

**JULY**



**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Monday, July 10, 2000**  
**3 p.m. to 4 p.m.**  
**Senate Judiciary Committee Room, W-208**

1. **Approval of Minutes - May 11, 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 Environmental Protection**  
*Awarding of West Virginia Stream Partners Program Grant Rule, 60CSR4*
  - d. **West Virginia Board of Dental Examiners**  
*Fees Established by the Board, 5CSR3*
3. **Other Business**

Monday, July 10, 2000

3:00 p.m. - 4:00 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  
Anderson, Vice Chairman  
Minard  
Snyder  
Unger  
Minear

Hunt, Chairman  
Linch, Vice Chairman  
Compton  
Jenkins  
Faircloth  
Riggs

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

The minutes of the May 11, 2000, meeting were approved.

Debra Graham, Committee Counsel, explained the rule proposed by the *Division of Health-Newborn Hearing Screening, 64CSR24*. She and Dr. Henry Taylor, Director of the Bureau of Public Health, responded to questions from the Committee.

Mr. Ross moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Board of Barbers and Cosmetologists-Continuing Competence, 3CSR8*, and stated that the Board has agreed to technical modifications. She and Larry Absten, Director of the Board, responded to questions from the Committee.

Mr. Faircloth moved that the Committee reject the proposed rule. Ms. Graham explained to the Committee that this was not an option. After further discussion, Mr. Faircloth asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Faircloth moved that the proposed rule be modified by lowering the number of continuing education hours to two hours every two years and by grandfathering in anyone licensed for more than two years. Mr. Minard asked that the motion be divided. Mr. Hunt stated that the motion would be divided. After further discussion, Mr. Faircloth asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Minard moved that the proposed rule be modified by reducing the number of continuing education hours to eight hours every two years.

Mr. Ross moved that the proposed rule lie over until the Committee's next meeting with Mr. Minard's motion to modify pending. The motion was adopted.

Joseph Altizer, Associate Counsel, explained the rule proposed by the *Division of Environmental Protection-Awarding of West Virginia Stream Partners Program Grant Rule, 60CSR4*, and stated that the Division has agreed to technical modifications. He and Jennifer Pauer, Coordinator for the West Virginia Stream Partnership Program, responded to questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the *West Virginia Board of Dental Examiners-Fees Established by the Board, 5CSR3*. James Anderson, Director of the Board, responded to questions from the Committee.

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

The meeting was adjourned.

Monday, July 10, 2000

3:00 - 4:00 p.m.

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 ✓

May 11, 2000 minutes approved

DoH - Newborn Hearing Screening

I explained & responded to questions  
Dr. Henry Taylor responded to q's  
Lay over till next meeting

Ross  
accepted

Bd of Barbers & Cosmetologists

I explained and responded to questions  
Larry Abster responded to questions  
- Withdraw rule

Faircloth  
withdrew

Faircloth modify  
Amend rule to 2 hrs; ~~annually~~ every two ~~years~~ years  
for more than 2 yrs.

Minard wants motion divided

Faircloth unanimous consent to withdraw motion

Minard 2 hrs every two yrs.  
Ross accepted laid over

DTP-Stream Partners

Joe explained

Transfer Fees - Program Coordinator responded to G's

Approve as made

Ross  
adopted

Dental Ryan

I explained

Jim Anderson responded to G's

Approve as made

Ross  
adopted

**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Monday, July 10, 2000**  
**3 p.m. to 4 p.m.**  
**Senate Judiciary Committee Room, W-208**

1. Approval of Minutes - May 11, 2000.

2. Review of Legislative Rules:

- Laid over* ✓ a. Division of Health  
Newborn Hearing Screening, 64CSR24
- Laid over* ✓ b. Board of Barbers and Cosmetologists  
Continuing Competence, 3CSR8
- Approved & mod.* ✓ c. Division of Environmental Protection  
Awarding of West Virginia Stream Partners Program Grant Rule,  
60CSR4
- Approved* ✓ d. West Virginia Board of Dental Examiners  
Fees Established by the Board, 5CSR3

3. Other Business

**TITLE 64  
WEST VIRGINIA LEGISLATIVE RULES  
DIVISION OF HEALTH  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
SERIES 24  
NEWBORN HEARING SCREENING**



**64CSR24**

**Title 64  
Legislative Rules  
Division of Health**

**Series 24  
Newborn Hearing Screening**

**§64-24-1. 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, all to be 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. – W. Va. Code §§ 16-1-7 and 16-22A-2.

