

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:

Dentistry, WV Board of

Ethics Commission

Health Care Authority

Insurance Commission

Labor

CHRONOLOGICAL INDEX, VOLUME XXXV ISSUE 45			
NO NEW PROPOSED RULES WERE FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	RULE/TYPE	AUTHORITY	HEARING/COMMENT PERIOD/LOCATION

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

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Charleston, West Virginia 25305

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State of West Virginia

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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	1	ACCOUNTANCY
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	8	HEARING AID DEALERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
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	31	DIETITIANS
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
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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
TITLE	148	ADMINISTRATION
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	164	SCHOOL BUILDING AUTHORITY
TITLE	172	STATE RAIL AUTHORITY
TITLE	174	REAL ESTATE COMMISSION
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	194	MASSAGE THERAPY LICENSURE BOARD
TITLE	199	EXPLOSIVES & BLASTING
TITLE	204	HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Administration (148-01)	Purchasing Division Legislative	6/11/2018	7/11/2018		7/18/2018				
Administration (148-03)	State Owned Vehicles Legislative	6/12/2018	7/12/2018	6/8/2018 Effective July 20, 2018	7/20/2018				
Administration (148-19)	Leasing of Space and Acquisition of Real Property on Behalf of State Spending Units Legislative	6/11/2018	7/11/2018		7/19/2018				
Agriculture (61-01)	Animal Disease Control Legislative	6/26/2018	7/26/2018		7/27/2018				
Agriculture (61-29)	Industrial Hemp Legislative	6/27/2018	7/27/2018		7/27/2018				
Agriculture (61-33)	Rural Rehabilitation Loan Program Legislative	6/26/2018	7/26/2018		7/26/2018				
Agriculture (61-34)	Captive Cervid Farming Legislative	6/27/2018	7/26/2018		7/27/2018				
Agriculture (61-36)	Farm to Food Bank Tax Credit Legislative	12/18/2017	1/18/2018	12/18/2017 Effective 1/29/2018	1/19/2018				
Agriculture (61-37)	Agritourism Legislative	6/27/2018	7/27/2018		7/27/2018				
Agriculture (61-38)	Farmers Markets Legislative	6/27/2018	7/27/2018	7/30/2018 Effective 9/10/2018	7/27/2018				
Agriculture (61-39)	Seed Certification Program Legislative	6/27/2018	7/27/2018		7/27/2018				
Air Quality (45-08)	Ambient Air Quality Standards Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-36)	(Repeal of) Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 USC or the Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity) Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			
Air Quality (45-38)	(Repeal of) Provisions for Determination of Compliance with Air Quality Management Rules Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			
Air Quality (45-43)	Cross-State Air Pollution Rule to Control Annual Nitrogen Oxides Emissions, Annual Sulfur Dioxide Emissions, and Ozone Season Nitrogen Oxides Emissions Legislative	6/5/2018	7/10/2018		7/24/2018	Approved 9/20/2018			
Athletic Commission (177-01)	Administrative Rules of the WV State Athletic Commission Legislative	6/19/2018	7/19/2018		7/24/2018				
Comm. & Tech. College Education (135-15)	Acceptance of Advanced Placement Credit Legislative	8/20/2018	9/21/2018		9/26/2018				
Comm. & Tech. College Education (135-20)	Initial Authorization of Degree-Granting Institutions Legislative	10/16/2018	11/19/2018						
Comm. & Tech. College Education (135-27)	Workforce Development Initiative Program Legislative	10/16/2018	11/19/2018						
Comm. & Tech. College Education (135-32)	Tuition and Fees Legislative	4/24/2018	5/25/2018		7/2/2018				
Comm. & Tech. College Education (135-40)	Equal Opportunity and Affirmative Action Procedural	10/16/2018	11/19/2018						
Dietitians (31-01)	Licensure and Renewal Requirements Legislative	6/22/2018	7/24/2018		7/24/2018	Modified & Approved 9/20/2018 Filed 9/20/2018			
Education (126-003)	Notice and Conduct of Meetings (1241) Legislative Exempt	9/13/2018	10/15/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Education (126-44H)	WV Driver Education Standards (2520.8) Legislative Exempt	8/10/2018	9/10/2018					10/11/2018	7/1/2019
Education (126-44O)	WV Pre-K Standards (Ages 3-5) (2520.15) Legislative Exempt	8/10/2017	9/11/2017					10/12/2017	7/1/2019
Education (126-71)	Establishment Procedures and Operating Policy for Multi-County Career and Technical Education Centers (3232) Legislative Exempt	8/10/2018	9/10/2018					10/11/2018	11/13/2018
Education (126-86)	Standards for School Nutrition (4321.1) Legislative Exempt	8/10/2018	9/10/2018					10/11/2018	11/13/2018
Education (126-149)	Professional Learning for West Virginia Educators (5500) Legislative Exempt	8/10/2018	9/10/2018					10/11/2018	11/13/2018
Education (126-161)	Alternative Certification Programs for the Education of Teachers (5901) Legislative Exempt	9/13/2018	10/15/2018						
Fire Commission (87-04)	State Building Code Legislative	6/22/2018	7/23/2018		7/25/2018				
