

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

Form #2

Do Not Mark In This Box

2013 JUN 24 11:10:21

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: 2

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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 July 24, 2013 AT 11:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Bureau of Senior Services
Attn: Robert E. Roswall, Commissioner
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

Summary

In-Home Care Worker Registry

The proposed rules address legislative action taken in the 2013 session of the WV Legislature.

The areas of rule development include how to access the In-Home Care Worker Registry, changing CPR training to certification and also a rule that allows the Commissioner of the Bureau of Senior Services to waive the initial registration fee for 60 days upon the activation of the Registry.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: In-Home Care Worker Registry

Type of Rule: Legislative Interpretive Procedural

Agency: WV Bureau of Senior Services

Address: Attn: Robert E. Roswall, Commissioner
1900 Kanawha Boulevard, East
Charleston, WV 25305

Phone Number: 304-558-3317 Email: robert.e.roswall@wv.gov

Fiscal Note Summary

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

2013 - Bureau has absorbed staff costs during the development; Database costs projected at \$15,000 Registry and Website Development.

2014 - Bureau will staff Registry at \$25,000 Staff, \$7,000 Fringe, \$5,000 ongoing web costs.

Revenue anticipated to be \$100,000 derived from 10,000 registrants at \$10.00/each, adjusted down for a 60 day waiver of fees for all registrants within the first 60 days, making a net revenue projected to be \$50,000.

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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	15,000.00	22,000.00	37,000.00
Personal Services	0.00	25,000.00	25,000.00
Current Expenses	0.00	5,000.00	5,000.00
Repairs & Alterations	0.00	0.00	0.00
Assets	15,000.00	15,000.00	0.00
Other		7,000.00	7,000.00
2. Estimated Total Revenues	0.00	50,000.00	50,000.00

In-Home Care Worker Registry

Rule Title: _____

Rule Title: _____

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

Please include any increase or decrease in fees in your estimated total revenues.

Revenue in the first year is estimated to be \$50,000 with a projected 10,000 registrants at \$10 initial fee (\$100,000). It is anticipated that fees will be waived for provider agencies that enroll in the first 60 days and results in revenue being reduced to the \$50,000 figure.

Current Year represents 2013

Next is Difference Between 2013 and 2014

Fiscal year column is the full implementation year in 2015a nd no fee waivers.

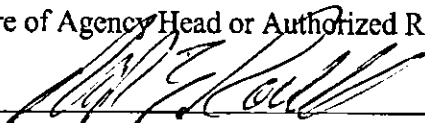
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The projection of the number of registrants in the initial year is difficult to predict. We are aware of 10,000 current in-home workers in the Medicaid Agency Certification System. An agency may wish to register their workers as a business practice "all workers are in the In-Home Care Worker Registry." If they do not, it would be difficult to predict sign-up. The Medicaid Certification System recent modification allows a worker or agency to transfer their data to this Registry. It is anticipated that the renewals at \$5.00 will supply enough revenue to cover expenses of Registry operations.

Date: June 24, 2013

Signature of Agency Head or Authorized Representative



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

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

2013 JUN 24 11:10:22
STATE

§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~~ certification;
- 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.
- 7.3. A fee schedule: Provided, That the Commissioner of the Bureau of Senior Services shall waive the initial registration fee for the first sixty days the registration is active.

§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.

§76-2-10. Obtaining Information from the Registry

- 10.1. The WV Registry of In-Home Care Workers can be accessed via the Internet by going to the WV Bureau of Senior Services Website or by phone call to the WV Bureau of Senior Services who will assist in accessing Registry information.
 - 10.1.a. Information on the Registry can be obtained by searching geographical locations, service needs, or by searching the care workers names or agency name.

10.1.b. Individual care workers employed by an in-home care provider agency will be displayed as an employee of the agency and the agency contact information will be displayed.

10.1.c. Independent in-home care workers information will be listed with direct contact information.



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Earl Ray Tomblin
Governor

Robert E. Roswall
Commissioner

June 24, 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 here by filing Notice of a Comment Period on the proposed Rule for the In-Home Care Worker Registry to address legislative action taken in the 2013 session of the WV Legislature. Enclosed is the Notice of a Comment Period on a Proposed Rule, the Summary, and the Fiscal Note for Proposed Rules and the Rule that reflects changes by the WV Legislature.

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 "Robert E. Roswall".

Robert E. Roswall
Commissioner