

DECEMBER 10 AM.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, December 10, 2001
10:00 a.m. to Noon
Senate Finance Committee Room, M-451

1. Approval of Minutes - November 12 and 13, 2001
2. Review of Legislative Rules:
 - a. Division of Labor
West Virginia Manufactured Housing Construction and Safety Standards Board, 42CSR19
 - b. West Virginia Board of Examiners for Speech-Language Pathology and Audiology
Licensure of Speech-Language Pathology and Audiology, 29CSR1
 - c. Department of Administration
Parking, 148CSR6
 - d. Department of Administration
Purchasing - Vendor Debarment, 148CSR9
 - e. Office of the State Auditor
State Purchasing Card Program, 148CSR7
 - f. Division of Labor
Steam Boiler Inspection, 42CSR3
 - g. Board of Veterinary Medicine
Registration of Veterinary Technicians, 26CSR3
 - h. Board of Veterinary Medicine
Standards of Practice, 26CSR4
 - i. Lottery Commission
Limited Video Lottery Rule, 179CSR5
3. Other Business

Monday, December 10, 2001

10:00 a.m. to 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 Absent
Boley
Minear

Mahan, Chairman
Wills, Vice Chairman
Cann
Kominar
Faircloth
Riggs

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

The minutes of the December 12 and 13, 2001, meetings were approved.

Mr. Ross stated that the rule proposed by the *Department of Administration-Purchasing - Vendor Debarment, 148CSR9*, has been moved to the Committee's afternoon agenda.

Mr. Ross stated that representatives from the West Virginia Academy of Ophthalmology were in attendance and would speak before the Committee on the rule proposed by the *Board of Optometry-Expanded Prescriptive Authority, 14CSR2*. Dr. Joe LoCascio and Dr. Steve Powell, members of the West Virginia Academy of Ophthalmology, addressed the Committee.

Debra Graham, Committee Counsel, stated that the rule proposed by the *Division of Labor-West Virginia Manufactured Housing Construction and Safety Standards Board, 42CSR19*, had been moved to the foot of the agenda at the Committee's November 12, 2001, meeting. Ms. Graham; Tim Manchin, a member of the Manufactured Housing Construction and Safety Standards Board; Denise Brown, an Accounting Assistant for the Division of Labor; and Charles Critchfield, a manufactured home dealer, responded to questions from the Committee.

Mr. Cann moved to amend the proposed rule on page 18, subdivision 15.4 by deleting the following proviso: "Provided, however, When the balance of the Recovery Fund reaches a balance of one-million dollars or more, the interest revenues shall be deposited in the Manufactured Housing special revenue account to be used by the division of labor for routing enforcement purposes". The motion was adopted.

Mr. Anderson moved to amend the proposed rule on page 11, subsection 10A.2.(a), paragraph (i) by deleting the word "recommendations" and inserting in lieu thereof the word "requirements". The motion was rejected.

Ms. Mahan moved that the proposed rule be approved as modified and amended. The motion was adopted. Mr. Faircloth voted "No".

Ms. Graham reviewed her abstract on the rule proposed by the *West Virginia Board of Examiners for Speech-Language Pathology and Audiology-Licensure of Speech Language Pathology and Audiology, 29CSR1*. Ms. Graham and Vickie Pullens, a member of the Board, responded to questions from the Committee.

Ms. Mahan moved that the rule be approved as modified. The motion was adopted.

Ms. Graham explained that the rule proposed by the *Department of Administration-Parking, 14BCSR6*, had been laid over from the Committee's November 13, 2001, meeting. Greg Burton, Secretary of the Department of Administration, addressed the Committee and responded to questions. Ms. Boley requested that Secretary Burton provide the Committee with information on the breakdown of the bond payments and the source of funding on the parking garage.

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

Having voted on the prevailing side, Ms. Mahan moved that the Committee reconsider its action whereby the rule proposed by the *West Virginia Board of Examiners for Speech-Language Pathology and Audiology-Licensure of Speech Language Pathology and Audiology, 29CSR1*, was approved as modified. The motion was adopted.

Ms. Graham explained that at the Committee's November 13, 2001, meeting, the Board had asked for an increase in the licensure fee

from the \$150 set forth in the Board's agency approved rule, to \$175. Vickie Pullens, a member of the Board; and Vicki Mathess, Executive Secretary of the Board; responded to questions from the Committee. The Committee rejected the Board's request for an additional increase in the fee.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the *Office of the State Auditor-State Purchasing Card Program, 148CSR7*. Robin Righter, Director of the Purchasing Card Program, responded to questions from the Committee.

Mr. Faircloth moved that the proposed rule be laid over until the Committee's January 2002 meeting. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Labor-Steam Boiler Inspection, 42CSR3*, and stated that the Division has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by *Board of Veterinary Medicine-Registration of Veterinary Technicians, 26CSR3*, and stated that the Board has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion as adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Board of Veterinary Medicine-Standards of Practice, 26CSR4*, and stated that the Board has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the *Lottery Commission-Limited Video Lottery, 179CSR5*, and stated that the Commission has agreed to technical modifications. John Melton, attorney for the Commission, submitted proposed modifications to the Committee and explained that the proposed modifications

submitted by the Commission are necessary for the proposed rule to comply with changes made to the emergency rule.

Ms. Mahan moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

The meeting was adjourned.

DECEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
December 9, 10 and 11, 2001

Monday, December 10, 2001

10:00 - 12:00 Noon

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

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

Ross, Chair ✓
Anderson, Vice Chair ✓
Minard ✓
Snyder ✓
Boley ✓
Minear ✓

House

Mahan, Chair ✓
Wills, Vice Chair ✓
Cann ✓
Kominar ✓
Faircloth ✓
Riggs ✓

I certify that the attendance as noted above is correct.



Staff Person

Terri Anderson

Monday, December 10, 2001

10:00 - 12:00 Noon

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

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

17 left

<u>Senate</u>	
Ross, Chair	✓
Anderson, Vice Chair	✓
Minard	✓
Snyder	
Boley	✓
Minear	✓

<u>House</u>	
Mahan, Chair	✓
Wills, Vice Chair	✓
Cann	✓
Kominar	✓
Faircloth	✓
Riggs	✓

optometry → Minutes approved.
 Dr. Joe LoCasio (?) addressed the C
 Dr. Steve Powell " " "

Div. of Labor - Manuf Housing Constr.

Mahan adopted Approve as mod. Amend ✓
 Cann adopted modify to remove use of funds Not accepted
 Cann adopted Amend
 Tim Marchin^{rd number} addressed the C regarding the amendment
 Denise Brown - Fiscal Off. responded to questions
 Anderson^{Amend} Rejected 10A.2.(6)
 Charles Chitfield (?), dealer
 Faircloth asked "No"

Speech - Lang

Mahan adopted Approve as mod

Dept of Admin - Parking

I explained positive

Greg Burton, Sec DOT responded to a's

Boley wants breakdown on bond payments & source of funding

Anderson Foot of agenda

Speech

Mahan adopted Reconsider action

Mahan adopted Approve as read

State Auditor - Purchasing Card

Robin Ryder,

Farrelth adopted Talk to Gary Slater & Lay over

Labu - Steam Boiler

Mahan adopted Approved as read

Veterinary Medicine - Vet Tech

Mahan adopted Approve as read

16 Vet med - Stats of Practice

~~Emergency rule~~ - Lottery

John Melton explained proposed modifications to rule to comply w/ changes to emergency rule

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Senate Finance Committee Room, M-451

1. Approval of Minutes - November 12 and 13, 2001
2. Review of Legislative Rules:

Approved as
modified and
amended

- a. ~~Division of Labor~~
~~West Virginia Manufactured Housing Construction and Safety Standards Board, 42CSR19~~
 - Foot of Agenda November 12
 - Laid Over October 22
 - Technical Modifications

Approved
as modified

- b. ~~West Virginia Board of Examiners for Speech-Language Pathology, and Audiology~~
~~Licensure of Speech-Language Pathology and Audiology, 29CSR1~~
 - Laid Over November 13
 - Filed Late
 - Technical Modifications

Foot of
agenda

- c. Department of Administration
Parking, 148CSR6
 - Laid Over
 - Contact Secretary Burton for December 558-4331
 - Technical Modifications

Afternoon
agenda

- d. Department of Administration
Purchasing - Vendor Debarment, 148CSR9
 - Laid Over November 13
 - Technical Modifications

aid over re.
til January

Office of the State Auditor
State Purchasing Card Program, 148CSR7

- Filed Late
- NO Technical Modifications

Approved ✓
as modified

Division of Labor
Steam Boiler Inspection, 42CSR3

- Filed Late
- Technical Modifications

Approved as
modified

Board of Veterinary Medicine
Registration of Veterinary Technicians, 26CSR3

- Filed Late
- Technical Modifications

Approved ✓
as modified

Board of Veterinary Medicine
Standard of Practice, 26CSR4

- Filed Late
- Technical Modifications

Afternoon
agenda

Lottery Commission
Limited Video Lottery Rule, 179CSR5

- Technical Modifications

3. Other Business

Senator Anderson Moves To Amend Legislative Rule Title No. 42 - WV Manufactured Housing Construction and Safety Standards Board as follows:

Page 11

S42-19-10A. Consumer Manuals; Installation.

10A.2.(a) All manufactured homes installed in the state shall be installed:

- (i) in accordance with the home manufacturer's (delete recommendations) add: requirements contained in or accompanying the consumer manual required by this section and 24 CFR Part 3282;

Therefore the new language should read:

- (i) in accordance with the home manufacturer's requirements contained in or accompanying the consumer manual required by this section and 24 CFR Part 3282;

Explanation:

This amendment is to clarify the installation manual as to what is required as part of the installation of a manufactured home.

9.7. Each licensed dealer and/or distributor shall report the information outlined in subsection 9.6 of this rule to the Board on a quarterly basis, covering the periods July 1 to September 30, October 1 to December 31, January 1 to March 31, and April 1 to June 30. These reports are due no later than October 31, January 31, April 30, and July 31, respectively.