Health (64-11)	Behavioral Health Centers Licensure Legislative	6/21/2018	7/21/2018		7/27/2018				
Health (64-14)	Assisted Living Residences Legislative	6/21/2018	7/20/2018		7/27/2018				
Health (64-17)	Food Establishments Legislative	6/21/2018	7/20/2018		7/26/2018				
Health (64-43)	Food Manufacturing Facilities Legislative	6/21/2018	7/20/2018		7/26/2018				
Health (64-91)	Newborn Screening System Legislative	6/21/2018	7/20/2018		7/26/2018				
Health (64-109)	General Rules-Medical Cannabis Program Legislative			4/3/2018 Effective 4/3/2018					
Health (64-110)	Grower/Processors-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-111)	Laboratories-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health (64-112)	Dispensaries-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health (64-113)	Safe Harbor Letter-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health and Human Resources (69-08)	Chronic Pain Management Clinic Licensure Legislative	6/21/2018	7/21/2018		7/27/2018				
Health an Human Resources (69-12)	Medication-Assisted Treatment – Office-Based Medication-Assisted Treatment Legislative	6/21/2018	7/21/2018		7/27/2018				
Health and Human Resources (69-14)	Collection and Exchange of Data Related to Overdoses Legislative	6/21/2018	7/21/2018		7/27/2018				
Health Care Authority (65-06)	Cooperative Agreement Legislative	6/21/2018	7/21/2018		7/26/2018				
Higher Education Policy Commission (133-05)	Guidelines for Governing Boards in Employing and Evaluating Presidents Legislative	6/26/2018	7/26/2018		8/28/2018				
Higher Education Policy Commission (133-07)	WV Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program Legislative	6/26/2018	7/26/2018	6/26/2018 Effective 6/26/2018	8/7/2018				
Highways (157-12)	Employment Procedures	7/18/2018	8/20/2018	7/19/2018 Effective 8/30/2018	8/30/2018				
Labor (42-05)	Wage Payment and Collection Legislative	6/15/2018	7/16/2018		7/25/2018	Approved 9/20/2018			
Labor (42-09)	Child Labor Legislative	6/18/2018	7/19/2018		7/25/2018	Modified & Approved 9/20/2018 Filed 9/26/2018			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Labor (42-12)	Bedding and Upholstered Furniture Legislative	6/19/2018	7/19/2018		7/25/2018				
THE ABOVE RULE HAS BEEN WITHDRAWN 11/2/2018									
Labor (42-34)	Regulation of Heating, Ventilating and Cooling Work Legislative	6/15/2018	7/16/2018	6/15/2018 Effective 7/27/2018	7/25/2018	Approved 9/20/2018			
Lottery Commission (179-09)	West Virginia Lottery Sports Wagering Rule Legislative	8/6/2018	9/7/2018	7/9/2018 Approved 8/6/2018	10/4/2018				
Medicine (11-01A)	Licensing and Disciplinary Procedures: Physicians; Podiatric Physicians and Surgeons Legislative	6/22/2018	7/23/2018		7/25/2018	Approved 9/20/2018			
Medicine (11-12)	Permitting and Disciplinary Procedures: Educational Permits for Graduate Medical Interns, Residents and Fellows Legislative	6/22/2018	7/23/2018	6/22/2018 Effective 8/3/2018 Amendment 7/25/2018 Withdrawn 8/7/2018 Amendment 8/7/2018 Effective 9/18/2018	7/25/2018	Approved 9/20/2018			
Miners Health Safety and Training (56-03)	Rule Governing the Safety of Those Employed in and Around Surface Mines in WV Legislative	6/19/2018	7/19/2018	6/19/2018 Effective 7/31/2018	7/25/2018				
Miners Health Safety and Training (56-08)	Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of West Virginia Legislative	5/30/2018	6/29/2018	5/30/2018 Effective 7/11/2018	7/25/2018				
Miners Health Safety and Training (56-23)	Rules for Operating Diesel Equipment in Underground Mines in West Virginia Legislative	5/30/2018	6/29/2018	5/29/2018 Effective 7/10/2018	7/25/2018				
Natural Resources (58-12)	Commercial Whitewater Outfitters Legislative	6/26/2018	7/26/2018		7/27/2018	Modified & Approved 9/20/2018 Filed 10/1/2018			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-36)	Cabwaylingo State Forest Trail System Two Year Pilot Program Permittings ATVs and ORVs Legislative	6/26/2018	7/26/2018	6/26/2018 Effective 8/7/2018	7/27/2018	Modified & Approved 9/20/2018 Filed 10/1/2018			
Osteopathic Medicine (24-01)	Licensing Procedures for Osteopathic Physicians Legislative	5/24/2018	6/25/2018		7/26/2018	Approved 9/20/2018			
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	6/21/2018	7/22/2018		7/27/2018	Approved 9/20/2018			
Pharmacy (15-07)	Registration of Pharmacy Technicians Legislative	6/12/2018	7/16/2018		7/27/2018	Approved 9/20/2018			
Pharmacy (15-15)	Regulations Governing Pharmacy Permits Legislative	6/21/2018	7/22/2018		7/27/2018	Approved 9/20/2018			
Pharmacy (15-16)	Regulations Governing Pharmacists Legislative	6/19/2018	7/20/2018		7/27/2018	Approved 9/20/2018			
Pharmacy (15-17)	Board of Pharmacy Rules for the Substitution of Biological Pharmaceuticals Legislative	6/19/2018	7/21/2018		7/27/2018				
Public Service Commission (150-1)	Rules of Practice and Procedure Legislative Exempt	5/10/2018	7/10/2018						
Public Service Commission (150-02)	Rules for the Construction and Filing of Tariffs Legislative Exempt	5/10/2018	7/10/2018						
Public Service Commission (150-25)	Telephone Emergency Service Legislative Exempt	3/8/2018	5/9/2018					11/1/2018	12/3/2018
