

# WEST VIRGINIA REGISTER

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Administration Law Division

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

Agriculture

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- Bureau for Public Health
- Bureau for Medical Services

Health Care Authority

Hearing Aid Dealers

Human Services

Insurance Commission

Landscape Architects

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Secretary of State

Tax Department

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|---|---|---|---|
| **NEW RULES FILED FOR PUBLIC COMMENT THIS WEEK** | | | |
| **AGENCY** | **RULE/TYPE** | **AUTHORITY** | **HEARING/COMMENT PERIOD/LOCATION** |
| Pharmacy<br>(15-01) | Licensure and Practice of Pharmacy<br>Legislative | §§30-5-7, 30-5-14 | Written Comments Only<br>May 31, 2020, 5:00 pm<br>Ryan Hatfield<br>2310 Kanawha Blvd. E<br>Charleston, WV 25311<br>ryan.l.hatfield@wv.gov |
| Pharmacy<br>(15-02) | Uniform Controlled Substances Act<br>Legislative | §60A-3-301 | Written Comments Only<br>May 31, 2020, 5:00 pm<br>Ryan Hatfield<br>2310 Kanawha Blvd. E<br>Charleston, WV 25311<br>ryan.l.hatfield@wv.gov |
| Secretary of State<br>(153-10) | Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Election Systems, Software, Services and Upgrades<br>Legislative | §31-1-48(l) | Written Comments Only<br>May 29, 2020, 4:00 pm<br>Donald Kersey<br>Secretary of State's Office<br>State Capitol<br>Building 1, Ste. 157-K<br>Charleston, WV 25305<br>dkersey@wvsos.gov |
| Secretary of State<br>(153-45) | Guidelines and Standards for Electronic Notarization<br>Legislative | §39-4-25 | Written Comments Only<br>June 1, 2020, 3:00 pm<br>Donald Kersey<br>Secretary of State's Office<br>State Capitol<br>Building 1, Ste. 157-K<br>Charleston, WV 25305<br>dkersey@wvsos.gov |

| NEW EMERGENCY RULES FILED THIS WEEK | | | | |
|---|---|---|---|---|
| **AGENCY** | **RULE/TYPE** | **AUTHORITY** | **EFFECTIVE DATE** | **DATE NOTICE OF HEARING** |
| Health and Human Resources (69-15) | Recovery Residence Certification and Accreditation Program | §16-59-2(g) | ERD by June 10, 2020 | Rule must be put out for public comment by May 29, 2020 |
| Pharmacy (15-01) | Licensure and Practice of Pharmacy | §§30-5-7, 30-5-14, 29A-3-15 | Approved April 30, 2020 | Rule must be put out for public comment by May 30, 2020 |
| Secretary of State (153-10, amendment) | Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Election Systems, Software, Services and Upgrades | §31-1-48(l) | ERD by June 8, 2020 | May 29, 2020 |

