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Administrative Law Division

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CONTENTS

Chronological Index

Rule Monitor

Notices

a. **Legislative Rules**
b. **Interpretive Rules**
c. **Procedural Rules**
d. **Emergency Rules**
e. **LRMRC and LOCEA**

Legislative Interims

Orders

Ethics Commission Opinions

Grievances Reports

Office of Tax Appeal Decisions

Governor's Executive Orders

Attorney General Opinions

Other Documents or Information Filed

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

Agriculture

Dentistry, WV Board of

Health and Human Resources

Health Care Authority

Insurance Commission

Miners Health Safety and Training

Motor Vehicles

Office of Technology

Pharmacy

CHRONOLOGICAL INDEX, VOLUME XXXVIII ISSUE 24			
RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Agriculture (61-01A)	Feeding of Untreated Garbage to Swine Legislative	§19-9A-1	Written Comments Only July 16, 2021, 12:00 pm Jodee Martin WV Dept. of Agriculture 1900 Kanawha Boulevard, East Charleston, WV 25305 jodeemartin@wvda.us
Agriculture (61-36)	Farm to Food Bank Tax Credit Legislative	§11-13DD-5(b)	Written Comments Only July 16, 2021, 12:00 pm Susan Baxter WV Dept. of Agriculture 1900 Kanawha Boulevard, East Charleston, WV 25305 sbaxter@wvda.us
Dentistry (5-16)	Teledentistry Legislative	§30-1-26(b)	Written Comments Only July 17, 2021, 3:00 pm WV Board of Dentistry PO Box 1447 Crab Orchard, WV 25827 wvbde@suddenlinkmail.com
Motor Vehicles (91-09)	Collection of Tax on the Sale of a Vehicle Legislative	§§17A-2-9, 17A-3-4, 11-15-3c	Written Comments Only July 12, 2021, 12:00 pm Adam Holley DMV PO Box 17200 5707 MacCorkle Ave. SE Charleston, WV 25304 adam.holley@wv.gov
Office of Technology (163-03)	Cyber Reporting Legislative	§§5A-6C-3, 5A-6B-3	Written Comments Only July 15, 2021, 5:00 pm Jennelle Jones State Capitol Complex Building 5, 10th Floor Charleston, WV 25305 Jennelle.h.jones@wv.gov

Pharmacy (15-01)	Licensure and Practice of Pharmacist Care Legislative	§30-5-7	Written Comments Only July 12, 2021, 5:00 pm Ryan Hatfield 2310 Kanawha Blvd. E Charleston, WV 25311 ryan.l.hatfield@wv.gov
Pharmacy (15-08)	Controlled Substances Monitoring Program Legislative	§§30-5-7, 60A-9-6, 60A-9-9	Written Comments Only July 12, 2021, 5:00 pm Ryan Hatfield 2310 Kanawha Blvd. E Charleston, WV 25311 ryan.l.hatfield@wv.gov
Pharmacy (15-16)	Regulations Governing Pharmacists Legislative	§30-5-7	Written Comments Only July 15, 2021, 5:00 pm Ryan Hatfield 2310 Kanawha Blvd. E Charleston, WV 25311 ryan.l.hatfield@wv.gov

NO NEW EMERGENCY RULES FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE OF HEARING**
Dentistry, WV Board of (5-16)	Teledentistry	§30-1-26(b)	ERD by July 29, 2021	July 17, 2021

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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	2	ARCHITECTS
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	4	CHIROPRACTIC EXAMINERS
TITLE	5	DENTISTRY
TITLE	6	FUNERAL SERVICE EXAMINERS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	19	REGISTERED PROFESSIONAL NURSES
TITLE	20	SANITARIANS
TITLE	22	FORESTRY
TITLE	24	OSTEOPATHIC MEDICINE
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
TITLE	30	RESPIRATORY CARE
TITLE	31	DIETITIANS
TITLE	32	ACUPUNCTURE
TITLE	33	WASTE MANAGEMENT, DIV. OF WATER AND WASTE MGMT.
TITLE	35	OIL AND GAS
TITLE	36	COAL MINE HEALTH AND SAFETY
TITLE	38	MINING AND RECLAMATION
TITLE	42	LABOR
TITLE	45	AIR QUALITY
TITLE	47	WATER RESOURCES, DIV. OF WATER AND WASTE MGMT.
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION – SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH AND HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	87	FIRE COMMISSION
TITLE	89	PUBLIC DEFENDER SERVICES
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	114	INSURANCE COMMISSION
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMMISSION
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY AND TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	145	DEVELOPMENT OFFICE
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTIONS
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	155	AUDITOR
TITLE	157	HIGWAYS
TITLE	164	SCHOOL BUILDING 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 COMMISSION
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Agriculture (61-01A)	Feeding of Untreated Garbage to Swine Legislative	6/16/2021	7/16/2021						
Agriculture (61-36)	Farm to Food Bank Tax Credit Legislative	6/16/2021	7/16/2021						
Air Quality (45-08)	Ambient Air Quality Standards Legislative	6/2/2021	7/6/2021						
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/2/2021	7/6/2021						
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste Legislative	6/2/2021	7/6/2021						
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/2/2021	7/6/2021						
Alcohol Beverage Control Comm. (175-02)	Private Club Licensing Legislative	6/1/2021	7/1/2021						
Alcohol Beverage Control Comm. – Beer (176-01)	Nonintoxicating Beer Licensing and Operations Procedures Legislative	6/1/2021	7/1/2021						
Chiropractic Examiners (4-09)	Chiropractic Telehealth Practice Legislative	6/9/2021	7/9/2021	6/8/2021 ERD by 7/20/2021					
Coal Mine Health and Safety (36-44)	Rule Governing Mine Rescue Requirements for the Office of Miners' Health, Safety and Training Legislative Exempt	5/3/2021	6/17/2021						
Community & Technical College Ed (135-01)	Strengthening Career and Technical Education for the 21st Century Act (Perkins V) Funding Formula for WV Council for Comm. & Tech. College Ed. and WV State Bd. Of Education Procedural	4/28/2021	5/28/2021					6/7/2021	7/7/2021
Community & Technical College Ed (135-59)	Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program Procedural	4/28/2021	5/28/2021					6/7/2021	7/7/2021

