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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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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

- Titles followed by an asterisk (**) indicate that the rule is in effect as an emergency
- 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)
- If a particular step is not required by law for a particular rule, the "N/A" will appear in the excluded step column
- Once a rule becomes effective & the effective date appears in Column 10, the rule will be removed from the monitor after the rule is distributed in the loose leaf version of the Code of State Rules

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

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

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Accountancy (1-1)	Board Rules and Rules of Professional Conduct Legislative	6/15/2015	7/15/2015		7/24/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 148 HB 4081 BUNDLED SB 159		
Administration (148-1)	Purchasing Division Legislative	7/27/2015	8/26/2015	7/23/2015 Approved 7/31/2015	9/1/2015	Approved 11/19/2015	SB149 HB 4046 BUNDLED HB 4046		
Administrative Hearings (105-1)	Appeal Procedures Legislative	6/22/2015	7/22/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 150 HB 4082 BUNDLED	3/23/2016	3/23/2016
Agriculture (61-23D)	Inspection of Nontraditional, Domesticated Animals Legislative	6/10/2015	7/17/2015	6/10/2015 Effective 7/22/2015	7/30/2015	Modified & Approved 10/22/2015 Filed 11/3/2015	SB 151 HB 4083 BUNDLED SB 159		
Agriculture (61-28)	Poultry Litter and Manure Movement Into Primary Poultry Breeder Rearing Areas Legislative	6/30/2015	7/30/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 152 HB 4084 BUNDLED SB 159		
Agriculture (61-30)	Dangerous Wild Animal Rule-Repeal Legislative	1/11/2016	2/10/2016						
Agriculture (61-31)	Livestock Care Standards Legislative	6/30/2015	7/30/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 153 HB 4085 BUNDLED SB 159		
Agriculture (61-31)	Livestock Care Standards-Repeal Legislative	1/11/2016	2/10/2016						
Agriculture (61-34)	Captive Cervid Farming Legislative	4/28/2015	5/28/2015	4/28/2015 Approved 5/12/2015	7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 154 HB 4086 BUNDLED SB 159		
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 172 HB 4049 BUNDLED HB 4053		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 173 HB 4050 BUNDLED HB 4053		
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 174 HB 4051 BUNDLED HB 4053		
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 175 HB 4052 BUNDLED HB 4053		
Air Quality (45-39)	Control of Annual Nitrogen Oxides Emissions - Repeal Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 11/19/2015	SB 176 HB 4053 BUNDLED HB 4053		
Air Quality (45-40)	Control of Ozone Season Nitrogen Oxides Emissions Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 11/19/2015	SB 177 HB 4054 BUNDLED HB 4053		
Air Quality (45-41)	Control of Annual Sulfur Dioxide Emissions - Repeal Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 11/19/2015	SB 178 HB 4055 BUNDLED HB 4053		
Alcohol Beverage Control Comm. (175-2)	Private Club Licensing Legislative	6/10/2015	7/11/2015		7/31/2015	Approved 10/22/2015	SB 155 HB 4047 BUNDLED SB 157		
Alcohol Beverage Control Comm. (175-10)	Distilleries and Mini-Distilleries Legislative	6/10/2015	7/11/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/4/2015	SB 156 HB 4087 BUNDLED SB 157		
Alcohol Beverage Control Comm – Beer (176-1)	Nonintoxicating Beer Licensing and Operations Procedures Legislative	6/10/2015	7/11/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/4/2015	SB 157 HB 4088 BUNDLED SB 157		
Conservation Committee (63-2)	WV Conservation Agency Financial Assistance Program Legislative	4/29/2015	5/29/2015	4/29/2015 Approved 5/12/2015	6/5/2015	Modified & Approved 9/15/2015 Filed 9/16/2015	SB 158 HB 4089 BUNDLED SB 159		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Consolidated Public Retirement Board (162-2)	Benefit Determination and Appeal Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 163 HB 4091 BUNDLED HB 4046		
Consolidated Public Retirement Board (162-3)	Teachers' Defined Contribution Retirement System Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 9/15/2015 Filed 9/22/2015	SB 164 HB 4092 BUNDLED HB 4046		
Consolidated Public Retirement Board (162-4)	Teachers Retirement System Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 9/15/2015 Filed 9/22/2015	SB 165 HB 4093 BUNDLED HB 4046		
Consolidated Public Retirement Board (162-7)	Refund, Reinstatement, Retroactive Service,Loan and Correction of Error Interest Factors Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 9/15/2015 Filed 9/22/2015	SB 166 HB 4094 BUNDLED HB 4046		
Consolidated Public Retirement Board (162-8)	Service Credit for Accrued and Unussed Sick and Annual Leave Legislative	6/4/2015	7/6/2015		7/28/2015	Approved 9/15/2015	SB 167 HB 4048 BUNDLED HB 4046		
Consolidated Public Retirement Board (162-9)	West Virginia State Police Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 168 HB 4095 BUNDLED HB 4046		
Consolidated Public Retirement Board (162-10)	Deputy Sheriff Retirement System Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 169 HB 4090 BUNDLED HB 4046		
Counseling (27-1)	Licensing Rule Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 10/20/2015	SB 129 HB 4096 BUNDLED SB 159		
Counseling (27-3)	Licensed Professional Counselor License Renewal and Continuing Professional Education Requirements Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 9/16/2015 Filed 9/29/2015	SB 160 HB 4098 BUNDLED SB 159		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Counseling (27-5)	Disciplinary and Complaint Procedures for Counselors Procedural	6/17/2015	7/20/2015						
Counseling (27-8)	Marriage and Family Therapists Licensing Rule Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 10/20/2015	SB 161 HB 4099 BUNDLED SB 159		
Counseling (27-10)	Marriage and Family License Renewal and Continuing Professional Education Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 9/16/2015 Filed 9/29/2015	SB 162 HB 4097 BUNDLED SB 159		
Counseling (27-11)	Disciplinary and Complaint Procedures for Marriage and Family Therapists Procedural	6/17/2015	7/20/2015						
Counseling (27-12)	Contested Case Hearing Procedure for Marriage and Family Therapist Procedural	6/17/2015	7/20/2015						
Crime, Delinquency and Correction (GCCDC) (149-2)	Law Enforcement Training and Certification Standards Legislative	6/15/2015	7/22/2015		7/27/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 214 HB 4019 BUNDLED SB 159		
Dangerous Wild Animal Board (74-1)	Dangerous Wild Animals Legislative	1/11/2016	2/10/2016		2/11/2016				
Dentistry (5-11)	Continuing Education Requirements Legislative	5/13/2015	6/13/2015		7/23/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB170 HB 4100 BUNDLED SB 159		
Dentistry (5-13)	Expanded Duties of Dental Hygienists and Dental Assistants Legislative	5/13/2015	6/13/2015		7/23/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB171 HB 4101 BUNDLED SB 159		
Education (126-42)	Assuring the Quality of Education: Regulations for Education Programs (2510) Legislative Exempt	2/12/2016	3/14/2016						

