

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #6

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APR 29 1 45 PM '99

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Division of Health, Department of Health & Human Resources TITLE NUMBER: 64

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 72

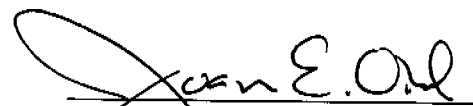
TITLE OF RULE BEING PROPOSED: Interstate Compact on Mental Health

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 305

SECTION 64-5-2(i), PASSED ON March 10, 1999

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 1999



Joan E. Ohl, Secretary

\$2.60

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES
RULE PROMULGATION HISTORY ABSTRACT**

Rule Title: 64 Interstate Compact on Mental Health

Series Number: 72

Amendment of Existing Rule: **New Rule:**

Responsible Agency: Division of Health

Date Filed for Public Hearing or Comment Period: June 23, 1998

Date of Public Hearing (if any):

Date Public Comment Period Ended: July 23, 1998

**Date Agency-Approved Rule Filed with the
Legislative Rule-Making Review Committee:** July 31, 1998

**Date of Filing of Modified Rule as Approved by
the Legislative Rule-Making Review Committee:** November 23, 1998

Date of Final Filing: April 29, 1999

Effective Date: July 1, 1999

Authorized by: S.B. 305 (With amendments? Yes No)
Passed: March 10, 1999

Dates Emergency Rule in Effect (if any):

TITLE 64
LEGISLATIVE RULE
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 72
INTERSTATE COMPACT ON MENTAL HEALTH

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§64-72-1. General.

1.1. Scope - This legislative rule contains requirements for the proper and expeditious transfer of committed persons between West Virginia and other party states to the interstate compact on mental health. This rule should be read in conjunction with the provisions and definitions in the interstate compact on mental health appearing in W. Va. Code §27-14-1 et seq.

1.2. Authority - W. Va. Code § 27-14-2.

1.3. Filing Date - April 29, 1999.

1.4. Effective Date - July 1, 1999.

1.5. Construction - This rule shall be liberally construed to effectuate the compact goals of chapter 27 of the W. Va. Code.

§64-72-2. Application and Enforcement.

2.1. Application - This rule applies to the duties and authority of the compact administrator.

2.2. Enforcement - This rule is enforced internally by the secretary of the department of health and human resources or his or her designee.

§64-72-3. Definitions.

3.1. Compact - The interstate compact on mental health appearing in W. Va. Code §27-14-1 et seq. that provides for the proper and expeditious transfer from one state to another of persons who have been committed with mental deficiency or mental illness.

3.2. Compact administrator - The secretary of the department of health and human resources or his or her designee.

3.3. Dangerous or potentially dangerous patient - A person who has escaped from an institution in another state and poses a threat to society by his or her escape.

§64-72-4. Compact Administrator; Powers and Duties.

4.1. The compact administrator shall administer the compact in accordance with W. Va. Code § 27-14-1 et seq. and shall be the general coordinator of activities under the compact. The compact administrator shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by this state either in the capacity of sending or receiving state.

4.2. The compact administrator, subject to the approval of the state auditor, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into under the compact.

4.3. The compact administrator is not obligated to receive any patient from another party to the compact.

4.4. The compact administrator shall determine the place most suitable for the patient and may review at any time the placement and make changes in accordance with the best interests of the patient and the state.

4.5. The compact administrator is the only person authorized to issue an order requesting the detention of a dangerous or potentially dangerous patient who has escaped from an institution in another state.

4.5.a. Immediately upon learning that a dangerous or potentially dangerous escaped patient may be in West Virginia, the compact administrator may detain him or her through the issuance of a detention order.

4.5.b. Once identification has been made of an escaped patient, the compact administrator shall arrange to immediately return that individual to the state where he or she escaped. If the escaped patient cannot be immediately returned to the state where he or she escaped, the escaped patient shall be detained at an institution or a secure setting designated by the compact administrator until transfer is possible.

§64-72-5. Due Process.

5.1. When issuing a detention order, the compact administrator shall substantially recite the facts necessary to the validity of the order.

