WEST VIRGINIA REGISTER

Published by the Office of the Secretary of State

Volume XXXIX

Issue 44

November 4, 2022

A Weekly Publication

Administrative Law Division

Mac Warner
Secretary of State
Bldg. 1, Suite 157K
1900 Kanawha Blvd. East
Charleston, WV 25305-0770

(304) 558-6000

sos.wv.gov

CONTENTS

Chronological Index

Rule Monitor

Notices

a. **Legislative Rules**
b. **Interpretive Rules**
c. **Procedural Rules**
d. **Emergency Rules**
e. **LRMRC and LOCEA**

Legislative Interims

Orders

Ethics Commission Opinions

Grievances Reports

Office of Tax Appeal Decisions

Governor's Executive Orders

Attorney General Opinions

Other Documents or Information Filed

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

Economic Development, WV Department of

Health and Human Resources, Bureau for Medical Services

Health Care Authority

Natural Resources

Public Service Commission

CHRONOLOGICAL INDEX, VOLUME XXXIX ISSUE 44

RULES FILED FOR PUBLIC COMMENT THIS WEEK

AGENCY	RULE/TYPE	AUTHORITY	HEARING/COMMENT PERIOD/LOCATION
Public Service Commission (150-05)	Rules for the Government of Sewer Utilities Legislative Exempt	§24-1-1, 24-2-1, 24-2-2, 24-2H-1	Written Comments Only: January 2, 2023, 4:00 PM Executive Secretary PO Box 812 Charleston, WV 25323
Public Service Commission (150-07)	Rules for the Government of Water Utilities Legislative Exempt	§24-1-1, 24-1-7, 24-2-1, 24-1-1, 24-1-7, 24-2-1	Written Comments Only: January 2, 2023, 4:00 PM Executive Secretary PO Box 812 Charleston, WV 25323

NO EMERGENCY RULES FILED THIS WEEK

AGENCY	RULE/TYPE	AUTHORITY	EFFECTIVE DATE	DATE NOTICE OF HEARING

Office of the Secretary of State
State Capitol
Charleston, West Virginia 25305

Mac Warner
Secretary of State
State of West Virginia

Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
Fax: (304) 558-0900
www.wvsos.gov

GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

Column	1.	Agency Name, (Title and Series Number)
Column	2.	Rule Title, Price and Type
Column	3.	Date Notice of Public Hearing or Comment Period Filed
Column	4.	Date of Public Hearing or Last Date Comments Will Be Received
Column	5.	Date Emergency Rule Filed, Emergency Amendments Filed, Emergency Rule Decision (ERD) Number & Date ERD Filed (Effective Date of Emergency Rule)
Column	6.	Date Agency Approved Legislative Rules Filed.
Column	7.	Date Review by the Legislative Rule-Making Review Committee & Action Taken **Please Note** The Board of Education, Board of Trustees & Board of Directors File Their Rules With the Educational Over-Sight Committee
Column	8.	Legislative Action
Column	9.	Date Agency Final Files Legislative, Procedural or Interpretive Rules. This is the Final Step for Procedural & Interpretive Rules
Column	10.	Date Rule is Effective

- Emergency rules will not have a "Notice" date until the agency files one, but the rule will appear in Columns 1, 2 & 5. An Agency must file for either a public hearing or public comment period either before filing as an emergency or no more than 30 days after filing the rule as an emergency
- If more than one date appears in a column, it means the agency has repeated that step (ex. - holding an additional public hearing)

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	1	ACCOUNTANCY
TITLE	2	ARCHITECTS
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	4	CHIROPRACTIC EXAMINERS
TITLE	5	DENTISTRY
TITLE	6	FUNERAL SERVICE EXAMINERS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	19	REGISTERED PROFESSIONAL NURSES
TITLE	20	SANITARIANS
TITLE	22	FORESTRY
TITLE	24	OSTEOPATHIC MEDICINE
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
TITLE	30	RESPIRATORY CARE
TITLE	31	DIETITIANS
TITLE	32	ACUPUNCTURE
TITLE	33	WASTE MANAGEMENT, DIV. OF WATER AND WASTE MGMT.
TITLE	35	OIL AND GAS
TITLE	36	COAL MINE HEALTH AND SAFETY
TITLE	38	MINING AND RECLAMATION
TITLE	42	LABOR
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
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	145	DEVELOPMENT OFFICE
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTIONS
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	155	AUDITOR
TITLE	157	HIGWAYS
TITLE	164	SCHOOL BUILDING AUTHORITY
TITLE	174	REAL ESTATE COMMISSION
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION - BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY COMMISSION
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Accountancy (1-01)	Board Rules and Rules of Professional Conduct Legislative	5/12/2022	7/1/2022		7/27/2022	Approved 9/15/2022			
Acupuncture (32-05)	Advertising by Licensed Acupuncturists Legislative	6/29/2022	7/29/2022		7/29/2022	Modified & Approved 9/11/2022 Filed 9/28/2022			
Acupuncture (32-06)	Standards of Practice of Acupuncture by Licensed Acupuncturists Legislative	6/30/2022	7/30/2022		7/30/2022	Modified & Approved 9/11/2022 Filed 9/28/2022			
Acupuncture (32-09)	Continuing Education Requirements Legislative	6/29/2022	7/29/2022		7/29/2022	Modified & Approved 9/11/2022 Filed 9/28/2022			
Administration (148-01)	Purchasing Legislative	6/28/2022	7/28/2022	6/13/2022 Approved 6/13/2022	7/28/2022	Approved 9/11/2022			
Administration (148-03) Sunset Provision	State Owned Vehicles Legislative				10/25/2022				
Administration (148-06) Sunset Provision	Parking Legislative				10/15/2021	Authorized w/Certain Amendments & Approved 9/15/2022			
Agriculture (61-02)	WV Apiary Rule Legislative	6/2/2022	7/2/2022		7/18/2022	Modified & Approved 10/2/22 Filed 10/3/2022			
Agriculture (61-08B)	Schedule of Charges for Inspection Services: Fruit Legislative	4/12/2022	5/11/2022		5/12/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Agriculture (61-14A)	Noxious Weeds Rule Legislative	3/30/2022 Hearing Notice 5/5/2022	4/29/2022 Hearing Date 6/9/2022		6/14/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Agriculture (61-15)	Grade “A” Pasteurized Milk Legislative	6/14/2022	7/14/2022		7/21/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Agriculture (61-23D) Sunset Provision	Inspection of Nontraditional, Domesticated Animals Legislative				11/15/2021	Modified & Approved 9/11/2022 Filed 10/26/2022			
Agriculture (61-30)	Hemp Products Legislative	6/28/2022	7/28/2022		7/28/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Agriculture (61-31)	Livestock Care Standards Legislative	6/2/2022	7/2/2022		7/18/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Agriculture (61-36)	Farm to Food Bank Tax Credit Legislative	4/18/2022	5/18/2022		5/18/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Agriculture (61-38)	Farmers Markets Legislative	6/24/2022	7/24/2022		7/25/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/1/2022	7/5/2022		7/21/2022	Approved 9/11/2022			
Air Quality (45-30)	Requirements for Operating Permits Legislative	6/1/2022	7/5/2022		7/21/2022	Authorized as Modifed w/ certain Amendments 10/3/2022			
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/1/2022	7/5/2022		7/21/2022	Approved 9/11/2022			
Air Quality (45-40)	Control of Ozone Season Nitrogen Oxides Emissions Legislative	6/1/2022	7/5/2022		7/21/2022	Modified & Approved 9/11/2022 Filed 9/16/2022			
Athletic Commission (177-01)	Administrative Rule of the WV State Athletic Commission Legislative	6/3/2022	7/5/2022		7/26/2022	Modified & Approved 9/11/2022 Filed 10/20/2022			
Athletic Commission (177-02)	Regulation of Mixed Martial Arts Legislative	6/7/2022	7/8/2022		7/27/2022	Modified & Approved 9/11/2022 Filed 10/20/2022			
Auditor (155-03)	Standards for Voluntary Payroll Deductions Legislative	6/27/2022	7/27/2022		7/29/2022	Approved 9/11/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Coal Mine Health and Safety (36-57)	Proximity Detection Systems and Haulage Safety Generally Legislative Exempt	8/12/2022	9/14/2022						
Community & Technical College Education (135-02)	Finance Legislative	6/10/2022	7/13/2022	6/10/2022 Effective 6/10/2022	7/22/2022	Approved 9/11/2022			
Community & Technicial College Education (135-12) Sunset Provision	Capital Project Management Legislative				6/13/2022				
Community & Techncial College Education (135-27)	Workforce Development: Learn and Earn, Technical Program Development, and WV Advance Rapid Response Grants Legislative	6/10/2022	7/13/2022		7/21/2022	Approved 9/11/2022			
Community & Techncial College Education (135-52)	Annual Reauthorization of Degree-Granting Institutions Legislative	6/13/2022	7/15/2022		7/21/2022	Approved 9/11/2022			
Community & Techncial College Education (135-55) Sunset Provision	Human Resources Administration Legislative				6/13/2022				
Conservation Agency (63-01)	Operation of WV State Conservation Committee and Conservation Districts Legislative	5/2/2022	6/16/2022		7/12/2022	Modified & Approved 9/11/2022 Filed 9/20/2022			
Conservation Agency (63-04)	Conservation District Accounting and Auditing Standards Legislative	5/2/2022	6/16/2022		7/12/2022	Modified & Approved 9/11/2022 Filed 9/20/2022			
Corrections (90-10)	Purchasing Procedure Procedural	10/25/2022	11/28/2022						
Counseling (27-14)	Telehealth and Interstate Telehealth Registration for Licensed Professional Counselors and Licensed Marriage and Family Therapists Legislative	12/6/2021	1/14/2022	1/10/2022 Approved 1/13/2022	1/26/2022				

