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

Chiropractic Examiners

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RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Contractor Licensing Board (28-01)	Board Organization and Meeting Procedures, Hearing Procedures Procedural	§§30-1-8, 30-42-5, 29A-3-3, 29A-5-1, et seq.	Written Comments Only August 16, 2021, 4:00 pm Brooke M. Farber 1900 Kanawha Boulevard, E. State Capitol Complex Building 3, Room 200 Charleston, WV 25305 brooke.m.farber@wv.gov
Contractor Licensing Board (28-04)	Written Contracts for Services Procedural	§30-42-10(c)	Written Comments Only August 16, 2021, 4:00 pm Brooke M. Farber 1900 Kanawha Boulevard, E. State Capitol Complex Building 3, Room 200 Charleston, WV 25305 brooke.m.farber@wv.gov
Economic Development, WV Dept. of (145-17)	Purchasing Rule Procedural	§5B-2-3	Written Comments Only August 13, 2021, 4:00 pm Jack Rife 1900 Kanawha Boulevard East Building 3, Suite 800 Charleston, WV 25305 jack.m.rife@wv.gov
Education (126-161)	Regulations for the Alternative Certification Programs for the Education of Teachers (Policy 5901) Legislative Exempt	§§29A-3B-1, et seq.	Written Comments Only August 16, 2021, 4:00 pm Robert Mellace, Coordinator WVDE Educator Dev. & Support Services 1900 Kanawha Boulevard, East Capitol Bldg. 6, Room 243 Charleston, WV 25305 rmellace@k12.wv.us

Education (126-174)	Investigating Indoor Air Quality Complaints (Policy 6202) Legislative Exempt	§§29A-3B-1, et seq.	Written Comments Only August 16, 2021, 4:00 pm Micah Whitlow, Manager WVDE School Facilities Services 1900 Kanawha Boulevard, East Capitol Bldg. 6, Room 318 Charleston, WV 25305 michah.whitlow@k12.wv.us
Education (126-175)	WV Dept. of Education Heating, Ventilating, and Air-Conditioning (HVAC) Technicians (Policy6203) Legislative Exempt	§§29A-3B-1, et seq.	Written Comments Only August 16, 2021, 4:00 pm Micah Whitlow, Manager WVDE School Facilities Services 1900 Kanawha Boulevard, East Capitol Bldg. 6, Room 318 Charleston, WV 25305 michah.whitlow@k12.wv.us
Education (126-176)	School Closings or Consolidations (Policy 6204)	§§29A-3B-1, et seq.	Written Comments Only August 16, 2021, 4:00 pm Micah Whitlow, Manager WVDE School Facilities Services 1900 Kanawha Boulevard, East Capitol Bldg. 6, Room 318 Charleston, WV 25305 michah.whitlow@k12.wv.us
Health and Human Resources (69-17)	Syringe Services Program Licensure Legislative	§16-64-7(c)	Written Comments Only August 16, 2021, 5:00 pm April L. Robertson One Davis Square, Suite 100 East Charleston, WV 25301 april.l.robertson@wv.gov
Workers Compensation by the Insurance Commission (85-08)	Workers Compensation Policies, Coverage Issues and Related Topics Legislative Exempt	§§23-2C-17(b), 23-2C-18(g), 23-2C-22, 33-2-10(b), 33-2-21(a), 23-2C-5(c)(2), 33-2-10(b)	Public Hearing: August 26, 2021, 1:00 pm 900 Pennsylvania Avenue Charleston, WV 25302 Written Comments: August 10, 2021, 5:00 pm Erin K. Hunter 900 Pennsylvania Ave., 9th Floor Charleston, WV 25302 erin.k.hunter@wv.gov

NEW EMERGENCY RULES FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE OF HEARING**
Health and Human Resources (69-17)	Syringe Services Program Licensure	§16-64-7	ERD by August 26, 2021	August 16, 2021

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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
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TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
TITLE	30	RESPIRATORY CARE
TITLE	31	DIETITIANS
TITLE	32	ACUPUNCTURE
TITLE	33	WASTE MANAGEMENT, DIV. OF WATER AND WASTE MGMT.
TITLE	35	OIL AND GAS
TITLE	36	COAL MINE HEALTH AND SAFETY
TITLE	38	MINING AND RECLAMATION
TITLE	42	LABOR
TITLE	45	AIR QUALITY
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
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TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTIONS
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TITLE	164	SCHOOL BUILDING AUTHORITY
TITLE	174	REAL ESTATE COMMISSION
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION - BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY COMMISSION
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Agriculture (61-01A)	Feeding of Untreated Garbage to Swine Legislative	6/16/2021	7/16/2021						
Agriculture (61-05)	Commercial Feed Legislative	6/25/2021	7/24/2021						
Agriculture (61-07, Repeal)	Enrichment of Flour and Bread Law Regulations Legislative	6/28/2021	7/28/2021						
Agriculture (61-08C, Repeal)	Fruits and Vegetables Certification of Potatoes for Seeding Purposes Legislative	6/28/2021	7/28/2021						
Agriculture (61-10)	Fresh Food Act Legislative	6/29/2021	7/29/2021						
Agriculture (61-11B)	Auctioneers Legislative	6/29/2021	7/29/2021						
Agriculture (61-30)	Hemp Products Legislative	6/28/2021	7/28/2021						
Agriculture (61-31)	Livestock Care Standards Legislative	6/30/2021	7/30/2021	6/30/2021 ERD by 8/11/2021					
Agriculture (61-33)	Rural Rehabilitation Program Legislative	6/24/2021	7/24/2021						
Agriculture (61-36)	Farm to Food Bank Tax Credit Legislative	6/16/2021	7/16/2021						
Agriculture (61-38)	Farmers Markets Legislative	6/24/2021	7/24/2021						
Agriculture (61-39)	Seed Certification Legislative	6/28/2021	7/28/2021						
Air Quality (45-08)	Ambient Air Quality Standards Legislative	6/2/2021	7/6/2021						
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/2/2021	7/6/2021						
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste Legislative	6/2/2021	7/6/2021						
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/2/2021	7/6/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Alcohol Beverage Control Comm. (175-02)	Private Club Licensing Legislative	6/1/2021	7/1/2021						
Alcohol Beverage Control Comm. – Beer (176-01)	Nonintoxicating Beer Licensing and Operations Procedures Legislative	6/1/2021	7/1/2021						
Chiropractic Examiners (4-09)	Chiropractic Telehealth Practice Legislative	6/9/2021	7/9/2021	6/8/2021 ERD by 7/20/2021	7/13/2021				
Coal Mine Health and Safety (36-44)	Rule Governing Mine Rescue Requirements for the Office of Miners' Health, Safety and Training Legislative Exempt	5/3/2021	6/17/2021						
Contractor Licensing Board (28-01)	Board Organization and Meeting Procedures, Hearing Procedures Procedural	7/12/2021	8/16/2021						
Contractor Licensing Board (28-04)	Written Contracts for Services Procedural	7/12/2021	8/16/2021						
Contractor Licensing Board (28-02)	Contractor Licensing Act Legislative	6/30/2021	7/30/2021						
Counseling (27-01)	Licensing Rule Legislative	6/30/2021	7/29/2021						
Counseling (27-02)	Licensed Professional Counselor Fees Rule Legislative	6/29/2021	7/29/2021						
Counseling (27-08)	Marriage and Family Therapist Licensing Rule Legislative	6/30/2021	7/29/2021						
Counseling (27-09)	Marriage and Family Therapist Fees Rule Legislative	6/30/2021	7/29/2021						
Crime, Delinquency and Correction (149-02)	Law Enforcement Training and Certification Standards Legislative	6/28/2021	7/28/2021	6/28/2021 ERD by 8/9/2021					
Dentistry (5-01)	Rule for the WV Board of Dentistry Legislative	6/18/2021	7/21/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Dentistry (5-02)	Formation and Approval of Professional Limited Liability Companies Legislative	6/18/2021	7/21/2021						
Dentistry (5-06)	Formation and Approval of Dental Corporations; and Dental Practice Ownership Legislative	6/18/2021	7/21/2021						
Dentistry (5-11)	Continuing Education Requirements Legislative	6/18/2021	7/21/2021						
Dentistry (5-12)	Administration of Anesthesia by Dentists Legislative	6/18/2021	7/21/2021						
Dentistry (5-13)	Expanded Duties of Dental Hygienists and Dental Assistants Legislative	6/18/2021	7/21/2021						
Dentistry (5-16)	Teledentistry Legislative	6/17/2021	7/17/2021	6/17/2021 ERD by 7/29/2021					
Economic Development, WV Dept. of (145-17)	Purchasing Rule Procedural	7/12/2021	8/13/2021						
Education (126-013C)	Non-public School Accreditation (Policy 2330) Legislative Exempt	5/13/2021	6/14/2021					7/14/2021	8/16/2021
Education (126-044CC)	WV College and Career-Readiness Standards for Science (Policy 2520.3C) Legislative Exempt	6/9/2021	7/12/2021						
Education (126-079)	Charter Public Schools (Policy 3300) Legislative Exempt	6/9/2021	7/12/2021					7/14/2021	8/16/2021
Education (126-143)	County Superintendent Performance Evaluations (Policy 5309) Legislative Exempt	6/9/2021	7/12/2021						
Education (126-146)	Service Personnel Classification, Competency Testing, and Professional Learning (5314) Legislative Exempt	5/13/2021	6/14/2021					7/14/2021	8/16/2021

