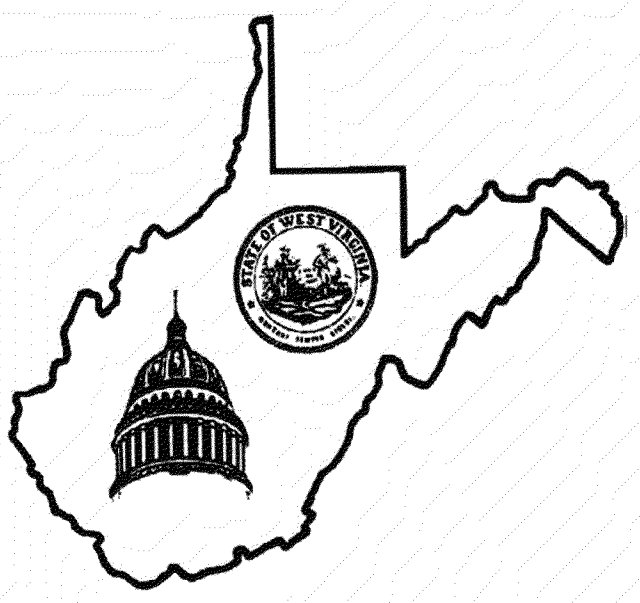

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Administrative Law Division

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Real Estate Commission

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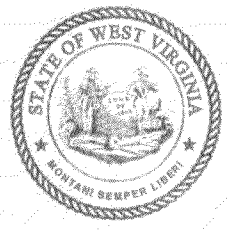
Water Resources Division of Water and Waste Mgmt.

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



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GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

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

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

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	1	ACCOUNTANCY
TITLE	2	ARCHITECTS
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	4	CHIROPRACTIC EXAMINERS
TITLE	5	DENTISTRY
TITLE	6	FUNERAL SERVICE EXAMINERS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	19	REGISTERED PROFESSIONAL NURSES
TITLE	20	SANITARIANS
TITLE	22	FORESTRY
TITLE	24	OSTEOPATHIC MEDICINE
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
TITLE	30	RESPIRATORY CARE
TITLE	31	DIETITIANS
TITLE	32	ACUPUNCTURE
TITLE	33	WASTE MANAGEMENT, DIV. OF WATER AND WASTE MGMT.
TITLE	35	OIL AND GAS
TITLE	36	COAL MINE HEALTH AND SAFETY
TITLE	38	MINING AND RECLAMATION
TITLE	42	LABOR
TITLE	45	AIR QUALITY
TITLE	47	WATER RESOURCES, DIV. OF WATER AND WASTE MGMT.
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
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TITLE	61	AGRICULTURE
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TITLE	87	FIRE COMMISSION
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TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMMISSION
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY AND TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
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TITLE	145	DEVELOPMENT OFFICE
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TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY COMMISSION
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

CHRONOLOGICAL INDEX, VOLUME XL ISSUE 24

RULES FILED FOR PUBLIC COMMENT THIS WEEK

AGENCY	RULE/TYPE	AUTHORITY	HEARING/COMMENT PERIOD/LOCATION
Auditor (155-11)	Rules for Electronic Filing of Legal Notices for State Agencies Procedural	§59-3-2(f)	Written Comments Only: July 14, 2023, 5:00pm Vincent Smith 1900 Kanawha Blvd. E, W-100 Charleston, WV 25305 vincent.smith@wvsao.gov
Health (64-123, formerly 69-10)	West Virginia Clearance for Access: Registry and Employment Screening Legislative	§16-49-9	Written Comments Only: July 10, 2023, 4:00pm April L Robertson One Davis Square, Suite 100 E Charleston, WV 25301 april.l.robertson@wv.gov
Highways (157-05)	Traffic and Safety Rules Legislative	§17-2A-8	Written Comments Only: Lori Ann Suite 1900 Kanawha Blvd. E. Charleston, WV 25305 lori.a.suite@wv.gov
Psychologists (17-04)	Disciplinary and Complaint Procedures for Psychologists Legislative	§30-21-6	Written Comments Only: July 17, 2023, 9am WVBEP PO Box 3955 Charleston, WV 25339 psychbd@wv.gov
Psychologists (17-05)	Contested Case Hearing Procedure Legislative	§30-21-6	Written Comments Only: July 17, 2023, 9am WVBEP PO Box 3955 Charleston, WV 25339 psychbd@wv.gov
Real Estate Commission (174-01)	Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business Legislative	§30-40-8	Written Comments Only: July 14, 2023, 11:59pm Keri Ferro 300 Capitol Street Suite 400 Charleston, WV 25301 keri.l.ferro@wv.gov

