day of January, one thou-
278 sand nine hundred ninety-nine, relating to the division of
279 health (residential care communities, 64 CSR 75), is
280 authorized.

281  (l) The legislative rule filed in the state register on the
282 third day of August, one thousand nine hundred ninety-
283 eight, authorized under the authority of section seven,
284 article five-a, chapter twenty-six, of this code, modified by
285 the division of health to meet the objections of the legisla-
286 tive rule-making review committee and refiled in the state
287 register on the twentieth day of November, one thousand
288 nine hundred ninety-eight, relating to the division of
289 health (tuberculosis control, 64 CSR 76), is authorized.

290  (m) The legislative rule filed in the state register on the
291 third day of August, one thousand nine hundred ninety-
292 eight, authorized under the authority of section six, article
293 thirty-four, chapter sixteen, of this code, modified by the
294 division of health to meet the objections of the legislative
295 rule-making review committee and refiled in the state
296 register on the twentieth day of November, one thousand
297 nine hundred ninety-eight, relating to the division of
298 health (radon licensure, 64 CSR 78), is authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating 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 approved this the 27th Day of

Governor

1999