WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE
FOR
ENROLLED
Senate Bill No. 349

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

[Passed March 8, 2008; in effect from passage.]
AN ACT to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, 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; 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 the Board of Acupuncture to promulgate a legislative rule relating to disciplinary and complaint procedures for acupuncturists; authorizing the Board of Acupuncture to promulgate a legislative rule relating to continuing education requirements; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the fee structure for the Pesticide Control Act of 1990; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Plant Pest Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to frozen desserts and imitation frozen desserts; authorizing the State Auditor to promulgate a legislative rule relating to standards for requisitions for payment issued to state officers on the Auditor; authorizing the State Auditor to promulgate a legislative rule relating to the State Purchasing Card Program; authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the board; authorizing the State Election Commission to promulgate a legislative rule relating to corporate political activity; authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the State Election Commission to promulgate a legislative rule relating to election expenditures; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holder and funeral establishment requirements; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to the board; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to general provisions; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Medical Imaging and
Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to continuing education; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to a standard of ethics; authorizing the Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatrists; authorizing the Board of Medicine to promulgate a legislative rule relating to collaborative pharmacy practice; authorizing the Board of Medicine to promulgate a legislative rule relating to certification, disciplinary and complaint procedures, continuing education and radiologist assistants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Pharmaceutical Cost Management Council to promulgate a legislative rule relating to prescription drug advertising expense reporting; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to the examination and licensing of professional surveyors in West Virginia; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to fees for surveyors and surveying firms; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to standards for the practice of surveying in West Virginia; authorizing the Public Service Commission to promulgate a legislative rule relating to emergency telephone service; authorizing the Secretary of State to promulgate a legislative rule relating to the use of digital signatures, state certificate authority and the state repository; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech-pathology and audiology; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to the registration of veterinary technicians.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Acupuncture.

(a) The legislative rule filed in the State Register on the seventeenth day of July, two thousand seven, authorized under the authority of section seven, article thirty-six, chapter thirty of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixth day of November, two thousand seven, relating to the Board of Acupuncture (disciplinary and complaint procedures for acupuncturists, 32 CSR 7), is authorized with the following amendments:

On page one, by striking out subsection 3.7. and renumbering the remaining subsection;

And,

On page seven, section five, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

‘32-7-5. Complaint Disposition.’

(b) The legislative rule filed in the State Register on the seventeenth day of July, two thousand seven, authorized under the authority of section seven, article thirty-six, chapter thirty of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixth day of November, two thousand seven, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 9), is authorized with the following amendment:

On page two, subsection 5.2., after the word 'shall' by inserting the word 'assign';

And,
On page three, subsection 7.1., by striking out the word “fourty-eight” and inserting in lieu thereof the word “forty-eight”.


(a) The legislative rule filed in the State Register on the twenty-fourth day of July, two thousand seven, authorized under the authority of section four, article sixteen-a, chapter nineteen of this code, relating to the Commissioner of Agriculture (fee structure for the Pesticide Control Act of 1990, 61 CSR 12), is authorized.

(b) The legislative rule filed in the State Register on the twenty-ninth day of June, two thousand seven, authorized under the authority of section five, article two-c, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-eighth day of August, two thousand seven, relating to the Commissioner of Agriculture (auctioneers, 61 CSR 11B), is authorized with the following amendment:

On page one, subsection 3.1., by striking out the word ‘applicant’s’ and inserting in lieu thereof the word ‘applicant’.

(c) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section three, article twelve, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-seventh day of August, two thousand seven, relating to the Commissioner of Agriculture (West Virginia Plant Pest Act, 61 CSR 14), is authorized.

(d) The legislative rule filed in the State Register on the twenty-sixth day of June, two thousand seven, authorized under the authority of section three, article two-b, chapter nineteen of this code, relating to the
Commissioner of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

(e) The legislative rule filed in the State Register on the twenty-fourth day of July, two thousand seven, authorized under the authority of section ten, article eleven-b, chapter nineteen of this code, relating to the Commissioner of Agriculture (frozen desserts and imitation frozen desserts, 61 CSR 4B), is authorized.