5.2. Before a patient is returned to the state where he or she escaped, the compact administrator shall assure that the patient is informed: of the reason for his or her detention; of his or her right to a hearing to determine identification; and, if the patient decides to challenge the identification, of his or her right to have the representation of counsel provided at state expense.

LH 56

H. B. 2547

1 Bill-Health,

2 (By Delegates Hunt, Linch, Compton, Faircloth,
3 Jenkins and Riggs)

4 [Introduced February 1, 1999; referred to the
5 Committee on Health and Human Resources then
6 the Judiciary.]

6

7

8

9

10 A BILL to amend and reenact section one, article five,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the division of health to promulgate a
14 legislative rule relating to the interstate compact on
15 mental health.

16 *Be it enacted by the Legislature of West Virginia:*

17 That section one, article five, chapter sixty-four of
18 the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 **ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND
22 HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

23 **§64-5-1. State board of health; division of health.**

1 (a) The legislative rule filed in the state register
2 on the eighteenth day of November, one thousand nine
3 hundred ninety-six, authorized under the authority of
4 section three, article thirty-two, chapter sixteen of this
5 code, modified by the division of health to meet the
6 objections of the legislative rule-making review committee
7 and refiled in the state register on the sixteenth day of
8 December, one thousand nine hundred ninety-seven, relating
9 to the division of health (asbestos abatement licensing, 64
10 CSR 63), is authorized.

11 (b) The legislative rule filed in the state register
12 on the first day of August, one thousand nine hundred
13 ninety-seven, authorized under the authority of section
14 eight, article thirty-three, chapter sixteen of this code,
15 modified by the division of health to meet the objections
16 of the legislative rule-making review committee and refiled
17 in the state register on the sixteenth day of December, one
18 thousand nine hundred ninety-seven, relating to the
19 division of health (breast and cervical cancer diagnostic
20 and treatment fund, 64 CSR 69), is authorized.

21 (c) The legislative rule filed in the state register
22 on the first day of August, one thousand nine hundred
23 ninety-seven, under the authority of section ten, article

1 five-j, chapter sixteen of this code, modified by the
2 director of the division of health to meet the objections
3 of the legislative rule-making review committee and refiled
4 in the state register on the twenty-third day of January,
5 one thousand nine hundred ninety-eight, relating to the
6 division of health (clinical laboratory technician and
7 technologist licensure and certification, 64 CSR 57), is
8 authorized.

9 (d) The legislative rule filed in the state register
10 on the twenty-second day of December, one thousand nine
11 hundred ninety-seven, authorized under the authority of
12 section two, article thirteen-c, chapter sixteen of this
13 code, relating to the division of health (drinking water
14 treatment revolving fund, 64 CSR 49), is authorized.

15 (e) The legislative rule filed in the state register
16 on the fourth day of June, one thousand nine hundred
17 ninety-seven, authorized under the authority of section
18 seven, article one, chapter sixteen of this code, modified
19 by the division of health to meet the objections of the
20 legislative rule-making review committee and refiled in the
21 state register on the sixteenth day of December, one
22 thousand nine hundred ninety-seven, relating to the
23 division of health (sewage systems, 64 CSR 9), is

1 authorized with the following amendment:

2 On page 7, subsection 5.1. following the sentence
3 which ends "local health department offices." by inserting
4 the following: "Provided, That the director shall issue a
5 permit for the installation of a National Sanitation
6 Foundation Class I home aeration unit to be installed on a
7 single family dwelling unit when no other approved system
8 can be installed."

9 (f) The legislative rule filed in the state register
10 on the thirty-first day of July, one thousand nine hundred
11 ninety-eight, authorized under the authority of section
12 two, article fourteen, chapter twenty-seven, of this code,
13 modified by the division of health to meet the objections
14 of the legislative rule-making review committee and refiled
15 in the state register on the twenty-third day of November,
16 one thousand nine hundred ninety-eight, relating to the
17 division of health (interstate compact on mental health, 64
18 CSR 72), is authorized.

19

20 NOTE: The purpose of this bill is to authorize the
21 Division of Health to promulgate a legislative rule
22 relating to the Interstate Compact on Mental Health.

23

24 Strike-throughs indicate language that would be
25 stricken from the present law, and underscoring indicates
26 new language that would be added.