

WEST VIRGINIA REGISTER

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Administrative Law Division
Judy Cooper, Manager

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This week's publication includes documents submitted by the following agencies:

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Education

Environmental Protection, Secretary's Office

Health Care Authority

Insurance Commission

Lottery

Medicine

Secondary School Activities Commission

CHRONOLOGICAL INDEX, VOLUME XXXIV ISSUE 28			
NEW PROPOSED RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Education (126-81)	Attendance (Policy 4110) Legislative Exempt	§29A-3B-1 et seq.	Written Comments Only August 14, 2017, 4:00 pm WVDE Office of Student and School Support Capitol Building 6, Room 318 1900 Kanawha Boulevard East Charleston, WV 25305
Education (126-99)	Expected Behavior in Safe and Supportive Schools (Policy 4373) Legislative Exempt	§29A-3B-1 et seq.	Written Comments Only August 14, 2017, 4:00 pm WVDE Office Student and School Support Capitol Building 6, Room 318 1900 Kanawha Boulevard East Charleston, WV 25305-0330
Education (126-114)	Approval of Educational Personnel Preparation Programs (Policy 5100) Legislative Exempt	§29A-3B-1 et seq.	Written Comments Only August 14, 2017, 4:00 pm WVDE Office of Certification, Licensure and Professional Preparation Capitol Building 6, Room 304 1900 Kanawha Boulevard East Charleston, WV 25305-0330
Education (126-136)	Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification (5202) Legislative Exempt	§29A-3B-1 et seq.	Written Comments Only August 14, 2017, 4:00 pm WVDE Office of Certification, Licensure and Professional Preparation Capitol Building 6, Room 304 1900 Kanawha Boulevard East Charleston, WV 25305
Medicine (11-01B)	Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	§§30-1-7(a), 30-3E-3(a)(1)-(10) and 30-1D-1(d)	Written Comments Only August 10, 2017, 4:30 pm Mark A Spangler, Executive Director WV Board of Medicine 101 Dee Drive, Suite 103 Charleston, WV 25311 Mark.A.Spanger@wv.gov

NO NEW EMERGENCY RULES WERE FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE FOR HEARING**

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GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

Column	1.	Agency Name, (Title and Series Number)
Column	2.	Rule Title, Price and Type
Column	3.	Date Notice of Public Hearing or Comment Period Filed
Column	4.	Date of Public Hearing or Last Date Comments Will Be Received
Column	5.	Date Emergency Rule Filed, Emergency Amendments Filed, Emergency Rule Decision (ERD) Number & Date ERD Filed (Effective Date of Emergency Rule)
Column	6.	Date Agency Approved Legislative Rules Filed.
Column	7.	Date Review by the Legislative Rule-Making Review Committee & Action Taken **Please Note** The Board of Education, Board of Trustees & Board of Directors File Their Rules With the Educational Over-Sight Committee
Column	8.	Legislative Action
Column	9.	Date Agency Final Files Legislative, Procedural or Interpretive Rules. This is the Final Step for Procedural & Interpretive Rules
Column	10.	Date Rule is Effective

- Emergency rules will not have a "Notice" date until the agency files one, but the rule will appear in Columns 1, 2 & 5. An Agency must file for either a public hearing or public comment period either before filing as an emergency or no more than 30 days after filing the rule as an emergency
- If more than one date appears in a column, it means the agency has repeated that step (ex. - holding an additional public hearing)

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	13	OCCUPATIONAL THERAPY
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	20	SANITARIANS
TITLE	24	OSTEOPATHY
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
TITLE	33	OFFICE OF WASTE MANAGEMENT (FORMERLY PART OF TITLE 47)
TITLE	35	OFFICE OF OIL AND GAS
TITLE	36	COAL MINE HEALTH & SAFETY
TITLE	38	MINING & RECLAMATION
TITLE	42	LABOR
TITLE	45	OFFICE OF AIR QUALITY
TITLE	47	OFFICE OF WATER RESOURCES
TITLE	48	MINES TRAINING EDUCATION & CERTIFICATION
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION, SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	63	CONSERVATION AGENCY
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH & HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	82	CULTURE AND HISTORY
TITLE	85	WORKERSCOMPENSATION BY THE INSURANCE COMMISSION
TITLE	86	VETERANS AFFAIRS
TITLE	87	FIRE COMMISSION
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL & CORRECTIONAL FACILITY AUTHORITY
TITLE	96	WORKFORCE WEST VIRGINIA
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	113	HEALTH INSURANCE PLAN
TITLE	114	INSURANCE
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMM.
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY & TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	146	STATE ELECTION COMMISSION
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TITLE	149	CRIME, DELINQUENCY AND CORRECTION
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	157	DIVISION OF HIGWAYS
TITLE	158	ETHICS COMMISSION
TITLE	162	CONSOLIDATED PUBLIC RETIREMENT BOARD
TITLE	172	STATE RAIL AUTHORITY
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION – BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY
TITLE	184	PARKWAYS ECONOMIC DEV. & TOURISM AUTHORITY
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD
TITLE	191	FAMILY PROTECTION SERVICES BOARD
TITLE	199	EXPLOSIVES & BLASTING
TITLE	204	HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY
TITLE	205	OUTDOOR HERITAGE CONSERVATION FUND
TITLE	207	COALFIELD COMMUNITY DEVELOPMENT
TITLE	210	GOHELP