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Education (126-44AA)	WV College and Career-Readiness Standards for English Language Arts (2520.1A) Legislative Exempt	11/13/2015	12/14/2015					12/18/2015	7/1/2016
Education (126-44BB)	WV College and Career-Readiness Standards for Mathematics (2520.2B) Legislative Exempt	11/13/2015	12/14/2015					12/18/2015	7/1/2016
Education (126-44P)	Alternate Academic Achievement Standards for Science in WV Schools (2520.16) Legislative Exempt	8/13/2015	9/14/2015					10/15/2015	7/1/2016
Education (126-73)	School Calendar (3234) Legislative Exempt	12/18/2015	1/19/2016					2/12/2016	7/1/2016
Education (126-96)	High School Diploma for Veterans Legislative Exempt	1/14/2016	2/15/2016					3/10/2016	4/11/2016
Education (126-149)	Professional Development for WV Educators (5500) Legislative Exempt	12/18/2015	1/19/2016					2/12/2016	7/1/2016
Election Commission (146-3)	Regulation of Campaign Finance Legislative	5/20/2015	6/19/2015		7/31/2015	Modified w/certain amendments and approved 11/19/2015 Filed 11/30/2015 2nd Filed 12/22/2015	SB 207 HB 4140 BUNDLED SB 159		
Election Commission (146-5)	WV Supreme Court of Appeals Campaign Financing Program Legislative	5/20/2015	6/19/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 11/30/2015 2nd Filed 12/22/2015	SB 208 HB 4105 BUNDLED SB 159		
Ethics Commission (158-21)	Public Use of Names or Likeness Legislative	5/12/2015	6/12/2015	5/12/2015 Effective 6/23/2015	6/30/2015	Approved w/certain amendments 11/19/2015	SB 210 HB 4143 BUNDLED HB 4046		
Fire Commission (87-1)	Fire Code Legislative	5/1/2015	5/29/2015 Written Comments 6/1/2015		6/29/2015	Approved 11/19/2015	SB 211 HB 4060 BUNDLED HB 4060		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Fire Commission (87-4)	State Building Code Legislative	5/1/2015	6/1/2015		6/29/2015	Modified & Approved 11/19/2015 Filed 12/10/2015	SB 212 HB 4107 BUNDLED HB 4060		
Fire Commission (87-7)	Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code Officials, Inspectors and Plans Examiners Legislative	5/1/2015	6/1/2015		6/29/2015	Modified & Approved 11/19/2015 Filed 12/10/2015	SB 213 HB 4108 BUNDLED HB 4060		
Health (64-48)	Emergency Medical Services Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 186 HB 4112 BUNDLED SB 195		
Health (64-51)	Fees for Service Legislative	6/25/2015	7/25/2015		7/27/2015	Approved 10/22/2015	SB 187 HB 4061 BUNDLED SB 195		
Health (64-56)	Infectious Medical Waste Legislative	6/25/2015	7/25/2015		7/27/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB 188 HB 4113 BUNDLED SB 195		
Health (64-64)	Aids-Related Medical Testing and Confidentiality Legislative	6/25/2015	7/25/2015		7/27/2015	Approved 9/16/2015	SB 189 HB 4062 BUNDLED SB 195		
Health (64-76)	Tuberculosis Testing, Control, Treatment and Commitment Legislative	6/25/2015	7/25/2015		7/27/2015	Approved 9/16/2015	SB 190 HB 4063 BUNDLED SB 195		
Health (64-102)	Farmers Market Vendors Legislative	6/25/2015	7/25/2015		7/27/2015	Modified & Approved 10/22/2015 Filed 10/23/2015	SB 191 HB 4110 BUNDLED SB 195		
Health (64-104)	Certification of Opioid Overdose Prevention and Treatment Training Programs Legislative	6/25/2015	7/25/2015		7/27/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB 192 HB 4111 BUNDLED SB 195		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health & Human Resources (69-8)	Chronic Pain Management Clinic Licensure Legislative	6/26/2015	7/26/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 193 HB 4115 BUNDLED SB 195		
Health & Human Resources (69-9)	Neonatal Abstinence Centers Legislative	6/25/2015	7/25/2015	6/25/2015 Approved 7/29/2015 Amendment 12/8/2015 Approved 12/15/2015	7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 194 HB 4116 BUNDLED SB 195		
Health & Human Resources (69-10)	WV Clearance for Access: Registry and Employment Screening Legislative	6/26/2015	7/26/2015	6/26/2014 Amendment 7/17/2015 Approved 7/29/2015 Amendment 10/23/2015 ERD by 12/4/2015	7/31/2015	Modified & Approved 10/22/2015 Filed 10/23/2015	SB 195 HB 4114 BUNDLED SB 195		
Higher Education Policy Comm. (133-19)	Guidelines for the Offering of Early Enrollment Courses for High School Students Procedural	11/24/2015	12/24/2015						
Higher Education Policy Comm. (133-26)	Underwood-Smith Teacher Scholarship Program Legislative	6/4/2015	7/4/2015			Approved 10/28/2015	HB 4617		
Higher Education Policy Comm. (133-58)	Nursing Scholarship Program Legislative	6/4/2015	7/4/2015			Approved 10/28/2015	HB 4617		
Highways (157-11)	State Transportation Infrastructure Fund Program Legislative	6/29/2015	7/29/2015		7/31/2015	Modified & Approved 9/15/2015 Filed 9/30/2015	SB 215 HB 4121		
Human Rights Commission (77-10)	Pregnant Workers' Fairness Act Legislative	6/29/2015	7/30/2015		7/31/2015	Modifed w/certain amendments & Approved 11/19/2015 Filed 12/8/2015	SB 216 HB 4140		
Human Services (78-1)	Child Care Center Licensing Requirements Legislative	6/25/2015	7/25/2015		7/31/2015	Approved 10/22/2015	SB 196 HB 4064 BUNDLED SB 195		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Human Services (78-18)	Family Child Care Facility Licensing Requirements Legislative	6/25/2015	7/25/2015		7/31/2015	Approved 10/22/2015	SB 197 HB 4065 BUNDLED SB 195		
Human Services (78-19)	Family Child Care Home Registration Requirements Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 10/28/2015	SB 198 HB 4117 BUNDLED SB 195		
Human Services (78-23)	W. Va. Works Program Sanctions Legislative	6/25/2015	7/25/2015	6/25/2015 Amendment 7/31/2015 Approved 9/4/2015	7/31/2015	Modified & Approved 10/22/2015 Filed 11/13/2015	SB 199 HB 4118 BUNDLED SB 195		
Human Services (78-24)	Qualifications for a Restricted Provisional License to Practice as a Social Worker Within the Dept. of Health & Human Resources Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 200 HB 4119 BUNDLED SB 195		
Human Services (78-25)	Goals for Foster Children Legislative	6/26/2015	7/26/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/22/2015	SB 201 HB 4120 BUNDLED SB 195		
Labor (42-5)	Wage Payment and Collection Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/9/2015	SB 217 HB 4126 BUNDLED SB 202		
Labor (42-8)	Minimum Wages and Maximum Hours Standards Regulations Legislative	6/26/2015	7/27/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/9/2015	SB 218 HB 4124		
Labor (42-21)	Elevator Safety Act Legislative	6/26/2015	7/27/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 11/17/2015	SB 219 HB 4122 BUNDLED SB 202		
Labor (42-21A)	Licensing of Elevator Mechanics and Technicians and Registration of Apprentices Legislative	6/26/2015	7/27/2015		7/31/2015	Approved 11/19/2015	SB 220 HB 4066 BUNDLED SB 202		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Livestock Care Standards Bd (73-1)	Livestock Care Standards Legislative	1/11/2016	2/10/2016		2/11/2016				
Lottery (179-5)	Limited Video Lottery Legislative (Called up by the 2016 Legislature)						SB 157		
Medical Imaging & Radiation Therapy Tech. Bd. of Exam. (18-1)	Rules of the WV Medical Imaging & Radiation Therapy Tech Bd of Exam Legislative	3/6/2015	5/1/2015		6/8/2015	Approved 10/22/2015	SB 221 HB 4067 BUNDLED SB 159		
Medicine (11-11)	Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities Legislative	6/12/2015	7/13/2015	6/12/2015 Approved 6/30/2015	7/27/2015	Modified & Approved 10/22/2015 Filed 10/23/2015	SB 223 HB 4125 BUNDLED SB 159		
Miners' Health, Safety and Training (56-19)	Substance Abuse Screening, Standards and Procedures Legislative	6/26/2015	7/27/2015	6/26/2015 Effective 8/7/2015	7/30/2015	Approved 10/22/2015	SB 224 HB 4068 BUNDLED SB 202		