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Dentistry (5-16)	Teledentistry Legislative	6/17/2021	7/17/2021	6/17/2021 ERD by 7/29/2021					
Education (126-007)	Regulations for Adult Diversion and Transition Programs (Policy 1471) Legislative Exempt	2/10/2021	3/15/2021					4/15/2021	7/1/2021
Education (126-013C)	Non-public School Accreditation (Policy 2330) Legislative Exempt	5/13/2021	6/14/2021						
Education (126-025A)	Standards for Basic and Specialized Health Care Procedures (Policy 2422.7) Legislative Exempt	3/11/2021	4/12/2021					5/13/2021	7/1/2021
Education (126-030)	Transformative System of Support for Early Literacy (Policy 2512) Legislative Exempt	4/15/2021	5/17/2021					6/9/2021	7/12/2021
Education (126-044CC)	WV College and Career-Readiness Standards for Science (Policy 2520.3C) Legislative Exempt	6/9/2021	7/12/2021						
Education (126-069)	Regulations for Juvenile Diversion and Transition Programs (Policy 2800) Legislative Exempt	4/15/2021	5/17/2021					6/9/2021	7/12/2021
Education (126-079)	Charter Public Schools (Policy 3300) Legislative Exempt	6/9/2021	7/12/2021						
Education (126-084)	Student Driver Eligibility Certificate (Policy 4150) Legislative Exempt	3/11/2021	4/12/2021					5/13/2021	7/1/2021
Education (126-143)	County Superintendent Performance Evaluations (Policy 5309) Legislative Exempt	6/9/2021	7/12/2021						
Education (126-146)	Service Personnel Classification, Competency Testing, and Professional Learning (5314) Legislative Exempt	5/13/2021	6/14/2021						
Emergency Management (170-04)	SIRN Emergency Purchasing Procedure Procedural	1/29/2021	3/1/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Emergency Management (170-05)	Purchases During States of Emergency Procedural	1/29/2021	3/1/2021						
Ethics Commission (158-06)	Use of Office for Private Gain, Including Nepotism Legislative	3/22/2021	4/22/2021		5/12/2021				
Fire Commission (87-10)	Volunteer Fire Department Equipment and Training Grant Funding Disbursement Legislative	4/12/2021	5/31/2021	3/30/2021 Effective 5/11/2021					
Fire Marshal (103-06)	Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code Legislative	6/22/2020	7/22/2020		8/13/2020	Approved 11/16/2020	Bundled SB156	5/12/2021	7/1/2021
Health (64-12)	Hospital Licensure Legislative	7/1/2020	7/31/2020		8/21/2020	Approved 12/9/2020	Bundled HB2427	4/29/2021	7/1/2021
Health (64-12)	Hospital Licensure Legislative			5/20/2021 ERD by 7/1/2021					
Health (64-13)	Nursing Home Licensure Legislative	7/1/2020	7/31/2020		8/25/2020	Modified & Approved 12/9/2020 Filed 12/16/2020	Bundled HB2427	4/29/2021	7/1/2021
Health (64-45)	Lead Abatement Licensing Legislative	7/2/2020	8/3/2020		8/21/2020	Modified & Approved 11/17/2020 Filed 12/10/2020	Bundled HB2427	4/30/2021	7/1/2021
Health (64-48)	Emergency Medical Services Legislative	9/4/2020	10/5/2020	9/4/2020 Approved 9/30/2020 Amendment 10/1/2020 Approved 10/1/2020 Amendment 1/13/2021 Approved 1/13/2021	11/20/2020	Modified & Approved 12/9/2020 Filed 1/4/2021	Bundled HB2427	4/30/2021	7/1/2021
Health (64-60)	Delegation of Medication Administration and Health Maintenance Tasks to Approved Medication Assistive Personnel Legislative	7/1/2020	7/31/2020		8/21/2020	Modified & Approved 12/9/2020 Filed 12/16/2020	Bundled HB2427	4/29/2021	7/1/2021

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-115)	Diabetes Self-Management Education Legislative	7/2/2020	8/3/2020		8/26/2020	Modified & Approved 11/17/2020 Filed 11/20/2020	Bundled HB2427	4/30/2021	7/1/2021
Higher Education Policy Comm. (133-59)	Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program Procedural	4/30/2021	6/1/2021						
Higher Education Policy Comm. (133-63)	Mental Health Loan Repayment Program Legislative	6/26/2020	7/27/2020	6/26/2020 Effective 6/26/2020	7/29/2020	Approved 3/12/2021	HB3299		
Higher Education Policy Comm. (133-64)	Administrative Exemption Legislative	11/20/2020	12/21/2020		3/11/2021	Modified & Approved 3/12/2021	HB3299		
Highways (157-05)	Traffic and Safety Rules Legislative	7/28/2020	8/28/2020		8/28/2020	Approved 11/17/2020	Bundled HB2400		
Human Services (78-02)	Child Placing Agencies Licensure Legislative	7/1/2020	7/31/2020		8/25/2020	Modified & Approved 12/9/2020 Filed 12/16/2020	Bundled HB2427	5/11/2021	7/1/2021
Human Services (78-03)	Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults and Vulnerable and Transitioning Youth Group Homes and Programs in WV Legislative	7/1/2020	7/31/2020		8/25/2020	Modified & Approved 12/9/2020 Filed 12/15/2020	Bundled HB2427	4/30/2021	7/1/2021
Human Services (78-27)	Procedure to Contest the Substantiation of Child Abuse or Neglect Legislative	7/1/2020	7/31/2020		8/26/2020	Modified & Approved 12/9/2020 Filed 12/15/2020	Bundled HB2427	4/30/2021	7/1/2021
Insurance Comm. (114-02A)	Fingerprinting Requirements for Applicants for Insurance Producer License and Insurance Adjuster License Legislative	6/18/2020	7/24/2020		7/27/2020	Modified & Approved 9/25/2020 Filed 9/30/2020	Bundled SB160	4/12/2021	7/1/2021