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Education (126-161)	Regulations for the Alternative Certification Programs for the Education of Teachers (Policy 5901) Legislative Exempt	7/14/2021	8/16/2021						
Education (126-174)	Investigating Indoor Air Quality Complaints (Policy 6202) Legislative Exempt	7/14/2021	8/16/2021						
Education (126-175)	WV Dept. of Ed. Heating, Ventilating and Air-Conditioning (HVAC) Technicians (Policy 6203) Legislative Exempt	7/14/2021	8/16/2021						
Education (126-176)	School Closings or Consolidations (Policy 6204) Legislative Exempt	7/14/2021	8/16/2021						
Emergency Management (170-04)	SIRN Emergency Purchasing Procedure Procedural	1/29/2021	3/1/2021						
Emergency Management (170-05)	Purchases During States of Emergency Procedural	1/29/2021	3/1/2021						
Environmental Protection, Secretary's Office (60-09)	Voluntary Remediation and Redevelopment De Minimis Standards Interpretive	6/28/2021	7/28/2021						
Ethics Commission (158-06)	Use of Office for Private Gain, Including Nepotism Legislative	3/22/2021	4/22/2021		5/12/2021				
Family Protection Services Bd. (191-01)	Operation of the Family Protection Services Board Legislative	6/30/2021	7/30/2021						
Family Protection Services Bd. (191-02)	Domestic Violence Program Licensure Standards Legislative	6/30/2021	7/30/2021						
Fire Commission (87-01)	Fire Code Legislative	6/28/2021	7/28/2021						
Fire Commission (87-04)	State Building Code Legislative	6/23/2021	7/26/2021						
Fire Commission (87-10)	Volunteer Fire Department Equipment and Training Grant Funding Disbursement Legislative	4/12/2021	5/31/2021	3/30/2021 Effective 5/11/2021	6/23/2021				

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Fire Commission (87-11)	Specialized Membership Legislative	6/22/2021	7/23/2021						
Fire Commission (87-12)	Junior Firefighters Legislative	6/22/2021	7/23/2021	6/22/2021 ERD by 8/3/2021					
Fire Commission (87-13)	Certification of Fire Chiefs Legislative	6/22/2021	7/23/2021	6/22/2021 ERD by 8/3/2021					
Fire Commission (87-14)	Use of Aqueous Film-Forming Foam (AFFF) for Fire Training Program Purposes Legislative	6/23/2021	7/26/2021						
Fire Marshal (103-04)	Regulation of Fireworks and Related Explosive Materials Legislative	6/25/2021	7/27/2021						
Funeral Service Examiners (6-07)	Fee Schedule Legislative	6/30/2021	7/30/2021						
Health (64-10)	Methods and Standards for Chemical Tests for Intoxication Legislative	6/29/2021	7/29/2021						
Health (64-12)	Hospital Licensure Legislative	6/22/2021	7/22/2021	5/20/2021 ERD by 7/1/2021					
Health (64-42)	Childhood Lead Screening Legislative	6/29/2021	7/29/2021						
Health (64-43)	Food Manufacturing Facilities Legislative	6/30/2021	7/30/2021						
Health (64-47)	Sewage Treatment and Collection System Design Standards Legislative	6/29/2021	7/29/2021						
Health (64-48)	Emergency Medical Services Legislative			7/1/2021 Approved 7/1/2021					
Health (64-57)	Clinical Laboratory Practitioner Licensure and Certification Legislative	6/29/2021	7/29/2021						
Health (64-92)	Clandestine Drug Laboratory Remediation Legislative	6/29/2021	7/29/2021						
Health (64-97)	Maternal Risk Screening Legislative	6/29/2021	7/29/2021						

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Health & Human Resources (69-17)	Syringe Services Program Licensure Legislative	7/15/2021	8/16/2021	7/15/2021 ERD by 8/26/2021					
Health Care Authority (65-32)	Certificate of Need Legislative	6/29/2021	7/29/2021						
Higher Education Policy Comm. (133-59)	Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program Procedural	4/30/2021	6/1/2021						
Higher Education Policy Comm. (133-63)	Mental Health Loan Repayment Program Legislative	6/26/2020	7/27/2020	6/26/2020 Effective 6/26/2020	7/29/2020	Approved 3/12/2021	HB3299	7/15/2021	8/15/2021
Higher Education Policy Comm. (133-64)	Administrative Exemption Legislative	11/20/2020	12/21/2020		3/11/2021	Modified & Approved 3/12/2021	HB3299	7/15/2021	8/15/2021
Highways (157-05)	Traffic and Safety Rules Legislative	7/28/2020	8/28/2020		8/28/2020	Approved 11/17/2020	Bundled HB2400		
Insurance Comm. (114-42)	Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters Legislative	5/28/2021	7/1/2021		7/8/2021				
Insurance Comm. (114-99)	Pharmacy Auditing Entities and Pharmacy Benefit Managers Legislative	6/1/2021	7/1/2021						
Insurance Comm. (114-102)	Term and Universal Life Insurance Reserve Financing Legislative	5/28/2021	7/1/2021		7/8/2021				
Insurance Comm. (114-103)	Bail Bondsmen in Criminal Cases Legislative	6/1/2021	7/1/2021		7/9/2021				
Labor (42-09)	Child Labor Rule Legislative	6/29/2021	7/30/2021						
Lottery Comm. (179-01)	WV Lottery State Lottery Rules Legislative	5/28/2021	6/29/2021		7/7/2021				
Lottery Comm. (179-05)	WV Limited Video Lottery Rule Legislative	6/1/2021	7/1/2021		7/8/2021				
Massage Therapy Licensure Bd. (194-01)	General Provisions Legislative	6/29/2021	7/29/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Medical Imaging & Radiatioin Therapy Tech Bd of Exam (18-06)	Practice of Radiologic Technology Interpretive	5/21/2021	6/30/2021						
Medicine (11-01A)	Licensing and Disciplinary Procedures: Physicians, Podiatric Physicians and Surgeons Legislative	6/29/2021	7/29/2021						
Medicine (11-01B)	Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	6/29/2021	7/29/2021	6/29/2021 ERD by 8/10/2021					
Medicine (11-05)	Bd. Of Medicine Rule for Dispersing of Prescription Drugs by Practitioners Legislative	6/29/2021	7/29/2021						
Medicine (11-06)	Continuing Education for Physicians and Podiatric Physicians Legislative	6/29/2021	7/29/2021						
Medicine (11-10)	Practitioner Requirements for Accessing the WV Controlled Substances Monitoring Program Database Legislative	6/29/2021	7/29/2021						
Medicine (11-11)	Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities Legislative	6/29/2021	7/29/2021						
Medicine (11-14)	Registration to Practice During Declared State of Emergency Legislative	6/29/2021	7/29/2021						
Medicine (11-15)	Telehealth and Interstate Telehealth Registration for Physicians, Podiatric Physicians and Physicians Assistants Legislative	6/29/2021	7/29/2021	6/29/2021 ERD by 8/10/2021					
Miners Health Safety and Training (56-03)	Rule Governing the Safety of Those Employed in and Around Surface Mines in WV Legislative	5/7/2021	6/7/2021	5/7/2021 Approved 6/7/2021	6/11/2021				
Miners Health Safety and Training (56-11, repeal)	Rule Governing First-Aid Training of Shaft and Slope Employees Legislative	5/7/2021	6/7/2021		6/11/2021				

