

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

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

AGENCY: Department of Health and 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 RULE BEING PROPOSED: 86

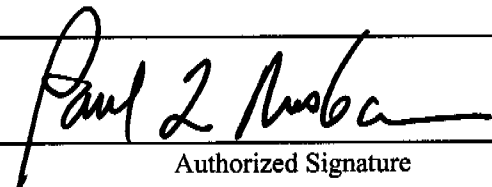
TITLE OF RULE BEING PROPOSED: Surrogates for Incapacitated persons in Health Care
Facilities Operated by DHHR

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

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 2625

SECTION § 64-5-3(c), PASSED ON March 5, 2003

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2003


Authorized Signature

TITLE 64
LEGISLATIVE RULES
BUREAU FOR PUBLIC HEALTH

FILED

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SERIES 86
SURROGATES FOR INCAPACITATED PERSONS IN
HEALTH CARE FACILITIES
OPERATED BY
THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§64-86-1. General.

1.1. Scope. – This legislative rule designates individuals and entities who are authorized to act as surrogates for incapacitated persons in the Department's health care facilities. This rule should be read in conjunction with W. Va. Code § 16-30-8 and the definitions in W. Va. Code § 16-30-3. The W. Va. Code is available in public libraries and on the Legislature's web page: <http://www.legis.state.wv.us/>.

1.2. Authority. – W. Va. Code §16-30-8(a)(7).

1.3. Filing Date. – April 4, 2003.

1.4. Effective Date. – July 1, 2003.

§64-86-2. Application and Enforcement Section.

2.1. Application. – This rule applies to incapacitated persons who are in need of surrogates and who are patients in the Department's health care facilities; Department designated surrogates; health care facilities; health care providers; and individuals and entities who are prohibited from serving as surrogates.

2.2. Enforcement. – This rule is enforced by the Commissioner of the Bureau for Public Health or his or her designee.

§64-86-3. Definitions.

3.1. The definitions in W. Va. Code §16-30-3 apply to this rule.

3.2. Department. – The West Virginia Department of Health and Human Resources.

§64-86-4. Designation of Individuals and Entities.

4.1. The following are designated as individuals and entities that may be selected in accordance with W. Va. Code §16-30-8(a)(7) as surrogates for patients in

the Department's health care facilities:

4.1.a. Any organization authorized under state or federal laws, or under contract with the Department, to advocate for individuals in the Department's health care facilities;

4.1.b. Any organization authorized under federal or state laws, or under contract with the Department, to provide surrogacy, guardianship or conservator services for persons in the Department's health care facilities; and

4.1.c. Any Department employee not otherwise precluded from serving as a surrogate by the provisions of W. Va. Code § 16-30-8(i).