(a) The legislative rule filed in the State Register on the twenty-fifth day of July, two thousand seven, authorized under the authority of section ten, article three, chapter twelve of this code, modified by the State Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the eighteenth day of October, two thousand seven, relating to the State Auditor (standards for requisitions for payment issued to state officers on the auditor, 155 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on the twenty-fifth day of July, two thousand seven, authorized under the authority of section ten-a, article three, chapter twelve of this code, modified by the State Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the eighteenth day of October, two thousand seven, relating to the State Auditor (State Purchasing Card Program, 155 CSR 7), is authorized.

§64-9-4. Board of Dental Examiners.

The legislative rule filed in the State Register on the nineteenth day of July, two thousand seven, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dental Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventeenth day of October, two thousand seven, relating to the Board of Dental

(a) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section eight, article eight, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventh day of December, two thousand seven, relating to the State Election Commission (corporate political activity, 146 CSR 1), is authorized with the following amendments:

On page one, subsection 2.2., by striking out the words “Contribution or Expenditure” and inserting in lieu thereof the words “‘Contribution’ or ‘Expenditure’”;

On page one, subdivision 2.2.e., by striking out “WV” and inserting in lieu thereof “W. Va.”;

On page three, subsection 3.1., line two, by striking out the word “series” and inserting in lieu thereof the word “rule”;

On page four, subdivision 3.3.a., by striking out “WV” and inserting in lieu thereof “W. Va.”;

On page four, paragraph 3.3.c.1., by striking out “WV” and inserting in lieu thereof “W. Va.”;

On page four, paragraph 3.3.d.1., by striking out “WV” and inserting in lieu thereof “W. Va.”;

On page five, paragraph 3.3.f.5., lines four and seven, by striking out the word “Paragraph” and inserting in lieu thereof the word “paragraph”;

On page five, paragraph 3.3.f.5., lines five and seven, by striking out the word “subsection” and inserting in
On page five, paragraph 3.3.f.6., by striking out the words “the above regulations” and inserting in lieu thereof the words “this rule”;

On page five, paragraph 3.3.f.7., by changing the colon to a comma and by striking out the words “Provided, that such” and inserting in lieu thereof the words “provided that the”;

On page six, subsection 4.3., by striking out the words “The establishment, administration and solicitation of contributions to a Corporate Political Action Committee, by means and in amounts as herein specified:

4.3.a.”;

On page seven, subdivision 4.4.a., by striking out the word “Section” and inserting in lieu thereof the word “subsection”;

On page seven, subdivision 4.4.b., line five, by striking out the word “Section” and inserting in lieu thereof the word “subsection”;

On page eight, subsection 5.1., by striking out “WV” and inserting in lieu thereof “W. Va.”;

On page eight, subdivision 5.1.a., by striking out “5.1.a.” and by adding the subsequent sentence to the end of subsection 5.1.;

On page eight, subdivision 5.2.b., by striking out “WV” and inserting in lieu thereof “W. Va.”;

And,

On page nine, section seven, by striking out “7.1.”.

(b) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven,
authorized under the authority of section five, article one-a, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventh day of December, two thousand seven, relating to the State Election Commission (regulation of campaign finance, 146 CSR 3), is authorized with the following amendment:

On page thirteen, by striking out section 14 in its entirety.

(c) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section five, article one-a, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventh day of December, two thousand seven, relating to the State Election Commission (election expenditures, 146 CSR 4), is authorized with the following amendment:

On page four, by striking out sections 12 and 13 in their entirety.


The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section six, article six, chapter thirty of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventh day of December, two thousand seven, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holder and funeral establishment requirements, 6 CSR 1), is authorized with the following amendments:

On page two, section two, by striking subdivision 2.8.6 in its entirety;
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On page fifteen, section sixteen, subdivision 16.11.3, by striking the words and numbers 'two hundred dollars ($200)' and inserting in lieu thereof the words and numbers 'one hundred sixty dollars ($160.00)';

And,

On page sixteen, section sixteen, by striking subdivisions 16.11.15 and 16.11.16 in their entirety.

§64-9-7. Board of Hearing Aid Dealers.

