WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2011

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 295

(SENATORS MINARD, SNYDER, PREZIOSO, UNGER, BOLEY AND K. FACEMYER, ORIGINAL SPONSORS)

[PASSED MARCH 10, 2011; IN EFFECT FROM PASSAGE.]
AN ACT to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to special-
ized multipatient medical transport; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food manufacturing facilities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to fire department rapid response services licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to cancer registry; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to safety and treatment programs; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to requirements for licensure of nonprofit corporations for conservator service; and authorizing the Health Care Authority to promulgate a legislative rule relating to certificates of need.

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. Department of Health and Human Resources.

1 (a) The legislative rule filed in the state register on the twenty-ninth day of July, two thousand ten, 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 the thirtieth day of July, two thousand ten, authorized under the authority of section six, article four-c, chapter sixteen, of this code, relating to the Department of Health and Human
Resources (specialized multipatient medical transport, 64 CSR 29), is authorized.

(c) The legislative rule filed in the state register on the twenty-ninth day of July, two thousand ten, 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 third day of January, two thousand eleven, relating to the Department of Health and Human Resources (food manufacturing facilities, 64 CSR 43), is authorized.

(d) The legislative rule filed in the state register on the thirtieth day of July, two thousand ten, authorized under the authority of section six, article four-c, chapter sixteen, of this code, relating to the Department of Health and Human Resources (fire department rapid response services licensure, 64 CSR 44), is authorized.

(e) The legislative rule filed in the state register on the thirtieth day of July, two thousand ten, authorized under the authority of section six, 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-fourth day of January, two thousand eleven, relating to the Department of Health and Human Resources (emergency medical services, 64 CSR 48), is authorized with the following amendments:

On page four, subsection 2.12., by striking out the word “commissioner” and inserting in lieu thereof the word “Commissioner”;

On page seven, subsection 2.46., by striking out all of subsection 2.46.;

On page eight, subsection 3.1.d., by striking out the word “Commissions” and inserting in lieu thereof the word “commission”;
On page eight, subdivision 3.2.b., by striking out all of subdivision 3.2.b. and inserting in lieu thereof a new subdivision 3.2.b. to read as follows:

"3.2.b. EMS agencies shall collect, maintain and report accurate patient data for all EMS incidents. Agencies shall complete a patient care report (PCR) for all EMS incidents. PCRs shall be complete and submitted to the West Virginia Prehospital Information System (PreMIS) following the conclusion of providing EMS services to a patient, in accordance with policies and guidelines established by OEMS."

On page nine, subdivision 3.2.c., by striking out the words "a minimum written patient handoff report," and inserting in lieu thereof the words "at a minimum a patient handoff report";

On page fourteen, subdivision 4.23.a., by striking out all of subdivision 4.23.a. and inserting in lieu thereof a new subdivision 4.23.a. to read as follows:

"4.23.a. The EMS agency has a rapid response program which routinely places trained and equipped personnel on the scene of potential life-threatening emergencies prior to the arrival of an ambulance in accordance with policies and guidelines established by OEMS. Five (5) points; or";

On page fifteen, subdivision 4.27.d., by striking out "of...";

On page eighteen, paragraph 4.36.b.2., after the word "action" by inserting the word "to";

On page nineteen, subdivision 4.37.h., by striking out the words "event of" and inserting in lieu thereof the words "the event";

On page nineteen, subdivision 4.38.a., by striking out the word "state" and inserting in lieu thereof the word "State";
On page twenty, subdivision 5.1.a., by striking out the words “Ground ambulances shall meet applicable US Government Services Agency KKK-A-1822” and inserting in lieu thereof the words “Unless specified differently herein, ground ambulances shall meet US Government Services Agency KKK-A-1822 or subsequent federally approved”;

On page twenty, subdivision 5.1.c., by striking the word “Unites” and inserting in lieu thereof the word “United”;

On page twenty-one, subdivision 5.1.i., by striking out the word “be”;

On page twenty-one, subdivision 5.1.j., by striking out the words “medication kit and its supplies” and inserting in lieu thereof the words “medications in accordance with policies and guidelines established by OEMS”;

On page twenty-two, paragraph 5.1.k.5., by striking out the words “accordance with applicable US Government Services Agency KKK-A-1822 specifications at the time of vehicle manufacture”;

On page twenty-three, subdivision 5.3.b., by striking out the words “requirements are” and inserting in lieu thereof the word “is”;

On page twenty-three, subdivision 5.3.b., after the words “practice and” by inserting the words “appropriate staff”;