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Accountancy, WV Bd. Of (1-01)	Board Rules and Rules of Professional Conduct Legislative	6/23/2017	7/23/2017						
Administration (148-03)	State Owned Vehicles Legislative	6/26/2017	7/26/2017						
Administration (148-6)	Parking Legislative	6/21/2017	7/21/2017						
Agriculture (61-01)	Animal Disease Control Legislative	6/28/2017	7/28/2017						
Agriculture (61-1A)	Feeding of Untreated Garbage to Swine Legislative	6/22/2017	7/22/2017						
Agriculture (61-2)	West Virginia Apiary Law Legislative	6/15/2017	7/16/2017						
Agriculture (61-8B)	Schedule of Charges for Inspection Services: Fruit Legislative	6/15/2017	7/172017						
Agriculture (61-11)	Public Markets Legislative	6/27/2017	7/27/2017						
Agriculture (61-11B)	Auctioneers Legislative	6/26/2017	7/26/2017						
Agriculture (61-14A)	Noxious Weeds Legislative	6/22/2017	7/22/2017						
Agriculture (61-16)	Inspection of Meat and Poultry Legislative	6/15/2017	7/16/2017						
Agriculutre (61-23D)	Inspection of Nontraditional, Domesticated Animals Legislative	6/15/2017	7/16/2017						
Air Quality (45-8)	Ambient Air Quality Standards Legislative	6/6/2017	7/11/2017						
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/6/2017	7/11/2017						
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste Legislative	6/7/2017	7/11/2017						
Air Quality (45-23)	Control of Air Pollution from Municipal Solid Waste Landfills Legislative	6/7/2017	7/11/2017						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/6/2017	7/11/2017						
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/6/2017	7/11/2017						
Athletic Commission (177-1)	WV State Athletic Commission Legislative	6/16/2017	7/16/2017						
Athletic Commission (177-2)	Regulation of Mixed Martial Arts Legislative	6/16/2017	7/16/2017						
Comm. & Tech. College Education (135-35)	Correspondence, Business, Occupational and Trade Schools Legislative	12/12/2016	1/13/2017				HB 2706		
Comm. & Tech. College Education (135-52)	Annual Reauthorization of Degree-Granting Institutions Legislative	12/12/2016	1/13/2017				HB 2706		
Crime Delinquency and Correction (149-2)	Law Enforcement Training and Certification Standards Legislative	6/21/2017	7/24/2017						
Crime Delinquency and Correction (149-03)	Protocol for Law Enforcement Response to Domestic Violence Legislative	6/28/2017	7/28/2017						
Dietitians (31-1)	Licensure and Renewal Requirements Legislative	6/8/2017	7/17/2017						
Education (126-15)	Regulations and English Language Proficiency Standards for English Learners (2417) Legislative Exempt	4/13/2017	5/15/2017					6/15/2017	7/17/2017
Education (126-16)	Regulations for the Education of Students with Exceptionalities (2419) Legislative Exempt	4/13/2017	6/11/2017					7/13/2017	8/14/2017
Education (126-67)	Comprehensive School Counseling Programs (2315) Legislative Exempt	5/18/2017	6/19/2017					7/13/2017	8/14/2017
Education (126-81)	Attendance (4110) Legislative Exempt	7/13/2017	8/14/2017						
Education (126-86)	Standards for School Nutrition (Policy 4321.1) Legislative Exempt	6/15/2017	7/17/2017						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Education (126-099)	Expected Behavior in Safe and Supportive Schools (4373) Legislative Exempt	7/13/2017	8/14/2017						
Education (126-114)	Approval of Educational Personnel Preparation Programs (5100) Legislative Exempt	7/13/2017	8/14/2017						
Education (126-136)	Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification (5202) Legislative Exempt	7/13/2017	8/14/2017						
Environmental Protection – Secretary's Office (60-03)	Voluntary Remediation and Redevelopment Rule Legislative	6/5/2017	7/6/2017		7/11/2017				
Fire Commission (87-2)	Electrician Licensing Rules Legislative	6/16/2017	7/17/2017						
Fire Commission (87-3)	Hazardous Substance Emergency Response Training Programs Legislative	6/19/2017	7/19/2017						
Health (64-03)	Public Water Systems Legislative	6/27/2017	7/27/2017						
Health (64-12)	Hospital Licensure Legislative	6/27/2017	7/27/2017						
Health (64-17)	Food Establishments Legislative	6/27/2017	7/27/2017						
Health (64-23A)	Technologically Enhanced Naturally Occurring Radioactive Material Legislative	6/27/2017	7/27/2017						
Health (64-48)	Emergency Medical Services Legislative	6/27/2017	7/27/2017						
Health (64-105)	Harm Reduction Programs Legislative	6/27/2017	7/27/2017						
Health (64-106)	Home-Based Food Production Legislative	6/27/2017	7/27/2017	6/27/2017 ERD by 8/8/2017					
Health (64-107)	Designation of Comprehensive, Primary and Acute Stroke-Ready Hospitals Legislative	6/27/2017	7/27/2017						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health and Human Resources (69-10)	WV Clearance for Access: Registry and Employment Screening Legislative	6/26/2017	7/26/2017						
Health and Human Resources (69-13)	Development of Methodologies to Examine Needs for Substance Use Disorder Treatment Facilities within the State Legislative	6/27/2017	7/27/2017	6/27/2017 ERD by 8/8/2017					
Health and Human Resources (69-14)	Collection and Exchange of Data Related to Overdoses Legislative	6/27/2017	7/27/2017	6/27/2017 ERD by 8/8/2017					
Health Care Authority (65-13)	Financial Disclosure Rule Legislative	6/27/2017	7/27/2017	6/27/2017 ERD by 8/8/2017					
Hearing Aid Dealers (8-01)	WV Board of Hearing Aid Dealers Legislative	6/23/2017	7/24/2017						
Higher Ed. Policy Commission (133-7)	WV Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program Legislative	11/18/2016	12/18/2016		12/20/2016		HB 2706	7/5/2017	8/5/2017
Higher Ed. Policy Commission (133-41)	Health Sciences Service Program Procedural	6/26/2017	7/26/2017						
Higher Ed. Policy Commission (133-42)	WV Higher Education Grant Program Legislative	11/18/2016	12/18/2016		12/20/2016		HB 2706	7/5/2017	8/5/2017
Higher Ed. Policy Commission (133-48)	Research Trust Fund Legislative	11/18/2016	12/18/2016		12/21/2016		HB 2706	7/5/2017	8/5/2017
Higher Ed. Policy Commission (133-52)	Annual Reauthorization of Degree-Granting Institutions Legislative	11/18/2016	12/18/2016		12/21/2016		HB 2706	7/5/2017	8/5/2017
Highways (157-2)	Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance Legislative	6/22/2017	7/24/2017						
Human Services (78-01)	Child Care Licensing Legislative	6/26/2017	7/26/2017						
Human Services (78-02)	Child Placing Agencies Licensing Legislative	6/26/2017	7/26/2017						