The legislative rule filed in the State Register on the twenty-fifth day of July, two thousand seven, authorized under the authority of section three, article twenty-six, chapter thirty of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the third day of January, two thousand eight, relating to the Board of Hearing Aid Dealers (rules governing the West Virginia Board of Hearing Aid Dealers, 8 CSR 1), is authorized with the following amendments:

On page two, subsection 4.1., by striking out 'fifty dollars ($50.00)' and inserting in lieu thereof 'one hundred dollars ($100.00)';

On page two, subsection 4.3., by striking out 'forty dollars ($40.00)' and the remaining sentence and inserting in lieu thereof 'one hundred dollars ($100.00)';

On page two, subsection 4.5., by striking out 'one dollar ($1.00)' and inserting in lieu thereof 'ten dollars ($10.00)';

On page two, subsection 4.6., by striking out 'twenty-five dollars ($25.00)' and inserting in lieu thereof 'one hundred dollars ($100.00)';

On page three, subsection 4.7., by striking out 'fifty dollars ($50.00)' and inserting in lieu thereof 'one hundred dollars ($100.00)';
On page four, subsection 7.1., after the words ‘the prospective customer:’ by striking out the remainder of the subsection and inserting in lieu thereof the following: The purchaser has been advised at the outset of his relationship with the hearing aid dealer that any examination of representation made by a licensed hearing aid dealer in connection with the practice of fitting this hearing aid is not an examination, diagnosis or prescription by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinion.;

On page four, subdivision 7.5.d., by striking out the words ‘be required to advise in writing’ and inserting in lieu thereof the word ‘determine’;

On page four, by striking out all of subsection 7.6. and renumbering the remaining subsections;

On page five, subsection 8.2., by striking out all of subdivisions (i) and (j) and re-lettering the remaining subdivision;

On page five, by striking out all of subsection 8.5;

On page six, subsection 9.4., by striking out the words ‘terms ‘Certified Member’ or ‘Certified Hearing Aid Audiologist” and inserting in lieu thereof the words ‘term ‘Certified Member’;

On page six, after subsection 9.6., by adding thereto a new subsection, to read as follows:

‘9.7. The hearing aid dealer must prominently display the following advisement: ‘Consumers may contact the West Virginia Board of Hearing Aid Dealers at 167 11th Avenue, South Charleston, WV 25303, if the consumer believes that the hearing aid dealer has not satisfied the terms of the contract.’;

On page seven, subsection 12.2., after the words ‘body of the purchase agreement:’ by striking out the remainder of the subsection and inserting in lieu
thereof the following: ‘You have the right to return the
hearing aid to the dealer from whom it was purchased
at anytime within thirty (30) days after receipt of the
aid and rescind the purchase agreement except for
reasonable fitting and examination charges ($125.00
maximum fitting charge), if the aid does not function
properly or cannot be adjusted to correct the deficiency
in your hearing or is otherwise unsatisfactory. The aid
so returned must be without damage.’;

And,

On page seven, by striking out all of subsection 12.4.
and renumbering the remaining subsections.


The legislative rule filed in the State Register on the
sixteenth day of July, two thousand seven, authorized
under the authority of section six, article thirty-seven,
chapter thirty of this code, relating to the Massage
Therapy Licensure Board (general provisions, 194 CSR
1), is authorized.

§64-9-9. Medical Imaging and Radiation Therapy Technology
Board of Examiners.

(a) The legislative rule filed in the State Register on
the eighteenth day of July, two thousand seven,
authorized under the authority of section seven, article
twenty-three, chapter thirty of this code, modified by
the Medical Imaging and Radiation Therapy
Technology Board of Examiners to meet the objections
of the Legislative Rule-Making Review Committee and
refiled in the State Register on the sixteenth day of
October, two thousand seven, relating to the Medical
Imaging and Radiation Therapy Technology Board of
Examiners (rule of the Medical Imaging and Radiation
Therapy Technology Board of Examiners, 18 CSR 1), is
authorized.

(b) The legislative rule filed in the State Register on
the eighteenth day of July, two thousand seven,
authorized under the authority of section seven, article twenty-three, chapter thirty of this code, modified by the Medical Imaging and Radiation Therapy Technology Board of Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixteenth day of October, two thousand seven, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (continuing education, 18 CSR 2), is authorized with the following amendment:

On page one, subsection 1.2., by striking out ‘30-7A-5 &64-9-17(h)’ and inserting in lieu thereof ‘30-23-7’;

And,

On page five, subdivision 3.4.1., by striking out the words ‘Grand fathered’ and inserting in lieu thereof the word ‘grandfathered’.

