

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

Form #3

**Do Not Mark In This Box**  
2013 JUL 26 AM 10:27  
SECRETARY OF STATE  
WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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: 2

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

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

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 26, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Bureau of Senior Services  
1900 Kanawha Blvd., East  
Charleston, WV 25305  
304-558-3317

LEGISLATIVE RULE TITLE: In-Home Care Worker Registry

1. Authorizing statute(s) citation 16-5P-15 (c)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 24, 2013

b. What other notice, including advertising, did you give of the hearing?  
N/A

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 24, 2013

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 26, 2013

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Robert E. Roswall, Commissioner

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WV Bureau of Senior Services  
1900 Kanawha Blvd., East

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Charleston, WV 25305

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Phone: 304-558-3317 Fax: 304-558-5609

Email: Robert.e.roswall@wv.gov

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- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

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b. Date of hearing or comment period:

June 24, 2013 - July 24, 2013 comment period

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



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

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Earl Ray Tomblin  
Governor

Robert E. Roswall  
Commissioner

Summary

**In-Home Care Worker Registry**

The Bureau has completed the In-Home Care Worker Registry as per Legislative approval. Phase I: The Registry will be activated in the Summer of 2013.

The Registry will be available via website or Toll-Free Phone Call or assistance through the Bureau's ADRN (Aging Disability Resource Network).

The Registry consists of a searchable Registry and a website for helpful links and additional information.

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 Blvd., 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.

- 2014: Bureau has absorbed staff costs during the development; Database costs projected at \$15,000 Registry and Website Development. Phase II \$17,000 for individual registrants and non-Medicaid Service Providers.
- 2015: 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 new revenue projected to be \$15,000.
- When fully implemented we anticipate Registry will be self-sustaining.

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	32,000.00	5,000.00	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	32,000.00	32,000.00	0.00
Other	0.00	7,000.00	7,000.00
<b>2. Estimated Total Revenues</b>	15,000.00	35,000.00	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 \$15,000. The Bureau currently has nearly 10,000 In-Home Care Workers in our Medicaid Provider Certification Database. With the 60 day waiver of the initial fee of \$10.00 we anticipate that most agencies will transfer their data and only 1,500 workers will be added with no waiver.

Current Year represents Fiscal 2014.

Next is difference between 2014 and FY 2015.

Full implementation is Fiscal Year 2015.

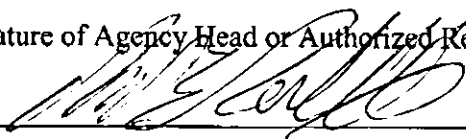
**MEMORANDUM**

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: July 26, 2013

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_

2013 JUL 26 AM 10: 27

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

OFFICE OF 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.
- 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

**MEMORANDUM**

**DATE:** July 26, 2013

**TO:** Judy Cooper, Manager  
WV Secretary of State's Office

**FROM:** Robert E. Roswall  
Commissioner 

**RE:** Comments/Comment Period for the In-Home Care Worker Registry

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There were no comments during the Comment Period for the In-Home Care Worker Registry between June 24, 2013 and July 24, 2013.

Thank you.



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Earl Ray Tomblin  
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Commissioner

July 26, 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 Notice of Agency Approval of a Proposed Rule and filing with the Legislative Rule-making Review Committee for the In-Home Care Worker Registry. Enclosed is the Notice of Agency Approval of the Proposed Rule, the Fiscal Note for Proposed Rules, the Summary, the Legislative Rulemaking Questionnaire, there were no comments received (memorandum attached) and sixteen copies of the final rule that reflects changes.

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