

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:

Health and Human Resources

Bureau for Public Health

Health Care Authority

Lottery Commission

Medicine, WV Bd. Of

Senior Services

CHRONOLOGICAL INDEX, VOLUME XXXVII ISSUE 21			
NEW RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Health (64-114)	Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak Legislative	§§16-3-1, 16-1-4	Written Comments Only June 17, 2020, 5:00 p.m. April L. Robertson One Davis Square, Ste. 100 E Charleston, WV 25301 april.l.robertson@wv.gov

NO NEW EMERGENCY RULES FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE OF HEARING**
Health (64-114, Amendment)	Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak	§§16-3-1, 16-1-4, 29A-3-15	Effective May 15, 2020	June 15, 2020
Lottery Commission (179-10)	WV Lottery Interactive Wagering Rule	§§29-22E-4(c), 29-22A-1 et seq., 29A-3-15	Effective May 18, 2020	Rule Must Be Put Out for Public Comment by June 15, 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
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TITLE	36	COAL MINE HEALTH AND SAFETY
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TITLE	45	AIR QUALITY
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TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
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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
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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
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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 (61-29)	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
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

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Coal Mine Health and Safety (36-07)	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						
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		
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
Education (126-028)	WV Universal Access to a Quality Early Education System (Policy 2525) Legislative Exempt	5/13/2020	6/12/2020						
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
Education (126-044AA)	WV College and Career Readiness Standards for English Language Arts (Policy 2520.1A) Legislative Exempt	5/13/2020	6/12/2020						

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
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		
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	5/5/2020	8/1/2020
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	5/5/2020	8/1/2020
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	5/4/2020	6/4/2020
Health (64-114)	Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak Legislative	5/15/2020 5/18/2020	6/15/2020 6/17/2020	4/16/2020 Approved 4/16/2020 Amendment 4/21/2020 Approved 4/21/2020 Amendment 5/15/2020 Approved 5/15/2020					
Health and Human Resources (69-15)	Recovery Residence Certification and Accreditation Program Legislative	5/8/2020	6/8/2020	4/29/2020 ERD by 6/10/2020					
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		
Higher Education Policy Commission (133-49)	Accountability System Legislative	6/17/2019	7/17/2019		7/18/2019	Approved 10/4/2019	BUNDLED 4480		
Housing Development Fund (88-03)	Purchasing Procedure Procedural	4/22/2020	5/22/2020						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Human Services (78-03)	Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults in West Virginia Legislative	6/18/2019	7/18/2019	8/16/2019 Effective 9/27/2019	7/26/2019	Modified & Approved 12/18/2019 Filed 1/7/2020	BUNDLED SB339	5/4/2020	6/4/2020
Human Services (78-24)	Qualifications for a Provisional License to Practice As A Social Worker Within the Department of Health and Human Resources Legislative	6/18/2019	7/18/2019		7/24/2019	Modified & Approved 11/17/2019 Filed 11/25/2019	BUNDLED SB339	4/15/2020	6/3/2020
Lottery (179-10)	WV Lottery Interactive Wagering Rule Legislative			5/15/2020 Approved 5/18/2020					
Medicine (11-01B)	Licensure, Disciplinary and Compliant Procedures, Continuing Education, Physician Assistants Legislative	6/19/2019	7/19/2019	6/19/2019 Amendment 7/25/2019 Approved 7/30/2019	7/25/2019	Modified & Approved 9/26/2019 Filed 10/8/2019	BUNDLED HB4252	5/4/2020	8/2/2020
Medicine (11-13)	Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants Legislative	6/19/2019	7/19/2019		7/25/2019	Modified & Approved 9/26/2019 Filed 10/8/2019	BUNDLED HB4252	5/4/2020	8/2/2020
Medicine (11-14)	Registration to Practice During Declared State of Emergency Legislative	4/23/2020	5/23/2020	3/26/2020 Approved 3/26/2020					
Mining and Reclamation (38-02)	West Virginia Surface Mining Reclamation Rule Legislative	6/5/2019	7/8/2019		7/25/2019	Authorized with Certain Amendments 12/18/2019	BUNDLED HB4217		
Mining and Reclamation (38-02F)	Groundwater Protection Rules Coal Mining Operations Legislative	6/5/2019	7/8/2019		7/25/2019	Approved 12/18/2019	BUNDLED HB4217		
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

