

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

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**FILED**

MAY 5 10 51 AM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Form #6

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

AGENCY: WEST VIRGINIA HEALTH CARE AUTHORITY TITLE NUMBER: 65

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 PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

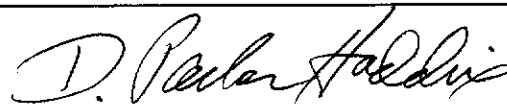
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 4250

SECTION 64-5-1(b), PASSED ON MARCH 10, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: JULY 1, 2000



Authorized Signature

**TITLE 65  
LEGISLATIVE RULE  
HEALTH CARE AUTHORITY**

**SERIES 17  
HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS**

**FILED**  
May 5 10 51 AM '00  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§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. --

1.4. Effective Date. --

**§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" means:

2.1.a. Any private office practice of one or more health professionals licensed, authorized, or organized pursuant to Chapter 30 of the West Virginia Code which offers laboratory or imaging services and in which the total cost of all the equipment required to provide these services exceeds \$2,000,000; In determining whether the total cost of equipment exceeds \$2,000,000, the cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included; If the equipment is acquired for less than fair market value, the term "cost" includes fair market value; The term "cost" also includes a series of expenditures which exceeds \$2,000,000 if the State agency determines that the sum total constitutes a single expenditure subject to review under the provisions of the Health Care Authority's legislative rule, "Certificate of Need," 65 CSR 7, subdivision 3.6.a., 3.6.b., and 3.6.c.;

2.1.b. Any facility owned or operated by one or more health professionals licensed, authorized, or organized pursuant to Chapter 30 of the West Virginia Code which offers laboratory or imaging services in a setting that is not ancillary to and functionally integrated with the private office practice of the health professionals, regardless of the cost associated with the proposal;

2.1.c. Any facility owned or operated by one or more health professionals licensed, authorized, or organized pursuant to Chapter 30 of the West Virginia Code which offers laboratory or imaging services to patients that are not examined and evaluated in the same manner as any other patient of the private office practice of licensed health professionals, regardless of the cost associated with the proposal; or

2.1.d. Any facility owned or operated by one or more health professionals licensed, authorized, or organized pursuant to Chapter 30 of the West Virginia Code which offers laboratory or imaging services to patients, and which facility is either licensed by the Office of Health Facility Licensure and Certification of the Department of Health and Human Resources, or accredited by the Joint Commission for the Accreditation of Healthcare Organizations, regardless of the cost associated with the proposal; provided however, that certification of a facility for any reason under Title 42 of the United States Code, including but not limited to certification of a facility as a rural health clinic under the Medicare or Medicaid programs shall not result in a facility being classified as a diagnostic center.

2.2. "State agency" means the West Virginia Health Care 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 Health Care Authority's legislative rule, "Certificate of Need," 65 CSR 7.

3.2. If a health service, major medical equipment and/or facility is one set forth in subsection 3.3 of this rule, 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 diagnostic centers as set forth in subdivision 3.3.i of this rule.

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 may not be altered except by amendment to this legislative rule.

3.3.a. End-stage renal dialysis stations and home training.

3.3.b. Lithotripsy.

3.3.c. Radiation therapy.

3.3.d. Magnetic resonance imaging (MRI).

3.3.e. Proton emission tomography (PET).

3.3.f. Cardiac catheterization.

3.3.g. Birthing centers.

3.3.h. Ambulatory surgical facilities or ambulatory surgical centers.

3.3.i. 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 the Health Care Authority's legislative rule, "Certificate of Need," 65 CSR 7.