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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.]

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OFFICE WEST VIRGINIA SECRETARY OF STATE

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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 1 2 the twenty-eighth day of July, two thousand six, 3 authorized under the authority of section eight, article 4 two-d, chapter sixteen of this code, modified by the 5 Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled 6 7 in the State Register on the eighteenth day of January, two thousand seven, relating to the Health Care 8 Authority (certificate of need, 65 CSR 7) is authorized. 9

10 (b) The legislative rule filed in the State Register on 11 the twenty-eighth day of July, two thousand six, 12 authorized under the authority of section eight, article 13 two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the 14 Legislative Rule-Making Review Committee and refiled 15 in the State Register on the eighteenth day of January, 16 two thousand seven, relating to the Health Care 17 Authority (health services offered by health 18 19 professionals, 65 CSR 17) is authorized with the 20 following amendments:

21 On page one, subsection 1.2., by striking out "@" and 22 inserting in lieu thereof "c";

On page one, section two, by striking subdivision
24 2.1.c. in its entirety and inserting in lieu thereof the
following:

26 "2.1.c. Any facility owned or operated by one or more
27 health professionals licensed, authorized, or organized
28 pursuant to Chapter 30 of the West Virginia Code which
29 offers laboratory or imaging services to patients that are
30 sent by other licensed health care professionals for the
31 sole purpose of obtaining the laboratory or imaging

32 services, regardless of the cost associated with the proposal. A facility shall not be deemed a diagnostic 33 34 center under subsection 2.1.c. if the proportion of 35 laboratory procedures performed on such patients does not exceed 25% of the total laboratory procedures 36 37 performed by the facility, and the proportion of imaging 38 procedures performed on such patients does not exceed 39 25% of the total imaging procedures performed by the 40 facility;";

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

43 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:

47 "2.1.g.3. Such laboratory or imaging services were 48 offered by the private office practice on the effective 49 date of this rule; provided however, that the number of 50 laboratory or imaging procedures performed on patients 51 who are sent to the private office practice subsequent to 52 the effective date of this rule for the sole purpose of 53 obtaining laboratory or imaging services must remain at 54 or below the level performed on such patients in 2006, or the level established by calculating an annual 55 56 average based upon calendar years 2004 through 2006, 57 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.

7 (b) The legislative rule filed in the State Register on
8 the twenty-eighth day of July, two thousand six,
9 authorized under the authority of section four, article

10 one, chapter sixteen of this code, modified by the 11 Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review 12 13 Committee and refiled in the State Register on the 14 twenty-second day of December, two thousand six, 15 relating to the Department of Health and Human 16 Resources (public water system operators, 64 CSR 4) is 17 authorized.

18 (c) The legislative rule filed in the State Register on 19 the twenty-eighth day of July, two thousand six, 20 authorized under the authority of section six, article 21 five-r, chapter sixteen of this code, modified by the 22 Department of Health and Human Resources to meet 23 the objections of the Legislative Rule-Making Review 24 Committee and refiled in the State Register on the 25 nineteenth day of December, two thousand six, relating 26 to the Department of Health and Human Resources 27 (nursing home licensure, 64 CSR 13) is authorized.

28 (d) The legislative rule filed in the State Register on 29 the twenty-eighth day of July, two thousand six, 30 authorized under the authority of section four, article 31 one, chapter sixteen of this code, modified by the 32 Department of Health and Human Resources to meet 33 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the 34 35 twenty-second day of December, two thousand six, 36 relating to the Department of Health and Human 37 Resources (recreational water facilities, 64 CSR 16) is 38 authorized with the following amendments:

39 On page four, section six, by striking out all of
40 subsection 6.1. and inserting in lieu thereof a new
41 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

- 49 for Suction Entrapment Avoidance in Swimming Pools,
- 50 Wading Pools, Spa, Hot Tubs, and Catch Basins. These
- 51 standards are available through the internet at:
- 52 http://www.nspi.org.;
- 53 And,

54 On page nine, section ten, by striking out all of 55 subdivision 10.12.a. and inserting in lieu thereof a new 56 subdivision 10.12.a., to read as follows:

57 10.12.a. Pools with single suction outlets must meet National Spa and Pool Institute ANSI/NSPI-1 2003 58 59 Standard for Public Swimming Pools, public spa 60 suction outlets must meet ANSI/NSPI-2 1999 Standard 61 for Public Spas, and Public Water Park suction outlets 62 must meet ANSI/IAF-9 2005 Standard for Public Water 63 Parks and ANSI/APSP-7 2006 National Standard for 64 Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spa, Hot Tubs, and Catch Basins. These 65 standards are available through the internet at: 66 67 http://www.nspi.org.