RULE MONITOR									
AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Human Services (78-18)	Family Child Care Facility Licensing Requirements Legislative	6/27/2017	7/26/2017						
Human Services (78-19)	Family Child Care Home Registration Requirements Legislative	6/26/2017	7/26/2017						
Human Services (78-20)	Informal and Relative Family Child Care Home Registration Requirements Legislative	6/26/2017	7/26/2017						
Human Services (78-21)	Out-of-School Time Child Care Center Legislative	6/26/2017	7/26/2017						
Human Services (78-26)	Drug Screening of Applicants for Cash Assistance Under the Temporary Assistance for Needy Families Program (TANF) Legislative	6/27/2017	7/27/2017	6/27/2017 ERD by 8/8/2017					
Labor (42-10)	Zipline and Canopy Tour Responsibility Act Legislative	6/15/2017	7/17/2017						
Labor (42-12)	Bedding and Upholstered Furniture Legislative	6/15/2017	7/17/2017						
Labor (42-17)	Amusement Rides and Amusement Attractions Safety Act Legislative	6/15/2017	7/17/2017						
Labor (42-21)	Elevator Safety Act Legislative	6/21/2017	7/22/2017						
Labor (42-33)	Employer Wage Bonds Legislative	6/15/2017	7/17/2017						
Labor (42-35)	Registration of Service Persons and Service Agencies Legislative	6/15/2017	7/17/2017	6/16/2017 ERD by 7/28/2017					
Labor (42-36)	Registration of Weighing and Measuring Devices Used by Businesses in Commercial Transactions Legislative	6/15/2017	7/17/2017	6/16/2017 ERD by 7/28/2017					

