WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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Office of West Virginia Secretary Of State

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

AGENCY: Health TITLE-SERIES: 64-24

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: Yes

RULE NAME: 64-24 Newborn Hearing Screening

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code §16-22A-2

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §16-22A-2 and 16-1-7

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/25/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/25/2026

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule establishes a reasonable fee schedule, a cost-effective screening protocol, and reporting and referral requirements for the screening of newborn infants for hearing impairments. This rule is being repealed and combined with 64CSR91 Newborn Screening System.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule is being repealed and combined with 64CSR91 Newborn Screening System.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Virginia M Payne -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 64
LEGISLATIVE RULE
DIVISION OF HEALTH

SERIES 24
NEWBORN HEARING SCREENING

§64-24-1. General.

1.1. Scope. -- This rule establishes a reasonable fee schedule, a cost-effective screening protocol, and reporting and referral requirements for the screening of newborn infants for hearing impairments, and becomes effective on July 1, 2001. This rule should be read in conjunction with W. Va. Code §16-22A-1 et seq. The W. Va. Code is available in public libraries and on the Legislature's webpage, http://www.legis.state.wv.us/.

1.2. Authority. -- W. Va. Code §16-22A-2 and 16-1-7.

1.3. Filing Date. -- May 4, 2001.

1.4. Effective Date. -- July 1, 2001.

§64-24-2. Application and Enforcement.

2.1. Application. -- This rule applies to all infants born in West Virginia and to the health care providers caring for infants at birth.

2.2. Enforcement. -- This rule is enforced by the director of the division of health.

§64-24-3. Definitions.

3.1. ABR (Auditory Brainstem Response). -- Newborn hearing screening equipment that provides information about the auditory pathway up to the brainstem.

3.2. Advisory Committee. -- The West Virginia Hearing Impairment Testing Advisory Committee created in W. Va. Code §16-22A-4 to advise the director regarding the protocol, validity, monitoring and cost of newborn hearing screening procedures required under W. Va. Code §16-22A-1 et seq.

3.3. Birth Score Developmental Risk Screen. -- Medical assessment conducted immediately after birth to identify newborns at greatest risk for poor health or infant mortality within the first year of life, under the provisions of W. Va. Code §16-22B-1 et seq.

3.4. Director. -- The director of the division of health or his or her lawful designee.

3.5. Division. -- The division of health.

3.6. DRG (Diagnosis Related Group). -- The payment code incorporating a group of inpatient hospital charges or costs.

3.7. Health Care Facility. -- Any licensed medical facility that offers birthing

~~services.~~

~~3.8. Health Care Provider. – A physician or licensed midwife present during or immediately after delivery.~~

~~3.9. Primary Care Provider. – The physician, physician's assistant, nurse, nurse practitioner or other licensed medical professional responsible for the infant's health services after discharge from the health care facility.~~

~~3.10. OAE (Otoacoustic Emissions Test). – A screen that provides data about hearing distortion to the cochlea.~~

~~§64-24-4. When Screening is Required.~~

~~4.1. W. Va. Code §16-22A-1 et seq. requires that all infants born in a licensed health care facility be screened for hearing impairments except when there is no third-party payor for the screening and the parents refuse to have the screening performed, as in W. Va. Code §16-22A-3(c).~~

~~4.2. When the birth takes place in a licensed health care facility and there is a third-party payor, the health care provider present at the birth shall immediately perform or cause to be performed screening for hearing impairments.~~

~~4.3. When an infant is born in a nonlicensed facility, including a home, the health care provider shall inform the parents of the need to obtain the screening within the first month of the infant's life.~~

~~§64-24-5. Screening Protocol.~~

~~5.1. The health care provider shall perform, or cause to be performed, newborn hearing screening in both ears shortly after birth, using either the ABR and/or OAE screening equipment, following the equipment manufacturer's guidelines.~~

~~5.2. The screening shall be performed by trained personnel, according to the American Academy of Pediatrics (AAP) standards.~~

~~5.3. The director, with concurrence of the advisory committee, may update or modify the screening procedures according to screening protocol, technology and current national standards.~~

~~5.4. If the health care provider is unable to screen the infant before discharge, the primary care provider is responsible for referring the infant for a non-hospital-administered hearing screening test.~~

~~5.5. If the infant does not pass the initial screening test, the health care provider shall perform a second screening test prior to the infant's hospital discharge.~~

~~§64-24-6. Screening Fee Schedule~~.

~~6.1. All licensed health care facilities shall charge a fee for the initial newborn hearing screening that will be applied to all payors at a rate not to exceed the rate established by the Medicaid DRG process.~~

~~6.2. For infants born in a nonlicensed health care facility, including a home, a health care provider shall charge a fee for an outpatient newborn hearing screen at a rate not to exceed the rate established by Medicaid.~~

6.3. The fee for newborn hearing screening may be reviewed annually.

§64-24-7. Screening Reporting and Referral.

7.1. The health care provider shall record the hearing screening results in the infant's medical record and on the Birth Score Developmental Risk Screen.

7.2. The health care provider shall report all screening results to the infant's parents, legal guardian, and primary care provider prior to discharge.

7.3. When an infant is born in a non-licensed facility, including a home, the provisions of subsection 4.3 apply.

7.4. All birthing facilities are responsible for reporting screening results. They shall send hard copy data on in-patient screening results to the Birth Score Office, West Virginia University Department of Pediatrics, P.O. Box 9214, Morgantown, WV 26506-9214.

7.5. If an infant fails the initial and second screening test in one or both ears, the health care provider shall inform the infant's parents, legal guardian, and primary care provider.

7.6. The primary care provider shall arrange for diagnostic testing with local audiological testing facility.

§64-24-8. Confidentiality.

8.1. Any person who obtains confidential information while implementing W. Va. Code §16-22A-1et seq. may disclose it only to reporting sources, persons demonstrating a need that is essential to health related research or care of the infant, or as required by law.

8.2. Any person who obtains confidential information while implementing W.Va. Code §16-22A-1 et seq. shall provide a written statement of confidentiality stating that he or she fully understands the privacy of the information and will maintain it.

§64-24-9. Penalties.

9.1. Any person who violates the provisions of W. Va. Code §16-22A-1 et seq. or this rule is subject to the penalties provided in W. Va. Code §16-1-18.