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Crime Delinquency and Correction (149-03) Sunset Provision	Protocol for Law Enforcement Response to Domestic Violence Legislative				7/29/2022	Approved 9/28/2022			
Dentistry (5-09)	Application Procedures for Licensure or Certificate Procedural	7/22/2022	8/23/2022					10/25/2022	12/1/2022
Dentistry (5-15)	Dental Recovery Networks Legislative	6/16/2022	7/18/2022		7/22/2022	Modified & Approved 9/28/2022 Filed 10/4/2022			
Economic Development, WV Dept. of (145-15)	Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/15/2022 Filed 11/1/2022			
Education (126-016)	Regulations for the Education of Students with Exceptionalities (Policy 2419) Legislative Exempt	4/14/2022	5/16/2022					10/12/2022	11/14/2022
Emergency Management (170-06)	Purchasing Policy Procedural	9/23/2022	10/24/2022					10/25/2022	11/25/2022
Emergency Management (170-07)	National Flood Insurance Program Legislative	6/29/2022	7/28/2022		7/29/2022	Modified & Approved 9/11/2022 Filed 9/15/2022			
Environmental Protection, Secretary's Office (60-10)	Purchasing Procedure Procedural	10/17/2022	11/22/2022						
Environmental Protection, Secretary's Office (60-11)	Rules for Reclamation of Solar and Wind Electricity Generating Facilities Legislative	6/27/2022	7/28/2022		7/29/2022	Approved 9/28/2022			
Financial Institutions, Div. of (106-23)	Rule Pertaining to Money Transmission Services Legislative	6/3/2022	7/5/2022		7/27/2022	Modified & Approved 9/11/2022 Filed 9/19/2022			
Fire Commission (87-03)	Hazardous Substance Emergency Response Training Programs Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/5/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Fire Commission (87-05, repeal)	Certification of Home Inspectors Legislative	6/29/2022	7/29/2022		7/29/2022	Approved 9/28/2022			
Fire Commission (87-08)	Volunteer Firefighters' Training, Equipment, and Operating Standards Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/5/2022			
Fire Marshal (103-01)	Certification of Electrical Inspectors Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/5/2022			
Fire Marshal (103-03)	Supervision of Fire Protection Work Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/5/2022			
Fire Marshal (103-05)	Electrician Licensing Rules Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/5/2022			
Fire Marshal (103-07)	Certification of Home Inspectors Legislative	6/29/2022	7/29/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/5/2022			
Funeral Service Examiners (6-01)	Funeral Director, Embalmer, Apprentice, Courtesy Card Holders and Funeral Establishment Requirements Legislative	6/27/2022	7/27/2022	7/27/2022 Approved 8/11/2022	7/27/2022	Modified & Approved 10/2/2022 Filed 10/4/2022			
Funeral Service Examiners (6-02)	Crematory Requirements Legislative	6/27/2022	7/27/2022		7/27/2022	Modified & Approved 10/2/2022 Filed 10/4/2022			
Funeral Service Examiners (6-07)	Fee Schedule Legislative	6/27/2022	7/27/2022	7/27/2022 Approved 8/11/2022	7/27/2022	Modified & Approved 9/28/2022 Filed 10/4/2022			
Health (64-26)	Procedures Pertaining to the Dangerousness Assessment Advisory Board Legislative	2/4/2022 5/11/2022	3/7/2022 6/10/2022	2/4/2022 Approved 2/4/2022	3/8/2022 2nd Comment Period Withdrawn 9/1/2022	Modified & Approved 9/28/2022 Filed 10/4/2022			
Health (64-73)	Basic Public Health Service Standards for Local Boards of Health Legislative	6/27/2022	7/27/2022		7/28/2022	Modified & Approved 9/28/2022 Filed 10/14/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-84)	Medical Examiner Requirements for Postmortem Inquiries Legislative	6/23/2022	7/25/2022	6/23/2022 Effective 8/4/2022	7/25/2022	Modified & Approved 9/28/2022 Filed 10/14/2022			
Health (64-110)	Medical Cannabis Program – Growers/Processors Legislative	6/22/2022	7/22/2022		7/22/2022	Approved 9/28/2022			
Health (64-112)	Medical Cannabis Program – Dispensaries Legislative	6/22/2022	7/22/2022		7/22/2022	Approved 9/28/2022			
Health and Human Resources (69-13) Sunset Provision	Development of Methodologies to Examine Needs for Substance Use Disorder Treatment Facilities within the State Legislative				6/22/2022	Modified & Approved 9/11/2022 Filed 10/26/2022			
Health and Human Resources (69-19)	Core Behavioral Health Crisis Services System Legislative	6/24/2022	7/26/2022	6/24/2022 Effective 8/5/2022	7/27/2022	Modified & Approved 9/28/2022 Filed 10/4/2022			
Health Care Authority (65-06) Sunset Provision	Cooperative Agreement Approval and Compliance Legislative				10/5/2022				
Health Care Authority (65-13) Sunset Provision	Financial Disclosure Rule Legislative				8/24/2022	Approved 9/28/2022			
Health Care Authority (65-34)	Uniform Bill Database Legislative	6/29/2022	7/29/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/4/2022			
Higher Education Policy Commission (133-02)	Higher Education Finance Policy Legislative	6/13/2022	7/13/2022	6/13/2022 Effective 6/13/2022	7/29/2022	Approved 9/11/2022			
Higher Education Policy Commission (133-12) Sunset Provision	Capital Project Management Legislative				6/14/2022	Approved 6/12/2022			
Higher Education Policy Commission (133-32)	Tuition and Fee Policy Legislative	6/13/2022	7/13/2022		7/29/2022	Approved 9/11/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Higher Education Policy Commission (133-42) Sunset Provision	West Virginia Higher Education Grant Program Legislative				6/14/2022 Emergency 8/2/2022 Effective 8/2/2022	Approved 6/12/2022			
Higher Education Policy Commission (133-52)	Annual Reauthorization of Degree-Granting Institutions Legislative	6/13/2022	7/13/2022		7/29/2022	Approved 9/11/2022			
Higher Education Policy Commission (133-55) Sunset Provision	Human Resources Administration Legislative				6/14/2022	Approved 6/12/2022			
Highways (157-02)	Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance Legislative	6/8/2022	7/8/2022		7/21/2022	Modified & Approved 10/2/2022 Filed 10/3/2022			
Highways (157-03, repeal)	Construction and Reconstruction of State Roads Legislative	6/10/2022	7/11/2022		7/21/2022	Approved 9/28/2022			
Human Services (78-01)	Child Care Centers Licensing Legislative	6/24/2022	7/25/2022		7/27/2022	Modified & Approved 10/3/2022 Filed 10/14/2022			
Human Services (78-03)	Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults and Vulnerable and Transitioning Youth Group Homes and Programs in WV Legislative	6/22/2022	7/22/2022		7/27/2022	Approved 9/28/2022			
Human Services (78-18)	Family Child Care Facility Licensing Legislative	6/23/2022	7/25/2022		7/27/2022	Approved 9/28/2022			
Human Services (78-19)	Family Child Care Home Registration Legislative	6/23/2022	7/25/2022		7/27/2022	Modified & Approved 10/3/2022 Filed 10/14/2022			
Human Services (78-20)	Informal and Relative Family Child Care Home Legislative	6/23/2022	7/25/2022		7/27/2022	Modified & Approved 10/3/2022 Filed 10/14/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Human Services (78-21)	Out of School Time Child Care Legislative	6/23/2022	7/25/2022		7/27/2022	Modified & Approved 10/3/2022 Filed 10/14/2022			
Human Services (78-25, repeal)	Goals for Foster Children Legislative	8/9/2022	9/8/2022		9/20/2022	Approved 9/28/2022			
Human Services (78-28)	Deemed Head Start Child Care Center Licenses Legislative	6/23/2022	7/22/2022		7/27/2022	Approved 9/28/2022			
Insurance Comm. (114-11B)	Suitability in Annuity Transactions Legislative	6/2/2022	7/5/2022		7/19/2022	Approved 9/11/2022			
Insurance Comm. (114-99)	Pharmacy Auditing Entities and Pharmacy Benefit Managers Legislative	6/2/2022	7/5/2022		7/19/2022	Modified & Approved 9/11/2022 Filed 9/20/2022			
Insurance Comm. (114-103)	Bail Bondsmen in Criminal Cases Legislative	7/7/2022	8/8/2022	7/1/2022 Approved 8/11/2022 Amendement 10/4/2022 Effective 10/14/2022	8/17/2022	Authorized as Modified w/certain Amendments 10/3/2022 Filed 10/4/2022			
