

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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FILED
1991 AUG -9 PM 3:53
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Health Care Cost Review Authority TITLE NUMBER: 65

CITE AUTHORITY W. Va. Code, §16-2D-4(a), 8

AMENDMENT TO AN EXISTING RULE: YES NO

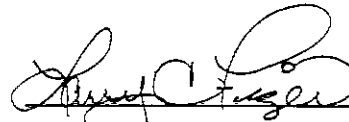
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 17

TITLE OF RULE BEING AMENDED: Health Services Offered By Health
Professionals

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



LARRY C. FIZER
Chairman

3.70

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Health Services Offered By Health Professionals

Type of Rule: Legislative Interpretive Procedural

Agency Health Care Cost Review Authority Address 100 Dee Dr., Suite 201
Charleston, WV 25311

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates.

The agency estimates no cost associated with the implementation of this rule.

3. Objectives of these rules:

To require certificate of need review for certain health services, equipment and/or facilities offered, acquired or developed by health professionals as required by W.Va. §16-2D-4(a)(1).

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

Health professionals subject to review must pay the applicable fee for certificate of need review as required by 65 CSR 10.

C. Economic Impact on Citizens/Public at Large.

The public should benefit from the prevention of unnecessary and duplicative health services which escalate the cost of health care.

Date June 24, 1991

Signature of Agency Head or Authorized Representative



Larry C. Fizer, Chairman

DATE: August 9, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Health Care Cost Review Authority

LEGISLATIVE RULE TITLE: Health Services Offered By Health Professionals

1. Authorizing statute(s) citation W. Va. Code §16-2D-4(a), 8

2. a. Date filed in State Register with Notice of Hearing:

June 24, 1991

b. What other notice, including advertising, did you give of the hearing?

HCCRA newsletter (circulation - approximately 1,000 -

including providers, payors and other interested persons)

c. Date of hearing (s): July 25, 1991

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X

No comments received _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 9, 1991

f. Name and phone number of agency person to contact for additional information:

Marianne K. Stonestreet

General Counsel

343-3701

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

FILED

1991 AUG -9 PM 3:53

TITLE 65
WEST VIRGINIA LEGISLATIVE RULES
HEALTH CARE COST REVIEW AUTHORITY

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 17

Title: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

§ 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.

1.3. Filing Date - _____.

1.4. Effective Date - _____.

~~§ 65-17-2~~ Introduction

~~This legislative rule implements certain provisions of Enrolled House Bill 4230 which was passed by the Legislature on March 10, 1990, and became effective ninety (90) days from passage. This bill amended W. Va. Code, § 16-~~

HCCRA
Leg. Rule, 2D
Series 17, Sec. 2

~~2D 2(b), (c) and § 16-2D 4(a)(1) by adding language which requires certificate of need review of the acquisition, offering or development of certain health services by health professionals. This bill authorizes the state agency to adopt rules to implement this requirement.~~

§ 65-17-~~32~~ 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.

32.1. 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 ~~\$750,000.00~~ \$300,000.00. In determining whether the medical equipment costs more than ~~\$750,000.00~~ \$300,000.00, 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.

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

§ 65-17-43 Health Services, Major Medical Equipment and/or Facilities

43.1. 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 43.3 of this rule shall follow the procedures set forth in the legislative rule "Certificate of Need," § 65 CSR 7 (1983).

43.2. If a health service, major medical equipment and/or facility is one of the ~~health services~~ set forth in subsection 43.3, the proposed acquisition, development or offering of that service, equipment and/or facility by a licensed health professional is subject to review.

43.3. The list of health services, major medical equipment and/or facilities subject to review pursuant to section 4(a)(1) of the Act is as follows. This list is all inclusive and shall not be altered except by amendment to this legislative rule. ~~A health service on the list shall hereafter be referred to as a "listed health service."~~

43.3.1. Computerized tomography (CT).

43.3.2 Lithotripsy.

43.3.3. Radiation therapy.

43.3.4. Magnetic resonance imaging (MRI).

43.3.4.5. Proton emission tomography (PET).

43.3.56. Cardiac catheterization.

43.3.67. Birthing centers.

43.3.78. Ambulatory surgical facilities or ambulatory surgical centers.

43.3.89. Diagnostic centers.

4.4. Application Fee

~~The fee to be paid by the licensed health professional(s) upon filing an application shall be the same fee paid by a health care facility for the addition of a health service as specified in W. Va. CSR § 65-10-3.2.10.~~

HCCRA
Leg. Rule, 2D
Series 17, Sec. 4

~~4.5.~~ § 65-17-4 Batching Category

All applications received pursuant to this rule shall be considered by the state agency in the applicable batching category ~~seven (7)~~ as described in ~~W. Va. § CSR 65-7-16.1.~~ § 65 C.S.R. 7. Provided that, there shall be no expenditure minimum requirement for the inclusion of health services, major medical equipment and/or facilities offered, acquired or developed by health professionals, ~~in batching category seven (7).~~



CABELL HUNTINGTON HOSPITAL

July 24, 1991

West Virginia Health Care Cost Review Authority (HCCRA)
100 Dee Drive, Suite 201
Charleston, West Virginia 25311

Dear HCCRA:

This letter is in response to the request for comments on the proposed Legislative Rule for Health Services Offered By Health Professionals.