RULE MONITOR									
AGENCY/SERIES NUMBER	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**AGENCY APPROVED**	**LRMRC/LOCEA ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Miners Health Safety and Training (56-19)	Substance Abuse Screening, Standards and Procedures Legislative	6/25/2021	7/26/2021						
Miner Training Education and Certification (48-01)	Standards for Certification of Underground Belt Examiners for Underground Coal Mines Legislative Exempt	5/3/2021	6/17/2021						
Miner Training Education and Certification (48-02)	Safety Training Program for Prospective Underground Coal Miners Legislative Exempt	5/3/2021	6/17/2021						
Miner Training Education and Certification (48-03)	Safety Training Programs for Prospective Surface Coal Miners Legislative Exempt	5/3/2021	6/17/2021						
Miner Training Education and Certification (48-04)	Initial Training Program for Prospective Mine Rescue Team Members and Additional Mine Rescue Requirements Legislative Exempt	5/3/2021	6/17/2021						
Motor Vehicles (91-04)	Examination and Issuance of Drivers License Legislative	6/25/2021	7/26/2021	6/24/2021 ERD by 8/5/2021					
Motor Vehicles (91-06)	Dealer Licensing Legislative	6/29/2021	7/29/2021						
Motor Vehicles (91-09)	Collection of Tax on the Sale of a Vehicle Legislative	6/11/2021	7/12/2021						
Natural Resources (58-12)	Commercial Whitewater Outfitters Legislative	6/30/2021	7/29/2021						
Natural Resources (58-23)	Revocation of Hunting and Fishing Licenses Legislative	6/30/2021	7/29/2021						
Natural Resources (58-25)	Boating Rule Legislative	6/30/2021	7/29/2021						
Natural Resources (58-26)	Special Boating Rules Legislative	6/30/2021	7/29/2021	6/30/2021 ERD by 8/11/2021					
Natural Resources (58-27)	Special Motorboating Regulations Legislative	6/30/2021	7/29/2021						
Natural Resources (58-30)	Wildlife Education Facilities Legislative	6/30/2021	7/29/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-38)	Public Shooting Ranges Legislative	6/30/2021	7/29/2021	6/30/2021 ERD by 8/11/2021					
Natural Resources (58-47)	Prohibitions When Hunting and Trapping Legislative	6/30/2021	7/29/2021						
Natural Resources (58-49)	General Hunting Legislative	6/30/2021	7/29/2021						
Natural Resources (58-53)	General Trapping Legislative	6/30/2021	7/29/2021						
Natural Resources (58-63)	Commercial Sale of Wildlife Legislative	6/30/2021	7/29/2021						
Natural Resources (58-67)	Lifetime Hunting, Trapping and Fishing Licenses Legislative	6/30/2021	7/29/2021						
Natural Resources (58-69)	Wildlife Disease Management Legislative	6/30/2021	7/29/2021						
Office of Technology (163-02)	Chief Information Officer Review Legislative	6/23/2021	7/23/2021						
Office of Technology (163-03)	Cyber Reporting Legislative	6/15/2021	7/15/2021						
Osteopathic Medicine (24-01)	Licensing Procedures for Osteopathic Physicians Legislative	6/29/2021	7/29/2021						
Osteopathic Medicine (24-02)	Osteopathic Physician Assistants Legislative	6/29/2021	7/29/2021	6/29/2021 ERD by 8/10/2021					
Osteopathic Medicine (24-07)	Practitioner Requirements for Controlled Substances Licensure and Accessing the WV Controlled Substances Monitoring Program Database Legislative	6/29/2021	7/29/2021						
Osteopathic Medicine (24-10)	Telehealth Practice and Interstate Telehealth Registration for Osteopathic Physicians and Physician Assistants Legislative	6/29/2021	7/29/2021	6/29/2021 ERD by 8/10/2021					
Personnel (143-01)	Administrative Rule of the WV Division of Personnel Legislative	5/28/2021	6/30/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	6/11/2021	7/12/2021						
Pharmacy (15-02)	Uniform Controlled Substances Act Legislative			6/23/2021 ERD by 8/4/2021					
Pharmacy (15-08)	Controlled Substances Monitoring Program Legislative	6/11/2021	7/12/2021						
Pharmacy (15-16)	Regulations Governing Pharmacists Legislative	6/14/2021	7/15/2021						
Professional Surveyors (23-01)	Examination and Licensing of Professional Surveyors in WV Legislative	7/13/2020	8/14/2020		8/24/2020	Modified & Approved 11/16/2020 Filed 11/19/2020	Bundled SB182		
Public Service Commission (150-02)	Rules for the Construction and Filing of Tariffs Legislative Exempt	8/4/2020	10/5/2020 Extended to 6/15/2021						
Public Service Commission (150-05)	Rules for the Government of Sewer Utilities Legislative Exempt	11/10/2020	1/11/2021 Extended to 1/18/2021						
Public Service Commission (150-07)	Rules for the Government of Water Utilities Legislative Exempt	11/10/2020	1/11/2021 Extended to 1/18/2021						
Public Service Commission (150-09)	Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers Legislative Exempt	8/4/2020	10/5/2020 Extended to 6/15/2021						
Racing Commission (178-01)	Thoroughbred Racing Legislative	6/18/2020	7/20/2020		8/21/2020	Modified & Approved 12/9/2020	Bundled SB160	4/29/2021	7/28/2021
Racing Commission (178-01)	Thoroughbred Racing Legislative	5/28/2021	6/28/2021						
Real Estate Appraiser Licensing and Certification Bd. (190-02)	Requirements for Licensure and Certification Legislative	6/29/2021	7/29/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Real Estate Appraiser Licensing and Certification Bd. (190-03)	Renewal of Licensure or Certification Legislative	6/29/2021	7/29/2021						
Real Estate Appraiser Licensing and Certification Bd. (190-05)	Requirements for Registration and Renewal of Appraisal Management Companies Legislative	6/29/2021	7/30/2021						
Registered Professional Nurses (19-16)	Telehealth Practice Legislative	6/30/2021	7/30/2021	7/2/2021 Withdrawn 7/8/2021					
Risk and Insurance Management (115-01)	Mine Subsidence Insurance Legislative	7/9/2020	8/8/2020		8/18/2020	Approved 11/17/2020	Bundled SB126	5/4/2021	8/1/2021
School Building Authority (164-01)	Policy and Procedures Handbook Procedural	6/30/2021	8/2/2021						
Secondary School Activities Comm. (127-02)	Athletics, Provisioins Governing Eligibility Legislative Exempt	5/13/2021	6/14/2021					7/14/2021	9/13/2021
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative Exempt	5/13/2021	6/14/2021					7/14/2021	9/13/2021
Sec. of DHHR, Insurance Comm. & Chair of Health Care Authority (114A-01)	All-Payer Claims Database – Data Submission Requirements Legislative	6/30/2021	7/30/2021						
Sec. of DHHR, Insurance Comm. & Chair of Health Care Authority (114A-02, repeal)	All-Payer Claims Database – Privacy and Security Requirements Legislative	6/30/2021	7/30/2021						
Secretary of State (153-25)	Combined Voter Registration and Driver Licensing Fund Legislative	6/25/2021	7/27/2021						
Secretary of State (153-30)	Use of Digital Signatures Legislative	6/24/2021	7/27/2021						
Secretary of State (153-43)	Regulation of Political Party Headquarters Finances Legislative	6/24/2021	7/27/2021						
Secretary of State (153-45)	Standards and Guidelines for Electronic Notarization Legislative	6/24/2021	7/27/2021						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secretary of State (153-48)	Real Property Electronic Recording Standards and Regulations Legislative	6/29/2021	7/29/2021						
Secretary of State (153-53)	Election Processes and Absentee Eligibility During State of Emergency			3/20/2020 Effective 3/20/2020					
Senior Services (76-04)	WV State Plan for Aging Programs Interpretive	6/22/2021	7/22/2021						
Social Work Examiners (25-01)	Qualifications for the Profession of Social Work Legislative	6/30/2021	7/30/2021	6/30/2021 ERD by 8/11/2021					
Social Work Examiners (25-05)	Continuing Education for Social Workers and Providers Legislative	6/30/2021	7/30/2021						
Speech Language Pathology and Audiology (29-01)	Licensure of Speech-Pathology and Audiology Legislative	4/28/2021	6/4/2021	4/27/2021 Effective 6/8/2021	6/9/2021				
State Emergency Response Comm. (55-03)	Requests for Information Pursuant to the Community Right to Know Act Procedural	5/12/2021	6/11/2021						
State Police (81-03)	Career Progression Legislative	6/29/2021	7/30/2021						
Tax (110-01A)	Valuation of Farmland and Structures Situated Thereon for Ad Valorem Property Tax Purposes Legislative	6/3/2021	7/7/2021		7/8/2021				
Tax (110-01J)	Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes Legislative	6/4/2021	7/7/2021	6/8/2021 ERD by 7/20/2021					
Tax (110-13KK)	WV Tax Credit for Federal Excise Tax Imposed Upon Small Arms and Ammunition Manufacturers Legislative	6/4/2021	7/7/2021		7/8/2021				
Tax (110-15F)	Sales Tax Holiday Legislative	5/11/2021	6/11/2021	5/7/2021 Amendment 6/3/2021 ERD by 7/15/2021	6/30/2021				

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax (110-15L)	Exemption for Repair, Remodeling, and Maintenance of Aircraft Legislative	6/2/2021	7/7/2021	6/2/2021 ERD by 7/14/2021	7/8/2021				
Tax (110-15M)	Vendor Absorption or Assumption of Sales and Use Tax Legislative	6/3/2021	7/7/2021		7/8/2021				
Tax (110-16A)	On-Line Bingo and Raffles Legislative	6/3/2021	7/7/2021		7/8/2021				
Tax (110-24)	Corporation Net Income Tax Legislative	6/2/2021	7/7/2021						
Transportation (217-01)	Employment Procedures Legislative	6/30/2021	7/30/2021						
Treasurer (112-02)	Substitute Checks-Exceptional Items Fund Legislative	6/28/2021	7/28/2021						
Treasurer (112-10)	Reporting Debt Legislative	6/28/2021	7/29/2021						
Treasurer (112-12)	Procedures for Fees in Collections by Charge, Credit or Debit Card or by Electronic Payment Legislative	6/28/2021	7/28/2021						
Treasurer (112-13)	Procedures for Providing Services to Political Subdivisions Legislative	6/25/2021	7/26/2021						
Underground Facilities Damage Prevention Bd. (214-02)	Rules of Procedure for Complaints and Contested Cases Before the WV Underground Facilities Damage Prevention Board Procedural	4/21/2021	5/21/2021						
Waste Management, Div. of Water and Waste Mgmt. (33-01B)	Requirements for the Management of Coal Combustion Residuals Legislative	6/25/2021	7/26/2021						
Water Resources, Div. of Water and Waste Mgmt. (47-02)	Requirements Governing Water Quality Standards Legislative	6/4/2021	7/19/2021						
Water Resources Division of Water and Waste Management (47-02B)	Assessment Methodology for the Biological Component of the Narrative Criteria in Wadeable Streams Procedural	2/9/2021	3/11/2021 Written Comments Extended To 3/26/2021						

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 (47-13)	Underground Injection Control Legislative	6/23/2021	7/23/2021						
Workers Comp. by the Insurance Comm (85-08)	Workers Compensation Policies, Coverage Issues and Related Topics Legislative Exempt	7/9/2021	8/26/2021						

LEGISLATIVE RULES FILED PER THE SUNSET PROVISION W. Va. Code §29A-3-19 and 29A-3A-20

AGENCY/SERIES NUMBER	RULE/SUNSET DATE	REQUEST	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Auditor 155-08	Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body 7/1/2022	5/13/2021					
Community & Technical College Education 135-35	Correspondence, Business, Occupational, and Trade Schools 7/19/2022	4/5/2021	4/27/2021				
Community & Technical College Education 135-52	Annual Reauthorization of Degree-Granting Institutions 7/19/2022	4/6/2021	4/27/2021				
Dangerous Wild Animal Board 74-01	Dangerous Wild Animals 6/5/2022	4/5/2021	4/5/2021				
Health 64-103	Expedited Paratner Therapy 6/1/2022	5/10/2021	5/10/2021				
Health and Human Resources 69-11	Medication-Assisted treatment – Opioid Treatment Programs 6/1/2022	5/10/2021	5/10/2021				
Higher Education Policy Commission 133-48	Research Trust Fund 8/5/2022	5/5/2021	5/5/2021				
Higher Education Policy Commission 133-52	Annual Reauthorization of Degree-Granting Institutions 8/5/2022	5/5/2021	5/5/2021				
Insurance Commission 114-98	Adoption of Valuation Manual 5/19/2022	3/31/2021	3/31/2021				
Public Service Commission (150-37)	Telephone Conduit Occupancy 8/1/2022	5/6/2021					
Racing Commission 178-05	Pari-Mutuel Wagering 8/1/2022	4/26/2021	4/30/2021				
Registererd Professional Nurses 19-08	Limited Prescriptive Authority for Nurses in Advanced Practice 5/15/2022	3/17/2021	5/10/2021				
Risk and Insurance Management 115-07	Patient Injury Compensation Fund 5/1/2022	4/21/2021					
Secretary of State 153-03	Voter Registration at the Division of Motor Vehicles 5/23/2022	5/10/2021	5/10/2021				
Secretary of State 153-05	Voter Registration List Maintenance by the Secretary of State 5/23/2022	5/10/2021	5/10/2021				