68 (e) The legislative rule filed in the State Register on 69 the twenty-eighth day of July, two thousand six, 70 authorized under the authority of section three, article 71 five, chapter sixteen of this code, modified by the 72 Department of Health and Human Resources to meet 73 the objections of the Legislative Rule-Making Review 74 Committee and refiled in the State Register on the 75 twenty-second day of January, two thousand seven, 76 relating to the Department of Health and Human 77 Resources (vital statistics, 64 CSR 32) is authorized.

78 (f) The legislative rule filed in the State Register on 79 the twenty-eighth day of July, two thousand six, 80 authorized under the authority of section fourteen, 81 article four-c, chapter sixteen of this code, modified by 82 the Department of Health and Human Resources to 83 meet the objections of the Legislative Rule-Making 84 Review Committee and refiled in the State Register on 85 the twenty-second day of December, two thousand six, 86 relating to the Department of Health and Human

- 87 Resources (emergency medical services, 64 CSR 48) is88 authorized with the following amendments:
- 89 On page forty-eight, section eighteen, subsection 18.6,
- 90 line thirty-nine, following the word "of", by inserting
- 91 the words "Examiners for";
- 92 On page forty-eight, section eighteen, subsection 18.7,
 93 line forty-three, following the word "or" by inserting
 94 the words "Examiners for";
- 95 And,
- 96 On page forty-eight, section eighteen, subsection 18.7,
- 97 line forty-three, following the word "Nurses" by
- 98 inserting the words "or his or her designee".

§64-5-3. Division of Human Services.

1 2 3	(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
4	two-b, chapter forty-nine of this code, modified by the
5	Division of Human Services to meet the objections of
6	the Legislative Rule-Making Review Committee and
7	refiled in the State Register on the sixth day of
8	December, two thousand six, relating to the Division of
9	Human Services (child care center licensing, 78 CSR 1)
10	is authorized with the following amendments:
11 12 13	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.;
14 15	On page twenty, subdivision 8.4.c., by striking out "8.4.d." and inserting in lieu thereof "8.4.e.";
16	On page sixty-eight, subsection 19.11, by striking out
17	"19.11.a." and by redesignating paragraphs 19.11.a.1.
18	through 19.11.a.4. as subdivisions 19.11.a. through
19	19.11.d.;
20	And,

On page seventy-three, section twenty-two, by
striking out "22.1." and by redesignating subdivisions
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, authorized under the authority of section four, article 27 two-b, chapter forty-nine of this code, modified by the 28 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 Human Services (child placing agencies' licensure, 78 33 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

- 54 26.3.;
- 55 And,
- 56 On page fifty-one, section twenty-seven, by striking 57 out "27.1.".

58 (c) The legislative rule filed in the State Register on 59 the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article 60 two-b, chapter forty-nine of this code, modified by the 61 62 Division of Human Services to meet the objections of 63 the Legislative Rule-Making Review Committee and 64 refiled in the State Register on the twenty-second day 65 of December, two thousand six, relating to the Division of Human Services (minimum licensing requirements 66 for group residential facilities in West Virginia, 78 CSR 67 68 3) is authorized with the following amendments: 69 On page two, subsection 2.2, by striking out "2.2.a."; 70 On pages two and three, subsection 2.3., by striking out "2.3.a." and by redesignating paragraphs 2.3.a.1. 71 72 through 2.3.6. as subdivisions 2.3.a. through 2.3.f.; 73 On page seventeen, subsection 4.11., by striking out "4.11.a.": 74 75 On page seventeen, subsection 4.12., by striking out "4.12.a."; 76 77 On pages twenty-two and twenty-three, subsection 5.8., by striking out "5.8.a." and by redesignating 78 paragraphs 5.8.a.1. through 5.8.4. as subdivisions 5.8.a. 79 80 through 5.8.d.; On page twenty-three, subsection 5.10., by striking 81 82 out "5.10.a."; 83 On pages twenty-six and twenty-seven, subsection 7.1., by striking out "7.1.a." and by redesignating 84 85 paragraphs 7.1.a.1. through 7.1.a.5. as subdivisions