Public Service Commission (150-33)	Rules Governing Electric Utility Net Metering Arrangements and Interconnections Legislative Exempt	9/6/2018	11/8/2018						
Racing Commission (178-01)	Throughbred Racing Legislative	6/13/2018	7/13/2018		7/26/2018				
Real Estate Appraiser, Licensing and Certification Bd. (190-02)	Requirements for Licensure and Certification Legislative	6/27/2018	7/27/2018		7/27/2018	Modified & Approved 9/20/2018 Filed 10/3/2018			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Registered Professional Nurses (19-01)	Policies, Standards and Criteria for the Evaluation, Approval and Accreditation of Colleges, Departments or Schools of Nursing Legislative	6/19/2018	7/20/2018		7/26/2018				
Registered Professional Nurses (19-03)	Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative	6/19/2018	7/20/2018		7/25/2018				
Registered Professional Nurses (19-07)	Advanced Practice Registered Nurse Legislative	6/19/2018	7/20/2018		7/25/2018				
Registered Professional Nurses (19-10)	Standards for Scope of Professional Nursing Practice Legislative	6/19/2018	7/20/2018		7/26/2018				
Registered Professional Nurses (19-12)	Fees for Services Rendered by the Board and Supplemental Renewal Fee for the Center for Nursing Legislative	6/19/2018	7/20/2018		7/26/2018				
Registered Professional Nurses (19-13)	Dialysis Technicians Legislative	6/19/2018	7/20/2018		7/25/2018				
School Building Authority (164-02)	Funding School Building Authority Projects Legislative	6/26/2018	7/26/2018						
School Building Authority (164-03)	School Planning and Design Criteria Legislative	6/26/2018	7/26/2018						
School Building Authority (164-04)	Project Administration and Review Legislative	6/26/2018	7/26/2018						
School Building Authority (164-05)	School Building Authority Contracts and Agreements Legislative	6/26/2018	7/26/2018						
School Building Authority (164-06)	School Building Authority Reporting Procedures Legislative	6/26/2018	7/26/2018						
School Building Authority (164-07)	School Access Safety Act Guidelines and Procedures Legislative	6/26/2018	7/26/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secretary of State (153-06)	Filing and Formatting Rules and Related Documents and Other Documents for Publication in the State Register Legislative	6/5/2018	7/5/2018		7/6/2018				
Secretary of State (153-10)	Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Elections Systems, Software, Services and Upgrades Legislative	5/24/2018	6/25/2018	4/25/2018 Effective 6/6/2018	7/10/2018				
Secretary of State (153-13)	Early Voting In-Person Satellite Precincts Legislative	5/24/2018	6/25/2018	4/25/2018 Effective 6/6/2018	7/10/2018				
Secretary of State (153-17)	Submission of Documents for Qualified Newspapers Interpretive	10/10/2018	11/9/2018						
Secretary of State (153-46)	Notaries Public Legislative	6/28/2018	7/28/2018		7/30/2018				
Social Work Examiners (25-01)	Qualifications for the Profession of Social Work Legislative	6/15/2018	7/16/2018		7/25/2018				
Social Work Examiners (25-07)	Code of Ethics Legislative	6/15/2018	7/16/2018		7/23/2018				
Tax (110-10F)	Payment of Taxes by Electronic Funds Transfer Legislative	6/27/2018	7/27/2018		7/27/2018				
Tax (110-15K)	Aircraft Operated Under a Fractional Ownership Program Legislative	6/26/2018	7/26/2018	6/26/2018 Effective 8/7/2018	7/27/2018				
Tax (110-21B)	Citizen Tax Credit for Property Taxes Paid Legislative	6/26/2018	7/26/2018		7/27/2018				
Tax (110-21C)	Method of Claiming the Qualified Rehabilitated Buildings Investment Credit Procedural	10/23/2018	11/27/2018						
Tax (110-41)	Railroad Diesel Locomotive Refundable Exemption from the Variable Rate Component of the Motor Fuel Excise Tax Procedural	10/22/2018	11/27/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax (110-49)	Administration of Tax on Purchases of Wine and Liquor Legislative	6/26/2018	7/26/2018		7/27/2018				
Tax (110-50A)	Exchange of Information Agreement Between Tax Div. and Div. of Environmental Protection Legislative	6/26/2018	7/27/2018		7/27/2018	Approved 9/20/2018			
Tax (110-50B)	Exchange of Information Agreement Between Tax Div. and the Alcohol Beverage Control Administration Legislative	6/27/2018	7/27/2018		7/27/2018	Approved 9/20/2018			
Tax (110-50C)	Exchange of Information Pursuant to Written Agreement Legislative	6/26/2018	7/26/2018		7/27/2018	Approved 9/20/2018			
Tax (110-50D)	Exchange of Information Agreement Between Comm of Tax Div., Comm. Of Labor and the Comm. Of Insurance Legislative	6/27/2018	7/27/2018		7/27/2018	Approved 9/20/2018			
Tax (110-50E)	Exchange of Information Agreement Between Tax Dept. and the WV Lottery Legislative	6/27/2018	7/27/2018		7/27/2018	Approved 9/20/2018			
Tax (110-50F)	Exchange of Information Agreement Between Tax Dept. and the State Fire Marshal Legislative	6/27/2018	7/27/2018		7/27/2018	Approved 9/20/2018			
Treasurer (112-16)	Reporting and Claiming Unknown and Unlocatable Interest Owners Reserved Interests Legislative	6/27/2018	7/27/2018	6/27/2018 Effective 8/8/2018	7/27/2018				
Water Resources, Div. of Water & Waste Mgmt. (47-02)	Requirements Governing Water Quality Standards Legislative	5/25/2018	7/10/2018		7/27/2018				

