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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.]

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CLERK OF SENATE

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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 auctioneers; 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.

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

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

14 And,

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

18 **'32-7-5. Complaint Disposition.'**

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

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

31 And,

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

§64-9-2. Commissioner of Agriculture.

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

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

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

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

30 (d) The legislative rule filed in the State Register on
31 the twenty-sixth day of June, two thousand seven,
32 authorized under the authority of section three, article
33 two-b, chapter nineteen of this code, relating to the

34 Commissioner of Agriculture (inspection of meat and
35 poultry, 61 CSR 16), is authorized.

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

§64-9-3. State Auditor.

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

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

§64-9-4. Board of Dental Examiners.

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

9 Examiners (rule for the West Virginia Board of Dental
10 Examiners, 5 CSR 1), is authorized.

§64-9-5. State Election Commission.

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

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

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

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

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

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

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

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

29 On page five, paragraph 3.3.f.5., lines five and seven,
30 by striking out the word “subsection” and inserting in

31 lieu thereof the word “subdivision”;

32 On page five, paragraph 3.3.f.6., by striking out the
33 words “the above regulations” and inserting in lieu
34 thereof the words “this rule”;

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

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

44 4.3.a.”;

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

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

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

53 On page eight, subdivision 5.1.a., by striking out
54 “5.1.a.” and by adding the subsequent sentence to the
55 end of subsection 5.1.;

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

58 And,

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

60 (b) The legislative rule filed in the State Register on
61 the twenty-seventh day of July, two thousand seven,

62 authorized under the authority of section five, article
63 one-a, chapter three of this code, modified by the State
64 Election Commission to meet the objections of the
65 Legislative Rule-Making Review Committee and refiled
66 in the State Register on the seventh day of December,
67 two thousand seven, relating to the State Election
68 Commission (regulation of campaign finance, 146 CSR
69 3), is authorized with the following amendment:

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

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

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

§64-9-6. Board of Funeral Service Examiners.

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 six, article
4 six, chapter thirty of this code, modified by the Board
5 of Funeral Service Examiners to meet the objections of
6 the Legislative Rule-Making Review Committee and
7 refiled in the State Register on the seventh day of
8 December, two thousand seven, relating to the Board of
9 Funeral Service Examiners (funeral director, embalmer,
10 apprentice, courtesy card holder and funeral
11 establishment requirements, 6 CSR 1), is authorized
12 with the following amendments:

13 On page two, section two, by striking subdivision
14 2.8.6 in its entirety;

15 On page fifteen, section sixteen, subdivision 16.11.3,
16 by striking the words and numbers 'two hundred
17 dollars (\$200)' and inserting in lieu thereof the words
18 and numbers 'one hundred sixty dollars (\$160.00)';

19 And,

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

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

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

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

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

18 On page two, subsection 4.5., by striking out 'one
19 dollar (\$1.00)' and inserting in lieu thereof 'ten dollars
20 (\$10.00)';

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

24 On page three, subsection 4.7., by striking out 'fifty
25 dollars (\$50.00)' and inserting in lieu thereof 'one
26 hundred dollars (\$100.00)';

27 On page four, subsection 7.1., after the words ‘the
28 prospective customer:’ by striking out the remainder of
29 the subsection and inserting in lieu thereof the
30 following: The purchaser has been advised at the outset
31 of his relationship with the hearing aid dealer that any
32 examination of representation made by a licensed
33 hearing aid dealer in connection with the practice of
34 fitting this hearing aid is not an examination, diagnosis
35 or prescription by a person licensed to practice
36 medicine in this state and therefore must not be
37 regarded as medical opinion.;

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

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

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

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

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

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

53 ‘9.7. The hearing aid dealer must prominently display
54 the following advisement: ‘Consumers may contact the
55 West Virginia Board of Hearing Aid Dealers at 167 11th
56 Avenue, South Charleston, WV 25303, if the consumer
57 believes that the hearing aid dealer has not satisfied the
58 terms of the contract.’;