Labor (42-19)	WV Board of Manufactured Housing Construction and Safety Legislative	6/23/2022	7/25/2022		7/26/2022	Modified & Approved 9/11/2022 Filed 9/15/2022			
Labor (42-32)	Supervision of Plumbing Work Legislative	6/29/2022	7/29/2022		7/29/2022	Approved 9/14/2022			
Labor (42-34)	Regulation of HVAC Work Legislative	6/29/2022	7/29/2022		7/29/2022	Modified & Approved 9/11/2022 Filed 9/15/2022			
Labor (42-35) Sunset Provision	Registration of Service Persons and Service Agencies Legislative				11/30/2021	Modified & Approved 9/11/2022 Filed 9/15/2022			
Labor (42-36) Sunset Provision	Registration of Weighing and Measuring Devices Used by Businesses in Commercial Transactions Legislative				11/30/2021	Modified & Approved 9/11/2022 Filed 9/15/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Landscape Architects (9-01)	Registration of Landscape Architects Legislative	6/30/2022	7/30/2022		7/30/2022	Modified & Approved 9/11/2022 Filed 9/22/2022			
Lottery Comm. (179-09)	WV Lottery Sports Wagering Rule Legislative	6/2/2022	7/3/2022		7/21/2022	Approved 9/11/2022			
Medicine (11-01A)	Licensing of Physicians and Podiatric Physicians and Disciplinary Procedures for Applicants, Licensees, Credential Holders Legislative	6/24/2022	7/25/2022	6/24/2022 Effective 8/5/2022	7/27/2022	Approved 9/11/2022			
Medicine (11-01B)	Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	6/24/2022	7/25/2022	6/24/2022 Effective 8/5/2022	7/27/2022	Approved 9/11/2022			
Medicine (11-08)	Collaborative Pharmacy Practice Legislative	6/29/2022	7/29/2022	7/29/2022 Approved 8/11/2022	7/29/2022	Approved 9/11/2022			
Medicine (11-16)	Prohibiting Sexual Misconduct by Health Care Practitioners Legislative	6/24/2022	7/25/2022		7/28/2022	Approved 9/11/2022			
Mining and Reclamation (38-03)	Rules for Quarrying and Reclamation Legislative	4/6/2022	5/11/2022		5/26/2022	Modified & Approved 9/28/2022 Filed 10/6/2022			
Motor Vehicles (91-01)	Administrative Due Process Legislative	6/29/2022	7/29/2022		7/30/2022	Approved 9/11/2022			
Motor Vehicles (91-04)	Examination and Issuance of Drivers License Legislative	6/28/2022	7/28/2022		7/30/2022	Modified & Approved 9/11/2022 Filed 9/16/2022			
Motor Vehicles (91-05)	Denial, Suspension, Revocation, Disqualification, Restriction, Nonrenewal, Cancellation, Administrative Appeals and Reinstatement of Driving Privileges Legislative	6/29/2022	7/28/2022		7/30/2022	Modified & Approved 9/11/2022 Filed 9/16/2022			
Natural Resources (58-10)	Purchasing Rule Procedural	10/6/2022	11/5/2022						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-11) Sunset Provision	Hunting, Fishing, and Other Outfitters and Guides Legislative				11/30/2021	Authorized as Modified w/Certain Amendments & Approved 9/11/2022 Filed 9/29/2022			
Natural Resources (58-12)	Commercial Whitewater Outfitters Legislative	6/28/2022	7/27/2022		7/29/2022	Authorized w/Certain Amendments &Approved 9/11/2022			
Natural Resources (58-27)	Special Motorboating Regulations Legislative	6/28/2022	7/27/2022		7/29/2022	Approved 9/11/2022			
Natural Resources (58-64) Sunset Provision	Miscellaneous Permits and Licenses Legislative				11/30/2021	Authorized as Modified w/Certain Amendments & Approved 9/11/2022 Filed 9/29/2022			
Optometry (14-12)	Optometric Telehealth Practice Legislative	6/29/2022	7/29/2022	8/25/2022 Admendment 10/4/2022 ERD by 11/15/2022	7/30/2022	Modified & Approved 9/16/2022 Filed 9/28/2022			
Osteopathic Medicine (24-02)	Osteopathic Physician Assistants Legislative	6/28/2022	7/28/2022	6/28/2022 ERD by 8/9/2022	7/29/2022	Approved 9/11/2022			
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	6/29/2022	7/29/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			
Pharmacy (15-02)	Rules for the Uniform Controlled Substances Act Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			
Pharmacy (15-07)	Registration of Pharmacy Technicians Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			
Pharmacy (15-15)	Regulations Governing Pharmacy Permits Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Pharmacy (15-19)	Inspections Legislative	2/3/2022	3/7/2022	1/6/2022 Approved 1/7/2022 Amendment 10/17/2022 ERD by 11/28/2022	4/4/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			
Pharmacy (15-20)	Donated Drug Repository Program Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			
Psychologists (17-06) Sunset Provision	Code of Conduct Legislative				9/7/2022	Approved 9/28/2022			
Public Service Commission (150-05)	Rules for the Government of Sewer Utilities Legislative Exempt	11/3/2022	1/2/2023						
Public Service Commission (150-07)	Rules for the Government of Water Utlities Legislative Exempt	11/3/2022	1/2/2023						
Public Service Commission (150-38)	Rule for the Government of Pole Attachments Legislative Exempt	6/16/2022	8/1/2022						
Public Service Commission (150-40)	Trench Sharing Rule Legislative Exempt	6/16/2022	8/1/2022						
Registered Professional Nurses (19-03)	Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative	5/18/2022	6/16/2022	8/5/2022 Approved 8/11/2022	7/27/2022	Approved 9/11/2022			
Registered Professional Nurses (19-07)	Advanced Practice Registered Nurse Licensure Requirements Legislative	5/16/2022	6/15/2022		7/26/2022	Modified & Approved 9/11/2022			
Registered Professional Nurses (19-08)	Limited Prescriptive Authority in Nurses in Advanced Practice Legislative	5/16/2022	6/15/2022		7/26/2022	Modified & Approved 9/11/2022			
Registered Professional Nurses (19-11)	Continuing Education and Competence Legislative	5/17/2022	6/15/2022		7/26/2022	Modified & Approved 9/11/2022			
Registered Professional Nurses (19-12)	Fees for Services Rendered by the Board Legislative	5/17/2022	6/16/2022		7/26/2022	Modified & Approved 9/11/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Registered Professional Nurses (19-14)	Practitioner Requirements for Accessing the WV Controlled Substances Monitoring Program Database Legislative	5/16/2022	6/15/2022		7/26/2022	Modified & Approved 9/11/2022			
Registered Professional Nurses (19-16)	Telehealth Practice; Requirements; Definitions Legislative	5/16/2022	6/15/2022		7/26/2022	Approved 9/12/2022			
Secondary School Activities Comm. (127-02)	Athletics, Provisions Governing Eligibility Legislative Exempt	9/15/2022	10/17/2022						
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative Exempt	9/15/2022	10/17/2022						
Secretary of State (153-13)	Early Voting In-Person Satellite Precincts Legislative	6/30/2022	7/31/2022		8/1/2022	Modified & Approved 9/11/2022			
Secretary of State (153-25)	Combined Voter Registration and Driver Licensing Fund Legislative	6/27/2022	7/28/2022		7/29/2022	Modified & Approved 9/11/2022			
Secretary of State (153-53)	Election Processes and Absentee Eligibility During State of Emergency			3/20/2020 Effective 3/20/2020					
Secretary of State (153-54)	Administrative Procedures for the Nonpublic Funding for Election Administration Fund Legislative	6/30/2022	7/31/2022	6/2/2022 Effective 7/14/2022	8/1/2022	Modified & Approved 9/11/2022			
Sec. of WV DHHR and WV Insurance Commissioner (114A-03)	All-Payer Claims Database – Submission Manual Legislative	6/28/2022	7/28/2022		7/29/2022				
State Police (81-10)	WV State Police Professional Standards Investigations, Employee Rights, Early Identification System, Psychological Assessment and Progressive Discipline Legislative	6/29/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/14/2022			
Tax (110-01J)	Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes Legislative	6/13/2022	7/13/2022	6/13/2022 Approved 7/1/2022	7/29/2022	Modified & Approved 9/28/2022 Filed 10/17/2022			

