

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

Do not mark in this box
Filing Date

FILED

JUN 30 3 53 PM '99

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: WEST VIRGINIA HEALTH CARE AUTHORITY TITLE NUMBER: 65

CITE AUTHORITY: W. VA. CODE §§16-2D-4(a)(1) and 8(c)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 17

TITLE OF RULE BEING AMENDED: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:



Signature

Use additional sheets if necessary

\$3.00

**STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE TO BE
FILED AS AN EMERGENCY**

**HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS PROPOSED
RULE**

The 1999 Legislature passed Enrolled Senate Bill 492 which directs the Health Care Authority (Authority) to file emergency rules to implement certain changes within the certificate of need law. W. Va. Code §§16-2D-4(a)(1) and 8(c) give the agency the authority to file this rule as an emergency rule.

The purpose of the certificate of need law is to contain or reduce increases in the cost of delivering health services. Furthermore, the agency is directed to protect the health and general welfare of the citizens of this state by ensuring that appropriate and needed institutional health services are made available for all citizens. See, W. Va. Code §16-2D-1

The purpose of this rule is to update the certificate of need process to comply with the requirements of Senate Bill 492.

DATE: JUNE 30, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA HEALTH CARE AUTHORITY

EMERGENCY RULE TITLE: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

1. Date of Filing JUNE 30, 1999

2. Statutory authority for promulgating emergency rule:

W. VA. CODE §16-2D-4(a)(1) and 8(c)

3. Date of filing of proposed legislative rule: JUNE 30, 1999

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

AMENDS CURRENT RULE

5. Has the same or similar emergency rule previously been filed and expired?

NO

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

ENROLLED SENATE BILL 492 WAS PASSED BY THE LEGISLATURE IN 1999 REQUIRING MAJOR CHANGES

TO THE CERTIFICATE OF NEED (CON) LAW. THIS RULE IMPLEMENTS SOME OF THESE CHANGES. THE

PURPOSE OF THE CON LAW IS TO REDUCE INCREASES IN HEALTH SERVICE COSTS AND TO PROMOTE THE

HEALTH AND GENERAL WELFARE OF THE PUBLIC BY ENSURING THAT APPROPRIATE AND NEEDED HEALTH

SERVICES ARE MADE AVAILABLE.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

W. VA. CODE §16-2D-3(b)(5), 4(a)(1) and 8(c) - JULY 1, 1999

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

SEE RESPONSE TO #6

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

Type of Rule: X Legislative Interpretive Procedural

Agency WEST VIRGINIA HEALTH CARE AUTHORITY

Address 100 DEE DRIVE, SUITE 201

CHARLESTON, WV 25311-1600

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

TO IMPLEMENT CHANGES IN THE CERTIFICATE OF NEED (CON) LAW MANDATED BY SENATE BILL 492 PASSED BY THE LEGISLATURE IN 1999.

Rule Title: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: JUNE 30, 1999

Signature of Agency Head or Authorized Representative

D. Robert Halliday

TITLE 65
LEGISLATIVE RULE
HEALTH CARE ~~COST REVIEW~~ AUTHORITY

FILED

Jun 30 3 52 PM '99

SERIES 17
HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

§65-17-1. General.

1.1. Scope. -- This legislative rule specifies which health services, major medical equipment, and/or facilities acquired, offered or developed by health professionals are subject to certificate of need review.

1.2. Authority. -- W. Va. Code, §§16-2D-4(a)(1), 16-2D-8(c).

1.3. Filing Date. -- ~~April 10, 1992~~

1.4. Effective Date. -- ~~April 10, 1992~~

§65-17-2. Definitions.

As used in this legislative rule, all terms that are defined in W. Va. Code §16-2D-1 et seq. have those same meanings which are in some cases further clarified herein. All terms not defined in W. Va. Code §16-2D-1 et seq. have the following meanings unless the context expressly requires otherwise.

2.1. Diagnostic center - a facility which offers laboratory ~~and~~/or imaging services and in which the total cost of all the laboratory and imaging equipment exceeds ~~\$300,000.00~~ \$2,000,000.00. In determining whether the medical equipment costs more than ~~\$300,000.00~~ \$2,000,000.00, the cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value.

2.2. "State agency" means the West Virginia Health Care ~~Cost Review~~ Authority which is designated to administer the certificate of need program by W. Va. Code, §16-29B-11.

§65-17-3. Health Services, Major Medical Equipment and/or Facilities.

3.1. One or more health professionals licensed to practice in this state pursuant to the provisions of Chapter 30 of the West Virginia Code who wish to acquire, offer or develop one or more of the health services, major medical equipment and/or facilities listed in subsection 3.3 of this rule shall follow the procedures set forth in the legislative rule "Certificate of Need," 65 C.S.R. 7.

3.2. If a health service, major medical equipment and/or facility is one set forth in subsection 3.3, the proposed acquisition, development or offering of that service, equipment and/or facility by a licensed health professional is subject to review regardless of the cost associated with the proposal, except for subdivision 3.3.9.

3.3. The list of health services, major medical equipment and/or facilities subject to review pursuant to W. Va. Code §16-2D-4(a)(1) is as follows. This list is all inclusive and shall not be altered except by amendment to this legislative rule.

3.3.1. ~~Computerized tomography (CT).~~ End-stage renal dialysis stations and home training.

3.3.2. Lithotripsy.

3.3.3. Radiation therapy.

3.3.4. Magnetic resonance imaging (MRI).

3.3.5. Proton emission tomography (PET).

3.3.6. Cardiac catheterization.

3.3.7. Birthing centers.

3.3.8. Ambulatory surgical facilities or ambulatory surgical centers.

3.3.9. Diagnostic centers.

§65-17-4. Batching Category.

All applications received pursuant to this rule shall be considered by the state agency in the applicable batching category as described in 65 C.S.R. 7. ~~Provided that, there is no expenditure minimum requirement for the inclusion of health services, major medical equipment and/or facilities offered, acquired or developed by health professionals.~~