On page twenty-three, subsection 5.4., by striking out the words “be a Federal Aviation Administration (FAA) Part 135 air carrier certificate holder” and inserting in lieu thereof the words “operate under Federal Aviation Administration (FAA) Part 135 rules”;

On page twenty-six, paragraph 5.5.b.7., by striking out the words “requirements are” and inserting the word “is”;

On page twenty-six, subsection 5.5.b.7., after the words “practice and” by inserting the words “appropriate staff”;
On page twenty-seven, subdivision 6.1.a., by striking out the word “apriori” and inserting in lieu thereof the word “primary”;

On page thirty-three, subdivision 6.9., by striking out the word “establish” and inserting in lieu thereof the word “established”;

On page thirty-five, subdivision 7.2.e., by striking out the word “Other” and inserting in lieu thereof the word “other”;

On page forty-five, paragraph 8.4.a.1., by striking out “STEMS” and inserting in lieu thereof “OEMS”; 

On page forty-five, paragraph 8.4.a.2., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page forty-six, subparagraph 8.4.c.1.A., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page forty-six, subparagraph 8.4.c.2.E., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page forty-eight, paragraph 8.5.b.1., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page fifty, subparagraph 9.1.a.3.A., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page fifty-one, subparagraph 9.1.b.1.B., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page fifty-two, subparagraph 9.1.c.2.J., by striking out the words “Assist STEMS in ensuring” and inserting in lieu thereof the word “Ensure”;

On page fifty-two, subparagraph 9.1.c.2.N., by striking out “STEMS” and inserting in lieu thereof “OEMS”;

On page fifty-two, paragraph 9.1.c.3., by striking out “STEMS” and inserting in lieu thereof “OEMS”. 
On page fifty-three, subdivision 9.2.a., by striking out
“STEMS” and inserting in lieu thereof “OEMS”;

On page fifty-four, subparagraph 9.2.a.1.A., striking out
both references to “STEMS” and inserting in lieu thereof
“OEMS”; 

On page fifty-four, subparagraph 9.2.a.1.C., by striking out
“STEMS” and inserting in lieu thereof “OEMS”; 

On page fifty-four, subparagraph 9.2.a.1.D., by striking out
“STEMS” and inserting in lieu thereof “OEMS”; 

On page fifty-four, subparagraph 9.2.a.3.E., by striking out
both references to “STEMS” and inserting in lieu thereof
“OEMS”; 

On page fifty-four, subparagraph 9.2.a.3.F., by striking out
“STEMS” and inserting in lieu thereof “OEMS”; 

On page fifty-five, paragraph 9.2.a.4, by striking out
“STEMS” and inserting in lieu thereof “OEMS”; 

On page fifty-five, subdivision 10.3.d, by striking out
“STEMS” and inserting in lieu thereof “OEMS”; 

And, 

On page fifty-six, subsection 10.6, by striking out
“STEMS” and inserting in lieu thereof “OEMS”. 

(f) The legislative rule filed in the state register on the
twenty-ninth day of July, two thousand ten, authorized
under the authority of section four, article one, chapter
sixteen, of this code, relating to the Department of Health
and Human Resources (cancer registry, 64 CSR 68), is
authorized. 

(g) The legislative rule filed in the state register on the
twenty-ninth day of July, two thousand ten, authorized
under the authority of section four, article four-e, 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 third day of January, two thousand eleven, relating to the Department of Health and Human Resources (maternal risk screening, 64 CSR 97), is authorized with the following amendments:

On page two, subsection 5.3., after the words “Family Health” by inserting the words “by FAX to (304)957-0176”;

And,

On page two, subsection 5.3., by deleting the words “BPH/OM/CFH Maternal Risk Screening 350 Capitol Street, Room 427 Charleston, WV 25301”.

(h) The legislative rule filed in the state register on the thirtieth day of July, two thousand ten, authorized under the authority of section three, article five-a, chapter seventeen-c, 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 third day of December, two thousand ten, relating to the Department of Health and Human Resources (safety and treatment program, 64 CSR 98), is authorized with the following amendments:

On page one, subsection 1.2., by striking out “17C-SA-3” and inserting in lieu thereof “17C-5A-3”;

On page one, after subsection 3.4., by inserting a new subsection 3.5. to read as follows:

“3.5. DUI-Any act which would constitute a violation of §17C-5-2.” and renumbering the remaining subsections;

On page one, subsection 3.7., by striking out “17C-SA-3” and inserting in lieu thereof “17C-5A-3”;

On page two, subsection 5.3., by deleting the words “BPH/OM/CFH Maternal Risk Screening 350 Capitol Street, Room 427 Charleston, WV 25301”.

