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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2625

(By Delegates Mahan, Cann, Kominar and Faircloth)



Passed March 5, 2003

In Effect from Passage

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FOR

H. B. 2625

(BY DELEGATES MAHAN, CANN,
KOMINAR AND FAIRCLOTH)

[Passed March 5, 2003; in effect from passage.]

AN ACT to amend and reenact article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; continuing rules previously promulgated by state agencies and boards; 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 health care authority to promulgate a legislative rule relating to benchmarking and discount contracts; authorizing the department of health and human resources to promulgate a legislative rule relating to the nurse aid abuse registry; authorizing the division of health to promulgate a legislative rule relating to sewage treatment and collection system design standards; authorizing the division of health to promulgate a legislative rule relating to the medical examiner rule for post mortem inquiries; authorizing the division of health to promulgate a legislative rule relating to surrogates for incapacitated persons in health care facilities operated by the department of health and human resources; authorizing the division of health to promulgate a legislative rule relating to the uniform credentialing of health care practitioners; authorizing the division of human services to promulgate a legislative rule relating to day care centers licensing; authorizing the division of human services to promulgate a legislative rule relating to the tel-assistance program; and authorizing the division of human services to promulgate a legislative rule relating to family day care home registration requirements.

Be it enacted by the Legislature of West Virginia:

That article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Health care authority.

1 The legislative rule filed in the state register on the twenty-
2 sixth day of July, two thousand two, under the authority of

twenty-nine - b

*de
Bryce M. Bond*

3 section eight, article ~~two~~^{twenty-nine}-b, chapter sixteen, of this code,
4 modified by the health care authority to meet the objections of
5 the legislative rule-making review committee and refiled in the
6 state register on the second day of December, two thousand
7 two, relating to the health care authority (benchmarking and
8 discount contracts, 65 CSR 26), is authorized.

§64-5-2. Department of health and human resources.

1 The legislative rule filed in the state register on the eigh-
2 teenth day of July, two thousand two, under the authority of
3 section two, article six, chapter nine, of this code, modified by
4 the department of health and human resources to meet the
5 objections of the legislative rule-making review committee and
6 refiled in the state register on the eleventh day of December,
7 two thousand two, relating to the department of health and
8 human resources (nurse aid abuse registry, 69 CSR 6), is
9 authorized.

§64-5-3. Division of health.

1 (a) The legislative rule filed in the state register on the
2 twenty-sixth day of July, two thousand two, under the authority
3 of section four, article one, chapter sixteen, of this code,
4 modified by the division of health to meet the objections of the
5 legislative rule-making review committee and refiled in the
6 state register on the sixth day of January, two thousand three,
7 relating to the division of health (sewage treatment and collec-
8 tion system design standards, 64 CSR 47), is authorized.

9 (b) The legislative rule filed in the state register on the
10 twenty-second day of July, two thousand two, under the
11 authority of section three, article twelve, chapter sixty-one, of
12 this code, modified by the division of health to meet the
13 objections of the legislative rule-making review committee and
14 refiled in the state register on the eleventh day of December,

15 two thousand two, relating to the division of health (medical
16 examiner rule for post mortem inquiries, 64 CSR 84), is
17 authorized with the following amendment:

18 “On page twenty-seven, section twenty-three, subsection
19 23.5, following the word ‘materials’ by inserting ‘may be’;

20 And,

21 On page twenty-eight, section twenty-five, subsection 25.2,
22 following the phrase ‘W. Va. Code §16-1-11’ by adding the
23 phrase, “except as provided for in subsection 13.6 of this rule’.”

24 (c) The legislative rule filed in the state register on the
25 eighth day of February, two thousand two, under the authority
26 of section eight, article thirty, chapter sixteen, of this code,
27 modified by the division of health to meet the objections of the
28 legislative rule-making review committee and refiled in the
29 state register on the thirtieth day of May, two thousand two,
30 relating to the division of health (surrogates for incapacitated
31 persons in health care facilities operated by the department of
32 health and human resources, 64 CSR 86), is authorized with the
33 following amendment:

34 “On page two of the rule, section four, subsection 4.1, by
35 striking out the remainder of the rule and inserting in lieu
36 thereof the following:

37 ‘4.1.a. Any organization authorized under state or federal
38 laws, or under contract with the Department, to advocate for
39 individuals in the Department’s health care facilities;

40 4.1.b. Any organization authorized under federal or state
41 laws, or under contract with the Department, to provide
42 surrogacy, guardianship or conservator services for persons in
43 the Department’s health care facilities; and

44 4.1.c. Any Department employee not otherwise precluded
45 from serving as a surrogate by the provisions of W. Va. Code
46 §16-30-8(i).”