9.8. Each licensed contractor shall maintain records of the following for each manufactured home which it transports and/or installs in the state:

- (a) the information contained on the HUD data plate;
- (b) whether the manufactured home contains a HUD label;
- (c) the manner of transport and/or installation of the manufactured home;
- (d) whether the manufactured home was damaged in any way during transport and/or installation, and the extent of the damage;
- (e) whether any alterations to the manufactured home were made by the contractor, including any repairs; and
- (f) the name and address of the purchaser or other person to whom the manufactured home was transported and/or installed.

9.9. Each licensed contractor shall report the information outlined in subsection 9.8 of this rule to the Board on a quarterly basis, covering the periods July 1 to September 30, October 1 to December 31, January 1 to March 31, and April 1 to June 30. These reports are due no later than October 31, January 31, April 30, and July 31, respectively.

9.10. Nothing in this rule shall be construed to excuse or exempt any manufacturer, dealer, distributor, or contractor from complying with any recordkeeping or reporting requirements mandated by the federal regulations.

~~10A.19-10A. Consumer Manual Installation~~

10A.1. Each purchaser of a new manufactured home in the state shall be provided, by the seller, with a HUD-approved consumer manual applicable to the manufactured home purchased. No manufacturer, dealer, distributor, or contractor may interfere with the distribution of a HUD-approved consumer manual.

~~10A.22(a). Acceptable Installation Methods~~

~~(i) in accordance with the manufacturer's recommendations published in the manufacturer's consumer manual, published by the manufacturer, or~~

(ii) in accordance with a competent design certified in writing by a registered professional engineer and/or architect prior to installation;

(iii) consistent with the recommendations published by the American National Standards Institute, A225.1 Installation Standard for Manufactured Homes; or

(iv) for used homes only, any generally accepted commercial method submitted to, reviewed and approved by the Board.

(b) If the dealer contracted with the purchaser to install the manufactured home, the dealer must maintain in his or her files a written record of which method of installation was followed. If the

**Title 14 Legislative Rule: WV Board of Examiners in Optometry
Series 2, Rules for Expanded Prescriptive Authority**

**MEDICAL GROUPS IN SUPPORT OF THE
AMENDED RULE 14-2**

- 1. West Virginia Board of Medicine**
- 2. West Virginia Academy of Ophthalmology**
- 3. West Virginia School of Osteopathic Medicine**
- 4. West Virginia University School of Medicine**
- 5. West Virginia University Department of Ophthalmology**
- 6. West Virginia American Academy of Family Physicians**
- 7. West Virginia State Medical Association**
- 8. West Virginia University Residents in Training in
Ophthalmology**
- 9. Marshall University School of Medicine**
- 10. American Academy of Family Physicians**
- 11. WV Association of Physician Assistants**
- 12. American Medical Association**
- 13. American Academy of Ophthalmology**
- 14. PEIA**

December 2, 2001

12-10-2001

Presented by WVSMA, WVAO, WVAAFP

Accepting Medicine's amended rule would:

1. From a Legislative perspective:

- Respect the process and honor the understanding of all parties in the 2001 Legislative session (Government Organization Committee in the House and Health Committee in the Senate)
- Clean up the Rule as was intended from the beginning
- Not eliminate any class of drug that Optometry currently uses
- Removes some of the repetitive language
- Complete the rule changes and not have to address this again next year

2. From Optometry's perspective:

- Not remove any class of drugs
- Permit Optometrists to follow the same standard of care as Eye MDs when treating the vast majority of patients that require these medications
- Not interfere with Optometry's clinical decisions to use any of the drug classes in the formulary
- Limit the liability and patients' side effects of long term oral drug use
- Expands the formulary to include Nutritional supplements

3. From Medicines' perspective:

- Addresses most (but not all) of the safety concerns raised by the Medical Organizations, Boards of Medicine and Pharmacy, and the 3 Medical Schools and PEIA
- Respects the input of the various Boards and Medical organizations and the Legislative process
- Limits the cost implications to PEIA and other state payers

4. From potential patients' perspective:

- Limits (but does not eliminate) health risks and side effects related to these medications
- Would result in a referral to a physician if there was failure to respond to a time limited treatment
- Adds protections not just for eye diseases, but also to the complex whole body effects of systemic drugs

12-10-2001

Presented by: WVSMA, WVAO, WVAAFP

Rule 14-2 The Process and Conclusions:

- Information regarding Optometry's proposal was provided to multiple Medical Organizations regarding the proposed Rule 14-2. Many comments and concerns were expressed. We have tried to evaluate these various comments and put them into a modified rule for your consideration. (SEE THE LIST OF ORGANIZATIONS)
- Various points of view were obtained from the Bd. of Medicine, Bd. of Pharmacy, PEIA, the Three Medical Schools, and multiple Medical Organizations. While there were some minor variances in position, nearly unanimous opposition exists to all of the new drug categories, except for Nutritional Supplements. (The Board of Pharmacy did not oppose the use of Hyperosmotics).
- Additional concerns were raised over the lack of limits and definition of use on a number of the drugs currently in the law and rule. The limits of the three classes of drugs in the law were never defined in the rule.
- There were three drug classes in the law, which are not in the rule. These classes need to be placed in the Rule and specific limits need to be placed based on patient safety (PEIA also raised questions of cost in their comments).
- Additional language for antihistamines, antibiotics, CAIs and NSAID drugs has been placed in the amended Rule presented by Medicine.
- Removal of repetitive language has been presented.
- Everything in Medicine's recommended Rule 14-2 respects the current Rule and Law and does not eliminate any of the Drug Classes. The rule simply better defines the limits of the drugs that are to be used, respecting Optometry's right to prescribe, and respecting the patient safety concerns that have been raised.
- Nothing in the proposed rule interferes with the Optometrists' ability to use the Drug classes listed. The rule would permit treatment using all of the current (in the rule and the law) oral drug classes by optometrists, but would limit the duration of treatment with these drugs and address the patient protection concerns raised by all of medicine.
- The rule would not permit use of Hyperosmotics as all of the Medical organizations (except the Bd. of Pharmacy) raised serious clinical concerns about optometrists using this class of drug in the elderly, those with heart disease and those with diabetes. WV leads the nation with the oldest population and one of the highest (if not the highest) incidence of diabetes and heart disease. Prior to using this class of drug, a history and physical examination by a physician is mandatory to minimize risk of Congestive Heart Failure, Pulmonary edema, Diabetic coma, Electrolyte imbalance and Fluid overload.

Please accept our best faith effort in working through the many issues raised by members of the Rule-Making Committee and the Medical Organizations.

**Title 14 Legislative Rule: WV Board of Examiners in Optometry
Series 2, Rules for Expanded Prescriptive Authority**

**MEDICAL GROUPS IN SUPPORT OF THE
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December 2, 2001

PROPOSED AMENDMENT TO LIMITED VIDEO LOTTERY RULES §53.1

In order to be consistent with WV Code §29-22B-1202(b) which provides an exception from the 150 foot and same roof restrictions for a “premises” which was licensed by the ABCC on or before January 1, 2001, the rule should be amended to read as follows:

53.21. If an applicant applies for a limited video lottery license for a specific premises which was a licensed ABCC location under possessed a valid and continuing private club liquor license or a class “A” nonintoxicating beer license on or before January 1, 2001, for that specific premise, and if that an ABCC license for that premises were is still in effect at the time of the filing of the application for a limited video lottery license for the same premise, under the same ownership as the ABCC license, then so long as the applicant did not promise to conduct limited video lottery in a structure where another limited video lottery licenses was already licensed to conduct video lottery games, as disallowed by section 53.1 of this rule, the license would not be denied based solely on the proposed establishment being closer than 150 feet to an existing limited video lottery retail licensee or in a structure where another limited video lottery licensee was already licensed to conduct video lottery games so long as the initial application for a limited video lottery retailer license for the premises was applied for on or before July 1, 2002.

This amendment will assure that a “premises” licensed by ABCC on January 1, 2001 will be eligible for the exception from the 150 foot and same roof rules, even though the licensee should die, go out of business, or transfer ownership prior to the application for the video lottery license for that premises, consistent with the statute.

The policy behind the 150 ft and same roof rules is preserved—that is the South Carolina multiple rooms in a single building threat is effectively prevented, while existing configurations of many bars on a single street or in a single large structure are not prevented.

West Virginia Board of Examiners for Speech-Language Pathology and Audiology

Board Members

Michael J. Zagarella, M.A., CCC-A, Chairman
Gary Vandevander, M.S., CCC-A
Cinda Shaver, M.S., CCC-SLP, Secretary
Vickie Pullins, M.A., CCC-SLP
Thelma Gibson, Lay Member

Vicki Mathess, Administrative Services Manager

November 30, 2001

Honorable Mike Ross
Box 219 Coalton,
West Virginia 26257

Dear Senator Ross:

I have been a member of the WVBESLPA since 1996 and have been President of the board for the past 2 years. I work as a private practice audiologist in Martinsburg, WV.

The question of exemptions to licensure has been raised many times in professional circles. It is my understanding that when the law was being written representatives of the State Department of Education and Ear, Nose & Throat physicians informed the committee that if their people were not granted exemptions the law "would never see the light of day". The licensure committee decided that rather than have a large battle over licensure and risk ending up with no law at all, they would allow the exemptions and attempt to overturn the rule later.

This issue is particularly unsettling to me because the only purpose of licensure is to protect the consumers, and due to these exemptions the greatest number of consumers of speech and hearing services remain unprotected by the law.

According to data obtained from the WV Department of Education and the WVBESLPA here are the actual figures:

Speech-Language Pathologists employed by the schools	471
Bachelor's Degree	60 (13%)
Master's Degree	411 (87%)
Currently licensed	178 (38%)
Audiologists employed by the schools	5
Masters Degree	5
Currently licensed	5 (100%)

HC 78 Box 9-A, Troy, West Virginia 26443-9707

Email: wvbeslpa@mail.wvnet.edu

Web Site: www.state.wv.us/wvbeslpa

In-State toll-free 877-462-5460

Phone: 304-462-5460

Fax: 304-462-5482

Honorable Mike Ross
Page 2

From this data I would conclude that an overwhelming majority of SLPs currently employed by the schools are eligible for licensure but do not have it because they are not required to. This exempts them from oversight by the Board and from continuing education requirements in their field of expertise.