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax (110-13DD) Sunset Provision	Farm-To-Food Bank Tax Credit Legislative				3/25/2022	Approved 9/11/2022			
Tax (110-13X)	WV Film Industry Investment Act Legislative	6/3/2022	7/3/2022		7/26/2022	Modified & Approved 9/11/2022 Filed 9/26/2022			
Tax (110-22) Sunset Provision	Property Transfer Tax Legislative				3/25/2022	Approved 9/11/2022			
Tax (110-28)	Municipal Sales and Use Tax Administration Legislative	6/3/2022	7/3/2022		7/26/2022	Modified & Approved 9/11/2022 Filed 9/26/2022			
Tax (110-42) Sunset Provision	Personnel Rule for the Tax Division Legislative				3/25/2022	Approved 9/11/2022			
Treasurer (112-05)	Enforcement of the Uniform Unclaimed Property Act Legislative	6/27/2022	7/27/2022		7/29/2022	Modified & Approved 9/11/2022 Filed 9/15/2022			
Treasurer (112-18)	Hope Scholarship Program Legislative	2/9/2022	3/11/2022	2/9/2022 Effective 3/23/2022 Admendment 4/22/2022 Effective 6/3/2022 Admendment 10/13/2022 ERD by 11/24/2022	4/21/2022				
Treasurer (112-20)	Jumpstart Savings Program Legislative	5/19/2022	6/20/2022	5/20/2022 Effective 7/1/2022 Amendment 8/4/2022 Approved 8/11/2022 Amendment 9/30/2022 ERD by 11/11/22	7/22/2022	Modified & Approved 9/11/2022 Filed 9/15/2022			
Veterinary Medicine (26-02)	Disciplinary and Complaint Procedures of the West Virginia Board of Veterinary Medicine Procedural	10/24/2022	11/30/2022						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Waste Management, Div. of Water & Waste Mgmt. (33-10)	Recycling Assistance Grant Program Legislative	6/29/2022	7/29/2022		7/29/2022	Approved 9/28/2022			
Waste Management, Div. of Water & Waste Mgmt. (33-13)	Reclamation of Abandoned and Dilapidated Properties Grant Program Legislative	6/28/2022	7/28/2022		7/29/2022	Modified & Approved 9/28/2022 Filed 10/14/2022			