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Licensed Practical Nurses (10-04)	Schedule of Fees for Services Rendered by the WV State Bd. Of Examiners for Licensed Practical Nurses Legislative	6/28/2017	7/28/2017						
Lottery Commission (179-1)	State Lottery Rules Legislative	6/19/2017	7/21/2017						
Massage Therapy Licensure Board (194-1)	General Provisions Legislative	6/19/2017	7/22/2017						
Medicine (11-6)	Continuing Education for Physicians and Podiatrists Legislative	6/21/2017	7/21/2017						
Medicine (11-01B)	Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	7/11/2017	8/10/2017						
Miners' Health, Safety and Training (56-23)	Operating Diesel Equipment in Underground Mines in WV Legislative	6/22/2017	7/24/2017	6/22/2017 ERD by 8/3/2017					
Mining and Reclamation (38-02)	West Virginia Surface Mining Reclamation Legislative	6/6/2017	7/18/2017						
Natural Resources (58-02)	Rules Controlling the Public Land Corporations Sale, Lease, Exchange or Transfer of Land or Minerals Legislative	6/23/2017	7/24/2017						
Natural Resources (58-05)	Recycling Assistance Grant Program Legislative	6/23/2017	7/24/2017						
Natural Resources (58-11)	Hunting, Fishing and Other Outfitters and Guides Legislative	6/23/2017	7/24/2017						
Natural Resources (58-13B)	Special Waterfowl Hunting Areas Legislative Exempt	6/23/2017	7/24/2017						
Natural Resources (58-25)	Boating Rule Legislative	6/23/2017	7/24/2017						
Natural Resources (58-28)	Special Requirements Concerning Boating Legislative	6/23/2017	7/24/2017						
Natural Resources (58-29)	Special Boating Rule for Jennings Randolph Lake Legislative	6/23/2017	7/24/2017						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-49)	General Hunting Legislative	6/23/2017	7/24/2017						
Natural Resources (58-56)	Special Migratory Bird Hunting Legislative	6/23/2017	7/24/2017						
Natural Resources (58-64)	Miscellaneous Permits and Licenses Legislative	6/23/2017	7/24/2017						
Natural Resources (58-69)	Wildlife Disease Management Legislative	6/28/2017	7/28/2017						
Optometry (14-01)	WV Board of Optometry Legislative	6/28/2017	7/28/2017						
Pharmacy (15-1)	Licensure and Practice of Pharmacy Legislative	6/22/2017	7/24/2017						
Pharmacy (15-2)	Uniform Controlled Substances Act Legislative	5/11/2017	6/12/2017						
Pharmacy (15-7)	Registration of Pharmacy Technicians Legislative	5/12/2017	6/12/2017						
Pharmacy (15-8)	Controlled Substances Monitoring Program Legislative	6/15/2017	7/17/2017	6/15/2017 ERD by 7/27/2017					
Pharmacy (15-10)	Pharmacist Recovery Networks Legislative	5/12/2017	6/12/2017						
Pharmacy (15-12)	Immunizations Administered by Pharmacists and Pharmacy Interns Legislative	6/22/2017	7/24/2017						
Pharmacy (15-14)	Centralized Prescription Processing Legislative	6/15/2017	7/17/2017						
Physical Therapy (16-4)	Fees for Physical Therapist and Physical Therapist Assistant Legislative	3/16/2016	4/18/2016		4/22/2016	Approved 9/1/2016	SB 144 HB 2232 Bundled HB 2219	6/5/2017	9/1/2017
Psychologists (17-01)	Fees Legislative	6/28/2017	7/28/2017						
Psychologists (17-02)	Organization and Procedures of the Board of Examiners of Psychologists Procedural	6/28/2017	7/28/2017						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Psychologists (17-03)	Requirements for Licensure as a Psychologist and/or a School Psychologist Legislative	6/28/2017	7/28/2017						
Psychologists (17-06)	Code of Ethics Legislative	6/28/2017	7/28/2017						
Public Service Commission (150-37)	Telephone Conduit Occupancy Legislative	6/7/2016	7/15/2016		8/26/2016	Modified & Approved 12/7/2016 Filed 12/13/2016	SB 145 HB 2278 Bundled HB 2219	5/17/2017	8/1/2017
Racing Commission (178-1)	Thoroughbred Racing Legislative	6/19/2017	7/19/2017						
Racing Commission (178-5)	Pari-Mutuel Wagering Legislative	7/13/2016	8/12/2016		8/18/2016	Modified & Approved 9/21/2016 Filed 9/19/2016	SB 147 HB 2280 Bundled SB 127	5/3/2017	8/1/2017
Real Estate Appraiser Licensing & Cert. Bd. (190-2)	Requirements for Licensure and Certification Legislative	6/14/2017	7/17/2017						
Real Estate Appraiser Licensing & Cert. Bd. (190-4)	Investigative and Hearing Procedures Procedural	6/15/2017	7/17/2017						
Real Estate Commission (174-01)	Licensing Real Estate Brokers, Associate Brokers and Salespersons and the Conduct of Brokerage Business Legislative	6/23/2017	7/24/2017						
Real Estate Commission (174-02)	Schedule of Fees Legislative	6/26/2017	7/26/2017						
Real Estate Commission (174-03)	Requirements for Real Estate Courses, Course Providers and Instructors Legislative	6/26/2017	7/26/2017						
School Building Authority of WV (164-1)	School Building Authority Policy and Procedures Handbook Procedural	12/22/2016	1/23/2017						
Secondary School Activities Comm. (127-2)	Athletics, Provisions Governing Eligibility Legislative Exempt	5/18/2017	6/19/2017					7/13/2017	9/11/2017