(c) The legislative rule filed in the State Register on the eighteenth day of July, two thousand seven, authorized under the authority of section seven, article twenty-three, chapter thirty of this code, modified by the Medical Imaging and Radiation Therapy Technology Board of Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixteenth day of October, two thousand seven, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (standard of ethics, 18 CSR 5), is authorized.

§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on the tenth day of July, two thousand seven, authorized under the authority of section seven, article three, chapter thirty of this code, relating to the Board of Medicine (continuing education for physicians and podiatrists, 11 CSR 6), is authorized with the following amendments:

On page one, subsection 2.1., by striking out the
number '1993' and inserting in lieu thereof the number '2008';

On page one, subsection 2.1., by striking out the words 'At least thirty (30) hours of the hours must be related to the physician's area or areas of specialty.' and inserting in lieu thereof the following: 'Beginning July 1, 2008, at least thirty (30) hours of the continuing medical education hours must be related to the physician's area or areas of specialty.';

And,

On page two, subsection 2.3., by striking out the words 'At least thirty (30) hours of the hours must be related to the podiatrist's area or areas of specialty.' and inserting in lieu thereof the following: 'Beginning July 1, 2008, at least thirty (30) hours of the continuing podiatric education hours must be related to the podiatrist's area or areas of specialty.'.

(b) The legislative rule filed in the State Register on the sixteenth day of November, two thousand six, authorized under the authority of section twenty-eight, article five, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the tenth day of October, two thousand seven, relating to the Board of Medicine (collaborative pharmacy practice, 11 CSR 8), is authorized.

(c) The legislative rule filed in the State Register on the nineteenth day of July, two thousand seven, authorized under the authority of section seven-a, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-ninth day of November, two thousand seven, relating to the Board of Medicine (certification, disciplinary and complaint procedures, continuing education and radiologist assistants, 11 CSR 9), is authorized.

The legislative rule filed in the State Register on the thirteenth day of June, two thousand seven, authorized under the authority of section seven, article twenty-five, chapter thirty of this code, modified by the Nursing Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-eighth day of August, two thousand seven, relating to the Nursing Home Administrators Licensing Board (nursing home administrators, 21 CSR 1), is authorized with the following amendment:

On page six, subdivision 4.2.1.a., after the words 'Emeritus State Administrators' by striking out the remainder of the subdivision and inserting in lieu thereof the words 'shall obtain annually at least ten (10) clock hours of continuing education approved as provided in subsection 4.2.1. of this rule.'.


The legislative rule filed in the State Register on the ninth day of July, two thousand seven, authorized under the authority of section fifteen, article three-c, chapter five-a of this code, modified by the Pharmaceutical Cost Management Council to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the fourteenth day of January, two thousand eight, relating to the Pharmaceutical Cost Management Council (prescription drug advertising expense reporting, 206 CSR 1), is authorized.


(a) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section six, article thirteen-a, chapter thirty of this code, modified by the Board of Professional Surveyors 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 seven, relating to the Board of Professional Surveyors (examination and licensing of professional surveyors in West Virginia, 23 CSR 1), is authorized with the following amendments:

On page one, subsection 1.2., by striking out ‘30-13A-5(13)’ and inserting in lieu thereof ‘30-13A-6’;

On page two, subsection 2.10., after the word ‘Board’, by inserting a period and striking out the remainder of that subsection.