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
11/1/2022 1:27:48 PM

Office of West Virginia
Secretary Of State

Legislative

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Economic Development WV Department of

RULE TYPE: Legislative TITLE-SERIES: 145-15

RULE NAME: SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER MATCHING FUNDS PROGRAM

CITE AUTHORITY: W. Va. Code §5B-8-2

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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

Yes

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

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR MEDICAL SERVICES
Commissioner's Office
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3712
Telephone: (304) 558-1700 Fax: (304) 558-1451

Bill J. Crouch
Cabinet Secretary

Cynthia E. Beane
Commissioner

October 31, 2022

FILED
2022 OCT 31 A 10:00
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

To: West Virginia Secretary of State
Capitol Complex, Main Building

From: Cynthia Beane, MSW, LCSW
Commissioner

Subject: Material for filing in the Secretary of State's Office

The material indicated below is being forwarded. Please file and publish in the State Register in accordance with the Administrative Procedure Act.

New Medicaid Chapter	☐
Medicaid Chapter Update	☐X
New Medicaid Policy	☐
Medicaid Policy Update	☐
State Plan Amendment for title XIX, Medicaid	☐
Other	☐

The following is an explanation of the above material:

Chapter Number: 511
Title: Intermediate Care Facilities for Individuals with Intellectual Disabilities

Please acknowledge receipt of this material by signing and returning a copy of this document to the attention of:

Margaret Brown
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3707

Signature of Person Receiving Above Material

Date

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR MEDICAL SERVICES
Commissioner's Office
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3712
Telephone: (304) 558-1700 Fax: (304) 558-1451

Bill J. Crouch
Cabinet Secretary

Cynthia E. Beane
Commissioner

Legislative

November 2, 2022

OFFICE OF WEST VIRGINIA SECRETARY OF STATE
2022 NOV -2 A 10: 16
FILED

To: West Virginia Secretary of State
Capitol Complex, Main Building

From: Cynthia Beane, MSW, LCSW
Commissioner

Subject: Material for filing in the Secretary of State's Office

The material indicated below is being forwarded. Please file and publish in the State Register in accordance with the Administrative Procedure Act.

New Medicaid Chapter	☐
Medicaid Chapter Update	☐X
New Medicaid Policy	☐
Medicaid Policy Update	☐
State Plan Amendment for title XIX, Medicaid	☐
Other	☐

The following is an explanation of the above material:

Chapter Number: 519.19
Title: Women's Health Services

Please acknowledge receipt of this material by signing and returning a copy of this document to the attention of:

Margaret Brown
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3707

Signature of Person Receiving Above Material

Date

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
11/1/2022 12:34:55 PM
Office of West Virginia Secretary Of State

NOTICE OF SUNSET PROVISION EXTENSION REQUEST

AGENCY: Natural Resources TITLE-SERIES: 58-36

RULE TYPE: Legislative CITE STATUTORY AUTHORITY: §§20-3-3a(e), 20-7-9.

RULE NAME: 58-36 Cabwaylingo State Forest Trail System Two Year Pilot Project Permitting ATVs and ORVs

PLEASE SELECT A SUNSET PROVISION OPTION:

[X] EXTEND THE SUNSET DATE OF THE RULE.

5 REQUESTED NUMBER OF YEARS FOR EXTENSION (SUBJECT TO LRMRC REVIEW).

[ ] LET THIS RULE EXPIRE.

PLEASE INDICATE IF THIS RULE INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS [ ] INCORPORATED BY REFERENCE [ ]

PLEASE PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The purpose of this rule is to provide for the regulation of the pilot project permitting all-terrain or off-highway recreational vehicles on designated roads and trails in Cabwaylingo State Forest.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE REASONS FOR REQUESTING A SUNSET PROVISION EXTENSION:

The agency would like to keep this rule in place as it seeks to amend the authorizing legislation to extend the program.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

Following initial increased revenue upon implementaiton, no further economic impact is anticipated.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

Following initial increased revenue upon implementaiton, no further economic impact is anticipated.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
11/3/2022 12:19:07 PM
Office of West Virginia
Secretary Of State

Legislative

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Public Service Commission TITLE-SERIES: 150-05

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

RULE NAME: Rules for the Government of Sewer Utilities

CITE STATUTORY AUTHORITY: 24-1-1, 24-1-7, 24-2-1, 24-2-2, and 24-2H-1

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 01/02/2023 4 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Executive Secretary

ADDRESS: PO Box 812

Charleston, WV 25323

EMAIL:

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
11/3/2022 12:25:02 PM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Public Service Commission TITLE-SERIES: 150-07

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

RULE NAME: Rules for the Government of Waterr Utilities

CITE STATUTORY AUTHORITY: 24-1-1, 24-1-7, 24-2-1,24-1-1, 24-1-7, 24-2-1,

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 01/02/2023 4 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Executive Secretary

ADDRESS: PO Box 812

Charleston, WV 25323

EMAIL:

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)

Orders Report

Docket Number	Agency	Respondent	Date Rendered

NONE RECEIVED THIS WEEK

11/4/2022 8:39:53 AM

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

Bill J. Crouch
Cabinet Secretary

Rae J. Bates
Interim Executive Director

FILED
2022 OCT 28 A 11: 16
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Others

In Re:

BOONE MEMORIAL HOSPITAL
CON File No. 22-3-12446-H

AMENDED NOTICE OF ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Rae J. Bates, Interim Executive Director of the West Virginia Health Care Authority, wishes to announce that the following proceedings have been scheduled for the above-noted application:

AN ADMINISTRATIVE HEARING will be held, **November 29, 2022, at 9:00 a.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

This application concerns the renovation of an existing building located at 448 Smoot Avenue, Danville, Boone County, into a medical pavilion where the hospital will relocate certain existing services including an existing ambulatory care center.