59 On page seven, subsection 12.2., after the words ‘body
60 of the purchase agreement:’ by striking out the
61 remainder of the subsection and inserting in lieu

62 thereof the following: 'You have the right to return the
63 hearing aid to the dealer from whom it was purchased
64 at anytime within thirty (30) days after receipt of the
65 aid and rescind the purchase agreement except for
66 reasonable fitting and examination charges (\$125.00
67 maximum fitting charge), if the aid does not function
68 properly or cannot be adjusted to correct the deficiency
69 in your hearing or is otherwise unsatisfactory. The aid
70 so returned must be without damage.';

71 And,

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

§64-9-8. Massage Therapy Licensure Board.

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

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

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

14 (b) The legislative rule filed in the State Register on
15 the eighteenth day of July, two thousand seven,

16 authorized under the authority of section seven, article
17 twenty-three, chapter thirty of this code, modified by
18 the Medical Imaging and Radiation Therapy
19 Technology Board of Examiners to meet the objections
20 of the Legislative Rule-Making Review Committee and
21 refiled in the State Register on the sixteenth day of
22 October, two thousand seven, relating to the Medical
23 Imaging and Radiation Therapy Technology Board of
24 Examiners (continuing education, 18 CSR 2), is
25 authorized with the following amendment:

26 On page one, subsection 1.2., by striking out '30-7A-5
27 &64-9-17(h)' and inserting in lieu thereof '30-23-7';

28 And,

29 On page five, subdivision 3.4.1., by striking out the
30 words 'Grand fathered' and inserting in lieu thereof the
31 word 'grandfathered'.

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

§64-9-10. Board of Medicine.

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

8 On page on, subsection 2.1., by striking out the

9 number '1993' and inserting in lieu thereof the number
10 '2008';

11 On page one, subsection 2.1., by striking out the
12 words 'At least thirty (30) hours of the hours must be
13 related to the physician's area or areas of specialty.' and
14 inserting in lieu thereof the following: 'Beginning July
15 1, 2008, at least thirty (30) hours of the continuing
16 medical education hours must be related to the
17 physician's area or areas of specialty.';

18 And,

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

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

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

§64-9-11. Nursing Home Administrators Licensing Board.

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

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

§64-9-12. Pharmaceutical Cost Management Council.

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

§64-9-13. Board of Professional Surveyors.

1 (a) The legislative rule filed in the State Register on
2 the twenty-seventh day of July, two thousand seven,
3 authorized under the authority of section six, article
4 thirteen-a, chapter thirty of this code, modified by the
5 Board of Professional Surveyors to meet the objections
6 of the Legislative Rule-Making Review Committee and

7 refiled in the State Register on the nineteenth day of
8 December, two thousand seven, relating to the Board of
9 Professional Surveyors (examination and licensing of
10 professional surveyors in West Virginia, 23 CSR 1), is
11 authorized with the following amendments:

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

14 On page two, subsection 2.10., after the word 'Board',
15 by inserting a period and striking out the remainder of
16 that subsection.

17 On page four, subdivision 3.1.d., after the word 'data'
18 by striking out the words 'education and employment
19 history';

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

23 On page eight, subdivision 5.2.c. after the word
24 'certificate' by striking out the word 'shall' and
25 inserting in lieu thereof the word 'may';

26 On page nine, subdivision 5.2.f.3. after the word
27 'examination' by striking the word 'for' and inserting
28 in lieu thereof the word 'after';

29 On page nine, subdivision 5.3.c. after the underlined
30 word 'shall' by adding the word 'conspicuously';

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

35 And,

36 On page ten, subdivision 5.5.c, in the second sentence,
37 after the word 'months' by striking the word 'shall' and
38 inserting in lieu thereof the word 'may'.

