

**AUGUST**



**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Monday, August 21, 2000**  
**11 a.m. to Noon**  
**Senate Judiciary Committee Room, W-208**

1. Approval of Minutes - July 10, 2000.
2. Review of Legislative Rules:
  - a. Division Of Health  
*Newborn Hearing Screening, 64CSR24*
  - b. Board of Barbers and Cosmetologists  
*Continuing Competence, 3CSR8*
  - c. Division of Culture  
*Cultural Facilities and Capital Resources Grant Program, 82CSR7*
  - d. Secretary of State  
*Agencies Designated to Provide Voter Registration Services, 153CSR28*
  - e. Division of Motor Vehicles  
*Motor Vehicle Dealers, Wrecker/Dismantlers/Rebuilders, License Services, Automobile Auctions, Vehicle Leasing Companies, Daily Passenger Vehicle Rental Car Businesses, 91CSR6*
  - f. Tax Commissioner  
*Valuation of Percentage of Completion of Improvements and Infrastructure Development in a Recorded Plan or Plat, 110CSR4*
  - g. Tax Commissioner  
*Valuation of Public Utility Property for Ad Valorem Property Tax Purposes, 110CSR1M*
  - h. Tax Commissioner  
*Cigarette Excise Tax, 110CSR17*
3. Other Business

Monday, August 21, 2000

11:00 a.m. - Noon

Legislative Rule-Making Review  
Committee  
(Code §29A-3-10)

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Bob" Kiss  
ex officio nonvoting member

**Senate**

**House**

Ross, Chairman  
Anderson, Vice Chairman  
Minard  
Snyder  
Unger  
Minear

Hunt, Chairman  
Linch, Vice Chairman  
Compton  
Jenkins  
Faircloth  
Riggs

The meeting was called to order by Mr. Ross, Co-Chairman.

The minutes of the July 10, 2000, meeting were approved.

Debra Graham, Committee Counsel, explained that the rule proposed by the *Division of Health-Newborn Hearing Screening, 64CSR24*, had been laid over from the previous meeting. She explained the modifications proposed by the Division.

Mr. Jenkins moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained that the rule proposed by the *Board of Barbers and Cosmetologists-Continuing Competence, 3CSR8*, had been laid over from the previous meeting. She and Kelly Hodgson, President of the Board, addressed the Committee and responded to questions. Ms. Graham reminded the Committee that Mr. Minard had a motion to modify the proposed rule by reducing the number of continuing education hours from 16 hours every two years to 8 hours every two years pending from the previous meeting. After further discussion, Mr. Minard asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Minard moved to amend the proposed rule by reducing the number of continuing education hours from 16 hours every two years to 8 hours every two years. The motion was adopted.

Mr. Riggs moved to amend the proposed rule by exempting barbers from continuing education requirements. The motions was rejected.

Mr. Unger moved that Counsel draft a bill addressing the Committee's concerns regarding continuing education. After further discussion, Mr. Unger asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Unger moved that staff schedule a public hearing on the proposed rule during the September Interims on Sunday evening, if possible. The motion was adopted.

Mr. Anderson moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

Rita Pauley, Associate Counsel reviewed her abstract on the rule proposed by the *Division of Culture-Cultural Facilities and Capital Resources Grant Program, 82CSR7*, and stated that the Division has agreed to technical modifications.

Mr. Minard moved that the proposed rule be approved as modified. The motion was adopted.

The meeting was adjourned.

□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Cultural Facilities and Capital Resources Grant Program

Type of Rule:  Legislative     Interpretive     Procedural

Agency: Division of Culture and History, Richard H. Ressmeyer, Director of Arts

Address: 1900 Kanawha Blvd., East  
Charleston WV 25305-0300

Phone: 304 558-0220, ext. 721

FAX: 304 558-2779

e-mail: richard.ressmeyer@wvculture.org

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$67,400		\$67,400	\$67,400	\$67,400
<b>PERSONAL SERVICES</b>	\$52,400		\$47,400	\$52,400	\$52,400
<b>CURRENT EXPENSE</b>	\$15,000		\$15,000	\$15,000	\$15,000
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

2. Explanation of Above Estimates:

This is new grant program of the West Virginia Commission on the Arts. West Virginia Video Lottery proceeds will fund grants through a competitive process for acquisition, construction, renovation, and durable equipment for arts organizations. Federal grants will provide 75% of personal service costs.

3. Objectives of These Rules:

This legislative rule governs all applications to the Cultural Facilities and Capital Resources Grant Program.