You and any other "affected persons" as defined by W. Va. Code §16-2D-2 wishing to participate in the hearing of this application are directed to be present the administrative hearing.

In a hearing, any person has the right to be present or to be represented by counsel and to present oral or written arguments and relevant evidence. Any person affected by the matter which is the subject of the hearing may conduct reasonable questioning of persons who make factual allegations relevant to such matters.

PLEASE TAKE NOTICE that if the party who requested the hearing withdraws that request, then the hearing will be canceled.

The file on this application is available for examination in the offices of the Health Care Authority from 8:30 a.m. to 4:30 p.m., Monday through Friday. If you have questions concerning this matter, please contact Rae J. Bates, Interim Executive Director, at (304) 558-7000.

Date: October 26, 2022

Rae J. Bates 10-26-22
Rae J. Bates, Interim Executive Director

WEST VIRGINIA
HEALTH CARE AUTHORITY

FILED

2022 OCT 28 A 11: 16

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

In Re: **BOONE MEMORIAL HOSPITAL**
CON File # 22-3-12446-H

Others

AMENDED HEARING ORDER

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

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

1. Hearing date: **November 29, 2022, at 9:00 a.m.**

2. Exhibits based on recently filed discovery to be filed by: **November 18, 2022.**

Entered this 26th day of October, 2022.

B. Allen Campbell
Interim General Counsel
West Virginia Health Care Authority

FILED
WV SECRETARY OF STATE
OCTOBER 31, 2022 10:23 AM

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

October 31, 2022

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **October 28, 2022**.

CERTIFICATE OF NEED APPLICATION RECEIVED

October 28, 2022 - Thomas Memorial Hospital, South Charleston, Kanawha County, West Virginia, CON File #22-3-12525-P, for the development of an ambulatory health care facility in South Charleston, Kanawha County, West Virginia; capital expenditure: $2,780,000.

HEARING NOTICE

The Administrative Hearing has been **AMENDED** in the following matter:

October 26, 2022 - Boone Memorial Hospital, Madison, Boone County, West Virginia, CON File #22-3-12446-H, for the renovation of an existing building located at 448 Smoot Avenue, Danville, Boone County, West Virginia, into a medical pavilion where BMH will relocate certain existing services; capital expenditure: $14,135,572.80.

Administrative Hearing: **November 29, 2022 at 9:00 a.m.**

HEARING ORDER ISSUED

October 26, 2022 - Boone Memorial Hospital, Madison, Boone County, West Virginia, CON File #22-3-12446-H, for the renovation of an existing building located at 448 Smoot Avenue, Danville, Boone County, West Virginia, into a medical pavilion where BMH will relocate certain existing services; capital expenditure: $14,135,572.80.

PROJECTS DETERMINED NOT REVIEWABLE

October 24, 2022 - Princeton Community Hospital Association, Inc. d/b/a Princeton Community Hospital, Princeton, Mercer County, West Virginia, CON File #22-1-12514-X, for the acquisition of a rural health clinic, operated by Bluefield Clinic Company, LLC, a wholly owned subsidiary of PCH; no capital expenditure.

October 25, 2022 - Necco LLC, Cincinnati, Ohio, CON File #22-WV-12509-X, for the reorganization of West Virginia counties assigned to each office; no capital expenditure.

October 25, 2022 - Diversified Assessment & Therapy Services, Kenova, Wayne County, West Virginia, CON File #22-7-12510-X, for the addition of an administrative office to be located at 2 Traders Alley, Buckhannon, Upshur County, West Virginia; no capital expenditure.

PROJECTS EXEMPT FROM REVIEW

October 24, 2022 - Spero Health of West Virginia, LLC, Brentwood, Tennessee, CON File #22-66-12518-X, for the development of an office-based medication-assisted treatment program to be located at a proposed address of 150 Courthouse Road, Suite 101 C, Princeton, Mercer County, West Virginia.

October 24, 2022 - West Virginia University Hospitals, Inc., Morgantown, Monongalia County, West Virginia, CON File #22-6-12519-X, for the renovation and expansion of the loading docks at J.W. Ruby Memorial Hospital, Morgantown, Monongalia County, West Virginia.

Further information may be obtained on any of the above-referenced projects by contacting Timothy Adkins, Interim Director, Certificate of Need Division at (304) 558-7000.

Others

FILED
2022 NOV -1 A 11:55
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

Bill J. Crouch
Cabinet Secretary

Rae J. Bates
Interim Executive Director

NOTICE OF PUBLIC COMMENT PERIOD

Proposed Certificate of Need Standards

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

- Birthing Centers
- In-Home Personal Care

Written comments may be submitted in care of Tiffany Dempsey, Secretary, West Virginia Health Care Authority, 100 Dee Drive, Charleston, WV 25311, or via email to Tiffany.D.Dempsey@wv.gov no later than 4:00 p.m., December 14, 2022. Copies of the proposed Standards set forth above have been filed with the Secretary of State (SOS). The Standards may be viewed at the Authority's website, www.hca.wv.gov, or copies may be obtained by contacting the Authority at (304) 558-7000.

FILED

2022 NOV -1 A 11: 56

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Approved by Governor
Date: ~~10/5/92~~

Others

BIRTHING CENTERS

Exemption from Certificate of Need (CON) which requires submission of information to the West Virginia Health Care Authority (Authority).

Birthing centers, which meet the following criteria, will not be required to address the standards below.

West Virginia Code § 16-2D-11(b)(2) states:

(A) A birthing center established by a nonprofit primary care center that has a community board and provides primary care services to people in their community without regard to ability to pay; or

(B) A birthing center established by a nonprofit hospital with less than one hundred licensed acute care beds.

(i) To qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services; and

(ii) Provide a proposed health service area.

The exemption application is available on the Authority's website at: www.hca.wv.gov/certificateofneed/Pages/Exemptions.aspx.

The following standard will apply to all birthing centers, not exempted from review by ~~Section 4, Article 2, Chapter 16 of the West Virginia~~ W. Va. Code 16-2D-11(b)(2), ~~as amended,~~ that are defined and licensed by the Office of Health Facility Licensure and Certification pursuant to W. Va. Code St. R. § 64-31, *et seq* ~~64-CFR-34 et seq. (1984)~~. These standards shall not apply to any other obstetrical services except birthing centers.

All applications submitted to the Authority ~~HCCRA~~ for CON ~~Certificate of Need~~ approval for birthing centers not exempt from review shall be in compliance with the following standards.

I. DEFINITION

A. Birthing Center: A birthing facility which provides professional care to childbearing women during pregnancy, birth and immediately following childbirth, and, where low-risk deliveries are planned to occur away from the mother's usual residence following normal, uncomplicated pregnancy, with sufficient space to accommodate participating family members and support people of the women's choice: Provided, that a birthing facility shall not be considered a birthing center for purposes of these standards unless its policies and practices plan for the discharge of the mother and infant within 24 hours after birth. Provided further, that a facility that owns or operates on the premises medical equipment with a value in excess of the statutory threshold for major medical equipment for ambulatory care centers or performs surgical procedures other than those performed during a normal, uncomplicated childbirth and neonatal periods shall not be considered a birthing center within the meaning of this standard and shall be regulated by the agency in accordance with other applicable standards.