39 (b) The legislative rule filed in the State Register on
40 the twenty-seventh day of July, two thousand seven,
41 authorized under the authority of section five, article
42 thirteen-a, chapter thirty of this code and section six of
43 said article, modified by the Board of Professional
44 Surveyors to meet the objections of the Legislative
45 Rule-Making Review Committee and refiled in the
46 State Register on the nineteenth day of December, two
47 thousand seven, relating to the Board of Professional
48 Surveyors (fees for surveyors and surveying firms, 23
49 CSR 4), is authorized with the following amendment:

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

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

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

57 “Less than ten(10) employees \$150.00”

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

59 “Fifty (50) employees or more \$500.00”

60 and inserting in lieu thereof “\$100.00”;

61 And,

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

66 (c) The legislative rule filed in the State Register on
67 the twenty-seventh day of July, two thousand seven,
68 authorized under the authority of section six, article
69 thirteen-a, chapter thirty of this code, modified by the
70 Board of Professional Surveyors to meet the objections
71 of the Legislative Rule-Making Review Committee and

72 refiled in the State Register on the nineteenth day of
73 December, two thousand seven, relating to the Board of
74 Professional Surveyors (standards for practice of
75 surveying in West Virginia, 23 CSR 5), is authorized
76 with the following amendment:

77 On page one, subsection 1.2., by striking out '5' and
78 inserting in lieu thereof '6'.

§64-9-14. Public Service Commission.

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

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

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

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

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

20 On page eight, subsection 5.1., by striking out '5.1.a.'
21 and inserting in lieu thereof '5.2.' and by renumbering
22 the remaining subsections accordingly;

23 On page ten, section seven, by striking out '7.1.';

24 On page twelve, section twelve, by striking out '12.1.';

25 On page sixteen, subdivision 13.5.d, at the end of the
26 second line, following the word 'least', by striking the
27 word 'five' and inserting in lieu thereof the words 'four
28 voting';

29 And,

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

§64-9-15. Secretary of State.

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 three, article
4 three, chapter thirty-nine-a of this code, modified by
5 the Secretary of State to meet the objections of the
6 Legislative Rule-Making Review Committee and refiled
7 in the State Register on the ninth day of October, two
8 thousand seven, relating to the Secretary of State (use
9 of digital signatures, state certificate authority and
10 state repository, 153 CSR 30), is authorized with the
11 following amendments:

12 On page two, subsection 3.3., by striking out the
13 words 'and approved by';

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

20 On page four, subsection 6.2., after the word
21 'Technology', by striking out the comma and the words
22 'through its chief technology officer or his or her
23 designee';

24 On page four, subdivision 7.1.h., after the word 'The'
25 by inserting the words 'Secretary of State may ask or
26 enter into an agreement with the';

27 On page four, subdivision 7.1.h., after the word
28 'Technology', by striking out the comma and the words
29 'through its chief technology officer or his or her
30 designee, shall' and inserting in lieu thereof the word
31 'to';

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

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

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

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

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

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

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

52 And,

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

§64-9-16. Board of Examiners for Speech-Language Pathology and Audiology.

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

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

15 And,

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

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

23 ‘ 29 CSR 5

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

§29-5-1. General.

1 1.1. Scope. — This legislative rule establishes
2 standards of conduct speech-language pathologist or
3 audiologist in the State of West Virginia.

4 1.2. Authority. — W.Va. Code §30-32-10

5 1.3. Filing Date. —

6 1.4. Effective Date. —

7 1.5. Preamble: The preservation of the highest
8 standards of integrity and ethical principles is vital to
9 the responsible discharge of obligations in the
10 professions of Speech-Language Pathology and
11 Audiology. This code of Ethics sets forth the
12 fundamental principles and rules considered essential
13 to this purpose. Every individual who is licensed by
14 this Board as a Professional, Provisional or a Speech or
15 Audiology Assistant.

