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Administration Law Division

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

Community & Technical College Education

Health and Human Resources

Bureau for Medical Services

Health Care Authority

Human Services

Insurance Commission

Lottery Commission

Medicine, WV Bd. of

Water Development Authority

CHRONOLOGICAL INDEX, VOLUME XXXVII ISSUE 24			
NO NEW RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Community and Technical College Education (135-01)	Carl D. Perkins Vocational and Technical Education Act Funding Formula for WV Council for Community and Technical College Education and WV State Board of Education Procedural	§18B-2B-6	Written Comments Only July 13, 2020, 4:00 pm Sarah Armstrong Tucker, Chancellor 1018 Kanawha Blvd. East, Suite 700 Charleston, WV 25301 tucker@wvctcs.org
Lottery Commission (179-10)	West Virginia Lottery Interactive Wagering Act Legislative	§§29-22E-4(c), 29-22A-1	Written Comments Only July 11, 2020, 5:00 pm WV Lottery Attn: Kim Lamb PO Box 2067 Charleston, WV 25327 klamb@wvlottery.com

NO NEW EMERGENCY RULES FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE OF HEARING**

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State of West Virginia

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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

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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	31	DIETITIANS
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TITLE	38	MINING AND RECLAMATION
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TITLE	47	WATER RESOURCES, DIV. OF WATER AND WASTE MGMT.
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION – SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH AND HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	87	FIRE COMMISSION
TITLE	89	PUBLIC DEFENDER SERVICES
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	114	INSURANCE COMMISSION
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMMISSION
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY AND TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	145	DEVELOPMENT OFFICE
TITLE	146	STATE ELECTION COMMISSION
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TITLE	150	PUBLIC SERVICE COMMISSION
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TITLE	155	AUDITOR
TITLE	157	HIGWAYS
TITLE	164	SCHOOL BUILDING AUTHORITY
TITLE	174	REAL ESTATE COMMISSION
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
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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 (61-29)	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
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 (36-18)	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 (135-01)	Carl D. Perkins Vocational & Technical Education Act Funding Formula for WV Council for Community & Technical College Ed. & WV State Board of Ed. Procedural	6/11/2020	7/13/2020						
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	6/2/2020	7/2/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
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						
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 (64-114)	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 Effective 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	6/2/2020	7/2/2020
Higher Education Policy Commission (133-26)	Underwood-Smith Teacher Scholarship Legislative	9/30/2019	10/30/2019		11/5/2019		BUNDLED 4480	6/2/2020	7/2/2020
Higher Education Policy Commission (133-49)	Accountability System Legislative	6/17/2019	7/17/2019		7/18/2019	Approved 10/4/2019	BUNDLED 4480	6/2/2020	7/2/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Housing Development Fund (88-03)	Purchasing Procedure Procedural	4/22/2020	5/22/2020						
Lottery (179-10)	WV Lottery Interactive Wagering Rule Legislative	6/11/2020	7/11/2020	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	6/1/2020	7/1/2020
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	6/1/2020	7/1/2020
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		

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
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	6/5/2020				
Pharmacy (15-02)	Uniform Controlled Substances Act Legislative	4/30/2020	5/31/2020	4/1/2020 Approved 4/1/2020	6/5/2020				
Pharmacy (15-12)	Immunizations Administered by Pharmacist and Pharmacy Interns Legislative	5/1/2020	6/2/2020	4/20/2020 Approved 4/20/2020	6/5/2020				
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
Public Service Commisison (150-39)	Rules Governing Siting Certificates for Solar Exempt Wholesale Generators Legislative Exempt	5/28/2020	6/29/2020						
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

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
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 Effective 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
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

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax (110-21F)	The Coal Severance Tax Rebate Interpretive	6/5/2020	7/6/2020						
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					6/11/2020	7/11/2020
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 3/20/2020	3/26/2020 4/20/2020						

West Virginia Secretary of State Mac Warner Administrative Law Division	DO NOT MARK IN THIS BOX FILED 2020 JUN 10 P 2:07 OFFICE WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: CAS-ADP-1-2020

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:
West Virginia code changes, child summary changes, and subsidy increase request protocol. Please replace the entire Adoption Policy Chapter dated March 17, 2020 of the Social Service Manual and replace it with this version, dated June 2020.

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

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

West Virginia Secretary of State Mac Warner Administrative Law Division	DO NOT MARK IN THIS BOX FILED 2020 JUN 10 P 2:13 OFFICE WEST VIRGINIA SECRETARY OF STATE

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: CAS-APS-20-1

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:
Revisions made to the Adult Protective Services (APS) policy include removing the term incapacitated adult and replacing it with vulnerable adult; definition changes for APS, abuse, neglect, financial exploitation, caregiver, and fiduciary; adding definition of undue influence when considering allegations of maltreatment; removing ombudsman as mandated reporters; changes to criteria required to open APS cases; immediate response time changed from 0-2 hours to 0-24 hours; formatting and layout changes throughout the entire policy; combining sections to provide clarification and to remove repetitiveness; and removal and revisions to appendices.

