

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

Form #4

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WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: WV Bureau of Senior Services TITLE NUMBER: 76

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: \_\_\_\_\_

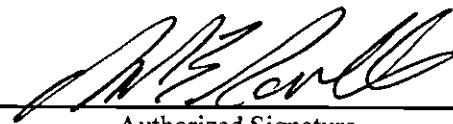
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IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

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

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THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Authorized Signature

#3.20

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

**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.
- 3.5. “Registrant” means an applicant who has passed the application phase and supplied all necessary information.

**§76-2-4. Registry Requirements**

- 4.1. An applicant for listing on the registry of in-home care workers shall be 18 years old or older and 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. Previous address, if not a West Virginia resident for 12 months or longer from the date the application is submitted to the Commissioner;

- 4.1.d. Contact information
- 4.1.e. Birth date;
- 4.1.f. Valid Driver's License, if available;
- 4.1.g. Proof of completed background check;
- 4.1.h. Proof of Adult Services Abuse Registry check;
- 4.1.i. Proof of completed CPR and first aid training;
- 4.1.j. Proof of education level and certification attained;
- 4.1.k. West Virginia Business Registration Number, if applicable;
- 4.1.l. Geographical areas where services could be provided;
- 4.1.m. Registrant's availability;
- 4.1.n. Education/certification;
- 4.1.o. Proposed fee for hourly services;
- 4.1.p. Types of services and specialized fields of service, i.e., Dementia, Autism, Alzheimer's;
- 4.1.q. Employment preferences such as smoking/non-smoking, male or female, weekdays, evenings, etc.;
- 4.1.r. Other requirements as may be specified on the application;
- 4.1.s. Applicable registration fee;
- 4.2. The Commissioner shall include a note to the applicant concerning privacy issues and the registry with the application.
- 4.3. Applications may be submitted via a secure internet application.
- 4.4. 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 registry 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 for employment purposes;

- 5.1.c. Gender;
- 5.1.d. Age range;
- 5.1.e. Indication of completed criminal background check;
- 5.1.f. Date the criminal background check was completed;
- 5.1.g. Indication of Abuse Registry Check completion;
- 5.1.h. West Virginia Business Registration Number, if applicable;
- 5.1.i. Geographical areas where service could be provided;
- 5.1.j. Registrant's availability;
- 5.1.k. Education/certification;
- 5.1.l. Indication of a valid driver's license;
- 5.1.m. Proposed hourly fee or wage for services;
- 5.1.n. Types of services and specialized fields of service, i.e., Dementia, Autism, Alzheimer's;
- 5.1.o. Employment preferences such as smoking/non-smoking, male or female, weekdays, evenings, etc.;
- 5.1.p. 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 training; HIPAA, Abuse, Neglect and Exploitation and dementia care training.
- 6.3. A registrant shall be able to update certain designated information through a secure internet application available only to the registrant.
- 6.4. The Commissioner shall remove a registrant from the registry 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 \$10.00.
- 7.2. The registrant shall pay a fee of \$5.00 to renew the registration.

**§76-2-8. Changing, Withdrawing, or Removal From Registry.**

- 8.1. A registrant shall update any changes in his or her registration status and any changes in his or her information contained in the registrant's application within 10 days of the change via a secure internet application.
- 8.2. To withdraw from the registry, the registrant shall submit a letter or an email via a secure internet application to the Commissioner requesting his or her name and information be removed from the registry. The Commissioner shall remove the registrant within 15 days of notification.
- 8.3. Upon proof that a registrant's registration status or information contained in the registrant's application has changed and the registrant has not updated the changes via the secure internet application within 10 days of the changes, the Commissioner may immediately remove the registrant from the registry.

**§76-2-9. Criminal Background Check.**

- 9.1. An applicant shall undergo criminal back ground check by the West Virginia State police. The applicant is solely responsible for undergoing and obtaining the results of the criminal background check.
  - 9.1.a. An applicant shall provide the required information to the West Virginia State police to obtain the criminal background check.
  - 9.1.b. An applicant shall affirm on his or her registry application that he or she has undergone and has received the results.
  - 9.1.c. An applicant who lived outside of this state in the last 5 years shall undergo a state background check from each state in which he or she resided.
  - 9.1.d. The applicant shall provide the required information to the appropriate agency to obtain the criminal background check.
- 9.2. The Bureau shall place a disclaimer on its website to remind potential employers, they should ask for the potential employee's results of the criminal record check.



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

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Earl Ray Tomblin  
Governor

Robert E. Roswall  
Commissioner

January 17, 2013

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 a Notice of Rule Modification of a Proposed Rule as a result of review and comment by the Legislative Rule Making Review Committee for the In-Home Care Worker Registry. Enclosed are the Notice of Rule Modification of Proposed Rule and ten copies of the legislative rule with modifications.

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

Sincerely,

A handwritten signature in black ink, appearing to read "R. Roswall".

Robert E. Roswall  
Commissioner