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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 |
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| TITLE | 56 | MINERS' HEALTH, SAFETY AND TRAINING |
| TITLE | 58 | NATURAL RESOURCES |
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| 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 |
|---|---|---|---|---|---|---|---|---|---|
| Accountancy (1-01) | Board Rules and Rules of Professional Conduct Legislative | 6/7/2019 8/22/2019 | 7/8/2019 9/22/2019 | | 7/23/2019 9/27/2019 | Modified & Approved 10/24/2019 Filed 11/8/2019 | BUNDLED HB4252 | 4/9/2020 | 7/1/2020 |
| Agriculture (61-11B) | Auctioneers Legislative | 6/26/2019 | 7/26/2019 | | 7/26/2019 | Modified & Approved 9/26/2019 Filed 10/1/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-13A) | Poultry- Rules for Hatcheries, Growers and Contractors Pertaining to Poultry Disease Control and Eradication Legislative | 6/11/2019 | 7/10/2019 | | 7/11/2019 | Approved 9/26/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-15) | Grade "A" Pasteurized Milk Legislative | 12/5/2019 | 1/6/2020 | 12/6/2019 Approved 12/20/2019 | 1/7/2020 | Approved 1/7/2020 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-19) | WV Manufacture-Grade Milk Legislative | 12/5/2019 | 1/6/2020 | | 1/6/2020 | Approved 1/7/2020 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-20) | Employment Reference and Inquiries and Background Checks Legislative | 6/24/2019 | 7/24/2019 | | 7/26/2019 | Modified & Approved 9/26/2019 Filed 10/1/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-24) | West Virginia Spay Neuter Assistance Program Legislative | 6/26/2019 | 7/26/2019 | | 7/26/2019 | Approved 12/18/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-29) | Industrial Hemp Legislative | 6/21/2019 | 7/22/2019 | | 7/26/2019 | Modified & Approved 12/18/2019 Filed 1/7/2020 | BUNDLED HB4252 | 4/30/2020 | 7/1/2020 |
| Agriculture (61-30) | Hemp Products Legislative | 6/21/2019 | 7/22/2019 | | 7/26/2019 | Modified & Approved 12/18/2019 Filed 1/7/2020 | BUNDLED HB4252 | 4/30/2020 | 7/1/2020 |
| Agriculture (61-34) | Captive Cervid Farming Legislative | 6/21/2019 | 7/22/2019 | | 7/22/2019 | Approved 9/26/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-38) | Farmers Markets Legislative | 6/24/2019 | 7/24/2019 | | 7/26/2019 | Modified & Approved 9/26/2019 Filed 10/2/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |
| Agriculture (61-40) | WV Exempted Dairy Farms and Milk and Milk Products Processing Rules Legislative | 12/5/2019 | 1/6/2020 | | 1/6/2020 | Approved 1/7/2020 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Air Quality (45-08) | Ambient Air Quality Standards Legislative | 6/5/2019 | 7/9/2019 | | 7/19/2019 | Approved 9/26/2019 | BUNDLED HB4217 | | |
| Air Quality (45-16) | Standards of Performance for New Stationary Sources Legislative | 6/5/2019 | 7/9/2019 | | 7/19/2019 | Approved 9/26/2019 | BUNDLED HB4217 | | |
| Air Quality (45-25) | Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative | 6/5/2019 | 7/9/2019 | | 7/19/2019 | Modified & Approved 9/26/2019 Filed 10/2/2019 | BUNDLED HB4217 | | |
| Air Quality (45-34) | Emission Standards for Hazardous Air Pollutants Legislative | 6/5/2019 | 7/9/2019 | | 7/19/2019 | Approved 9/26/2019 | BUNDLED HB4217 | | |
| Air Quality (45-40) | Control of Ozone Season Nitrogen Oxides Emissions Legislative | 6/5/2019 | 7/9/2019 | | 7/19/2019 | Approved 9/26/2019 | BUNDLED HB4217 | | |
| Architects (2-01) | Registration of Architects Legislative | 6/5/2019 8/22/2019 | 7/9/2019 9/22/2019 | | 7/16/2019 9/24/2019 | Modified & Approved 11/17/2019 Filed 11/18/2019 | BUNDLED HB4252 | 4/20/2020 | 7/1/2020 |
| Architects (2-03) | Fees for Registration of Architects Legislative | 6/5/2019 | 7/9/2019 | | 7/16/2019 | Modified & Approved 11/17/2019 Filed 11/18/2019 | BUNDLED HB4252 | 4/20/2020 | 7/1/2020 |
| Chiropractic Examiners (4-07) | Request for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 6/10/2019 | 7/10/2019 | | 7/10/2019 | Modified & Approved 9/26/2019 Filed 10/4/2019 | BUNDLED HB4252 | 3/30/2020 | 7/1/2020 |
| Chiropractic Examiners (4-08) | Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative | 8/5/2019 | 9/9/2019 | | 9/10/2019 | Modified & Approved 11/17/2019 Filed 11/18/2019 | BUNDLED HB4252 | 3/30/2020 | 7/1/2020 |
| Coal Mine Health and Safety (36-07) | Rules and Regulation Governing Shortwall Mining Within The State of West Virginia Legislative Exempt | 10/15/2019 | 11/25/2019 | | | | | | |
| Coal Mine Health and Safety (36-11) | Rules and Regulations Governing When Underground Mine Foreman-Boss Required; Assistants;Certifications; The Reopening of Abandoned Mines and the Deenergization of Self-Propelled Electric Coal Feeders; Performance Requirements Legislative Exempt | 10/15/2019 | 11/25/2019 | | | | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Coal Mine Health and Safety (36-18) | The Responsibility For Care and Maintenance of Equipment Legislative Exempt | 10/24/2019 | 12/9/2019 | | | | | | |
| Coal Mine Health and Safety (36-57) | Rules Governing Proximity Detection Systems and Haulage Safety Generally Legislative Exempt | 10/24/2019 | 12/9/2019 | | | | | | |
| Community and Technical College Education (135-08) | West Virginia Invests Grant Program Legislative | 4/29/2019 | 5/30/2019 | 4/29/2019 Effective 4/29/2019 | 6/3/2019 | Approved 10/4/2019 | BUNDLED HB4480 | | |
| Counseling (27-13) | Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 6/10/2019 | 7/10/2019 | | 7/26/2019 | Modified & Approved 9/26/2019 Filed 10/9/2019 | BUNDLED HB4252 | | |
| Dentistry, WV Board of (5-01) | Rule for the West Virginia Board of Dentistry Legislative | 5/31/2019 7/26/2019 | 7/1/2019 8/26/2019 | | 7/19/2019 9/20/2019 | Approved 11/17/2019 | BUNDLED HB4252 | 4/10/2020 | 6/1/2020 |
| Dentistry, WV Board of (5-08) | Dental Advertising Legislative | 5/31/2019 | 7/1/2019 | | 7/19/2019 | Modified & Approved 11/17/2019 Filed 11/18/2019 | BUNDLED HB4252 | 4/10/2020 | 6/1/2020 |
| Development Office, Commerce (145-15) | Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program Legislative | 6/17/2019 | 7/17/2019 | 7/18/2019 Approved 7/30/2019 | 7/18/2019 | Modified & Approved 11/17/2019 Filed 12/5/2019 | BUNDLED SB449 | | |
| Education (126-042) | Assuring the Quality of Education: Regulations for Education Programs (Policy 2510) Legislative Exempt | 12/12/2019 | 1/24/2020 | | | | | 2/13/2020 | 7/1/2020 |
| Election Commision (146-01) | Corporate and Membership Organization Political Activity Legislative | 6/6/2019 | 7/10/2019 | 6/6/2019 Effective 7/18/2019 | 7/26/2019 | Modified & Approved 11/17/2019 Filed 12/2/2019 | BUNDLED HB4252 | | |
| Election Commission (146-03) | Regulation of Campaign Finance Legislative | 6/6/2019 | 7/10/2019 | 6/6/2019 Effective 7/18/2019 | 7/26/2019 | Modified & Approved 11/17/2019 Filed 12/2/2019 | BUNDLED HB4252 | | |
| Environmental Protection - Secretary's Office (60-03) | Voluntary Remediation and Redevelopment Rule Legislative | 6/5/2019 | 7/8/2019 | | 7/25/2019 | Approved 11/17/2019 | BUNDLED HB4217 | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Fire Commission (87-01) | State Fire Code Legislative | 6/13/2019 | 7/16/2019 | | 7/25/2019 | Modified & Approved 12/18/2019 Filed 1/6/2020 | BUNDLED HB4275 | | |
| Fire Commission (87-04) | State Building Code Legislative | 6/13/2019 | 7/16/2019 | | 7/25/2019 | Modified & Approved 12/18/2019 Filed 1/6/2020 | BUNDLED HB4275 | | |
| Funeral Service Examiners (6-05) | Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 6/17/2019 | 7/18/2019 | | 7/23/2019 | Modified & Approved 9/26/2019 Filed 10/10/2019 | BUNDLED HB4252 | 4/28/2020 | 4/30/2020 |
| Funeral Service Examiners (6-06) | Consideration of Prior Criminal Convictions in Initial Licensure Determination Legislative | 8/22/2019 | 9/22/2019 | | 9/27/2019 | Modified & Approved 10/24/2019 Filed 11/7/2019 | BUNDLED HB4252 | 4/28/2020 | 4/30/2020 |
| Health (64-48) | Emergency Medical Services Legislative | 6/14/2019 | 7/15/2019 | | 7/16/2019 | Modified & Approved 10/24/2019 Filed 11/4/2019 | BUNDLED SB339 | | |
| Health (64-114) | Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak Legislative | | | 4/16/2020 Approved 4/16/2020 Amendment 4/21/2020 Approved 4/21/2020 | | | | | |
| Health and Human Resources (69-15) | Recovery Residence Certification and Accreditation Program Legislative | | | 4/29/2020 ERD by 6/10/2020 | | | | | |
| Hearing Aid Dealers (8-04) | Application for Waiver of Initial Licensing Fee for Certain Individuals Legislative | 6/24/2019 | 7/24/2019 | | 7/25/2019 | Modified & Approved 9/26/2019 Filed 10/21/2019 | BUNDLED HB4252 | 4/28/2020 | 4/30/2020 |
| Hearing Aid Dealers (8-05) | Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative | 8/22/2019 | 9/22/2019 | | 9/27/2019 | Modified & Approved 10/24/2019 Filed 11/7/2019 | BUNDLED HB4252 | 4/28/2020 | 4/30/2020 |
| Higher Education Policy Commission (133-03) | Higher Education Accountability System Legislative | 6/17/2019 | 7/17/2019 | | 9/30/2019 | | BUNDLED 4480 | | |
| Higher Education Policy Commission (133-26) | Underwood-Smith Teacher Scholarship Legislative | 9/30/2019 | 10/30/2019 | | 11/5/2019 | | BUNDLED 4480 | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Higher Education Policy Commission (133-49) | Accountability System<br>Legislative | 6/17/2019 | 7/17/2019 | | 7/18/2019 | Approved<br>10/4/2019 | BUNDLED<br>4480 | | |
| Housing Development Fund (88-03) | Purchasing Procedure<br>Procedural | 4/22/2020 | 5/22/2020 | | | | | | |
| Human Services (78-03) | Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults in West Virginia<br>Legislative | 6/18/2019 | 7/18/2019 | 8/16/2019<br>Effective<br>9/27/2019 | 7/26/2019 | Modified & Approved<br>12/18/2019<br>Filed<br>1/7/2020 | BUNDLED<br>SB339 | | |
| Human Services (78-24) | Qualifications for a Provisional License to Practice As A Social Worker Within the Department of Health and Human Resources<br>Legislative | 6/18/2019 | 7/18/2019 | | 7/24/2019 | Modified & Approved<br>11/17/2019<br>Filed<br>11/25/2019 | BUNDLED<br>SB339 | 4/15/2020 | 6/3/2020 |
| Labor (42-32) | Supervision of Plumbing Work<br>Legislative | 6/10/2019 | 7/11/2019 | | 7/17/2019 | Approved<br>10/24/2019 | BUNDLED<br>SB449 | 3/16/2020 | 5/1/2020 |
| Labor (42-34) | Regulation of Heating, Ventilating and Cooling Work<br>Legislative | 6/10/2019 | 7/11/2019 | | 7/17/2019 | Approved<br>10/24/2019 | BUNDLED<br>SB449 | 3/16/2020 | 5/1/2020 |