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

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

West Virginia Secretary of State Mac Warner Administrative Law Division	DO NOT MARK IN THIS BOX FILED 2020 JUN 10 P 2:09 OFFICE OF WEST VIRGINIA SECRETARY OF STATE

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West Virginia Secretary of State Mac Warner Administrative Law Division	DO NOT MARK IN THIS BOX FILED 2020 JUN 10 P 2:06 OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: CAS-CPS-2-2020

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:
Click or tap here to enter text.
Child Protective Services policy changes are related to WV State Code changes, response to domestic violence protocols and practice, and Family Court requirements.

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

Alice Hamilton, LSW
Health and Human Resource Specialist, Senior
350 Capitol Street, Room 691
Charleston, WV 25301-3704

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: CAS-FC-1-2020

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:
Revisions relating to new and amended West Virginia code surrounding foster children, foster parents, kinship/relative caregivers, adjustments to child welfare procedures and practices, and newly added definitions. Please delete the entire Foster Care Policy Chapter dated October 11, 2019 of the Social Service Manual and replace it with this version dated June 2020.

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

Kendra Boley-Rogers
Health and Human Resource Specialist, Senior
350 Capitol Street, Room 691
Charleston, WV 25301-3704

West Virginia Secretary of State Mac Warner Administrative Law Division	DO NOT MARK IN THIS BOX FILED 2020 JUN 10 P 2:10 OFFICE WEST VIRGINIA SECRETARY OF STATE

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West Virginia Secretary of State 1900 Kanawha Blvd, East, Charleston, WV 25305 Administrative Law Division	DO NOT MARK IN THIS BOX FILED 2020 JUN 10 P 2:12 OFFICE WEST VIRGINIA SECRETARY OF STATE

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: CAS-HF-1-2020

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:
Revisions relating to new and amended West Virginia code surrounding foster children, foster parents, kinship/relative caregivers, and adjustments to child welfare procedures and practices. Please delete the entire Homefinding Policy Chapter dated October 11, 2019 of the Social Service Manual and replace it with this version dated June 2020.

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

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

Changes to Social Services Manual

Agency: Department of Health and Human Resources

Bureau: Bureau for Children and Families

Rule: 78 - 5

Change Rule: YS-3-20 Policy Update

Revision to Existing Manual: ☒ Yes ☐ No

Summary of Changes:

- The definition of Comprehensive Child Welfare Information System (CCWIS) has been added to Definitions on page 10.
- FAST assessment completion time frame requirements were added to pages 23 and 27
- Information about the preference of a child and kinship/relative options when placement is necessary has been added to page 51

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

Evan C. Sprigle
Health and Human Resource Specialist, Senior
350 Capitol Street, Room 691
Charleston, WV 25301-3704

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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6/11/2020 12:25:48 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Lottery Commission TITLE-SERIES: 179-10

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

RULE NAME: West Virginia Lottery Interactive Wagering Act

CITE STATUTORY AUTHORITY: W.Va. Code 29-22E-4(c), 29-22A-1, 29A-3-15

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/11/2020 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: WV Lottery Attn. Kim Lamb

ADDRESS: PO BOX 2067

Charleston, WV 25327

EMAIL: klamb@wvlottery.com

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

INCORPORATED BY REFERENCE: No

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/11/2020 1:47:57 PM
Office of West Virginia
Secretary Of State

PROCEDURAL

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Community And Technical College Education TITLE-SERIES: 135-01

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

RULE NAME: Carl D. Perkins Vocational and Technical Education Act Funding Formula for West Virginia Council for Community and Technical College Education and West Virginia State Board of Education

CITE STATUTORY AUTHORITY: 18B-2B-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/13/2020 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Sarah Armstrong Tucker, Chancellor

ADDRESS: 1018 Kanawha Blvd., East, Suite 700

Charleston, WV 25301

EMAIL: tucker@wvctcs.org

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

INCORPORATED BY REFERENCE: No

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/11/2020 11:13 AM
Office of West Virginia
Secretary Of State

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

AGENCY: Water Development Authority TITLE-SERIES: 44-04

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

RULE NAME: PURCHASING PROCEDURE

CITE STATUTORY AUTHORITY: 22C-1-6

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

July 11, 2020

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

Yes

Tina Parker -- 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.

Orders Report

Docket Number	Agency	Respondent	Date Rendered
20-AP-FINCON-02008	**Insurance Commission**	SummitPoint Insurance Company	6/3/2020
20-AP-FINCON-02009	**Insurance Commission**	Brickstreet Mutual Insurance Company	6/3/2020
20-AP-FINCON-02010	**Insurance Commission**	PinncalePoint Insurance Company	6/3/2020
20-PLTER-02016	**Insurance Commission**	Jennifer Ann Reilly	5/21/2020
20-FINCON-02003	**Insurance Commission**	Bankers Life Insurance Company	6/3/2020
20-FINCON-02001	**Insurance Commission**	Colorado Bankers Life Insurance Company	6/3/2020
19-69-W	**Medicine, West Virginia Board Of**	Joshua Mordechai Muyderman, MD	6/4/2020

WEST VIRGINIA ETHICS COMMISSION CONTRACT EXEMPTION	
NO.	**OPINION SOUGHT**
2020-04	The Town of Reedsville seeks an exemption to contract with a company owned by its Mayor to perform tree trimming services.