47 (d) The legislative rule filed in the state register on the
48 eighteenth day of July, two thousand two, under the authority
49 of section two, article one-a, chapter sixteen, of this code,
50 modified by the division of health to meet the objections of the
51 legislative rule-making review committee and refiled in the
52 state register on the thirteenth day of January, two thousand
53 three, relating to the division of health (uniform credentialing
54 of health care practitioners, 64 CSR 89), is authorized.

§64-5-4. Division of human services.

1 (a) The legislative rule filed in the state register on the
2 twenty-sixth day of July, two thousand two, under the authority
3 of section four, article two-b, chapter forty-nine, of this code,
4 modified by the division of human resources to meet the
5 objections of the legislative rule-making review committee and
6 refiled in the state register on the twenty-seventh day of
7 September, two thousand two, relating to the division of human
8 resources (day care centers licensing, 78 CSR 1), is authorized
9 with the following amendments:

10 “On page two of the rule, subsection 3.12, at the end of the
11 second line of said subsection, following the word ‘except:’, by
12 striking out the remainder of the subsection and inserting in lieu
13 thereof the following:

14 ‘3.12.a. A kindergarten, preschool or school education
15 program that is operated by a public school or that is accredited
16 by the state department of education, or any other kindergarten,
17 preschool or school programs that operate with sessions not
18 exceeding four hours per day for any child;

19 3.12.b. An individual or facility that offers occasional care
20 of children for brief periods while parents are shopping,
21 engaging in recreational activities, attending religious services
22 or engaging in other business or personal affairs;

23 3.12.c. Summer recreation camps operated for children
24 attending sessions for periods not exceeding thirty days;

25 3.12.d. Hospitals or other medical facilities that are
26 primarily used for temporary residential care of children for
27 treatment, convalescence or testing;

28 3.12.e. Persons providing family day care solely for
29 children related to them; or

30 3.12.f. Any juvenile detention facility or juvenile correc-
31 tional facility operated by or under contract with the division of
32 juvenile services, created pursuant to the provisions of W.Va.
33 Code §49-5E-2 for the secure housing or holding of juveniles
34 committed to its custody.'

35 On page twenty-two of the rule, section nine, subsection
36 9.1, subdivision 9.1.h, paragraph 9.1.h.1, following the word
37 'age', by inserting a comma, striking out the remainder of
38 paragraph 9.1.h.1, and inserting 'have a minimum of a high
39 school diploma or equivalent and:';

40 On page twenty-three, subparagraph 9.1.h.2.B, following
41 the word 'of' by striking out 'two (2)' and inserting in lieu
42 thereof 'ten (10)';

43 On page twenty-three, subparagraph 9.1.h.3.C., by striking
44 out the words 'three (3)' and inserting in lieu thereof 'fifteen
45 (15)';

46 And,

47 On page twenty-three, subparagraph 9.1.h.4.C, following
48 the word 'of' by striking out the words 'one (1)' and inserting
49 in lieu thereof the words 'two (2)'."

50 (b) The legislative rule filed in the state register on the
51 twenty-fifth day of June, two thousand two, under the authority
52 of section four, article two-c, chapter twenty-four, of this code,
53 modified by the division of human resources to meet the
54 objections of the legislative rule-making review committee and
55 refiled in the state register on the twenty-third day of Septem-
56 ber, two thousand two, relating to the division of human
57 resources (tel-assistance program, 78 CSR 15), is authorized
58 with the following amendments:

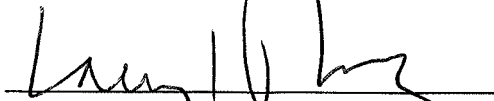
59 "On page two, section five, by striking out all of subsection
60 5.1 and inserting in lieu thereof the following:

61 '5.1. An individual is eligible for Tel-Assistance if he or
62 she meets the criteria set forth in W.Va. Code §24-2C-1. et
63 seq.'"

64 (c) The legislative rule filed in the state register on the
65 twenty-sixth day of July, two thousand two, under the authority
66 of section four, article two-b, chapter forty-nine, of this code,
67 modified by the division of human resources to meet the
68 objections of the legislative rule-making review committee and
69 refiled in the state register on the twenty-third day of Septem-
70 ber, two thousand two, relating to the division of human
71 resources (family day care home registration requirements, 78
72 CSR 19), is authorized with the following amendment:

73 "On page eight of the rule, section six, subsection four,
74 subdivision d, paragraph three, by striking out all of §6.4.d.3,
75 and by renumbering the following paragraph as '§6.4.d.3.'"

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

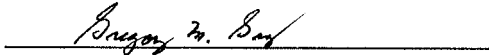

Chairman Senate Committee

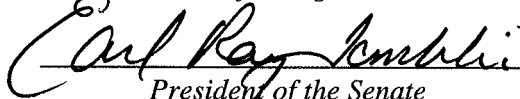

Chairman House Committee

Originating in the House.

In effect from passage


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 18
day of March 2003.


Governor

PRESENTED TO THE
GOVERNOR

Date 3/12/03

Time 11:05 pm