1.3. Filing Date. –

1.4. Effective Date. –

**§64-24-2. 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.

**§64-24-3. Definitions.**

3.1. 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.

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

3.3. Division. – The division of health.

3.4. Health Care Provider. – Physician or licensed midwife present during or immediately after delivery.

**§64-24-4. 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 hearing screening within the first month of the infant's life and shall refer the infant for screening in accordance with this rule.

**§64-24-5. Screening Protocol.**

5.1. The director shall prescribe newborn screening procedures to detect hearing loss.

5.2. The director with the advice of the advisory committee may update or modify the screening procedures required according to protocol, technology and current national standards.

5.3. The health care provider shall perform, or cause to be performed, screening in both ears on a newborn shortly after birth, when the birth occurs in a health care facility, or shall inform the parents or guardians of the need to obtain screening within the first month of the infant's birth, if the birth does not occur in a health care facility.

5.4. If an infant fails the initial inpatient screening, a second screening shall be performed prior to discharge from the health care facility.

5.5. Personnel trained in the use of equipment and following the equipment manufacturer's guidelines shall perform the screening according to the American Academy of Pediatrics (AAP) standards.

**§64-24-6. Screening Fee Schedule.**

6.0. *The fee charged by all licensed health care facilities for the initial newborn hearing screening will be applied to all payors at the rate established by Medicaid under the DRG process.*

6.1. The fee for newborn hearing screening shall be included in the covered delivery charges for a newborn when the birth occurs at a licensed health care facility.

6.2. The fee for newborn hearing screening is subject to an annual review.

**§64-24-7. Screening Payment.**

7.1. For infants covered by Medicaid, the cost of providing newborn hearing screening shall be incorporated into the Diagnostic Related Group (DRG) process as an add on provision or adjustment.

7.2. For insured infants, the newborn hearing screening required shall be a covered benefit reimbursable by all health insurers except for health insurers that offer only supplemental coverage policies.

7.3. When the birth takes place in a licensed health care facility, in the absence of the third party payor when the parents' consent for the newborn hearing screening has been given, the hospital or other health care facility shall pay the charges for the required newborn screening.

**§64-24-8. Screening Reporting and Referral.**

8.1. The health care provider shall record or cause to be recorded in the medical record and on the Birth Score Developmental Risk Screen, the screening results.

8.2. The health care provider shall report or cause to be reported to parents or guardians, and to family primary care providers prior to discharge if the birth occurs in a licensed health care facility, the screening results.

8.3. The health care provider shall send a written copy of the screening results within ten (10) days of the newborn's birth to the Birth Score Office at the West Virginia University Department of Pediatrics, P. O. Box 9214, Morgantown, WV 26506-9214.

**§64-24-9. Confidentiality.**

9.1. Anyone 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.

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

**§64-24-10. Penalties.**

10.1. Anyone violating 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.

Project Title: State Systems Development Initiative  
Project Number: 2 H18 MC 00056  
Grantee: Office of Maternal and Child Health  
Address: 350 Capitol Street, Room 427  
Charleston, WV 25301-3714  
Project Director: Carolyn Payne  
Telephone: 304-558-5388  
E-Mail: [mikkipayne@wvdhhr.org](mailto:mikkipayne@wvdhhr.org)  
World Wide Web: [www.wvdhhr.org/bph/maternal.htm](http://www.wvdhhr.org/bph/maternal.htm)  
Project Period: October 1, 1999 to September 30, 2001  
Budget Period: October 1, 2000 to September 30, 2001