| Landscape Architects (9-05) | Consideration of Prior Criminal Convictions in Initial Licensure Determinations<br>Legislative | 8/22/2019 | 9/22/2019 | | 9/27/2019 | Modified & Approved<br>11/17/2019<br>Filed<br>11/21/2019 | BUNDLED<br>HB4252 | 4/28/2020 | 4/30/2020 |
| Medicine (11-01B) | Licensure, Disciplinary and Compliant Procedures, Continuing Education, Physician Assistants<br>Legislative | 6/19/2019 | 7/19/2019 | 6/19/2019<br>Amendment<br>7/25/2019<br>Approved<br>7/30/2019 | 7/25/2019 | Modified & Approved<br>9/26/2019<br>Filed<br>10/8/2019 | BUNDLED<br>HB4252 | | |
| Medicine (11-13) | Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants<br>Legislative | 6/19/2019 | 7/19/2019 | | 7/25/2019 | Modified & Approved<br>9/26/2019<br>Filed<br>10/8/2019 | BUNDLED<br>HB4252 | | |
| Medicine (11-14) | Registration to Practice During Declared State of Emergency<br>Legislative | 4/23/2020 | 5/23/2020 | 3/26/2020<br>Approved<br>3/26/2020 | | | | | |
| Mining and Reclamation (38-02) | West Virginia Surface Mining Reclamation Rule<br>Legislative | 6/5/2019 | 7/8/2019 | | 7/25/2019 | Authorized with Certain Amendments<br>12/18/2019 | BUNDLED<br>HB4217 | | |
| Mining and Reclamation (38-02F) | Groundwater Protection Rules Coal Mining Operations<br>Legislative | 6/5/2019 | 7/8/2019 | | 7/25/2019 | Approved<br>12/18/2019 | BUNDLED<br>HB4217 | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Natural Resources (58-36) | Cabwaylingo State Forest Trail System Two Year Pilot Project Permitting ATVs and ORVs Legislative | | | | Sunset Extension 2/26/2020 | | | | |
| Occupational Therapy (13-03) | Fees For Services Rendered By the Board Legislative | 5/8/2019 | 7/1/2019 | | 7/3/2019 | Approved 9/26/2019 | BUNDLED HB4252 | 4/8/2020 | 7/1/2020 |
| Occupational Therapy (13-07) | Request for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 5/13/2019 | 7/1/2019 | | 7/3/2019 | Modified & Approved 9/26/2019 Filed 9/30/2019 | BUNDLED HB4252 | 4/8/2020 | 7/1/2020 |
| Occupational Therapy (13-08) | Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative | 10/30/2019 | 11/30/2019 | | 12/2/2019 | Approved 12/18/2019 | BUNDLED HB4252 | 4/8/2020 | 7/1/2020 |
| Oil & Gas Conservation Commission (39-01) | Rules of The Commission Legislative | 6/14/2019 | 7/16/2019 | 6/14/2019 Withdrawn 7/26/2019 | 7/25/2019 | Modifiifed & Approved 12/19/2019 Filed 1/3/2020 | BUNDLED HB4217 | | |
| Optometry (14-01) | Rules of the West Virginia Board of Optometry Legislative | 6/26/2019 8/29/2019 | 7/26/2019 9/29/2019 | | 7/26/2019 10/1/2019 | Modified & Approved 11/17/2019 Filed 11/26/2019 | BUNDLED HB4252 | | |
| Osteopathic Medicine (24-02) | Osteopathic Phyician Assistants Legislative | 6/28/2019 | 7/29/2019 | 6/28/2019 Amendment 7/31/2019 Approved 8/5/2019 | 7/31/2019 | Modified & Approved 10/24/2019 Filed 11/14/2019 | BUNDLED HB4252 | | |
| Osteopathic Medicine (24-08) | Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants Legislative | 6/28/2019 | 7/29/2019 | | 7/30/2019 | Modified & Approved 10/24/2019 Filed 11/14/2019 | BUNDLED HB4252 | | |
| Osteopathic Medicine (24-09) | Emergency Temporary Permits to Practice During States of Emergency or State of Preparedness Legislative | 4/15/2020 | 5/15/2020 | 3/26/2020 Approved 3/26/2020 | | | | | |
| Pharmacy (15-01) | Licensure and Practice of Pharmacy Legislative | 6/26/2019 | 7/26/2019 | 3/21/2020 Approved 3/21/2020 Amendment 4/1/2020 Approved 4/1/2020 | 7/26/2019 | Modified & Approved 11/17/2019 Filed 12/2/2019 | BUNDLED HB4252 | 4/30/2020 | 4/30/2020 |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Pharmacy (15-01) | Licensure and Practice of Pharmacy Legislative | 4/30/2020 | 5/31/2020 | 4/30/2020 Approved 4/30/2020 | | | | | |
| Pharmacy (15-02) | Uniform Controlled Substances Act Legislative | 4/30/2020 | 5/31/2020 | 4/1/2020 Approved 4/1/2020 | | | | | |
| Pharmacy (15-04) | Record Keeping and Automated Data Processing Systems Legislative | 6/26/2019 | 7/26/2019 | | 7/26/2019 | Modified & Approved 9/26/2019 Filed 10/10/2019 | BUNDLED HB4252 | | |
| Pharmacy (15-12) | Immunizations Administered by Pharmacist and Pharmacy Interns Legislative | | | 4/20/2020 Approved 4/20/2020 | | | | | |
| Pharmacy (15-18) | Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 6/26/2019 | 7/26/2019 | | 7/26/2019 | Modified & Approved 9/26/2019 Filed 10/11/2019 | BUNDLED HB4252 | | |
| Physical Therapy (16-09) | Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 6/4/2019 | 7/5/2019 | | 7/18/2019 | Modified & Approved 11/17/2019 Filed 11/27/2019 | BUNDLED HB4252 | 4/1/2020 | 6/1/2020 |
| Psychologists (17-07) | Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative | 8/30/2019 | 9/30/2019 | | 10/11/2019 | Modified & Approved 12/192019 Filed 1/8/2020 | BUNDLED HB4252 | | |
| Public Service Commission (150-30) | Rules Governing Siting Certificates for Exempt Wholesale Generators Legislative Exempt | 1/27/2020 | 2/26/2020 | | | | | 3/20/2020 | 5/19/2020 |
| Racing Commission (178-01) | Throughbred Racing Legislative | 6/10/2019 | 7/10/2019 | | 7/18/2019 | Modified & Approved 12/18/2019 Filed 12/20/2019 | BUNDLED SB357 | 3/11/2020 | 6/9/2020 |
| Real Estate Appraiser Licensing & Certification Bd. (190-02) | Requirements for Licensure and Certification Legislative | 6/26/2019 8/6/2019 | 7/26/2019 9/6/2019 | | 7/26/2019 9/9/2019 | Modified & Approved 11/17/2019 Filed 12/6/2019 | BUNDLED HB4252 | | |
| Real Estate Commission (174-06) | Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 5/31/2019 | 6/30/2019 | | 7/2/2019 | Modified & Approved 9/26/2019 Filed 10/7/2019 | BUNDLED HB4252 | 4/1/2020 | 7/1/2020 |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Real Estate Commission (174-07) | Conisderation of Prior Criminal Convictions In Initial License Eligibility Determination Legislative | 8/27/2019 | 9/26/2019 | | 9/27/2019 | Modified & Approved 11/17/2019 Filed 12/3/2019 | BUNDLED HB4252 | 4/1/2020 | 7/1/2020 |
| Registered Professional Nurses (19-03) | Requirements for Registration and Licensure and Constituting Professional Misconduct Legislative | 8/29/2019 | 9/30/2019 | | 10/11/2019 | Approved 11/17/2019 | BUNDLED HB4252 | | |
| Registered Professional Nurses (19-15) | Request for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 7/17/2019 | 8/17/2019 | | 8/22/2019 | Modified & Approved 9/26/2019 Filed 10/7/2019 | BUNDLED HB4252 | | |
| Respiratory Care (30-02) | Establishment of Fees Legislative | 5/7/2019 | 6/7/2019 | | 6/27/2019 | Modified & Approved 9/26/2019 Filed 10/1/2019 | BUNDLED HB4252 | | |
| Respiratory Care (30-09) | Student Temporary Permits Legislative | 5/22/2019 | 6/24/2019 | | 6/27/2019 | Modified & Approved 9/26/2019 Filed 10/2/2019 | BUNDLED HB4252 | | |
| Respiratory Care (30-10) | Conideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative | 11/7/2019 | 12/9/2019 | | 12/10/2019 | Approved 12/19/2019 | BUNDLED HB4252 | | |
| Sanitarians (20-05) | Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative | 6/17/2019 8/29/2019 | 7/19/2019 9/29/2019 | | 7/23/2019 11/1/2019 | Modified & Approved 12/18/2019 Filed 1/7/2020 | BUNDLED HB4252 | 4/24/2020 | 4/24/2020 |
| School Building Authority of WV (164-05) | School Building Authority Contracts and Agreements; Post-Project Evaluation; Suspension of Right to Bid Legislative | 11/4/2019 | 12/4/2019 | | 12/16/2019 | | SB652 | 4/1/2020 | 5/1/2020 |
| Secretary of State (153-10) | Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Election Systems, Software, Services and Upgrades Legislative | 4/24/2020 | 5/29/2020 | 3/25/2020 Amendment 4/24/2020 Amendment 4/27/2020 ERD by 6/8/2020 | | | | | |
| Secretary of State (153-45) | Guidelines and Standards for Electronic Notarization Legislative | 4/30/2020 | 6/1/2020 | 3/27/2020 Amendment 3/31/2020 Approved 4/1/2020 | | | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Secretary of State (153-53) | Election Processes and Absentee Eligibility During State of Emergency | | | 3/20/2020 Effective 3/20/2020 | | | | | |
| Senior Services (76-03) | West Virginia State Plan for Aging Programs- Title V Interpretive | 3/9/2020 | 4/8/2020 | | | | | | |
| Social Work Examiners (25-01) | Qualifications for the Profession of Social Work Legislative | 8/27/2019 | 9/26/2019 | | 9/27/2019 | Modified & Approved 10/24/2019 Filed 11/1/2019 | BUNDLED HB4252 | | |
| Social Work Examiners (25-03) | Fee Schedule Legislative | 6/5/2019 | 7/5/2019 | | 7/10/2019 | Modified & Approved 9/26/2019 Filed 10/10/2019 | BUNDLED HB4252 | | |
| Speech-Language Pathology and Audiology (29-01) | Licensure of Speech-Pathology and Audiology Legislative | 5/14/2019 | 6/17/2019 | | 6/28/2019 | Modified & Approved 10/24/2019 Filed 11/4/2019 | BUNDLED HB4252 | | |
| Speech-Language Pathology and Audiology (29-04) | Disciplinary & Complaint Procedures for Speech-Language Pathology & Audiology Legislative | 8/8/2019 | 9/13/2019 | | 9/17/2019 | Modified & Approved 10/24/2019 Filed 11/5/2019 | BUNDLED HB4252 | | |
| Tax (110-21F) | The Coal Severance Tax Rebate Interpretive | 9/26/2019 | 10/26/2019 | | | | | | |
| **THE ABOVE RULE EXPIRED 4/26/2020** | | | | | | | | | |
| Tax (110-43) | Special Valuation Method for Certain Wireless Technology Property Interpertive | 7/3/2019 1/28/2020 | 8/2/2019 2/27/2020 | | | | | 4/10/2020 | 5/10/2020 |
| Veterinary Medicine (26-01) | Organization and Operation and Licenisng of Veterinarians Legislative | 8/7/2019 | 9/8/2019 | | 9/9/2019 | Modified & Approved 12/19/2019 Filed 1/2/2020 | BUNDLED HB4252 | 4/1/2020 | 7/1/2020 |
| Veterinary Medicine (26-03) | Registration of Veterinary Technicians Legislative | 5/30/2019 8/7/2019 | 7/7/2019 9/8/2019 | | 7/11/2019 9/9/2019 | Modified & Approved 12/19/2019 Filed 1/2/2020 | BUNDLED HB4252 | 4/1/2020 | 7/1/2020 |
| Veterinary Medicine (26-06) | Schedule of Fees Legislative | 5/30/2019 8/7/2019 | 7/7/2019 9/8/2019 | | 7/11/2019 9/9/2019 | Authorized as Modified with Certain Amendments 12/19/2019 Filed 1/2/2020 | BUNDLED HB4252 | 4/1/2020 | 7/1/2020 |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Waste Management, Div. of Water & Waste Mgmt. (33-20) | Hazardous Waste Management System Legislative | 6/5/2019 | 7/8/2019 | | 7/25/2019 | Approved 10/25/2019 | BUNDLED HB4217 | | |
| Water Development Authority (44-04) | Purchasing Procedure Procedural | 4/15/2020 | 5/18/2020 | | | | | | |
| Water Resources Division of Water and Waste Management (47-02) | Requirements Governing Water Quality Standards Legislative | 3/31/2020 | 5/19/2020 | | | | | | |
| Water Resources Division of Water and Waste Management (47-02B) | Assessment Methodology for the Biological Component of the Narrative Criteria in Wadeable Streams Procedural | 2/7/2020<br>3/20/2020 | 3/26/2020<br>4/20/2020 | | | | | | |