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AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Insurance Comm. (114-25)	Insurance Adjusters Legislative	6/18/2020	7/24/2020		7/27/2020	Modified & Approved 9/25/2020 Filed 9/30/2020	Bundled SB160	4/12/2021	7/1/2021
Insurance Comm. (114-40)	Credit for Reinsurance Legislative	6/18/2020	7/24/2020		7/27/2020	Modified & Approved 9/25/2020 Filed 9/30/2020	Bundled SB160	4/12/2021	7/1/2021
Insurance Comm. (114-42)	Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters Legislative	6/18/2020	7/24/2020		7/27/2020	Approved 9/25/2020	Bundled SB160	4/12/2021	7/1/2021
Insurance Comm. (114-42)	Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters Legislative	5/28/2021	7/1/2021						
Insurance Comm. (114-99)	Pharmacy Auditing Entities and Pharmacy Benefit Managers Legislative	6/1/2021	7/1/2021						
Insurance Comm. (114-102)	Term and Universal Life Insurance Reserve Financing Legislative	5/28/2021	7/1/2021						
Insurance Comm. (114-103)	Bail Bondsmen in Criminal Cases Legislative	6/1/2021	7/1/2021						
Lottery Comm. (179-01)	WV Lottery State Lottery Rules Legislative	5/28/2021	6/29/2021						
Lottery Comm. (179-05)	WV Limited Video Lottery Rule Legislative	6/1/2021	7/1/2021						
Medical Imaging & Radiatioin Therapy Tech Bd of Exam (18-06)	Practice of Radiologic Technology Interpretive	5/21/2021	6/30/2021						
Miners Health Safety and Training (56-03)	Rule Governing the Safety of Those Employed in and Around Surface Mines in WV Legislative	5/7/2021	6/7/2021	5/7/2021 Approved 6/7/2021	6/11/2021				
Miners Health Safety and Training (56-11, repeal)	Rule Governing First-Aid Training of Shaft and Slope Employees Legislative	5/7/2021	6/7/2021		6/11/2021				
Miner Training Education and Certification (48-01)	Standards for Certification of Underground Belt Examiners for Underground Coal Mines Legislative Exempt	5/3/2021	6/17/2021						

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AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Miner Training Education and Certification (48-02)	Safety Training Program for Prospective Underground Coal Miners Legislative Exempt	5/3/2021	6/17/2021						
Miner Training Education and Certification (48-03)	Safety Training Programs for Prospective Surface Coal Miners Legislative Exempt	5/3/2021	6/17/2021						
Miner Training Education and Certification (48-04)	Initial Training Program for Prospective Mine Rescue Team Members and Additional Mine Rescue Requirements Legislative Exempt	5/3/2021	6/17/2021						
Motor Vehicles (91-09)	Collection of Tax on the Sale of a Vehicle Legislative	6/11/2021	7/12/2021						
Natural Resources (58-46)	Defining the Terms Used in All Hunting and Trapping Legislative	7/29/2020	8/28/2020		8/28/2020	Approved 9/25/2020	Bundled SB216	4/15/2021	7/1/2021
Natural Resources (58-50)	Deer Hunting Rule Legislative	7/29/2020	8/28/2020		8/28/2020	Modified & Approved 9/25/2020 Filed 9/29/2020	Bundled SB216	4/15/2021	7/1/2021
Natural Resources (58-56)	Special Migratory Game Bird Hunting Legislative	7/29/2020	8/28/2020		8/28/2020	Approved 9/25/2020	Bundled SB216	4/15/2021	7/1/2021
Natural Resources (58-58)	Special Waterfowl Hunting Legislative	7/29/2020	8/28/2020		8/28/2020	Approved 9/25/2020	Bundled SB216	4/15/2021	7/1/2021
Office of Technology (163-03)	Cyber Reporting Legislative	6/15/2021	7/15/2021						
Personnel (143-01)	Administrative Rule of the WV Division of Personnel Legislative	5/28/2021	6/30/2021						
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	6/11/2021	7/12/2021						
Pharmacy (15-08)	Controlled Substances Monitoring Program Legislative	6/11/2021	7/12/2021						
Pharmacy (15-16)	Regulations Governing Pharmacists Legislative	6/14/2021	7/15/2021						

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AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Professional Surveyors (23-01)	Examination and Licensing of Professional Surveyors in WV Legislative	7/13/2020	8/14/2020		8/24/2020	Modified & Approved 11/16/2020 Filed 11/19/2020	Bundled SB182		
Public Service Commission (150-02)	Rules for the Construction and Filing of Tariffs Legislative Exempt	8/4/2020	10/5/2020 Extended to 6/15/2021						
Public Service Commission (150-05)	Rules for the Government of Sewer Utilities Legislative Exempt	11/10/2020	1/11/2021 Extended to 1/18/2021						
Public Service Commission (150-07)	Rules for the Government of Water Utilities Legislative Exempt	11/10/2020	1/11/2021 Extended to 1/18/2021						
Public Service Commission (150-09)	Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers Legislative Exempt	8/4/2020	10/5/2020 Extended to 6/15/2021						
Racing Commission (178-01)	Thoroughbred Racing Legislative	6/18/2020	7/20/2020		8/21/2020	Modified & Approved 12/9/2020	Bundled SB160	4/29/2021	7/28/2021
Racing Commission (178-01)	Thoroughbred Racing Legislative	5/28/2021	6/28/2021						
Real Estate Commission (174-01)	Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business Legislative	7/21/2020	8/20/2020		8/24/2020	Modified & Approved 12/9/2020 Filed 12/11/2020	Bundled SB182	4/19/2021	7/1/2021
Risk and Insurance Management (115-01)	Mine Subsidence Insurance Legislative	7/9/2020	8/8/2020		8/18/2020	Approved 11/17/2020	Bundled SB126	5/4/2021	8/1/2021
Secondary School Activities Comm. (127-02)	Athletics, Provisioins Governing Eligibility Legislative Exempt	5/13/2021	6/14/2021						
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative Exempt	5/13/2021	6/14/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secretary of State (153-07)	Submission of Other Documents to Solicit Contributions for Charitable Organizations Interpretive	12/7/2020	1/8/2021					5/21/2021	6/20/2021
Secretary of State (153-53)	Election Processes and Absentee Eligibility During State of Emergency			3/20/2020 Effective 3/20/2020					
Speech Language Pathology and Audiology (29-01)	Licensure of Speech-Pathology and Audiology Legislative	4/28/2021	6/4/2021	4/27/2021 Effective 6/8/2021	6/9/2021				
State Emergency Response Comm. (55-01)	Emergency Planning and Community Right to Know Legislative	7/13/2020	8/12/2020		8/28/2020	Approved 11/16/2020	Bundled SB156	5/12/2021	7/1/2021
State Emergency Response Comm. (55-02)	Emergency Planning Grant Program Legislative	7/13/2020	8/12/2020		8/28/2020	Approved 11/16/2020	Bundled SB156	5/12/2021	7/1/2021
State Emergency Response Comm. (55-03)	Requests for Information Pursuant to the Community Right to Know Act Procedural	5/12/2021	6/11/2021						
Tax (110-01A)	Valuation of Farmland and Structures Situated Thereon for Ad Valorem Property Tax Purposes Legislative	6/3/2021	7/7/2021						
Tax (110-01J)	Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes Legislative	6/4/2021	7/7/2021	6/8/2021 ERD by 7/20/2021					
Tax (110-13KK)	WV Tax Credit for Federal Excise Tax Imposed Upon Small Arms and Ammunition Manufacturers Legislative	6/4/2021	7/7/2021						
Tax (110-15F)	Sales Tax Holiday Legislative	5/11/2021	6/11/2021	5/7/2021 Amendment 6/3/2021 ERD by 7/15/2021					
Tax (110-15L)	Exemption for Repair, Remodeling, and Maintenance of Aircraft Legislative	6/2/2021	7/7/2021	6/2/2021 ERD by 7/14/2021					

