

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED
2012 JUL 13 PH11:02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Bureau of Senior Services TITLE NUMBER: 76

RULE TYPE: Legislative CITE AUTHORITY: 16-5P-15(c)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: In-Home Care Worker Registry

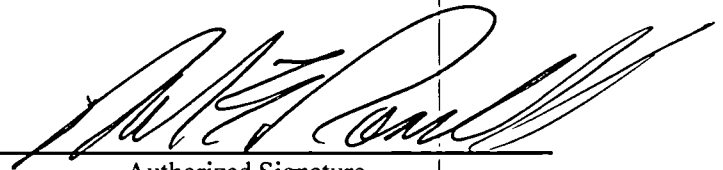
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 13, 2012 AT 4:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Bureau of Senior Services

1900 Kanawha Boulevard, East

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



**STATE OF WEST VIRGINIA
BUREAU OF SENIOR SERVICES**

Earl Ray Tomblin
Governor

1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0160
Telephone (304) 558-3317
FAX (304) 558-5609
www.wvseniorservices.gov

Robert E. Roswall
Commissioner

Brief Summary

In-Home Care Worker Registry

This is the proposed rules for Legislation approved for the development of an "in-home care worker" registry. Includes: requires to be on registry, fee schedule, criminal background check requirements and annual update requirements by in-home care workers.

These rules are in response to HB 4062 of the 2012 WV Legislative Session and will be forwarded to the Legislative Rules Committee.

Agency: **Senior Services, Bureau of**
 CBD Number: **2012R1445** Version: **Introduced** Bill Number: **HB4062** Resolution Number:
 Date Requested: **01/13/2012** Time Requested: **04:03 PM**
 CBD Subject: **IN-HOME DIRECT CARE WORKFORCE REGISTRY**

FUND(S)

Sources of Revenue

You must select Revenue Source(s)!

General Fund

Does the proposed legislation create:

You must make a selection(s)!

A New Program

Fiscal Note Summary

Explain in a clear and concise manner what effect this measure will have on costs and revenues of state government.

It is estimated that an additional 2 employees would have to be hired at a total salary expense of \$70,000 plus benefits of \$30,000. Additionally, a database would have to be developed and maintained from year to year estimated at an annual cost of \$5,000.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2012 Increase/Decrease (use "-")	2013 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost		105000	105000
Personal Services		70000	70000
Current Expenses		5000	5000
Repairs and Alterations			
Assets			
Other		30000	30000
2. Estimated Total Revenues			

3. Explanation of above estimates (including long-range effect):

- \$2,000 - \$5,000 for an outside IT company to develop the database plus an annual fee to maintain the site
- One full-time staff person (salary + fringe) to do data entry – this person would be responsible for entering information on certified in-home direct care workers including name, educational background, criminal background checks, current certifications, allegations of abuse, continuing education and any other areas required. Initially, this might also require some temporary help to input al of the fields of data for the thousands of workers who will be eligible to be on the list.
- One full-time staff person (salary + fringe) to manage the registry – this person would be responsible for addressing any issues that arise, developing a relationship with trainers certified to provide the training for in-home direct care workers, following up on discrepancies in data reported, fielding questions from provider agencies and in-home direct care workers regarding certifications, abuse allegations, criminal background checks, etc.

**TITLE 76
INTERPRETIVE RULE
WEST VIRGINIA BUREAU OF SENIOR SERVICES**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 2
IN-HOME CARE WORKER REGISTRY**

§76-2-1. General

- 1.1. Scope. – The registry shall provide the public a list of in-home care workers, along with their qualifications, who voluntarily agree to be included and who have completed a criminal background check.
- 1.2. Authority. – W. Va. Code §16-5P-1 et. Seq.
- 1.3. Filing Date. –
- 1.4. Effective Date. –

§76-2-2. Application

- 2.1. The Commissioner shall list qualified applicants, who meet the requirements of W. Va. Code §16-5P-1 and this rule, in a central registry.

§76-2-3. Definitions

- 3.1. “Applicant” means a person making application to be included on the registry.
- 3.2. “Commissioner” means the Commissioner of the Bureau of Senior Services or his or her designee.
- 3.3. “In-home care worker” means an unlicensed person who provides personal care or other services and supports to persons with disabilities or to the elderly in order to enhance their well-being and which involves face-to face direct contact with the person. Functions performed may include but are not limited to assistance and training in activities of daily living, personal care services, and job-related supports.
- 3.4. “Registry” means a list maintained for the collection of information.