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

1 2.1. Any action that violates the spirit and purpose of
2 this Code shall be considered unethical. Failure to
3 specify any particular responsibility or practice in this
4 Code of Ethics shall not be construed as denial of the
5 existence of such responsibilities or practices.

6 2.2. The fundamentals of ethical conduct are
7 described by Principles of Ethics and Rules of Ethics as
8 they relate to responsibility to persons served, to the
9 public, and to the professions of speech-language
10 pathology and audiology.

11 2.3. Principles of Ethics, aspirational and
12 inspirational in nature, form the underlying moral basis
13 for the Code of Ethics. Licensees shall observe these
14 principles as affirmative obligations under all
15 conditions of professional activity. Rules of Ethics are
16 specific statements of minimally acceptable
17 professional conduct or of prohibitions and are
18 applicable to all licensees.

19 2.4. *Principle of Ethics I*

20 2.4.a. Licensees shall honor their responsibility to
21 hold paramount the welfare of persons they serve
22 professionally.

23 2.4.b. *Rules of Ethics*

24 2.4.b.1. Licensees shall provide all services
25 competently.

26 2.4.b.2. Licensees shall use every resource, including
27 referral when appropriate, to ensure that high-quality
28 service is provided.

29 2.4.b.3. Licensees shall not discriminate in the
30 delivery of professional services on the basis of race
31 ethnicity, gender, age, religion, national origin, sexual
32 orientation, or disability.

33 2.4.b.4. Licensees shall fully inform the persons they
34 serve of the nature and possible effects of services
35 rendered and products dispensed.

36 2.4.b.5. Licensees shall evaluate the effectiveness of
37 services rendered and of products dispensed and shall
38 provideservices or dispense products only when benefit
39 can be reasonably expected.

40 2.4.b.6. Licensees shall not guarantee the results of
41 any treatment or procedure, directly or by implication;
42 however, they may make a reasonable statement of
43 prognosis.

44 2.4.b.7. Licensees shall not evaluate or treat speech,
45 language, or hearing disorders solely by
46 correspondence.

47 2.4.b.8. Licensees shall maintain adequate records of
48 professional services rendered and products dispensed
49 and shall allow access to these records when
50 appropriately authorized.

51 2.4.b.9. Licensees shall not reveal, without
52 authorization, any professional or personal information
53 about the person served professionally, unless required
54 by law to do so, or unless doing so is necessary to
55 protect the welfare of the person or of the community.

56 2.4.b.10. Licensees shall not charge for services not
57 rendered, nor shall they misrepresent, in any fashion,
58 services rendered or products dispensed.

59 2.4.b.11. Licensees shall use persons in research or as
60 subjects of teaching demonstrations only with their
61 informed consent.

62 2.4.b.12. Licensees whose professional services are
63 adversely affected by substance abuse or other health-
64 related conditions shall seek professional assistance
65 and, where appropriate, withdraw from the affected
66 areas of practice.

67 2.5. *Principles of Ethics II*

68 2.5.a.. Licensees shall honor their responsibility to
69 achieve and maintain the highest level of professional
70 competence.

71 2.5.b. *Rules of Ethics*

72 2.5.b.1. Licensees shall engage in the provision of
73 clinical services only when they hold the appropriate
74 license or when they are in the licensure process and are
75 supervised by an individual who holds the appropriate
76 license.

77 2.5.b.2. Licensees shall engage in only those aspects
78 of the professions that are within the scope of their
79 competence, considering their level of education,
80 training, and experience.

81 2.5.b.3. Licensees shall continue their professional
82 development throughout their careers.

83 2.5.b.4. Licensees shall delegate the provision of
84 clinical services only to persons who are licensed or to
85 persons in the education or licensure process who are
86 appropriately supervised. The provision of support
87 services may be delegated to persons who are neither
88 licensed nor in the licensure process only when a license
89 holder provides appropriate supervision.