Real Estate Commission (174-02)	Schedule of Fees Legislative	§30-40-8	Written Comments Only: July 14, 2023, 12:00am Keri Ferro 300 Capitol Street Suite 400 Charleston, WV 25301 keri.l.ferro@wv.gov
Real Estate Commission (174-03)	Real Estate Courses, Course Providers, and Instructors Legislative	§30-40-8	Written Comments Only: July 14, 2023, 11:59pm Keri Ferro 300 Capitol Street Charleston, WV 25301 keri.l.ferro@wv.gov
Registered Nurses, WV Bd. of (19-01)	Policies, Standards and Criteria for the Evaluation, Approval and National Nursing Accreditation of Prelicensure Nursing Education Programs Legislative	§30-1-4, 30-7-4	Written Comments Only: July 14, 2023, 4:00pm Michael D. Payne 5001 MacCorkle Ave. SW South Charleston, WV 25309 michael.d.payne@wv.gov
Registered Nurses, WV Bd. of (19-03)	Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative	§30-7-4	Written Comments Only: July 14, 2023, 4:00pm Michael D. Payne 5001 MacCorkle Ave. SW South Charleston, WV 25309 michael.d.payne@wv.gov
Registered Nurses, WV Bd. Of (19-05)	Contested Case Hearing Procedure Procedural	§30-7-1, 30-1-1, 29A-5-1	Written Comments Only: July 14, 2023, 4:00pm Michael D. Payne 5001 MacCorkle Ave. SW South Charleston, WV 25309 michael.d.payne@wv.gov
Registered Nurses, WV Bd. Of (19-07)	Advanced Practice Registered Nurse Licensure Requirements Legislative	§30-7-1a, 30-7-4	Written Comments Only: July 14, 2023, 4:00pm Michael D. Payne 5001 MacCorkle Ave. SW South Charleston, WV 25309 michael.d.payne@wv.gov
Registered Nurses, WV Bd. of (19-12)	Fees for Services Rendered by the Board Legislative	§30-7-4, 30-7-8a, 30-1-4	Written Comments Only: July 14, 2023, 4:00pm Michael D. Payne 5001 MacCorkle Avenue SW South Charleston, WV 25309 michael.d.payne@wv.gov

Treasurer (112-20)	Jumpstart Savings Program Legislative	§18-30A-6	Written Comments Only: July 10, 2023, 5:00pm James Fuerhoff 1900 Kanawha Blvd. E., Rm E-145 Charleston, WV 25305 jame.fuerhoff@wvsto.com
Waste Mgmt. Division of Water and Waste Mgmt. (33-20)	Hazardous Waste Mgmt. System Legislative	§22-18-6	Public Hearing: July 18, 2023, 5:30pm Coopers Rock Conference Hall WV DEP 601 57th Street SE Charleston, WV 25304 Written Comments: July 18, 2023, 6:00pm Johnsely S Cyrus 601 57th Street SE Charleston, WV 25304 johnsely.cyrus@wv.gov
Water Resources Division of Water and Waste Mgmt. (47-13)	Underground Injection Control Legislative	§22-11-8(B)(7)	Public Hearing: July 18, 2023, 5:30pm Coopers Rock Conference Hall WV DEP 601 57th Street SE Charleston, WV 25304 Written Comments: July 18, 2023, 6:00pm Albert Barbery 601 57th Street SE Charleston, WV 25304 albert.barbery@wv.gov

EMERGENCY RULES FILED THIS WEEK

AGENCY/RULE	RULE NAME	AUTHORITY	EFFECTIVE DATE	COMMENT END DATE
Public Energy Authority (53-05)	Rule to Petition the Public Energy Authority for Approval of Decommissioning or Deconstruction Activities Related to any Coal, Oil, or natural Gas Fueled Power Plant	§5d-1-5c (c)	ERD by July 26, 2023	Rule must be put out for public comment by July 14, 2023