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 11:17:47 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-11B

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

RULE NAME: Auctioneers

CITE STATUTORY AUTHORITY: §19-2C-3a, §19-2C-5

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
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4/30/2020 2:44:25 PM
Office of West Virginia
Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-13A

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

RULE NAME: Poultry for Hatcheries Growers and Contractors Pertaining to Poultry Disease Control and Eradication

CITE STATUTORY AUTHORITY: §19-9

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2020

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
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4/30/2020 1:58:13 PM
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LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-15

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

RULE NAME: Grade "A" Pasteurized Milk

CITE STATUTORY AUTHORITY: §19-11E-8(1)

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
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4/30/2020 1:55:11 PM
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Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-19

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

RULE NAME: WV Manufactured Grade Milk

CITE STATUTORY AUTHORITY: §19-11E-8(2)

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2025

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**Yes**

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WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 11:11:55 AM
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Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-20

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

RULE NAME: Employment Reference and Inquiries and Background Checks

CITE STATUTORY AUTHORITY: §19-1-3b

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 2:19:18 PM
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Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-24

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

RULE NAME: West Virginia Spay Neuter Assistance Program

CITE STATUTORY AUTHORITY: §19-20C-1

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 2:00:17 PM
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LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-29

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

RULE NAME: Industrial Hemp

CITE STATUTORY AUTHORITY: §19-12E-7

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 1, 2020

This rule shall terminate and have no further force or effect from the following date:

July 01, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 2:13:52 PM
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## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-30

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

RULE NAME: Hemp Products

CITE STATUTORY AUTHORITY: §19-12E-7

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 1, 2020

This rule shall terminate and have no further force or effect from the following date:

July 01, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 1:52:32 PM
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LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-34

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

RULE NAME: Captive Cervid Farming

CITE STATUTORY AUTHORITY: §19-2H-1, §19-2H-2

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 10:33:07 AM
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## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-38

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

RULE NAME: Farmers Markets

CITE STATUTORY AUTHORITY: §19-35-4, §19-35-5

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/30/2020 1:46:28 PM
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Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Agriculture TITLE-SERIES: 61-40

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

RULE NAME: WV Exempted Dairy Farms and Milk and Milk Products Processing Rules

CITE STATUTORY AUTHORITY: §19-11E-8

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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4/28/2020 12:27:18 PM
Office of West Virginia
Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Funeral Service Examiners TITLE-SERIES: 6-05

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

RULE NAME: Application For Waiver of Initial Licensing Fees for Certain Individuals

CITE STATUTORY AUTHORITY: WV §30-1-23 and WV §30-6-1,6,8,9,10,11,12,13 and 14

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section 64-9-10 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Kendra D Zamora -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

**WEST VIRGINIA SECRETARY OF STATE**
**MAC WARNER**
**ADMINISTRATIVE LAW DIVISION**

**eFILED**
4/28/2020 12:30:31 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Funeral Service Examiners TITLE-SERIES: 6-06

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

RULE NAME: Consideration of Prior Criminal Convictions in Initial Licensure Determinations

CITE STATUTORY AUTHORITY: WV § 30-1-24 and WV §30-6-1,6,8,9,10,11,12,13 and 14

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section 64-9-10 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

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

FILED
2020 APR 24 P 2:21
OFFICE WEST VIRGINIA
SECRETARY OF STATE

**STATE OF WEST VIRGINIA**
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**Bill J. Crouch**
**Cabinet Secretary**

## MEMORANDUM

**DATE:** April 24, 2020

**TO:** Mac Warner
Secretary of State

**FROM:** Bill J. Crouch, Cabinet Secretary
Department of Health and Human Resources

**RE:** **General Sanitation - W. Va. C.S.R. § 64-18**

The Bureau for Public Health of the Department of Health and Human Resources requests that W. Va. C.S.R. §64-18, *General Sanitation*, be temporarily suspended in part effective immediately pursuant to W. Va. Code §15-5-6(c)(7) and the State of Emergency declared by Governor Justice on March 16, 2020.

W. Va. C.S.R. §64-18 establishes and sets forth the sanitation requirements for all institutions and schools, care facilities, lodging facilities, recreational facilities, and public restrooms. Strict compliance with the following provisions of the rule will hinder and delay necessary action in coping with the emergency declared by the Governor:

**W. Va. C.S.R. §64-18.3.1.a.2.** - Once completed plans are received by the health officer, the health officer shall review the plans within a period of time not to exceed ~~forty-five (45)~~ sixty (60) days.

**W. Va. C.S.R. §64-18.4.1. Suspended.**

**W. Va. C.S.R. §64-18.4.1.b. Suspended.**

If granted, the Bureau for Public Health further requests that the rule be suspended as described above until such time as the State of Emergency is lifted.

One Davis Square, Suite 100, East • Charleston, West Virginia 25301 • 304 558-0684 • 304-558-1130 (fax) • dhhr.wv.gov

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/28/2020 12:22:07 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Hearing Aid Dealers TITLE-SERIES: 8-04

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

RULE NAME: Application For Waiver For Intial Licensing Fees For Certain Individuals

CITE STATUTORY AUTHORITY: WV Code § 30-1-23 and WV Code §30-26-3

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section 64-9-11 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/28/2020 12:08:24 PM
Office of West Virginia
Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Hearing Aid Dealers TITLE-SERIES: 8-05

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

RULE NAME: Consideration of Prior Criminal Convictions in Initial Licensure Determinations

CITE STATUTORY AUTHORITY: WV §30-1-24 and WV § 30-26-3

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section 64-9-11 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/28/2020 12:12:31 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Landscape Architects TITLE-SERIES: 9-05

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

RULE NAME: Consideration of Prior Criminal Convictions In Intial Licensure Determinations

CITE STATUTORY AUTHORITY: WV §30-1-24 and WV §30-22-7

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section 64-9-12 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Kendra D Zamora -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/30/2020 3:24:40 PM
Office of West Virginia
Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

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 Pharmacy

CITE STATUTORY AUTHORITY: 30-5-7

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) 4252

Section one Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Ryan L Hatfield -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/30/2020 4:19:27 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

## 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 Pharmacy

CITE STATUTORY AUTHORITY: 30-5-7, 30-5-14, 29A-3-15

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 05/31/2020 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

2310 Kanawha Blvd E

EMAIL: ryan.l.hatfield@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

(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
4/30/2020 4:17:22 PM
Office of West Virginia
Secretary Of State

## NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Pharmacy TITLE-SERIES: 15-02

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

RULE NAME: Rules of the Board of Pharmacy for the Uniform Controlled Substances Act

CITE STATUTORY AUTHORITY: 60A-3-301 and 29A-3-15

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 05/31/2020 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

2310 Kanawha Blvd E

EMAIL: ryan.l.hatfield@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

(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
4/27/2020 1:32:50 PM
Office of West Virginia Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Pharmacy TITLE-SERIES: 15-04

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

RULE NAME: Record Keeping and Automated Data Processing Systems

CITE STATUTORY AUTHORITY: 30-5-7

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) 4252

Section one Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 27, 2020

This rule shall terminate and have no further force or effect from the following date:

April 27, 2030

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/27/2020 1:30:10 PM
Office of West Virginia Secretary Of State

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Pharmacy TITLE-SERIES: 15-18

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

RULE NAME: Application for Waiver of Initial Licensing Fees for Certain Individuals

CITE STATUTORY AUTHORITY: 30-5-7 and 30-1-22

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) 4252

Section one Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 27, 2020

This rule shall terminate and have no further force or effect from the following date:

April 27, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/24/2020 11:29:10 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

## NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Sanitarians TITLE-SERIES: 20-05

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

RULE NAME: WAIVER OF INITIAL APPLICATION FEES AND CRITERIA FOR INITIAL LICENSURE

CITE STATUTORY AUTHORITY: §30-17-6

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4252

Section Section 29 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 24, 2020

This rule shall terminate and have no further force or effect from the following date:

April 24, 2025

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/24/2020 4:12:02 PM
Office of West Virginia
Secretary Of State

## NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Secretary Of State TITLE-SERIES: 153-10

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

RULE NAME: LOAN AND GRANT PROGRAMS UNDER THE HELP AMERICA VOTE ACT (HAVA) FOR THE PURCHASE OF VOTING EQUIPMENT, ELECTION SYSTEMS, SOFTWARE, SERVICES AND UPGRADES

CITE STATUTORY AUTHORITY: W. Va. Code 3-1-48(l)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 05/29/2020 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Donald Kersey

ADDRESS: State Capitol, Bldg. 1, Ste. 157-K

EMAIL: dkersey@wvsos.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**

4/30/2020 1:48:25 PM

Office of West Virginia
Secretary Of State

LEGISLATIVE

## NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Secretary Of State TITLE-SERIES: 153-45

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

RULE NAME: Guidelines and Standards for Electronic Notarization

CITE STATUTORY AUTHORITY: W. Va. Code 39-4-25

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 06/01/2020 3:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Donald Kersey