B. Underserved Service Area: A geographic area which meets the Office of Community and Rural Health definition of an area that is underserved with respect to low risk obstetrical services.

C. Service Area: Service areas of birthing centers shall be the areas of service approved by the Office of Community and Rural Health of the Department of Health and Human Resources.

II. CURRENT INVENTORY

A current inventory of birthing centers may be obtained from the Authority. ~~The HCCRA shall provide the applicant with a current inventory of birthing centers.~~

III. NEED METHODOLOGY

A. Underserved Service Areas: A ~~B~~birthing center~~s~~ applying for a CON~~certificates of need~~ shall have already satisfied the need requirement if the application establishes that the service area is located within an underserved service area. The agency shall not deny a CON~~certificates of need~~ to such a center~~s~~ based on need.

B. Non-underserved Service Areas: A ~~B~~birthing center~~s~~ applying for a CON ~~certificates of need~~ in non-underserved areas shall satisfy the need requirement if it ~~they~~ demonstrates with specificity that there is sufficient need in the area for birthing center services to allow the proposed birthing center to maintain its financial viability over time. ~~And that e~~Existing obstetrical units of hospitals in the service area must be utilized at an occupancy rate of 65% of licensed obstetrical beds for the preceding 12 months before new birthing centers will be allowed. New birthing centers approved in non-underserved areas shall not affect the financial viability of any existing birthing centers.

IV. QUALITY

A. A ~~B~~birthing centers applying for a CON ~~certificates of need~~ shall document plans for the development of its organizational structure, identifying the governing body which has authority and responsibility for fiscal management and policy decisions in operation of the center in keeping with the stated purposes of the organization and the regulations under which it is licensed and/or certified.

B. A b~~B~~irthing centers applying for a CON ~~certificates of need~~ shall submit a detailed description of how the birthing center shall comply with the quality of care requirements of the appropriate licensing agency.

C. All birthing centers applying for a CON ~~certificates of need~~ shall document the development of written protocols, procedures and transfer agreements for appropriate transfer of patients to a nearby acute care hospital with obstetrical services.

V. CONTINUUM OF CARE

~~A.~~ A ~~B~~birthing centers applying for a CON ~~certificates of need~~ shall submit a detailed description of how the birthing center shall comply with the continuum of care requirements of the appropriate licensing agency.

VI. COSTS

~~A.~~ A ~~B~~birthing centers applying for a CON ~~certificates of need~~ shall provide evidence of protocols that demonstrate that funds are to be budgeted and expended in accordance with applicable procedures as promulgated by the center's governing body, shall demonstrate financial viability by providing estimates of revenues and expenses, and shall develop a policy regarding the care of indigent patients. The policy must address the issues of sliding fee schedules and/or free care to the extent such free care is financially feasible for the organization.

VII. ACCESSIBILITY

~~A.~~ A ~~B~~birthing centers applying for a CON ~~certificates of need~~ shall submit a detailed description of how the birthing center shall comply with the accessibility requirements of the appropriate licensing agency.

Others

FILED
2022 NOV -1 A 11: 56
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Approved by Governor
Date: XXXXXX

IN-HOME PERSONAL CARE SERVICES

Exemptions from Certificate of Need (CON) which require submission of information to the Health Care Authority (Authority).

Specialized Family Care Provider which meet the following criteria, will not be required to address the standards.

West Virginia Code § 16-2D-11(b)(13) states:A person providing specialized foster care personal care services to one individual and those services are delivered in the provider's home;

The exemption application is available on the Authority's website at: https://hca.wv.gov/certificateofneed/Pages/Exemptions.aspx.

I. **INTRODUCTION**

These Standards address the necessary criteria which must be met to obtain a Certificate of Need (CON) to provide in-home personal care (PC) services for Medicaid residents. PC services are available to assist an eligible member to perform activities of daily living (ADLs) and instrumental activities of daily living (IADLs) in the member's home, place of employment or community. Services may not solely involve ancillary tasks such as housekeeping or assistance with chores.

In order to provide PC services under West Virginia Medicaid, a provider agency must have a CON from the West Virginia Health Care Authority (Authority). Existing In-Home Personal Care Service Providers who are currently providing or have provided PC services within the past 12 months, including Senior Centers, WV Licensed Comprehensive Behavioral Health Care Centers, and Specialized Family Care Providers are not required to obtain a CON if: (1) the agency is a Bureau of Senior Services (BoSS) Certified In-Home Personal Care provider and has a valid Provider Number for PC services; and, (2) the agency only provides PC services within its service area as it exists as of the effective date of these Standards.If a provider has not provided In-Home Services for the previous 12 months, the Provider is required to complete the CON application again.

These Standards are not applicable for the provision of in-home PC services provided by a member of the recipient's family.

II. **DEFINITIONS**

Others

A. Activities of Daily Living: Activities that a person ordinarily performs during the course of a day, such as mobility, personal hygiene, bathing, dressing, eating, and skills required for community living.

B. Direct Access: Physical contact with a resident or beneficiary or access to the resident or beneficiary's property, personally identifiable information (PII) or financial information.

C. Instrumental Activities of Daily Living: Skills necessary to live independently, such as the ability to shop for groceries, handle finances, perform housekeeping tasks, prepare meals, and take medications.

D. Personal Care: Services available to assist an eligible member to perform ADLs and IADLs in the member's home, place of employment or community. To be medically eligible for PC services, Medicaid members must have three deficits according to most current Pre-Admission Screening (PAS) signed by a physician, physician assistant,nurse practitioner, or registered nurse and requires hands-on assistance/supervision/cueing in ADLs/IADLs. Members can receive a maximum of 210 hours of service per month based on assessed needs. There are no age restrictions for members eligible for PC services. However, PC services do not replace the age appropriate care that any child would need. PC services are medically necessary activities or tasks which are implemented according to a nursing plan of care (POC) developed and supervised by a Registered Nurse (RN). These services enable members to meet their physical needs and allow them to remain in their home and community.

E. Specialized Family Care Providers: A West Virginia Department of Health and Human Resources (WVDHHR) foster care program funded and administered by the Bureau of Children and Families, Division of Children and Adults. Currently the Specialized Family Care Program serves Medley Class Members and At-Risk individuals who qualify for the Title XIX I/DD Home and Community Based Services (HCBS) or the Medicaid Personal Care Program. At-Risk refers to children age 18 years old or younger who are at risk of becoming institutionalized and who are in the custody of the WVDHHR. At-Risk also refers to adults who are at risk of institutionalization. These adults may be their own legal guardians or may have a legal guardian.

III. . NEED METHODOLOGY

All CON applicants must demonstrate with specificity that: (1) there is an unmet need for the proposed service; (2) the proposed service will not have a negative effect on the community by significantly limiting the availability and viability of other services or providers; and (3) the proposed services are the most cost effective alternative.