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
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	5/6/2020	6/1/2020
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	5/4/2020	8/2/2020
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	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 (15-12)	Immunizations Administered by Pharmacist and Pharmacy Interns Legislative	5/1/2020	6/2/2020	4/20/2020 Approved 4/20/2020					
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	5/13/2020	7/1/2020
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

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
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
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
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	5/4/2020	8/4/2020
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	5/11/2020	8/11/2020
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	5/4/2020	7/1/2020
Secondary School Activities Comm. (127-02)	Athletics, Provisions Governing Eligibility Legislative Exempt	5/13/2020	6/12/2020						
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative Exempt	5/13/2020	6/12/2020						
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					
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					5/15/2020	7/1/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
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	5/12/2020	7/1/2020
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	5/12/2020	7/1/2020
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	5/5/2020	7/1/2020
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	5/5/2020	7/1/2020
Underground Facilities Damage Prevention Bd. (214-01)	Board Meetings, Organization, and Operation Procedural	5/12/2020	6/12/2020						
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
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						

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
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 3/20/2020	3/26/2020 4/20/2020						

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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5/15/2020 2:59:53 PM
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LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Health TITLE-SERIES: 64-114

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

RULE NAME: PUBLIC HEALTH STANDARDS FOR BUSINESSES REMAINING OPEN DURING THE COVID-19 OUTBREAK

CITE STATUTORY AUTHORITY: 16-3-1, 16-1-4, and 29A-3-15

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 06/15/2020 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: April L. Robertson

ADDRESS: One Davis Square, Suite 100 East
Charleston, WV 25301

EMAIL: april.l.robertson@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

INCORPORATED BY REFERENCE: No

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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5/18/2020 3:17:00 PM
Office of West Virginia
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NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Health TITLE-SERIES: 64-114

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

RULE NAME: PUBLIC HEALTH STANDARDS FOR BUSINESSES REMAINING OPEN

CITE STATUTORY AUTHORITY: 16-3-1, 16-1-4, and 29A-3-15

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 06/17/2020 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: April L. Robertson

ADDRESS: One Davis Square, Suite 100 East
Charleston, WV 25301

EMAIL: april.l.robertson@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

INCORPORATED BY REFERENCE: No

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

INTERPRETIVE

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

Robert E. Roswall
Commissioner

May 15, 2020

Re: 76-04

FILED
2020 MAY 15 P 3:02

Ms. Maureen Lewis
WV Secretary of State's Office
1900 Kanawha Boulevard, East
State Capitol Building
Charleston, WV 25305

Ms. Lewis:

In light of the public health emergency presented by COVID-19, the WV Bureau of Senior Services is requesting to make use of the flexibility in the deadline for submission of their State Plan on Aging to the U.S. Administration for Community Living. The Bureau is requesting that the current four-year Plan (October 1, 2016 – September 30, 2020) be extended one year, to be due October 1, 2021. The Bureau is applying to Assistant Secretary for Aging/Administration for Community Living, Lance A. Robertson, for a waiver of the Section 307(a) plan duration limit under Section 316(a) of the Older Americans Act.

The U.S. Administration for Community Living requires that the proposal be made available for public review, including a 30-day comment period, within the State. The comment period is only on the proposed one-year extension of the Plan, and not the Plan itself. A copy of the current Plan is included and is for reference only.

Thank you.

Sincerely,

Robert E. Roswall
Commissioner

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

Robert E. Roswall
Commissioner

May 18, 2020

Re: 76-04

FILED
2020 MAY 18 P 12:41

WV Secretary of State's Office
1900 Kanawha Boulevard, East
Charleston, WV 25305

The Bureau is requesting a waiver stating that the current four-year Plan (October 1, 2016 – September 30, 2020) be extended one year, to be due on October 1, 2021, under Section 307(a) plan duration limit under Section 316(a) of the Older Americans Act.