Rule Title: Cultural Facilities and Capital Resources Grant Program

4. Explanation of Overall Economic Impact of Proposed Rule:

- A. Economic Impact on State Government:  
Improvements to the capacity of arts organizations to present arts experiences to the people of West Virginia will generate employment, provide for the purchase of intra-state goods and services, and will expand opportunities for Cultural Tourism to attract visitors from other states.
- B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: West Virginia Citizens participate in the arts in greater numbers each year. The need to have safe, efficient physical plant facilities in which to present quality arts programs has been a goal of many arts organizations across the state. Music, theatre, museums, dance programs will benefit communities.
- C. Economic Impact on Citizens/Public at Large.  
Programs showcasing West Virginia culture and the arts by West Virginia artists and art organizations stimulate pride in our state's accomplishments and contributes to economic development.

Date: \_\_\_\_\_

Signature of Agency Head or Authorized Representative:

\_\_\_\_\_

**64CSR24**

**Title 64  
Legislative Rules  
Division of Health**

**Series 24  
Newborn Hearing Screening**

**§16-24-1. General.**

1.1. Scope. – This rule establishes a reasonable fee schedule, a cost-effective screening protocol, and reporting and referral requirements for the screening of newborn infants for hearing impairments, and becomes effective on July 1, 2001. This rule should be read in conjunction with W.Va. Code §16-22A-1 et seq. The W.Va. Code is available in public libraries and on the Legislature's webpage, <http://www.legis.state.wv.us/>.

1.2. Authority. – WV Code §16-22A-2.

1.3. Filing Date. –

1.4. Effective Date. –

**§16-24-2. Application and Enforcement.**

2.1. Application. – This rule applies to all infants born in West Virginia and to the health care providers caring for infants at birth.

2.2. Enforcement. – This rule is enforced by the director of the division of health.

**§16-24-3. Definitions.**

3.1. ABR (Auditory Brainstem Response). - Newborn hearing screening equipment that provides information about the auditory pathway up to the brainstem.

3.2. Advisory Committee. – The West Virginia Hearing Impairment Testing Advisory Committee created in W.Va. Code §16-22A-4 to advise the director regarding the protocol, validity, monitoring and cost of newborn hearing screening procedures required under W.Va. Code §16-22A-1 et seq.

3.3. Birth Score Developmental Risk Screen. - Medical assessment conducted immediately after birth to identify newborns at greatest risk for poor health or infant mortality within the first year of life, under the provisions of W.Va. Code §16-22B-1 et seq.

3.4. Director. – The director of the division of health or his or her lawful designee.

3.5. Division. - The division of health.

3.6. DRG (Diagnosis Related Group). - The payment code incorporating a group of inpatient hospital charges or costs.

3.7. Health Care Facility. - Any licensed medical facility that offers birthing services.

3.8. Health Care Provider. – A physician or licensed midwife present during or immediately after delivery.

3.9. Primary Care Provider. - The physician, physician's assistant, nurse, nurse practitioner or other licensed medical professional responsible for the infant's health services after discharge from the health care facility.

3.10. OAE (Otoacoustic Emissions Test). - A screen that provides data about hearing distortion to the cochlea.

#### **§16-24-4. When Screening is Required.**

4.1. W.Va. Code §16-22A-1 et seq. requires that all infants born in a licensed health care facility be screened for hearing impairments except when there is no third-party payor for the screening and the parents refuse to have the screening performed, as in W.Va. Code §16-22A-3(c).

4.2. When the birth takes place in a licensed health care facility and there is a third-party payor, the health care provider present at the birth shall immediately perform or cause to be performed screening for hearing impairments.

4.3. When an infant is born in a nonlicensed facility, including a home, the health care provider shall inform the parents of the need to obtain the screening within the first month of the infant's life.

#### **§16-24-5. Screening Protocol.**

5.1. The health care provider shall perform, or cause to be performed, newborn hearing screening in both ears shortly after birth, using either the ABR and/or OAE screening equipment, following the equipment manufacturer's guidelines.

5.2. The screening shall be performed by trained personnel, according to the American Academy of Pediatrics (AAP) standards.



5.3. The director, with concurrence of the advisory committee, may update or modify the screening procedures according to screening protocol, technology and current national standard.

5.4. If the health care provider is unable to screen the infant before discharge, the primary care provider shall be responsible for referring the infant for a non-hospital-administered hearing screening test.

5.5. If the infant does not pass the initial screening test, the health care provider shall perform a second screening test prior to hospital discharge.

#### **§16-24-6. Screening Fee Schedule.**

6.1. All licensed health care facilities shall charge a fee for the initial newborn hearing screening that will be applied to all payors at a rate not to exceed the rate established by the Medicaid DRG process.

6.2. For infants born in a nonlicensed health care facility, including a home, under subsection 4.3., a health care provider shall charge a fee for an outpatient newborn hearing screen at a rate not to exceed the rate established by Medicaid.