90 2.5.b.5. Licensees shall prohibit any of their
91 professional staff from providing services that exceed
92 the staff member's competence, considering the staff
93 member's level of education, training, and experience.

94 2.5.b.6. Licensees shall ensure that all equipment
95 used in the provision of services is in proper working
96 order and is properly calibrated.

97 2.6. *Principle of Ethics III*

98 2.6.a. Licensees shall honor their responsibility to the
99 public by promoting public understanding of the
100 professions, by supporting the development of services
101 designed to fulfill the unmet needs of the public, and by
102 providing accurate information in all communications
103 involving any aspect of the professions.

104 2.6.b. *Rules of Ethics*

105 2.6.b.1. Licensees shall not misrepresent their
106 credentials, competence, education, training, or
107 experience.

108 2.6.b.2. Licensees shall not participate in professional
109 activities that constitute a conflict of interest.

110 2.6.b.3. Licensees shall not misrepresent diagnostic
111 information, services rendered, or products dispensed
112 or engage in any scheme or artifice to defraud in
113 connection with obtaining payment or reimbursement
114 for such services or products.

115 2.6.b.4. Licensees' statements to the public shall
116 provide accurate information about the nature and
117 management of communication disorders, about the
118 professions, and about professional services.

119 2.6.b.5. Licensees' statements to the public —
120 advertising, announcing, and marketing their
121 professional services, reporting research results, and
122 promoting products — shall adhere to prevailing

123 professional standards and shall not contain
124 misrepresentations.

125 2.7. *Principle of Ethics IV*

126 2.7.a. Licensees shall honor their responsibilities to
127 the professions and their relationships with colleagues,
128 students, and members of allied professions. Licensees
129 shall uphold the dignity and autonomy of the
130 professions, maintain harmonious interprofessional and
131 intraprofessional relationships, and accept the
132 professions' self-imposed standards.

133 2.7.b. *Rules of Ethics*

134 2.7.b.1. Licensees shall prohibit anyone under their
135 supervision from engaging in any practice that violates
136 the Code of Ethics.

137 2.7.b.2. Licensees shall not engage in dishonesty,
138 fraud, deceit, misrepresentation, or any form of conduct
139 that adversely reflects on the professions or on the
140 licensee's fitness to serve persons professionally.

141 2.7.b.3. Licensees shall assign credit to only those
142 licensees who have contributed to a publication,
143 presentation, or product. Credit shall be assigned in
144 proportion to the contribution and only with the
145 contributor's consent.

146 2.7.6.4. Licensee's statements to colleagues about
147 professional services, research results, and products
148 shall adhere to prevailing professional standards and
149 shall contain no misrepresentations.

150 2.7.b.5. Licensees shall not provide professional
151 services without exercising independent professional
152 judgment, regardless of referral source or prescription.

153 2.7.b.6. Licensees shall not discriminate in their
154 relationships with colleagues, students, and members of
155 allied professions on the basis of race or ethnicity,

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.

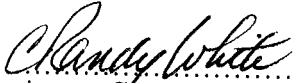
161 2.7.b.8. Licensees shall cooperate fully with the West
162 Virginia Board of Examiners in its investigation and
163 adjudication of matters related to this Code of Ethics.'.

§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.

Enr. Com. Sub for S. B. No. 349] 28

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


.....
Chairman Senate Committee

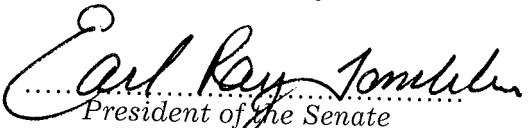

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

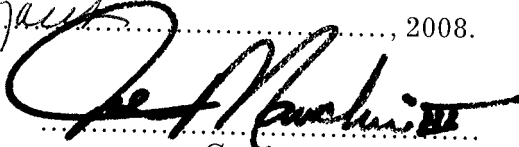

.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is approved* this
the *27th* Day of *May*, 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2008

Time 3:05 pm