WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 278

(Senators Minard, Fanning, Prezioso, Unger and Boley, original sponsors)

[Passed March 10, 2007; in effect from passage.]
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 278

(SENATORS MINARD, FANNING, PREZIOSO,
UNGER AND BOLEY, original sponsors)

[Passed March 10, 2007; in effect from passage.]

AN ACT to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Health and Human Resources and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the Department of Health and Human Resources; 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; authorizing Health Care Authority to promulgate a legislative rule relating to certificates of need; authorizing Health Care Authority to promulgate a legislative rule relating to health services offered by health professionals; authorizing Department of Health and Human Resources to promulgate a legislative rule relating to public water systems; authorizing Department of Health and Human Resources to promulgate a legislative rule relating to public water system operators; authorizing Department of Health and Human Resources to promulgate a legislative rule relating to nursing home licensure; authorizing Department of Health and Human Resources to promulgate a legislative rule relating to recreational water facilities; authorizing Department of Health and Human Resources to promulgate a legislative rule relating to vital statistics; authorizing Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing Division of Human Services to promulgate a legislative rule relating to child care center licensing; authorizing Division of Human Services to promulgate a legislative rule relating to child-placing agencies’ licensure; authorizing Division of Human Services to promulgate a legislative rule relating to minimum licensing requirements for group residential facilities in West Virginia; authorizing Division of Human Services to promulgate a legislative rule relating to family child care facility licensing requirements; authorizing Division of Human Services to promulgate a legislative rule relating to family child care home registration requirements; and authorizing Division of Human Services to promulgate a legislative rule relating to informal and relative family child care home registration requirements.

Be it enacted by the Legislature of West Virginia:

That article 5, chapter 64 of the Code of West Virginia, 1931,
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 twenty-eighth day of July, two thousand six, authorized under the authority of section eight, 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 eighteenth day of January, two thousand seven, 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 twenty-eighth day of July, two thousand six, authorized under the authority of section eight, 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 eighteenth day of January, two thousand seven, relating to the Health Care Authority (health services offered by health professionals, 65 CSR 17) is authorized with the following amendments:

On page one, subsection 1.2., by striking out "@" and inserting in lieu thereof "c";

On page one, section two, by striking subdivision 2.1.c. in its entirety and inserting in lieu thereof the following:

"2.1.c. Any facility owned or operated by one or more health professionals licensed, authorized, or organized pursuant to Chapter 30 of the West Virginia Code which offers laboratory or imaging services to patients that are sent by other licensed health care professionals for the sole purpose of obtaining the laboratory or imaging
services, regardless of the cost associated with the proposal. A facility shall not be deemed a diagnostic center under subsection 2.1.c. if the proportion of laboratory procedures performed on such patients does not exceed 25% of the total laboratory procedures performed by the facility, and the proportion of imaging procedures performed on such patients does not exceed 25% of the total imaging procedures performed by the facility;"

On page two, paragraph 2.1.g.1., after the words "first offered;" by striking out the word "or";

And,

On page two, paragraph 2.1.g.2., by changing the period to a semi-colon and inserting the word "or" and the following:

"2.1.g.3. Such laboratory or imaging services were offered by the private office practice on the effective date of this rule; provided however, that the number of laboratory or imaging procedures performed on patients who are sent to the private office practice subsequent to the effective date of this rule for the sole purpose of obtaining laboratory or imaging services must remain at or below the level performed on such patients in 2006, or the level established by calculating an annual average based upon calendar years 2004 through 2006, inclusive."

§64-5-2. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article one, chapter sixteen of this code relating to the Department of Health and Human Resources (public water systems, 64 CSR 3) is authorized.

(b) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article
one, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of December, two thousand six, relating to the Department of Health and Human Resources (public water system operators, 64 CSR 4) is authorized.

(c) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section six, article five-r, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the nineteenth day of December, two thousand six, relating to the Department of Health and Human Resources (nursing home licensure, 64 CSR 13) is authorized.

(d) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article one, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of December, two thousand six, relating to the Department of Health and Human Resources (recreational water facilities, 64 CSR 16) is authorized with the following amendments:

On page four, section six, by striking out all of subsection 6.1. and inserting in lieu thereof a new subsection 6.1., to read as follows:

6.1. A recreational water facility that is designed, constructed or renovated after the effective date of this rule shall comply with the National Spa and Pool Institute ANSI/NSPI-1 2003 Standard for Public Swimming Pools, ANSI/NSPI-2 1999 Standard for Public Spas, ANSI/IAF-9 2005 Standard for Public Water Parks and ANSI/APSP-7 2006 National Standard

And,

On page nine, section ten, by striking out all of subdivision 10.12.a. and inserting in lieu thereof a new subdivision 10.12.a., to read as follows:


(e) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section three, article five, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of January, two thousand seven, relating to the Department of Health and Human Resources (vital statistics, 64 CSR 32) is authorized.