The U.S. Administration for Community Living requires that the request for a one-year extension of the Plan be made public, including a 30-day comment period, within the State.

The 30-Day Comment Period begins Tuesday, May 19, 2020 and ends at the close of business on Wednesday, June 17, 2020. The comment period is only on the proposed one-year extension of the Plan, and not the Plan itself. All supporting documents can be viewed at https://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=17213&KeyWord= .

All comments are to be written comments and mailed to the attention of:

Commissioner Robert E. Roswall
WV Bureau of Senior Services
1900 Kanawha Blvd., East
Charleston, WV 25305

Thank you.

Sincerely,

Robert E. Roswall
Commissioner

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

5/15/2020 10:57 AM

Office of West Virginia
Secretary Of State

INTERPRETIVE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL RULE

AGENCY: Senior Services TITLE-SERIES: 76-03

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

RULE NAME: West Virginia State Plan for Aginig Programs-Title V

CITE STATUTORY AUTHORITY: WV Code 16-P-1

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

July 1, 2020

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

Yes

Robert E Roswall -- 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
5/15/2020 5:49:14 PM
Office of West Virginia
Secretary Of State

EMERGENCY

NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE

AGENCY: Health TITLE-SERIES: 64-114

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: PUBLIC HEALTH STANDARDS FOR BUSINESSES REMAINING OPEN DURING THE COVID-19 OUTBREAK

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

16-3-1, 16-1-4, and 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:

n/a

DATE EMERGENCY RULE WAS ORIGINALLY FILED: 04/16/2020

DATE(S) OF PREVIOUS EMERGENCY AMENDMENT(S)

04/21/2020

PRIMARY CONTACT:

NAME: April L Robertson
ADDRESS: One Davis Square Suite 100 East
Charleston, WV 25301
EMAIL: april.l.robertson@wv.gov
PHONE NUMBER: 304-558-9149

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE May 15, 2020
ADMINISTRATIVE LAW DIVISION

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Bureau for Public Health

RULE: 64 CSR 114. Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak

STATUTORY AUTHORITY: W. Va. Code §§ 16-3-1, 16-1-4, 29A-3-15.

DATE FILED AS AN EMERGENCY RULE: May 15, 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;

____ (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): This emergency rule amendment updates originally approved Emergency Rule to reflect changing emergency situations and to clarify certain ambiguous provisions.

Donald Kersey, General Counsel
WV Secretary of State's Office

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
5/15/2020 11:05:51 AM
Office of West Virginia Secretary Of State

EMERGENCY

NOTICE OF AN EMERGENCY RULE

AGENCY: Lottery Commission TITLE-SERIES: 179-10

RULE TYPE: Legislative Amendment to Existing Rule: No

RULE NAME: West Virginia Lottery Interactive Wagering Rule

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W.Va. Code ss29-22E-4(c); W.Va. Code ss29-22A-1 et seq.; W.Va. Code ss29A-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:

W.Va. Code ss 29-22E-4(c); rules proposed by the commission before July 1, 2020, may be promulgated as emergency rules

PRIMARY CONTACT:

NAME: Tracy L. Webb

ADDRESS: 900 Pennsylvania Avenue

Charleston, WV. 25327

EMAIL: twebb@wvlottery.com

PHONE NUMBER: 304-558-1845

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 MAY 18 A 11:45

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Lottery Commission

RULE: 179-10: West Virginia Lottery Interactive Wagering Rule

STATUTORY AUTHORITY: W. Va. Code §29-22E-4(c); W. Va. Code §29-22A-1 *et seq*; W. Va. Code §29A-3-15

DATE FILED AS AN EMERGENCY RULE: 15 MAY 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/Disapproved).