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Tax (110-15M)	Vendor Absorption or Assumption of Sales and Use Tax Legislative	6/3/2021	7/7/2021						
Tax (110-16A)	On-Line Bingo and Raffles Legislative	6/3/2021	7/7/2021						
Tax (110-24)	Corporation Net Income Tax Legislative	6/2/2021	7/7/2021						
Underground Facilities Damage Prevention Bd. (214-02)	Rules of Procedure for Complaints and Contested Cases Before the WV Underground Facilities Damage Prevention Board Procedural	4/21/2021	5/21/2021						
Waste Mgmt., Div. of Water & Waste Mgmt. (33-20)	Hazardous Waste Management System Legislative	7/8/2020	8/11/2020		8/25/2020	Approved 9/25/2020	Bundled HB2382	4/19/2021	7/1/2021
Water Resources, Div. of Water and Waste Mgmt. (47-02)	Requirements Governing Water Quality Standards Legislative	6/4/2021	7/19/2021						
Water Resources Division of Water and Waste Management (47-02B)	Assessment Methodology for the Biological Component of the Narrative Criteria in Wadeable Streams Procedural	2/9/2021	3/11/2021 Written Comments Extended To 3/26/2021						
Workers Compensation (85-17)	Electronic Submittal of Invoices and Receipt of Payments Legislative Exempt	4/1/2021	5/20/2021					5/28/2021	7/1/2021

LEGISLATIVE RULES FILED PER THE SUNSET PROVISION W. Va. Code §29A-3-19 and 29A-3A-20

AGENCY/SERIES NUMBER	RULE/SUNSET DATE	REQUEST	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Auditor 155-08	Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body 7/1/2022	5/13/2021					
Community & Technical College Education 135-35	Correspondence, Business, Occupational, and Trade Schools 7/19/2022	4/5/2021	4/27/2021				
Community & Technical College Education 135-52	Annual Reauthorization of Degree-Granting Institutions 7/19/2022	4/6/2021	4/27/2021				
Dangerous Wild Animal Board 74-01	Dangerous Wild Animals 6/5/2022	4/5/2021	4/5/2021				
Health 64-103	Expedited Paratner Therapy 6/1/2022	5/10/2021	5/10/2021				
Health and Human Resources 69-11	Medication-Assisted treatment – Opioid Treatment Programs 6/1/2022	5/10/2021	5/10/2021				
Higher Education Policy Commission 133-48	Research Trust Fund 8/5/2022	5/5/2021	5/5/2021				
Higher Education Policy Commission 133-52	Annual Reauthorization of Degree-Granting Institutions 8/5/2022	5/5/2021	5/5/2021				
Insurance Commission 114-98	Adoption of Valuation Manual 5/19/2022	3/31/2021	3/31/2021				
Public Service Commission (150-37)	Telephone Conduit Occupancy 8/1/2022	5/6/2021					
Racing Commission 178-05	Pari-Mutuel Wagering 8/1/2022	4/26/2021	4/30/2021				
Registererd Professional Nurses 19-08	Limited Prescriptive Authority for Nurses in Advanced Practice 5/15/2022	3/17/2021	5/10/2021				
Risk and Insurance Management 115-07	Patient Injury Compensation Fund 5/1/2022	4/21/2021					
Secretary of State 153-03	Voter Registration at the Division of Motor Vehicles 5/23/2022	5/10/2021	5/10/2021				
Secretary of State 153-05	Voter Registration List Maintenance by the Secretary of State 5/23/2022	5/10/2021	5/10/2021				

LEGISLATIVE RULES FILED PER THE SUNSET PROVISION W. Va. Code §29A-3-19 and 29A-3A-20

AGENCY/SERIES NUMBER	RULE/SUNSET DATE	REQUEST	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Treasurer 112-04	Procedures for Deposit of Monies with the State Treasurer's Office by State Agencies 6/1/2022	5/5/2021	5/6/2021				
Treasurer 112-06	Selection of State Depositories for Disbursement Accounts through Competitive Bidding 6/1/2022	5/6/2021	5/6/2021				
Treasurer 112-07	Selection of State Depositories for Receipt Accounts 6/1/2022	5/7/2021	5/7/2021				
Treasurer 112-08	Procedures for Processing Payments from the State Treasury 6/1/2022	5/7/2021	5/7/2021				

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/16/2021 11:50:33 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Agriculture TITLE-SERIES: 61-01A