First, we wish to express support for continuing the effort to "level the playing field" between health professionals and hospitals. The proposed rule should continue to reduce the competitive disadvantages which the certificate of need (CON) process used to place on hospitals but not on health professionals such as delayed market entry and advanced disclosure of intent.

Second, we would like to suggest that consideration be given to making two additions to the proposed rule. These include:

- 1) Adding End Stage Renal Dialysis to the list of reviewable services in Section 3.3; and
- 2) Adding a provision to exempt acquisition of computerized tomography, lithotripsy, and magnetic resonance imaging equipment by health professionals in the context of a mobile shared services arrangement with acute care facilities.

Thank you for providing the opportunity to comment on the proposed Legislative Rule for Health Services Offered By Health Professionals. Should you have any questions regarding these comments, please call.

Sincerely,

C. Keith Biddle, Vice President
Planning and Environmental Services

cab

WV HEALTH CARE COST REVIEW AUTHORITY
MEETING REGISTRATION

Date of Meeting: July 25, 1991, 9:30 am

Public Hearing re: Proposed Amendment to Rule - 'Health Services Offered by Health Professionals'

	Individual's Name:	Name of Organization:	Do you wish to speak? Y or N
1	TERRY FLANNERY	W.D.S., INC.	N
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Gaston Caperton
Governor

Taunja Willis Miller
Secretary

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
HEALTH CARE COST REVIEW AUTHORITY

Larry C. Fizer
Chairman

Board Members
Walter J. Dale
Robert F. Hatfield

M E M O R A N D U M

TO: Legislative Rule-Making Review Committee
FROM: Health Care Cost Review Authority
DATE: August 9, 1991
RE: Summary and Brief of Proposed Amendment to
Legislative Rule Health Services Offered
By Health Professionals; and Statement of
Circumstances Requiring the Amendment

=====

This proposed amendment to 65 C.S.R. 17 brings the rule into conformity with the reduced thresholds for certificate of need review established by Enrolled Committee Substitute for H. B. 2194, effective March 20, 1991. Furthermore, this amendment adds language which clarifies the original intent of the enabling legislation and updates the "batching category" section to conform to the current certificate of need rule, 65 C.S.R. 7.

MKS/jmh



Gaston Caperton
Governor

Larry C. Fizer
Chairman

Taunja Willis Miller
Secretary

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
HEALTH CARE COST REVIEW AUTHORITY

Board Members
Walter J. Dale
Robert F. Hatfield

M E M O R A N D U M

TO: Legislative Rule-Making Review Committee

FROM: Health Care Cost Review Authority

DATE: August 9, 1990

RE: Amendments and Reasons for Amendments to
Proposed Amendment to Legislative Rule:
Health Services Offered By Health
Professionals; and Statement of Circumstances
Requiring the Amendment

=====

Only one written comment was received concerning this rule. Furthermore, no one spoke at the public hearing. The one written comment received was from Cabell Huntington Hospital. The hospital suggests: (1) adding end stage renal dialysis to the list of reviewable services; and (2) adding a provision to exempt acquisition of CT, lithotripsy, and MRI for physicians in the context of a mobile shared services arrangement. Physicians who offer end stage renal dialysis are certified by Medicare as a facility and accordingly, are reviewable under the definition of a health care facility pursuant to the certificate of need law. Accordingly, it is not necessary to add this service to this rule. In regard to allowing the exemption of CT, lithotripsy, and MRI, this is not permitted pursuant to W. Va. Code, §16-2D-4(f). This exemption is limited strictly to two or more acute care facilities. Accordingly, the agency rejects Cabell Huntington Hospital's comments. In conclusion, no additional changes have been made to the proposed amendment to this legislative rule.

MKsjmh

BEFORE THE HEALTH CARE COST REVIEW AUTHORITY

IN RE: TITLE 65
WEST VIRGINIA LEGISLATIVE RULE
SERIES 17

TITLE: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

The following is a transcript of proceedings had before the Health Care Cost Review Authority, 100 Dee Drive, Charleston, Kanawha County, West Virginia, on July 25, 1991, commencing at 9:30 a.m., before Renee Lepley, Certified Court Reporter and Notary Public in and for the State of West Virginia, pursuant to Notice.

APPEARANCES: MARIANNE STONESTREET, Hearing Examiner
ROBERT PARKER, Executive Director
WALTER DALE, Board Member

ORIGINAL

EXAMINER STONESTREET: This is a public hearing on the rule Health Services Offered by Health Professionals.

This was filed with the Office of the Secretary of State on June 24, 1991. The hearing was to be held today at 9:30.

My name is Marianne Stonestreet. I am General Counsel for the Agency. I will note for the record that we have received no written comments and there is no member of the public present, and with that we will conclude the hearing.

(WHEREUPON, the hearing was concluded at 9:32 a.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

I, the undersigned, Renee Lepley,
Certified Court Reporter, do hereby certify that the
foregoing is, to the best of my skill and ability, a
true and accurate transcript of all the testimony
adduced or proceedings had in the aforementioned case,
as set forth in the caption hereof.

Given under my hand this 30th day of
July, 1991.

Renee Lepley

Court Reporter
Notary Public

