

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

Form #6

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: WV Health Care Cost Review Authority TITLE NUMBER: 65

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: 15

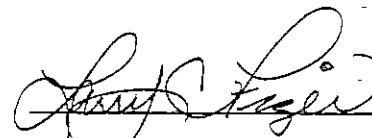
TITLE OF RULE BEING PROPOSED: Exemption For Conversion of Acute  
Care Beds to Skilled Nursing Care Beds

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

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 243

SECTION 64-5-3(i), PASSED ON March 10, 1990

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: April 5, 1990



LARRY C. FIZER  
CHAIRMAN

TITLE 65  
WEST VIRGINIA LEGISLATIVE RULE  
HEALTH CARE COST REVIEW AUTHORITY

SERIES 15

Title: EXEMPTION FOR CONVERSION OF ACUTE  
CARE BEDS TO SKILLED NURSING CARE BEDS

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§65-15-1 General

1.1 Scope - This rule establishes an exemption from certificate of need review for the conversion of acute care beds to skilled nursing care beds by a licensed hospital as provided by W. Va. Code 16-2D-4a.

1.2. Authority - W. Va. Code 16-2D-4a and 16-2D-8.

1.3. Filing Date - \_\_\_\_\_.

1.4. Effective Date - \_\_\_\_\_.

§65-15-2 Introduction

This rule implements Enrolled Committee Substitute for H. B. 2612 which was signed by the Governor. That bill created a new code section, W. Va. Code 16-2D-4a. This new section authorizes the Health Care Cost Review Authority to promulgate rules to exempt from certificate of need review the conversion of acute care beds to skilled nursing care beds by a licensed hospital under certain conditions.

3.1. Acute-care bed complement - The number of licensed hospital beds designated for acute care services exclusive of SNF and/or ICF long-term care beds and personal care beds.

3.2. Licensed bed capacity - The total number of hospital beds currently authorized for a hospital to operate by the department of health and human resources.

3.3. Skilled nursing bed - A long-term care bed designated as an SNF (skilled nursing facility bed) and certified as such under Medicare Title XVIII reimbursement.

3.4. Intermediate care bed - A long-term care bed designated as an ICF (intermediate care bed) and certified as such under Medicaid Title XIX reimbursement.

3.5. Dually certified bed - A long-term care bed designated for use as both ICF and SNF and certified as such under Medicare and Medicaid reimbursement.

3.6. Verified notice - A notice containing the information required by this rule which has attached to it a statement made under oath by the chief executive officer of the hospital before a notary public or other official entitled to administer oaths that the facts and circumstances set forth in the notice are true or believed to be true by the chief executive officer.

4.1. A hospital licensed by the department of health and human resources otherwise subject to certificate of need review may obtain an exemption from review for the conversion of acute care beds to skilled nursing care beds if the hospital meets the following conditions:

(a) It is located in a non-metropolitan statistical area as defined by the bureau of the census of the federal government;

(b) It has experienced an average occupancy rate of less than fifty (50) percent for the twelve (12) months preceding the date of request for this exemption; and

(c) The nursing home service area within which the hospital is located is under the bed ceiling as calculated by the thirty (30) beds per thousand population formula as set forth in the long-term care chapter of the state health plan, except for the purposes of this rule existing nursing home beds shall be used in the calculation. In determining eligibility pursuant to this requirement, the Health Care Cost Review Authority will determine if the existing nursing home bed supply within the nursing home service area in which the hospital is located exceeds the five-year projected nursing home bed ceiling for that service area. Only licensed beds shall be counted in the nursing home bed supply.