ADDRESS: State Capitol, Bldg. 1, Ste. 157-K

Charleston, WV 25305

EMAIL: dkersey@wvsos.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

**Do Not Mark In This Box**

FILED

2020 APR 27 A 8:59

OFFICE WEST VIRGINIA
SECRETARY OF STATE

INTERPRETIVE

**EXPIRATION OF FILING OF INTERPRETIVE RULE**

AGENCY: TAX

TITLE NUMBER: 110

SERIES NUMBER OF RULE BEING PROPOSED: 21F

TITLE OF RULE BEING PROPOSED: The Coal Severance Tax Rebate

THE ABOVE RULE EXPIRED April 26, 2020 DUE TO THE AGENCY NOT FINAL FILING AFTER THE CONCLUSION OF THE HEARING/PUBLIC COMMENT PERIOD WITHIN SIX MONTHS AFTER THE CLOSE OF THE PUBLIC COMMENT AS REQUIRED BY W. VA. CODE §29A-3-8. IF YOU WANT TO CONTINUE THE RULE MAKING PROCESS ON THIS RULE, YOU MUST RESUBMIT THE ENTIRE RULE AND ASSOCIATED FORMS WITH THE SECRETARY OF STATE FOR ANOTHER HEARING/PUBLIC COMMENT PERIOD.

Maureen Lewis

DIRECTOR, ADMINISTRATIVE LAW DIVISION

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/29/2020 11:35:59 AM
Office of West Virginia
Secretary Of State

EMERGENCY

## NOTICE OF AN EMERGENCY RULE

AGENCY: Health And Human Resources TITLE-SERIES: 69-15

RULE TYPE: Legislative Amendment to Existing Rule: No

RULE NAME: Recovery Residence Certification and Accreditation Program

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

16-59-2(g)

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:

PRIMARY CONTACT:


NAME: April Robertson

ADDRESS: One Davis Square Suite 100

Charleston, WV 25301

EMAIL: april.l.robertson@wv.gov

PHONE NUMBER: 304-558-9149


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:

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/30/2020 3:37:24 PM
Office of West Virginia
Secretary Of State

## NOTICE OF AN EMERGENCY RULE

AGENCY: Pharmacy TITLE-SERIES: 15-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: Licensure and Practice of Pharmacy

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

30-5-7, 30-5-14, 29A-3-15

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:

Part of this rule needs to only be in effect for the duration of the Covid Pandemic. The portion regarding compounding and combining will need to remain in effect and will have a companion rule filed with the legislature.

PRIMARY CONTACT:


NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

EMAIL: ryan.l.hatfield@wv.gov

PHONE NUMBER: 304-208-3145


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:

FILED

2020 APR 30 P 3:40

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Board of Pharmacy

RULE: 15CSR1, Licensure and Practice of Pharmacist Care

STATUTORY AUTHORITY: W. Va. Code §§30-5-7, 30-5-14 and 29A-3-15

DATE FILED AS AN EMERGENCY RULE: April 30, 2020

Following review under W. Va. Code §29A-3-15A, which requires the Secretary of State to determine that the agency filing such emergency rule: 1) has not exceeded the scope of law authorizing or directing the promulgation thereof; 2) has shown that an emergency exists justifying the promulgation of an emergency rule; and 3) filed the emergency rule in compliance with W. Va. Code §29A-3-15, it is the decision of the Secretary of State that the above emergency rule is APPROVED.

It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f):

__X_ (1) For the immediate preservation of the public peace, health, safety and welfare;

__X_ (2) to comply with a time limitation established by the W. Va. Code or by a federal statute or regulation; or

__X_ (3) to prevent substantial harm to the public interest.

Additional notes or comments (if any): Under the current State of Emergency declared by Proclamation of the Governor on March 16, 2020, this emergency rule is being filed in response to recent events that have depleted the supply of certain drugs that are potentially helpful in the treatment of COVID-19 due to over-prescription of those drugs for preventative, rather than treatment purposes. Moreover, according to state health official representatives, the identified drugs are vital to treating other life-threatening illnesses. Other emergency provisions of this rule are necessary to respond to the U.S. Drug Enforcement Agency, which revised federal regulations to protect the public health during the current COVID-19 pandemic. The agency has authority the authority to issue the emergency rule to protect the public health.

Mac Warner

Mac Warner,

WV Secretary of State

EMERGENCY

**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

4/24/2020 4:01:46 PM

Office of West Virginia
Secretary Of State

**NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE**

AGENCY: Secretary Of State TITLE-SERIES: 153-10

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: LOAN AND GRANT PROGRAMS UNDER THE HELP AMERICA VOTE ACT (HAVA) FOR THE PURCHASE OF VOTING EQUIPMENT, ELECTION SYSTEMS, SOFTWARE, SERVICES AND UPGRADES

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code 3-1-48(l)

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:

DATE EMERGENCY RULE WAS ORIGINALLY FILED: 03/24/2020

DATE(S) OF PREVIOUS EMERGENCY AMENDMENT(S)

PRIMARY CONTACT:


NAME: Donald Kersey

ADDRESS: State Capitol Bldg 1 Ste 157 K

Charleston, WV 25305

EMAIL: dkersey@wvsos.gov

PHONE NUMBER: 304-558-6000

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
4/27/2020 4:27:07 PM
Office of West Virginia
Secretary Of State

EMERGENCY

**NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE**

AGENCY: Secretary Of State TITLE-SERIES: 153-10

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: LOAN AND GRANT PROGRAMS UNDER THE HELP AMERICA VOTE ACT (HAVA) FOR THE PURCHASE OF VOTING EQUIPMENT, ELECTION SYSTEMS, SOFTWARE, SERVICES AND UPGRADES

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code 3-1-48(l)

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:

DATE EMERGENCY RULE WAS ORIGINALLY FILED: 03/25/2020

DATE(S) OF PREVIOUS EMERGENCY AMENDMENT(S)

04/24/2020.

PRIMARY CONTACT:

NAME: Donald Kersey
ADDRESS: State Capitol Bldg 1 Ste 157 K
Charleston, WV 25305
EMAIL: dkersey@wvsos.gov
PHONE NUMBER: 304-558-6000

# Orders Report

| Docket Number | Agency | Respondent | Date Rendered |
|---|---|---|---|
| 20-FLTER-02018 | Insurance Commission | Matthew Charles Stanwood | 3/25/2020 |
| 20-FINCOM-02005 | Insurance Commission | American Country Insurance Company | 4/17/2020 |
| 20-FINCOM-02007 | Insurance Commission | ACCC Insurance Company | 4/24/2020 |
| 04-FT-2020 | Medical Imaging And Radiation Therapy Technology Board Of Examiners | Jillian Ferrell | 3/27/2020 |
| MULTISTATE PRIVILEGE | Registered Professional Nurses, West Virginia Board Of Examiners For | James B McNally | 4/27/2020 |

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 29-20**

**By the Governor**

**WHEREAS,** a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS,** Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS,** Executive Order 9-20 ordered individuals to remain at their homes or residences, except when performing essential activities, and closed or otherwise limited the occupancy of businesses and entities that are not "Essential Businesses and Operations," as that term is defined in Executive Order 9-20; and

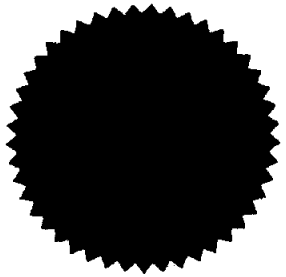
**WHEREAS,** Executive Order 20-20 ordered additional heightened measures to be taken due to the number of positive cases of COVID-19 in the Eastern Panhandle of this state, in order to protect the health, safety, and welfare of the public, to disrupt the spread of the virus, and to mitigate the impact of COVID-19 in the Eastern Panhandle; and

**WHEREAS,** since the issuance of Executive Order 20-20 implementation of successful public health measures has resulted in few active cases of COVID-19 in Morgan County, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state, including in Morgan County; and

**WHEREAS,** the additional heightened measures ordered by Executive Order 20-20 with respect to Morgan County are, at this time, no longer necessary; and

**NOW, THEREFORE, I, JIM JUSTICE,** pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER,** effective as of 12:00 AM, Eastern Standard Time, on the Twenty-fifth day of April, Two Thousand Twenty, that the provisions of Executive Order 20-20 are terminated with respect to Morgan County, but continue to remain in effect for Berkeley County and Jefferson County.

