

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

Form #5

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

AGENCY: DHHR - BUREAU FOR PUBLIC HEALTH TITLE NUMBER: 64

CITE AUTHORITY: WV Code §§16-4-1 and 48-25A-1, et seq.

RULE TYPE: PROCEDURAL  INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES  NO

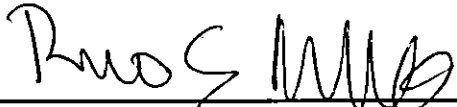
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 96

TITLE OF RULE BEING AMENDED: INFANT AND MATERNAL MORTALITY REVIEW TEAM

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS December 21  
~~NOVEMBER 20, 2012~~

  
Authorized Signature

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**TITLE 64  
PROCEDURAL RULE  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH**

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**SERIES 96  
INFANT AND MATERNAL MORTALITY REVIEW TEAM**

WEST VIRGINIA  
SECRETARY OF STATE

**§64-96-1. General.**

1.1. Scope. -- This rule establishes standard procedures for the formation and conduct of the infant and maternal mortality review team and recommends protocols for the review of infant and maternal deaths. This rule should be read in conjunction with W. Va. Code §48-25A-1 et seq. The W. Va. Code is available in public libraries and on the Legislature's webpage at: [www.legis.state.wv.us/](http://www.legis.state.wv.us/).

1.2. Authority. -- W. Va. Code §§16-4-1 and 48-25A-1, et seq.

1.3. Filing Date. -- November , 2012.

1.4. Effective Date. -- November , 2012.

**§64-96-2. Application and Enforcement.**

2.1. Application. -- This rule applies to the infant and maternal mortality review team and other state, county or local agencies.

2.2. Enforcement. -- This rule is enforced by the office of maternal, child and family health of the bureau for public health.

**§64-96-3. Definitions.**

3.1. Department. - The West Virginia Department of Health and Human Resources.

3.2. Infant and Maternal Mortality Review Team. - A multidisciplinary group of professionals including representatives from public health and the medical community that reviews the circumstances surrounding the deaths of infants who die in the first year of life and women who die during pregnancy, at the time of birth or within one year of the birth of a child.

3.3. Infant Mortality. - Death of a live born infant in the first year of life.

3.4. Maternal Mortality. - Death of a woman during pregnancy, at the time of birth or within one year of the birth of a child from any cause related to or aggravated by pregnancy or its management but not from accidental or incidental causes.

3.5. Review. - The process by which all of the facts and circumstances about a deceased infant who has died in the first year of life or woman who has died during pregnancy, at the time of birth or within one year of the birth of a child are known to members of a team are shared and discussed among the team.

3.6. Unexpected death. - The death of an infant who has died in the first year of life or a woman who has died during pregnancy, at the time of birth or within one year of the birth of a child, whose immediate death is not anticipated.

3.7. Unexplained death. – The cause and manner of death of an infant who has died in the first year of life or a woman who has died during pregnancy, at the time of birth or within one year of the birth of a child cannot be determined after an autopsy and thorough investigation of the circumstances surrounding the death.

**§64-96-4. Responsibilities of Infant and Maternal Mortality Review Team.**

4.1. The Infant and Maternal Mortality Review Team shall perform the duties described in W. Va. Code §48-25A-3, including review of all deaths of infants who die in the first year of life and women who die during pregnancy, at the time of birth or within one year of the birth of a child from any cause related to or aggravated by pregnancy or its management but not from accidental or incidental causes; establish the trends, patterns and risk factors; provide statistical analysis regarding the causes of infant and maternal deaths in West Virginia; and promote public awareness of the incidence and causes of infant and maternal deaths.

**§64-96-5. Conduct of Infant and Maternal Mortality Review Team.**

5.1. The Infant and Maternal Mortality Review Team shall meet two to four times per year, based upon the number of deaths.

5.2. The Governor shall appoint persons to vacancies on the Infant and Maternal Mortality Review Team as outlined in W. Va. Code §48-25A-2.

5.3. Each member shall serve for a term of five years. Of the members of the team first appointed, one shall be appointed for a term ending the thirtieth day of June, two thousand eleven, and one each for terms ending one, two, three and four years thereafter.

5.4. Members of the Infant and Maternal Mortality Review Team shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified.