On page four, subdivision 3.1.d., after the word ‘data’ by striking out the words ‘education and employment history’;

On page five, subdivision 3.4.a.3., after the words ‘of the examination’, by striking out the word ‘for’ and inserting in lieu thereof the word ‘after’;

On page eight, subdivision 5.2.c. after the word ‘certificate’ by striking out the word ‘shall’ and inserting in lieu thereof the word ‘may’;

On page nine, subdivision 5.2.f.3. after the word ‘examination’ by striking the word ‘for’ and inserting in lieu thereof the word ‘after’;

On page nine, subdivision 5.3.c. after the underlined word ‘shall’ by adding the word ‘conspicuously’;

On page ten, after subdivision 5.3.e. by adding a new subdivision, designated 5.3.f., to read as follows: ‘A wallet card shall be issued simultaneously to be kept on the licensee’s person.’;

And,

On page ten, subdivision 5.5.c. in the second sentence, after the word ‘months’ by striking the word ‘shall’ and inserting in lieu thereof the word ‘may’.
(b) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section five, article thirteen-a, chapter thirty of this code and section six of said article, modified by the Board of Professional Surveyors 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 seven, relating to the Board of Professional Surveyors (fees for surveyors and surveying firms, 23 CSR 4), is authorized with the following amendment:

On page one, subsection 1.2., after “30-13A-5(13)” by inserting “and §30-13A-6;”;

On page three, section 4, after the words “PS License (Active or Inactive)”, by striking out “$150.00” and inserting in lieu thereof “$100.00”;

On page three, section 4, by striking out the colon and the following:

“Less than ten(10) employees $150.00”

“Ten (10) employees to less than fifty (50) $250.00”

“Fifty (50) employees or more $500.00”

and inserting in lieu thereof “$100.00”; And,

On page four, subdivision 4.5.i. after the words ‘Returned Check Fee’ by striking the figure ‘$40.00’ and inserting in lieu thereof the following ‘Maximum allowable by WV Code’.

(c) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section six, article thirteen-a, chapter thirty of this code, modified by the Board of Professional Surveyors to meet the objections of the Legislative Rule-Making Review Committee and
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refiled in the State Register on the nineteenth day of
December, two thousand seven, relating to the Board of
Professional Surveyors (standards for practice of
surveying in West Virginia, 23 CSR 5), is authorized
with the following amendment:

On page one, subsection 1.2., by striking out ‘5’ and
inserting in lieu thereof ‘6’.


The legislative rule filed in the State Register on the
twenty-sixth day of September, two thousand six,
authorized under the authority of section six-b, article
six, chapter twenty-four of this code, relating to the
Public Service Commission (emergency telephone
service, 150 CSR 25), is authorized with the following
amendments:

On page one, subsection 2.1., line one, by striking out
‘these rules’ and inserting in lieu thereof ‘this rule’;

On page one, subsection 2.1., line six, by striking out
‘these rules’ and inserting in lieu thereof ‘this rule’;

On page four, subsection 2.27., following the words
‘the Speaker of the House of Delegates or that person’s
designee’ by adding a comma and the words ‘as a non-
voting member’;

On page four, subsection 2.27., following the words
‘the Senate President or that person’s designee’ by
adding a comma and the words ‘as a non-voting
member’;

On page eight, subsection 5.1., by striking out ‘5.1.a.’
and inserting in lieu thereof ‘5.2.’ and by renumbering
the remaining subsections accordingly;

On page ten, section seven, by striking out ‘7.1.’;

On page twelve, section twelve, by striking out ‘12.1.’;
On page sixteen, subdivision 13.5.d, at the end of the second line, following the word 'least', by striking the word 'five' and inserting in lieu thereof the words 'four voting';

And,

On page sixteen, by striking subsection 13.6. in its entirety.

§64-9-15. Secretary of State.

The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section three, article three, chapter thirty-nine-a of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the ninth day of October, two thousand seven, relating to the Secretary of State (use of digital signatures, state certificate authority and state repository, 153 CSR 30), is authorized with the following amendments:

On page two, subsection 3.3., by striking out the words ‘and approved by’;

On page two, subsection 3.3., after the word ‘Technology’, by changing the comma to a period, striking out the words ‘through its chief technology officer or his or her designee,’ and inserting in lieu thereof the words ‘The specifications must be approved by the Office of Technology’;

On page four, subsection 6.2., after the word ‘Technology’, by striking out the comma and the words ‘through its chief technology officer or his or her designee’;

On page four, subdivision 7.1.h., after the word ‘The’ by inserting the words ‘Secretary of State may ask or enter into an agreement with the’;
On page four, subdivision 7.1.h., after the word 'Technology', by striking out the comma and the words 'through its chief technology officer or his or her designee, shall' and inserting in lieu thereof the word 'to';