Mining and Reclamation (38-2)	WV Surface Mining Reclamation Legislative	6/23/2015	7/24/2015		7/27/2015	Approved 11/19/2015	SB 182 HB 4056 BUNDLED HB 4053		
Natural Resources (58-47)	Prohibition When Hunting and Trapping Legislative	6/23/2015	7/22/2015		7/30/2015	Modified & Approved 9/15/2015 Filed 10/8/2015	SB 202 HB 4126 BUNDLED SB 202		
Natural Resources (58-49)	General Hunting Legislative	6/23/2015	7/22/2015		7/30/2015	Approved 9/15/2015	SB 203 HB 4069 BUNDLED SB 202		
Natural Resources (58-50)	Deer Hunting Rule Legislative	6/23/2015	7/22/2015		7/30/2015	Approved 9/15/2015	SB 204 HB 4070 BUNDLED SB 202		
Natural Resources (58-52)	Wild Boar Hunting Rule Legislative	6/23/2015	7/22/2015		7/30/2015	Approved 9/15/2015	SB 205 HB 4071 BUNDLED SB 202		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-74)	Elk Restoration and Management Rule Legislative	6/23/2015	7/22/2015		7/30/2015	Modified & Approved 10/22/2015 Filed 10/29/2015	SB 206 HB 4127 BUNDLED SB 202		
Nursing Home Administrators Licensing Bd. (21-1)	Nursing Home Administrators Legislative	6/9/2015	7/10/2015		7/17/2015	Modified & Approved 10/22/2015 Filed 11/2/2015	SB 225 HB 4028 BUNDLED SB 159		
Oil and Gas (35-8)	Horizontal Well Development Legislative	7/24/2015	Hearing 7/23/2015 Written 7/27/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 11/23/2015	SB 179 HB 4102 BUNDLED HB 4053		
Personnel (143-1)	Administrative Rule of the WV Div. of Personnel Legislative	5/19/2015	6/30/2015		7/21/2015	Approved 11/19/2015	SB 226 HB 4072 BUNDLED HB 4046		
Pharmacy (15-1)	Licensure and Practice of Pharmacy Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 10/22/2015 Filed 12/17/2015	SB 227 HB 4129 BUNDLED SB 159		
Pharmacy (15-2)	Rules of the Bd. Of Pharmacy for the Uniform Controlled Substances Act Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 11/19/2015 Filed 12/17/2015	SB 228 HB 4130 BUNDLED SB 159		
Pharmacy (15-4)	Record Keeping and Automated Data Processing Systems Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 10/22/2015 Filed 12/17/2015	SB 229 HB 4131 BUNDLED SB 159		
Pharmacy (15-5)	Licensure of Wholesale Drug Distributors, Third-Party Logistics Providers and Manufacturers Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 10/22/2015 Filed 12/17/2015	SB 230 HB 4132 BUNDLED SB 159		
Physical Therapy (16-4)	Fees for Physical Therapist and Physical Therapist Assistant Legislative	3/16/2016	4/18/2016						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Professional Engineers (7-1)	Examination, Licensure and Practice of Professional Engineers Legislative	4/3/2015	5/4/2015	4/3/2015 Withdrawn 5/11/2015 5/11/2015 Approved 6/2/2015	5/11/2015	Modified & Approved 9/16/2015 Filed 9/22/2015	SB 206 HB 4106 BUNDLED SB 159		
Property Valuation Training & Procedures Commission (189-5)	Tax Map Sales Legislative	6/11/2015	7/13/2015		7/29/2015	Modified & Approved 10/22/2015 Filed 10/27/2015	SB 231 HB 4133 BUNDLED SB 159		
Public Transit (225-1)	Rail Fixed Guideway Systems State Safety Oversight Legislative	7/1/2015	7/30/2015		7/31/2015	Modified & Approved 9/15/2015 Filed 9/30/2015	SB 243 HB 4138 BUNDLED SB 150		
Racing Commission (178-1)	Thoroughbred Racing Legislative	6/11/2015	7/13/2015		7/22/2015	Approved 11/19/2015	SB 232 HB 4073 BUNDLED SB 157		
Racing Commission (178-5)	Pari-Mutuel Wagering Legislative	6/11/2015	7/13/2015		7/22/2015	Approved 11/19/2015	SB 233 HB 4074 BUNDLED SB 157		
Secretary of State (153-3)	(Repeal of) Registration Forms and Receipts Legislative	5/27/2015	6/30/2015		6/30/2015	Approved 11/19/2015	SB 235 HB 4076 BUNDLED SB 159		
Secretary of State (153-9)	(Repeal of) Elimination of Precinct Registration Books Legislative	5/27/2015	6/30/2015		7/1/2015	Approved 11/19/2015	SB 236 HB 4077 BUNDLED SB 159		
Secretary of State (153-23)	(Repeal of) Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Active Duty Legislative	5/27/2015	6/30/2015		6/30/2015	Approved 11/19/2015	SB 237 HB 4075 BUNDLED SB 159		
Secretary of State (153-52)	Freedom of Information Act Database Legislative	5/18/2015	6/19/2015	7/1/2015 Effective 8/12/2015	6/30/2015	Modified & Approved 11/19/2015 Filed 11/30/2015 2nd Filed 12/22/2015	SB 238 HB 4134 BUNDLED SB 159		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Senior Services (76-3)	WV State Plan on Aging-Title V Interpretive	3/1/2016	3/31/2016						
Social Work, WV Bd of (25-1)	Qualifications for the Profession of Social Work Legislative	6/9/2015	7/10/2015	5/26/2015 Approved 6/9/2015	7/21/2015	Modified & Approved 11/19/2015 Filed 12/4/2015	SB 234 HB 4135 BUNDLED SB 159		
Speech-Language Pathology & Audiology (29-1)	Licensure of Speech-Pathology and Audiology Legislative	4/22/2015	6/5/2015		6/8/2015	Modified & Approved 11/19/2015	SB 239 HB 4136 BUNDLED SB 159		
Speech-Language Pathology & Audiology (29-2)	Rule Governing Speech-Language Pathology and Audiology Assistants Legislative	4/22/2015	6/5/2015		6/8/2015	Modified w/certain amendments & Approved 11/19/2015	SB 240 HB 4142 BUNDLED SB 159		
Tax Department (110-10F)	Payment of Taxes by Electronic Funds Transfer Legislative	6/11/2015	7/13/2015		7/29/2015	Modified & Approved 9/16/2015 Filed 9/18/2015	SB 241 HB 4137 BUNDLED SB 157		
Tax Department (110-14C)	Motor Fuel Excise Tax Interpretive	11/5/2015	12/4/2015						
Tax Department (110-50H)	Exchange of Info Agreement Between the Comm of the Tax Div of the Dept of Rev and the Sec of the Dept of Commerce, the Sec of the Dept of Environmental Protection, the Dir of the Div of Forestry of the Dept of Commerce and the Comm of the PSC Legislative	6/11/2015	7/13/2015		7/29/2015	Approved 9/16/2015	SB 242 HB 4078 BUNDLED SB 157		
Tourism (144-1)	Direct Advertising Grants Program (Called up by the 2016 Legislature) Legislative						BUNDLED SB 202		
Veterans' Assistance (86-2)	State Home for Veterans-Fiscal Legislative	5/29/2014	6/28/2014	5/28/2014 Approved 6/2/2014 Expired 9/2/2015	8/1/2014	Approved 9/16/2015	SB 244 HB 4079 BUNDLED SB 4080		
Veterans' Assistance (86-4)	VA Headstones or Markers Legislative	5/28/2014	6/28/2014		8/1/2014	Approved 9/16/2015	SB 245 HB 4080 BUNDLED SB 4080		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Veterinary Medicine (26-4)	Standards of Practice Legislative	3/10/2016	4/11/2016						
Water Resources, Div. of Water & Waste Mgmt. (47-2)	Requirements Governing Water Quality Standards Legislative	6/15/2015	Hearing 7/21/2015 Written Comments 7/31/2015	6/29/2015 Effective 8/10/2015 Amendment 9/21/2015 Approved 10/22/2015	7/31/2015	Modified & Approved 11/19/2015 Filed 11/24/2015	SB 180 HB 4103 BUNDLED HB 4053		
Water Resources, Div. of Water & Waste Mgmt. (47-30B)	Administrative Proceedings and Civil Penalty Assessment Legislative	6/23/2015	7/24/2015		7/27/2015	Approved 11/19/2015	SB 183 HB 4057 BUNDLED HB 4053		
Water Resources, Div. of Water & Waste Mgmt. (47-63)	Aboveground Storage Tanks Legislative	6/25/2015	7/30/2015		7/31/2015	Modified & Approved 11/19/2015	SB 181 HB 4104 BUNDLED HB 4053		
Water Resources, Div. of Water & Waste Mgmt. (47-64)	Aboveground Storage Tank Administrative Proceedings and Civil Penalty Assessment Legislative	6/25/2015	7/30/2015		7/31/2015	Approved 11/19/2015	SB 184 HB 4058 BUNDLED HB 4053		
Water Resources, Div. of Water & Waste Mgmt. (47-65)	Aboveground Storage Tank Fee Assessments Legislative	6/25/2015	7/30/2015		7/31/2015	Approved 1/26/2016	SB 185 HB 4059 BUNDLED HB 4053		
WorkForce West Virginia (96-4)	WV Prevailing Wage Act Legislative	9/22/2015	10/22/2015	8/28/2015 ERD by 10/9/2015	11/6/2015	Modified & Approved 11/19/2015 Filed 12/4/2015	SB 222 HB 4140 BUNDLED SB 202		