LEGISLATIVE RULES FILED PER THE SUNSET PROVISION W. Va. Code §29A-3-19 and 29A-3A-20

AGENCY/SERIES NUMBER	RULE/SUNSET DATE	REQUEST	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Treasurer 112-04	Procedures for Deposit of Monies with the State Treasurer's Office by State Agencies 6/1/2022	5/5/2021	5/6/2021				
Treasurer 112-06	Selection of State Depositories for Disbursement Accounts through Competitive Bidding 6/1/2022	5/6/2021	5/6/2021				
Treasurer 112-07	Selection of State Depositories for Receipt Accounts 6/1/2022	5/7/2021	5/7/2021				
Treasurer 112-08	Procedures for Processing Payments from the State Treasury 6/1/2022	5/7/2021	5/7/2021				

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/13/2021 11:29:16 AM
Office of West Virginia Secretary Of State

LEGISLATIVE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Chiropractic Examiners TITLE-SERIES: 4-09

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

RULE NAME: 4-09 Chiropractic Telehealth Practice

PRIMARY CONTACT

NAME: WV Board of Chiropractic

ADDRESS: 415 1/2 D Street Suite B
PO Box 8532
South Charleston, WV 25303

EMAIL: wvchiroboard@outlook.com

PHONE NUMBER: 304-746-7839

CITE STATUTORY AUTHORITY: W. Va. Code §30-1-26

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

HB 2024 passed legislation on March 30, 2021 permitting health care practitioners licensed in other states to practice in WV using telehealth services. HB 2024 requires all health care licensing boards to propose rule-making authority referred to in §30-1-1 in accordance with the provisions of §29-A-3-15 of this code to regulate telehealth practice by a telehealth practitioner.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/8/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/9/2021

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION

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7/14/2021 1:42 PM
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NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL RULE

AGENCY: Education TITLE-SERIES: 126-013C

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

RULE NAME: Non-public School Accreditation (2330)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

August 16, 2021

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

Yes

Michele L Blatt – 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.

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7/14/2021 4:28 PM
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LEGISLATIVE

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

AGENCY: Education TITLE-SERIES: 126-079

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

RULE NAME: Charter Public Schools (3300)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

August 16, 2021

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WEST VIRGINIA SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION

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7/14/2021 1:51 PM
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NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL RULE

AGENCY: Education TITLE-SERIES: 126-146

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

RULE NAME: Service Personnel Classification, Competency Testing, and Professional Learning (5314)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

August 16, 2021

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Michele L Blatt – 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.

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ADMINISTRATIVE LAW DIVISION

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LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-161

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

RULE NAME: Regulations for the Alternative Certification Programs for the Education of Teachers (5901)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 138 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Robert Mellace, Coordinator

ADDRESS: WVDE Educator Development and Support Services

1900 Kanawha Blvd., E, Capitol Bldg. 6, Room 243, Charleston, WV 25305

EMAIL: rmellace@k12.wv.us

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)

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7/14/2021 1:56:56 PM
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NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-174

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

RULE NAME: Investigating Indoor Air Quality Complaints (6202)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 138 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Micah Whitlow, Manager

ADDRESS: WVDE School Facilities Services

1900 Kanawha Blvd., E, Capitol Bldg. 6, Room 318, Charleston, WV 25305

EMAIL: micah.whitlow@k12.wv.us

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
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ADMINISTRATIVE LAW DIVISION

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Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-175

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

RULE NAME: West Virginia Department of Education Heating, Ventilating, and Air-Conditioning (HVAC) Technicians (6203)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Micah Whitlow, Manager

ADDRESS: WVDE School Facilities Services

1900 Kanawha Blvd., E, Capitol Bldg. 6, Room 318, Charleston, WV 25305

EMAIL: micah.whitlow@k12.wv.us

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
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NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-176

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

RULE NAME: School Closings or Consolidations (6204)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Micah Whitlow, Manager

ADDRESS: WVDE School Facilities Services

1900 Kanawha Blvd., E, Capitol Bldg. 6, Room 318, Charleston, WV 25305

EMAIL: micah.whitlow@k12.wv.us

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 BOARD OF EDUCATION
Capitol Building 6, Room 351
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

Telephone: 304.558.3660
Facsimile: 304.558.0048

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2021 JUL 15 A 8:42
OFFICE WEST VIRGINIA SECRETARY OF STATE
LEGISLATIVE

July 15, 2021

The Honorable Mac Warner
Secretary of State
State of West Virginia
Capitol Building 1, Suite 157-K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Secretary Warner:

The West Virginia Board of Education took the following actions at its July 14, 2021 meeting:

- **repealed effective August 16, 2021, 126CSR133, Policy 5141, Approved College Credit for Aide 4 Classification,** filed November 2, 1984, and effective January 2, 1985. Relevant portions of Policy 5141 have been incorporated into 126CSR146, Policy 5314, Service Personnel Classification, Competency Testing, and Professional Learning, filed July 15, 2021, and effective August 16, 2021.
- **repealed effective August 16, 2021, 126CSR146A, Policy 5314.01, Autism Mentor,** filed April 11, 2013, and effective May 13, 2013. Relevant portions of Policy 5314.01 have been incorporated into 126CSR146, Policy 5314, Service Personnel Classification, Competency Testing, and Professional Learning, filed July 15, 2021, and effective August 16, 2021.
- **repealed effective August 16, 2021, 126CSR150A, Policy 5500.02, County Service Personnel Staff Development,** filed August 27, 1992, and effective September 26, 1992. Relevant portions of Policy 5500.02 have been incorporated into 126CSR146, Policy 5314, Service Personnel Classification, Competency Testing, and Professional Learning, filed July 15, 2021, and effective August 16, 2021.
- **repealed effective August 16, 2021, 126CSR163, Policy 5301, College Hours or Comparable Training in a Trade of Vocational School,** filed April 11, 2013, and effective May 13, 2013. Relevant portions of Policy 5301 have been incorporated into 126CSR146, Policy 5314, Service Personnel Classification, Competency Testing, and Professional Learning, filed July 15, 2021, and effective August 16, 2021.

Thank you for your attention to these matters.

Sincerely,

Michele L. Blatt

Michele L. Blatt
Deputy State Superintendent of Schools
West Virginia Department of Education

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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7/15/2021 4:57:11 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Health And Human Resources TITLE-SERIES: 69-17

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

RULE NAME: SYRINGE SERVICES PROGRAM LICENSURE

CITE STATUTORY AUTHORITY: 16-64-7(c)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 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

eFILED
7/15/2021 3:00:19 PM
Office of West Virginia
Secretary Of State

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

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-63

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

RULE NAME: Mental Health Loan Repayment Program

CITE STATUTORY AUTHORITY: 18B-1-6

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

Authorization is cited in (house or senate bill number) House Bill 3229

Section 18B-7-2(ll) Passed On 4/10/2021 12:00:00 AM

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

August 15, 2021

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

August 15, 2026

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

Yes

Cindy L Anderson -- 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
7/15/2021 3:02:34 PM
Office of West Virginia Secretary Of State

LEGISLATIVE

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

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-64

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

RULE NAME: Administrative Exemption

CITE STATUTORY AUTHORITY: 18B-1-6

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

Authorization is cited in (house or senate bill number) House Bill 3229

Section 18B-7-2(mm) Passed On 4/10/2021 12:00:00 AM

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

August 15, 2021

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

August 15, 2026

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

Yes

Cindy L Anderson -- 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
7/9/2021 11:51:05 AM
Office of West Virginia Secretary Of State

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Insurance Commission TITLE-SERIES: 114-103

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

RULE NAME: Bail Bondsmen in Criminal Cases

PRIMARY CONTACT

NAME: Erin K Hunter

ADDRESS: 900 Pennsylvania Ave 9th Floor

Charleston, WV 25302

EMAIL: erin.k.hunter@wv.gov

PHONE NUMBER: 130-441-4848 7

CITE STATUTORY AUTHORITY: W. Va. Code §§33-2-10 and 51-10-8(a) and (b).

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W.Va. Code §33-2-10 provides general rulemaking authority to the Insurance Commissioner and states that the Commissioner is authorized to promulgate and adopt rules relating to insurance as are necessary to discharge his or her duties and exercise his or her powers and to effectuate the provisions of Chapter 33 of the West Virginia Code.

Additionally, W.Va. Code 51-10-8(a) and (b) require that the Insurance Commissioner promulgate and propose rules to carry out the intent, administration, and enforcement of the article, and also requires that the rule shall specify the qualifications that a person must have when applying to be a bondsman, and the terms and conditions upon which the bonding business may be conducted.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/1/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/1/2021

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/15/2021 2:26 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Labor TITLE-SERIES: 42-19

RULE TYPE: Legislative

RULE NAME: Board of Manufactured Housing Construction and Safety Rule

CITE STATUTORY AUTHORITY: W. Va. Code §21-9-4

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

3.11: Struck "State of" before "West Virginia"

3.27: Struck "(1)", "(8)", "forty" and parentheses, and "three hundred twenty" and parentheses

3.34: Struck "this rule" and replaced with "3.21 of this section"

3.35: Struck "ten" and replaced with "10"

3.38: Struck "42-19" and replaced with "subsections"

4.1: Struck "(1)" twice

4.2: Struck "(1)", "the thirtieth (30th) day of", and "in"; Added "30 of" after "June"

4.3: Struck "seven hundred fifty dollars" and parentheses, decimal point, and zeroes after "$750"; Renumbered subdivisions "(a)" through "(m)"as "4.3.1." through "4.3.13."