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

RULE NAME: Feeding of untreated garbage to swine

CITE STATUTORY AUTHORITY: §19-9A-1

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/16/2021 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jodee Martin

ADDRESS: WV Dept of Agriculture

1900 Kanawha Boulevard, East

EMAIL: jodeemartin@wvda.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

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WEST VIRGINIA SECRETARY OF STATE
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6/16/2021 2:47:07 PM
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NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Agriculture TITLE-SERIES: 61-36

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

RULE NAME: Farm to food bank tax credit

CITE STATUTORY AUTHORITY: §11-13DD-5(b)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/16/2021 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Susan Baxter

ADDRESS: WV Dept. of Agriculture

1900 Kanawha Boulevard, East Charleston, WV 25305

EMAIL: sbaxter@wvda.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

WEST VIRGINIA SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION

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6/17/2021 9:41:38 AM
Office of West Virginia
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LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Dentistry WV Board of TITLE-SERIES: 5-16

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

RULE NAME: Teledentistry

CITE STATUTORY AUTHORITY: §30-1-26(b)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/17/2021 3:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: WV Board of Dentistry

ADDRESS: PO Box 1447

Crab Orchard, WV 25827

EMAIL: wvbde@suddenlinkmail.com

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

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West Virginia Secretary of State Mac Warner Administrative Law Division

DO NOT MARK IN THIS BOX

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2021 JUN 16 P 2:39

OFFICE WEST VIRGINIA SECRETARY OF STATE

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: CAS-FC-6-2021

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:
Added in the child locator informational section and other technical edits.

Two Copies Enclosed:
Please file one and return a stamped copy to:

Lori Jordan
Health and Human Resource Specialist, Senior
350 Capitol Street, Room 691
Charleston, WV 25301-3704

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR MEDICAL SERVICES
Commissioner's Office
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3712
Telephone: (304) 558-1700 Fax: (304) 558-1451

Bill J. Crouch
Cabinet Secretary

Cynthia E. Beane
Commissioner

June 16, 2021

OFFICE WEST VIRGINIA SECRETARY OF STATE
2021 JUN 17 A 9:48
FILED

To: West Virginia Secretary of State
Capitol Complex, Main Building

From: Cynthia Beane, MSW, LCSW
Commissioner

Subject: Material for filing in the Secretary of State's Office

The material indicated below is being forwarded. Please file and publish in the State Register in accordance with the Administrative Procedure Act.

New Medicaid Chapter	☐
Medicaid Chapter Update	☒
New Medicaid Policy	☐
Medicaid Policy Update	☐
State Plan Amendment for title XIX, Medicaid	☐
Other	☐

The following is an explanation of the above material:

Chapter Number: 513
Title: Intellectual and Developmental Disabilities Waiver (IDDW)

Please acknowledge receipt of this material by signing and returning a copy of this document to the attention of:

Margaret Brown
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3707

Signature of Person Receiving Above Material

Date

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/11/2021 11:06:41 AM
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LEGISLATIVE

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

AGENCY: Miners Health Safety And Training TITLE-SERIES: 56-03

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

RULE NAME: 56-03 Rule Governing the Safety of Those Employed in and Around Surface Mines in West Virginia

PRIMARY CONTACT

NAME: Eugene White Director

ADDRESS: Office Of Miners Health Safety And Training
7 Players Club Drive Suite 2
Charleston, WV 25311

EMAIL: eugene.e.white@wv.gov

PHONE NUMBER: 304-558-1425

CITE STATUTORY AUTHORITY: W. Va. Code §§22A-1-38

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:

The statutory authority for this rule is W. Va. Code §22A-1-38 which allows the Director of the Office of Miners Health, Safety and Training to promulgate reasonable rules to protect the safety of those employed in and around surface mines. The rule updates the electrical safety rules for surface mines by adding additional safety precautions for locking and tagging electrical circuits, troubleshooting and the use of insulated gloves.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 5/7/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 6/7/2021

COMMENTS RECEIVED: No

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

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/11/2021 11:08:22 AM
Office of West Virginia
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LEGISLATIVE

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

AGENCY: Miners Health Safety And Training TITLE-SERIES: 56-11

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

RULE NAME: 56-11 Rule Governing First-Aid Training of Shaft and Slope Employees

PRIMARY CONTACT

NAME: Eugene White Director

ADDRESS: Office Of Miners Health Safety And Training
7 Players Club Drive Suite 2
Charleston, WV 25311

EMAIL: eugene.e.white@wv.gov

PHONE NUMBER: 304-558-1425

CITE STATUTORY AUTHORITY: W. Va. Code §§22A-1-6 and 22A-7-6

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:

The statutory authority for this rule is W. Va. Code §§22A-1-6 and 22A-7-6, which provide the Director of the Office of Miners Health, Safety and Training with authority to promulgate general legislative rules and specifically rules related to training, which includes first-aid training.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 5/7/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 6/7/2021

COMMENTS RECEIVED: No

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

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/11/2021 10:40:39 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Motor Vehicles TITLE-SERIES: 91-09

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

RULE NAME: COLLECTION OF TAX ON THE SALE OF A VEHICLE

CITE STATUTORY AUTHORITY: W. Va. Code §§17A-2-9, 17A-3-4 and 11-15-3c

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/12/2021 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Adam Holly DMV

ADDRESS: P.O. Box 17200

5707 MacCorkle Ave SE

EMAIL: adam.holley@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

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WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/15/2021 11:56:40 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Office of Technology TITLE-SERIES: 163-03

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

RULE NAME: Cyber Reporting

CITE STATUTORY AUTHORITY: 5A-6C-3, 5A-6B-3

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/15/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jennelle Jones

ADDRESS: State Capitol Complex, Building 5, 10th Floor

Charleston, WV 25305

EMAIL: jennelle.h.jones@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

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ADMINISTRATIVE LAW DIVISION

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6/11/2021 10:38:38 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Pharmacy TITLE-SERIES: 15-01

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

RULE NAME: Licensure and Practice of Pharmacist Care

CITE STATUTORY AUTHORITY: 30-5-7

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/12/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