The arguments that I have heard against licensing school-based personnel are:

1. It would create undue hardship on some schools because they could not find qualified therapists. Since nearly 90% of the therapists currently in the system are probably qualified for licensure already I hardly see this as a valid argument. In addition, allowing inadequately trained therapists to provide services is not a reasonable solution. Poor service delivery is a reflection on the entire profession. The requirements for licensure do not guarantee the highest quality of professional service available, they are minimal standards that anyone providing service should meet.
2. The Department of Education provides their own credentialing and oversight of all school employees. Nurses, psychologists, occupational therapists and physical therapists all need to be licensed – even those who work in the schools. Since training requirements are similar for speech-language pathologists and audiologists it would seem logical that they too should need to be licensed.

Since I have assumed my position on the WVBESLPA I have been asked dozens of times why public school people do not need to be licensed. I do not have an adequate answer. I can think of no greater legacy to leave this Board with than the fact that this exemption was removed during my tenure on the Board.

Sincerely,



Michael J. Zagarella, MA
President, WVBESLPA

Cc: Senate Finance Committee
Debra Graham, Counsel

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Bob Wise
Governor

November 26, 2001

John C. Musgrave
Director

Debra A. Graham, Counsel
Legislative Rule-Making Review Committee
Building 1, Room MB-49
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Subject: **LIMITED VIDEO LOTTERY RULE, 179CSR5**

Dear Ms. Graham:

I am responding to your letter dated November 15, 2001, along with a marked copy of the West Virginia State Lottery Commission's Proposed Limited Video Lottery Rule, 179 CSR 1. Your analysis on pages 15 and 16 of the document titled Analysis of Proposed Legislative Rules is that our rule is proper and can be considered by the Legislative Rule-Making Review Committee with some technical modifications. You asked me to confirm whether the Lottery will agree to the technical modifications.

The Lottery agrees to the technical modifications.

On behalf of the West Virginia State Lottery Commission, I request that the modifications made to the Amended Emergency Rule for Limited Video Lottery on September 17, 2001 and October 8, 2001 be adopted into the proposed legislative rule. Those changes were either practical operational changes or in one case a change prompted by a change to the Limited Video Lottery Act in one of this year's Extraordinary Sessions. I have attached a summary sheet with all changes made after the filing of the Agency Approved Rule on July 27, 2001.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Musgrave".

John C. Musgrave
Director

Enclosure

Legislative Rule Making

NOV 28 2001

Review Committee

TITLE 179
AGENCY APPROVED RULE
Proposed Committee Amendments
WEST VIRGINIA LOTTERY

SERIES 5
LIMITED VIDEO LOTTERY RULE

NEW DEFINITION:

2.13 “Filed timely personal income tax returns,” only for the purpose of determining whether a person is a resident of the state of West Virginia for purposes of licensing under the Limited Video Lottery Act and for no other purpose whatsoever, means the West Virginia personal income tax return of a person who is required by subdivision 2.35.d of this rule to qualify as a four year resident of West Virginia was either filed or not filed under one of the following circumstances:

2.13.a The returns were filed for each of the four years preceding the filing of the application for licensure and for each year subsequent to licensure by the last day of the calendar or fiscal year in which the return or returns were due including any authorized extension of time;

2.13.b The person was not required to file a West Virginia personal income tax return because the low-income earned income exclusion applies (federal adjusted gross income is \$10,000 or less and earned income is \$10,000 or less). In this case, no West Virginia personal income tax return is required unless the difference between federal adjusted gross income and the amount of earned income excluded exceeds the amount of the allowable personal exemptions; or

2.13.c The person was required to file a federal income tax return for the taxable year, but the person was not required to file a West Virginia personal income tax return for the same taxable year because the person was claimed as a deduction on his or her parent's income tax return for the taxable year.

2.13.c.1 In this case, the personal exemption available to the child is \$500 and not \$2,000; and

2.13.c.2 A child with West Virginia adjusted gross income in excess of \$500 is required to file a West Virginia personal income tax annual return except when the low-income earned income exclusion reduces West Virginia adjusted gross income to \$500 or less.

[Current definitions 2.13 through 2.41 would be renumbered]

CHANGES RESULTING FROM A LAW CHANGE:

6.1.k. The applicant does not hold any other license under W. Va. Code §19-23-1 *et seq.*, pertaining to horse and dog racing and pari-mutuel wagering; ~~the State Lottery Act, W. Va. Code 21-29-22-1 et seq.~~; the Racetrack Video Lottery Act, W. Va. Code §29-22A-1 *et seq.*; the Limited Video Lottery Act, W. Va. Code §29-22B-1 *et seq.*; or W. Va. Code §29-25-1 *et seq.*, pertaining to an authorized limited gaming facility; except that an applicant may also be licensed as a service technician under the Limited Video Lottery Act.

CHANGES REQUESTED BY THE AUDITOR AND PURCHASING DIVISION: BID-OPENING PROCEDURES.

46.2.c. Mailed and courier-delivered bids shall be addressed as follows:

Submit one (1) original bid to:

State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130
Fax: (304) 558-3970

Submit one (1) copy of the bid to:

State Auditor's Office
Bid Observer
State of West Virginia
1900 Kanawha Blvd., East
Bldg. 1, Room W116
Charleston, WV 25305-0230
Fax: (304) 340-5098

46.8.a. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives shall reject any bid for which there is no duplicate, or where the original and copy differ in amount or in any other material way;


46.8.b. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives will next determine whether the original bid sent to the Purchasing Division contains a bid bond equal to 100 percent of the per-terminal bid amount multiplied by the number of video lottery terminal authorizations requested by the bid;

46.8.b.1. If no bond or State Treasurer's receipt is found, the bid shall be rejected; or

46.8.b.2. If the amount of the bond is less than 100 percent of the per-terminal bid amount multiplied by the number of video lottery terminal authorizations requested, the bid shall be rejected;

46.8.c. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives shall next reject any bid as non-responsive if the per terminal bid amount is less than the minimum per-terminal bid amount established by the West Virginia State Lottery Commission prior to the first publication and included in the published notice;

46.8.d. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives shall reduce the number of terminal authorizations requested in the bid if a successful bid would grant to the bidder a total number of video lottery terminals greater than 675



if the bidder is an operator, 10 if the bidder is a retailer that is a fraternal or veterans organization, or 5 if the bidder is a retailer who is not a fraternal or veterans organization with a single licensed retail location. When the bidder is a video lottery retailer who has more than one licensed retail location, the number of video lottery terminal authorizations may not exceed 5 multiplied by the number of retail

12-10-2001

Presented by WVSMA, WVAO, WVAAFP

Accepting Medicine's amended rule would:

1. From a Legislative perspective:

- Respect the process and honor the understanding of all parties in the 2001 Legislative session (Government Organization Committee in the House and Health Committee in the Senate)
- Clean up the Rule as was intended from the beginning
- Not eliminate any class of drug that Optometry currently uses
- Removes some of the repetitive language
- Complete the rule changes and not have to address this again next year

2. From Optometry's perspective:

- Not remove any class of drugs
- Permit Optometrists to follow the same standard of care as Eye MDs when treating the vast majority of patients that require these medications
- Not interfere with Optometry's clinical decisions to use any of the drug classes in the formulary
- Limit the liability and patients' side effects of long term oral drug use
- Expands the formulary to include Nutritional supplements

3. From Medicines' perspective:

- Addresses most (but not all) of the safety concerns raised by the Medical Organizations, Boards of Medicine and Pharmacy, and the 3 Medical Schools and PEIA
- Respects the input of the various Boards and Medical organizations and the Legislative process
- Limits the cost implications to PEIA and other state payers

4. From potential patients' perspective:

- Limits (but does not eliminate) health risks and side effects related to these medications
- Would result in a referral to a physician if there was failure to respond to a time limited treatment
- Adds protections not just for eye diseases, but also to the complex whole body effects of systemic drugs

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, December 10, 2001
4:30 p.m. to 6:30 p.m.
Senate Finance Committee Room, M-451

1. Review of Legislative Rules:
 - a. Lottery Commission
Limited Video Lottery Rule, 179CSR5
 - b. Department of Administration
Parking, 148CSR6
 - c. Department of Administration
Purchasing - Vendor Debarment, 148CSR9
 - d. Board of Optometry
Expanded Prescriptive Authority, 14CSR2
 - e. Insurance Commissioner
Medical Malpractice Loss Experience and Loss Expense Annual Reporting Requirements, 114CSR23
 - f. Insurance Commissioner
Privacy of Consumer Financial and Health Information, 114CSR57
 - g. Insurance Commissioner
External Review of Coverage Denials, 114CSR58
 - h. DEP-Office of Air Quality
Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter, 45CSR8
 - i. DEP-Office of Air Quality
Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9
 - j. DEP-Office of Air Quality
Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61, 45CSR15

- k. **DEP-Office of Air Quality**
Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16
- l. **DEP-Office of Air Quality**
To Prevent and Control Emissions from Commercial and Industrial Solid Waste Incineration Units, 45CSR18
- m. **DEP-Office of Air Quality**
Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34
- n. **DEP-Director's Office**
Awarding of West Virginia Stream Partners Program Grant Rule, 60CSR4

2. **Other Business**

Monday, December 10, 2001

4:30 p.m. to 6:30 p.m.

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

Mahan, Chairman

Anderson, Vice Chairman

Wills, Vice Chairman

Minard

Cann

Snyder

Absent

Kominar

Boley

Faircloth

Minear

Absent

Riggs

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

Debra Graham, Committee Counsel, explained that the rule proposed by the *Lottery Commission-Limited Video Lottery Rule, 179CSR5*, had been laid over from the Committee's morning meeting. John Melton, Attorney for the Lottery Commission, and John Musgrave, Director of the Lottery Commission, responded to questions from the Committee regarding the Commission's proposed modifications.

