

**Title 64 Series 91
Department of Health
Bureau for Public Health
Newborn Screening System**

Summary of Amendments to the Rule:

The rule has been amended to incorporate 64CSR24, Newborn Hearing Screening, and 64CSR100 Newborn Pulse Oximetry testing, which will be simultaneously repealed.

COMMENTS AND RESPONSES

The descriptions of public comments below are a paraphrasing of the originally submitted comments. The full text of each public comment has been filed with the Secretary of State's Office.

Comment

One public comment was received. The commenter suggests that proposed rule be revised to permit West Virginia Health Information Network (WVHIN) users to view newborn screening results via the WVHIN's health information exchange to increase efficiency. Additionally, the commenter proposes that the rule expressly define that confidential information may be used or disclosed as required or permitted by federal law, including for the coordination of care and payment.

Response

The rule as presently drafted does not prohibit the inclusion of newborn screening results in the WVHIN. Indeed, many, if not all, of these results are already present within the WVHIN's health information exchange as part of the child's medical record. The commenter seeks to have the Department of Health encourage inclusion within the WVHIN – but the proposed rule already mandates that such results be included in the child's medical record, which in many instances is uploaded to the WVHIN. Additionally, while one of the Department of Health's other legislative rules does indeed refer to the WVHIN as one of the entities the rule is applicable to, none of the Department's legislative rules mandate, or even propose, inclusion of data within the WVHIN specifically.

Finally, the rule already defines that disclosure may occur in accordance with applicable law, which necessarily included the Health Insurance Portability and Accountability Act of 1996, which is the only substantive addition the commenter sought to add in its proposed definition for permissible uses of newborn screening results. Therefore, the proposed amendment is declined and no changes were made to the rule in response to this comment.