P.O. BOX 2067
CHARLESTON, WV 25327

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

Earl Ray Tomblin
Governor

John A. Myers
Acting Director

March 28, 2016

FILED
2016 MAR 29 P 1:52
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

Dear Secretary Tennant:

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

Enclosed are game rules for "The Green Machine" manufactured by Bally Technologies for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

John A. Myers
Acting Director

JAM/pb

Enclosures: The Green Machine

LEGISLATIVE

P.O. BOX 2067
CHARLESTON, WV 25327

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

Earl Ray Tomblin
Governor

John A. Myers
Acting Director

March 28, 2016

FILED
2016 MAR 29 P 1:53
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

Dear Secretary Tennant:

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

Enclosed are game rules for "Jackpot Inferno," "Total Meltdown," and "Yard Birds" manufactured by Everi Games, Inc. (formerly known as Multimedia Games, Inc.) for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

John A. Myers
Acting Director

JAM/pb

Enclosure: Jackpot Inferno
Total Meltdown
Yard Birds

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
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LEGISLATIVE

Earl Ray Tomblin
Governor

John A. Myers
Acting Director

March 28, 2016

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2016 MAR 29 P 1:56
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

Dear Secretary Tennant:

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

Enclosed are game rules for "Celtic Treasures," "China Mystery Boosted Wins & Spins," "Glorious Jade," "Jungle Fury," and "Lotus Land" games manufactured by Konami Gaming, Inc. for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

John A. Myers
Acting Director

JAM/pb

Enclosures: Celtic Treasures
China Mystery Boosted Wins & Spins
Glorious Jade
Jungle Fury
Lotus Land

Orders Report

Docket Number	Agency	Respondent	Date Rendered
2013-146	Chiropractic, WV Board of	Joseph J. Yurigan, DC	3/11/2016
14-1-10206-P	Health Care Authority	Appalachian Regional Healthcare Inc	3/21/2016
16-3-10752-X	Health Care Authority	The Arc of the Three Rivers	3/21/2016
15-9-10687-R	Health Care Authority	Bio-Medical Applications of West Virginia Inc	3/21/2016
16-1/2/3/4-10753-X	Health Care Authority	Elder Aide Services	3/21/2016
16-6/7/10-10755-X	Health Care Authority	Hospice Care Corporation	3/21/2016
16-2/3/5-10748-X	Health Care Authority	PAIS, Inc	3/21/2016
16-8-10754-X	Health Care Authority	United Physicians Care	3/21/2016
C2015-09	Professional Engineers, WV State Bd. of Reg. for	Jon T. Chu, Chu & Gassman Consulting Engineers PC	2/3/2016
N/A	Registered Professional Nurses, West Virginia Board Of Examiners For	Brenda Myers	3/29/2016

Grievances Report

Docket Number	Grievants Name	Respondents Name	Date Decision
2016-0015-DVA	Mary J. Stroud	Veterans Assistance	3/11/2016
2015-1306-JanED	Amy Hogan	Kanawha County Board Of Education	3/15/2016
2015-0576-CONS	Kimberly Cale, et al.	West Virginia University	3/22/2016
2015-1223-DOT	Nicholas Weaver	Highways	3/22/2016

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2016 MAR 28 P 4:07
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SECRETARY OF STATE

AG OPINION

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

March 22, 2016

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

The Honorable Ralph A. Lorenzetti, Jr.
Prosecuting Attorney
Office of the Prosecuting Attorney of Jefferson County
Post Office Box 729
Charles Town, WV 25414

Dear Prosecutor Lorenzetti:

You have asked for an Opinion of the Attorney General regarding whether the Jefferson County Commission may, or is required to, reimburse the legal expenses incurred by the president of the Jefferson County Planning Commission in defending against an ethics complaint. This Opinion is being issued pursuant to West Virginia Code § 5-3-2, which provides that the Attorney General "may consult with and advise the several prosecuting attorneys in matters relating to the official duties of their office." To the extent this Opinion relies on facts, it is based solely upon the factual assertions set forth in your correspondence with the Attorney General's Office.

In your letter, you address the possible reimbursement of the president of the Jefferson County Planning Commission under West Virginia Code § 11-8-31a for legal expenses incurred in responding to an ethics complaint. You explain that in August 2014, a citizen of Jefferson County filed an ethics complaint with the West Virginia Ethics Commission against the president of the Planning Commission for Jefferson County. The West Virginia Ethics Commission dismissed the case. Now, your letter states, the president of the Planning Commission is seeking to have the Jefferson County Commission reimburse legal expenses he incurred successfully defending against the ethics complaint. You note that West Virginia Code § 11-8-31a permits a "governing body" to reimburse the attorney's fees expended by an "official" in successfully defending against certain types of actions. In full, that statutory provision states:

> The governing body of the governmental entity of which a person is an official is hereby authorized to reimburse such person for the reasonable amount of such person's attorney fees in any case:
>
> (a) Wherein such person has successfully defended against an action seeking his or her removal from office, or

> (b) Wherein such person has successfully defended against an action seeking the recovery of moneys alleged to have been wrongfully expended.
>
> In either case such governing body shall have authority to determine if such reimbursement is warranted and the reasonableness of the amount sought to be recovered.