5.5. An appointment of a physician, whether for a full term or to fill a vacancy, is to be made by the Governor from among three nominees selected by the West Virginia State Medical Association or the organization to be represented on the team. When an appointment is for a full term, the nomination is to be submitted to the Governor not later than eight months prior to the date on which the appointment is to become effective. In the case of an appointment to fill a vacancy, the nominations are to be submitted to the Governor within thirty days after the request for the nomination has been made by the Governor to the chairperson or president of the organization. When an association fails to submit to the Governor nominations for the appointment in accordance with the requirements of this section, the Governor may make the appointment without nominations.

5.6. The Infant and Maternal Mortality Review Team shall submit an annual report to the Governor and to the Legislature concerning its activities and the incidents of infant and maternal deaths within the state. The report is due annually on the first day of December. The report is to include statistics setting forth the number of infant and maternal deaths, identifiable trends in infant and maternal deaths in the state, including possible causes, if any, and recommendations to reduce the number of preventable infant and maternal deaths in the state. The report is to also include the number of infants and mothers whose deaths have been determined to have been unexpected or unexplained.

5.7. Each member of the Infant and Maternal Mortality Review Team shall serve without additional compensation and may not be reimbursed for any expenses incurred in the discharge of his or her duties under the provisions of this article.

5.8. The chairperson of the Infant and Maternal Mortality Review Team, or his or her designee, shall review death certificates of infants and women sent quarterly by the office of vital statistics.

5.9. Each member of the Infant and Maternal Mortality Review Team shall examine the records of his or her agency to determine if the infant or woman received services at his or her agency, and if necessary, may contact other agencies to complete the review.

5.10. Team members shall present to the rest of the Infant and Maternal Mortality Review Team the information obtained from the record reviews, but shall retain the documents in each agency's files.

5.11. All documents regarding a particular case that are reviewed by the Infant and Maternal Mortality Review Team shall be destroyed by the Team after the publication of the annual report in which that case data is included.

5.12. The Infant and Maternal Mortality Review Team, in the exercise of its duties as defined in this section, may not: call witnesses or take testimony from individuals involved in the investigation of an infant or maternal fatality; contact a family member of the deceased infant or mother, except if a member of the team is involved in the investigation of the death and must contact a family member in the course of performing his or her duties outside of the team; or enforce any public health standard or criminal law or otherwise participate in any legal proceeding, except if a member of the team is involved in the investigation of the death or resulting prosecution and must participate in a legal proceeding in the course of performing in his or her duties outside of the team.

#### **§64-96-6. Confidentiality.**

6.1. All information, records of the Infant and Maternal Mortality Review Team, and opinions expressed by members of the Review Team are confidential as described in W. Va. Code §48-25A-3.

6.2. Proceedings, records and opinions of the Infant and Maternal Mortality Review Team are confidential, in accordance with section one, article seven, chapter forty-nine of this code, and are not subject to discovery, subpoena or introduction into evidence in any civil or criminal proceeding. Nothing in this subsection is to be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the Infant and Maternal Mortality Review Team.

6.3. Members of the Infant and Maternal Mortality Review Team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the team. Nothing in this subsection may be construed to prevent a member of the Infant and Maternal Mortality Review Team from testifying to information obtained independently of the team or which is public information.

#### **§64-96-7. Recommended Protocols for Review of Infant and Maternal Mortality.**

The following are recommended protocols to aid in the review of infant and maternal deaths:

7.1. All Infant and Maternal Mortality Review Team members shall sign a sworn statement promising to maintain the confidentiality of information, records, discussions and opinions disclosed during infant and maternal mortality reviews.

7.2. The Infant and Maternal Mortality Review Team may call for an immediate review of medical records requested from physicians and hospitals treating the infant before death or woman before, during and after her pregnancy to try and determine causes and possible preventative measures related to the death;

7.3. Review Team members shall receive materials in advance of the meeting and review cases de-identified following nationally recommended guidelines and processes at meetings.

7.4. Physicians and health care providers asked to supply medical records shall do so for evaluation/review purposes only regarding the death of the infant in the first year of life or woman during her pregnancy, at the time of birth or within one year of the birth of a child. Patient, hospital, and medical practitioner names are removed following nationally recommended guidelines and processes to ensure confidentiality.

7.5. Infant and maternal mortality review data forms shall be completed using the provided information from medical records received from physicians and health care providers. Data will be compiled for the annual report to be submitted to the Governor and Legislature. No identifying information will be released in this report, only compiled data following nationally recommended guidelines and processes will be used.

7.6. Summaries and reports on Team findings and recommendations that depict patterns and trends in infant and maternal deaths shall be presented in aggregate form.

7.7. All case review materials are collected at the conclusion of each meeting and properly destroyed.