WEST VIRGINIA DIVISION OF LABOR
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LEGISLATIVE

November 1, 2018

The Honorable Mac Warner
West Virginia Secretary of State
Administrative Law Division
1900 Kanawha Boulevard East
State Capitol Building
Charleston, WV 25305

FILED
2018 NOV -2 A 9:57
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Re: 42 CSR 12
Bedding and Upholstered Furniture

Dear Secretary Warner:

Please withdraw proposed Legislative Rule 42 CSR 12, Bedding and Upholstered Furniture. If you have any questions concerning this request, please do not hesitate to contact me.

Thank you in advance for your assistance.

Sincerely,

Mitchell E. Woodrum
Commissioner

Orders Report

Docket Number	Agency	Respondent	Date Rendered
2018-DB-0022D	Dentistry, WV Board of	Gerald A. Clark, DDS	11/2/2018
2017-DB-0037D	Dentistry, WV Board of	Jack R. Chambers II, DDS	11/2/2018
17-THP-02125/17-AP-THP-02125	Insurance Commission	Illinois National Insurance Company	10/26/2018

WEST VIRGINIA ETHICS COMMISSION ADVISORY OPINIONS

NO.	OPINION SOUGHT
2018-10	A County Board of Education Member asks whether he may continue to be employed on a per diem basis by a staffing agency for a textbook company in other counties when the company markets textbooks and educational materials to the Requester's Board of Education.

WEST VIRGINIA ETHICS COMMISSION CONTRACT EXEMPTION

NO.	OPINION SOUGHT
2018-07	The Town of Danville seeks an exemption to allow it to purchase materials and supplies from Byrnside Hardware and Barker Hardware, which are owned by Town Council Member Fred Byrnside and Town Recorder Tony Hensley, respectively.