Grievances Report

Docket Number	Grievants Name	Respondents Name	Date Decision
2017-1651-BooED	**Jerriann Maxwell Cochran**	Boone County Board Of Education	5/1/2020
2016-1043-SU	**Jeremy Cooper**	Shepherd University	5/1/2020
2017-1060-MAPS	**Tabitha N. Hewitt**	Division Of Corrections	5/1/2020
		Salem Correctional Center	5/1/2020
2016-0702-DOE	**Bonnie Springle Scarborough**	Department Of Education	5/1/2020
		Office of Institutional Education Programs	5/1/2020
2020-0500-UpsED	**Jacqueline Lee Zuliani**	Upshur County Board Of Education	5/1/2020
2019-1134-DHHR	**Derek Lawson**	Department Of Health And Human Resources	5/1/2020
		Jackie Withrow Hospital	5/1/2020
2020-0116-MU	**Krystal Louise McPherson**	Marshall University	5/1/2020
2020-0543-DHHR	**Candus Washington**	Department Of Health And Human Resources	5/5/2020
		Bureau For Children And Families	5/5/2020
2020-1031-DOC	**Heather R. Kessel**	Division Of Natural Resources	5/6/2020
2016-1081-LinED	**Dane Baker**	Lincoln County Board Of Education	5/8/2020
2016-1086-DOE	**Russell E. Conrad**	Department Of Education	5/8/2020
		Schools For The Deaf And The Blind	5/8/2020
2017-1063-MAPS	**Paul D. Hileman**	Regional Jail and Correction Facility Authority	5/8/2020
		Southwestern Regional Jail	5/8/2020
2017-1067-MAPS	**Leah Marie Osborne**	Division Of Corrections	5/8/2020
		Anthony Correctional Center	5/8/2020
2016-0947-LinED	**Charlie Parker**	Lincoln County Board Of Education	5/8/2020
2017-1276-MAPS	**James A. Simmons**	Division Of Corrections	5/8/2020
		Charleston Correctional Center	5/8/2020
2020-0494-KanED	**Shawn Miller**	Kanawha County Board Of Education	5/14/2020

6/8/2020 11:52:31 AM

2020-0544-DHHR	**Jeremy Christopher Adams**	Department Of Health And Human Resources	5/15/2020
		Bureau For Children And Families	5/15/2020
2020-0056-MasED	**Catherine M. Kirby**	Mason County Board Of Education	5/15/2020
2016-1358-MinED	**Tammy Salmons**	Mingo County Board Of Education	5/15/2020
2020-0736-DHHR	**Patricia L. Smith**	Department Of Health And Human Resources	5/15/2020
		Bureau For Children And Families	5/15/2020
2017-1083-WayED	**Tyson Smith**	Wayne County Board Of Education	5/15/2020
2018-0444-MrnED	**Lisa Ellen May**	Marion County Board Of Education	5/15/2020
2019-1336-CONS	**Crystal Lynn Kendall, et al.**	Department Of Health And Human Resources	5/19/2020
		Bureau For Children And Families	5/19/2020
2019-0878-KanED	**Lydia Pottorff**	Kanawha County Board Of Education	5/19/2020
2020-0912-WodED	**Chere L. Jenkins**	Wood County Board Of Education	5/22/2020
2020-0127-DOT	**Chris Means**	Division of Highways	5/22/2020
2020-0010-DOC	**James Coleman Showalter**	Division of Labor	5/22/2020
2019-0710-CONS	**Richard Brumfield, et al.**	Wayne County Board Of Education	5/26/2020
2020-0769-LinED	**Regina Burch**	Lincoln County Board Of Education	5/26/2020
2019-1604-WayED	**Clara C. Wheeler**	Wayne County Board Of Education	5/26/2020
2020-0649-DHHR	**Kelly D. White**	Department Of Health And Human Resources	5/26/2020
		Bureau For Children And Families	5/26/2020
2020-1421-OSTEO	**Christopher Lambert**	West Virginia School of Osteopathic Medicine	5/27/2020
2020-1454-WetED	**Kathi Schmalz**	Wetzel County Board Of Education	5/27/2020
2020-1014-DHHR	**Barbara Brumbaugh**	Department Of Health And Human Resources	5/29/2020
		Mildred Mitchell-Bateman Hospital	5/29/2020
2020-0097-DOT	**Joseph Carney**	Division of Highways	5/29/2020
2019-1166-DHHR	**Jeff Martin**	Department Of Health And Human Resources	5/29/2020
		Mildred Mitchell-Bateman Hospital	5/29/2020
		Division Of Personnel	5/29/2020

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 43-20

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 reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening 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 reopening, to be based upon certain metrics and conditions to safely reopen 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, Executive Order 37-20, Executive Order 39-20, Executive Order 40-20, Executive Order 41-20, and Executive Order 42-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to reopen or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen 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 activities in this state, including little league baseball and softball, school-sanctioned summer band and athletics programs, and other low-contact sports, with a prohibition on spectators at any events until June 22, 2020, is appropriate at this time; and