Ms. Mahan moved that the proposed modifications be approved. The motion was adopted.

Wendell Turner, a Lobbyist for the West Virginia Music and Vending Association, addressed the Committee and distributed proposed modifications to the Committee members.

Mr. Kominar moved that the proposed modifications be approved. The motion was adopted.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted. Mr. Faircloth, Mr. Riggs and Ms. Boley voted "No".

Ms. Graham explained that the rule proposed by the *Department of Administration-Parking, 148CSR6*, had been moved to the foot of

the agenda at the Committee's morning meeting. Greg Burton, Secretary of the Department of Administration, addressed the Committee and distributed copies of the information Ms. Boley requested.

Ms. Boley moved to modify the proposed rule on page 2, section 4 by setting the amount to be charged for parking at meters at 50 cents per hour. The motion was adopted.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Department of Administration-Purchasing - Vendor Debarment, 148CSR9*, and stated that the Department has agreed to technical modifications. Ms. Graham and David Tincher, Director of the Purchasing Division, responded to questions from the Committee.

Ms. Mahan moved that the Committee recommend that the proposed rule be withdrawn. The motion was adopted.

Ms. Graham explained that the rule proposed by the *Board of Optometry-Expanded Prescriptive Authority, 14CSR2*, had not been addressed at the Committee's November 12 meeting.

Ms. Mahan asked unanimous consent to withdraw her motion to amend the proposed rule made during the Committee's October 22, 2001, meeting. There being no objection, the motion was withdrawn.

Dr. Henry Taylor, Commissioner of the Bureau for Public Health; William Douglas, Executive Director of the Board of Pharmacy; Dr. Jack Terry, a Member of the Board of Optometry; and Nancy Tonkin, Executive Director of the West Virginia Academy of Ophthalmology; responded to questions from the Committee.

Ms. Mahan moved to amend the proposed rule on page 3, Section 7 by amending the list of permissible drugs. After further discussion, Ms. Mahan asked unanimous consent to withdraw her motion. There being no objection, the motion was withdrawn.

Mr. Anderson moved to modify the proposed rule by deleting all new drugs proposed in the Board's rule with the exception of nutritional supplements. The motion was adopted.

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

Connie Bowling, Associate Counsel, reviewed her abstract on the rule proposed by the *Insurance Commissioner-Medical Malpractice Loss Experience and Loss Expense Annual Reporting Requirements, 114CSR23*. Ms. Bowling and Mary Jane Pickens, Attorney for the Insurance Commission, responded to questions from the Committee.

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

Ms. Bowling explained the rule proposed by the *Insurance Commissioner-Privacy of Consumer Financial and Health Information, 114CSR57*, and stated that the Commissioner has agreed to technical modifications.

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

Ms. Bowling reviewed her abstract on the rule proposed by the *Insurance Commissioner-External Review of Coverage Denials, 114CSR58*, and stated that the Commissioner has agreed to technical modifications.

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

Joseph Altizer, Associate Counsel, explained that the rules, *Office of Air Quality-NO_x Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides, 45CSR1*, and *No_x Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides from Electric Generating Units 45CSR26*, which were approved as modified at the Committee's November 12, 2001, meeting which establish emission trading credits, but for different types of facilities. The modifications which were approved allowed the cross trading between different types of facilities. Mr. Altizer reported that upon further inquiry by the Office of Air Quality, it was determined that cross trading of credits between the types of facilities regulated by each rule is not authorized under Federal regulations. Mr. Altizer noted that other modifications were made to each rule and that no further action is required by the Committee; however, the modification allowing cross trading of credits will not be contained in the final filed rules.

Mr. Altizer explained the rule proposed by the *DEP-Office of Air Quality-Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter, 45CSR8*.

Mr. Faircloth moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the *DEP-Office of Air Quality-Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9*.

Mr. Faircloth moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer explained the rule proposed by the *DEP-Office of Air Quality-Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61, 45CSR15*.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the *DEP-Office of Air Quality-Standards of Performace for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16*.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer explained the rule proposed by the *DEP-Office of Air Quality-To Prevent and Control Emissions from Commercial and Industrial Solid Waste Incineration Units, 45CSR18*, and stated that the Department has agreed to technical modifications.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *DEP-Office of Air Quality-Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34*, and stated that the Department has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer explained the rule proposed by the *DEP-Director's Office-Awarding of West Virginia Stream Partners Program Grant Rule, 60CSR4*.

Mr. Riggs moved that the proposed rule be approved. The motion was adopted.

The meeting was adjourned.

Monday, December 10, 2001

4:30 - 6:30 p.m.

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

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

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

House

Mahan, Chair ✓
Wills, Vice Chair ✓
Cann ✓
Kominar ✓
Faircloth ✓
Riggs ✓

Lottery - LULR

John Matton responded to q's

Approve as mod

Adopt Lottery Commission mods

Wendell Turner addressed the C. - distributed
proposed modification

Kominar
wendell's mod - adopted

Approved as mod Faircloth & Boley ^{Riggs} "No"

DOA - Parking

\$500,000 from lottery for debt service; Parking fees
to fund to pay for attendants & to purchase property
Greg Burton responded to questions

Del Mahan
Approve as mod. adopted

Boley
Mod to 54 - \$.50 meters - ~~ticket price to~~
5

DOA - Debarment

Mahan
adopted

Request agency withdraw

Optometry - Expanded Prescriptive Authority

Mahan
Mahan

Approve as modified ~~adopted~~

Unanimous consent to withdraw proposed amend

Dr Taylor addressed the C & responded to q's
Laddy Burdette, Bd of Pharmacy responded to q's
from the C.

William Douglas, Exec Dir ^{Bd of Pharmacy} responded to questions
from the C.

Jack Terry addressed the C & responded to q's
from the C.

Mahan

Move to amend §7

Nancy Tonkin responded to questions

Mahan

withdraw amend

Anderson
adopted

As is w/ nutritional supplements (mod)

Ins. C. - Med Mal

Connie explained

Mary Jean Pickens

Ins C responded to qs

Minard
adopted

Approve

Ins C - Privacy

Connie explained

Minard
adopted

Approve as mod

Joe explained two rules from last mo.

Insurance Commission - External

Connie explained

Approve as mod.

Mahan
adopted

DEP - Ambient - Sulfur

Joe explained

Approve

Faircloth
adopted

DEP - Ambient - Carbon

Joe explained

Approve

Faircloth
adopted

DEP - Emission

Approve

Mahan
adopted

DEP - Stds of Perf

Joe explained

Approve

Mahan
adopted

DEP. Emission - Incineration

Joe explained

Approve as mod.

Miner
adopted

DEP - Emission Stats

Not explained

Approve as mod

Fairchild
Lopez

DEP - DRS Off

Approved

Riggs

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, December 10, 2001
4:30 p.m. to 6:30 p.m.
Senate Finance Committee Room, M-451

1. Review of Legislative Rules:

Approved ✓
as modified

Lottery Commission

Limited Video Lottery Rule, 179CSR5

- Laid over on December 10 morning meeting
- Technical Modifications

Approved ✓
as modified

Department of Administration

Parking, 148CSR6

- Moved to foot of agenda December 10 morning meeting
- Laid Over
- Contact Secretary Burton for December 558-4331
- Technical Modifications

Rec'd be ✓
withdrawn

Department of Administration

Purchasing - Vendor Debarment, 148CSR9

- Moved to foot of agenda December 10 morning meeting
- Laid Over November 13
- Technical Modifications

Approved ✓
as modified

Board of Optometry

Expanded Prescriptive Authority, 14CSR2

- No Action; Meeting Adjourned November 12
- Foot of Agenda October 22
- Laid Over September 17
- Technical Modifications

Approved ✓

Insurance Commissioner

Medical Malpractice Loss Experience and Loss Expense Annual Reporting Requirements, 114CSR23

- Technical Modifications

Approved as ~~is~~ modified

~~Insurance Commissioner~~

Privacy of Consumer Financial and Health Information 114CSR57

- Technical Modifications

Approved as ~~is~~ modified

~~Insurance Commissioner~~

External Review of Coverage Denials, 115CSR58

- Technical Modifications

Approved ~~is~~

~~DEP-Office of Air Quality~~

~~Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter, 45CSR8~~

- NO Technical Modifications

Approved ~~is~~

~~DEP-Office of Air Quality~~

~~Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9~~

- NO Technical Modifications

Approved ~~is~~

~~DEP-Office of Air Quality~~

~~Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61, 45CSR15~~

- NO Technical Modifications

Approved ~~is~~

~~DEP-Office of Air Quality~~

~~Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16~~

- NO Technical Modifications

Approved ~~is~~ modified

~~DEP-Office of Air Quality~~

~~To Prevent and Control Emissions from Commercial and Industrial Solid Waste Incineration Units, 45CSR18~~

- Technical Modifications

Approved as ~~is~~ modified

~~DEP-Office of Air Quality~~

~~Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34~~

- NO Technical Modifications

Approved ✓

BEP-Director's Office

Awarding of West Virginia Stream Partners Program Grant Rule,
60CSR4

- NO Technical Modifications

2. Other Business

DECEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
December 9, 10 and 11, 2001

Monday, December 10, 2001

4:30 - 6:30 p.m.

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

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

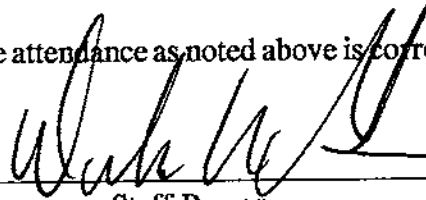
Senate

Ross, Chair ✓
Anderson, Vice Chair ✓
Minard ✓
Snyder ✓
Boley ✓
Minear _____

House

Mahan, Chair ✓
Wills, Vice Chair ✓
Cann ✓
Kominar ✓
Faircloth ✓
Riggs ✓

I certify that the attendance as noted above is correct.