W. Va. Code § 11-8-31a.

Your letter raises the following specific legal questions, which we address in turn below:

> *(1) Is the president of the Jefferson County Planning Commission an official of a governmental entity under West Virginia Code § 11-8-31a? (2) Does West Virginia Code § 11-8-31a require a governing body to reimburse an official for attorney's fees when he or she has successfully defended against an action seeking the recovery of moneys alleged to have been wrongfully expended? (3) Is an ethics complaint filed with the West Virginia Ethics Commission "an action seeking the recovery of moneys alleged to have been wrongfully expended" under West Virginia Code § 11-8-31a?*[*]

Question One: Is the President of the Jefferson County Planning Commission an Official of a Governmental Entity Under West Virginia Code § 11-8-31a?

We conclude first that the Jefferson County Planning Commission is a "governmental entity" within the meaning of West Virginia Code § 11-8-31a. The Jefferson County Planning Commission—like other planning commissions—has "regulatory powers over land planning" and serves "in an advisory capacity" to other governmental bodies. W. Va. Code § 8A-2-1 ("A governing body of a municipality may, by ordinance, create a planning commission . . . [to] serve in an advisory capacity to the governing body or governing bodies that created it and have certain regulatory powers over land planning."). Indeed, the members of the Jefferson County Planning Commission are appointed (to three-year terms) by the Jefferson County Commission. Bylaws of the Jefferson County Planning Commission, §§ 2.1, 2.2, *available at* http://www.jeffersoncountywv.org/home/showdocument?id=259.

We also conclude that the president of the Jefferson County Planning Commission is an "official" of that governmental entity. The plain meaning of "official" is "a person who as a position of authority in a company, organization, or government" or "a person who holds an office." Merriam Webster Online, *Official*, http://www.merriam-webster.com/dictionary/official (last visited Mar. 17, 2016). Under the bylaws of the Jefferson County Planning Commission, the president readily satisfies that definition. The "president" is an "office" established by the bylaws, filled annually by an election of the members of the Planning Commission. *Id.* §§ 3.1–3.6. Moreover, the "president" is a "position of authority," as the president "preside[s] at all

[*] Your letter also cites *Baldau v. Jonkers*, 229 W. Va. 1, 725 S.E.2d 170 (2011), which we do not address because it concerned a court order directing individual defendants to pay attorney fees rather than the reimbursement of attorney fees by a governing body under West Virginia Code § 11-8-31a.

public hearings and meetings," "may call special meetings," and "is empowered to certify by signature or otherwise any official and valid action of the Planning Commission." *Id.* § 3.2.

Question Two: Does West Virginia Code § 11-8-31a Require a Governing Body To Reimburse an Official for Attorney Fees When He or She Has Successfully Defended Against an Action Seeking the Recovery of Moneys Alleged To Have Been Wrongfully Expended?

We believe that the West Virginia Supreme Court of Appeals would conclude that a governing body is required to apply to any reimbursement decision under West Virginia Code § 11-8-31a the three-part test the Court adopted in *State ex rel. Smith v. Mingo Cnty. Comm'n*, 228 W. Va. 474, 721 S.E.2d 44 (2011). On its face, the statute does little more than grant governing bodies the "authority to determine if such reimbursement is warranted." W. Va. Code § 11-8-31a. In *Smith*, the Court noted that the statute "provides no criteria on which to base such a determination," and expressly "h[e]ld" that the applicable criteria is found in *Powers v. Goodwin*, 170 W. Va. 151, 291 S.E.2d 466 (1982), a case that pre-dates the statute. *Smith*, 228 W. Va. at 482, 721 S.E.2d at 52. In the sixth syllabus point in *Smith*, the Court held that "[i]n determining whether reimbursement for attorney's fees is warranted under West Virginia Code § 11-8-31a (2008), a governing body should apply the three-part test established in syllabus point three of *Powers v. Goodwin*, 170 W. Va. 151, 291 S.E.2d 466 (1982)." Syl. Pt. 6, *Smith*, 228 W. Va. 474, 721 S.E.2d 44. The *Powers* three-part test provides that reimbursement is warranted where: (1) the underlying action "arise[s] from the discharge of an official duty in which the government has an interest"; (2) "the officer . . . acted in good faith"; and (3) "the agency seeking to indemnify the officer must have either the express or implied power to do so." *Smith*, 228 W. Va. at 482, 721 S.E.2d at 52. Though the Legislature passed West Virginia Code § 11-8-31a just three years after *Powers*, the Court concluded that "§ 11–8–31a appears to build on the framework established in *Powers*." *Smith*, 228 W. Va. at 481, 721 S.E.2d at 51.

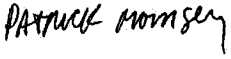
While the facts of *Smith* are different from the question you pose, the Court's holding in the sixth syllabus point of that case unmistakably applies. *Smith* concerned a mandamus action seeking reimbursement of legal fees, and the Court's primary holding was that a mandamus action was permissible because the governing body was "unable to consider the issue" due to a conflict of interest that prevented a quorum. 228 W. Va. at 480, 721 S.E.2d at 50. The Court further concluded that *any court* faced with such a mandamus petition should apply the *Powers* three-part test to determine whether the petitioner has "established a clear legal right to the relief sought." *Id.* at 482, 721 S.E.2d at 52. Separately, however, the Court also specifically held that *any governing body* considering a request for reimbursement under West Virginia Code § 11-8-31a must similarly apply the *Powers* three-part test. Syl. Pt. 6, *Smith*, 228 W. Va. 474, 721 S.E.2d 44. Though that holding was not necessary to the question in *Smith* or the outcome of that case, we cannot ignore the Court's deliberate decision to include the holding as a syllabus point. *See State v. McKinley*, 234 W. Va. 143, 153, 764 S.E.2d 303, 313 (2014) ("[T]he Court uses original syllabus points to announce new points of law or to change established patterns of practice by the Court."). We do note that the Court in *Smith* did not address whether an official seeking reimbursement from a governing body could bring a mandamus action if the governing body failed to apply or improperly applied the *Powers* three-part test.

AG OPINION

Question Three: Is an Ethics Complaint Filed with the West Virginia Ethics Commission "an Action Seeking the Recovery of Moneys Alleged To Have Been Wrongfully Expended" Under West Virginia Code § 11-8-31a?

Finally, we do not believe that an ethics complaint filed with the West Virginia Ethics Commission constitutes "an action seeking the recovery of moneys alleged to have been wrongfully expended" under West Virginia Code § 11-8-31a(b). That clause appears to be in reference to the actions authorized by several immediately preceding provisions of the West Virginia Code. *See, e.g.*, W. Va. Code § 11-8-28 ("Whenever a fiscal body expends money or incurs obligations in violation of sections twenty-five and/or twenty-six of this article, suit shall be instituted by the prosecuting attorney of the county or the attorney general of the State, in a court of competent jurisdiction to recover the money expended or to cancel the obligation, or both."); *id.* § 11-8-30 ("A person who in his official capacity negligently participates in an illegal expenditure may be proceeded against for the recovery of the amount illegally expended. The political subdivision concerned, a taxpayer of the subdivision, the state tax commissioner or a person prejudiced may bring the proceeding."). To be sure, an ethics complaint could be brought alleging that an individual violated the Ethics Act by wrongfully expending certain funds. But such a complaint would not be "an action seeking the *recovery* of [the] moneys alleged to have been wrongfully expended," but rather an action seeking a sanction of the individual under the State's ethics laws. W. Va. Code § 11-8-31a(b) (emphasis added).

