WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4250

(By Delegates Hunt, Linch, Compton, Jenkins, Faircloth and Riggs)

Passed March 10, 2000
In Effect from Passage
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FOR

H. B. 4250

(BY DELEGATES HUNT, LINCH, COMPTON, JENKINS, FAIRCLOTH AND RIGGS)

[Passed March 10, 2000; in effect from passage.]

AN ACT to amend and reenact article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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 or 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 certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the legislature; authorizing certain of the 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; disapproving certain legislative rules; repealing certain legislative rules; authorizing the health care authority to promulgate a legislative rule relating to certificates of need; authorizing the health care authority to promulgate a legislative rule relating to health services offered by health professionals; authorizing the division of health to promulgate a legislative rule relating to behavioral health centers licensure; disapproving the division of health legislative rule relating to personal care homes; authorizing the division of health to promulgate a legislative rule relating to food establishments; authorizing the division of health to promulgate a legislative rule relating to fire department rapid response services; authorizing the division of health to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; authorizing the division of health to promulgate a legislative rule relating to the cancer registry; authorizing the division of health to promulgate a legislative rule relating to behavioral health consumer rights; authorizing the division of health to promulgate a legislative rule relating to public water systems design standards; authorizing the bureau for child support enforcement to promulgate a legislative rule relating to providing information to credit reporting agencies; and authorizing the bureau for child support enforcement to promulgate a legislative rule relating to guidelines for child support awards.

*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. Health care authority.
(a) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section four, article two-d, 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-third day of September, one thousand nine hundred ninety-nine, relating to the health care authority (certificate of need, 65 CSR 7), is authorized.

(b) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section four, article two-d, 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-third day of September, one thousand nine hundred ninety-nine, relating to the health care authority (health services offered by health professionals, 65 CSR 17), is authorized with the following amendments:

"On page two, section three, subsection 3.2, following the words ‘regardless of the cost associated with the proposal’, by striking out the remainder of the sentence and inserting in lieu thereof ‘unless cost is a factor for defining a diagnostic center pursuant to subdivision 2.1.a of this rule.’"

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

(a) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section one, article nine, 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-ninth day of December, one thousand nine hundred ninety-nine,
8 relating to the division of health (behavioral health centers
9 licensure, 64 CSR 11), is authorized.

(b) The legislative rule filed in the state register on the sixth
day of August, one thousand nine hundred ninety-nine, autho-
8 rized under the authority of section five, article five-d, chapter
12 sixteen, of this code, modified by the division of health to meet
13 the objections of the legislative rule-making review committee
14 and refiled in the state register on the twenty-second day of
15 October, one thousand nine hundred ninety-nine, relating to the
division of health (personal care homes, 64 CSR 14), is
disapproved and not authorized for promulgation.

(c) The legislative rule filed in the state register on the
fourth day of August, one thousand nine hundred ninety-nine,
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 January, two thousand, relating to the division of health
(food establishments, 64 CSR 17), is authorized with the
following amendments:

“On page one, section 2.1.a., at the end of the sentence, by
inserting the words ‘and the definition of “whole-muscle, intact
beef” in subparagraph 1-201.10(B)(94)’;”

On page two, section 2.1.b., after the words ‘Chapter 2’ by
inserting a comma and the words “except for paragraph 2-
103.11(H), Persons In Charge;”

On page two, section 2.1.c. after the word “paragraphs” by
inserting “3-201.11(E), Compliance With Food Law,”;

On page two, section 2.1.c. after the words “ 3-
401.11(D)(2)” by striking out the words “Cooking of”;
On page two, section 2.1.c. after the words “section 3-603.11” by striking out the words “Consumer Advisory” and inserting in lieu thereof the words “Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens”

On page three, section 2.1.i.1.C., after the words ‘in compliance with’, by striking out the words ‘Chapter 6’ and inserting in lieu thereof the words ‘Chapter 16’;

On page five, section 5.3, in two places, by striking out the words ‘subsection 5.3’ and inserting in lieu thereof the words ‘subsection 5.4’; and,

On page six, line three, immediately preceding the words ‘Food Establishment Advisory Board’, by striking out the words ‘§16-17-6’ and inserting in lieu thereof the words ‘§64-17-6’.

(d) The legislative rule filed in the state register on the fourth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section twenty-three, article four-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-second day of October, one thousand nine hundred ninety-nine, relating to the division of health (fire department rapid response services, 64 CSR 44), is authorized with the following amendment:

“On page seven, following subsection 5.9, by inserting a new subsection, designated subsection 5.10, to read as follows:

‘5.10. Public Access. Each fire department rapid response system shall provide for a publicly listed telephone number to receive calls for service from the public within its regular operating area, except as specified in subdivision 5.10.b of this rule.”
5.10.a. The number shall be answered on a twenty-four-hour basis.

5.10.b. Exception. Any fire department rapid response system that, according to its written policy, does not respond to calls from the general public but responds only to calls from a unique population, such as the population of a state institution, an industrial plant, between specified health care facilities, or a university, is not required to provide a publicly listed telephone number. The agency shall provide for a telephone number and shall make that number known to the unique population it services. The number shall be required to be answered during all periods when that population may require service.’”

(e) The legislative rule filed in the state register on the first day of December, one thousand nine hundred ninety-eight, 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-ninth day of April, one thousand nine hundred ninety-nine, relating to the division of health (AIDS-related medical testing and confidentiality, 64 CSR 64), is authorized with the following amendment:

“On page six, subsection 5.1, following the words ‘initial period of time’, by striking the words ‘not to exceed three (3) months’.”

(f) The legislative rule filed in the state register on the fourth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section two-a, article five-a, 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-second
day of October, one thousand nine hundred ninety-nine, relating to the division of health (cancer registry, 64 CSR 68), is authorized with the following amendment:

“On page five, immediately following subsection 5.4, by adding a new subsection, designated subsection 5.5, to read as follows:

‘5.5. The West Virginia Cancer Registry may release case data to cancer researchers for the purposes of cancer prevention, control and research.’”

(g) The legislative rule filed in the state register on the fourth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section nine, 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-ninth day of December, one thousand nine hundred ninety-nine, relating to the division of health (behavioral health consumer rights, 64 CSR 74), is authorized.

(h) The legislative rule filed in the state register on the fifth day of August, one thousand nine hundred ninety-nine, 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 nineteenth day of January, two thousand, relating to the division of health (public water systems design standards, 64 CSR 77), is authorized.

§64-5-3. Child support enforcement division.

(a) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, under the authority of section nine, article two, chapter forty-eight-a, of this code, relating to the bureau for child support enforce-
ment (providing information to credit reporting agencies, 78 CSR 14), is repealed.

(b) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, under the authority of section nine, article two, chapter forty-eight-a, of this code, relating to the bureau for child support enforcement (guidelines for child support awards, 78 CSR 16), is repealed.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In 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 approved this the 28th day of March, 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/13/00
Time 3:45 pm