(f) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section fourteen, article four-c, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of December, two thousand six, relating to the Department of Health and Human
7 [Enr. Com. Sub. for S. B. No. 278

Resources (emergency medical services, 64 CSR 48) is authorized with the following amendments:

On page forty-eight, section eighteen, subsection 18.6, line thirty-nine, following the word “of”, by inserting the words “Examiners for”;

On page forty-eight, section eighteen, subsection 18.7, line forty-three, following the word “or” by inserting the words “Examiners for”;

And,

On page forty-eight, section eighteen, subsection 18.7, line forty-three, following the word “Nurses” by inserting the words “or his or her designee”.

§64-5-3. Division of Human Services.

(a) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article two-b, chapter forty-nine of this code, modified by the Division of Human Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixth day of December, two thousand six, relating to the Division of Human Services (child care center licensing, 78 CSR 1) is authorized with the following amendments:

On page eleven, subsection 4.6, by striking out “4.6.a.” and by redesignating paragraphs 4.6.a.1. through 4.6.a.3. as subdivisions 4.6.a. through 4.6.c.;

On page twenty, subdivision 8.4.c., by striking out “8.4.d.” and inserting in lieu thereof “8.4.e.”;

On page sixty-eight, subsection 19.11, by striking out “19.11.a.” and by redesignating paragraphs 19.11.a.1. through 19.11.a.4. as subdivisions 19.11.a. through 19.11.d.;

And,
21 On page seventy-three, section twenty-two, by
22 striking out “22.1.” and by redesignating subdivisions
23 22.1.a. through 22.1.h. as subdivisions 22.1. through
24 22.8.

25 (b) The legislative rule filed in the State Register on
26 the twenty-eighth day of July, two thousand six,
27 authorized under the authority of section four, article
28 two-b, chapter forty-nine of this code, modified by the
29 Division of Human Services to meet the objections of
30 the Legislative Rule-Making Review Committee and
31 refiled in the State Register on the twentieth day of
32 November, two thousand six, relating to the Division of
33 Human Services (child placing agencies' licensure, 78
34 CSR 2) is authorized with the following amendments:

35 On page six, subsection 4.4., by striking out “4.4.a.”;
36 On page seven, subsection 4.5., by striking out
37 “4.5.a.”;
38 On page seven, subsection 4.7., by striking out
39 “4.7.1.”;
40 On page eighteen, subdivision 8.1.d., by striking out
41 “8.1.d.1.”;
42 On page twenty-four, subdivision 9.6.1., by striking
43 out “9.6.a.1.”;
44 On page twenty-eight, subsection 10.6., by striking out
45 “10.6.a.”;
46 On page thirty-nine, section seventeen, by striking out
47 “17.1.” and by redesignating subdivisions 17.1.a.
48 through 17.1.c as subdivisions 17.1 through 17.3;
49 On page forty, section eighteen, by striking out
50 “18.1.”;
51 On pages fifty and fifty-one, section twenty-six, by
52 striking out “26.1.” and by redesignating subdivisions
53 26.1.a. through 26.1.c. as subdivisions 26.1. through
(c) The legislative rule filed in the State Register on
the twenty-eighth day of July, two thousand six,
authorized under the authority of section four, article
two-b, chapter forty-nine of this code, modified by the
Division of Human Services to meet the objections of
the Legislative Rule-Making Review Committee and
refiled in the State Register on the twenty-second day
of December, two thousand six, relating to the Division
of Human Services (minimum licensing requirements
for group residential facilities in West Virginia, 78 CSR
3) is authorized with the following amendments:

On page two, subsection 2.2, by striking out “2.2.a.”;

On pages two and three, subsection 2.3., by striking
out “2.3.a.” and by redesignating paragraphs 2.3.a.1.
through 2.3.6. as subdivisions 2.3.a. through 2.3.f.;

On page seventeen, subsection 4.11., by striking out
“4.11.a.”;

On page seventeen, subsection 4.12., by striking out
“4.12.a.”;