## POLICY NEWBORN HEARING SCREENING

1. The family of the newborn infant is to receive the hospital birth packet, routinely available to all birthing facilities by the Bureau for Public Health.
2. All newborns, born in the State of West Virginia, must be screened for possible hearing loss, as required in H.B. 2388.
3. Screening is to be performed, using either ABR or OAE, following the equipment manufacturer's guidelines, by personnel appropriately trained.
4. Screening must be performed in both ears and recorded in the medical record and on the Birth Score Developmental Risk Screen.
5. If unable to screen the baby before discharge, the infant must be referred for a non-hospital-administered hearing screening test. Responsibility for the referral rests with the primary care provider, in collaboration with the local Right From The Start agency.
6. If the newborn does not pass the initial OAE screening test, a second OAE or an initial ABR test should be attempted prior to hospital discharge. For an ABR screening, one test is sufficient.
7. All screening test results should be reported to parents, guardians, and primary care provider prior to discharge.
8. If an infant fails the initial and second screening test in one or both ears, the parents and the primary care provider should be advised. Arrangements for diagnostic testing should be made by the primary care provider or other designated staff. Right From The Start personnel will be contacted to offer assistance with this process. The Bureau for Public Health will be following all cases requiring diagnostic testing, to assure families with children experiencing hearing loss are linked to community-based services.

### Basic Assumption

- There will be infants with normal hearing who do not pass the screening.
- There will be infants who pass the screening test but do have a hearing loss.
- Diagnostic testing will identify the infants with hearing impairment.

**Legend:** Project Policy will be shared with hospitals, primary care providers, Right From The Start personnel, etc.



## NEWBORN HEARING SCREENING

### Why Screening?

The purpose of this screening program is to identify infants from the general population which are at higher risk of having a particular condition so that a more in-depth diagnostic assessment can be done.

### Screening Guidelines

1. Screening should be done by properly trained personnel.
2. Screening is faster and easier if babies are quiet and the environment isn't too chaotic.
3. Screen when the baby is quiet or asleep.
4. Infants who do not pass the screening test or tests before discharge must be referred for diagnostic testing. The primary care provider needs to be alerted prior to discharge that the infant failed the initial screening.
5. Make an effort to re-screen, prior to discharge, infants who did not pass the first screening test. The primary care provider needs to see the infant to check for fluid or debris in the external ear canal before the repeat screening test is administered. This will greatly reduce the number of infants requiring diagnostic follow-up.
6. The Birth Score Developmental Risk Screen must be marked to indicate the results of the screening test. Copies of the test results must be attached to the child's medical record, including a chart notation "not screened" when appropriate. A completed Birth Score Developmental Screen must be submitted on all newborns including those marked "not screened."
7. Any infant not screened prior to hospital discharge for any reason other than parental refusal, must be referred for screening, as per newborn hearing screening policy.

### Diagnostic Evaluation

1. Families of all infants who do not pass the screening tests are to receive information about why further evaluation is necessary. In addition, the primary care provider, with consent by the family, must arrange for diagnostic evaluation to occur. Right From The Start Program will also be in contact to facilitate follow-up.
2. The purpose of the evaluation is to determine the range, nature, and degree of hearing loss and communication functions by use of medical and audiological procedures.
3. Additional referrals for medical, audiological, and other services may be necessary for habilitation of children with hearing loss, and all efforts should be coordinated with the primary care provider. Right From The Start personnel will act as care managers, linking the infant/family to support, such as Early Intervention (Birth to Three), Ski\*Hi, etc. as appropriate.

**Legend:** To be used by hospitals and primary care providers.

**JULY INTERIM SCHEDULE**  
**Legislative Interim Meetings**  
**July 9, 10 and 11, 2000**

**Monday, July 10, 2000**

3:00 - 4:00 p.m.

**Legislative Rule-Making Review Committee**

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

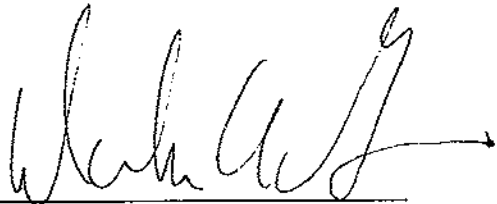
Senate

House

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

I certify that the attendance as noted above  
is correct.

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

Terri Anderson