

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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2005 OCT 25 P 1:51

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #5

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Division of Personnel TITLE NUMBER: 143

CITE AUTHORITY: West Virginia Code 29-6-10

RULE TYPE: PROCEDURAL _____ INTERPRETIVE X

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: Paid Leave for Organ Donation

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS November 1, 2005



Authorized Signature



West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD
Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

MEMORANDUM

TO: Members of the State Personnel Board

FROM: Willard M. (Max) Farley, Acting Director
WV Division of Personnel

RE: Approval of Filing Adopted Interpretive Rule

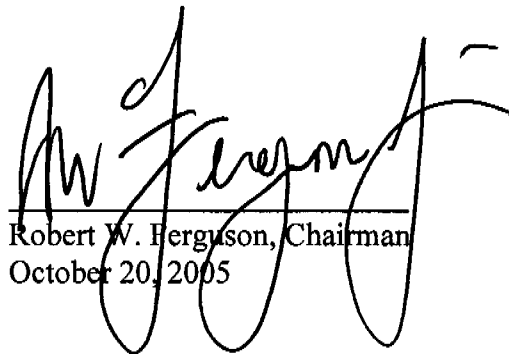
DATE: October 20, 2005

Your approval is requested for filing a notice of adoption of the *Paid Leave for Organ Donation* interpretive rule with the Secretary of State's Office in accordance with the provisions of *West Virginia Code §29A-3-1 et seq.* Copies of the interpretive rule, comments received during the comment period and responses to those comments, and the notice of adoption of the interpretive rule are attached.

Senate Bill 240, passed by the Legislature on April 7 and signed by the Governor on April 21, 2005, provides that State employees are eligible to receive paid leave for the purpose of making kidney, liver, or bone marrow donations. The interpretive rule specifies the administration of these provisions.

Thank you for your consideration of this request.

APPROVED:



Robert W. Ferguson, Chairman
October 20, 2005

WMF:TMC/

Attachments

143CSR5

FILED

2005 OCT 25 P 1:51

TITLE 143
INTERPRETIVE RULE
WEST VIRGINIA DIVISION OF PERSONNEL

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 5
PAID LEAVE FOR ORGAN DONATION

§143-5-1. General.

1.1. Scope: This interpretive rule relates to paid leave for kidney, liver, or bone marrow donations as provided in *West Virginia Code* §29-6-28, and the Division of Personnel's position in the administration of these provisions.

1.2 Authority and Related Code Citation: *West Virginia Code* §§29-6-28 and 29-6-10.

1.3 Filing Date: October 25, 2005.

1.4 Effective Date: November 1, 2005.

§143-5-2. Definitions. Terms used in this rule which are not specifically defined in this section have the meaning given in the *Administrative Rule of the West Virginia Division of Personnel*, 143CSR1.

2.1. Full-time employee means an employee of the State of West Virginia whose term of employment is not of a limited duration and who works at least 1,040 hours per year. Generally, this means State employees who are eligible for participation in an insurance program of the Public Employees Insurance Agency and who are required to participate in a retirement program administered by the Consolidated Public Retirement Board.

2.2. Organ donation means the donation of an adult kidney, a portion of an adult liver, or adult bone marrow, including pre-operative testing to determine the potential donor's surgical fitness and compatability.

§143-5-3. Provisions and Requirements.

3.1. During any calendar year, a full-time State employee is eligible to receive paid leave for the purpose of making an organ donation.

3.2. An employee is eligible to receive up to 120 hours of paid leave for the donation of an adult kidney or portion of an adult liver, and up to 56 hours of paid leave for an adult bone marrow donation.

3.2.1. An employee is eligible to receive paid leave for the time required to determine surgical fitness and compatibility as a potential donor, as verified by a physician or medical practitioner, even if subsequently found to be surgically unfit or incompatible, or if the organ donation does not occur.

3.2.2. An employee who works less than an agency's full-time schedule, but satisfies the definition of full-time employee in Section 2.1 above, is eligible to receive paid leave for an organ donation on a pro-rata basis, consistent with leave accrual provisions of CSR 143-1-14.

3.2.3. The leave may be requested and taken intermittently as needed and verified by a physician or medical practitioner.

3.2.4. The paid leave for pre-operative testing and/or organ donation is separate and apart from an employee's accrued annual and/or sick leave and is not to be charged against either.