86 7.1.a. through 7.1.e.;

87 On pages twenty-nine and thirty, subsection 7.9., by striking out "7.9.a." and by redesignating paragraphs 88 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 "8.7.c.10. Expected outcomes as appropriate."; 97 On page thirty-two, section eight, by striking paragraphs 8.7.d.4 through 8.7.d.9 in their entirety and 98 inserting in lieu thereof the following: 99 100 "8.7.d.4. Evidence of ability to conduct business in the 101 State of West Virginia; and 102 8.7.d.5. Evidence of a criminal background check."; 103 On page forty-two, section eleven, by striking 104 paragraph 11.2.a.3. in its entirety and inserting in lieu 105 thereof the following: 106 "11.2.a.3. Adult Pulmonary Resuscitation (CPR), unless the organization serves an infant population, in 107 108 which case both adult and infant cardiopulmonary 109 resuscitation training is required. This training must be 110 updated every two years."; 111 On page forty-three, section eleven, by striking 112 paragraph 11.2.a.14. in its entirety and inserting lieu 113 thereof the following: "11.2.a.14. Heimlich's maneuver or abdominal thrust 114 115 other life-saving technique any for or choking/obstructed airway as recognized by the 116 American Red Cross or equivalent."; 117 118 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 126 "14.1.a." and by redesignating paragraphs 14.1.a.1. 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
139 14.14.a.1. through 14.1.a.5. as subdivisions 14.1.a.
140 through 14.1.e.;

141 On page seventy-seven, subsection 14.19., by striking142 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 out148 "16.4.a.";

149 On pages ninety-one and ninety-two, subsection 18.2,

150 by striking out "18.2.a.", by redesignating subdivisions 151 18.2.a.1. through 18.2.a.5. as subdivisions 18.2.a. 152 through 18.2.e. and by redesignating subparagraph 153 18.2.a.5.A. through 18.2.a.5.B. as paragraphs 18.2.e.1. though 18.2.e.5.; 154 On page ninety-two, subsection 18.3., by striking out 155 "18.3.a."; 156 157 On page ninety-four, subsection 18.6., by striking out "18.6.a."; 158 159 On page ninety-five, subsection 18.7., by striking out "18.7.a." and by redesignating paragraphs 18.7.a.1. 160 161 through 18.8.a.4. as subdivisions 18.7.a. through 18.7.d.; 162 On page ninety-five, subsection 19.1., by striking out "19.1.a." and by redesignating paragraphs 19.1.a.1. 163 through 19.1.a.6. as subdivisions 19.1.a. through 19.1.f.; 164 165 On page one hundred six, subsection 20.5., by striking out "20.5.a. Abrogation of Client Rights" and 166 167 "20.5.a.1."; 168 On page one hundred seven, subsection 21.1., by striking out "21.1.a."; 169 On page one hundred seven, subsection 22.1., by 170 171 striking out "22.1.a"; 172 On page one hundred eight, subsection 22.2, by 173 striking out "22.1.a"; 174 On page one hundred nine, subsection 22.5, by 175 striking out "22.5.a" and by redesignating paragraphs 22.5.a.1. through 22.5.a.4. as subdivisions 22.5.a. 176 177 through 22.5.d.; 178 On page one hundred eleven, subsection 22.8, by 179 striking out "22.8.a";