Jim Justice
Governor

HEALTHCARE AUTHORITY

Bill J. Crouch, Cabinet Secretary
West Virginia Department of
Health and Human Resources

OTHER

In Re:

Charleston Area Medical Center, Inc.
CON File No. 18-3-11434-P

FILED
2018 NOV -2 A 11:02
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PREHEARING CONFERENCE AND ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Barbara Skeen, Interim Executive Director of the West Virginia Health Care Authority, wishes to announce that the following proceedings have been scheduled for the above-noted application:

A PREHEARING CONFERENCE will be held **January 23, 2019 at 1:30 p.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

AN ADMINISTRATIVE HEARING will be held **Monday, January 30, 2019 at 9:00 a.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

This application concerns the development of an ambulatory health care facility at 624 Chestnut Street, South Charleston, Kanawha County, West Virginia. Charleston Area Medical Center, Inc. intends to purchase the practice and assets of an existing urology/gynecology practice and employ the physician.

RECEIVED
NOV 02 2018

You and any other "affected persons" as defined by W. Va. Code §16-2D-2 wishing to participate in the hearing of this application are directed to be present at both the prehearing conference and the administrative hearing.

The purpose of the prehearing conference is to designate parties to the hearing, to designate the issues for the hearing, resolve any procedural matters, receive any motions, establish the order of proceedings, receive a listing of the witnesses and a summary of direct testimony that will be offered at the hearing, receive a listing of evidence to be offered and copies of any documents to be offered such as reports or analysis prepared by expert witnesses including any financial reports and any other procedural matters. The prehearing conference will be

conducted in conformance to Rule 16, West Virginia Rules of Civil Procedure for pretrial conferences.

In a hearing, any person has the right to be present or to be represented by counsel and to present oral or written arguments and relevant evidence. Any person affected by the matter which is the subject of the hearing may conduct reasonable questioning of persons who make factual allegations relevant to such matters.

PLEASE TAKE NOTICE that if the party who requested the hearing withdraws that request, then the hearing will be canceled.

The file on this application is available for examination in the offices of the Health Care Authority from 8:30 a.m. to 5:00 p.m.., Monday through Friday. If you have questions concerning this matter, please contact Barbara Skeen, Interim Executive Director, at (304) 558-7000 or toll free 1-888-558-7002.

Date: October 30, 2018

Barbara Skeen

Barbara Skeen, Interim Executive Director

WEST VIRGINIA
HEALTH CARE AUTHORITY

In Re: **Charleston Area Medical Center, Inc.**
CON File # 18-3-11434-P

HEARING ORDER

The following shall apply to and govern the above-captioned action and activities conducted in connection with it. In the absence of a specific date or deadline for a given activity, it is anticipated that such activity will be scheduled and conducted within a reasonable time prior to the hearing.

The parties may not amend, modify or adjust any provision of this order except by leave of the Authority.

1. Hearing date: **January 30, 2019, at 9:00 a.m.**

2. Prehearing conference date, **January 23, 2019 at 1:30 p.m.**

3. Settlement conference (optional): **N/A**

4. All replacement pages to CON application to be filed by: **November 16, 2018**
   Pursuant to W. Va. Code St. R. §65-32-6, if the applicant submits a substantial amendment to the application the Authority may withdraw the application from review. The board may examine the extent of additional information or any amendment made by the applicant to the application and its impact on the new institutional health service, and determine the application to be a new proposal subject to a new review cycle.

5. Motions for discovery to be filed by: **November 30, 2018**

6. Discovery completed on or before: **January 4, 2016**
   Parties engaging in discovery are required to file a copy of the certificate of service attached to the discovery request or response with the board. Affected parties shall not file copies of the actual discovery and responses with the board. To the extent that an affected party intends to introduce a document obtained through the discovery process at the administrative hearing, the document and two (2) copies must be filed at the prehearing conference.

OTHER

7. Dispositive and preliminary motions to be filed by: **January 16, 2019**
   Parties shall file all prehearing motions with the board a minimum of three (3) days prior to the prehearing conference.

8. All requests for subpoenas and/or subpoenas duces tecum to be filed by: **January 16, 2019**

Entered this 30th day of October

OTHER

Charlene Farrell
Charlene Farrell, Board Member

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

FILED
2018 NOV -5 P 4:26
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

November 5, 2018

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **November 2, 2018**.

LETTER OF INTENT RECEIVED

October 30, 2018 – Camden-Clark Memorial Hospital Corporation and Camden-Clark Physician Corporation, Parkersburg, Wood County, CON File #18-5-11487-P, for the development of an ambulatory health care facility through the provision of specialty physician services and diagnostic imaging services in St. Mary's, Pleasant County; capital expenditure: $166,000.