On pages twenty-two and twenty-three, subsection
5.8., by striking out “5.8.a.” and by redesignating
paragraphs 5.8.a.1. through 5.8.4. as subdivisions 5.8.a.
through 5.8.d.;

On page twenty-three, subsection 5.10., by striking
out “5.10.a.”;

On pages twenty-six and twenty-seven, subsection
7.1., by striking out “7.1.a.” and by redesignating
paragraphs 7.1.a.1. through 7.1.a.5. as subdivisions
7.1.a. through 7.1.e.;
Enr. Com. Sub. for S. B. No. 278] 10

87 On pages twenty-nine and thirty, subsection 7.9., by
88 striking out "7.9.a." and by redesignating paragraphs
89 7.9.a.1. through 7.9.a.11. as subdivisions 7.9.a. through
90 7.9.k.;

91 On page thirty, subsection 8.5., by striking out
92 "8.5.a.";

93 On page thirty-two, section eight, by striking
94 paragraph 8.7.c.10 in its entirety and inserting in lieu
95 thereof the following:
96
97 8.7.c.10. Expected outcomes as appropriate."
98
99 On page thirty-two, section eight, by striking
100 paragraphs 8.7.d.4 through 8.7.d.9 in their entirety and
101 inserting in lieu thereof the following:
102
103 8.7.d.4. Evidence of ability to conduct business in the
104 State of West Virginia; and
105
106 8.7.d.5. Evidence of a criminal background check.";
107
108 On page forty-two, section eleven, by striking
109 paragraph 11.2.a.3. in its entirety and inserting in lieu
110 thereof the following:
111
112 11.2.a.3. Adult Pulmonary Resuscitation (CPR),
113 unless the organization serves an infant population, in
114 which case both adult and infant cardiopulmonary
115 resuscitation training is required. This training must be
116 updated every two years.";
117
118 On page forty-three, section eleven, by striking
119 paragraph 11.2.a.14. in its entirety and inserting lieu
120 thereof the following:
121
122 11.2.a.14. Heimlich's maneuver or abdominal thrust
123 or any other life-saving technique for
124 choking/obstructed airway as recognized by the
125 American Red Cross or equivalent.";
126
127 On page fifty-four, subsection 13.1, by striking out
119 "13.1.a.";

120 On page fifty-four, subsection 13.2., by striking out
121 "13.2.a." and by redesignating paragraph 13.2.a.1. as
122 subdivision 13.a.;

123 On page sixty, subsection 13.6., by striking out
124 "13.6.a.";

125 On page sixty, subsection 14.1., by striking out
127 through 14.1.a.6. as subdivisions 14.1.a. through 14.1.f.;

128 On page sixty-one, subsection 14.3., by striking out
129 "14.3.a." and by redesignating paragraphs 14.3.a.1.
130 through 14.3.a.4. as subdivisions 14.3.a. through 14.3.d.;

131 On page sixty-seven, subsection 14.6., by striking out
132 "14.6.a.";

133 On page sixty-nine, subsection 14.8., by striking out
134 "14.8.a.";

135 On page seventy-two, subsection 14.13., by striking
136 out "14.13.a.";

137 On page seventy-three, subsection 14.14., by striking
138 out "14.14.a." and by redesignating paragraphs
140 through 14.1.e.;

141 On page seventy-seven, subsection 14.19., by striking
142 out "14.19.a.";

143 On page eighty-two, subdivision 15.4.h., by
144 redesignating paragraphs 15.4.g.1. through 15.4.g.3 as
145 15.4.h.1. through 15.4.h.3. and by redesignating the
146 second subdivision 15.4.h. as 15.4.i.;

147 On page eighty-six, subdivision 16.4., by striking out
148 "16.4.a.";

149 On pages ninety-one and ninety-two, subsection 18.2,
by striking out "18.2.a.", by redesignating subdivisions 18.2.a.1. through 18.2.a.5. as subdivisions 18.2.a. through 18.2.e. and by redesignating subparagraph 18.2.a.5.A. through 18.2.a.5.B. as paragraphs 18.2.e.1. though 18.2.e.5.;

On page ninety-two, subsection 18.3., by striking out "18.3.a.";

On page ninety-four, subsection 18.6., by striking out "18.6.a.";

On page ninety-five, subsection 18.7., by striking out "18.7.a." and by redesignating paragraphs 18.7.a.1. through 18.8.a.4. as subdivisions 18.7.a. through 18.7.d.;