§76-2-4. Registry Requirements

- 4.1. An applicant for listing on the registry of in-home care workers shall submit an application to the Commissioner containing the following:
 - 4.1.a. Last name, first name, and middle initial;
 - 4.1.b. Permanent Address;
 - 4.1.c. Contact Information
 - 4.1.d. Birth date;
 - 4.1.e. Submit the applicable fee;

76CSR2

- 4.1.f. Proof of completed West Virginia State Police background check and completed Federal background check.
- 4.1.g. Proof of completed CPR and First Aid training;
- 4.1.h. Proof of Education level and Certification attained;
- 4.1.i. West Virginia Business registration number; (if applicable)
- 5.1.j. Areas where services could be provided;
- 5.1.k. A registrant's availability;
- 5.1.l. Education/Certification;
- 5.1.m. Proposed fee for hourly services;
- 5.1.n. Types of Services; and
- 4.1.o. Other requirements as specified on the application.
- 4.2. The Commissioner shall include a note to the applicant concerning privacy issues and the registry with the application.
- 4.3. The Commissioner shall review the application for completion and post the information to the registry within 15 calendar days. If the application is not complete, the Commissioner shall notify the applicant within 10 calendar days that his or her application is not complete and will not be posted to the registry until the omitted information is provided.

§76-2-5. Registry

5.1. The Commissioner shall maintain a database on its website which shall provide the public with the following registrant information:

- 5.1.a. The last name, first name, and middle initial;
- 5.1.b. Contact information;
- 5.1.c. Gender;
- 5.1.d. Age Range
- 5.1.e. Criminal background check completion and a positive or negative notation indicating the results;
- 5.1.f. Date the criminal background check was completed;
- 5.1.g. Business Registration Number, if applicable;
- 5.1.h. Areas where service could be provided;
- 5.1.i. A registrant's availability;
- 5.1.j. Education/Certification;

- 5.1.k. Proposed fee for hourly services;
- 5.1.l. Types of Services; and
- 4.1.m. Other information the Commissioner finds necessary.

§76-2-6. Renewal

- 6.1. A registrant shall renew his or her registration annually upon his or her registration acceptance date, and ensure the information on the registry is complete and accurate.
- 6.2. To renew his or her registration a registrant shall provide proof of completion of OSHA, HIPAA, Abuse, Neglect and Exploitation and dementia care training.
- 6.3. A registrant shall be able to update certain designated information through the website to ensure accurate information.
- 6.4. The Commissioner shall remove a registrant from the registration if a registrant does not renew his or her registration.

§76-2-7. Fees

- 7.1. The applicant shall pay an initial registration fee of \$25.00.
- 7.2. The registrant shall pay a fee of \$5.00 to renew the registration.

§76-2-8. Changing or Withdrawing From Registry.

- 8.1. A registrant shall update any changes in his or her registration status within 10 days.
- 8.2. To withdraw from the registry, the registrant shall submit a letter to the commissioner requesting his or her name and information be removed from registry. The Commissioner shall remove that registrant within 15 days of notification.

§76-2-9. Criminal Background Check.

- 9.1. The criminal background check shall be based on fingerprints submitted to the West Virginia State Police for forwarding to the Federal Bureau of Investigation.
- 9.2. The applicant shall meet all requirements necessary to accomplish the state and national criminal background check, including:
 - 9.2.a. Submitting fingerprints; and
 - 9.2.b. Authorizing the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant.



FILED

STATE OF WEST VIRGINIA JUL 13 PM 11:02
BUREAU OF SENIOR SERVICES

1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0160
Telephone (304) 558-3317
FAX (304) 558-5609
www.wvseniorservices.gov

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Earl Ray Tomblin
Governor

Robert E. Roswall
Commissioner

July 13, 2012

Ms. Judy Cooper, Manager
Administrative Law Division
WV Secretary of State
Capitol Complex, Building 1, Room 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Ms. Cooper:

The West Virginia Bureau of Senior Services is hereby filing the In-Home Care Worker Registry as a Legislative Rule. Enclosed are the Notice of a Comment Period on a Proposed Rule, Fiscal Note and a brief summary.

Thank you for your assistance in this matter. If you have any questions or need additional information, please contact me.

Sincerely,

Robert E. Roswall
Commissioner