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secondary School Activities Comm. (127-3)	Provisions Governing Contests Legislative Exempt	5/18/2017	6/19/2017					7/13/2017	9/11/2017
Secretary of State (153-18)	Procedures for Canvassing Elections Legislative	6/28/2017	7/28/2017						
Secretary of State (153-27)	Procedures for Handling Ballots and Counting Write-In Votes in Counties Using Optical Scan Ballots Legislative	6/28/2017	7/28/2017						
Secretary of State (153-34)	Licensing of Private Investigators and Security Guards Legislative	6/26/2017	7/26/2017						
Secretary of State (153-39)	Vote by Mail Pilot Project Phase 2: Voting by Mail – Repeal Legislative	6/27/2017	7/27/2017						
Senior Services (76-3)	WV State Plan for Aging Programs Interpretive	7/7/2016	8/8/2016						
Tax (110-10F)	Payment of Taxes by Electronic Funds Transfer Legislative	6/16/2017	7/17/2017						
Tax (110-13DD)	Farm-To-Food Bank Tax Credit Legislative	6/16/2017	7/17/2017						
Tax (110-22)	Property Transfer Tax Legislative	6/19/2017	7/20/2017						
Tax (110-28)	Municipal Sales and Service and Use Tax Administration Legislative	6/16/2017	7/17/2016	6/13/2017 ERD by 7/25/2017					
Veterinary Medicine (26-1)	Organization and Operation and Licensing of Veterinarians Legislative	6/12/2017	7/13/2017						
Veterinary Medicine (26-5)	Certified Animal Euthanasia Technicians Legislative	6/12/2017	7/13/2017						
Veterinary Medicine (26-6)	Schedule of Fees Legislative	6/12/2017	7/13/2017						
Waste Mgmt., Div. of Water & Waste Mgmt (33-01A)	Disposal of Completion Waste Interpretive	3/16/2017	4/16/2017					6/23/2017	8/1/2017

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Waste Mgmt., Div. of Water & Waste Mgmt (33-20)	Hazardous Waste Management System Legislative	6/5/2017	7/6/2017						
Waste Mgmt., Div. of Water & Waste Mgmt (33-30)	Underground Storage Tanks Legislative	6/5/2017	7/6/2017						

West Virginia
Division of Corrections

STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF CORRECTIONS

JIM JUSTICE
GOVERNOR

LOITA BUTCHER
ACTING COMMISSIONER

JEFF S. SANDY, CAMS, CFE
CABINET SERETARY

LEGISLATIVE

West Virginia Division of Corrections
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FILED
2017 JUL 13 P 12: 35
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Judy Cooper
Administrative Law Division
Secretary of State
1900 Kanawha Boulevard E
Charleston, WV 25305

RE: Updated Policy Directives for the Division of Corrections

Dear Ms. Cooper:

Enclosed please find updated Policy Directive(s) on behalf of the Division of Corrections. Please do not publish these policies in your register.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Loita Butcher

Loita Butcher
Acting Commissioner

West Virginia
Division of Corrections

STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF CORRECTIONS

JIM JUSTICE
GOVERNOR

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1409 GREENBRIER STREET
CHARLESTON, WV 25311
(304) 558-2036 TELEPHONE - (304) 558-5367 FAX

MEMORANDUM

FILED
2017 JUL 13 P 12: 36
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

To: All Division of Corrections Staff

From: Loita Butcher, Acting Commissioner Loita Butcher

Date: 10 July 2017

RE: Cancellation of Policy Directive 401.02 Pre-parole Packet

Please be advised that effective on today's date, Policy Directive 401.02 is cancelled and is null and void.

I trust that this information is adequate for your needs; however, if you have any questions, please do not hesitate to contact me.

Cc: File

West Virginia
Division of Corrections

STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF CORRECTIONS

JIM JUSTICE
GOVERNOR

LOITA BUTCHER
ACTING COMMISSIONER

JEFF S. SANDY, CAMS, CFE
CABINET SECRETARY

OFFICE OF THE COMMISSIONER
1409 GREENBRIER STREET
CHARLESTON, WV 25311
(304) 558-2036 TELEPHONE - (304) 558-5367 FAX

MEMORANDUM

To: **All Division of Corrections Staff**

From: **Loita Butcher, Acting Commissioner** Loita Butcher

Date: **10 July 2017**

RE: **Replacement of Attachment #1 and Attachment #2 of Policy Directive 400.03**
Issuance of Property to Inmates

FILED
2017 JUL 13 P 12:36

Please be advised that effective on 17 July 2017, the attached documents are to replace the previously issued attachment #1 and attachment #2 of Policy Directive 400.03.

The remainder of the above-referenced Policy Directive is unchanged. Please ensure that all employees are aware of this revision and execute a Certificate of Understanding. Also, place this memorandum in all Policy Directive manuals adjacent to the above referenced Policy Directive.

I trust that this information is adequate for your needs; however, if you have any questions, please do not hesitate to contact me.

Cc: File

LEGISLATIVE

WEST VIRGINIA BOARD OF EDUCATION
Capitol Building, Room 617
1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0330

Telephone: 304.558.3660
Fax: 304.558.0198

July 13, 2017

FILED
2017 JUL 13 P 12:35

The Honorable Mac Warner
Secretary of State
State of West Virginia
Capitol Building 1, Suite 157-K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Secretary Warner:

The West Virginia Board of Education, at its July 12, 2017 meeting, voted to repeal the following rule due to the passage of House Bill 2711 which eliminated the Office of Education Performance Audits.

126CSR13, Policy 2320, A Process for Improving Education: Performance Based Accreditation System

Thank you for your attention to this matter.