On page four, subdivision 7.1.h., after the word 'and' by inserting the word 'to';

On page five, subsection 7.3., by striking out the words 'Office of Technology, through its chief technology officer or his or her designee,' and by inserting the words 'Secretary of State';

On page five subsection 7.3., by striking out the words 'for a term no less that one year';

On page five subsection 7.3., after the period, by inserting the words 'The Secretary of State may defer to the Office of Technology his or her authority to initiate the procurement process.';

On page five, subsection 7.4., after the word 'The', by inserting the words 'Secretary of State may ask or enter into an agreement with the';

On page five, subsection 7.4., by striking out the word 'shall' and inserting in lieu thereof the word 'to';

On page five, subsection 7.4., by striking out the words 'Secretary of State' and inserting in lieu thereof the words 'him or her';

And,

On page five, subdivision 7.5.a., by striking out the words 'The Office of Technology, through its chief technology officer or his or her designee, shall inform the Secretary of State' and insert in lieu thereof the words 'The Secretary of State may ask or enter into an agreement with the Office of Technology to inform him or her.'

(a) The legislative rule filed in the State Register on the twenty-seventh day of June, two thousand seven, authorized under the authority of section ten, article thirty-two, chapter thirty of this code, modified by the Board of Examiners for Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the fifth day of December, two thousand seven, relating to the Board of Examiners for Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 1), is authorized with the following amendments:

On page two, section 6.1.b., by striking the word ‘five’ and reinserting in lieu thereof the word, ‘ten’;

And,

On page twenty, section 13.11., after the word ‘licensure’ and the period, by striking out the remainder of the rule.

(b) The legislative rule relating to the Board of Examiners for Speech-Language Pathology and Audiology (Code of Ethics, 29 CSR 5), is authorized as follows:

29 CSR 5

West Virginia Board of Examiners for Speech-Language Pathology and Audiology Code of Ethics

§29-5-1. General.

1.1. Scope. — This legislative rule establishes standards of conduct speech-language pathologist or audiologist in the State of West Virginia.

1.5. Preamble: The preservation of the highest standards of integrity and ethical principles is vital to the responsible discharge of obligations in the professions of Speech-Language Pathology and Audiology. This code of Ethics sets forth the fundamental principles and rules considered essential to this purpose. Every individual who is licensed by this Board as a Professional, Provisional or a Speech or Audiology Assistant.

§29.5.2. Licensed by this Board as a Professional, Provisional or a Speech or Audiology Assistant.

2.1. Any action that violates the spirit and purpose of this Code shall be considered unethical. Failure to specify any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

2.2. The fundamentals of ethical conduct are described by Principles of Ethics and Rules of Ethics as they relate to responsibility to persons served, to the public, and to the professions of speech-language pathology and audiology.

2.3. Principles of Ethics, aspirational and inspirational in nature, form the underlying moral basis for the Code of Ethics. Licensees shall observe these principles as affirmative obligations under all conditions of professional activity. Rules of Ethics are specific statements of minimally acceptable professional conduct or of prohibitions and are applicable to all licensees.

2.4. Principle of Ethics I

2.4.a. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve professionally.
2.4.b. Rules of Ethics

2.4.b.1. Licensees shall provide all services competently.

2.4.b.2. Licensees shall use every resource, including referral when appropriate, to ensure that high-quality service is provided.

2.4.b.3. Licensees shall not discriminate in the delivery of professional services on the basis of race, ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

2.4.b.4. Licensees shall fully inform the persons they serve of the nature and possible effects of services rendered and products dispensed.

2.4.b.5. Licensees shall evaluate the effectiveness of services rendered and of products dispensed and shall provide services or dispense products only when benefit can be reasonably expected.

2.4.b.6. Licensees shall not guarantee the results of any treatment or procedure, directly or by implication; however, they may make a reasonable statement of prognosis.

2.4.b.7. Licensees shall not evaluate or treat speech, language, or hearing disorders solely by correspondence.

2.4.b.8. Licensees shall maintain adequate records of professional services rendered and products dispensed and shall allow access to these records when appropriately authorized.