4.4: Struck "the thirtieth (30th) day of", "in", "thirty" and parentheses, "by subsection 4.3 of this rule", and "seven hundred fifty dollars" and parentheses, decimal point, and zeroes after "$750"; Added "30 of" after "June" and "in 4.3 of this section" after "specified"

4.5: Struck "thirty" and parentheses

4.6: Renumbered subdivisions "(a)" through "(c)" as "4.6.1." through "4.6.3."

5.1: Struck (1)

5.2: Struck (1) and the thirtieth (30th) day of; Added 30 of after June

5.3: Struck "two hundred fifty dollars" and parentheses, decimal point, and zeroes after "$250"; Renumbered subdivisions "(a)" through "(i)"as "5.3.1." through "5.3.9."

5.4: Struck "the thirtieth (30th) day of", "in", "thirty" and parentheses, "by subsection 5.3 of this rule", and "two hundred fifty dollars" and parentheses, decimal point, and zeroes after "$250"; Added "30 of" after "June" and "in 5.3 of this section" after "specified"

5.5: Struck thirty and parentheses

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/9/2021 4:29 PM
Office of West Virginia
Secretary Of State

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Labor TITLE-SERIES: 42-21A

RULE TYPE: Legislative

RULE NAME: Licensing of Elevator Mechanics and Technicians and Registration of Apprentices

CITE STATUTORY AUTHORITY: W. Va. Code §21-3C-11

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

1.1: Struck West Virginia in front of Commissioner and moved it in front of Division of Labor

3.3: Struck The from beginning of definition so it starts with Commissioner; struck or after Labor and replaced with and

3.4- Added a definition: Division means the Division of Labor; renumbered the rest of the definitions remaining in the definitions section to reflect the change

5.1: Struck or after et seq. and replaced with and

6.1: Reformatted the numbering of the corresponding subsections to comply with the SOS formatting rule in 153 CSR 1

6.3: Struck or after et seq and replaced with and; struck 2 and replaced with two

6.4: Struck 21-11-1 and replaced with 30-42-1

42-21A-7: Struck shall after technician and replaced with may

8.2: Added an before elevator apprentice

8.4: Struck shall after Commissioner and replaced with may

8.5: Added an before accessibility technician

9.1: Struck 2-year and replaced with two-year

9.4: Struck a right after first word If and replaced with an elevator

10.2: Struck 5 and replaced with five

10.5: Struck shall after Commissioner and replaced with may

12.2: Struck shall after Commissioner and replaced with may; Reformatted the numbering of the corresponding subsections to comply with the SOS formatting rule in 153 CSR 1; Struck the State Administrative Procedures Act after et seq.

12.3: Struck 1 and replaced with one

State of West Virginia
Board of Medicine

101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone (304) 558-2921
Fax (304) 558-2084
www.wvbom.wv.gov

KISHORE K. CHALLA, MD, FACC
PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH
SECRETARY

ASHISH P. SHETH, MD
VICE PRESIDENT

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

FILED
2021 JUL 12 P 2:19
OFFICE WEST VIRGINIA SECRETARY OF STATE

MEMORANDUM

TO: **The Honorable Mac Warner**
Secretary of State

FROM: **Mark A. Spangler, Executive Director**
West Virginia Board of Medicine

DATE: **July 12, 2021**

RE: **Request to Lift the Temporary Suspension of Certain Provisions of Board of Medicine Rule 11 CSR 1A**

The West Virginia Board of Medicine is the state agency charged with protecting the health and safety of the public through licensure, regulation and oversight of medical doctors (MDs), podiatric physicians (DPMs), and collaborating physician assistants (PAs).

On March 26, 2020, and in accord with the Governor's March 16, 2020 Emergency Proclamation and Executive Orders 7-20 and 10-20, the Board filed a memorandum request with your office to impose a temporary rule suspension with respect to certain provisions of 11 CSR 1A.

Today, the Board met and determined that while the State of Emergency which initially prompted the temporary rule suspension continues, the termination of this temporary rule suspension is appropriate at this time. Accordingly, the Board respectfully requests that the temporary rule suspension with respect to 11 CSR 1A be lifted or otherwise rescinded, effective today.

Thank you for your time and attention to this request.

LEGISLATIVE

State of West Virginia
Board of Medicine

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KISHORE K. CHALLA, MD, FACC
PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH
SECRETARY

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

FILED
2021 JUL 12 P 2:1
OFFICE WEST VIRGINIA SECRETARY OF STATE

MEMORANDUM

TO: **The Honorable Mac Warner**
Secretary of State

FROM: **Mark A. Spangler, Executive Director**
West Virginia Board of Medicine

DATE: **July 12, 2021**

RE: **Request to Lift the Temporary Suspension of Certain Provisions of Board of Medicine Rule 11 CSR 1B**

The West Virginia Board of Medicine is the state agency charged with protecting the health and safety of the public through licensure, regulation and oversight of medical doctors (MDs), podiatric physicians (DPMs), and collaborating physician assistants (PAs).

On March 26, 2020, and again on July 28, 2020 when the legislative rule superseded the emergency rule version which was previously in effect, and in accord with the Governor's March 16, 2020 Emergency Proclamation and Executive Orders 7-20 and 10-20, the Board filed a memorandum request with your office to impose a temporary rule suspension with respect to certain provisions of 11 CSR 1B.

Today, the Board met and determined that while the State of Emergency which initially prompted the temporary rule suspension continues, the termination of this temporary rule suspension is appropriate at this time. Accordingly, the Board respectfully requests that the temporary rule suspension with respect to 11 CSR 1B be lifted or otherwise rescinded, effective today.

Thank you for your time and attention to this request.

State of West Virginia
Board of Medicine

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KISHORE K. CHALLA, MD, FACC
PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH
SECRETARY

ASHISH P. SHETH, MD
VICE PRESIDENT

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

FILED
2021 JUL 12 P 2:19
OFFICE OF WEST VIRGINIA SECRETARY OF STATE
LEGISLATIVE

MEMORANDUM

TO: **The Honorable Mac Warner**
Secretary of State

FROM: **Mark A. Spangler, Executive Director**
West Virginia Board of Medicine

DATE: **July 12, 2021**

RE: **Request to Lift the Temporary Suspension of Certain Provisions of Board of Medicine Rule 11 CSR 5**

The West Virginia Board of Medicine is the state agency charged with protecting the health and safety of the public through licensure, regulation and oversight of medical doctors (MDs), podiatric physicians (DPMs), and collaborating physician assistants (PAs).

On March 26, 2020, and in accord with the Governor's March 16, 2020 Emergency Proclamation and Executive Orders 7-20 and 10-20, the Board filed a memorandum request with your office to impose a temporary rule suspension with respect to certain provisions of 11 CSR 5.

Today, the Board met and determined that while the State of Emergency which initially prompted the temporary rule suspension continues, the termination of this temporary rule suspension is appropriate at this time. Accordingly, the Board respectfully requests that the temporary rule suspension with respect to 11 CSR 5 be lifted or otherwise rescinded, effective today.

Thank you for your time and attention to this request.

State of West Virginia
Board of Medicine

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www.wvbom.wv.gov

KISHORE K. CHALLA, MD, FACC
PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH
SECRETARY

ASHISH P. SHETH, MD
VICE PRESIDENT

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

FILED
2021 JUL 12 P 2:19
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

MEMORANDUM

TO: **The Honorable Mac Warner**
Secretary of State

FROM: **Mark A. Spangler, Executive Director**
West Virginia Board of Medicine

DATE: **July 12, 2021**

RE: **Request to Lift the Temporary Suspension of Certain Provisions of Board of Medicine Rule 11 CSR 6**

The West Virginia Board of Medicine is the state agency charged with protecting the health and safety of the public through licensure, regulation and oversight of medical doctors (MDs), podiatric physicians (DPMs), and collaborating physician assistants (PAs).

On March 26, 2020, and in accord with the Governor's March 16, 2020 Emergency Proclamation and Executive Orders 7-20 and 10-20, the Board filed a memorandum request with your office to impose a temporary rule suspension with respect to certain provisions of 11 CSR 6.

Today, the Board met and determined that while the State of Emergency which initially prompted the temporary rule suspension continues, the termination of this temporary rule suspension is appropriate at this time. Accordingly, the Board respectfully requests that the temporary rule suspension with respect to 11 CSR 6 be lifted or otherwise rescinded, effective today.

Thank you for your time and attention to this request.

State of West Virginia
Board of Medicine

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PRESIDENT

ASHISH F. SHETH, MD
VICE PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH
SECRETARY

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

FILED
2021 JUL 12 P 2:19
OFFICE WEST VIRGINIA SECRETARY OF STATE
LEGISLATIVE

MEMORANDUM

TO: **The Honorable Mac Warner**
Secretary of State

FROM: **Mark A. Spangler, Executive Director**
West Virginia Board of Medicine

DATE: **July 12, 2021**

RE: **Request to Lift the Temporary Suspension of Certain Provisions of Board of Medicine Rule 11 CSR 7**

The West Virginia Board of Medicine is the state agency charged with protecting the health and safety of the public through licensure, regulation and oversight of medical doctors (MDs), podiatric physicians (DPMs), and collaborating physician assistants (PAs).

On March 26, 2020, and in accord with the Governor's March 16, 2020 Emergency Proclamation and Executive Orders 7-20 and 10-20, the Board filed a memorandum request with your office to impose a temporary rule suspension with respect to certain provisions of 11 CSR 7.

Today, the Board met and determined that while the State of Emergency which initially prompted the temporary rule suspension continues, the termination of this temporary rule suspension is appropriate at this time. Accordingly, the Board respectfully requests that the temporary rule suspension with respect to 11 CSR 7 be lifted or otherwise rescinded, effective today.