180 And,

181 On page one hundred twelve, subsection 22.10, by 182 striking out "22.10.a". 183 (d) The legislative rule filed in the State Register on 184 the twenty-eighth day of July, two thousand six, authorized under the authority of section four, article 185 186 two-b, chapter forty-nine of this code, modified by the 187 Division of Human Services to meet the objections of 188 the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day 189 of January, two thousand seven, relating to the Division 190 191 of Human Services (family child care facility licensing 192 requirements, 78 CSR 18) is authorized with the 193 following amendments: 194 On pages four and five, subsection 4.3., by striking out 195 "4.3.a." and by redesignating paragraphs 4.3.a.1. 196 through 4.3.a.4. as subdivisions 4.3.a. through 4.3.d.; 197 On page twelve, subsection 8.1., by striking out 198 "8.1.a.", by redesignating paragraphs 8.1.a.1. through 199 8.1.a.4. as subdivisions 8.1. through 8.4. and by 200 redesignating subparagraphs 8.1.a.4.a. through 201 8.1.a.4.d. as paragraphs 8.4.a. through 8.4.d.; 202 On page nineteen, paragraph 14.1.a.5., bv 203 redesignating subparagraphs 14.1.a.5.a. and 14.1.a.5.b. 204 as subparagraphs 14.1.a.5.A. and 14.1.a.5.B.; 205 On page twenty-eight, subsection 18.3., by striking out 206 "18.3.a." and by designating paragraphs 18.3.a.1. 207 through 18.3.a.7. as subdivisions 18.3.a. through 18.3.g.; 208 And, 209 On page thirty-four, section twenty-four, by striking out "24.1." 210 211 (e) The legislative rule filed in the State Register on 212 the twenty-eighth day of July, two thousand six, 213 authorized under the authority of section four, article 214 two-b, chapter forty-nine of this code, modified by the

215 Division of Human Services to meet the objections of

216 the Legislative Rule-Making Review Committee and 217 refiled in the State Register on the sixth day of 218 December, two thousand six, relating to the Division of 219 Human Services (family child care home registration requirements, 78 CSR 19) is authorized with the 220 following amendments: 221 222 On page thirteen, subsection 7.3, by striking out "7.3.a." and by redesignating paragraphs 7.3.a.1. 223 224 through 7.3.a.5. as subdivisions 7.3.a. through 7.3.e.; 225 On page eighteen, section ten, subsection 10.1.d.1, line 226 eleven, following the numeral "6", by inserting the word 227 "months"; 228 On page twenty-three, subsection 12.2., by striking 229 out "12.2.a." and by redesignating paragraphs 12.2.a.1. 230 through 12.2.a.10. as subdivisions 12.2.a. through 12.2.j.; 231 On pages twenty-six and twenty-seven, subsection 232 16.1., by striking out "16.1.a." and by redesignating 233 paragraphs 16.1.a.1. through 16.1.a.6. as subdivisions 234 16.1.a. through 16.1.f.; 235 On page twenty-seven, subsection 16.2., by striking 236 out "16.2.a." and by redesignating paragraphs 16.2.a.1. 237 through 16.2.a.7. as subdivisions 16.2.a. through 16.2.g.; 238 On page twenty-eight, subsection 17.1., by striking out 239 "17.1.a." and by redesignating paragraphs 17.1.a.1. 240 through 17.1.a.7. as subdivisions 17.1.a. through 17.1.d.; 241 On pages twenty-eight and twenty-nine, subsection 242 17.2., by striking out "17.2.a." and by redesignating paragraphs 17.2.a.1. through 17.2.a.6. as subdivisions 243 244 17.2.a. through 17.2.f.: 245 And, 246 On page thirty, section twenty, by striking out "20.1." 247 (f) The legislative rule filed in the State Register on

248 the twenty-eighth day of July, two thousand six,

249 authorized under the authority of section four, article 250 two-b, chapter forty-nine of this code, modified by the Division of Human Services to meet the objections of 251 252 the Legislative Rule-Making Review Committee and 253 refiled in the State Register on the twenty-second day 254 of January, two thousand seven, relating to the Division 255 of Human Services (informal and relative family child care home registration requirements, 78 CSR 20) is 256 257 authorized with the following amendments:

258 On pages nine and ten, subsection 7.4., by striking out
259 "7.4.a." and by redesignating paragraphs 7.4.a.1. and
260 7.4.a.2. as subdivisions 7.4.a. and 7.4.b.;

261 On page ten, subsection 7.5., by striking out "7.5.a."
262 and by redesignating paragraphs 7.5.a.1. and 7.5.a.2 as
263 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.;

269 And,

1. a. 5

On page seventeen, section seventeen, by striking out"17.1."

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

Contilin resident of the Senate

Speaker House of Delegates

The within 12 applos this the 2715 Day of tuch 2007. Governor

BRESENTED TO THE GOVERNOR

MAR 2 0 2007

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Time 3:50 pr ----------