2.4.b.9. Licensees shall not reveal, without authorization, any professional or personal information about the person served professionally, unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or of the community.
2.4.b.10. Licensees shall not charge for services not rendered, nor shall they misrepresent, in any fashion, services rendered or products dispensed.

2.4.b.11. Licensees shall use persons in research or as subjects of teaching demonstrations only with their informed consent.

2.4.b.12. Licensees whose professional services are adversely affected by substance abuse or other health-related conditions shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

2.5. *Principles of Ethics II*

2.5.a. Licensees shall honor their responsibility to achieve and maintain the highest level of professional competence.

2.5.b. *Rules of Ethics*

2.5.b.1. Licensees shall engage in the provision of clinical services only when they hold the appropriate license or when they are in the licensure process and are supervised by an individual who holds the appropriate license.

2.5.b.2. Licensees shall engage in only those aspects of the professions that are within the scope of their competence, considering their level of education, training, and experience.

2.5.b.3. Licensees shall continue their professional development throughout their careers.

2.5.b.4. Licensees shall delegate the provision of clinical services only to persons who are licensed or to persons in the education or licensure process who are appropriately supervised. The provision of support services may be delegated to persons who are neither licensed nor in the licensure process only when a license holder provides appropriate supervision.
2.5.b.5. Licensees shall prohibit any of their professional staff from providing services that exceed the staff member's competence, considering the staff member's level of education, training, and experience.

2.5.b.6. Licensees shall ensure that all equipment used in the provision of services is in proper working order and is properly calibrated.

2.6. Principle of Ethics III

2.6.a. Licensees shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions.

2.6.b. Rules of Ethics

2.6.b.1. Licensees shall not misrepresent their credentials, competence, education, training, or experience.

2.6.b.2. Licensees shall not participate in professional activities that constitute a conflict of interest.

2.6.b.3. Licensees shall not misrepresent diagnostic information, services rendered, or products dispensed or engage in any scheme or artifice to defraud in connection with obtaining payment or reimbursement for such services or products.

2.6.b.4. Licensees' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, and about professional services.

2.6.b.5. Licensees' statements to the public — advertising, announcing, and marketing their professional services, reporting research results, and promoting products — shall adhere to prevailing
professional standards and shall not contain misrepresentations.

2.7. Principle of Ethics IV

2.7.a. Licensees shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of allied professions. Licensees shall uphold the dignity and autonomy of the professions, maintain harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

2.7.b. Rules of Ethics

2.7.b.1. Licensees shall prohibit anyone under their supervision from engaging in any practice that violates the Code of Ethics.

2.7.b.2. Licensees shall not engage in dishonesty, fraud, deceit, misrepresentation, or any form of conduct that adversely reflects on the professions or on the licensee's fitness to serve persons professionally.

2.7.b.3. Licensees shall assign credit to only those licensees who have contributed to a publication, presentation, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

2.7.b.4. Licensee's statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

2.7.b.5. Licensees shall not provide professional services without exercising independent professional judgment, regardless of referral source or prescription.

2.7.b.6. Licensees shall not discriminate in their relationships with colleagues, students, and members of allied professions on the basis of race or ethnicity,
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156  gender, age, religion, national origin, sexual
157  orientation, or disability.

158  2.7.b.7. Licensees who have reason to believe that the
159  Code of Ethics has been violated shall inform the West
160  Virginia Board of Examiners.

161  2.7.b.8. Licensees shall cooperate fully with the West
162  Virginia Board of Examiners in its investigation and
163  adjudication of matters related to this Code of Ethics.

§64-9-17. Board of Veterinary Medicine.

1  The legislative rule filed in the State Register on the
2  twenty-seventh day of July, two thousand seven,
3  authorized under the authority of section four, article
4  ten, chapter thirty of this code, modified by the Board
5  of Veterinary Medicine to meet the objections of the
6  Legislative Rule-Making Review Committee and refiled
7  in the State Register on the fourth day of January, two
8  thousand eight, relating to the Board of Veterinary
9  Medicine (the registration of veterinary technicians, 26
10  CSR 3), is authorized.
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 ... approved this day of ... , 2008.