CERTIFICATE OF NEED APPLICATION RECEIVED

November 1, 2018 - Safe Haven Care Services, LLC, Scott Depot, Putnam County, CON File #18-1/2/3/4/5/7-11480-BH, for provision of services to individuals with intellectual and developmental disabilities in Boone, Braxton, Cabell, Clay, Fayette, Jackson, Kanawha, Lincoln, Mason, Nicholas, Putnam, Raleigh, Roane and Wayne counties; no capital expenditure.

APPLICATION FOR EXEMPTION RECEIVED

October 30, 2018 – Williamson Health & Wellness Center, Inc., Williamson, Mingo County, CON File #18-2-11489-X, for the development of a satellite clinic in Gilbert, Mingo County.

APPLICATIONS 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 APPLICATIONS

October 24, 2018 - Wetzel County Hospital Association, New Martinsville, Wetzel County, CON File #18-10-11470-P, for the development of an ambulatory health care facility in Wetzel County through the development of a physician practice; capital expenditure: $15,000.00.

October 25, 2018 - Heather Poland, Beaver, Raleigh County, CON File #18-1-11471-A, for the acquisition of the remaining ownership interests in Prompt Care, Inc. from the estate of Dr. Poland; capital expenditure: $400,000.00.

October 31, 2018 - Hospice Care Corporation d/b/a West Virginia Caring, Arthurdale, Preston County, CON File #18-4/5/6/7/10-11472-A, for the removal of its current corporate member, providing for the free-standing operation of West Virginia Caring under its Board of Directors; capital expenditure: $7,400,000.

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

October 31, 2018 – Review cycle begins;

November 30, 2018 – 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;

December 5, 2018 – 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;

December 31, 2018 -- Decision on the project will be issued by the Authority.

HEARING NOTICE

The Administrative Hearing and Prehearing Conference have been SCHEDULED in the following matter:

October 30, 2018 - Charleston Area Medical Center, Inc., Charleston, Kanawha County, CON File #18-3-11434-P, for the development of an ambulatory health care facility at 624 Chestnut Street, South Charleston, Kanawha County; capital expenditure: $277,740.

Prehearing Conference: **Wednesday, January 23, 2019 at 1:30 p.m.**
Administrative Hearing: **Wednesday, January 30, 2019 at 9:00 a.m.**

The prehearing conference and administrative hearing in the above-referenced matter will be held in the office of the Health Care Authority, 100 Dee Drive, Charleston, West Virginia 25311-1600, unless otherwise noted.

HEARING ORDER ISSUED

October 30, 2018 - Charleston Area Medical Center, Inc., Charleston, Kanawha County, CON File #18-3-11434-P, for the development of an ambulatory health care facility at 624 Chestnut Street, South Charleston, Kanawha County; capital expenditure: $277,740.

OTHER

NOTICE OF PUBLIC COMMENT PERIOD

Proposed Certificate of Need Standards

The West Virginia Health Care Authority (HCA) has scheduled a public comment period to receive comments on the following proposed Certificate of Need Standards:

- **Transplantation Services**

Written comments may be submitted to Barbara Skeen, Interim Executive Director, West Virginia Health Care Authority, 100 Dee Drive, Charleston, WV 25311 or via email at Barbara.I.Skeen@wv.gov. Comments must be received no later than close of business on **December 4, 2018**. A copy of the proposed Standards set forth above has been filed with the Secretary of State. The Standards will be available this week to be viewed on the homepage, under "News and Announcements", of the Authority's website, www.hca.wv.gov, or copies may be obtained by contacting the office at (304) 558-7000 or toll-free at 1-888-558-7002.

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

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
WV Health Care Authority

Bill J. Crouch
Cabinet Secretary

Barbara Skeen
Interim Executive Director

FILED
2018 NOV -7 A 10:39
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF PUBLIC COMMENT PERIOD

Proposed Certificate of Need Standards

The West Virginia Health Care Authority (Authority) has scheduled a public comment period to receive comments on the following proposed Certificate of Need Standards:

- **Transplantation Services**

Written comments may be submitted in care of Barbara Skeen, Interim Executive Director of Certificate of Need, at the West Virginia Health Care Authority, 100 Dee Drive, Charleston, WV 25311, or via email to Barbara.I.Skeen@wv.gov no later than **close of business, December 4, 2018.** Copies of the proposed Standards set forth above have been filed with the Secretary of State (SOS). The Standards may be viewed at the Authority's website, www.hca.wv.org, or copies may be obtained by contacting the Authority at (304) 558-7000 or toll-free at (888) 558-7002.