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):

____ (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

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

Additional notes or comments (if any): See W. Va. Code § 29-22E-4(c) (statutory Emergency Rule filing authority for pre-July rules)

Donald Kersey, General Counsel
WV Secretary of State's Office

Orders Report

Docket Number	Agency	Respondent	Date Rendered
20-10-11841-X	Health Care Authority	Harmony Behavioral Health	5/15/2020
20-1-11839-X	Health Care Authority	Princeton Community Hospital Association, Inc.	5/15/2020

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 37-20

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, Executive Order 3-20 specifically closed all fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities throughout the 55 counties of this state; and

WHEREAS, since the issuance of Executive Order 3-20, 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 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, to be based upon 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, under the Comeback Plan, 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, under the Comeback Plan, Executive Order 32-20 and Executive Order 36-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to re-open or expand their operations, provided that certain safety measures are in place; and

WHEREAS, re-opening additional segments of the state's economy in accordance with 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 allowing for the reopening of fitness centers, gymnasiums, recreation centers, and similar facilities, in addition to the wellness centers allowed to resume operations under Executive Order 36-20, 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 Eighteenth 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. Executive Order 3-20, as amended by Section 1 of Executive Order 36-20, as it relates to the closure of fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities, is hereby terminated and without further effect; provided that wellness center facilities, fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities must operate in accordance with any requirements, limitations, or restrictions relating to such facilities that have been or may be issued or imposed from time to time.
2. Section 3 of Executive Order 9-20, as previously amended and supplemented by Executive Order 32-20 and Executive Order 36-20, is hereby further amended and supplemented as follows to allow fitness centers, gymnasiums, recreation centers, and similar businesses or entities that meet the criteria provided below to resume operation by the addition of the following subsection:

   "bb. **Fitness centers, gymnasiums, recreation centers, and similar businesses or entities.** Fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities may resume operation, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such fitness centers, gymnasiums, recreation centers, and similar businesses or entities, *Guidance for Fitness Centers, Gymnasiums, and Recreation Centers*, is available at governor.wv.gov."

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 Fifteenth day of May, 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. 38-20

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 Orders 20-20, 21-20, 22-20, 24-20, and 25-20 ordered additional heightened measures to be taken in certain counties 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 such counties; and

WHEREAS, since the issuance of Executive Order 9-20, as well as Executive Orders 20-20, 21-20, 22-20, 24-20, and 25-20, the 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, Executive Order 29-20, Executive Order 33-20, and Executive Order 34-20 previously terminated the additional heightened measures ordered by Executive Order 20-20 with respect to Morgan County, Executive Order 21-20 with respect to Kanawha County, Executive Order 24-20 with respect to Cabell County, Ohio County, Wayne County, and Wood County, and Executive Order 25-20 with respect to Jackson County; and

WHEREAS, the state's public health experts have advised of a new methodology to determine whether any counties of this State should be subject to a new "high-alert" status and attendant response measures and that it is appropriate at this time to terminate the particular measures previously ordered by Executive Order 20-20 with respect to the remaining counties subject to that Order, being Berkeley County and Jefferson County, by Executive Order 21-20 with respect to the remaining counties subject to that Order, being Harrison County and Monongalia County, and by Executive Order 22-20 with respect to Marion County as the only county subject to that Order;

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 Nineteenth day of May, Two Thousand Twenty, that Executive Order 20-20, Executive Order 21-20, and Executive Order 22-20 are each terminated in their entirety and are without further effect.

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 Eighteenth day of May, 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. 39-20

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 certain small businesses 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 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, to be based upon 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, under the Comeback Plan, Executive Order 32-20, Executive Order 36-20, and Executive Order 37-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to re-open or expand their operations, provided that certain safety measures are in place; and

WHEREAS, re-opening additional segments of the state's economy in accordance with 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 allowing for the reopening and/or expansion of certain types of businesses and activities in this state, including indoor dining, tanning businesses, retail stores and malls, state park campgrounds for in-state residents, the Hatfield McCoy Trail System, outdoor recreation rental businesses, whitewater

rafting businesses, ziplining businesses, and spectator-less outdoor motorsport and powersport racing, is appropriate at this time; and