A. Applicants must delineate the proposed service area by documenting the expected area in which individuals will be served. The minimum service area will be a

county. Applicants may also consider contiguous counties as part of the service area. A new CON will be required to expand services into an additional county or counties. The Applicant must provide the projected population of the proposed service area for the current year and the projected 5 year population.

The Authority is responsible for the development of and maintaining the Need Methodology for In-Home Personal Care Services. The Need Methodology will be revised at least twice annually.

The development of the Need Methodology is presented in narrative form below:

1. As reported by BMS, the Authority will provide the average number of Medicaid residents per county for the most recent fiscal year.[1]

2. The average number of the most recent fiscal year of residents who are receiving Medicaid per county is multiplied by 3.0%. This number represents the projected number of Medicaid residents who are currently receiving or may be eligible to receive PC services for the previous fiscal year.

3. The average number of residents, per county, currently receiving or have received In-Home Personal Care services as reported to the Authority from BMS for the previous reporting period .[2] This number is then subtracted from the projected number of Medicaid residents who are currently receiving or may be eligible to receive PC services.

The Need Methodology is broken down below:

(1) Total Number of Residents receiving Medicaid per county:

(2) Total Number of Residents receiving Medicaid per county multiplied by 3% (this will give the total number of residents who may be receivingIn-Home Personal Care services or who may benefit from receiving services.

(3) The total Number of Residents, as reported by BMS, who are receiving In-Home Services is subtracted from the Total Number of residents in step 2.

(4) If there is an unmet need of 25 or more then the County is considered open to additional providers.

[1] Bureau of Medical Service Medicaid Individuals by County for the most recent fiscal year, 2022.

[2] Bureau of Medical Services will submit a report of residents by county for the most recent fiscal year twice a year to the Authority.

(5) If a new provider has been approved within the previous 12 months, the Authority will subtract 25 from each applicable county proposed.

IV. **QUALITY**

All applicants shall document that they will be in compliance with all current applicable Medicaid requirements regarding pre-admission screening, nursing review of the preadmission screening, nursing POC, personal care daily plan, and personal care daily log, whether or not the applicant proposes to seek Medicaid certification.

All applicants must assure that there is adequate staff in the number and qualifications for the number of recipients served. Staff must meet the following qualifications, as applicable:

A. Administrative:
B. Nursing:
C. Direct Care:
D. Direct Care Worker Qualifications:
E. Initial and Annual Training Requirements:
F. Criminal Background Checks: All direct access personnel will be prescreened for negative findings by way of an internet search of registries and licensure databases through the WVDHHR designated website: WV Clearance for Access: Registry & Employment Screening (WV CARES).
G. Fingerprinting:
H. Employment Fitness Determination:
I. Provisional Employees:
J. Responsibility of the Hiring Entity:
K. Change in Employment:
L. Provider Agency Certification:
M. Conflicts of Interest:
N. Specialized Family Care Providers (SFCPs):
O. Office Criteria: Providers must designate and staff at least one physical office location within the proposed service area. A post office box or commercial mailbox will not suffice.

V. **CONTINUUM OF CARE**

All applicants shall have written practices and procedures designed to ensure that the appropriate monitoring of recipients will occur, and that follow-up care/referral is available in the event any complications arise which are beyond the ability of the applicant to treat. It is to be noted that no medical services will be provided by the direct care worker.

The applicant shall document the development of procedures to ensure that the referring physician or the recipient's primary care physician are apprised of services provided in a timely manner.

Others

VII. **COST**

No CON shall be granted for in-home PC services unless the applicant demonstrates that the project is financially feasible by the end of the third fiscal year of operation. If the applicant is proposing to serve Medicaid beneficiaries, applications for these services shall not be deemed consistent with the State Health Plan unless the projected costs are consistent with allowable costs provided for in the pertinent Medicaid reimbursement policies.

A. The applicant must demonstrate the financial feasibility of the project. The factors to be considered must include:

1. Submit audited financial reports for the most recent two (2) fiscal years. If audited financial reports are not prepared, submit the following financial statements: (1) statement of revenues and expenses; (2) balance sheet; (3) statement of changes in fund balances; and, (4) statement of cash flows for each of the last two (2) fiscal years. If a Form 10-K is required to be submitted to the U.S. Securities and Exchange Commission by either the applicant or a related entity, submit the Form 10-K for the preceding two (2) years. The Form 10-K may be submitted on CD.

2. Provide a preliminary financial feasibility study including, at a minimum, pro forma financial statements to include a three (3) year projection of revenues and expenses for the project. If revenues do not equal expenses by the end of the third year, identify other sources of revenue or income which will subsidize the deficit.

VIII **OTHER**

A. An applicant for the provision of in-home PC services must provide additional information, as may be requested by the Authority, including demographics data, financial data, and clinical data for recipients receiving these services.

B. One aspect of the analysis is a coordinated review by regulatory, planning and payor agencies for state government. The Authority, in reviewing CON applications, takes into consideration the programmatic and fiscal plans of the Bureau for Medical Services (BMS). A recommendation is requested from the agency on each application. The recommendations are based on the respective agency's programmatic and/or fiscal plan. All recommendations will be taken into consideration; however, the Authority has final approval on all applications.

FILED
WV SECRETARY OF STATE
NOVEMBER 01, 2022 02:23 PM

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

Bill J. Crouch
Cabinet Secretary

Rae J. Bates
Interim Executive Director

NOTICE OF REVIEW

FOR IMMEDIATE RELEASE

November 1, 2022

NEWS ITEM

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

October 31, 2022 - Thomas Memorial Hospital, South Charleston, Kanawha County, West Virginia, CON File #22-3-12535-P, for the development of an ambulatory health care facility in South Charleston, Kanawha County, West Virginia; capital expenditure: $2,780,000.

October 31, 2022 - West Virginia University Hospitals, Inc., Morgantown, Monongalia County, West Virginia, CON File #22-6-12526-A/E, for the acquisition of the magnetic resonance imaging services and positron emission tomography services currently provided by West Virginia University Medical Corporation d/b/a University Health Associates; capital expenditure: $11,265,000.

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 **October 31, 2022**.

On or before **November 30, 2022**, any affected person has the right to request that the Authority hold a public hearing on the projects 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 **December 5, 2022**. After that date, no further information or evidence will be accepted by the Authority for the remainder of the review of the applications.

100 Dee Drive • Charleston, West Virginia 25311-1600 • 304.558.7000 • 304.558.4776/Fax • www.hca.wv.gov

Others

The Decision on the project referenced above will be issued by the Authority after it has reviewed the contents of the case files of the projects, 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 **December 30, 2022**.

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 Timothy E. Adkins, Interim Director, Certificate of Need, West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia, 25311-1600. Further information on any project referenced in this news release may be obtained by contacting the Certificate of Need office at telephone number (304) 558-7000.

11/1/2022
Date

Timothy E. Adkins /td
Timothy E. Adkins, Interim Director
Certificate of Need
West Virginia Health Care Authority