Thank you for your time and attention to this request.

State of West Virginia
Board of Medicine

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Fax (304) 558-2084
www.wvbom.wv.gov

KISHORE K. CHALLA, MD, FACC
PRESIDENT

ASHISH F. SHETH, MD
VICE PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH
SECRETARY

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

FILED
2021 JUL 12 P 2:19
OFFICE WEST VIRGINIA SECRETARY OF STATE

MEMORANDUM

TO: **The Honorable Mac Warner**
Secretary of State

FROM: **Mark A. Spangler, Executive Director**
West Virginia Board of Medicine

DATE: **July 12, 2021**

RE: **Request to Lift the Temporary Suspension of Certain Provisions of Board of Medicine Rule 11 CSR 12**

The West Virginia Board of Medicine is the state agency charged with protecting the health and safety of the public through licensure, regulation and oversight of medical doctors (MDs), podiatric physicians (DPMs), and collaborating physician assistants (PAs).

On March 26, 2020, and in accord with the Governor's March 16, 2020 Emergency Proclamation and Executive Orders 7-20 and 10-20, the Board filed a memorandum request with your office to impose a temporary rule suspension with respect to certain provisions of 11 CSR 12.

Today, the Board met and determined that while the State of Emergency which initially prompted the temporary rule suspension continues, the termination of this temporary rule suspension is appropriate at this time. Accordingly, the Board respectfully requests that the temporary rule suspension with respect to 11 CSR 12 be lifted or otherwise rescinded, effective today.

Thank you for your time and attention to this request.

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/14/2021 2:03 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

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

AGENCY: Secondary School Activities Commission TITLE-SERIES: 127-02

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

RULE NAME: Athletics, Provisions Governing Eligibility (Series 2)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

September 13, 2021

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

Yes
Michele L Blatt -- 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
7/14/2021 2:07 PM
Office of West Virginia
Secretary Of State

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

AGENCY: Secondary School Activities Commission TITLE-SERIES: 127-03

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

RULE NAME: Provisions Governing Contests (Series 3)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

September 13, 2021

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

Yes
Michele L Blatt -- 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
7/13/2021 10:04 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax

TITLE-SERIES: 110-10F

RULE TYPE: Legislative

RULE NAME: PAYMENT OF TAXES BY ELECTRONIC FUNDS TRANSFER

CITE STATUTORY AUTHORITY: W. Va. Code §11-10-5t

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021
Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021

EFFECTIVE DATE: 02/18/2020

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

Yes
Allen R Prunty -- 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
7/13/2021 9:56 AM
Office of West Virginia
Secretary Of State

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax

TITLE-SERIES: 110-13DD

RULE TYPE: Legislative

RULE NAME: FARM TO FOOD BANK TAX CREDIT

CITE STATUTORY AUTHORITY: W. Va. Code §11 13DD 5

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021

EFFECTIVE DATE: 03/23/2018

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

Yes
Allen R Prunty – 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
7/13/2021 10:06 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax

TITLE-SERIES: 110-15C

RULE TYPE: Legislative

RULE NAME: CONSUMERS SALES AND SERVICE TAX AND USE TAX - DRUGS, DURABLE MEDICAL GOODS, MOBILITY ENHANCING EQUIPMENT AND PROSTHETIC DEVICES PER SE EXEMPTION; MOTOR VEHICLES PER SE EXEMPTION

CITE STATUTORY AUTHORITY: W. Va. Code §§11-10-5 and 11-15-9i

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021

EFFECTIVE DATE: 02/18/2020

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

Yes

Allen R Prunty – 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
7/13/2021 10:01 AM
Office of West Virginia
Secretary Of State

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax

TITLE-SERIES: 110-15K

RULE TYPE: Legislative

RULE NAME: AIRCRAFT OPERATED UNDER A FRACTIONAL OWNERSHIP PROGRAM

CITE STATUTORY AUTHORITY: W. Va. Code §11 15-9p

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021

EFFECTIVE DATE: 04/09/2019

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

Yes

Allen R Prunty – 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
7/13/2021 9:52 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax TITLE-SERIES: 110-22

RULE TYPE: Legislative

RULE NAME: PROPERTY TRANSFER TAX

CITE STATUTORY AUTHORITY: W. Va. Code §§11-10-5 and 11-22-5

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021 EFFECTIVE DATE: 03/23/2018

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

Yes
Allen R Prunty -- 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
7/13/2021 9:49 AM
Office of West Virginia
Secretary Of State

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax TITLE-SERIES: 110-28

RULE TYPE: Legislative

RULE NAME: MUNICIPAL SALES AND USE TAX ADMINISTRATION

CITE STATUTORY AUTHORITY: W. Va. Code §11 10 11c

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

In Appendix A, Section 3, Page 15, a typographical error was corrected by changing customer to custom

In Appendix B, Section 3, Page 27, a typographical error was corrected by changing customer to custom

FILING DATE: 07/13/2021 EFFECTIVE DATE: 03/26/2018

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

Yes
Allen R Prunty -- 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
7/13/2021 9:59 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax TITLE-SERIES: 110-42

RULE TYPE: Legislative

RULE NAME: PERSONNEL RULE FOR THE TAX DIVISION

CITE STATUTORY AUTHORITY: W. Va. Code §11B-1-8

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021 EFFECTIVE DATE: 03/23/2018

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

Yes
Allen R Prunty -- 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
7/13/2021 10:09 AM
Office of West Virginia
Secretary Of State

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Tax TITLE-SERIES: 110-50C

RULE TYPE: Legislative

RULE NAME: EXCHANGE OF INFORMATION PURSUANT TO WRITTEN AGREEMENT

CITE STATUTORY AUTHORITY: W. Va. Code §§11-10-5 and 5s; §§60-9-5(a) and 8(a); §21-1B-3; §29A-1-1 et seq.; and, §47-25-1 et seq.

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

Section 1.3 has been changed from Filing Date to Technical Amendment Filed July 13, 2021

Section 1.5 has been changed to state August 1 of the sunsetting year

FILING DATE: 07/13/2021 EFFECTIVE DATE: 02/18/2020

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

Yes
Allen R Prunty -- 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

7/9/2021 11:48:04 AM

Office of West Virginia Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Workers Compensation TITLE-SERIES: 85-08

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

RULE NAME: WORKERS COMPENSATION POLICIES, COVERAGE ISSUES AND RELATED TOPICS

CITE STATUTORY AUTHORITY: W. Va. Code §§23-2C-17(b), 23-2C-18(g), 23-2C-22, 33-2-10(b), 33-2-21(a), 23-2C-5(c)(2) and 33-2-10(b).

COMMENTS LIMITED TO:

Oral and Written

DATE OF PUBLIC HEARING: 08/26/2021 1:00

LOCATION OF PUBLIC HEARING:

900 Pennsylvania Avenue, Charleston, WV 25302

DATE WRITTEN COMMENT PERIOD ENDS: 08/10/2021 5:00

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Erin K. Hunter

ADDRESS: 900 Pennsylvania Ave, 9th Floor

EMAIL: erin.k.hunter@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: Yes

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

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/12/2021 10:50:46 AM
Office of West Virginia
Secretary Of State

PROCEDURAL

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Contractor Licensing Board TITLE-SERIES: 28-01

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

RULE NAME: Board Organization and Meeting Procedures, Hearing Procedures

CITE STATUTORY AUTHORITY: §30-1-8, §30-42-5, §29A-3-3, and §29A-5-1 et seq.

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Brooke M. Farber

ADDRESS: 1900 Kanawha Boulevard East, State Capitol Complex

Building 3, Room 200, Charleston, WV 25305

EMAIL: brooke.m.farber@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

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WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/12/2021 1:13:31 PM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Contractor Licensing Board TITLE-SERIES: 28-04

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

RULE NAME: Written Contracts for Services

CITE STATUTORY AUTHORITY: §30-42-10(c)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/16/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Brooke M. Farber

ADDRESS: 1900 Kanawha Boulevard East, State Capitol Complex

Building 3, Room 200, Charleston, WV 25305

EMAIL: brooke.m.farber@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

eFILED

7/12/2021 10:35:02 AM

Office of West Virginia Secretary Of State

PROCEDURAL

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Economic Development WV Department of TITLE-SERIES: 145-17

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

RULE NAME: Purchasing Rule

CITE STATUTORY AUTHORITY: 5B-2-3

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/13/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jack Rife

ADDRESS: 1900 Kanawha Blvd. E., Building 3, Suite 800

Charleston, WV 25305

EMAIL: jack.m.rife@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

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WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/15/2021 4:54:59 PM
Office of West Virginia
Secretary Of State

EMERGENCY

NOTICE OF AN EMERGENCY RULE

AGENCY: Health And Human Resources TITLE-SERIES: 69-17

RULE TYPE: Legislative Amendment to Existing Rule: No

RULE NAME: SYRINGE SERVICES PROGRAM LICENSURE

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

16-64-7

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 16-64-7(c); by July 1, 2021

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

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:

Orders Report

Docket Number	Agency	Respondent	Date Rendered
20-MC-THP-02001	Insurance Commission	United Services Automobile Association	3/17/2021
N/A	Registered Professional Nurses, West Virginia Board Of Examiners For	Teresa Linnette Hamilton	7/8/2021
N/A	Registered Professional Nurses, West Virginia Board Of Examiners For	Jayna Lynn Andrew	7/9/2021

FILED
2021 JUL -9 P 2:37
OFFICE WEST VIRGINIA
SECRETARY OF STATE

AG OPINION

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

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

July 6, 2021

Honorable Mac Warner
Secretary of State
State Capitol Complex
Building 1, Room 157k
Charleston, WV 25305

Dear Secretary Warner:

You have asked for an Opinion of the Attorney General about whether West Virginia law sets specific hours of operation for municipal clerks' and recorders' offices. This Opinion is being issued pursuant to West Virginia Code Section 5-3-1, which provides that the Attorney General "shall give written opinions and advice upon questions of law . . . whenever required to do so, in writing, by . . . the Secretary of State . . . ." To the extent this Opinion relies on facts, it is based solely on the factual assertions provided in your correspondence with the Office of the Attorney General.