WHEREAS, West Virginia's public health experts have likewise advised that lifting the requirement for out-of-state travelers into West Virginia to mandatorily self-quarantine for 14 days, pursuant to Executive Order 14-20, 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 Twenty-first 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, as previously amended by Executive Order 32-20 and Executive Order 36-20, are hereby further amended and supplemented as follows:
    a. Section 2 is hereby deleted in its entirety and replaced with the following to remove certain limitations on retail businesses as they are, by this Order, deemed essential so may resume or continue operations as such:
        "2. **Non-essential businesses and operations must generally continue to temporarily cease operations, but certain home-based and small businesses may continue to operate.** 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 businesses which historically have more limited customer traffic of approximately 50 customers or less per day, may continue to operate, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such small businesses, *Guidelines for West Virginia Small Businesses*, is available at governor.wv.gov."
    b. Section 3, subsection (c) is hereby deleted in its entirety and replaced with the following to allow for on-premises consumption of food and/or drinks at restaurants, provided that indoor seating occupancy must at this time be limited to 50% of such restaurant's seating capacity:
        "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 limited on-premises consumption of food and/or drinks on such property as the restaurant or other facility owns or has a right to occupy or use, or for consumption off-premises, through such means as take-away, delivery, or drive-through/drive in, in accordance with the applicable guidelines for restaurants, *A Guide to Safely Opening our Restaurants Through Takeaway Service & Outdoor Dining* and *A Guide to Safely Opening Restaurants*, both available at governor.wv.gov, including a limitation on indoor seating occupancy of 50% of such restaurant's or other facility's seating capacity. 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."

c. Section 3 is hereby amended and supplemented by the addition of the following subsections to include tanning businesses and retail businesses as essential businesses:

"bb. **Tanning Businesses.** Businesses that offer tanning services may operate, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such tanning businesses, *A Guide to Safely Reopening Tanning Businesses*, is available at governor.wv.gov."

"cc. **Retail Businesses** Retail businesses, including those located inside of malls (and to include the operations of malls themselves), may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such retail businesses, *A Guide to Safely Reopening Larger Retail Stores* and *Guidance for Malls and Similar Facilities*, is available at governor.wv.gov."

d. Section 4, as amended, is hereby deleted in its entirety and replaced with the following to allow for spectator-less motorsports and powersports racing, the Hatfield McCoy Trail System, outdoor recreation outfitters, whitewater rafting companies, and zipline outfitters to resume operations, provided that certain safeguards are in place:

"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, children's play centers, playgrounds, bowling alleys, movie and other theaters (except for drive-in movie theaters which ensure that proper social distancing and hygiene practices are maintained, and operated in accordance with the *Guidance for West Virginia Drive-In Movie Theaters*, available at governor.wv.gov), 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; and except for outdoor motorsport or powersport racetracks or venues, which shall not allow any in-person spectators but which may allow for operation in accordance with the guidance, *A Guide to Safely Reopening Outdoor Motorsport and Powersport Racing*, available at governor.wv.gov), social clubs, and other similar businesses shall be closed; provided, however, that the following specific outdoor recreational businesses and activities may resume operations as follows:

a. The Hatfield McCoy Trail System may reopen in accordance with the guidance, *A Guide to Safely Opening & Operating the Hatfield McCoy Trail System*, available at governor.wv.gov;

b. Outdoor recreation outfitters may reopen in accordance with the guidance, *A Guide to Safely Reopening Outdoor Recreation Outfitters*, available at governor.wv.gov;

c. Whitewater rafting businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Whitewater Rafting*, available at governor.wv.gov; and

d. Ziplining businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Zipline Outfitters*, available at governor.wv.gov."

2. Executive Order 2-20, as amended by Executive Order 32-20, as it relates to the prohibition against on-premises consumption of food or drink or occupancy by the general public at restaurants for purposes other than picking up food and/or drink from such establishment to be taken away, is hereby amended to provide that all restaurants and other facilities that prepare and serve food and/or drinks may operate, but only for limited on-premises consumption of food and/or drinks on such property as the restaurant or other facility owns

or has a right to occupy or use, or for consumption off-premises, through such means as take-away, delivery, or drive-through/drive in, in accordance with the applicable guidelines for restaurants, *A Guide to Safely Opening our Restaurants Through Takeaway Service & Outdoor Dining* and *A Guide to Safely Opening Restaurants*, both available at governor.wv.gov, including a limitation on indoor seating occupancy of 50% of such restaurant's or other facility's seating capacity.