Sincerely,

W. Clayton Burch
Associate Superintendent
West Virginia Department of Education

FORM 5 – NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-016**
RULE NAME **Regulations for the Education of Students with Exceptionalities**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT
Yes
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW
W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS
Monday, August 14, 2017

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-016 Rule Id: 16407 Document: 49583

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/13/2017 12:57:37 PM
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

FORM 5 – NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-067**
RULE NAME **Comprehensive School Counseling Programs (2315)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT
Yes
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW
W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS
Monday, August 14, 2017

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-067 Rule Id: 16458 Document: 49580

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/13/2017 12:45:41 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE

FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-081**
RULE NAME **Attendance (Policy 4110)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, August 14, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
WVDE Office of Student and School Support
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-081 Rule Id: 16572 Document: 49574

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/13/2017 12:47:38 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-099**
RULE NAME **Expected Behavior in Safe and Supportive Schools (Policy 4373)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, August 14, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
WVDE Office of Student and School Support
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-099 Rule Id: 16472 Document: 49575

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/13/2017 12:49:29 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE

FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-114**
RULE NAME **Approval of Educational Personnel Preparation Programs (Policy 5100)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, August 14, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
WVDE Office of Certification, Licensure and Professional Preparation
Capitol Building 6, Room 304
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-114 Rule Id: 16569 Document: 49576

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/13/2017 12:51:20 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-136**
RULE NAME **Minimum Requirements for the Licensure of Professional/ Paraprofessional Personnel and Advanced Salary Classification (Policy 5202)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, August 14, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
WVDE Office of Certification, Licensure and Professional Preparation
Capitol Building 6, Room 304
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-136 Rule Id: 16568 Document: 49577

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/11/2017 10:36 AM

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

AGENCY: Environmental Protection Secretarys Office TITLE-SERIES: 60-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 60-03 Voluntary Remediation and Redevelopment Rule

PRIMARY CONTACT

NAME: Casey Korbini

ADDRESS: 131A Peninsula Street

Wheeling, WV 26003

EMAIL: casey.e.korbini@wv.gov

PHONE NUMBER: 304-238-1220 3506

CITE STATUTORY AUTHORITY: W. Va. Code §22-22-3

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §22-22-3 grants rule-making authority to the Secretary of the West Virginia Department of Environmental Protection for the Voluntary Remediation and Redevelopment Rule. WVDEP is (1) updating the Brownfields Revolving Fund procedures to ensure compliance with EPA Brownfields Revolving Loan Fund Grant cooperative agreements and (2) making revisions throughout the rule to ensure compliance with the authority for the rule provided in W. Va. Code §22-22-3(a)-(g)

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/5/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/6/2017

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: Yes

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

P.O. BOX 2067
CHARLESTON, WV 25327

WEST VIRGINIA LOTTERY

PHONE: 304-558-0500
1-800-WVA-CASH

LEGISLATIVE

Jim Justice
Governor

Alan H. Larrick
Director

FILED
2017 JUL 11 P 1:53
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

June 30, 2017

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Festival of Riches," "The Dawn of the Andes" and "Winning Animals" manufactured by Konami Gaming, Inc., for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: Festival of Riches
The Dawn of the Andes
Winning Animals

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

June 30, 2017

FILED
2017 JUL 11 P 1:54
OFFICE OF
SECRETARY OF STATE

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Lock It Link Diamonds" and "Hot Shot Twin Fire" manufactured by Bally Technologies for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: Lock It Link Diamonds
Hot Shot Twin Fire

LEGISLATIVE

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

June 30, 2017

FILED
2017 JUL 11 P 1:55
OFFICE OF
SECRETARY OF STATE

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Fortune Fox (1F)," "Mustang Fortune (1E)" and "Twice the Diamonds (1H)" manufactured by Ainsworth Game Technology for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: Fortune Fox (1F)
Mustang Fortune (1E)
Twice the Diamonds (1H)

www.wvlottery.com

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

June 30, 2017

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

FILED
2017 JUL 11 P 1:56
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "High Stakes" manufactured by Aristocrat, Inc. for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: High Stakes

LEGISLATIVE

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

June 30, 2017

FILED
2017 JUL 11 P 1:57
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Aladdin's Fortune 3D," "Da Vinci Diamonds Dual Play," "Plants vs. Zombies 3D," "The Swordsman," "Wheel of Fortune Power Wedges" and Wheel of Fortune Winning Wedges" manufactured by IGT, Inc. for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: Aladdin's Fortune 3D
Da Vinci Diamonds Dual Play
Plants vs. Zombies 3D
The Swordsman
Wheel of Fortune Power Wedges
Wheel of Fortune Winning Wedges

www.wvlottery.com

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/11/2017 3:49:53 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE

FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE (Page 1)

AGENCY **Medicine**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **11-01B**

RULE NAME **Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants**

CITE AUTHORITY **W. Va. Code §30-1-7(a), §30-3E-3(a)(1)-(10), and W. Va. Code §30-1D-1(d).**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Thursday, August 10, 2017 4:30 PM

WRITTEN COMMENTS MAY BE MAILED TO
Mark A. Spangler, Executive Director
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, West Virginia 25311
Mark.A.Spangler@wv.gov

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mark A Spangler – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 11-01B Rule Id: 16577 Document: 49556

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/13/2017 12:55:28 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

FORM 5 – NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY **Secondary School Activities Commission**

RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **127-02**

RULE NAME **Athletics, Provisions Governing Eligibility**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT
Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW
W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS
Monday, September 11, 2017

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 127-02 Rule Id: 16459 Document: 49579