Charles

EMAIL: ryan.l.hatfield@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

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WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/11/2021 10:29:02 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Pharmacy TITLE-SERIES: 15-08

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

RULE NAME: Controlled Substances Monitoring Program

CITE STATUTORY AUTHORITY: 30-5-7, 60A-9-6, 60A-9-9

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/12/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

Charleston, WV 25311

EMAIL: ryan.l.hatfield@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/14/2021 11:14:29 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Pharmacy TITLE-SERIES: 15-16

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

RULE NAME: Regulations Governing Pharmacists

CITE STATUTORY AUTHORITY: 30-5-7

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/15/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

Charleston, WV 25311

EMAIL: ryan.l.hatfield@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

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WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/17/2021 10:18:21 AM
Office of West Virginia
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EMERGENCY

NOTICE OF AN EMERGENCY RULE

AGENCY: Dentistry WV Board of TITLE-SERIES: 5-16

RULE TYPE: Legislative Amendment to Existing Rule: No

RULE NAME: Teledentistry

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

§30-1-26(b)

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

§30-1-26(b)

PRIMARY CONTACT:

NAME: WV Board of Dentistry

ADDRESS: PO Box 1447

Crab Orchard, WV 25827

EMAIL: wvbde@suddenlinkmail.com

PHONE NUMBER: 304-252-8266

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Orders Report

Docket Number	Agency	Respondent	Date Rendered
21-1C-0230	Insurance Commission	West Virginia Farmers Mutual Insurance Association	6/11/2021

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
AT CHARLESTON

EXECUTIVE ORDER NO. 19-21

By the Governor

WHEREAS, it is in the best interest of the State of West Virginia to take a more holistic approach to our talent development system, by better integrating the various training and certification programs offered through the West Virginia Community and Technical College system and West Virginia's Workforce Development system with the needs, both present and future, of the businesses and industries that employ the people of our State, as well as those businesses and industries that may be seeking opportunities to move or expand into the State of West Virginia; and

WHEREAS, a blue ribbon task force, consisting of State officials, business leaders, and other stakeholders from across our State is necessary to develop the roadmap for this integration and to provide a strategic vision for the State of West Virginia that will afford all West Virginians equitable opportunities for lifelong learning and increased personal economic mobility, and will provide employers in West Virginia with individuals with the particular skill sets, knowledge, and education needed to improve their businesses and provide additional career opportunities; and

WHEREAS, our State Community and Technical College system and our State Workforce Development system will, as a result of the work and recommendations of this blue ribbon task force, submit a combined plan to address both education and workforce development to the U.S. Department of Education and the U.S. Department of Labor; and

WHEREAS, it is in the best interest of the public that all State resources necessary or helpful to the work of the blue ribbon taskforce created under this Order, be made available to the blue ribbon task force so that it may conduct and complete its work and make findings and recommendations to the Governor; and

NOW, THEREFORE, I, JIM JUSTICE, by virtue of the authority vested in me as the Governor of the State of West Virginia, do hereby **ORDER** that:

1. There is hereby created a Blue Ribbon Task Force on Aligning the Roles and Missions of the State Community and Technical College System and Workforce Development System (the "Blue Ribbon Task Force") to develop a roadmap for integration of the State Community and Technical College and Workforce Development systems and to provide a strategic vision for our State to afford all West Virginians equitable opportunities for lifelong learning and increased personal economic mobility, as well as to provide current and prospective employers and industries in West Virginia with individuals who have the particular skill sets, knowledge, and education necessary to grow their businesses provide additional career opportunities.

2. The Blue Ribbon Task Force shall be comprised of the following members:

- The Governor's Deputy Chief of Staff or her designee;
- The President of the Senate or his designee;
- The Speaker of the House or his designee;
- The Secretary of Commerce or his designee;
- The Secretary of Economic Development or his designee;
- The Chancellor of the Higher Education Policy Commission and the Community and Technical College System or her designee;
- The Interim Vice Chancellor of the Higher Education Policy Commission and the Community and Technical College System or her designee;
- The Technical Education Officer at the West Virginia Department of Education;
- Two Presidents of WV Community and Technical Colleges;
- The Executive Director of WorkForce West Virginia;
- Two Local Workforce Development Center Directors; and
- Four business community leaders, representing interests of various industry sectors and regions within West Virginia.

3. The Blue Ribbon Task Force shall deliver its findings and recommendations to integrate the roles and missions of the State Community and Technical College and Workforce Development systems to the Governor upon completion of their work.

4. All State resources necessary or helpful to the work of the Blue Ribbon Task Force shall be made available to the Blue Ribbon Task Force so that it may conduct and complete its work.

5. The Governor's Deputy Chief of Staff or her designee shall serve as Chair of the Blue Ribbon Task Force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the great seal of the State of West Virginia to be affixed.

DONE at the Capitol, in the City of Charleston, State of West Virginia, this the Fifteenth day of June, in the year of our Lord, Two Thousand Twenty-One, and in the One Hundred Fifty-Eighth year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE

FILED
2021 JUN 11 P 3:13
OFFICE WEST VIRGINIA
SECRETARY OF STATE

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

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

June 11, 2021

The Honorable Mac Warner
West Virginia Secretary of State
State Capitol Complex
1900 Kanawha Blvd. East, Bldg 1, Rm 157-K
Charleston, WV 25305

Dear Secretary Warner:

You have asked for an Opinion of the Attorney General regarding the requirements for recognizing a new political party in the State of West Virginia. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General "shall give written opinions and advice upon questions of law . . . whenever required to do so, in writing, by . . . the secretary of state." Where this Opinion relies on facts, it depends solely on the factual assertions in your correspondence with the Office of the Attorney General.

Your letter explains that in the 2020 General Election an individual filed as an official write-in candidate for Governor and received over 1% of the total votes cast in the gubernatorial race. The individual had first tried to have his name printed on ballots statewide by using the signature-gathering process set forth in West Virginia Code § 3-5-23, but was not able to obtain enough signatures. The write-in candidate's voter registration lists his party designation as "Independent." The petition forms for the failed signature-gathering process also listed his party as "Independent." You explain that it is unclear whether these designations reflect the common understanding that an "Independent" voter or candidate has no party affiliation, or the candidate's desire to be part of an as-yet unformed party called the "Independent Party."