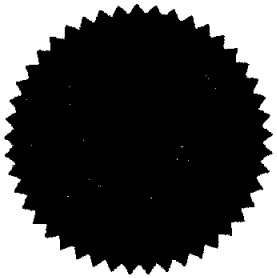
NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:01 AM, Eastern Standard Time, on the Eighth day of June, 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 Orders 32-20, 36-20, 37-20, 39-20, 40-20, 41-20, and 42-20 are hereby further amended and supplemented as follows:
    a. Section 3, subsection (o) is hereby deleted in its entirety and replaced with the following:
        "o. **Educational institutions.** Educational institutions including public and private pre-K-12 schools, colleges, and universities for purposes of facilitating distance learning, performing critical research, or performing essential functions including providing for the delivery or pick-up of food for school age children; provided that proper social distancing of six feet between persons is maintained to the greatest extent possible; and provided that educational institutions may resume operations of summer band training programs and of school-sanctioned low-contact sports activities including as of June 8, 2020 practice activities and as of June 22, 2020 games or other competitions. Additional guidance, *Safety Guidance for Low-Contact Sports*, is available at governor.wv.gov."
    b. Section 3 is hereby amended and supplemented by the addition of the following subsections to include low-contact sports:

"ll. **Low-Contact Sports.** Low-contact sports, including by way of example only baseball and softball, soccer, disc golf, golf, and tennis, and facilities that host such low-contact sports may resume operations, provided that any in-person spectators are prohibited until June 22, 2020; little league baseball and softball and West Virginia Secondary School Activities Commission sanctioned extracurricular activities may resume operations for practice activities as of June 8, 2020 and for games and other competitions, with spectators, as of June 22, 2020, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance, *Safety Guidance for Low-Contact Sports* and *West Virginia Secondary School Activities Commission Recommendations and Guidelines for Summer 2020*, is available at governor.wv.gov."

[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 Fifth day of June, 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. 44-20

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, Executive Order 15-20 ordered all private campgrounds to be closed to any new arrivals who had traveled from outside of West Virginia, with certain exemptions, Section 5 of Executive Order 39-20 ordered State park campgrounds to be closed to any new arrivals who had traveled from outside of West Virginia, with certain exemptions, and Section 4 of Executive Order 23-20 ordered that all golf courses mandate a limit of one individual per golf cart for individuals who do not reside together; and

WHEREAS, since the issuance of Executive Orders 9-20, 15-20, 23-20, 39-20, 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 reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening 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 reopening, to be based upon certain metrics and conditions to safely reopen 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, Executive Order 37-20, Executive Order 39-20, Executive Order 40-20, Executive Order 41-20, Executive Order 42-20, and Executive Order 43-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to reopen or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen 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

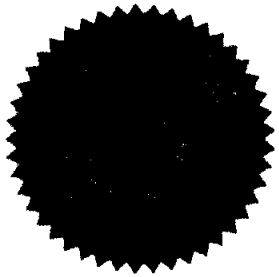
WHEREAS, West Virginia's public health experts have advised that allowing for the reopening and/or expansion of certain types of activities in this state, including allowing out-of-state visitors to stay in the private and public campgrounds of this State for a term of stay of up to seven consecutive days, and modifying the restriction on golf cart occupancy, 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 Tenth day of June, 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 15-20, ordering all private campgrounds to be closed to any new arrivals who had traveled from outside of West Virginia, with certain exemptions, is hereby terminated in its entirety and without further effect.
2. The provisions of Section 5 of Executive Order 39-20, ordering State park campgrounds to be closed to any new arrivals who had traveled from outside of West Virginia, with certain exemptions, is hereby terminated in its entirety and without further effect.
3. Private campgrounds and state park campgrounds may allow new arrivals to such campgrounds who have traveled from outside of West Virginia for a term of stay of up to seven consecutive days, provided that this limitation on the term of stay for out of state arrivals at private campgrounds and state park campgrounds shall not apply to any individuals who maintain a semi-permanent or permanent residence at such campgrounds or 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.
4. Section 4 of Executive Order 23-20, mandating a limit of one individual per golf cart for individuals who do not reside together, is hereby terminated and without further effect; provided that all public and private golf courses shall continue to mandate proper hygiene and sanitary procedures in line with applicable West Virginia Department of Health and Human Resources guidelines and cleaning protocols, shall continue to mandate proper social distancing, and should continue to encourage all individuals who are physically able to do so to walk rather than use golf carts to decrease contact with common surfaces at such golf courses. Additional guidance, *Safety Guidance for Low-Contact Sports*, is available at governor.wv.gov.

[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 Eighth day of June, 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

PUBLIC NOTICE

FILED

2020 MAY 28 P 3:20

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

OTHER

WEST VIRGINIA MEDICAID PROGRAM

STATE PLAN AMENDMENT 20-001

REGARDING

CHIROPRACTOR'S SERVICES

Pursuant to 42 U.S.C. §1396a(a)(13)(1997) and 42 C.F.R. §447.205, the Department of Health and Human Resources ("Department"), Bureau for Medical Services ("BMS") provides notice of the filing of a state plan amendment (SPA), identified as SPA 20-001, regarding the Chiropractor's Services under West Virginia Medicaid. The SPA-2001, Chiropractic Services mean services, including any necessary supplies and equipment provided to a recipient by or under the direction of a qualified chiropractor within the scope of his or her practice under State law. A "chiropractor" is an individual who meets qualifications specified in regulations are 42 CFR 440.60(b) and is licensed pursuant to West Virginia law. No referral or prior authorization is required for up to 20 visits, combined, of physical therapy, occupational therapy, and chiropractic services.