OTHER

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

TRANSPLANTATION SERVICES

I. INTRODUCTION

In 2017, a total of 34,770 organ transplants were performed in the United States using organs from both deceased and living donors.[1] This is a 3.4% increase over 2016 and marks the fifth consecutive record-setting year for transplants in the United States.[2] The four most common organs transplanted were kidney, liver, heart and lung with a record number of donor organs recovered and transplanted.[3]

With the increasing number of organ transplants occurring annually, the West Virginia Health Care Authority (Authority) recognizes that hospitals in the state may wish to pursue organ transplantation services.

The mission of the Authority is to ensure that West Virginians have appropriate access to quality, affordable health care services while protecting consumers from unnecessary duplication of services.

As a result, these standards address the necessary criteria which must be met to obtain a Certificate of Need (CON) to provide transplantation services in West Virginia. A separate CON must be obtained for the development of each new transplant service offered. A hospital that has obtained a CON to provide one type of transplantation service may not perform another type of transplantation service until a CON is obtained. Further, a hospital system must receive approval to provide a transplantation service at a specific hospital and the transplantation service may not be relocated to another hospital in the system without receiving a CON.

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[1] https://optn.transplant.hrsa.gov/news/deceased-organ-donors-in-us-exceeded-10-thousand-for-first-time-in-2017/

[2] Ibid.
[3] Ibid.

Covered Transplant Services:

Solid Organs:
- Heart
- Lungs
- Liver
- Pancreas
- Kidney
- Intestines

Bone Marrow

Solid organ transplantation is one of the most highly, federally regulated areas of medicine. Current standards require United Network of Organ Sharing (UNOS) certification via hospital membership in the Organ Procurement and Transplantation Network (OPTN) before any facility can initiate a transplant program. The OPTN membership application requires that all UNOS/OPTN required staff and resources be in place before approval or initiation of transplantation. Additionally, the Centers for Medicare and Medicaid Services (CMS) requires that a provider of solid organ transplant services be approved by UNOS/OPTN and perform an established minimum number of successful transplants. Once a transplant program is initiated, both UNOS and CMS mandate and monitor program quality through required patient and program outcome reporting and site visits.

CMS requires transplantation programs to meet the following conditions of participation:

Kidney:	3 procedures in year 1 and 10 for re-approval
Liver:	10 procedures
Heart:	10 procedures
Lung:	10 procedures
Pancreas:	no annual minimum
Intestines:	10 procedures
Heart/Lung:	no annual minimum

A bone marrow transplant, also called a stem cell transplant, may be autologous, allogeneic or syngeneic and may be used in the following situations:

OTHER

(1) To safely allow treatment of a condition with high doses of chemotherapy or radiation by replacing or rescuing bone marrow damaged by treatment;
(2) To replace diseased or damaged marrow with new stem cells; and
(3) To provide new stem cells, which can help directly kill cancer cells.[4]

Transplantation is a specialized health service that requires the most advanced levels of equipment and clinical expertise. As a result, transplantation services shall be limited to academic medical centers. The current volume of procedures performed in an approved transplant program will be considered in determining need for additional transplant programs in the state.

II. DEFINITIONS

Academic Medical Center means a facility that consists of a hospital and medical school. It combines clinical care with education and research to provide the best possible care using the most current technology and resources.

Allogeneic Bone Marrow Transplant means stems cells are removed from a person other than the patient (donor) and then placed in the patient's body to produce normal blood cells.

Autologous Bone Marrow Transplant means stem cells are removed from the patient's own body before treatment. The stem cells are stored in a freezer and then placed back in the patient's body to make normal blood cells.

Bone Marrow Transplant means a procedure to replace damaged or destroyed bone marrow by infusing healthy blood stem cells into the body.

[4] https://www.mayoclinic.org/tests-procedures/bone-marrow-transplant/about/pac-20384854

Service Area means the county/counties which will be served by the proposed transplantation service.

Solid Organ Transplantation means the removal of an internal organ, which has a firm tissue consistency and is not hollow nor liquid, from the body and an organ from a donor is surgically implanted.

Syngeneic Bone Marrow Transplant means stem cells are removed from the patient's identical twin and then placed in the patient's body to produce normal blood cells.