(h) The legislative rule filed in the state register on the thirtieth day of July, two thousand ten, authorized under the authority of section three, article five-a, chapter seventeen-c, 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 third day of December, two thousand ten, relating to the Department of Health and Human Resources (safety and treatment program, 64 CSR 98), is authorized with the following amendments:
On page two, subsection 4.2., striking out the words “shall first approve any program curriculum used in the program.” and inserting in lieu thereof the words “is also responsible for the development of program standards for individuals involved in the service delivery, for approval of program curriculum and for monitoring of compliance by providers with the standards.”;

On page three, subsection 6.1., by striking out the words “in the field of substance abuse” and inserting in lieu thereof the words “who meet requirements as established in the Program Standards published by the Department”;

On page three, subsection 6.5., following the word “refinement.” by adding the following: “The Program Coordinator shall, at a minimum, be a Clinical Certified Addictions Counselor.”;

On page four, subsection 8.1., after the words “Program Enrollment” by inserting the words “and Level I Component”;

On page four, subsection 8.1., by striking out the words “Secretary fee for enrollment in the Program is established by the Secretary.” and inserting in lieu thereof the words “initial fee for enrollment in the Program shall be Four Hundred Dollars ($400.00).”;

On page four, subdivision 8.3.a., by striking out the words “at any level and participation in Safety and Treatment programming which is not covered by private or public third-party sponsorship, and which is not eligible for a Community Behavioral Health Center’s charity care funds” and inserting in lieu thereof the words “in the Level 1, Prevention and Education Component as set forth in 5.3 of this rule.”;

On page four, subsection 8.4., by striking out all of subsection 8.4. and inserting in lieu thereof a new subsection 8.4. to read as follows:
“8.4. The Department of Health and Human Resources Safety and Treatment Fund—Upon enrollment in the Program, the Participant shall pay to the provider the sum of Four Hundred Dollars ($400.00), except for those Participants which are determined under 8.3 to be indigent. The provider shall remit to the Department the sum of Two Hundred Twenty-Five Dollars ($225.00) and the provider shall retain One Hundred Seventy-Five Dollars ($175.00). The Department shall deposit One Hundred Twenty-Five Dollars ($125.00) of this sum in the Department of Health and Human Resources Safety and Treatment Fund, to be used to reimburse providers for their portion of the enrollment fee for persons qualifying for indigent status.”;

And,

On page four, subsection 8.5., by striking out all of subsection 8.5.

(i) The legislative rule filed in the state register on the thirtieth day of July, two thousand ten, authorized under the authority of section eight, article one, chapter forty-four-a, 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 third day of December, two thousand ten, relating to the Department of Health and Human Resources (requirements for licensure of nonprofit corporations for conservator service, 64 CSR 99), is authorized with the following amendments:

On page one, subsection 3.6., after the word “directors” by inserting the words “of the Corporation”;

On page two, subsection 3.7., after the word “directors” by inserting the words “of the Corporation”;

On page two, subsection 3.12., after the word “of” by inserting the words “The Department of”;
On page four, subdivision 4.2.5., after the word "if" by inserting the words "he or";

On page five, subdivision 4.7.3., by striking out the words "approved, modified or rejected" and inserting in lieu thereof the words "approve, modify or reject";

On page six, subdivision 4.8.2, by striking out all of subdivision 4.8.2. and inserting in lieu thereof a new subsection 4.8.2., to read as follows:

"4.8.2. Reports of the Secretary of any inspection or investigation shall, when appropriate, specify the nature of any deficiency in compliance with this rule or law and specifically indicate the rule or law violated."

And,

On page seven, subsection 5.3., after the words "under this rule," by striking out the word "the" and inserting in lieu thereof the word "and".


1 The legislative rule filed in the state register on the twenty-eighth day of July, two thousand ten, authorized under the authority of section eight-c, 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 eighth day of December, two thousand ten, relating to the Health Care Authority to promulgate a legislative rule relating to (certificates of need, 65 CSR 7), is authorized with the following amendments:

On page three, subdivisions 2.14.e. and 2.14.f., by striking out all of subdivisions 2.14.e. and 2.14.f. and inserting in lieu thereof a new subdivision 2.14.e to read as follows:

"2.14.e. Notwithstanding anything in this subsection 2.14 to the contrary, any practice granted a determination of
nonreviewability as a private office practice by the board on or before July 1, 2010, is and shall remain a private office practice under the Act; provided there has been no material change in the facts and circumstances provided in the original request for determination of reviewability."
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

Acting President of the Senate

Speaker of the House of Delegates

The within .............. .............. .................. this the ............

Day of .................. ................................., 2011.

Governor