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	5/10/2023	6/30/2023						
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	Bundled HB2638	4/14/2023	7/1/2023
Administration (148-03) Sunset Provision	State Owned Vehicles Legislative				10/25/2022				
Agriculture (61-37) Sunset Provision	Agritourism Legislative				12/15/2022				
Air Quality (45-01)	Alternative Emission Limitations During Startup and Shutdown Operations Legislative	5/31/2023	7/6/2023						
Air Quality (45-02)	Control of Particulate Matter Air Pollution from the Combustion of Fuel in Indirect Heat Exchangers Legislative	5/31/2023	7/6/2023						
Air Quality (45-03)	Control of Air Pollution from the Operation of Hot Mix Asphalt Plants Legislative	5/31/2023	7/6/2023						
Air Quality (45-05)	Control of Air Pollution from the Operation of Coal Preparation Plants, Coal Handling Operations and Coal Refuse Disposal Areas Legislative	5/31/2023	7/6/2023						
Air Quality (45-06)	Control of Air Pollution from Combustion of Refuse Legislative	5/31/2023	7/6/2023						
Air Quality (45-07)	Control of Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations Legislative	5/31/2023	7/6/2023						
Air Quality (45-08)	Ambient Air Quality Standards Legislative	5/31/2023	7/6/2023						
Air Quality (45-10)	Control of Air Pollution from the Emission of Sulfur Oxides Legislative	5/31/2023	7/6/2023						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	5/31/2023	7/6/2023						
Air Quality (45-21)	Control of Air Pollution from the Emission of Volatile Organic Compounds Legislative	5/31/2023	7/6/2023						
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	5/31/2023	7/6/2023						
Air Quality (45-44, repeal)	Control of Greenhouse Gas Emissions from Existing Coal-Fired Electric Utility Generating Units Legislative	5/31/2023	7/6/2023						
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	Bundled SB361	5/9/2023	7/1/2023
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	Bundled SB361	5/9/2023	7/1/2023
Auditor (155-11)	Rules for Electronic Filing of Legal Notices for State Agencies Procedural	6/14/2023	7/14/2023						
Barbers and Cosmetologists (3-01)	Procedures, Criteria and Curricula for Examination and Licensure of Barbers, Cosmetologists, Nail Technicians, Aestheticians, and Hair Stylists Legislative	4/12/2023	5/31/2023		6/14/2023				
Barbers and Cosmetologists (3-15)	Application For Waiver Of Initial Licensing Fees For Certain Individuals Legislative	4/7/2023	5/15/2023		6/14/2023				
Barbers and Cosmetologists (3-16)	Cosmetology Apprenticeship Legislative	4/10/2023	5/31/2023		6/14/2023				
Contractor Licensing Board (28-01)	Board Organization and Meeting Procedures; Hearing Procedures Procedural	6/1/2023	7/3/2023						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Dentistry (5-10)	Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database Legislative	4/19/2023	5/22/2023						
Dietitians (31-01)	Licensure And Renewal Requirements Legislative	3/14/2023	4/14/2023		4/25/2023				
Dietitians (31-05)	Continuing Professional Education Requirements Legislative	3/14/2023	4/14/2023		4/25/2023				
Education (126-044BB)	West Virginia College-and Career-Readiness Standards for Mathematics (Policy 2520.2B) Legislative Exempt	4/13/2023	5/15/2023						
Education (126-136)	Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications (Policy 5202) Legislative Exempt	4/13/2023	5/15/2023					6/14/2023	7/17/2023
Education (126-161)	Regulations for Alternative Certification Programs for the Education of Teachers (Policy 5901) Legislative Exempt	5/11/2023	6/12/2023						
Education (126-176)	School Closings or Consolidations (Policy 6204) Legislative Exempt	5/11/2023	6/12/2023						
Ethics Commission (158-12)	Lobbying Legislative	5/16/2023	6/16/2023						
Family Protection Services Board (191-02)	Domestic Violence Program Licensure Standards Legislative	5/30/2023	6/29/2023						
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	Bundled SB345	4/14/2023	7/1/2023
Health (64-04)	Public Water Systems Operators Legislative	5/17/2023	6/16/2023						
Health (64-05)	Wastewater Systems and Operators Legislative	5/17/2023	6/16/2023						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-11)	Behavioral Health Centers Licensure Legislative	6/5/2023	7/5/2023						
Health (64-12)	Hospital Licensure Legislative	6/5/2023	7/5/2023						
Health (64-14) Sunset Provision	Assisted Living Facilities Legislative				2/16/2023				
Health (64-15)	Cross-Connection Control and Backflow Prevention Legislative	5/17/2023	6/16/2023						
Health (64-30)	Fees for Permits Legislative	5/17/2023	6/16/2023						
Health (64-51)	Fees for Services Legislative	5/17/2023	6/16/2023						
Health (64-84)	Medical Examiner Requirements for Postmortem Inquires Legislative	5/17/2023	6/16/2023						
Health (64-91) Sunset Provision	Newborn Screening System Legislative				2/16/2023				
Health (64-116)	Distribution of Funds from Emergency Medical Services Salary Enhancement Fund Legislative	5/17/2023	6/16/2023	5/18/2023 Effective 5/18/2023					
Health (64-123, formerly 69-10)	West Virginia Clearance for Access: Registry and Employment Screening Legislative	6/9/2023	7/10/2023						
Health and Human Resources (69-08) Sunset Provision	Chronic Pain Management Clinic Licensure Legislative				2/16/2023				
Health and Human Resources (69-12) Sunset Provision	Medication Assisted Treatment-Office-Based Medication-Assisted Treatment Legislative				2/16/2023				
Health Care Authority (65-06) Sunset Provision	Cooperative Agreement Approval and Compliance Legislative				10/5/2022				