Staff Person

Terri Anderson

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making Review Date 12/10/01 pm
Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.
Kit Francis	P.O. B 1386 CRW 25325	CNA/Western Surety	X
John Melton	P.O. Box 2067 Charleston WV 25327	WV Lottery	
Virgil Helton	P.O. Box 2067 Charleston, WV 25327	WV Lottery	
JOHN MUSGRAVE	" "	WV Lottery	

The Regulation

§179-5-46. The bidding process.

46.1. Bids for issuance of permits shall be obtained by public notice published as a Class II-0 legal advertisement in compliance with the provisions of West Virginia Code §59-3-1 *et seq.*

46.1.a. The commission shall publish the invitation-to-bid notice as a statewide legal advertisement;

46.1.b. The notice shall run once each week for two successive weeks; and

46.1.c. The second publication of the notice shall appear more than 60 days next preceding the final day for submitting a bid.

46.2. Bids for authorizations to own or lease video lottery terminals shall be submitted to the director of the purchasing division, West Virginia department of administration;

46.2.a. Bids delivered or mailed to the director of purchasing shall be in the possession and control of the purchasing division on or before the time and date specified in the class II-O advertisement;

46.2.b. A duplicate bid shall be mailed to the State Auditor's bid observer's office;

46.2.c. Mailed and courier-delivered bids shall be addressed as follows:

Submit one (1) original bid to:

State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130
Fax: (304) 558-3970

Submit one (1) copy of the bid to:

State Auditor's Office
Bid Observer
State of West Virginia
1900 Kanawha Blvd., East
Bldg. 1, Room W116
Charleston, WV 25305-0230
Fax: (304) 340-5098

46.2.d. The outside envelope/package(s) should be clearly marked:

46.2.d.1. Buyer: _____, Director;

46.2.d.2. Req.: Video Lottery Permit Bids;

46.2.d.3. Date: (opening) _____; and

46.2.d.4. Time: (opening) 2:00 p.m.; and

46.2.e. Bids submitted to either office by facsimile shall be rejected; and

46.2.f. Failure of the United States Postal Service or a courier service to make timely delivery of any bid shall not act to validate any bid not in the hands of the Purchasing Division or the State Auditor's Bid Observer's Office by the time and date specified in the class II-O advertisement.

46.3. Each bid shall indicate both the number of video lottery terminals for which the permit is sought and the per-terminal bid for which the permit is sought;

46.4. No bid may be altered or withdrawn after the appointed hour for the opening of the bids;

46.5. Subject to the provisions of subsection 46.6 of this rule, permits shall be awarded to the persons submitting the highest per terminal bids, except:

46.5.a. No person may be authorized to directly or indirectly own or lease more than 675 video lottery terminals;

46.5.b. If a high bidder already holds a permit issued under this section, the bid shall be awarded to that bidder, only to the extent the total number of video lottery terminals the operator is authorized to directly or indirectly own or lease does not exceed 675 terminals; and

46.5.c. If the high bidder is a person who is a license limited video lottery retailer, the number of authorizations awarded to bidder may not exceed the maximum number of video lottery terminals that may located on all premises for which the bidder holds a limited video lottery license.

46.6. No bid shall be considered unless the bond required by section 48 of this rule accompanies the bid or was submitted to the West Virginia state treasurer before the time designated for opening of the bid.

46.7. No bid shall be considered unless the amount of the bid equals or exceeds the minimum bid amount for a video lottery terminal specified by the commission.

46.8. The Auditor's representatives and Purchasing Division officials will open all received bids in the same room and will match bids to each duplicate.

46.8.a. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives shall reject any bid for which there is no duplicate, or where the original and copy differ in amount or in any other material way;

46.8.b. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives will next determine whether the original bid sent to the Purchasing Division contains a bid bond equal to 100 percent of the per-terminal bid amount multiplied by the number of video lottery terminal authorizations requested by the bid;

46.8.b.1. If no bond or State Treasurer's receipt is found, the bid shall be rejected; or

46.8.b.2. If the amount of the bond is less than 100 percent of the per-terminal bid amount multiplied by the number of video lottery terminal authorizations requested, the bid shall be rejected;

46.8.c. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives shall next reject any bid as non-responsive if the per terminal bid amount is less than the minimum per-terminal bid amount established by the West Virginia State Lottery Commission prior to the first publication and included in the published notice;

46.8.d. ~~The Auditor's representatives and Purchasing Division officials~~ Lottery's representatives shall reduce the number of terminal authorizations requested in the bid if a successful bid would grant to the bidder a total number of video lottery terminals greater than 675 if the bidder is an operator, 10 if the bidder is a retailer that is a fraternal or veterans organization, or 5 if the bidder is a retailer who is not a fraternal or veterans organization with a single licensed retail location. When the bidder is a video lottery retailer who has more than one licensed retail location, the number of video lottery terminal authorizations may not exceed 5 multiplied by the number of retail locations for which the bidder holds a limited video lottery retail license;

46.8.e. Whenever there are two or more bids of the same dollar amount and the number of authorizations for which the bids were submitted exceeds the number of authorizations still available to fill the bids, the commission shall award the permit based upon the drawing of lots among the bidders;

46.8.f. Once all bids are opened, those bids that have passed all qualitative checks mentioned above will be arranged in per-terminal amount from highest bid to lowest bid and the results posted by representatives of the Lottery in a spreadsheet or on a marker board. Each listing shall show the following information:

46.8.f.1. Name of the Bidder;

46.8.f.2. Per terminal amount bid in US dollars;

46.8.f.3. Number of terminal authorizations requested; and

46.8.f.4. Number of terminal authorizations remaining after this bid opening is completed; and

46.8.g. All bids for a permit may be rejected by the commission if the commission determines that all the bids are inadequate because they are for less than the minimum bid amount set by the commission. In this event, the commission shall begin anew the bidding process for the permits.

46.9. After the award of a permit, the director of the lottery shall indicate upon the successful bid that it was the successful bid and the number of video lottery terminal authorizations for which a permit is awarded to the bidder;

46.9.a. This number shall be the number of video lottery terminal authorizations for which the bid was submitted, or the remaining number of video lottery terminal authorizations to be awarded when the number of video lottery terminal authorizations remaining is less than the number of terminal authorizations for which the bid was submitted; and

46.9.b. A copy of the bid and the bidder's application for an operator's license or a limited video lottery retailer's license shall be maintained as a public record at the commissions' offices and shall be open to public inspection during its normal business hours.

46.10. Prior to issuing a permit to a successful bidder, the bid price for the number of video lottery terminals authorized in the permit shall be paid to the commission by money order, certified check or cashier's check; and

46.11. All permits shall be signed by the director of the lottery in the name of the state of West Virginia and shall state number of video lottery terminals the permit authorizes the holder to own or lease from licensed manufacturers.

46.12. If the successful bidder fails to pay to the commission the bid price and the operator's annual license fee or the limited video lottery retailer's license fee for the first license year, at the time specified by the commission, the bond provided for in section 47 of this rule shall be forfeited and the bidder shall not be issued the permit.

46.13. In the event of a default, the commission shall then issue the permit to the next highest bidder for video lottery terminal authorizations, or reject all remaining bids, in which case the commission shall start anew the bidding procedure for the remaining number of video lottery terminal authorizations.

46.14. If after a permit is awarded, an operator or limited video lottery retailer surrenders the permit, in whole or in part, or the permit is revoked or canceled by operation of law, the commission may seek bids for video lottery terminals for which authorization was surrendered or revoked, subject to the limitations and requirements of this rule.

46.15. During the fiscal year of the state ending June 30, 2011, the commission shall seek bids for the 10-year period beginning the July 1, 2011 and ending June 30, 2011.

The Law

§29-22B-1107. Bidding process.

(a) Bids for issuance of permits shall be obtained by public notice published as a Class II-0 legal advertisement in compliance with the provisions of article 59-3-1, et seq of this code;

(b) The second publication of the notice shall appear more than sixty days next preceding the final day for submitting bids;

(c) Each bid shall indicate the number of video lottery terminals for which the permit is sought. The bid shall state the amount bid for each video lottery terminal for which the permit is sought;

(d) No bid may be altered or withdrawn after the appointed hour for the opening of the bids;

(e) Subject to the provisions of subsection (f) of this section, permits shall be awarded to the persons submitting the highest per terminal bids, except that no person may be authorized to directly or indirectly own or lease more than seven and one-half percent of the total number of video lottery terminals authorized in section 22B-1101 of this article. If a high bidder already holds a permit issued under this section, the bid shall be awarded to that bidder, but only to the extent the total number of video lottery terminals the operator or limited video lottery retailer is authorized to directly or indirectly own or lease does not exceed seven and one-half percent of the number of video lottery terminals authorized for the entire state specified in section 22B-1101 of this article;

(f) No bid shall be considered unless the bond required by section 22B-1109 of this article accompanies the bid or was submitted to the state treasurer before the time designated for opening of the bid;

(g) No bid shall be considered unless the amount of the bid equals or exceeds the minimum bid amount for a video lottery terminal specified by the commission;

(h) All bids for a permit may be rejected by the commission if the commission determines that the bids are inadequate. In this event, the director shall begin anew the bidding process for the permits;

(i) Whenever there are two or more bids of the same dollar amount and the number of authorizations for which the bids were submitted exceeds the number of authorizations still available to fill the bids, the director shall award the permit based upon the drawing of lots among the bidders.