Sincerely,



Patrick Morrisey
Attorney General

Elbert Lin
Solicitor General

Erica N. Peterson
Assistant Attorney General

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

FILED
2016 MAR 29 A 10: 05
OFFICE WEST VIRGINIA
SECRETARY OF STATE

OTHER

March 28, 2016

LEGAL NOTICE

James L. Pitrolo, Jr., Chairman, West Virginia Health Care Authority, announces the following Certificate of Need activities for the week ending **March 25, 2016**.

LETTERS OF INTENT FOR EXPEDITED REVIEW RECEIVED

March 2, 2016 – Elder Aide Services d/b/a Right at Home, Charleston, Kanawha County, CON File #16-1/2/3/4-10753-X/PC, for the provision of personal care services to individuals covered by insurance; no capital expenditure.

March 24, 2016 – Princeton Community Hospital Association, Inc., Princeton, Mercer County, CON File #16-1-10773-H, for the development of a medical office building on the existing campus of the hospital located at 122 Twelfth Street, Princeton, Mercer County; capital expenditure: $15,000,000.

REQUESTS FOR EXEMPTION RECEIVED FOR HOSPITAL AMBULATORY HEALTH CARE FACILITY

March 18, 2016 – United Hospital Center and United Physicians Care, Bridgeport, Harrison County, CON File #16-6-10764-X, for the development of a hospital ambulatory health care facility in Harrison County through the employment of three physicians with an office in Harrison County. The office is located at 900 Lodgeville Road, Bridgeport, Harrison County. The office will be staffed by three (3) pediatricians.

The capital expenditure associated with the project is $687,000.

March 18, 2016 – United Hospital Center and United Physicians Care, Bridgeport, Harrison County, CON File #16-6-10765-X, for the development of a hospital ambulatory health care facility in Harrison County through the employment of three physicians with an office in Harrison County. The office is located at 16 Sterling Drive, Bridgeport, Harrison County. The office will be staffed by an internal medicine physician and two (2) endocrinologists.

The capital expenditure associated with the project is $687,000.

March 18, 2016 – United Hospital Center and United Physicians Care, Bridgeport, Harrison County, CON File #16-6-10766-X, for the development of a hospital ambulatory health care facility in Harrison County through the employment of one physician with an office in Harrison County. The office is located at 710 Genesis Boulevard, Bridgeport, Harrison County. The office will be staffed by an infectious disease physician.

The capital expenditure associated with the project is $229,000.

Any affected person may oppose these proposals by submitting a letter stating the reason for opposition within thirty (30) days of the first date of publication of the public notice to: Marianne Kapinos, General Counsel, West Virginia Health Care Authority, Certificate of Need Program, 100 Dee Drive, Charleston, West Virginia 25311-1600.

The last date upon which an affected party may file a letter of opposition to these proposals is April 25, 2015.

EXPEDITED APPLICATIONS RECEIVED

March 22, 2016 – Wheeling Hospital, Wheeling, Ohio County, CON File #15-10-10573-NH, for the relocation and replacement of the Bishop Joseph H. Hodges Continuous Care Center; capital expenditure: $33,710,000.

March 24, 2016 – VJL Health Services LLC, Bowie, Maryland, CON File #16-9-10739-Z, for the establishment of a home health agency in Martinsburg, Berkeley County to serve the residents of Berkeley and Jefferson counties; capital expenditure: $39,775.

March 25, 2016 – West Virginia United Health System, Inc., Fairmont, Marion County, CON File #16-10-10751-A, for the acquisition of Reynolds Memorial Hospital located in Glen Dale, Marshall County; capital expenditure: $15,000,000.

PROJECT DETERMINED REVIEWABLE

March 21, 2016 – Elder Aide Services d/b/a Right at Home, Charleston, Kanawha County, CON File #16-1/2/3/4-10753-X, for the provision of personal care services to individuals covered by insurance; no capital expenditure.

PROJECTS DETERMINED NOT REVIEWABLE

March 21, 2016 – The Arc of the Three Rivers, Charleston, Kanawha County, CON File #16-3-10752-X, for the provision of Personal Care services to individuals residing in Kanawha, Boone, Putnam and Clay counties, specifically those individuals already receiving Title XIX I/DD Waiver services; no capital expenditure.

March 21, 2016 – Hospice Care Corporation, Morgantown, Monongalia County, CON File #16-6/7/10-10755-X, for the complete relocation of twelve (12) beds from its free-standing inpatient unit located in Elkins, Randolph County, into leased space at Ruby Memorial Hospital located in Morgantown, Monongalia County; capital expenditure: less than the expenditure minimum.

March 21, 2016 – PAIS, Inc., South Charleston, Kanawha County, CON File #16-2/3/5-10748-X, to close its Ripley office and to combine its four service coordination offices and relocate them to its Charleston office; no capital expenditure.

March 21, 2016 – United Physicians Care, Bridgeport, Harrison County, CON File #16-8-10754-X, for the provision of general surgeon physician services on the campus of Potomac Valley Hospital; capital expenditure: $30,000.

CERTIFICATE OF NEED APPROVAL ISSUED

March 18, 2016 – Bio-Medical Applications of West Virginia, Inc. d/b/a Fresenius Medical Care Charles Town, Raleigh, North Carolina, CON File #15-9-10687-R, for the addition of four (4) dialysis stations in Charles Town, Jefferson County; capital expenditure: $1,292,694.

NOTICE OF SUBSTANTIAL COMPLIANCE

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

March 21, 2016 – Appalachian Regional Healthcare, Inc., Beckley, Raleigh County, CON File #14-1-10206-P, for the development of a physician office complex in space to be leased within the Cranberry Creek Center, 1256 Eisenhower Drive, Beckley, Raleigh County; capital expenditure: $3,371,717.64.

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

OTHER

WVHIN
WEST VIRGINIA HEALTH INFORMATION NETWORK

Earl Ray Tomblin
Governor

Sonia Chambers
Interim Chief Operations Officer

Joe Letnaunchyn
Chair

FILED
2016 MAR 29 P 1:45
OFFICE WEST VIRGINIA
SECRETARY OF STATE

March 29, 2016

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

Re: State Register
Entry of Notice

Dear Secretary Tennant,

Pursuant to Legislative Rule 65 C.S.R. §28 5.6.a, the West Virginia Health Information Network is to publish its written patient notice and a list of all then current participating organizations during the first week of January, April, July, and October of each year in the State Register.