In your request, you point to a recently modified provision of West Virginia law that establishes how and when election officials process certificates of candidacy. This provision—Section 3-5-7(c)—requires county clerks offices to remain open "from 9:00 a.m. until 12:00 p.m." on the last day for candidates to file to run for elected office. W. Va. Code § 3-5-7(c). This provision also requires "the office of the Secretary of State" to remain open "from 9:00 a.m. until 11:59 p.m." on this day. *Id.*

Your request seeks clarification as to which of these requirements, if either, apply to municipal elections. As a general matter, the provisions of Chapter Three "referring more particularly to primary elections and general elections" also govern municipal primary and regular elections—provided such laws "can be applied" and are not contrary to a municipal "charter provision or ordinance." W. Va. Code § 8-5-14. And more specifically, "provisions of general law" addressing "the method and time for the filing of certificates of candidacy" "apply to municipal elections" "so far as applicable," unless a municipal charter provides otherwise. W. Va. Code § 8-5-6.

Your request thus raises the following legal question:

Do Section 3-5-7(c)'s requirements for filing offices to remain open until particular times on the last day of political filing periods apply to municipal elections?

We conclude that these requirements do not apply to municipal elections.

Discussion

Section 8-5-6 provides that, "[e]xcept as otherwise provided in the charter of any municipality, the provisions of general law with respect to the method and time for the filing of certificates of candidacy, . . . *so far as applicable*, shall apply to municipal elections." W. Va. Code § 8-5-6 (emphasis added). Similarly, Section 8-5-14 incorporates the "provisions of chapter three" of the West Virginia Code that address "primary and general elections" to also "govern the conduct of municipal primary and regular municipal elections," "*so far as [the provisions] can be applied* and so far as not otherwise provided by charter provision or ordinance." W. Va. Code § 8-5-14 (emphasis added).

The Supreme Court of Appeals of West Virginia has not addressed the question in your request. Nevertheless, we conclude that a court interpreting these two gap-filling statutes would likely focus on the functionally interchangeable phrases "so far as applicable" and "so far as [the provisions] can be applied." *See* "Applicable," Oxford English Dictionary 2d ed. 575 (defining "applicable" as "capable of being applied"). As a matter of practicality, Section 3-5-7(c)'s directives concerning hours of operation cannot be "applied" to municipal elections because the statute requires different hours for county clerks and the Secretary of State. Municipal elections officers have no way to determine which of these conflicting requirements would bind them—and thus they have no way to apply Section 3-5-7(c).

Other provisions of West Virginia election law support this conclusion by providing contrasting examples of the type of statutory requirements that *can* be applied to municipal elections. *First*, many provisions of Chapter Three provide a single directive—they do not distinguish between county and state elections—and in those instances there is no impediment to applying the requirements to municipal elections, as well. For example, Section 3-5-7(d) requires all certificates of candidacy to be notarized, to contain a candidate's "legal name" and "county of residence," and to certify that the candidate is a legally qualified voter in their county and magisterial district. W. Va. Code § 3-5-7(d). There are no complexities or contradictions in this instance that prevent a municipal election officer from applying the requirements pursuant to the gap-filling statutes discussed above.

Second, where the Code contains different sets of requirements for different types of elections, the Code frequently provides clear direction which standards apply in the municipal context. Chapter Three, for example, provides a variety of requirements for political party executive committees at both the state and county levels. *See, e.g.*, W. Va. Code § 3-1-9. Similar to the situation posed by Section 3-5-7(c), nothing in the statutory text answers whether municipal

executive committees should assume the powers and duties of a state executive committee or a county executive committee. The Legislature expressly resolved this ambiguity, however, in Section 8-5-14: "[M]unicipal executive committees shall exercise similar functions and be governed by the same laws in regard to municipal primary elections and regular municipal elections as county executive committees." W. Va. Code § 8-5-14. In other words, the Code contains a separate provision expressly resolving the "state or county?" question. There is no analogous provision for Section 3-5-7(c).

Another way the Legislature resolves confusion from multiple sets of rules is by creating a third set specifically for municipal elections. Candidates seeking statewide or legislative office file their certificates of announcement with the Secretary of State's office, for example, whereas certificates for county-level candidates are filed with county clerks. W. Va. Code § 3-5-7(b)(1)-(2). Here too, absent additional guidance it would be unclear where municipal candidates would file their certificates. But the next subsection resolves that question by providing that candidates in municipal elections must file their certificates of candidacy with the "recorder or city clerk." W. Va. Code § 3-5-7(b)(3).

Section 3-5-7(c)'s hours-of-operation requirement falls in neither category—and thus there is no way to resolve the ambiguities inherent in attempting to "apply" the provision to municipal elections. Neither Section 8-5-6 nor 8-5-14 contains a framework to determine whether municipal clerks' and recorders' offices would be required to keep the hours of operation set for county clerks' offices (9:00 a.m. until 12:00 p.m.) or for the Secretary of State's office (9:00 a.m. until 11:59 p.m.). And while other provisions of Section 8-5-14 call for the duties of "county executive committees" to be used as a template for the duties of "municipal executive committees," they are no help in resolving the question you pose because certificates of candidacy are filed with election officials, not executive committees. W. Va. Code §§ 3-5-7(b)(2), 8-5-14.

Moreover, the fact that the Legislature expressly stated which set of conflicting requirements applies to municipal elections in some parts of the Code, but did not do so for Section 3-5-7(c), further supports the conclusion that Section 3-5-7(c) falls outside the gap-filling provisions' scope. Where the Legislature speaks directly to an issue in some provisions of a statutory scheme and omits that reference in others, courts presume the omission was intentional. *See Lester v. Summerfield*, 180 W. Va. 572, 575, 378 S.E.2d 293, 296 (1989). Here, the system of law governing certificates of announcement for municipal candidates—indeed, the other provision of Section 3-5-7 itself that references a "recorder or city clerk" directly—reflects that the Legislature knew how to regulate municipalities in contexts like these. *See, e.g.*, W. Va. Code § 3-5-7(b)(3). The fact that Section 3-5-7(c) neither sets hours of operations for municipal offices nor specifies that municipal offices should follow the county requirements is a strong indicator that the Legislature did not intend to regulate municipal elections in this way.

Finally, there is nothing unusual about an interpretation that leaves certain aspects of municipal elections outside the Code's reach because the gap-filling provisions themselves recognize a presumption that many aspects of municipal election law are left to local governance—not state. *See* W. Va. Code § 8-5-6 (gap-filling provision applies only to matters not "otherwise

AG OPINION

provided in the charter of any municipality"); *id.* § 8-5-14 (incorporating Chapter Three only where "not otherwise provided by charter provision or ordinance"). We thus conclude that neither Section 8-5-6 nor Section 8-5-14 requires municipal elections officers to adhere to Section 3-5-7(c)'s hours-of-operations provisions because they cannot be "applied" to city clerks or recorders. Instead, this is an area where local charters and ordinances control.

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

Thomas Lampman
Assistant Solicitor General

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

(304) 558-2021
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FILED
2021 JUL 14 P 1:34
OFFICE WEST VIRGINIA
SECRETARY OF STATE
AG OPINION

July 8, 2021

The Honorable John L. Bord
Taylor County Prosecuting Attorney
214 West Main Street
Grafton, WV 26345

Dear Prosecutor Bord:

You have asked for an Opinion of the Attorney General about legal responsibilities to keep one landowner's cattle from moving onto the property of another. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General "shall give written opinions . . . upon questions of law . . . whenever required to do so, in writing, by . . . any . . . state officer, board or commission." To the extent this Opinion relies on facts, it depends solely on the factual assertions set forth in your correspondence with the Office of the Attorney General.

Your request asks if a business that is not engaged in agriculture, specifically a coal company, is required to build a fence on its property to keep out the cattle of another landowner. The request also asks if the landowner whose cattle are crossing property lines is required to build a fence. Your letter represents that currently there is no fence between the business and the landowner in question.

This raises the following legal question:

What duties does West Virginia law impose on landowners with respect to keeping their livestock off the property of other, nearby landowners?

We conclude that under the plain language of the West Virginia Code it is unlawful for a landowner to allow their livestock to run at large and trespass on the property of other landowners. In doing so the landowner risks not only civil liability for negligence but also criminal penalties for injuries or destruction of property that their livestock cause.

First, West Virginia Code § 19-18-1 establishes civil liability for a landowner whose livestock trespass on the property of others. Subsection (a) reads that "[i]f livestock enters the property of a landowner without that landowner's consent, the owner of the livestock is liable for damages for personal injury or property damage in a civil action in magistrate or circuit court." The statute further prescribes the process that the party trespassed upon must take when livestock are present on their property: Subsection (b) requires the offended party to "attempt to contact the owner of the trespassing livestock within forty-eight hours of the trespass," and to notify the county sheriff if the landowner cannot be reached during that time. Following this, subsections (c) and (d) allow the party trespassed upon to contain the trespassing livestock if they wish and to receive fair cost for that containment.

Second, West Virginia Code § 19-18-3 sets out the potential criminal penalties for the owners of trespassing livestock. Subsection (a) provides that "[w]hile livestock may escape enclosures due to accident or unforeseen circumstances, it is unlawful for the owner of livestock to negligently permit livestock to run at large and trespass on the property of landowners." Subsection (b) lays out penalties for violations, including warnings, fines, and conviction of a misdemeanor.

Under these sections of the West Virginia Code, the issues of civil liability and criminal penalties hinge on questions of negligence and damages. These are fact-specific inquiries with regard to whether and how much a landowner may be at fault under circumstances you describe in your letter. We are aware of no authority, however, indicating that the coal company is the party required to take measures to keep out the livestock of an adjacent landowner. To the contrary, any landowners who choose not to build a fence to contain their livestock, and whose livestock then trespass on the property of another, open themselves to both potential civil and criminal consequences.