(j) A person submitting a bid under this article shall deliver one copy to the director of purchasing, West Virginia department of administration and deliver a second or duplicate copy to the state auditor. Both copies must be received at the respective offices prior to the specified date and time of the bid opening;

(k) The failure to deliver or the nonreceipt of these bid forms at either of these offices prior to the appointed date and hour are grounds for rejection of the bids. In the event of any deviation between the copies submitted to the purchasing division and the state auditor, the bids as to which there is a deviation shall be rejected;

(l) After the award of a permit, the director of the lottery shall indicate upon the successful bid that it was the successful bid and the number of video lottery terminals for which a permit is awarded to the bidder. This shall be the number of video lottery terminals for which the bid was submitted, or the remaining number of video lottery terminals to be awarded when the number of video lottery terminals remaining is less

than the number of terminals for which the bid was submitted. Thereafter, a copy of the bid and the bidder's application for an operator's license or a limited video lottery retailer license shall be maintained as a public record at the commissions' offices and shall be open to public inspection during its normal business hours. These documents may not be destroyed without the prior written consent of the legislative auditor;

(m) Prior to issuing a permit to a successful bidder, the bid price for the number of video lottery terminals authorized in the permit plus the amount of the operator's annual license fee or the limited video lottery retailer's annual license fee for the first license year, as specified in section 518 of this article, shall be paid to the commission by money order, certified check or cashier's check. If the operator's annual license fee or the limited video lottery retailer's license fee was paid for the current license year before the due date of the bid amount, the license fee shall not be collected a second time for the same license year. The amount paid shall be deposited into the fund established in section eighteen-a, article twenty-two of this chapter;

(n) All permits shall be signed by the director of the lottery in the name of the state;

(o) If the successful bidder fails to pay to the commission the bid price and the operator's annual license fee or the limited video lottery retailer's license fee for the first license year, at the time specified by the commission, the bond provided for in section 1109 of this article shall be forfeited and the bidder shall not be issued the permit;

(p) In the event of a default, as provided in subsection (h) of this section, the commission shall then issue the permit to the next highest bidder for video lottery terminals, or reject all remaining bids and start anew the bidding procedure for the remaining number of video lottery terminals;

(q) If after a permit is awarded, an operator or limited video lottery retailer surrenders the permit, in whole or in part, or the permit is revoked or canceled by operation of law, the commission may seek bids for video lottery terminals for which authorization was surrendered or revoked, subject to the limitations and requirements of this article; and

(r) During the fiscal year of the state ending the thirtieth day of June, 2011, the commission shall seek bids for the ten-year period beginning the first day of July, 2011 and ending the thirtieth day of June, 2021.

PROPOSED AMENDMENT TO LIMITED VIDEO LOTTERY RULES §53.1

In order to be consistent with WV Code §29-22B-1202(b) which provides an exception from the 150 foot and same roof restrictions for a "premises" which was licensed by the ABCC on or before January 1, 2001, the rule should be amended to read as follows:

53.21. If an applicant applies for a limited video lottery license for a specific premises which was a licensed ABCC location under possessed a valid and continuing private club liquor license or a class "A" nonintoxicating beer license on or before January 1, 2001, for that specific premise; and if that an ABCC license for that premises were is still in effect at the time of the filing of the application for a limited video lottery license for the same premise, under the same ownership as the ABCC license; then so long as the applicant did not promise to conduct limited video lottery in a structure where another limited video lottery licenses was already licensed to conduct video lottery games, as disallowed by section 53.1 of this rule, the license would not be denied based solely on the proposed establishment being closer than 150 feet to an existing limited video lottery retail licensee or in a structure where another limited video lottery licensee was already licensed to conduct video lottery games so long as the initial application for a limited video lottery retailer license for the premises was applied for on or before July 1, 2002.

This amendment will assure that a "premises" licensed by ABCC on January 1, 2001 will be eligible for the exception from the 150 foot and same roof rules, even though the licensee should die, go out of business, or transfer ownership prior to the application for the video lottery license for that premises, consistent with the statute.

The policy behind the 150 ft and same roof rules is preserved—that is the South Carolina multiple rooms in a single building threat is effectively prevented, while existing configurations of many bars on a single street or in a single large structure are not prevented.

modification

PROPOSED AMENDMENT TO LIMITED VIDEO LOTTERY RULES §53.1

In order to be consistent with WV Code §29-22B-1202(b) which provides an exception from the 150 foot and same roof restrictions for a “premises” which was licensed by the ABCC on or before January 1, 2001, the rule should be amended to read as follows:

53.21. If an applicant applies for a limited video lottery license for a specific premises which was a licensed ABCC location under possessed a valid and continuing private club liquor license or a class “A” nonintoxicating beer license on or before January 1, 2001, ~~for that specific premise;~~ and if ~~that an~~ an ABCC license ~~for that premises were~~ is still in effect at the time of the filing of the application for a limited video lottery license for the same premise, the license would not be denied based solely on the proposed establishment being closer than 150 feet to an existing limited video lottery retail licensee or in a structure where another limited video lottery licensee was already licensed to conduct video lottery games so long as the initial application for a limited video lottery retailer license for the premises was applied for on or before July 1, 2002.

This amendment will assure that a “premises” licensed by ABCC on January 1, 2001 will be eligible for the exception from the 150 foot and same roof rules, even though the licensee should die, go out of business, or transfer ownership prior to the application for the video lottery license for that premises, consistent with the statute.

The policy behind the 150 ft and same roof rules is preserved—that is the South Carolina multiple rooms in a single building threat is effectively prevented, while existing configurations of many bars on a single street or in a single large structure are not prevented.

Insurance Commissioner Modifications

114 CSR 57 - Privacy of Consumer Financial and Health Information

p.4, section 2.16.d: move the provisions of subdivision (5) to the first sentence in d

- d. An individual is a licensee's consumer if the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under sections 12, 13, and 14 of this rule and:

p.4, section 2.16.e: insert between "holder," and "and" on line 3, "all of whom are to be treated as customers for purposes of the sections 3, 4, and 7,"

- e. Provided that the licensee provides the initial, annual and revised notices under sections 3, 4, and 7 of this rule to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder, all of whom are to be treated as customers for purposes of those sections, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such individual other than as permitted under the exception sections, an individual is not the consumer of the licensee solely because he or she is a participant or beneficiary of an employee benefit plan

This change makes it clear that in group policy settings, the licensee must provide the required notices to the employer, but need not provide them to the employee participants unless the licensee intends to disclose certain information about the participant.

p.8, section 2.17.a.2: delete the word "unless" between "affiliates" and "in a manner"

- a.2 The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates

unless in a manner permitted by this rule

As written, the rule requires all licensees, both insurers and agents, of the Insurance Commission to comply with the privacy notice and opt-out provisions. The idea behind Section 2.17 was to avoid the confusion and redundancy inherent in having customers getting privacy notices from both the insurer and the agent by exempting the agents from the notice requirement in certain circumstances.

The word "unless" was added at the suggestion of the industry to make it clear that an agent could claim the agent exception under Section 2.17 but still avail him/herself of the exceptions to the notice and opt-out provisions in Sections 12, 13, and 14 applicable to all licensees.

Although the Commissioner initially acquiesced in the inclusion of the word "unless", she now believes that its inclusion is inappropriate. The agents' exemption has been the subject of much debate within the NAIC working group, the consensus being that the agent should not be able to disclose more information than the principal. If the agent wishes to avoid sending out the notices, he/she should be required to act according to the principal's privacy policies and not be able to claim an exemption under the rule if the principal's privacy policy does not claim that exemption.

p.26, section 9.1.d.1: move the definition of "opt out" to the definitions section, Section 2

There are also technical and drafting changes and some renumbering or relettering of subsections and subdivisions.

Insurance Commissioner Modifications

114 CSR 58 - External Review of Coverage Denials

p. 3, section 2.14 insert after "health care provider is" ", based on professional standards accepted in the United States and commonly available in the United States for treatment of sickness and injury as determined by the health care plan in accordance with their medical appropriateness criteria" and insert after subdivision a. "The fact that a health care provider may prescribe, recommend or approve a procedure or treatment does no, in itself, make that procedure or treatment medically necessary."

Section 2.14 "Medical necessity" or "medically necessary" means the determination that a health care service recommended by a health care provider is, based on professional standards accepted in the United States and commonly available in the United States for treatment of sickness and injury as determined by the health care plan in accordance with their medical appropriateness criteria:

- a. The most appropriate available supply or level of service for the enrollee, considering potential benefits and harms to the individual; and
- b. Known to be effective in improving health outcomes.

The fact that a health care provider may prescribe, recommend or approve a procedure or treatment does no, in itself, make that procedure or treatment medically necessary.

The purpose of this modification is to make it clear that the external review

organization cannot deviate from national standards and guidelines in reaching its determination.

p.6, section 5.2.b make the words "name", "address", and "telephone number" and "external review organization" plural; insert a period after "organizations"; insert "two" in lieu of "the" between "of" and "external"; strike out the last 7 words of the subdivision, and insert in their place the following "from which the managed care plan will choose one to conduct the external review. The managed care plan shall notify the commissioner and the enrollee of its choice within two business days."

5.2.b If the criteria for the preliminary determination set forth in subsection 5.1 have been met and the request is complete, that the request has been certified for external review. If certified by the commissioner, the notice shall include the names, addresses, and telephone numbers of two external review organizations from which the managed care plan will choose one to conduct the external review. The managed care plan shall notify the commissioner and the enrollee of its choice within two business days.

The purpose of this modification is to allow the managed care plan to choose from 2 external review organizations approved by the commissioner which one will conduct the review and to require the managed care plan to notify the Commissioner and the enrollee of its choice promptly.

p.7, section 5.6: insert after "medically necessary" "or experimental, within the meaning of sections 2.6 and 2.14 of this rule," and strike the second sentence

5.6 The standard of review in an external review shall be whether the health care service denied by the managed care plan was medically necessary or experimental, within the meaning of sections 2.6 and 2.14 of this rule, under the terms of the plan. ~~In reviews regarding experimental~~

~~treatment, the standard of review shall be whether the health care service denied by the managed care plan was a covered benefit or excluded from coverage under the terms of the plan.~~ In reaching a decision, the external review organization shall not be bound by any decisions or conclusions reached during the managed care plan's internal grievance procedure.

The purpose of this modification is to clarify the standard of review in external review proceedings.

p. 10, section 5.16.e: insert between "decision" and "with" "including consideration of safety, efficacy, appropriateness, and cost effectiveness"

5.16.e The reasons(s) and clinical rationale for its decision, including, at a minimum, consideration of safety, efficacy, appropriateness, the managed care plan's terms of coverage, and cost effectiveness, with references to the evidence and documentation considered in reaching the decision; and

This modification incorporates the language from section 5.13 as to the matters to be considered by the external review panel.

p. 14, section 8.2 insert at the end of the section: "The external review organization will file with the application a schedule of fees and charges for approval by the commissioner."