This SPA will be effective April 1, 2020, pending CMS approval. The estimated annual fiscal year impact will be $900,000.

The SPA and this notice will be available for public inspection in each county office of the Department of Health and Human Resources during normal business hours, 8:30 a.m. to 4:30 p.m., beginning Wednesday, June 3, 2020, through Friday, July 3, 2020 and on the web at: www.dhhr.wv.gov/bms, then click "Public Notices" on the top toolbar.

Written comments may be sent between the above referenced dates to the West Virginia Department of Health and Human Resources, Bureau for Medical Services, 350 Capitol Street, Suite 251, Charleston, WV 25301-3706, or by email at SPAComments@wv.gov. Any written comments received will be available for review at the above address during normal business hours, 8:30 a.m. to 4:30 p.m.

PUBLIC NOTICE

FILED

2020 MAY 28 P 3:35

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

WEST VIRGINIA MEDICAID PROGRAM

STATE PLAN AMENDMENT 20-002

REGARDING

DENTAL SERVICES

Pursuant to 42 U.S.C. §1396a(a)(13)(1997) and 42 C.F.R. §447.205, the Department of Health and Human Resources ("Department"), Bureau for Medical Services ("BMS") provides notice of the filing of a state plan amendment (SPA), identified as SPA 20-002, regarding the Dental Services under West Virginia Medicaid.

SPA 20-002: Dental practitioners who provide covered dental services shall be reimbursed, by procedure, utilizing the American Dental Association Survey of Dental Fees for the Southern Atlantic Region Norms. The 25 percentile of the Southern Atlantic Regional Survey constitutes the Medicaid cap.

Physicians who provide covered oral and maxillofacial services shall be reimbursed by the upper limit utilizing a Resource-Based Relative Value (RBVU) for the procedure times a conversion factor as determined by the type of service. The conversion factors were developed using utilization and payment level data for the defined service group. Payment shall not exceed the provider's usual customary charge to the public. The agency's rates are reviewed annually and published on the website (http://dhhr.wv.gov/bms/FEES/Pages/Dental-Fee-Schedule.aspx) with an effective date for payment implementation. Except as otherwise noted in the plan, State developed fee Schule rates are the same for both governmental and private providers.

Administration of anesthesia services shall be reimbursed by Current Dental Terminology (CDT) codes based on an average American Society of Anesthesiologist based units (for Head Procedures) plus time units multiplied by the anesthesia conversion factor. Payment shall not exceed the provider's usual customary charge to the public

This SPA will be effective April 1, 2020, pending CMS approval. The schedule 10% increase, effective April 1, 2020, would increase annual costs by $7,500,000.

The SPA and this notice will be available for public inspection in each county office of the Department of Health and Human Resources during normal business hours, 8:30 a.m. to 4:30 p.m., beginning Wednesday, June 3, 2020, through Friday, July 3, 2020 and on the web at: www.dhhr.wv.gov/bms, then click "Public Notices" on the top toolbar.

Written comments may be sent between the above referenced dates to the West Virginia Department of Health and Human Resources, Bureau for Medical Services, 350 Capitol Street, Suite 251, Charleston, WV 25301-3706, or by email at SPAComments@wv.gov. Any written comments received will be available for review at the above address during normal business hours, 8:30 a.m. to 4:30 p.m.

OTHER

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

FILED

2020 JUN -8 A 10:24

June 8, 2020

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **June 5, 2020**.

LETTERS OF INTENT RECEIVED

June 2, 2020 – Oak Hill Clinic Corp. d/b/a Plateau Medical Group, Franklin, Tennessee, CON File #20-1-11863-P, for the development of an ambulatory care center, including the offering of general surgery consultation services and post-surgical follow up, at 102 Brookshire Lane, Beckley, Raleigh County; capital expenditure: $10,000.

June 5, 2020 – Lighthouse Resources, Inc., Huntington, Cabell County, CON File #20-2/3-11864-BH, for the provision of Title XIX I/DD Waiver services in Cabell, Wayne, Lincoln, Putnam and Mason counties; capital expenditure: $10,000.

APPLICATIONS DECLARED COMPLETE AND UNDER REVIEW

An application declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

EXPEDITED APPLICATIONS

May 29, 2020 – St. Mary's Medical Center, Inc., Huntington, Cabell County, CON File #20-2-11852-P, for the development of an ambulatory health care facility in Cabell County through the acquisition of a physician practice; capital expenditure: $10,550,000.

May 29, 2020 – THS Physician Partners, Inc., South Charleston, Kanawha County, CON File #20-3-11853-P, for the development of an ambulatory health care facility through the acquisition of a physician practice in St. Albans, Kanawha County; capital expenditure: $45,000.

The review cycle for the above-referenced projects is as follows:

May 29, 2020 – Review cycle begins;

June 29, 2020 – Last date for an affected person to request a public hearing on the project. If a public hearing is requested, notice of date, time and place will be issued to affected persons;

July 6, 2020 – If no public hearing is requested, the file will close and no further information or evidence will be accepted by the Authority for the remainder of the review of the application;

July 28, 2020 – Decision on the project will be issued by the Authority.