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/13/2017 12:53:49 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE

FORM 5 – NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY **Secondary School Activities Commission**

RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **127-03**

RULE NAME **Provisions Governing Contests**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS

Monday, September 11, 2017

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Mary C Tuckwiller – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Orders Report

Docket Number	Agency	Respondent	Date Rendered
17-AP-THP-02006	**Insurance Commission**	Cincinnati Insurance Company	6/29/2017
N/A	**Medicine, West Virginia Board Of**	Jamie Leann Hall-Jasper, D.P.M.	7/10/2017
N/A	**Medicine, West Virginia Board Of**	James Edwin Prommersberger, D.P.M.	7/10/2017

FILED
2017 JUL 12 P 12: 24
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AG OPINION

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

(304) 558-2021
Fax (304) 558-0140

June 15, 2017

The Honorable Jeffrey L. Freeman
Prosecuting Attorney
Office of the Marion County Prosecuting Attorney
213 Jackson Street
Fairmont, WV 26554

Dear Prosecutor Freeman:

You have asked for an Opinion of the Attorney General regarding the authority of the Marion County Commission to set the hours and days of operation for certain offices in the Marion County Courthouse. This Opinion is being issued pursuant to West Virginia Code § 5–3–2, which provides that the Attorney General "may consult with and advise the several prosecuting attorneys in matters relating to the official duties of their office." To the extent this Opinion relies on facts, it is based solely upon the factual assertions set forth in your correspondence with the Office of the Attorney General.

Your correspondence raises the following legal question, which is addressed below:

Whether the Marion County Commission has the authority to set the hours and days of operation for offices of other elected officials in the Marion County Courthouse, and by what mechanism it may enforce any such authority?

Your correspondence concerns the authority of the Marion County Commission to set office hours for the offices in the Marion County Courthouse, specifically the offices of other independently elected officials. According to your letter, on at least two occasions, some elected officials have chosen to close their offices, or to provide limited hours of operation, or to allow employees paid time off by running the offices with only a skeleton crew, when there has been no official State or nationwide pronouncement of a holiday. The Marion County Commission seeks the Opinion of the Attorney General regarding whether these elected officials have independent authority to set their own office hours, or if the Commission may set office hours governing the offices of these independently elected officials in the Marion County Courthouse.

We believe that the Marion County Commission does not have the authority to set the hours and days of operation for offices of elected officials within the Marion County Courthouse. As we explain below, county commissions have wide discretion over the fiscal affairs of their counties. At the same time, independently elected officials have discretion over how to conduct business in their respective offices, with which the Marion County Commission does not have authority to interfere.

County commissions are created by the West Virginia Constitution, *see* W. Va. Const. art. IX, §§ 9, 11, and act as "the central governing body of [each] county," *State ex rel. Dingess v. Scaggs*, 156 W. Va. 588, 590, 195 S.E.2d 724, 725 (1973). Though generally "'vested with a wide discretion,'" *Cnty. Comm'n of Greenbrier Cnty. v. Cummings*, 228 W. Va. 464, 469, 720 S.E.2d 587, 592 (2011) (quoting Syl. Pt. 1, in part, *Meador v. Cnty. Court*, 141 W. Va. 96, 87 S.E.2d 725 (1955)), the powers of county commissions are limited to those "expressly conferred by the West Virginia Constitution and our State Legislature, or powers reasonably and necessarily implied for exercise of those expressed powers," *Berkeley Cnty. Comm'n v. Shiley*, 170 W. Va. 684, 685, 295 S.E. 2d 924, 926 (1982). "The constitution and laws of this State have committed to county [commissions] certain legislative, executive and judicial powers directly connected with the local affairs of the county." *Scaggs*, 156 W. Va. at 590, 195 S.E.2d at 725; *see, e.g.*, W. Va. Code § 7–1–3 (general powers and duties of county commissions).

Relevant here, the West Virginia Constitution charges county commissions with "the superintendence and administration of the internal police and fiscal affairs of their counties," subject to "such regulations as may be prescribed by law." W. Va. Const. art. IX, § 11. But while the West Virginia Supreme Court of Appeals has recognized that "[t]he word 'superintendence' in the section implies the right of oversight," it "does not carry the thought of absolute control over . . . the fiscal affairs of the county." *State Rd. Comm'n v. Kanawha Cnty. Court*, 112 W. Va. 98, 163 S.E. 815, 818 (1932). Thus, it is well-established that the individually elected officers under the county commission's oversight have independent authority over how to conduct the fiscal affairs of their respective offices. This means that while the county commission must "determine the aggregate sum to be expended on staff compensation in each of the named county offices," *State ex rel. Lambert v. Cortellessi*, 182 W. Va. 142, 146-47, 386 S.E.2d 640, 644-45 (1989), once the "aggregate sum" for a county official's staff compensation is appropriated by the county commission, the distribution and division of that sum is generally within the discretion of the county official, *see, e.g., id.* (county officials have complete discretion over how funds—the total amount of which is appropriated from the county commission—are distributed or allocated among their staff); *Cummings*, 228 W. Va. at 470, 720 S.E.2d at 593 ("Subject only to the requirement that they not exceed the aggregate amount of their respective budget, county officials are given the responsibility of 'fixing the individual compensation of their assistants, deputies and employees.'"); W. Va. Op. Att'y Gen. 2015 WL 5210280, at *3 (Sept. 1, 2015) (a sheriff has discretion over how to spend his budget once it has been appropriated by a county commission).