8.2 An external review organization seeking approval to conduct external review shall submit an application of a form prescribed by the commissioner. The application shall include any documentation or information specified by the commissioner as necessary to determine if the external review organization meets the minimum qualifications established under section 9 of this rule. The external review organization will file with the application a schedule of fees

and charges for approval by the commissioner.

The purpose of this proposed amendment is to clarify that the fees charged by the external review organization may not exceed those approved by the Commissioner.

p. 17, section 10.2.a.5 strike out the words “and whether the reconsideration was as a result of information provided by” on the 2nd and 3rd lines and insert in their place the words “except those external reviews terminated because”; insert the word “presented,” after “treating provider” in the 3rd line; insert the word “, information” between “external review” and “that had not been provided” on the 4th line.

10.2.a.5 The number of external reviews that were terminated at the request of the managed care plan as the result of reconsideration by the managed care plan, ~~and whether this reconsideration was result of information provided by~~ except those external reviews terminated because the enrollee and/or the treating provider presented, as part of the external review, information that had not been provided to the plan prior to the external review; and

The purpose of this revision is to clarify the information the managed care plan must report to the commissioner.

CURRENT LAW/RULE

7.1 The categories of oral drugs to be considered rational to the diagnosis and treatment of the human eye and its appendages shall include:

7.1.a. Antihistamines;

7.1.b. Oral Corticosteroids for a duration of no more than six days; and for the purpose of treatment of of visual defects or abnormal conditions of the human eye and its appendages.

7.1.c. Analgesics: provided, that no oral narcotic analgesic shall be prescribed for a duration of more than three days; and for the purpose of treatment of visual defects or abnormal conditions of the human eye and its appendages.

7.1.d. Antibiotics

7.1.e. Non-steroidal anti-inflammatory agents

MEDICINE'S PROPOSAL

7.1 The categories of oral drugs to be considered rational to the diagnosis and treatment of the human eye and its appendages shall include:



7.1.a. Antihistamines; provided that no oral Antihistamines shall be prescribed for a duration of more than seven days;

7.1.b. Oral Corticosteroids; provided that no oral Corticosteroid shall be prescribed for a duration of ~~no~~ more than six days; ~~and for the purpose of treatment of visual defects or abnormal conditions of the human eye and its appendages.~~

7.1.c. Analgesics: provided, that no oral narcotic analgesic shall be prescribed for a duration of more than three days; ~~and for the purpose of treatment of visual defects or abnormal conditions of the human eye and its appendages.~~

7.1.d. Antibiotics, provided that no oral Antibiotic shall be prescribed for a duration of more than seven days;



7.1.e. Non-steroidal anti-inflammatory agents, provided that no oral Non-steroidal anti-inflammatory agent shall be prescribed for a duration of more than three days;

7.1.f. Carbonic Anhydrase
Inhibitors

7.1.f. Carbonic Anhydrase
Inhibitors provided, that no oral
Carbonic Anhydrase Inhibitor
shall be prescribed for a duration
of more than three days;

7.1.g. Nutritional supplements

Ticket & Meter Reports Summary

12/10/2001

<u>December 1999 through November 2000</u>			<u>December 2000 through November 2001</u>		
	<u>Count</u>	<u>Amount</u>		<u>Count</u>	<u>Amount</u>
Fines Issued	5996	\$ 17,991.00		9192	\$ 27,576.00
Fines Collected	1947	\$ 5,840.00		4390	\$ 13,167.04
Percentage Collected	32%	32%		48%	48%

Tickets issued to same vehicle in excess of 4 times during the year December 1999 through November 2000	3617
Tickets issued to same vehicle in excess of 4 times during the year December 2000 through September 2001	3544

Meter Analysis

<i>FY</i>	<i>Total Funds Collected</i>
1994	\$80,784.00
1995	\$69,540.00
1996	\$72,386.00
1997	\$61,477.00
1998	\$31,400.00
1999	\$74,209.00
2000	\$82,420.35
2001	\$73,716.03
2002	\$46,184.97
Grand Total	\$572,117.35



BOB WISE
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

GREGORY A. BURTON
CABINET SECRETARY

MEMORANDUM

TO: Rick Winnell
Senate Clerk's Office

FROM: Greg Burton
Cabinet Secretary
Department of Administration

DATE: December 9, 2001

RE: Questions from Senator Boley on Parking Spaces

Attached you will have information related to a list of questions you forward to Donna Prunty related to parking spaces throughout the Capitol complex as raised by Senator Boley. I hope the attached answers all the questions raised by Senator Boley. If not please feel free to forward any additional questions to me.

Please forward the attached to all members of the Legislative Rule-Making Committee for their review prior to their meeting at 10:00 a.m. on December 10, 2001.

Thank you in advance for your cooperation in this matter.

Where is media parking?

PARKING BUILDING	
Number of Spaces	764
Spaces Assigned to Employees	742
Who Decides how many parking spaces for each department/div., etc.	
Department of Administration allocates the spaces to each department/division, who then allocates them within their department/divisions.	
Spaces provided for public (unmetered)	0
Spaces provided for public (metered)	0
Spaces for handicapped (unmetered)	0
Spaces for handicapped (metered)	0
Spaces for media	0
Additional Information	
Parking building had 197 spaces for public when first opened but in December of 2000 those spaces were moved to the DMV and meter parking for 197 public spots where developed	

12 to 2nd floor?

12

Culture Center Lot - Employee Area	
Number of Spaces	48
Spaces Assigned to Employees	48
Who Decides how many parking spaces for each department/div. , etc.	
Department of Administration allocates the spaces to each department/division, who then allocates them within their department/divisions.	
Spaces provided for public (unmetered)	0
Spaces provided for public (metered)	0
Spaces for handicapped (unmetered)	1
Spaces for handicapped (metered)	0
Spaces for media	0

Visitor Parking Spaces			
Location	Number of Spaces	Metered	
Laidley Field	93	No	
Cultural Center	62	No	
DMV Lot	197	Yes	
California Avenue	50	Yes	
Meters			
Maximum meter usage is 4 hours			
Rates			
3 minutes	0.05		
6 minutes	0.10		
15 minutes	0.25		
1 hour	1.00		
Fines			
Ticket - (twice per day - current maximum amount is \$3 per ticket or \$6 per day			
Maximum meter amount for all day is \$6.00 - cheaper to get tickets			
Do not pay within 72 hours fine goes to \$5.00. Would like to increase this to \$25 after 72 hours to discourage employees parking at meters.			



Manufactured Housing Construction and Safety Standards Program

West Virginia Division of Labor
James R. Lewis, Commissioner

**MANUFACTURED HOUSING CONSTRUCTION AND
SAFETY STANDARDS BOARD**

Members of the Board

Jim Lewis, Chair

Tim Manchin

Sam Bonasso

Tom Ryan

Bob Miller

Greg Ahalt

Jack Albert

The West Virginia Manufactured Housing Construction and Safety Standards Act was passed into Law in 1988. Shortly after passage of the Act, the Manufactured Housing Board established, by Legislative Rule, the Manufactured Housing Recovery Trust Fund. As a condition of initial licensure, each license applicant must make deposit into the fund in the following amounts: Manufacturer - \$2,500. Dealer/Distributor - \$1,000 and Installer/contractor - \$500. These deposits are non-refundable and become the property of the Board to be held in trust for consumer protection purposes. This is a consumer protection fund and not an industry fund.

The Board set the solvency level of the fund to be \$250,000. If the balance of the fund ever dropped below that level, the Board could make assessments upon its licensees for the restoration of that level. Since creation of the fund in 1988, no assessments have been made. The present level of the fund is approximately \$1.3 million, or about five times the established solvency level.

The purpose of the fund is to restore injured consumers when all other means of legal recourse have been exhausted. Consumers do not receive cash settlements. Instead, the Board contracts, through the bid process, for repair services. A contractor will be hired to correct all problems identified by the Board's inspectors. The inspectors supervise the correction work to insure that the home is fully restored to its original integrity. This guarantees absolute complaint resolution and for this reason, West Virginia's program has become the national benchmark in this arena.

The consumer complaint resolution process involves many steps, the most significant of which is the site/home inspection. This inspection is a consumer protection issue which is the center piece of the complaint resolution process. It is therefore, absolutely essential that this activity be adequately funded. Presently, this activity is being subsidized annually by appropriations from the state's general revenue fund. The Board has proposed, by rule modification, that the interest earned by the Recovery Trust Fund be used to subsidize this activity. The earned interest amounts to approximately \$60,000 annually. The proposed rule modification would only permit use of the interest as long as the fund maintains a principal balance of at least one million dollars, which is four times the originally established solvency level.

The alternative to this proposal would be an increase in the annual license fees. In order to generate the equivalent \$60,000, the average license fee would require an increase of \$125 annually.