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health Care Authority (65-32)	Certificate of Need Legislative	5/17/2023	6/16/2023						
Highways (157-05)	Traffic and Safety Rules Legislative	6/15/2023	7/17/2023						
Human Services (67-01, formerly 69-14)	Collection and Exchange of Data Related to Overdoses Legislative	6/6/2023	7/6/2023						
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	Bundled HB2648	3/30/2023	6/28/2023
Human Services (78-27)	Procedure to Contest the Substantiation of Child Abuse or Neglect Legislative	5/30/2023	6/29/2023						
Insurance Comm. (114-27) Sunset Provision	Aids Regulations Legislative				3/29/2023				
Insurance Comm. (114-100)	Health Benefit Plan Network Access and Adequacy Legislative	6/2/2023	7/5/2023						
Insurance Comm. (114-103)	Bail Bondsmen in Criminal Cases Legislative	6/2/2023	7/5/2023						
Labor (42-08)	Minimum Wage, Maximum Hours, and Overtime Compensation Legislative	5/4/2023	6/5/2023		6/6/2023				
Medicine (11-12) Sunset Provision	Permitting and Disciplinary Procedures: Educational Permits for Graduate Medical Interns, Residents and Fellows Legislative				11/21/2022				
Motor Vehicles (91-10)	Handicapped Parking Permits Legislative	6/6/2023	7/7/2023						
Nursing Home Administrators Licensing Board (21-01)	Nursing Home Administrators Legislative	5/8/2023	6/8/2023		6/9/2023				

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Professional Surveyors (23-01)	Examination and Licensing of Professional Surveyors in West Virginia Legislative	6/7/2023	7/7/2023						
Prosecuting Attorneys Institute (168-01)	Payment for Costs of Forensic Medical Examination Procedural	5/1/2023	6/1/2023					6/1/2023	7/1/2023
Psychologists (17-02)	Organization and Procedures of the Board of Examiners of Psychologistss Procedural	5/9/2023	6/12/2023		6/14/2023				
Psychologists (17-04)	Disciplinary and Complaint Procedures for Psychologists Legislative	6/15/2023	7/17/2023						
Psychologists (17-05)	Contested Case Hearing Procedure Legislative	6/15/2023	7/17/2023						
Public Energy Authority (53-05)	Rule to Petition the Public Energy Authority for Approval of Decommissioning or Deconstruction Activities Related to Any Coal, Oil, or Natural Gas Fueled Power Plant Legislative			6/14/2023 ERD by July 26, 2023					
Public Service Commission (150-25)	Rules Governing Emergency Telephone Service Legislative Exempt	4/10/2023	6/9/2023						
Racing Commission (178-01)	Thoroughbred Racing Legislative	6/5/2023	7/6/2023						
Real Estate Commission (174-01)	Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business Legislative	6/12/2023	7/14/2023						
Real Estate Commission (174-02)	Schedule of Fees Legislative	6/12/2023	7/14/2023						
Real Estate Commission (174-03)	Real Estate Courses, Course Providers and Instructors Legislative	6/13/2023	7/14/2023						
Registered Nurses, WV Board of (19-01)	Policies, Standards and Criteria for the Evaluation, Approval and National Nursing Accreditation of Prelicensure Nursing Education Programs Legislative	6/14/2023	7/14/2023	5/31/2023 ERD by 7/12/2023					