4.2. The hospital requesting the exemption pursuant to this rule must also meet the following requirements:

(a) In converting beds, the hospital must change one acute care bed into one skilled nursing care bed;

(b) All acute care beds converted shall be permanently deleted from the hospital's acute-care bed complement and the hospital may not thereafter

add, by conversion or otherwise, acute-care beds to its bed complement without satisfying the requirements of subsection (d), section three, article two-d, chapter sixteen of the West Virginia Code for which purposes such an addition, whether by conversion or otherwise, shall be considered a substantial change to the bed capacity of the hospital notwithstanding the definition of that term found at subsection (ee), section two, article two-d, chapter sixteen of the West Virginia Code;

(c) The hospital shall meet all applicable federal and state licensing requirements for the provisions of skilled nursing services including a requirement that all skilled care beds created under this exemption shall be located in distinct-part, long-term care units;

(d) No hospital is permitted to convert more than twenty-five (25) percent of its licensed bed capacity in any twenty-four (24) month period pursuant to this exemption; however, in the event that subsection (h), section five, article two-d, chapter sixteen of the West Virginia Code is repealed and to the extent that other methods of converting acute care beds are available under article two-d, chapter sixteen of the West Virginia Code, the hospital may request certificate of need approval of such conversions; and

(e) The hospital may not seek to obtain certification of the skilled nursing beds converted from acute care beds pursuant to this rule as dually certified beds or intermediate care beds.

§65-15-5 Verified Notice, Filing Fee and Review Period

5.1. To request an exemption pursuant to this rule, the hospital must file a verified notice and the current filing fee applicable to exemption requests

pursuant to 65 C.S.R. 10, section 4.1 with the Health Care Cost Review Authority. The verified notice shall include the following information:

(a) A copy of the current hospital license issued by the department of health and human resources;

(b) A description of the number and type of acute care beds to be converted to skilled nursing beds; and

(c) A compilation of the number of acute care patient days for each of the twelve (12) months preceding the date of request for this exemption.

5.2. Upon receipt of the verified notice and filing fee, the Health Care Cost Review Authority shall within fifteen (15) days determine whether the proposed conversion of acute care beds is eligible for the exemption. In the event the Health Care Cost Review Authority needs more information to make its determination, it shall request that information in writing. Such request shall terminate the applicable fifteen (15) day review period and a new fifteen (15) day review period shall begin upon receipt by the state agency of the requested information. Submission of incomplete or inadequate additional information shall not cause the new fifteen (15) day review period to begin.

§65-15-6      Substantial Compliance Review

6.1. The hospital shall undergo substantial compliance review of the conversion to skilled nursing beds and submit a progress report to the Health Care Cost Review Authority no later than thirty (30) days after initiation of the service. The following items shall be provided as part of the progress report for substantial compliance review:

(1) Report of capital expenditures associated with the conversion;

(2) Documentation of effective SNF certification date from the department of health and human resources; and

(3) Documentation of the licensure and SNF certification approval from the department of health and human resources.

6.2. The Health Care Cost Review Authority shall issue a notice of conditional substantial compliance if the information required pursuant to section 6.1 of this rule is submitted and deemed to satisfy the requirements of this rule. Upon receipt of a new hospital license from the department of health and human resources each July 1, and subsequent to the implementation of the conversion of acute care beds to skilled nursing beds, the hospital shall submit said license to the state agency and a final order of substantial compliance shall be issued.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

ROBERT E. WILKINSON  
Deputy Secretary of State

CATHERINE FREROTTE  
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

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Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

SHEREE COHEN  
Special Assistant

(Plus all the volunteer  
help we can get)

TO: Marianne Stonestreet

AGENCY: HCCRA

FROM: JUDY COOPER, DIRECTOR ADMINISTRATIVE LAW DIVISION

DATE: January 29, 1991

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 15 TITLE Exemption for Conversion of Acute Care Beds to Skilled Nursing Care Beds

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

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\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Marianne K. Stonestreet

TITLE OF PERSON SIGNING: General Counsel

DATE: 2/14/91

1991 FEB 20 AM 9:01  
FILED  
OFFICE OF THE  
SECRETARY OF STATE  
WEST VIRGINIA