**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 Twenty-fourth day of April, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

**GOVERNOR**

**By the Governor**

**SECRETARY OF STATE**

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 30-20**

**By the Governor**

**WHEREAS,** a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS,** Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS,** Executive Order 16-20 declared all elective medical procedures to be prohibited, but provided that patients would still have access to urgent, medically necessary procedures like those needed to preserve the patient's life or long-term health, and that the prohibition would apply equally to all types of elective medical procedures performed in hospitals, offices, and clinics throughout the state; and

**WHEREAS,** since the issuance of Executive Order 16-20, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment ("PPE") and other medical equipment and supplies, resulting in greater hospital preparedness and response capacity; and

**WHEREAS,** Executive Order 28-20 previously ordered that more urgent elective medical procedures could be resumed at hospitals and ambulatory surgical centers that are regulated by OHFLAC, and by health care providers at such hospitals or ambulatory surgical centers, upon application to and approval by OHFLAC; and

**WHEREAS,** resumption of procedures and operations at clinics, offices, and other facilities operated by or with medical and health care providers licensed by boards under Chapter 30 of the West Virginia Code, except for the hospitals and ambulatory surgical centers regulated by OHFLAC that are and remain subject to the terms of Executive Order 28-20 to ensure adequate response capacity and resources at such facilities, is in the public interest and is appropriate at this time; and

**WHEREAS,** it is likewise in the public interest that the medical and health care boards of licensure and/or regulation under Chapter 30 of the West Virginia Code develop, publish, and disseminate guidance and best practices to their respective memberships and professional communities for the safe resumption or expansion of services, in order to protect the medical and health care providers and the public alike against the COVID-19 virus; and

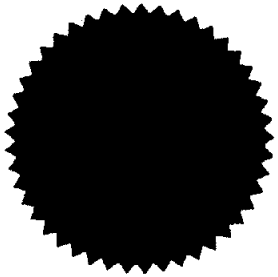
**NOW, THEREFORE, I, JIM JUSTICE,** pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:00 AM, Eastern Standard Time, on the Thirtieth day of April, Two Thousand Twenty, unless rescinded or otherwise postponed by subsequent executive order prior to the effective date of this Order, that:

1. Executive Order 16-20, as amended and supplemented by Executive Order 28-20, is terminated for all facilities and health care providers and practitioners, except those hospitals and ambulatory surgical centers regulated by OHFLAC, and by health care providers at such hospitals or ambulatory surgical centers, that are and remain subject to the terms of Executive Order 16-20, as amended and supplemented by Executive Order 28-20.
2. All Chapter 30 Health Care Boards (as defined in Section 4 below), are hereby directed to develop, publish, and disseminate guidance, including as to timing of

implementation and resumption or expansion of services under the jurisdiction of the respective boards, and best practices to their respective memberships and professional communities for the safe resumption or expansion of services, in order to protect the medical and health care providers and the public alike against the COVID-19 virus.

3. All clinics, offices, and other facilities operated by or with medical and health care professionals licensed or regulated by Chapter 30 Health Care Boards, except for the hospitals and ambulatory surgical centers subject to Section 1 of this Order, may resume all operations and procedures, including elective procedures, according to such guidance and best practices as is disseminated by the applicable Chapter 30 Health Care Board(s) pursuant to Section 2 of this Order.
4. The term "Chapter 30 Health Care Boards" as used in this Order includes the following boards of licensure and/or regulation established under Chapter 30 of the West Virginia Code:
    a. West Virginia Acupuncture Board, established under Article 36 of Chapter 30 of the Code of West Virginia;
    b. West Virginia Board of Chiropractic, established under Article 16 of Chapter 30 of the Code of West Virginia;
    c. West Virginia Board of Examiners in Counseling, established under Article 31 of Chapter 30 of the Code of West Virginia;
    d. West Virginia Board of Dentistry, established under Article 4 of Chapter 30 of the Code of West Virginia;
    e. West Virginia Board of Licensed Dieticians, established under Article 35 of Chapter 30 of the Code of West Virginia;
    f. West Virginia Board of Hearing-Aid Dealers, established under Article 26 of Chapter 30 of the Code of West Virginia;
    g. West Virginia State Board of Examiners for Licensed Practical Nurses, established under Article 7A of Chapter 30 of the Code of West Virginia;
    h. West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, established under Article 23 of Chapter 30 of the Code of West Virginia;
    i. West Virginia Board of Medicine, established under Article 3 of Chapter 30 of the Code of West Virginia;
    j. West Virginia Board of Occupational Therapy, established under Article 28 of Chapter 30 of the Code of West Virginia;
    k. West Virginia Board of Optometry, established under Article 8 of Chapter 30 of the Code of West Virginia;
    l. West Virginia Board of Osteopathic Medicine, established under Article 14 of Chapter 30 of the Code of West Virginia;
    m. West Virginia Board of Pharmacy, established under Article 5 of Chapter 30 of the Code of West Virginia;
    n. West Virginia Board of Physical Therapy, established under Article 20 of Chapter 30 of the Code of West Virginia;
    o. State Board of Examiners of Psychologists, established under Article 21 of Chapter 30 of the Code of West Virginia;
    p. West Virginia Board of Examiners for Registered Professional Nurses, established under Article 7 of Chapter 30 of the Code of West Virginia;
    q. West Virginia Board of Respiratory Care, established under Article 34 of Chapter 30 of the Code of West Virginia;
    r. West Virginia Board of Social Work, established under Article 30 of Chapter 30 of the Code of West Virginia; and
    s. West Virginia Board of Examiners for Speech-Language Pathology and Audiology, established under Article 32 of Chapter 30 of the Code of West Virginia.
5. All clinics, offices, and other facilities that resume or expand operations under this Order shall ensure that sufficient occupationally appropriate PPE and other medical equipment and resources are sufficiently available and that such clinics, offices, and other facilities must be aware of statewide PPE, supplies, equipment, and medicine needs and must be prepared to contribute as necessary.
6. All guidance and best practices documents developed, published, and disseminated by Chapter 30 Health Care Boards shall also be provided to the West Virginia Department of Health and Human Services, Bureau for Public Health.

**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 Twenty-seventh day of April, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

**GOVERNOR**

**By the Governor**

**SECRETARY OF STATE**

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

# EXECUTIVE ORDER NO. 31-20

**By the Governor**

**WHEREAS,** a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS,** Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

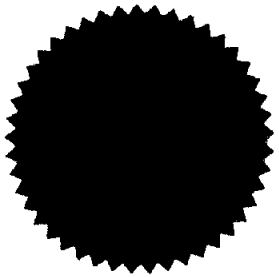
**WHEREAS,** Executive Orders 7-20, 10-20, 11-20, 12-20, 17-20, 23-20, and 26-20 suspended certain provisions and sections of statute that strict compliance therewith would prevent, hinder, or delay necessary action in coping with the emergency; and

**WHEREAS,** there have been additional statutory regulations identified by the West Virginia Board of Dentistry and the West Virginia Department of Education that are preventing the state from best coping with the emergency and assisting the citizens of West Virginia; and

**NOW, THEREFORE, I, JIM JUSTICE,** pursuant to the authority vested in me pursuant to the provision of Chapter 15, Article 5, Section 6 of the Code of West Virginia, hereby **DECLARE** and **ORDER** that, the following statutory regulations are to be suspended for the duration of the State of Emergency:

1. In the discretion of the West Virginia Board of Dentistry who shall issue additional guidance, the requirement that an applicant for initial licensure as a dentist have passed a clinical examination (W. Va. Code § 30-4-8(a)(4));
2. In the discretion of the West Virginia Board of Dentistry who shall issue additional guidance, the requirement that an applicant for initial licensure as a dental hygienist have passed a board-approved patient-based examination designed to determine the applicant's level of clinical skills (W. Va. Code § 30-4-10(a)(4));
3. In the discretion of the West Virginia Board of Dentistry who shall issue additional guidance, that the Board of Dentistry shall provide a provisional license to an initial applicant, who is a 2020 graduate of a dental or dental hygiene program approved by the Board and who meets all other requirements set forth in the WV Dental Practice Act, W. Va. Code § 30-4-1 et seq., and in the rules promulgated thereunder, W. Va. Code R. § 5-1-1 et seq., as applicable. The provisional license shall expire no later than February 1, 2021, and shall become a full license only upon the applicant having taken and passed the required clinical examination. In the discretion of the West Virginia Board of Dentistry who shall issue additional guidance, failure of the clinical exam shall void the provisional license until such time as the exam is re-taken and passed; and
4. In the discretion of the West Virginia Department of Education who shall issue additional guidance, the requirement that speech-language pathologists and audiologists must be licensed by the West Virginia Board for Speech-Language Pathology and Audiology to telepractice (W. Va. Code § 30-32-16), to allow speech-language pathologists and audiologists licensed by the West Virginia Department of Education to telepractice.