HEARING NOTICES

The Administrative Hearings and Prehearing Conferences have been SCHEDULED in the following matters:

June 2, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-5-11835-Z, for the provision of home health services in Tyler County; capital expenditure: $10,000.

Prehearing Conference: **August 12, 2020 at 1:30 p.m.**
Administrative Hearing: **August 19, 2020 at 9:00 a.m.**

June 2, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-5-11836-Z, for the provision of home health services in Roane County; capital expenditure: $10,000.

Prehearing Conference: **August 12, 2020 at 1:30 p.m.**
Administrative Hearing: **August 19, 2020 at 9:00 a.m.**

June 2, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-4/7/8-11837-Z, for the provision of home health services in Grant, Pocahontas, Randolph and Tucker counties; capital expenditure: $10,000.

Prehearing Conference: **August 11, 2020 at 1:30 p.m.**
Administrative Hearing: **August 18, 2020 at 9:00 a.m.**

The prehearing conferences and administrative hearings in the above-referenced matters will be held in the office of the Health Care Authority, 100 Dee Drive, Charleston, West Virginia 25311-1600, unless otherwise noted.

HEARING ORDERS ISSUED

June 2, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-5-11835-Z, for the provision of home health services in Tyler County; capital expenditure: $10,000.

June 2, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-5-11836-Z, for the provision of home health services in Roane County; capital expenditure: $10,000.

OTHER

June 2, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-4/7/8-11837-Z, for the provision of home health services in Grant, Pocahontas, Randolph and Tucker counties; capital expenditure: $10,000.

AMENDED HEARING ORDER ISSUED

June 5, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #20-5-11835-Z, for the provision of home health services in Tyler County; capital expenditure: $10,000.

PROJECT DETERMINED NOT REVIEWABLE

June 5, 2020 – Gentiva Certified HealthCare Corp. d/b/a Kindred at Home, Atlanta, Georgia, CON File #20-2-11858-X, for the complete relocation of its office for home health services from 5187 US Route 60, Suite 28, Huntington, Cabell County to 3198 US Route 60, Suite A, Ona, Cabell County; capital expenditure: $65,000.

RENEWAL GRANTED

June 5, 2020 - RSCR West Virginia, Inc., Louisville, KY, CON File #18-7-11445-BH, for the development of a four-bed intermediate care facility for individuals with intellectual disabilities (ICF/IID) in Barbour County serving adults; capital expenditure: $45,000.

Renewal granted through July 31, 2020.

NOTICES OF SUBSTANTIAL COMPLIANCE

The following projects have been implemented in substantial compliance with the decisions issued in these matters and the case files are now closed.

June 5, 2020 - United Hospital Center, Inc., Bridgeport, Harrison County, CON File #19-6-11611-H, for the addition of an operating room and related renovations; capital expenditure: $1,557,613.

June 5, 2020 - Orion US Holdings, Inc., Genesis Specialist UK Limited, Genesis Care Finance Pty Ltd., and Genesis Care Pty Ltd., Australia, CON File #19-1/4/9-11771-A, for the acquisition of 21st Century Oncology Holdings, Inc.; capital expenditure: $16,088,182.

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

WEST VIRGINIA
HEALTH CARE AUTHORITY

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In Re: **UNITED HOSPITAL CENTER, INC.**
CON File # 20-5-11835-Z

AMENDED HEARING ORDER

The following shall apply to and govern the above-captioned action and activities conducted in connection with it. In the absence of a specific date or deadline for a given activity, it is anticipated that such activity will be scheduled and conducted within a reasonable time prior to the hearing.

The parties may not amend, modify or adjust any provision of this order except by leave of the Authority.

1. Hearing date: **August 19, 2020, at 9:00 a.m.**

2. Prehearing conference date: **August 12, 2020, at 1:30 p.m.**

3. Settlement conference (optional): **N/A**

4. All replacement pages to CON application to be filed by: **June 16, 2020**
   Pursuant to W. Va. Code St. R. §65-32-6, if the applicant submits a substantial amendment to the application the Authority may withdraw the application from review. The board may examine the extent of additional information or any amendment made by the applicant to the application and its impact on the new institutional health service, and determine the application to be a new proposal subject to a new review cycle.

5. Motions for discovery to be filed by: **June 30, 2020**

6. Discovery completed on or before: **July 31, 2020**
   Parties engaging in discovery are required to file a copy of the certificate of service attached to the discovery request or response with the board. Affected parties shall not file copies of the actual discovery and responses with the board. To the extent that an affected party intends to introduce a document obtained through the discovery process at the administrative hearing, the document and two (2) copies must be filed at the prehearing conference.

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7. Dispositive and preliminary motions to be filed by: **August 7, 2020**
   Parties shall file all prehearing motions with the board a minimum of three (3) days prior to the prehearing conference.

8. All requests for subpoenas and/or subpoenas duces tecum to be filed by: **August 7, 2020**

Entered this 5th day of June, 2020.