On page one hundred six, subsection 20.5., by striking out "20.5.a. Abrogation of Client Rights" and "20.5.a.1.";

On page one hundred seven, subsection 21.1., by striking out "21.1.a.";

On page one hundred seven, subsection 22.1., by striking out "22.1.a";

On page one hundred eight, subsection 22.2, by striking out "22.1.a";

On page one hundred nine, subsection 22.5, by striking out "22.5.a" and by redesignating paragraphs 22.5.a.1. through 22.5.a.4. as subdivisions 22.5.a. through 22.5.d.;

On page one hundred eleven, subsection 22.8, by striking out "22.8.a";

And,
(d) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article two-b, chapter forty-nine of this code, modified by the Division of Human Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of January, two thousand seven, relating to the Division of Human Services (family child care facility licensing requirements, 78 CSR 18) is authorized with the following amendments:

On pages four and five, subsection 4.3., by striking out "4.3.a." and by redesignating paragraphs 4.3.a.1. through 4.3.a.4. as subdivisions 4.3.a. through 4.3.d.;

On page twelve, subsection 8.1., by striking out "8.1.a." and by redesignating paragraphs 8.1.a.1. through 8.1.a.4. as subdivisions 8.1. through 8.4. and by redesignating subparagraphs 8.1.a.4.a. through 8.1.a.4.d. as paragraphs 8.4.a. through 8.4.d.;


On page twenty-eight, subsection 18.3., by striking out "18.3.a." and by designating paragraphs 18.3.a.1. through 18.3.a.7. as subdivisions 18.3.a. through 18.3.g.;

And,

(e) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article two-b, chapter forty-nine of this code, modified by the Division of Human Services to meet the objections of
the Legislative Rule-Making Review Committee and
refiled in the State Register on the sixth day of
December, two thousand six, relating to the Division of
Human Services (family child care home registration
requirements, 78 CSR 19) is authorized with the
following amendments:

On page thirteen, subsection 7.3, by striking out
"7.3.a." and by redesignating paragraphs 7.3.a.1. through 7.3.a.5. as subdivisions 7.3.a. through 7.3.e.;

On page eighteen, section ten, subsection 10.1.d.1, line eleven, following the numeral “6”, by inserting the word “months”;

On page twenty-three, subsection 12.2., by striking out “12.2.a.” and by redesignating paragraphs 12.2.a.1. through 12.2.a.10. as subdivisions 12.2.a. through 12.2.j.;


On page twenty-seven, subsection 16.2., by striking out “16.2.a.” and by redesignating paragraphs 16.2.a.1. through 16.2.a.7. as subdivisions 16.2.a. through 16.2.g.;

On page twenty-eight, subsection 17.1., by striking out “17.1.a.” and by redesignating paragraphs 17.1.a.1. through 17.1.a.7. as subdivisions 17.1.a. through 17.1.d.;

On pages twenty-eight and twenty-nine, subsection 17.2., by striking out “17.2.a.” and by redesignating paragraphs 17.2.a.1. through 17.2.a.6. as subdivisions 17.2.a. through 17.2.f.;

And,

On page thirty, section twenty, by striking out “20.1.”

(f) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand six,
authorized under the authority of section four, article two-b, chapter forty-nine of this code, modified by the Division of Human Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of January, two thousand seven, relating to the Division of Human Services (informal and relative family child care home registration requirements, 78 CSR 20) is authorized with the following amendments:

On pages nine and ten, subsection 7.4., by striking out "7.4.a." and by redesignating paragraphs 7.4.a.1. and 7.4.a.2. as subdivisions 7.4.a. and 7.4.b.;

On page ten, subsection 7.5., by striking out "7.5.a." and by redesignating paragraphs 7.5.a.1. and 7.5.a.2. as subdivisions 7.5.a. and 7.5.b.;

On page fourteen, section twelve, by striking out "12.1. General Transportation.", by redesignating subdivisions 12.1.a. and 12.1.b. as subsections 12.1. and 12.2. and by redesignating paragraphs 12.1.a.1. through 12.1.a.3. as subdivisions 12.1.a. through 12.1.c.;

And,

On page seventeen, section seventeen, by striking out "17.1."
Enr. Com. Sub. for S. B. No. 278] 16

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

Chairman Senate Committee

Chairman House Committee

Originated 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 is approved this 27th Day of _______ 2007.

Governor
PRESENTED TO THE GOVERNOR
MAR 20 2007
Time 3:50