The current participating organizations as of April 1, 2016:

ABC Pediatrics
Adena Health & Rehabilitation Center
Advanced Diabetes & Endocrine Center
Aledade, Inc.
Amedisys, Inc.
Andres L. Rago, MD
Appalachian Regional Healthcare
Associated Specialists, Inc.
Barbour County Health Dept.
Bassam N. Shamma, MD
Beckley Physicians Group
Beckley Vascular Associates
Belington Community Medical Services
Big Creek Medical Center
Blue Ridge Internal Medicine
Boone Memorial Hospital
Braxton County Health Dept.
Braxton Primary Health Care
Bridgeport Express Care
Bureau for Medical Services
Cabell Huntington Hospital
CAMC Physicians Group
Camden Clark Physicians Corp.
Cardinal Pediatrics
Charles D. Bess
Charleston Area Medical Center
Charleston Endocrinology
Charleston Gastroenterology Assoc.
Charleston Nephrology Hypertension and Transplant
Charleston Obstetrics & Gynecology
Chesapeake Medical Center
Acuity Specialty Hospital
Advanced Cardiovascular Services
Advantage Healthcare for Women
Alternative Home Health
American Medical Facilities Management
Appalachian Highway Med Surgical Clinic
Arturo Y. Lim, MD
Asthma & Allergy Center
Barnesville Healthcare & Rehabilitation Center
Beckley Neonatal Pediatric Care
Beckley Raleigh County Health Dept.
Bee Healthy Pediatrics
Berkeley County Health Dept.
Bluefield Hematology-Oncology Associates
Bluestone Health Association
Brandon Cestaric Family Practice
Braxton County Memorial Hospital
Brian D. Houston, MD
Brooke County Health Dept.
Cabell Huntington Health Dept.
Cabin Creek Health Systems
Camden Clark Medical Center
Carehaven of Pleasants
Change, Inc.
Charles F. Whitaker, MD
Charleston Digestive Disease
Charleston Family Practice Group
Charleston Internal Medicine
Charleston Neurology Associates, Inc.
Charleston Pain Management Consult.
City Pediatrics

Clarksburg Surgical Specialists
Clay County Health Dept.
Community Care of WV
Comprehensive Health Solutions
Comprehensive Womens Care
Cornerstone Health Care
Crystal H. Bastin, MD
Davis Medical Center
Derm One
Digestive Disease Center of Ohio Valley
Doctor's Urgent Care
Dr. John E. Capito
Dr. Raghada Sahloul
Dr. Saima Khan
E.A. Hawse Health Center
Eastbrook
Eastern Panhandle Pediatrics
Elkins Express Care
Express Med Pharmaceuticals, Inc.
Fairmont ENT Associates, Inc.
Fairmont Regional Medical Center
Family Care Health Center
Family Healthcare Associates
Fayette County Health Dept.
Forest Hill Care Center
Genesis Health Care
Grafton City Hospital
Grant Memorial Hospital
Greenbrier Manor
Gregory Borowski, MD
Hampshire County Health Dept.
Hasan Medical, Inc.
HealthSouth Mountainview Regional Rehab Hospital
Healthsouth Western Hills
Heartland Lansing
HHP Internal Medicine Associates
Holbrook Nursing Home
Hospice of Huntington
Hospice of Southern WV
Huntington Internal Medicine Group
Interim Health Care of SE Ohio, Inc.
Jackson County Health Dept.
Jefferson Med Peds, Inc.
Jayna Canterbury, DO
John D. Holloway, MD
John Manchin, Sr. Healthcare
Kanawha Hospice Care
Kanawha Medical Center
Kendall L. Wilson, Jr., DO
Kidney Associates
Lewis County Health Dept.
Lisa Hill, MD
Logan Pediatrics
Lori Tucker, DO
Madison Medical
Mapleshire Nursing & Rehabilitation Center
Mark J. Cinalli, OD
Marshall U. SOM/Marshall Health
Matthew A. Cupp, MD
Mely Lim, MD

Clay-Battelle Health Services Association
Coalfield Health Center
Community Health Network of West Virginia
Comprehensive Surgical Associates
Convenience Clinics of America
Country Club Rehabilitation Campus
David Patton, MD
Davis Medical Center Provider Group
Digestive Care Center
DLM Internal Medicine
Dr. David S. Ratliff, Inc.
Dr. Leonard A. Fichter
Dr. Rick L. Houdersheldt
Dunbar Medical Associates
E. Brad McCoy, DO
Eastern Panhandle CARE Clinic
Edward A. Filcheck, PLLC
Erin V. Stoehr, DO
F.G. Powderly, MD
Fairmont Physicians, Inc.
Family Care Clinic
Family Health Associates of the Kanawha Valley
Family Medicine of Berkeley Springs
Foot & Ankle Clinic
Genesis Administrative Services, LLC
Glenwood Park Retirement Village
Grant County Health Dept.
Greenbrier County Health Dept.
Greenbrier Physicians
Gregory Scott Harrah, MD
Hampshire Memorial Hospital
Health Access, Inc.
HealthSouth Rehabilitation Hospital of Huntington
Healthy Habits Wellness Center
Heartland of Martinsburg
Highland Hospital Association
Hospice Care Corp.
Hospice of Potomac Valley Hospital
Hospice of the Panhandle
Independent Dialysis Foundation
Interim Healthcare
Jackson General Hospital
Jana Peters, DO
Jefferson Pharmacy
John M. Clark, MD & Associates
Kanawha Charleston Health Dept.
Kanawha Nephrology
Kelly M. Pitsenbarger, MD
Kid Care West Pediatrics
Lakin Hospital
Lincoln County Health Dept.
Living Well Medical Center
Logan Regional Medical Center
Love Family Practice Group
Main Street Medical Center
Marilyn Horacek, MD
Martinsburg Internal Medicine Associates
Martinsburg Pediatrics
Meadowbrook Acres Nursing Center
Mercer Medical Group

OTHER

Michael M. Boustany, MD
Mid-Ohio Valley Medicine & Pediatrics
Milan Puskar Health Right
Modern Care OB/Gyn
Monongalia County Health Dept.
Monongalia Pediatric & Youth Associates
Montgomery General Hospital
Morgantown Pulmonary Associates
Mountain Medical Associates
Mountain State Medicine & Rheumatology
MVA-Fairmont Clinic
Nephrology & Hypertension Associates
Northern WV Home Health, LLC
Oar Medical Services
Ohio Valley Health Services & Education
Ohio Valley Sleep Diagnostics
Orthopedic & Spine Surgery Associates
Parkersburg Surgical Associates
Patel & Patel
Pediatric & Family Physicians of Morgan County
Pendleton Community Care
Pleasant Valley Hospital
Potomac Valley Hospital
Prestera Center for Mental Health Services, Inc.
Preston Memorial Hospital
Prime Care 12
Princeton Health Care Center
Professional Endocrinology Associates
Putnam Family Practice Associates
Raleigh General Hospital
Randall J. Hill, MD
Randolph Elkins Health Dept.
Renal Consultants
Ritchie Regional Health Center
Riverview Pediatrics
Roane General Hospital
Robert C. Yee, MD
Ronald D. Pearse, EdD
Rural Emergency Trauma Institute
Samuel K. Roberts, MD
Schwarzenberg & Schwarzenberg
Shadyside Care Center
Shirey & Shirey
South Branch Surgical Associates
South Charleston Pediatrics
Southern Highlands CMHC, Inc.
St. Francis Hospital
St. Joseph's Hospital of Buckhannon
St. Mary's Medical Management
Stanaford Medical Clinic
Stonewall Jackson Memorial Hospital
Summersville Regional Medical Center
Suncrest Ob/Gyn
Teays Internal Medicine
Thacker Family Physicians
The Maples Health Care
The Rheumatology Group
Thoracic and Cardiovascular Associates
Travel MD
United Hospital Center, Inc.