OTHER

B. Allen Campbell
Senior Assistant Attorney General
Counsel for the West Virginia Health Care Authority

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STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
WV Health Care Authority

Bill J. Crouch
Cabinet Secretary

Barbara Skeen
Interim Executive Director

NOTICE OF PUBLIC COMMENT PERIOD

Proposed Certificate of Need Standards

The West Virginia Health Care Authority (Authority) has scheduled a public comment period to receive comments on the following proposed Certificate of Need Standards:

- **Neonatal Intensive Care Units**

Written comments may be submitted in care of Barbara Skeen, Interim Executive Director, West Virginia Health Care Authority, 100 Dee Drive, Charleston, WV 25311, or via email to Barbara.I.Skeen@wv.gov no later than **close of business, July 13, 2020.** Copies of the proposed Standards set forth above have been filed with the Secretary of State (SOS). The Standards may be viewed at the Authority's website, www.hca.wv.gov, or copies may be obtained by contacting the Authority at (304) 558-7000.

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SECRETARY OF STATE

Proposed Standard

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NEONATAL INTENSIVE CARE UNITS

I. INTRODUCTION

Due to a number of factors, including the need to establish a foundation for consistent standards of service by hospitals focused on the improvement of neonatal care, it is increasingly important to deliver neonates at "risk appropriate" facilities to improve outcomes for both mothers and their babies. Whether providing nursery care or care in a neonatal intensive care unit ("NICU"), there are national guidelines that have been developed that match hospitals' capabilities with maternal and neonatal risks.

The mission of the West Virginia Health Care Authority ("Authority") is to ensure that West Virginians have appropriate access to quality, affordable health care services while protecting consumers from unnecessary duplication of services.

Recognizing the critical need for NICU services at the appropriate level to be available for neonates, these standards address the necessary criteria which must be met to obtain a Certificate of Need ("CON") to provide NICU services in West Virginia.

II. DEFINITIONS

A. Acute Care: Inpatient hospital care provided to patients requiring immediate and continuous attention of short duration. Acute care includes, but is not limited to, medical, surgical, obstetric, pediatric, psychiatric, ICU and CCU care in a hospital.

B. Acute Care Bed: Any licensed inpatient bed dedicated to the use of patients requiring acute care.

C. Admission Rate: The number of patients entering into the hospital for acute care services per 1,000 population.

D. Average Daily Census: The average number of licensed acute care beds in the hospital that are used by inpatients.

E. Average Length of Stay: The average number of days a patient stays in the hospital.

F. Bed: A general measure of hospital size and capacity.

G. Capital Expenditure: Those expenditures as defined in W.Va. Code § 16-2D-2 including a series of expenditures exceeding the expenditure minimum and determined by the Health Care Authority to be a single capital expenditure subject to review.

H. Discharge Planning: A coordinated effort to ensure that each patient to be discharged from a health care facility has a planned program of needed continuing care and follow up that seeks optimum functioning of that patient and the earliest practicable discharge.

I. Discharge Rate: The number of patients who have received acute care services discharged per 1,000 population.

J. Inpatient: A patient who has been admitted to the hospital for an overnight stay or longer.

K. Intensive Care Unit (ICU): Care provided in a specially licensed unit set up for the purpose of providing maximum surveillance and support of vital functions and definitive therapy for patients suspected of having acute, or potentially reversible life-threatening impairment of single or multiple vital systems (pulmonary, cardiovascular, renal or nervous systems). Such a unit requires special equipment and specially trained staff.

L. Levels of Care: A system of categorizing neonatal services according to complexity and sophistication. Neonatal care is divided into four levels of care including basic, specialty, subspecialty and regional subspecialty care centers as defined in the most current edition of the *Guidelines for Perinatal Care* published by the American Academy of Pediatrics ("AAP"), the American College of Obstetricians and Gynecologists ("AGOG") and the Society for Maternal-Fetal Medicine ("SMFM").

M. Licensed Beds: The basic index of hospital capacity, consisting of the beds in each hospital which are licensed for acute care use. In the case of state-operated acute care facilities, it is the number set up and staffed.

N. Neonatal: A term used to refer to an infant less than 29 days old.

O. Neonatal Intensive Care Unit: An ICU specializing in the care of ill or premature newborn infants. NICUs provide extraordinary surveillance and support of vital functions and definitive therapy for infants having acute or potentially reversible life-threatening impairment of a vital system(s).

P. Observation Services: Services ordered by a patient's physician and provided by a hospital on the hospital's premises. These services include the use of a bed and periodic monitoring by the hospital's nursing or other staff, which are reasonable and necessary for a possible admission to the hospital as an inpatient. Observation beds are not licensed acute care beds.

Q. Observation Equivalent Days: The total observation hours divided by 24. Observation equivalent days may be added to acute care days to demonstrate peak occupancy.

R. Occupancy Rate: The average percentage of licensed beds in a hospital or one of its units that are filled as of midnight each day. To demonstrate peak occupancy, the hospital may also document the occupancy rate at a different time of the day.

S. Peer Review: The evaluation of health professionals and their performance by their peers. This term relates to programs such as utilization review and professional review organizations.

III. CURRENT INVENTORY

The Authority will provide each applicant with a current inventory of existing NICU beds.