3. The provisions of Executive Order 8-20 relating to the closure of the Hatfield McCoy Trail System are hereby terminated, but the provisions of Executive Order 8-20 relating to the closure of West Virginia state park lodges shall remain in effect.
4. Executive Order 14-20, ordering the closure of state park campgrounds and requiring that all individuals who are travelling from areas with substantial community spread of COVID-19 self-isolate for a period of 14 days upon entry to West Virginia, is hereby terminated in its entirety and without further effect.
5. State park campgrounds may reopen to residents of the state of West Virginia, provided, however, that all state park campgrounds shall remain closed to any new arrivals to such state park campground who have traveled from outside of West Virginia, provided that this prohibition against out of state arrivals at state park campgrounds shall not apply to any individuals involved in commercial activity, including without limitation individuals involved in commercial trucking activities and individuals who commute into or out of the state for work, persons performing any emergency, health, military, or infrastructure response activities necessitating lodging in the state, or persons otherwise engaged in and who must remain in or travel into the state for the purposes of conducting Essential Businesses and Operations under the terms of Executive Order 9-20, as amended.

[Signature Page Follows]

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 Nineteenth day of May, 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

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

FILED
2020 MAY 18 A 11:00
OFFICE WEST VIRGINIA SECRETARY OF STATE

May 18, 2020

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **May 15, 2020**.

APPLICATION FOR EXEMPTION RECEIVED

May 11, 2020 – Williamson Health and Wellness Center, Inc., Williamson, Mingo County, CON File #20-2-11850-X, for the development of a residential treatment unit located at 859 Alderson Street, 3rd Floor, Williamson.

PROJECT DETERMINED NOT REVIEWABLE

May 15, 2020 – Princeton Community Hospital Association, Inc., Princeton, Mercer County, CON File #20-1-11839-X, for the provision of professional services, including hospitalist services, through its employed physicians and other non-physician practitioners, including advanced practice registered nurses and physician assistants, at its wholly owned subsidiary, Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center; no capital expenditure.

EXEMPTION APPLICATION APPROVED

May 15, 2020 - Harmony Behavioral Health, Morgantown, Monongalia County, CON File #20-10-11841-X, for the provision of behavioral health services in Wheeling, Ohio County.

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

OTHER

State of West Virginia
Board of Medicine

FILED
2020 MAY 21 A 10:59
OFFICE WEST VIRGINIA SECRETARY OF STATE

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Charleston, WV 25311
Telephone (304) 558-2921
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KISHORE K. CHALLA, MD, FACC
PRESIDENT

ASHISH PAREEK, MD
VICE PRESIDENT

CATHERINE C. SLEMP, MD, MPH
SECRETARY

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

May 21, 2020

VIA EMAIL
West Virginia Secretary of State
Administrative Law Division
Maureen Lewis, Director
Bldg. 1, Suite 157-K
1900 Kanawha Blvd, East
Charleston, WV 25305
mlewis@wvsos.com

Re: Filing in the State Register of Orders
Joshua Mordechai Muyderman, MD

Ms. Lewis:

I write in follow-up to our telephone conversation of earlier this morning. On May 12, 2020 the West Virginia Board of Medicine submitted a Consent Order in the matter of Joshua Mordechai Muyderman, MD that we subsequently determined is not final. The final version of the Consent Order is being recirculated for re-signature and will be resubmitted in final form in the coming days. The Board respectfully requests that the previous submission be retracted from the State Register of Orders that was published in the Register on May 15, 2020. Please also purge the order out of your database of administrative agency orders.

Thank you for your time and attention to this matter. If you have any questions, please feel free to contact me.

Sincerely,

Joseph Lewis
Paralegal