Transplant Program means a component within a hospital that provides transplantation of a particular type of organ to include: heart, lung, liver, kidney, pancreas or intestine.[5]

III. NEED METHODOLOGY

An applicant proposing to provide solid organ transplantation services must demonstrate that:

A. There is an unmet need for the proposed transplantation service, that the proposed service will not have a negative impact on current providers of the service, and that the proposed service is the most cost-effective alternative;

B. It can delineate the service area by documenting the expected areas from which the facility is expected to draw patients. The applicant may submit testimony or documentation on the expected service area, based upon national data or statistics, or upon projections generally relied upon by professionals engaged in health planning or the development of health services;

C. It can document the expected number of procedures for the services to be provided by the facility for the population within the service area;

[5] Centers for Medicare & Medicaid Services

OTHER

D. It can document or estimate the number of existing providers within the service area and the number of procedures performed by existing providers in the service area;

E. There is an unmet need by demonstrating that the total expected number of procedures, less the number of procedures performed by existing providers in the service area, results in a difference that is equal to or greater than the following minimum thresholds:

- Kidney: 10 procedures in year 1 and 20 procedures thereafter
- Liver: 10 procedures
- Heart: 10 procedures
- Lung: 10 procedures
- Intestines: 2 procedures
- Pancreas: 3 procedures
- Heart/Lung: 2 procedures

F. For heart transplant services only, the applicant must be an existing provider of cardiac catheterization diagnostic and therapeutic services and be an existing provider of cardiac surgery services.

An applicant proposing to provide bone marrow transplantation services must demonstrate that:

A. There is an unmet need for the proposed transplantation service, that the proposed service will not have a negative impact on current providers of the service, and that the proposed service is the most cost-effective alternative;

B. It can delineate the service area by documenting the expected areas from which the facility is expected to draw patients. The applicant may submit testimony or documentation on the expected service area, based upon national

data or statistics, or upon projections generally relied upon by professionals engaged in health planning or the development of health services;

C. It can document the expected number of procedures for the services to be provided by the facility for the population within the service area;

D. It can document or estimate the number of existing providers within the service area and the number of procedures performed by existing providers in the service area;

E. There is an unmet need by demonstrating that the total expected number of procedures, less the number of procedures performed by existing providers in the service area, results in a difference that is equal to or greater than the following minimum thresholds:

- Allogeneic: 10 procedures
- Autologous: 5 procedures

IV. QUALITY

A. The applicant must meet the quality requirements of UNOS/OPTN and CMS for solid tissue transplants.

B. The applicant must meet the quality requirements of FACT (Foundation for the Accreditation of Cellular Therapy) for bone marrow transplants.

C. The applicant shall provide documentation that the following solid organ transplant support will be in place prior to initiating services:

- Director of solid organ transplant center;
- Transplant surgeon and physician;
- Clinical transplant coordinator;

OTHER

- Independent living donor advocate if living donor transplants will be performed by the applicant;
- Multidisciplinary transplant team – medicine, nursing, nutrition, social services, transplant coordination, and pharmacology; and,
- Transplant center expertise – internal medicine, surgery, anesthesiology, immunology, infectious disease control, pathology, radiology, blood banking, and patient education regarding transplant services.

D. The applicant must initiate communication to register with the federally designated organ procurement organization.

E. Utilization review and quality assurance programs shall be maintained.

F. The applicant must be accredited by The Joint Commission, Det Norske Veritas (DNV), or another accepted accreditation body.

V. CONTINUUM OF CARE

The applicant shall demonstrate that it has the ability to provide a full continuum of organ transplantation services for the patients and their families.

The applicant shall ensure that the following written policies and protocols for managing organ transplant patients are in place prior to initiating transplant services:

A. Detailed plans for the management of each transplant patient by a multidisciplinary care team that includes the time waiting for an organ, the time as an inpatient, and the time after discharge;

B. Coordination with the patient's primary care physician regarding follow-up care; and,

C. If the hospital performs living donor transplants, detailed plans for the living donor that include the evaluation, donation and discharge phases.

VI. COST

Applicants shall demonstrate the financial feasibility of the proposal by providing an analysis of the cost-effectiveness of the proposed project to include:

A. A three (3) year projection of revenues and expenses for the project;

B. Evidence that sufficient capital is available to initiate and operate the proposed project;

C. Evidence that financing arrangements are reasonable and secure;

D. Documentation that all indigent persons needing the service can be served without jeopardizing the viability of the project; and,

E. That the charges and costs used in projecting financial feasibility are equitable in comparison to prevailing rates for similar services in similar hospitals.

VII. ACCESSIBILITY

A. Transplant services shall be provided based on patients' medical needs and appropriateness without regard to the source of referral or payment;

B. The applicant shall provide written policies, which are non-discriminatory in terms of race, color, creed, age, ethnicity, sex, sexual preference, financial resources, or location of residence; and,

OTHER

C. The applicant must demonstrate that transplant services are accessible to the disabled in compliance with applicable state and federal laws.