Mid-Ohio Valley Health Dept.
Midland Behavioral Health
Minnie Hamilton Health System
Monongahela Valley Association of Health Centers
Monongalia General Hospital
Monroe Health Center
Morgantown Obstetrics & Gynecology
Mountain Hospice
Mountain State Medical Specialties
Mountaineer Community Health Center
Nephrology Associates, Inc.
Neurological Associates
Northwood Health Systems
Ohio Valley Asthma & Allergy Institute
Ohio Valley Physicians
Orthopedic Healthcare Associates
Parkersburg Podiatry
Partners in Women's Health Care
Pediatric Associates
Pediatric Partners
Pineview Gynecology
Pocahontas Memorial Hospital
Premier Medical Group
Prestige Primary Care Associates
Preston-Taylor Community Health Centers
Princeton Community Hospital Association
Process Strategies
Pulmonary Associates of Charleston
Pyramid Counseling, LLC
Raleigh Street Podiatry
Randolph County Eye Care Center
Ravenswood Chiropractic Center
Reynolds Memorial Hospital
River Valley Medicine & Pediatrics
Riverview Primary Care
Robert C. Byrd Clinic
Robert E. Jones, MD
Rosewood Center
Salem Family Medicine
Sanjay Bharti, MD
Scott C. Lostetter, DO
Shenandoah Valley Medical Systems
Sistersville General Hospital
South Charleston Dermatology
Southeastern Home Care
Spring Hill Primary Care Physicians
St. George Medical Clinic
St. Mary's Medical Center
Stanton Cardiology Center
State of WV-DHHR Jackie Withrow Hospital
Summersville Pediatrics
Summit Health Care, Inc.
Susan C. Capelle, MD
Teays Pediatrics
The Doctor's House
The Myers Clinic
Thomas Memorial Hospital
THS Physician Partners
Tug River Health Association
Valeo Medical

Valley Health System
War Memorial Hospital
Wayne County Health Dept.
Weirton Medical Center
West Virginia Eye Consultants
West Virginia United Health System
Westbrook Health Services
Wheeling Health Right
William C. Mercer, MD
Willow Ridge
Women's Health Care of Morgantown
Wood County Senior Citizens Association
WV Health Right
WVMI
Yeager & Smith Family Medicine
Ziad Kahwash, MD
Valley Health Systems
Ward Paine, MD
Wee Care Pediatrics
Welch Community Hospital
West Virginia Primary Care
Wetzel County Hospital
Wheeling Hospital
Williams Family Practice
Wirt County Health Services Association
Women's Health Center of WV
Worthington Nursing & Rehab Center
WV Center for End of Life Care
WV Heart & Vascular Institute
WVU Health Research Center
Youth Health Service, Inc.

Please publish this notice **in its entirety** in the State Register in accordance with the Administrative Procedures Act. Also, we request that you return one copy to us with your stamp acknowledging receipt.
Thank you for your assistance in this matter.

Sincerely,

Pam Carte

Pam Carte, Secretary
Enclosures

100 Dee Drive Charleston, West Virginia 25311 – 1600 304.558.4503 Fax: 304.558.2734 www.wvhin.org

OTHER

PATIENT NOTICE

Your health care provider has agreed to participate in the West Virginia Health Information Network ("WVHIN"), a Health Information Exchange (HIE). The WVHIN's HIE provides the fast and secure exchange of test results and reports among hospitals, labs, x-ray facilities, doctors and insurance companies.

WHO WILL HAVE ACCESS TO MY HEALTH RECORD?

Doctors, hospitals, pharmacies, other health care providers and insurance companies that are participants of the WVHIN's HIE will be able to see your health records. Your health record would only be viewed when they are treating you or when paying for your health care.

WHAT INFORMATION IS IN MY ELECTRONIC MEDICAL RECORD?

Your health care provider uses an electronic medical record to keep track of the treatment provided to you. This electronic record may include your…

- medical history
- lab and imaging results
- medications
- allergies
- known drug reactions
- doctor's and nurse's notes

WVHIN's HIE **is not** a complete record of your health history. It is simply a way for your health care providers to access the health information they need to provide you with the best possible care.

WHAT ABOUT MY SENSITIVE HEALTH RECORDS?

Federal and State laws protect the privacy of certain kinds of medical records. These include…

- drug or alcohol abuse treatment records
- psychotherapy notes
- mental health records
- goods and services that you have paid for out-of-pocket and request to keep private

When required by law, your consent will be obtained before the WVHIN's HIE will allow the sharing of your sensitive health records.

WHAT ARE THE BENEFITS TO ME?

WVHIN's HIE allows doctors and hospitals to view all of your available health records to provide you with better care. WVHIN's HIE may prevent you from having to fill out the same forms and carry your lab, x-ray results and medications to different doctors. Sharing your health record through the WVHIN's HIE may prevent you from having to have tests repeated. Most importantly, sharing your health record through the WVHIN's HIE may allow your doctors to have access to life saving information in the event of a medical emergency.

ARE THERE PRIVACY RISKS AND HOW IS MY PRIVACY PROTECTED?

Doctors, hospitals and anyone else who is treating you are already responsible for keeping your health records private. The only added risk is that your health record will now be seen through the computer rather than by mail or fax.

The WVHIN uses modern technology to keep your health records private and safe. The WVHIN protects your privacy by…

- encoding your health record so only the people who need to see it can
- making sure passwords are used
- by tracking who looks at your health record through the WVHIN's HIE

DO I HAVE TO PARTICPATE IN THE WVHIN?

To allow your health record to be shared through the WVHIN's HIE you do not need to take action.

If you do not want to participate you must complete a Request to Opt-Out. This form is available from your Health Care Provider. Opting-out means that doctors and other health care providers **will not** be able to access your health record through the WVHIN's HIE.

EVEN IF YOU CHOOSE NOT TO PARTICIPATE (OPT-OUT):

The WVHIN will keep your personal information (name, address, birth date, etc.) on file in its Master Patient Index to permanently record your decision to opt-out.

Your doctor or health care provider will still be able to use the WVHIN's HIE to report…

- communicable diseases
- immunization data
- quality reports
- other required public health information to state and federal agencies.

It is important to understand that choosing to opt-out of the WVHIN's HIE **does not** mean your health information cannot be shared electronically. Health care providers may use other electronic methods such as secure email or electronic lab results delivery to share patient information. Read your health care provider's notice of privacy practices for more information.

IF I HAVE CHOSEN TO OPT-OUT CAN I CHANGE MY MIND?

If you have previously completed a Request to Opt-Out, you can change your mind. Talk to your health care provider about reversing your Request to Opt-Out.

Please talk to your health care provider if you have questions about the WVHIN, or visit our website at www.wvhin.org .

Ver1.1- 09MAR12

OTHER

Earl Ray Tomblin
Governor

STATE OF WEST VIRGINIA
BUREAU OF SENIOR SERVICES
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0160
Telephone (304) 558-3317
FAX (304) 558-5609
www.wvseniorservices.gov

Robert E. Roswall
Commissioner

March 24, 2016

FILED
2016 MAR 29 A 11: 34
OFFICE WEST VIRGINIA
SECRETARY OF STATE

The Honorable Natalie Tennant
Secretary of State
1900 Kanawha Boulevard, East
State Capitol Complex, Building 1
Charleston, West Virginia 25305

Dear Secretary Tennant:

I am pleased to submit the 2015 Annual Report of the West Virginia Bureau of Senior Services. This document offers a brief description of programs, services, and special initiatives undertaken by the Bureau for the benefit of the seniors living in our state.

The Aging Network—made up of County Aging Providers (Senior Centers), the four Area Agencies on Aging, and the Bureau—is committed to providing needed services to improve the lives of West Virginia's aging population, particularly those who are most vulnerable. We will continue to provide opportunities and support that enable our seniors to remain healthy and independent in their homes and communities.

We are proud of the work that has taken place this year and look forward to another year in which we can be of service to the seniors of West Virginia.

Sincerely,

Robert E. Roswall
Commissioner

RER/tw
Enclosure

RECEIVED
MAR 29 2016