6.3. The fee for newborn hearing screening may be reviewed annually.

#### **§16-24-7. Screening Reporting and Referral.**

7.1. The health care provider shall record the hearing screening results in the infant's medical record and on the Birth Score Developmental Risk Screen.

7.2. The health care provider shall report all screening results to the parents, legal guardian, and primary care provider prior to discharge.

7.3. When an infant is born in a non-licensed facility, including a home, see subsection 4.3.

7.4. All birthing facilities shall be responsible for reporting screening results. Hard copy data on in-patient screening results shall be sent to the Birth Score Office, West Virginia University Department of Pediatrics, P.O. Box 9214, Morgantown, WV 26506-9214.

7.5. If an infant fails the initial and second screening test in one or both ears, the health care provider shall inform the parents, legal guardian, and primary care provider.

7.6. The primary care provider shall arrange for diagnostic testing with the local audiological testing facility.

**§16-24-8. Confidentiality.**

8.1. Any person who obtains confidential information while implementing W.Va. Code §16-22A-1 et seq. may disclose it only to reporting sources, persons demonstrating a need that is essential to health related research or care of the infant, or as required by law.

8.2. Any person who obtains confidential information while implementing W.Va. Code §16-22A-1 et seq. shall provide a written statement of confidentiality stating that he or she fully understands the privacy of the information and will maintain it.

**§16-24-9. Penalties.**

9.1. Any person who violates the provisions of W.Va. Code §16-22A-1 et seq. or this rule is subject to the penalties provided in W.Va. Code §16-1-18.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 8/20/00

TIME: 11:50

NAME

Present Absent Yeas Nays

HOUSE

Kiss, Robert, Speaker	_____		
Hunt, Mark, Co-Chair	_____		✓
Linch, Larry, Vice-Chair	_____		✓
Compton, Mary Pearl	_____		✓
Faircloth, Larry V.	_____		✓
Jenkins, Evan	_____		
Riggs, Dale	_____		✓

SENATE

Tomblin, Earl Ray, President	_____		
Ross, Michael, Co-Chair	_____		✓
Anderson, Leonard, Vice-Chair	_____		✓
Minard, Joseph	_____		✓
Minear, Sarah	_____	✓	
Snyder, Herb	_____		✓
Unger, John	_____		✓

TOTAL

RE: Motion to approve Barber's & Co Cosmetologists  
as modify and amend

**AUGUST INTERIM SCHEDULE**  
**Legislative Interim Meetings**  
**August 20, 21 and 22, 2000**

Monday, August 21, 2000

11:00 - 12:00 Noon

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

Senate

Ross, Chair	<input checked="" type="checkbox"/>
Anderson, Vice Chair	<input checked="" type="checkbox"/>
Minard	<input checked="" type="checkbox"/>
Snyder	<input checked="" type="checkbox"/>
Unger	<input checked="" type="checkbox"/>
Minear	<input checked="" type="checkbox"/>

House

Hunt, Chair	<input checked="" type="checkbox"/>
Linch, Vice Chair	<input checked="" type="checkbox"/>
Compton	<input checked="" type="checkbox"/>
Jenkins	<input checked="" type="checkbox"/>
Faircloth	<input checked="" type="checkbox"/>
Riggs	<input checked="" type="checkbox"/>

I certify that the attendance as noted above  
is correct.

  
\_\_\_\_\_  
Staff Person

Terri Anderson

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*modified* c. Division of Culture

Cultural Facilities and Capital Resources Grant Program,  
82CSR7

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Agencies Designated to Provide Voter Registration Services,  
153CSR28

e. Division of Motor Vehicles

Motor Vehicle Dealers, Wrecker/Dismantlers/Rebuilders,  
License Services, Automobile Auctions, Vehicle Leasing  
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91CSR6

f. Tax Commissioner

Valuation of Percentage of Completion of Improvements and  
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Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

Senate

House

Ross, Chair ✓  
Anderson, Vice Chair ✓  
Minard ✓  
Snyder ✓  
Unger ✓  
Miner ✓

Hunt, Chair ✓  
Linch, Vice Chair ✓  
Compton ✓  
Jenkins ✓  
Faircloth ✓  
Riggs ✓

Minutes July 10, 2000 approved

Explained mod

Jenkins

Approve as mod

Barbers

Minards  
motion  
pending

Reduce # of hrs req'd to 8/yr<sup>2</sup> (modify)  
Adopted  
w/draw

Minard

Amend  
Reduce from 16 to 8 hrs every 2 yrs  
adopted

Riggs

Amend to remove req's for Barbers

Rejected

Anderson

Bottom of agenda adopted

Unger

Draft legislation addressing  
w/draw

Unger

Draft leg. — schedule public hearing next mo on Sun  
evening if possible

Div. of Culture - Cultural Facilities

~~to~~ Rita explained

Appraise w/tech mod

Mind  
adopted