IV. NEED METHODOLOGY

An applicant proposing to provide NICU services must apply for a specific NICU level, i.e. NICU Level II, Level III or Level IV.

A. Existing Level III providers - West Virginia University Hospitals, Inc., Charleston Area Medical Center and Cabell Huntington Hospital - may apply for NICU Level IV without addressing the requirements of this section, unless the proposal involves adding beds to their hospital license. If the proposal adds licensed beds, Section C below must be addressed. Applications for NICU Level IV providers will be limited to these three hospitals.

B. Applicants for NICU Level II and Level III must demonstrate that:

1. There is an unmet need for the proposed NICU service, that the proposed service will not have a negative impact on current providers of the service, and that the proposed service is the most cost-effective alternative;

2. It can delineate the service area by documenting the expected areas from which the facility is expected to draw patients. The applicant may submit testimony or documentation on the expected service area, based upon national data or statistics, or upon projections generally relied upon by professionals engaged in health planning or the development of health services;

3. It can document the expected number of days for the services to be provided by the facility for the population within the service area;

4. It can document the number of existing providers within the service area, as provided by the Authority, and the number of NICU days by existing providers in the service area based on the most recent uniform report(s) on

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file with the Authority;

5. There is an unmet need by demonstrating that the total expected number of NICU days, less the number of NICU days provided by existing providers in the service area, results in a difference that requires an addition of the NICU Level being proposed by the applicant.

6. Applicants must be an existing birthing hospital as provided below:
   a. Level II NICU applicants must be an existing provider of Level I nursery care.
   b. Level III tertiary care NICU applicants must be an existing provider of Level II NICU services.

C. If an applicant is seeking to add the NICU beds to its hospital license, as opposed to converting existing licensed beds to NICU beds, the Authority will not approve the addition of beds if, after completion of the project, the number of licensed acute care beds for the hospital is equal to or exceeds 160% of the average daily census for licensed acute beds for the last twelve (12) month period. The Authority may grant an exception to the 160% average daily census requirement if the applicant has experienced significant fluctuations in its occupancy levels and (a) the applicant is the sole hospital in a county or (b) the applicant has exceeded an 85% acute care occupancy level for two consecutive months during the past twelve (12) months. In determining the average daily census, the hospital may adjust for observation equivalent days and swing bed days. The Authority, in its discretion, may also take into consideration data submitted by the hospital to demonstrate the impact of a distinct part unit on the hospital's average daily census.

V. QUALITY

A The applicant must document that its birthing program meets the most current edition of the *Guidelines for Perinatal Care* published by the American Academy of Pediatrics ("AAP"), the American College of Obstetricians and Gynecologists ("AGOG") and the Society for Maternal-Fetal Medicine ("SMFM") for its current birthing level of care.

B. The applicant must provide a detailed plan for how it will meet the most current edition of the *Guidelines for Perinatal Care* published by the American Academy of Pediatrics ("AAP"), the American College of Obstetricians and Gynecologists ("AGOG") and the Society for Maternal-Fetal Medicine ("SMFM") for the proposed NICU level including, but not limited to, specially trained staff, equipment or other specialty services.

C. The applicant must demonstrate that the physical layout and location for the NICU is consistent with the most current edition of the *Guidelines for Perinatal Care* published by the American Academy of Pediatrics ("AAP"), the American College of Obstetricians and Gynecologists ("ACOG") and the Society for Maternal-Fetal Medicine ("SMFM").

D. Utilization review and quality assurance programs must be maintained.

E. The applicant must be accredited by The Joint Commission, Det Norske Veritas (DNV), or another accepted accreditation body.

VI. CONTINUUM OF CARE

A. The applicant must document how it currently collaborates with other birthing hospitals to coordinate maternal referrals and or transfers to ensure neonates are delivered at a "risk appropriate" facility and how it will collaborate if it moves to a higher level of birthing care.

B. The applicant must provide its current policy/procedure for interhospital transfers of neonates and its proposed policy for interhospital transfers of neonates when it begins the proposed NICU services.

C. The applicant must demonstrate that it has in place effective utilization review, quality assurance, peer review, and discharge planning processes.

D. The applicant shall ensure that it meets the criteria outlined in the current Guidelines for Perinatal Care, prior to notifying patients and the public that it provides a particular designated level of NICU care. The applicant must provide a plan for how it will ensure compliance with the criteria both initially and on an ongoing basis. This should include validation by a qualified external party.

VII. COST

Applicants shall demonstrate the financial feasibility of the proposal by providing an analysis of the cost-effectiveness of the proposed project to include:

A. A three (3) year projection of revenues and expenses for the project;

B. Evidence that sufficient capital is available to initiate and operate the proposed project;

C. Evidence that financing arrangements are reasonable and secure;

D. Documentation that all indigent persons needing the service can be served without jeopardizing the viability of the project; and,

E. That the charges and costs used in projecting financial feasibility are equitable in comparison to prevailing rates for similar services in similar hospitals.

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VIII. ACCESSIBILITY

A. NICU services shall be provided based on patients' medical needs and appropriateness without regard to the source of referral or payment;

B. The applicant shall provide written policies, which are non-discriminatory in terms of race, color, creed, age, ethnicity, sex, sexual preference, financial resources, or location of residence.