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

Caleb A. Seckman
Assistant Solicitor General

State of West Virginia
Office of the Attorney General

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(304) 558-2021
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FILED
2021 JUL 14 P 1:34
OFFICE WEST VIRGINIA
SECRETARY OF STATE
AG OPINION

July 8, 2021

Eugene White, Director
West Virginia Office of Miners' Health, Safety & Training
#7 Players Club Drive, Suite 2
Charleston, WV 25311

Dear Director White:

You have asked for an Opinion of the Attorney General concerning which entity has authority to grant site-specific modifications to the statutes and rules governing diesel-powered equipment in underground coal mines. This Opinion is being issued pursuant to West Virginia Code Section 5-3-1, which provides that the Attorney General "shall give written opinions . . . upon questions of law, whenever required to do so, in writing, by . . . any . . . state officer, board or commission." To the extent this Opinion relies on facts, it is based solely on the factual assertions set forth in your correspondence with the Office of the Attorney General.

Your request involves the interplay of statutory powers between, on the one hand, the Director of the Office of Miners' Health, Safety and Training ("OMHST"), and on the other, the State Coal Mine Safety and Technical Review Committee/Board of Coal Mine Health and Safety ("TRC/Coal Board"). In your correspondence you note that the West Virginia Legislature has generally granted the TRC/Coal Board authority to consider petitions submitted by mine operators seeking a site-specific rule modification. You also note that the Legislature has authorized the use of diesel-powered equipment in underground coal mines and assigned certain duties and responsibilities regarding approval of diesel-power equipment, again on a site-specific basis, to OMHST.

Your letter raises the following legal question:

Did the Legislature vest OMHST or the TRC/Coal Board with the authority to consider petitions for a site-specific modification to statutes or rules governing the use of diesel-powered equipment in underground coal mines?

We conclude that although generally the TRC/Coal Board is vested with the authority to consider petitions seeking site-specific rules relating to mine operation or mine safety, OMHST possesses this power in the specific context of site-specific requests for using diesel equipment in underground mines.

Discussion

One of the primary functions of the TRC is to "[a]ccept and consider petitions submitted by individual mine operators or miners seeking site-specific rule making pertaining to individual mines and make recommendations to the board considering such rule making." W. Va. Code § 22A-6-7(a)(3). Specifically, the TRC makes recommendations to the Coal Board regarding "rules with general mining industry application." *Id.* § 22A-6-7(e). The TRC may also "accept requests for site-specific rulemaking on a mine-by-mine basis" and recommend site-specific rules to the Coal Board. *Id.* § 22A-6-7(f)(1). The Coal Board, in turn, may adopt the TRC's recommendation only where applying the site-specific rule to the specific "mine will not reduce or compromise the level of safety or protection afforded miners below that level of safety or protection afforded by any applicable statutes." *Id.* § 22A-6-7(f)(3).

In the more specific context of diesel-powered equipment, in 1997 the Legislature authorized the use of diesel-powered equipment in underground coal mines. *See* W. Va. Code § 22A-2A-101. More recently, the Legislature vested the Director of OMHST with certain duties relating to authorizing this type of equipment. *See id.* § 22A-2A-310, *et seq.* As most relevant to your question, the Director has authority to "consider site-specific requests for the use of diesel equipment in underground coal mines and for the use of alternative diesel-related health and safety technologies and methods." *Id.* § 22A-2A-310(b). The Legislature also tasked the Director with revising rules promulgated pursuant to Chapter 22A of the West Virginia Code to allow "diesel generators in underground mines," but only if "the generator is vented directly to the return and at least one person is present within sight and sound of the generator." *Id.* § 22A-2A-1001(10).

Your letter explains that, together with the Coal Board, you are seeking an opinion on "the general issue" of which of these two entities "has the authority to consider requests for modification to statutory or rule created diesel equipment mine safety laws on a site-specific basis for an individual mine." A plain reading of these statutory provisions reveals that the Director of OMHST is charged with considering requests for the use of diesel-powered equipment or diesel-related alternative technologies, while the TRC/Coal Board is vested with the authority to consider site-specific rule-making requests relating to the mining industry more generally.

Regarding questions of overlapping or conflicting statutes, the Supreme Court of Appeals of West Virginia has held that "[w]here two statutes are in apparent conflict, the Court must, if

reasonably possible, construe such statutes so as to give effect to each." Syl. pt. 9, *Barber v. Camden Clark Mem'l Hosp. Corp.*, 240 W. Va. 663, 815 S.E.2d 474 (2018) (citation omitted). More specifically, the Court has also explained that "[t]he general rule of statutory construction requires that a specific statute be given precedence over a general statute relating to the same subject matter where the two cannot be reconciled." Syl. pt. 10, *id.* (citation omitted).

Here, the relevant statutory provisions are in apparent conflict because they seemingly confer the same rule-making authority on both OMHST and the TRC/Coal Board. West Virginia Code Section 22A-2A-310(b) expressly vests the Director of OMHST with the authority to consider requests for the use of diesel-powered equipment in underground coal mines. Yet West Virginia Code Section 22A-6-7(e) seemingly vests the TRC/Coal Board with the *same* authority, because the general power it describes to consider site-specific rule-making requests would seem to include the subset of requests related to diesel-powered equipment. Further, applying the principles of statutory interpretation outlined in *Barber*, it appears that these interpretations cannot be reconciled to grant both entities concurrent power: Particularly in an area of the law concerned with safety, *e.g.*, W. Va. Code § 22A-6-7, the potential for confusion and conflicting rules from two separate entities would be an untenable reading of the statutes.

As such, *Barber* instructs that the statute containing the most specific language controls. That statute is Section 22A-2A-310(b) because it addresses the narrow issue of rule-making authority relating to diesel-powered equipment in underground coal mines, whereas Section 22A-6-7(e) vests the TRC/Coal Board with broad authority to consider rule-making requests more generally. We therefore conclude that although generally the TRC/Coal Board is vested with the authority to consider a petition seeking site-specific rules relating to mine operation or mine safety, the Legislature's more specific delegation to OMHST in Section 22A-2A-310(b) means that OMHST—not the TRC/Coal Board—has power to issue site-specific rules relating to the use of diesel-powered equipment.

You also note that the question that brought this issue to a head relates to the requirement in West Virginia Code Section 22A-2A-1001(10) that a diesel generator located in an underground coal mine be vented directly into the mine return. As our analysis above explains, if any entity has authority to modify this requirement on a site-specific basis, it is OMHST. Nevertheless, we also note that this requirement is within the part of the statute where the Legislature gave explicit health-and-safety directives for specific situations—here, that diesel-powered generators are allowed in underground coal mines *only if* "the generator is vented directly to the return." *Id.* § 22A-2A-1001(10). To be sure, site-specific rulemaking authority in this context generally includes power to modify a default legislative directive. *See id.* § 22A-2A-604(a) (allowing approval of plans for fueling diesel-powered equipment in intake escapeways when necessary based upon mine design, despite general prohibition on fueling in intake escapeways.); *id.* § 22A-2A-602(b)(1) (giving discretion to either prohibit underground diesel fuel tanks or establish petitioning process for the allowance of underground diesel fuel tanks on a site-specific basis). And nothing in the remainder of this statute speaks to whether the Legislature exempted any parts of the relevant Code from OMHST's site-specific rulemaking power. Thus, while a reviewing court would likely conclude that OMHST has power to grant exemptions from Section 22A-2A-1001(10) in appropriate circumstances, when reviewing

AG OPINION

OMHST's *rationale* for any exemption a court may also give weight to the Legislature's strong statutory directive about what safety looks like in the specific context of underground coal mine vents. We therefore urge OMHST to give appropriate consideration to this statutory default when considering any site-specific rulemaking requests that involve Section 22A-2A-1001(10).

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

Virginia Payne
Assistant Solicitor General

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

FILED
2021 JUL 16 A 9
OFFICE WEST VIRGINIA SECRETARY OF STATE

OTHER

Bill J. Crouch
Cabinet Secretary

Barbara Skeen
Interim Executive Director

NOTICE OF REVIEW

FOR IMMEDIATE RELEASE

July 16, 2021

NEWS ITEM

The Health Care Authority (Authority), pursuant to the Certificate of Need program, has declared complete and accepted for review the expedited application referenced below:

July 13, 2021 - Preston Memorial Hospital Corporation, Kingwood, Preston County, CON File #21-6-12118-P, for the development of an ambulatory health care facility to be located at 110 North Price Street, Kingwood, through the acquisition of the assets and a lease of the real property of Milestones Family Practice and employment of Drs. Bernice and Michael Schwarzenberg; capital expenditure: $150,000.

An application that has been 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.

The review cycle begins on **July 15, 2021**.

On or before **August 16, 2021**, any affected person has the right to request that the Authority hold a public hearing on the project as part of the review. If a public hearing is conducted during the course of the review, a notice of hearing, specifying the date, time and location of the hearing, will be issued to affected persons.

If no public hearing is requested, the file closing date will be **August 19, 2021**. After that date, no further information or evidence will be accepted by the Authority for the remainder of the review of the application.

The Decision on the project referenced above will be issued by the Authority after it has reviewed the contents of the case file of the project, including the application,

additional information submitted to the Authority during the review, and the record of any Authority public hearing. If there is no request for public hearing, the Decision will be issued on or before **September 13, 2021**.

A press release will be issued after the decision is made. Anyone wishing to be directly notified of the Decision should submit a written request to Barbara Skeen, Director, Certificate of Need, Health Care Authority, 100 Dee Drive, Charleston, West Virginia, 25311-1600. Further information on the project referenced in this news release may be obtained by contacting the Certificate of Need office at telephone number (304) 558-7000.

7/16/21
Date

Barbara Skeen
Barbara Skeen, Director, Certificate of Need
Health Care Authority