Your request raises the following legal question:

> *Are the requirements in West Virginia Code § 3-1-8 for recognizing a new political party satisfied where a write-in candidate registered as "Independent" receives more than 1% of the votes cast for Governor in the previous general election?*

AG OPINION

We conclude that no new political party is formed under these circumstances. West Virginia law requires recognizing a political party where a group of voters coalesces around a principle or organization and succeeds in winning more than 1% of the votes cast for governor for that group's chosen candidate. Although numerous West Virginia voters coalesced around the write-in candidate in the 2020 General Election, there is no indication those voters intended or agreed to be affiliated with any broader principle or organization.

Discussion

The West Virginia Constitution affords the State Legislature power to regulate elections, including authority to "prescribe the manner of conducting and making returns of elections." W. Va. Const. art. IV, § 11. This constitutional provision grants "wide powers" "to make all reasonable regulations and restrictions as to preparation of ballots." Syl. pt. 2, *Wells v. State ex rel. Miller*, 237 W. Va. 731, 791 S.E.2d 361 (2016) (quotation omitted). As most relevant here, it necessarily includes responsibility to "enact reasonable regulations of *parties*, elections, and ballots." *State ex rel. Blankenship v. Warner*, 241 W. Va. 362, 366, 825 S.E.2d 309, 313 (2018) (emphasis added; quotation omitted).

Pursuant to this authority, the Legislature has set up a comprehensive set of election laws that applies to "every general, primary and special election in which candidates are nominated or elected or in which voters pass upon any public question submitted to them." W. Va. Code § 3-1-2. It lays out three methods by which an individual can become a candidate for public office. The first method is through a political party's nomination process. As you explain in your request, West Virginia had four recognized political parties in the 2020 General Election: Democratic, Libertarian, Mountain, and Republican. For "[g]roups of citizens having no party organization," the Code prescribes a signature-gathering process for nominating candidates to be placed on the ballot, rather than the "conventions or primary elections" methods for recognized political parties. *Id.* § 3-5-23. This second procedure also applies to candidates of parties that received less than 10% of the total votes cast for Governor, such as the Constitution Party. *See id.* § 3-5-22. Finally, "[a]ny eligible person who seeks to be elected by write-in votes" must file a "write-in candidate's certificate of announcement." *Id.* § 3-6-4A.

The individual your letter describes tried to use the second method described above to collect enough signatures to be placed on the ballot, and when that effort was unsuccessful filed a write-in candidate certificate of announcement instead. The question now is whether the number of votes the write-in candidate received is sufficient to confer recognized party status. West Virginia Code § 3-1-8 provides the legal framework to resolve this issue:

> Any affiliation of voters representing any principle or organization which, at the last preceding general election, polled for its candidate for Governor at least one percent of the total number of votes cast for all candidates for that office in the state, shall be a political party, within the meaning and for the purpose of this chapter . . . .

This is the only method by which a party can gain recognized status in the State. Three textual components of this statute make clear that gaining over 1% of the gubernatorial vote is not enough for a write-in candidate's "party" to gain formal recognition:

First, Section 3-1-8 refers to "[a]ny affiliation of voters." W. Va. Code § 3-1-8. An affiliation denotes an intentional group: The Supreme Court of Appeals has explained that "the concept of an 'affiliation of voters' necessarily suggests consent or agreement with regard to their representation." *Write-In Pritt Campaign v. Hechler*, 191 W. Va. 677, 681, 447 S.E.2d 612, 616 (1994). Happenstance that multiple voters cast their vote for the same individual is not evidence that those voters "wished to be affiliated" with a potential political party, much less that they wanted "to join such a party." *Id.*

Second, the affiliation of voters must "represent[] any principle or organization." W. Va. Code § 3-1-8. The term "any" is broad, but the representation must concern an idea or an entity—not a person. At most, the West Virginians who cast their votes for the write-in candidate displayed a "shared intention" to "cast[] a vote for a particular candidate"; our high court has already held that Section 3-1-8 requires more. *Hechler*, 191 W. Va. at 681, 447 S.E.2d at 616. Your letter acknowledges that it is unclear whether the write-in candidate thought he was representing a potential new party called the "Independent Party" or if he simply thought of himself as "independent" from all parties. Yet the candidate's intent is irrelevant because Section 3-1-8 focuses on the voters. Given the common meaning the term "independent" plays in the context of affiliation with political parties, it is doubtful that writing "Independent" in the space an election form provides for one's political party is enough to put anyone on notice that the write-in candidate considered himself part of a nascent "Independent Party." Without clear evidence that a group of voters coalesced around a "principle or organization" and not simply an individual candidate, W. Va. Code § 3-1-8, there is no statutory basis to recognize a new party under these circumstances. Otherwise, we would be "limited only by our imagination as to the number of political parties that could come into existence through such mechanism." *Hechler*, 191 W. Va. at 681, 447 S.E.2d at 616.

Third, Section 3-1-8 refers to votes cast for "its"—that is, the affiliation of voters'—"candidate for governor." The idea that the group of voters chooses a candidate for Governor underscores the statute's presumption that the affiliation of voters must exist *separate from* the candidate, and *before* he or she is chosen. In other words, there must actually be an organization (even if loosely defined) in order for "it" to have a candidate. The mere fact that a group of voters chooses the same write-in candidate does not mean that those voters can be deemed to have acted in agreement with the ideals and principles of a "party" that, at most, came into existence *after* Election Day. Your letter does not indicate any evidence to suggest this type of preexisting affiliation existed here.

Indeed, as described above, the statute has a separate process for "[g]roups of citizens having no party organization" to get their candidate on the ballot. W. Va. Code § 3-5-23. If an "Independent Party" had succeeded in gaining enough signatures for "its" candidate, *id.* § 3-1-8, the outcome would very well be different. Votes cast for an individual who used the statutory method for an individual "person," however, *id.* § 3-6-4A—as opposed to the method for a *group's* chosen candidate—cannot transform that candidate into the representative of a recognized party. At minimum, if a group of voters "wishing to form a third party" wants to invoke Section 3-1-8, they would be better positioned if they "created some organization framework, such as by-laws or specific statements of principles, in advance of an election; [and] announced their existence and solicited others to affiliate." *Hechler*, 191 W. Va. at 681 n.7, 447 S.E.2d at 616 n.7.