**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 Twenty-eighth day of April, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

**GOVERNOR**

**By the Governor**

**SECRETARY OF STATE**

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 32-20**

**By the Governor**

**WHEREAS,** a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS,** Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS,** Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and small businesses that do not invite in the general public and which have five or less employees in the office while requiring proper social distancing and hygiene practices be maintained at such businesses; and

**WHEREAS,** since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

**WHEREAS,** on April 16, 2020, President Trump issued his Guidelines for Opening Up America Again (the "Federal Guidelines"), offering guidance to state and local leaders for a phased approach for reopening the economy, getting people back to work, and continuing to protect American lives; and

**WHEREAS,** on April 27, 2020, I, Governor Jim Justice, announced the state's re-opening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the re-opening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased re-opening, which Comeback Plan was developed with consideration of the Federal Guidelines and plans and guidelines presented by the West Virginia Legislative leadership teams and the West Virginia Chamber of Commerce, among others, and in consultation with West Virginia's public health experts; and

**WHEREAS,** the Comeback Plan includes certain metrics and conditions to safely re-open segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

**WHEREAS,** Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

**WHEREAS**, re-opening additional segments of the state's economy upon the achievement of the metrics announced in the Comeback Plan, utilizing a phased approach to re-open sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

**WHEREAS**, West Virginia's public health experts have advised that lifting the stay-at-home policy under Executive Order 9-20 and declaring herein a safer-at-home policy, allowing certain types of businesses to begin to re-open, allowing restaurants to resume outdoor dining, and partially lifting certain restrictions on gathering size in the coming week, all while ensuring certain precautions and procedures are in place for such businesses and continuing to strongly encourage elderly and vulnerable populations remain at home or their place of residence to the greatest extent possible, is appropriate at this time; and

**NOW, THEREFORE, I, JIM JUSTICE**, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:01 AM, Eastern Standard Time, on the Fourth day of May, Two Thousand Twenty, unless rescinded, amended, or otherwise postponed by subsequent executive order prior to the effective date of this Order, as follows:

1. The following provisions of Executive Order 9-20, generally known as the stay-at-home order, are hereby amended to now declare a general safer-at-home order, as follows:
    a. Section 1 is hereby deleted in its entirety and replaced with the following:
        "1. **It is safer at home or your place of residence, especially for elderly and vulnerable populations.** To preserve public health and safety, and to ensure the healthcare system in West Virginia remains capable of serving all citizens in need, especially those at high risk and vulnerable to COVID-19, all individuals within the State of West Virginia are under a general safer-at-home order and are strongly encouraged to stay at home or their place of residence unless performing an essential activity. An activity is essential if the purpose of the activity is one of the following:
            a. Obtaining food, medicine, and other similar goods necessary for the individual or a family member of the individual.
            b. Obtaining medical care and treatment and other similar vital services for an individual or a family member of the individual.
            c. Going to and from an individual's workplace if such workplace and/or work is included in the definition of Essential Businesses and Operations as outlined in Section 3, below, or is exempt from the terms of this Order as a small business of 10 or fewer employees with more limited customer interaction and customer contact, if any, under Section 2.
            d. Going to and from the home of a family member.
            e. Going to and from the home of another individual who, under the terms of a parenting plan or similar agreement, is entitled to visitation with or the care of a child.
            f. Going to and from an individual's place of worship.
            g. Engaging in outdoor activity, provided that individuals at all times and as much as reasonably possible maintain social distancing of six feet from one another and abide by a 25-person limitation on gathering size."
    b. Section 2 is hereby deleted in its entirety and replaced with the following:
        "2. **Non-essential businesses and operations must generally continue to temporarily cease operations, but certain small businesses may resume operations with appropriate precautions.** All businesses and operations in West Virginia, except Essential Businesses and Operations as defined below, shall continue to suspend all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences. Businesses such as home-based businesses may

continue to operate, so long as any employees or contractors of such businesses perform activities from their own residences. Further, small businesses that have ten or less employees in their place of business and which have more limited customer interaction and customer contact, if any, including some retail businesses which historically have more limited customer traffic of approximately 50 customers or less per day (including, without limitation and by way of example only, furniture stores, flower shops, jewelry stores, smaller specialty sporting goods stores, smaller clothing stores, specialty uniform and equipment stores, and specialty shoe stores) may continue to operate, but must ensure that proper social distancing and hygiene practices are maintained, and must limit occupancy by the public, if any, to no more than two (2) individual members of the public per 1,000 square feet of interior space at any given time. Additional guidance for such small businesses, *Guidelines for West Virginia Small Businesses*, is available at governor.wv.gov."

c. Section 3, subsection (c) is hereby deleted in its entirety and replaced with the following:

"c. **Food, beverage, and agriculture.** Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, seed and feed stores, fishing, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption, and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities. Restaurants and other facilities that prepare and serve food and/or drinks, but only for outdoor service and consumption on such property as the restaurant or other facility owns or has a right to occupy or use, in accordance with the applicable guidelines for restaurants, *A Guide to Safely Opening our Restaurants Through Takeaway Service & Outdoor Dining*, available at governor.wv.gov, or for consumption off-premises, through such means as take-away, delivery, or drive-through/drive in. Schools and other entities that typically provide food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up or take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site due to the virus's propensity to physically impact surfaces and personal property."

d. Section 3, subsection (n) is hereby deleted in its entirety and replaced with the following:

"n. **Religious entities.** Religious facilities, entities, and groups and religious gatherings, including weddings and funerals; provided that such gatherings should still practice proper social distancing of six feet between persons to the greatest extent possible. Additional guidance for religious entities, *Guidance for Religious Entities and Funeral Homes*, is available at governor.wv.gov."

e. Section 3 is amended and supplemented by the addition of the following subsections:

"y. **Barbers and Cosmetologists.** Barber shops, nail salons, and hair salons may operate in accordance with guidance and best practices developed, published, and disseminated by the West Virginia Board of Barbers and Cosmetologists, including ensuring all staff and employees wear masks and requiring appointments for services to be scheduled in advance with adequate time in between appointments to properly clean and disinfect and for customers to wait in their vehicles or otherwise not enter the business until such staff or employee is ready to provide services to such customer.

z. **Dog Groomers.** Dog groomers may operate, but must generally follow applicable guidelines for small businesses, *Guidelines for West Virginia Small Businesses*, available at governor.wv.gov."

f. Section 4 is hereby deleted in its entirety and replaced with the following:

"4. **Prohibited activities.** All places of public amusement, whether indoors or outdoors, including but not limited to locations with amusement rides,

carnivals, zoos, museums, arcades, fairs, pool halls, bingo halls, malls (except that stores in a mall that have a direct outdoor entrance and exit that provide essential services and products under the terms of this Order and stores in a mall that have a direct outdoor entrance and exit that constitute those small businesses of 10 or fewer employees with more limited customer interaction and customer contact, if any, as described in Section 2 of this Order, may remain open), children's play centers, playgrounds, bowling alleys, movie and other theaters, concert and music halls, adult entertainment venues, racetracks (except where racetracks offer spectator-less horse races, beginning no sooner than May 14, 2020, which shall not allow any in-person spectators but which horse races may be simulcast, provided that such horse racing shall be conducted in accordance with guidance and best practices developed, published, and disseminated by the applicable track operators and horsemen's associations, including ensuring all staff and employees maintain proper social distancing and hygiene practices), social clubs, and other similar businesses shall be closed."

g. Section 5 is hereby deleted in its entirety and replaced with the following:

"5. **Avoid social gatherings.** All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Order. Any gathering of more than 25 people is prohibited unless exempted by this Order. Nothing in this Order prohibits the gathering of members of a household or residence."

2. Executive Order 6-20 is hereby terminated and is of no further effect; provided that the barber shops, nail salons, and hair salons previously prohibited from operating under that executive order must operate in accordance with guidance and best practices developed, published, and disseminated by the West Virginia Board of Barbers and Cosmetologists, including ensuring all staff and employees wear masks and requiring appointments for services to be scheduled in advance with adequate time in between appointments to properly clean and disinfect and for customers to wait in their vehicles or otherwise not enter the business until such staff or employee is ready to provide services to such customer.

3. Executive Order 2-20, as it relates to the closure of casinos, is hereby amended to provide that all casinos shall remain closed to the general public, but that racetracks at such casinos may begin holding spectator-less horse races, beginning no sooner than May 14, 2020, which shall not allow any in-person spectators but which horse races may be simulcast, provided that such horse racing shall be conducted in accordance with guidance and best practices developed, published, and disseminated by the applicable track operators and horsemen's associations, including ensuring all staff and employees maintain proper social distancing and hygiene practices.

4. Elderly and vulnerable populations, including those who are 65 or older or have pre-existing conditions, are strongly encouraged to remain at home or their place of residence to the greatest extent possible.

**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 Thirtieth day of April, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

**GOVERNOR**

**By the Governor**

**SECRETARY OF STATE**

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

FILED
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OFFICE WEST VIRGINIA
SECRETARY OF STATE

AG OPINION

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

April 24, 2020

Erica L. Boggess
Executive Director
West Virginia Housing Development Fund
5710 MacCorkle Ave., SE
Charleston, WV 25304

Dear Ms. Boggess:

On behalf of the West Virginia Housing Development Fund (the "Fund"), you have asked for an Opinion of the Attorney General about whether the Fund is the only public housing authority ("PHA") authorized to operate throughout West Virginia. This Opinion is being issued pursuant to West Virginia Code Section 5-3-1, which provides that the Attorney General "shall give written opinions . . . upon questions of law, whenever required to do so, in writing, by . . . [any] state officer, board or commission." To the extent this Opinion relies on facts, it is based solely on the factual assertions in your correspondence with the Office of the Attorney General.

In your letter, you explain that in 2000, the United States Department of Housing and Urban Development ("HUD") began outsourcing Project-Based Section 8 Assistant Payment Contracts to qualified PHAs, which then act as Performance Based Contract Administrators ("PBCAs"). HUD awarded the Fund a contract that same year to serve as a PBCA in West Virginia, a role in which the Fund continues to serve. In 2012, HUD began revising the bidding process for PBCAs, and you were concerned that HUD might contract with regional or national contractors to serve as PBCAs in West Virginia under the updated procedures. In 2012 and 2013, our Office advised the Fund that local and regional authorities are not authorized to be PBCAs consistent with West Virginia law, and that the Fund was the only entity in the State authorized to administer a PBCA contract at that time. Seven years later similar concerns have arisen.