FY 2000

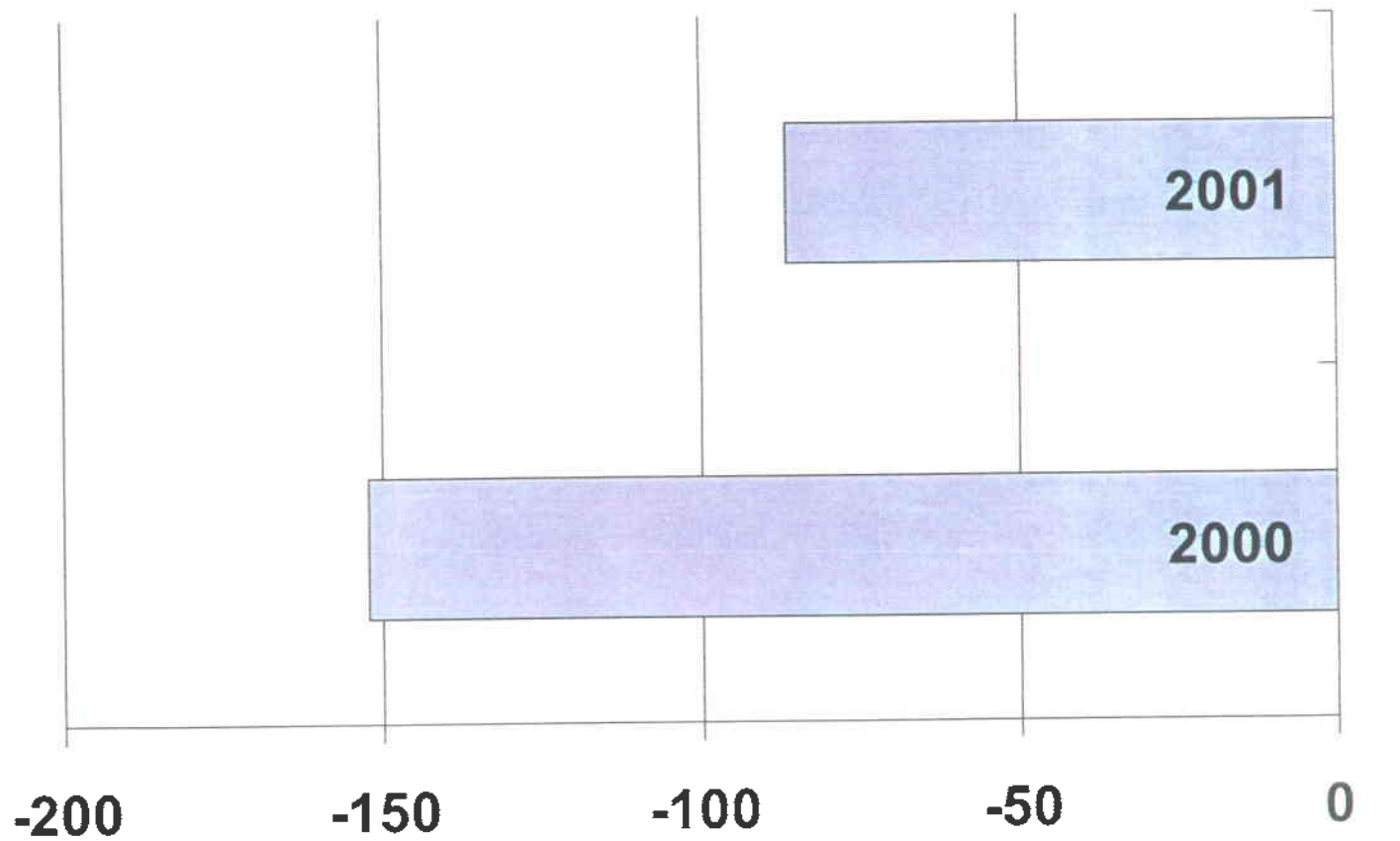
FEES	57,300.00
HUD	62,307.00
GENERAL REV	73,582.00
FEES REFUND	-
TOTAL REVENUE	193,189.00

FY 2001

FEES	51,000.00
HUD	47,646.00
FEES REFUND	150.00
GENERAL REV	174,132.00
TOTAL REVENUE	272,928.00

IMPROVEMENT

07/01/2000-08/31/2001



Number of days to inspect complaints and complete reports

MANUFACTURED HOUSING

FY 2000

	SPECIAL REVENUE	GENERAL REVENUE
Personal Services	71,588.32	27,200.87
Personal Services/per diem	800.00	1,000.00
Annual Increment	930.00	370.00
TOTAL	<u>73,318.32</u>	<u>28,570.87</u>
Adm. Fees	492.15	262.4
Soc. Sec. Match	5,627.06	2109.18
PEIA	6,434.78	3085.68
Workers' Comp.	1,953.85	1044.45
Retirement	6,227.37	2549.52
TOTAL	<u>20,735.21</u>	<u>9,051.23</u>
Office Expenses	54.28	1,531.52
Printing	0.00	137.76
Rent	1,433.37	4,751.46
Telecommunications	1,308.24	3,137.85
Contractual & Profess.	52.14	3,494.64
Travel	1,082.59	4,394.77
Computer Services	288.74	1,448.44
Vehicle Rental	1,552.50	7,725.00
Insurance	567.80	567.80
Vehicle Maintenance	1,141.44	3,961.92
Maintenance Contracts	138.08	470.05
Hospitality	347.48	937.63
Miscellaneous	4.88	190.87
Postal & Freight	1,148.12	2,618.44
Office and Comm Repairs	67.00	
Miscellaneous Equipment	0.00	341.85
Books	44.00	0.00
PEIA Transfer		250.14
TOTAL	<u>9,230.66</u>	<u>35,960.14</u>
ACCOUNT TOTAL	103,284.19	73,582.24
GRAND TOTAL	176,866.43	

MANUFACTURED HOUSING

FY 2001

	SPECIAL REVENUE	GENERAL REVENUE
Personal Services	51,535.00	71,950.57
Personal Services/per diem	400.00	1,100.00
Annual Increment	376.00	24.00
TOTAL	<u>52,311.00</u>	<u>73,074.57</u>
Adm. Fees	497.28	833.7
Soc. Sec. Match	3,874.42	5365.38
PEIA	7,613.35	13340.94
Workers' Comp.	1,741.94	2111.78
Retirement	4,931.54	6311.94
TOTAL	<u>18,658.53</u>	<u>27,963.74</u>
Office Expenses	793.06	3,407.83
Printing	0.00	1,715.45
Rent	1,608.82	7,066.02
Telecommunications	1,201.03	5,193.65
Contractual & Profess.	1,085.03	544.93
Travel	1,855.49	3,358.89
Computer Services	435.99	1,614.15
Vehicle Rental	5,085.00	15,255.00
Insurance	639.48	1,918.44
Clothing, Household, and Misc	0.00	1,525.83
Vehicle Maintenance	577.32	6,551.10
Maintenance Contracts	435.00	712.50
Hospitality	293.89	1,828.26
Miscellaneous	1,156.40	748.17
Postal & Freight	1,240.90	3,337.39
Computer Supplies	409.96	0.00
Attorney Legal Service Payments	0.00	2,307.50
Attorney Reimbursable Expenses	0.00	17.50
Office/Comm. Equipment Repairs	73.00	0.00
Miscellaneous Equipment	4,729.70	6,587.58
Computer Equipment	0.00	8,713.55
PEIA Transfer	238.03	690.54
TOTAL	<u>21,858.10</u>	<u>73,094.28</u>
ACCOUNT TOTAL	92,827.63	174,132.59
GRAND TOTAL	266,960.22	

MANUFACTURED HOUSING

PROJECTION

FY 2003

ANTICIPATED EXPENDITURES

	SALARY	INCRE	ADM. FEES	FICA	INS.	WCF	RETIRE
VACANT(DIR)	42,780		215	3,273	6,597	1,074	4,064
K LEE	21,744	200	215	1,679	3,277	551	2,085
VACANT(OAII)	17,088		215	1,307	6,597	429	1,623
K CASTO	21,396		215	1,637	6,597	537	2,033
B WHITE	20,640		215	1,579	3,277	518	1,961
J LEMON	21,384		215	1,636	6,597	537	2,031
T SELETYN	28,452		215	2,177	6,597	714	2,703
TOTALS	173,484	200	1,505	13,287	39,539	4,359	16,500

BOARD MEMBER PER DIEM	2000.00
OFFICE EXPENSES	3525.00
PRINTING	1750.00
BUILDING RENTAL	9117.00
TELECOMMUNICATIONS	6402.00
CONTRACTUAL	1000.00
TRAVEL	5500.00
COMPUTER SERVICES	1700.00
VEHICLE RENTAL	19196.00
FIRE,AUTO, BOND,INS.	6068.00
VEHICLE MAINT.	14500.00
MAINTENANCE CONTRACTS	740.00
HOSPITALITY	400.00
MISCELLANEOUS	200.00
POSTAGE	7200.00
PEIA TRANSFER	1735.00
ATTY. LEGAL SERVICES	2500.00

TOTAL CURRENT EXPENSES	83,533.00
TOTAL PERSONAL SERVICES	173,684.00
TOTAL BENEFITS	<u>75,190.27</u>

TOTAL EXPENDITURES 332,407.27

Suggested amendment to 42 CSR 19 (subsection 15.4).

15.4. All assessments collected under the provisions of this section shall be deposited in the Recovery Fund maintained within the special treasury account described in W.Va. Code §21-9-9(g), and shall be used solely for the purposes described in that section. The assets of the Recovery Fund may be invested and reinvested by the Board in accordance with applicable law. Interest revenues derived from the Recovery Fund shall be used ~~solely~~ to maintain the Recovery Fund. Provided, however: When the balance of the Recovery Fund reaches a balance of one-million dollars or more, the interest revenues shall be deposited in the Manufactured Housing special revenue account to be used by the Division of Labor for the following purposes:

- a. Developing, implementing and running a program for training installers and dealers of manufactured housing that will comply with the requirements of 42 U.S.C. 5401-5426;
- b. Education and training of Division of Labor inspectors charged with the inspection and enforcement activities of the West Virginia Manufactured Housing Construction and Safety Standards Board;
- c. Development and implementation of a program to investigate and coordinate with local prosecuting attorneys for the criminal prosecution of unlicensed entities who perform work or services in connection with manufactured housing that is prohibited by W. Va. Code §21-9-1 et seq and this rule; and
- d. Education and training of utility companies and code enforcement inspectors throughout the State with regards to the special requirements applicable to the installation of HUD Code housing.

MANUFACTURED HOUSING TRUST RECOVERY FUND SUMMARY
FY 1998,1999,2000,2001

FY 1998

Fines generated 3,050.00

Trust generated 155,350.00

Interest generated 42,502.98

FY 1999

Fines generated 0.00

Trust generated 96,898.00

Interest generated 46,732.22

FY 2000

Fines generated 17,175.00

Trust generated 75,600.00

Interest generated 58,063.86

FY 2001

Fines generated 22,875.00

Trust generated 61,000.00

Interest generated 72,565.50

FY 2001 beginning cash balance 1,283,073.00