AG OPINION

Under the facts you have described, there appears to be no evidence that a group of voters affiliated with a principle or organization chose the write-in candidate as their candidate for Governor in the 2020 General Election. It is not enough that the individual in question filed a certificate of announcement as a write-in candidate and received over 1% of the votes cast for Governor. In other words, a "party" that did not exist before the election cannot be recognized after an individual candidate performs well on Election Day. Instead, Section 3-1-8 reflects the notion that a political party is bigger than any one candidate.

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

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

FILED
2021 JUN 14 P 2:24 OTHER
OFFICE WEST VIRGINIA
SECRETARY OF STATE

June 14, 2021

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **June 11, 2021**.

CERTIFICATE OF NEED APPLICATIONS RECEIVED

June 11, 2021 - Select Specialty Hospitals, Inc., Mechanicsburg, PA, CON File #21-6/10/11-12099-A, for the stock purchase acquisition of Acuity Healthcare Holdings, Inc.; capital expenditure: $19,000,000.

June 11, 2021 – Pleasant Valley Hospital, Inc., Point Pleasant, Mason County, CON File #21-2-12100-B, for the development of an inpatient rehabilitation unit through the conversion of six existing hospital beds to rehabilitation beds; capital expenditure: $150,000.

PROJECT DETERMINED NOT REVIEWABLE

June 10, 2021 – West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #21-6-12084-X, for the renovation of space within J. W. Ruby Memorial Hospital; capital expenditure: $3,800,000.

PROJECTS EXEMPT FROM REVIEW

June 9, 2021 – West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #21-6-12103-X, for the upgrade of the infrastructure at Fairmont Medical Center by constructing a new Central Energy Plant building with new chillers, boilers, associated pumps, equipment, control systems and all distributive piping.

June 9, 2021 – Integrated Medical Services, Martinsburg, Berkeley County, CON File #21-9-12104-X, for the development of an office-based medication assisted treatment program and licensed behavioral health facility located at 101 Medical Court, Martinsburg, Berkeley County.

July 11, 2021 – Berkeley County Day Report Center, Martinsburg, Berkeley County, CON File #21-9-12107-X, for the development of a licensed behavioral health center at 520 S. Raleigh Street, Martinsburg, Berkeley County.

July 11, 2021 – Aurora Project Associates LLC, Williamson, Mingo County, CON File #21-2-12108-X, for the development of a licensed behavioral health center providing ASAM Level 3.7, 3.5, and 3.1 services at a residential facility located on the third floor of 859 Alderson Street, Williamson, Mingo County.

CHANGES TO PROJECTS EXEMPT FROM REVIEW

June 9, 2021 - West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #19-6-11721-X, for the transfer of twenty skilled nursing beds from Reynolds Memorial Hospital to Fairmont Medical Center, a campus of J. W. Ruby Memorial Hospital, instead of Chestnut Ridge Center. On November 7, 2019, West Virginia University Hospitals, Inc. was granted an exemption for the transfer of twenty skilled nursing beds from Reynolds Memorial Hospital to Chestnut Ridge Center located on the campus of WVUH in Morgantown. The hospital has now decided to instead move the beds to Fairmont Medical Center in Fairmont, Marion County.

June 9, 2021 - West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #19-6-11821-X, for the transfer of ten skilled nursing beds from St. Joseph's Hospital of Buckhannon to Fairmont Medical Center, a campus of J. W. Ruby Memorial Hospital, instead of Chestnut Ridge Center. On April 9, 2020, West Virginia University Hospitals, Inc. was granted an exemption for the transfer of ten skilled nursing beds from St. Joseph's Hospital of Buckhannon to Chestnut Ridge Center located on the campus of WVUH in Morgantown. The hospital has now decided to instead move the beds to Fairmont Medical Center in Fairmont, Marion County.

CERTIFICATE OF NEED APPROVAL ISSUED

June 11, 2021 - Pleasant Valley Hospital, Inc., Point Pleasant, Mason County, CON File #21-2-12070-P, for the development of an ambulatory care center through the relocation of Pomeroy Therapy Center from 518 East Main Street, Pomeroy, Ohio, to 106 Gander Lane, Mason, West Virginia; capital expenditure: $50,000.

DECISION ON SUBSTANTIAL CHANGE ISSUED

June 10, 2021 - West Virginia University Hospitals, Morgantown, Monongalia County, CON File #18-6-11297-H, for the renovation and expansion project on the hospital's campus, which includes the construction of a bed tower for the new women and children's hospital and a new women and children's medical office building; the addition of two floors to the Physician Office Center (POC); and the renovation of two floors of the POC and one floor of the Eye Institute; capital expenditure: $269,609,000.

West Virginia University Hospitals submits that the number of licensed psychiatric beds will be two less than stated in the certificate of need application, seven beds will move from medical surgical beds to critical care beds, and the capital expenditure is now anticipated to be $288,109,000, or a 6.9% increase over the previously approved capital expenditure.

The Authority determines that the reduction in psychiatric beds, minor change in bed classification and increase in capital expenditure of 6.96% does not constitute a substantial

change to the project.

NOTICE OF SUBSTANTIAL COMPLIANCE AND DECISION ON SUBSTANTIAL CHANGE

OTHER

The following project has been implemented in substantial compliance with the decision issued in this matter and the case file is now closed:

June 10, 2021 - Potomac Valley Hospital, Inc., Keyser, Mineral County, CON File #20-8-11959-P, for the development of an ambulatory health care facility in Mineral County through the acquisition of a physician practice and conversion of that practice to a rural health clinic; capital expenditure: $232,995.

The actual expenditures of $232,995 were $82,995, or 55.3%, over the approved capital expenditures. Potomac Valley Hospital, Inc. submits that the increase in capital expenditure is primarily due to an increase in the valuation of the tangible assets of the practice.

The Authority determines that the change in capital expenditure does constitute a substantial change to the project but determines that the increase is not subject to further review.

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