While the Court has never to our knowledge addressed the precise question at issue here, we believe the general principles outlined above support the conclusion that the County Commission lacks authority to dictate to each independently elected official within the county

how to manage the day-to-day affairs of his or her office, including setting the hours and days of operation for employees. The Supreme Court of Appeals has long made clear that county officials have broad discretion over their budgets once an aggregate sum has been approved by the county commission; this principle would seem naturally to provide county officials with discretion over managing the day-to-day functions of their offices. The "oversight" authority of the Marion County Commission does not give it the "absolute authority" to interfere with a county official's day-to-day operation of his or her office. As such, the Commission appears to be precluded from mandating particular office hours for the offices of county officials.[1]

This conclusion does not mean that there are no limits to what an elected official may do with respect to setting the hours and compensation for staff within their respective office. We note, for example, that only the Legislature has the power to authorize by general legislation the observance of legal holidays. *State ex rel. Morgan v. Miller*, 177 W. Va. 97, 104, 350 S.E.2d 724, 731-32 (1986) (citing W. Va. Code § 2–2–1 *and* Syl. Pt. 1, *Pullano v. City of Bluefield*, 176 W. Va. 198, 342 S.E.2d 164 (1986)). Both federal and state law may provide other limitations. The precise limits of local elected officials' discretion, the mechanisms by which such limits may be enforced, and whether those limits were exceeded in the instances outlined in your letter, are beyond the scope of this opinion.

Sincerely,

Patrick Morrisey
Attorney General

Thomas M. Johnson, Jr.
Deputy Solicitor General

Katlyn Miller
Assistant Attorney General

[1] While certain contours of the relationship between county commissions and the various independently elected county officials are explicitly outlined, *see* W. Va. Code §7–7–7, we are unaware of any constitutional provision, statute, or regulation that would provide the County Commission with authority to set the hours and days of operation for the offices of independently elected officials. *Cf* Syl. Pt. 4, *Webster Cnty. Comm'n v. Clayton*, 206 W. Va. 107, 522 S.E.2d 201 (1999) ("The plain language of W. Va. Code § 7–7–7 (1982) (Repl. Vol. 1993) permits a sheriff [an independently elected county official] to appoint or employ individuals to assist him/her in the performance of his/her official duties only after he/she has obtained the advice and consent of the county commission to such appointment or employment."); Syl. Pt. 1, *Rutledge v. Workman*, 175 W. Va. 375, 332 S.E.2d 831 (1985) ("It was the intention of the framers of the judicial article (Article VIII) of the *W. Va. Const.* that the clerk of a circuit court, although an independently elected, public official, be subject to the direction and control of the circuit court of the county in which she serves or of the chief judge of that county's circuit court with regard to her court-related duties.")

AG OPINION

WEST VIRGINIA HEALTH CARE AUTHORITY
CERTIFICATE OF NEED
100 Dee Drive
Charleston, West Virginia 25311-1600

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SECRETARY OF STATE

OTHER

July 10, 2017

LEGAL NOTICE

Harriett Fitzgerald, Executive Director, West Virginia Health Care Authority, announces the following Certificate of Need activities for the week ending **July 7, 2017**.

LETTER OF INTENT RECEIVED

July 7, 2017- United Hospital Center, Inc., Bridgeport, Harrison County, CON File #17-6-11131-Z, for the provision of home health services in Preston County; capital expenditure: $35,000.

APPLICATIONS FOR EXEMPTION RECEIVED

July 5, 2017 – Re-Entry and Recovery Network, Huntington, Cabell County, CON File #17-2-11129-X, for a ten-bed in-patient substance abuse center located at 2045 9th Avenue, Huntington.

July 6, 2017 – Sabra Health Care REIT, Irvine, California, CON File #17-5-11130-X, for the change in ownership of the landlord of Worthington Nursing and Rehabilitation Center located in Parkersburg, Wood County.

APPLICATION DECLARED COMPLETE AND UNDER REVIEW

An application declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

EXPEDITED APPLICATION

On June 29, 2017 - Oak Hill Hospital Corporation d/b/a Plateau Medical Center, Oak Hill, Fayette County, CON File #17-4-11119-H, for the construction of two new operating rooms, procedure rooms and support space on land adjacent to and owned by Plateau Medical Center; capital expenditure: $10,400,000.

The review cycle for the above-referenced project is as follows:

June 30, 2017 – Review cycle begins;

July 31, 2017 – Last date for an affected person to request a public hearing on the project. If a public hearing is requested, notice of date, time and place will be issued to affected persons;

August 4, 2017 – If no public hearing is requested, the file will close and no further information or evidence will be accepted by the Authority for the remainder of the review of the application;

August 29, 2017 – Decision on the project will be issued by the Authority.

Further information may be obtained on any of the above-referenced projects by contacting Barbara Skeen, Director, Certificate of Need Division.