3.3. The employee must request paid leave and provide verification of the pre-operative testing and/or organ donation on the forms prescribed by the Division of Personnel.



West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD

Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

October 21, 2005

Martha Yeager Walker, Secretary
Department of Health and Human Resources
Building 3, Room 206
Charleston, West Virginia

Dear Secretary Walker:

Thank you for having your staff take the time to review the proposed interpretive rule for *Paid Leave for Organ Donation*. We appreciate your advising us that your department has no comments on the rule.

Again, thank you for your department's participation in this rule-making process.

Sincerely,

Robert W. Ferguson, Chairman
State Personnel Board
and
Secretary, Department of Administration

tmc



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

MEMORANDUM

DATE: September 20, 2005

TO: Willard M. (Max) Farley, Acting Director
Division of Personnel

FROM: Martha Yeager Walker, Secretary
Department of Health and Human Resources *MYW*

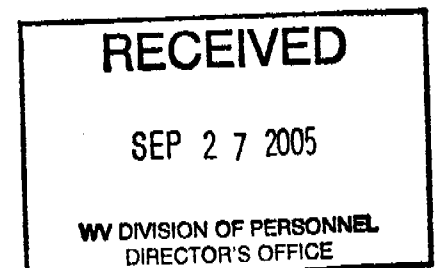
RE: Paid Leave for Organ Donation

The Department of Health and Human Resources has no comments on the Division of Personnel proposed interpretive rule (143 CSR 5) regarding paid leave for organ donation.

Thank you for the opportunity to comment on this proposed rule.

MYW/vmm

cc: Mike McCabe





West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD
Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

October 21, 2005


Ms. Joni Koenig
Department of Health and Human Resources
c/o Building 3, Room 554
Charleston, West Virginia

Dear Ms. Koenig:

Thank you for taking the time to comment on the proposed interpretive rule for *Paid Leave for Organ Donation*. Your support of this rule is appreciated.

Again, thank you for your participation in this rule-making process.

Sincerely,



Robert W. Ferguson, Chairman
State Personnel Board
and
Secretary, Department of Administration

tmc/

From: "Joni Koenig" <jonikoenig@wvdhhr.org>
To: <tcrouse@wvadmin.gov>
Date: 9/1/2005 8:53:07 AM
Subject: Proposed Interpretive Rule

Hi,

For what is't worth, this is a wonderful proposal that should have been implamented years ago. People should not have to make a dicission of saving a life or eating & paying their bills. Good Job.



West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD
Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

October 21, 2005

Ms. Darlene Parsons
WV Insurance Commission
c/o State Capitol Complex
Charleston, West Virginia

Dear Ms. Parsons:

Thank you for taking the time to comment on the proposed interpretive rule for *Paid Leave for Organ Donation*. The Division of Personnel staff have considered your comment regarding limiting the number of times an employee can go through the process to determine if s/he is surgically fit and compatible. At this time, we do not believe there is a need to place this kind of limitation in the rule. However, we will monitor the use of paid leave for this purpose and evaluate the need for limitations based on our experience.

Again, thank you for your participation in this rule-making process.

Sincerely,

A handwritten signature in black ink that reads "Robert W. Ferguson".

Robert W. Ferguson, Chairman
State Personnel Board
and
Secretary, Department of Administration

tmc/

Tari Crouse - Paid Leave for Organ Donation

From: "Darlene Parsons" <Darlene.Parsons@wvinsurance.gov>
To: <tcrouse@wvadmin.gov>
Date: 9/3/2005 5:00 AM
Subject: Paid Leave for Organ Donation

Tari,

After ready the Paid Leave for Organ Donation, so far the only comment we have is on 3.2.1. Has there been any thought as to putting a limit on how many times an employee can go through the process to see if they are surgically fit and compatible?

Darlene Parsons
WV Insurance Commission
PO Box 50540
Charleston, WV 25305-0540
Ph: 304-558-3707 x142
Fx: 304-558-4967
E-mail: Darlene.Parsons@wvinsurance.gov



West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD
Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

October 21, 2005

Ms. Annette Roberts
Department of Health and Human Resources
c/o Building 3, Room 554
Charleston, West Virginia

Dear Ms. Roberts:

Thank you for taking the time to comment on the proposed interpretive rule for *Paid Leave for Organ Donation*. Your support of this rule is appreciated.