Your letter raises the following legal questions:

*(1) Is the Fund the only West Virginia PHA authorized to serve as a PBCA for West Virginia?*

*(2) Are out-of-state entities authorized to serve as PBCAs in West Virginia?*

With respect to the first question, none of the relevant laws have changed since 2013 and we accordingly reaffirm our previous conclusion that the Fund is the only PHA authorized to serve as a PBCA in West Virginia. The answer to the second question follows from the same principles, and we conclude that out-of-state entities are not authorized to serve as PBCAs in West Virginia.

***Discussion***

Congress enacted the Housing Act of 1937 ("Housing Act") to assist States in providing aid for public housing. *See* 42 U.S.C. § 1437. The Housing Act authorizes the Secretary of HUD to "enter into annual contributions contracts with [PHAs] pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units." *Id.* § 1440(a).

The Housing Act defines a PHA, in turn, as "any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing." 42 U.S.C. § 1437a(b)(6)(A). For purposes of administering the Section 8 housing program and as relevant to your request, this definition includes "consortia" of PHAs that, in the Secretary's view, have "the capacity and capability to administer" Section 8 housing, as well as "any other entity" the Secretary may contract with in an area in "which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance." *Id.* § 1437a(b)(6)(B).

HUD further requires PHAs applying to serve as PBCAs to be governmental entities or instrumentalities. *See* U.S. Dep't of Hous. & Urban Dev., Invitation for Submission of Applications: Contract Administrators for Project-Based Section 8 Housing Assistant Payments (HAP) Contracts, at § 2.3 [hereinafter HUD Invitation] *available at* https://www.hud.gov/sites/documents/INVITATIONFORAPPSFINAL.PDF. A "governmental entity" is defined as a public entity with statewide scope: The term includes an entity "created under a statute that explicitly authorizes the entity to operate throughout the entire state in which the entity proposes to serve as PBCA or that evidences a legislative intent for such entity to have such authority." *Id.* § 2.4(3). And a "governmental instrumentality" must have a parent entity that is authorized by statute to operate as a PHA throughout the State in which the instrumentality proposes to serve as a PBCA. *Id.* § 2.5.

These definitions make clear that statutory authority to operate throughout the entire State in question—for the PHA itself or for its parent entity—is necessary to serve as a PBCA. The Fund is the only entity in West Virginia that satisfies this requirement. And there are no entities

outside West Virginia that possess statutory authority to operate as housing authorities throughout the entire State, either.

*First*, the Fund is the only West Virginia entity qualified to be a PBCA. West Virginia law "provide[s]" for (but does not require) local governing bodies to create local PHAs through resolution. W. Va. Code § 16-15-3(a); *Teller v. McCoy*, 162 W. Va. 367, 377, 253 S.E.2d 114, 121 (1978). Local PHAs are empowered to carry out state housing laws through a variety of means, including constructing, repairing, purchasing, or leasing a development, and the Code makes clear that they may serve as agents for the federal government. *Id.* § 16-15-7(a)(4)-(6). They are only authorized, however, to act within their geographic boundaries. *See id.* § 16-15-7b. And while local PHAs may consolidate and form a regional PHA, *id.* § 16-15-3b, the regional PHA's authority is generally limited to the geographical boundaries of the participating PHAs; the only exceptions are where another local PHA consents to allow the regional PHA to operate in its sphere, or if there is no local PHA in the area where the regional PHA seeks to operate. *Id.* § 16-15-7b.

By contrast, the Fund is created under a separate section of the Code—Section 31-18-2(h)—which provides:

> [T]he West Virginia housing development fund, heretofore created and established by this article, is acting in all respects for the benefit of the people of the state of West Virginia to serve a public purpose in improving and otherwise promoting their health, welfare and prosperity, and that the West Virginia housing development fund, heretofore created and established, is empowered, hereby, to act on behalf of the state of West Virginia and its people in serving this public purpose for the benefit of the general public.

W. Va. Code § 31-18-2(h). Section 31-18-6(x)(31) further empowers the Fund "[t]o exercise all of the rights, powers, and authorities of" local PHAs "in any area or areas of the state."

These statutes make clear that the Fund is authorized by state law to operate throughout the entire State of West Virginia. It thus qualifies as a governmental entity under HUD's requirements for serving as a PBCA in West Virginia. Because local PHAs are not authorized by statute to operate statewide, however, they do not qualify. Nor does joining together as regional PHAs alter the outcome: While the Secretary has discretion to treat a consortium of local entities as a PHA for purposes of administering Section 8 housing programs, 42 U.S.C. § 1437a(b)(6)(B)(i), the consortium would still fail HUD's requirement to be authorized by statute to operate statewide. *See* HUD Invitation at § 2.6. It is theoretically possible for all local PHAs in West Virginia to consolidate—and thus combine their individual spheres of authority—but this scenario is unlikely and may frustrate the Legislature's purpose in creating the Fund. In any event, there is no indication that such a *de facto* statewide PHA exists.

Similarly, local or regional PHAs cannot qualify as governmental instrumentalities, which need not have statewide authority to operate as long as their parent entity does. These local and regional entities are not instrumentalities of the Fund; state law makes clear that their parent

AG OPINION



entities are the local governing bodies that created them. *See* W. Va. Code §§ 16-15-3(a), 31-18-2(h).

*Second*, there are no out-of-state entities authorized to serve as PBCAs in West Virginia. An out-of-state entity would not satisfy the threshold definition of a PHA for purposes of administering Section 8 housing programs in West Virginia, much less the requirements of a PBCA. A PHA must be "authorized" to administer public housing. *See* 42 U.S.C. § 1437a(b)(6)(A). No provision of the West Virginia Code authorizes any out-of-state entity to do so in West Virginia; the only PHAs mentioned in the Code are the Fund and local PHAs. And even if an out-of-state entity were authorized to administer public housing in another State, that authority would not be extraterritorial. *Cf. Edgar v. MITE Corp.*, 457 U.S. 624, 643 (1982) (explaining that one State's attempt "to assert extraterritorial jurisdiction over persons or property would offend sister States and exceed the inherent limits of the State's power" (citation omitted)). Further, the exception for recognizing entities as PHAs in areas where there is no PHA or the local entities are not willing or able to assist in administering public housing, 42 U.S.C. § 1437a(b)(6)(B)(iii), does not apply here as the Fund operates statewide in West Virginia.

Out-of-state entities also cannot satisfy the requirements to serve as PBCAs because they are not statutorily authorized to operate statewide, nor instrumentalities of a parent entity that possesses this authority. As already mentioned, the West Virginia Code does not expressly authorize out-of-state PHAs to operate anywhere in the State, much less everywhere. And while the Housing Act includes out-of-state entities in the definition of PHA for Section 8 housing programs, it does not confer any authority on them that state law withholds. *See* 42 U.S.C. § 1437a(b)(6)(B)(ii)-(iii). They are thus not governmental entities. The only potential exception would be if an out-of-state entity satisfied the instrumentality test by contracting with the Fund to provide services in the State. Nothing you have provided to our Office suggests this is the case.

In sum, the Fund is the only entity authorized by statute to operate as a PHA statewide in West Virginia. As such, absent a contract with an out-of-state entity or local or regional PHA, it remains the only entity that meets HUD's requirements to serve as a PBCA in West Virginia to administer the Section 8 housing program.

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

Steven Travis
Deputy General Counsel

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

FILED
2020 APR 27 A 10:41
OFFICE WEST VIRGINIA
SECRETARY OF STATE

OTHER

April 27, 2020

***LEGAL NOTICE***

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **April 24, 2020.**

**APPLICATIONS FOR EXEMPTION RECEIVED**

April 22, 2020 – Reconnection, LLC, Huntington, Cabell County, CON File #20-2-11842-X, for the development of a behavioral health center located in Huntington, Cabell County.

April 24, 2020 – Harmony Behavioral Health, Morgantown, Monongalia County, CON File #20-10-11841-X, for the provision of behavioral health services in Wheeling, Ohio County.

**PROJECT DETERMINED REVIEWABLE**

April 24, 2020 – Logan General Hospital, LLC d/b/a Logan Regional Medical Center, Logan, Logan County, CON File #20-2-11799-X, for the acquisition of 50% of Logan Oncology Care Associates, LLC's membership interests, which is a cancer treatment facility in Holden, Logan County, and the relocation of the radiation treatment center to Logan Regional Medical Center; no capital expenditure.

**EXEMPTION APPLICATION APPROVED**

April 20, 2020 - Parkersburg Addiction Recovery, LLC d/b/a Peer Solutions, Parkersburg, Wood County, CON File #20-5-11825-X, for the development of an outpatient behavioral health center in Parkersburg, Wood County.

**CERTIFICATE OF NEED APPROVALS ISSUED**

April 20, 2020 - UPMC Western Maryland Corporation, Cumberland, Maryland, CON File #20-8-11806-P, for the reopening of the Hunt Club Medical Clinic Facility as an ambulatory care center located at 45 Hunt Club Drive, Ridgeley, Mineral County, West Virginia; capital expenditure: $75,000.

April 22, 2020 - Grant Memorial Hospital, Petersburg, Grant County, CON File #19-8-11764-P, for the provision of outpatient aquatic therapy services at the Hardy County Wellness Center; no capital expenditure.

**RENEWAL GRANTED**

April 20, 2020 - VOCA Corporation of West Virginia, Inc., Louisville, KY, CON File #18-1-11442-BH, for the development of a four-bed intermediate care facility for individuals with intellectual disabilities (ICF/IID) in Wyoming County serving children; capital expenditure: $45,000.

Extension granted through July 31, 2020.

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