Again, thank you for your participation in this rule-making process.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Ferguson".

Robert W. Ferguson, Chairman
State Personnel Board
and
Secretary, Department of Administration

tmc/

From: <webmaster@wvadmin.gov>
To: <tcrouse@wvadmin.gov>
Date: 9/20/2005 11:01:48 PM
Subject: *eComment -ORGAN DONATION PROPOSED RULE

Mail From: -AJREAGLE@CHARTER.NET ** Online Comment Form email. No Response Required *

** Name, Title, Agency and Phone (if given) ***

Annette Roberts
Administrative Secretary
DHHR
558-2296

** Subject of My Comment **

Organ Donation Rule

*

** Here is My Comment ** (Response Not Required) **

*

Having had a dear friend donate a kidney to his father I saw the financial difficulty that this placed on him when his leave had been exhausted due to complications. This rule would be a great tribute to folks who give the gift of life to someone by donating an organ.

***** END OF COMMENT *****

* This email was generated from the DOP Web site Comment Form.
* (See Link on Home Page) The Form allows interested persons to
* comment on DOP Policies and Services. Comments are distributed
* automatically to Staff according to the Topic selected by the
* sender. If necessary, please forward inappropriate comments to
* the correct Section or Employee Relations. You should NOT reply
* to online comments. Senders are told not to expect a direct reply.
* If you have questions? See Steve Forsythe or Mike Campbell.

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West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD

Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

October 21, 2005

Ms. Patty Snodgrass
Department of Health and Human Resources
c/o Building 3, Room 554
Charleston, West Virginia

Dear Ms. Snodgrass:

Thank you for taking the time to comment on the proposed interpretive rule for *Paid Leave for Organ Donation*. Your support of this rule is appreciated.

Again, thank you for your participation in this rule-making process.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Ferguson, Jr.".

Robert W. Ferguson, Chairman
State Personnel Board
and
Secretary, Department of Administration

tmc/

Tari Crouse - Comment - Organ Donation Rule

From: "Patty Snodgrass" <pattysnodgrass@wvdhhr.org>
To: <tcrouse@wvadmin.gov>
Date: 9/20/2005 9:46 AM
Subject: Comment - Organ Donation Rule

This Organ Donation Rule offers state employees, and family members additional benefits needed in the event of a transplant. I fully support this rule.

Patricia Snodgrass, Director
Adolescent Health Initiative



West Virginia Division of Personnel

Willard M. Farley, Acting Director

STATE PERSONNEL BOARD
Rev. Paul Gilmer ♦ Elizabeth Walker
Sharon Lynch ♦ Eugene Stump

October 21, 2005


Ms. Paula Brown
Workers' Compensation Commission
Charleston, West Virginia

Dear Ms. Brown:

Thank you for taking the time to comment on the proposed interpretive rule for *Paid Leave for Organ Donation*. Your support of this rule is appreciated.

Again, thank you for your participation in this rule-making process.

Sincerely,



Robert W. Ferguson, Chairman
State Personnel Board
and
Secretary, Department of Administration

tmc/

From: <webmaster@wvadmin.gov>
To: <tcrouse@wvadmin.gov>
Date: 9/26/2005 8:19:24 AM
Subject: *eComment -ORGAN DONATION PROPOSED RULE

Mail From: -pbrown2@wwcc.org ** Online Comment Form email. No Response Required *

** Name, Title, Agency and Phone (if given) ***

Paula G. Brown
System Specialist III
Workers Comp
304-926-3400 ext 5187

** Subject of My Comment **

This is a wonderful policy.

*

** Here is My Comment ** (Response Not Required) **

*

This is a wonderful policy. This state may be coming out of the dark ages at last! I hope this become effect ASAP.

***** END OF COMMENT *****

* This email was generated from the DOP Web site Comment Form.
* (See Link on Home Page) The Form allows interested persons to
* comment on DOP Policies and Services. Comments are distributed
* automatically to Staff according to the Topic selected by the
* sender. If necessary, please forward inappropriate comments to
* the correct Section or Employee Relations. You should NOT reply
* to online comments. Senders are told not to expect a direct reply.
* If you have questions? See Steve Forsythe or Mike Campbell.

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