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Registered Nurses, WV Board of (19-03)	Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative	6/14/2023	7/14/2023						
Registered Nurses, WV Board of (19-05)	Contested Case Hearing Procedure Procedural	6/14/2023	7/14/2023						
Registered Nurses, WV Board of (19-07)	Advanced Practice Registered Nurse Licensure Requirements Legislative	6/14/2023	7/14/2023						
Registered Nurses, WV Board of (19-12)	Fees for Services Rendered by the Board Legislative	6/14/2023	7/14/2023	5/31/2023 ERD by 7/12/2023					
Respiratory Care (30-09)	Student Temporary Permit - Amended Legislative	4/28/2023	6/1/2023		6/8/2023				
Secondary School Activities Commission (127-01)	Constitution (WVSSAC Series 1) Legislative Exempt	5/11/2023	6/12/2023						
Secondary School Activities Commission (127-02)	Athletics, Provisions Governing Eligibility (WVSSAC Series 2) Legislative Exempt	5/11/2023	6/12/2023						
Secondary School Activities Commission (127-03)	Provisions Governing Contests (WVSSAC Series 3) Legislative Exempt	5/11/2023	6/12/2023						
Secondary School Activities Commission (127-04)	Provisions Governing Conduct (WVSSAC Series 4) Legislative Exempt	5/11/2023	6/12/2023						
Tax (110-15K) Sunset Provision	Aircraft Operated Under A Fractional Ownership Program Legislative				3/28/2023				
Tax (110-21B) Sunset Provision	Citizen Tax Credit for Property Taxes Paid Legislative				12/30/2022				
Tax (110-21G)	Income Tax Paid at the Entity Level by Electing Pass-Through Entities Legislative	6/8/2023	7/10/2023						

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax (110-21H)	Income Tax Credits for Property Taxes Paid Legislative	6/8/2023	7/10/2023						
Tax (110-49) Sunset Provision	Administration of Tax on Purchases of Wine and Liquor Legislative				12/30/2022				
Tax (110-99)	Privilege Tax on Sales of Hemp-Derived Cannabinoid and Kratom Products Legislative	6/8/2023	7/10/2023						
Tax Appeals (121-01)	Rules of Practice and Procedure Before the West Virginia Office of Tax Appeals Procedural	12/19/2022	1/23/2023						
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 Effective 11/24/2022 Amendment 1/4/2023 Effective 2/15/2023	4/21/2022	Modified & Approved 1/25/2023 Filed 1/25/2023	Bundled SB361	4/13/2023	6/15/2023
Treasurer (112-20)	Jumpstart Savings Program Legislative	6/9/2023	7/10/2023						
Underground Facilities Damage Prevention Board (214-02)	Rules of Procedure for Complaints and Contested Cases Before the West Virginia Underground Facilities Damage Prevention Board Procedural	4/28/2023	5/29/2023					6/1/2023	7/1/2023
Waste Mgmt. Division of Water and Waste Mgmt. (33-20)	Hazardous Waste Management System Legislative	6/12/2023	7/18/2023						
Water Resources Division of Water and Waste Mgmt. (47-13)	Underground Injection Control Legislative	6/12/2023	7/18/2023						

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
6/14/2023 11:55:27 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: Barbers And Cosmetologists TITLE-SERIES: 3-01

RULE TYPE: Legislative Amendment to Existing Rule: Repeal of existing rule:

RULE NAME: 3-01 Procedures, Criteria and Curricula for Examination and License of Barbers, Cosmetologists, Nail Technicians, Aestheticians, and Hair Stylists

PRIMARY CONTACT

NAME: DANIELLE CORDLE

ADDRESS: 1201 Dunbar Avenue

DUNBAR, WV 25064

EMAIL: danielle.j.cordle@wv.gov

PHONE NUMBER: 304-558-2924

CITE STATUTORY AUTHORITY: W. Va. Code §§ 30-27-5 and 30-27-6.

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:

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:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED: No

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

PUBLIC HEARING: No

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6/14/2023 1:13:55 PM

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

AGENCY: Barbers And Cosmetologists TITLE-SERIES: 3-15

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

RULE NAME: 3-15 Waiver of Initial Licensure Fee

PRIMARY CONTACT

NAME: DANIELLE CORDLE

ADDRESS: 1201 Dunbar Avenue

DUNBAR, WV 25064

EMAIL: danielle.j.cordle@wv.gov

PHONE NUMBER: 304-558-2924

CITE STATUTORY AUTHORITY: 30-1-23

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:

RULE WAS CREATED DUE TO W. VA. CODE 30-1-23 WHICH REQUIRES BOARDS & COMMISSIONS WAIVE THE INITIAL LICENSING FEE FOR LOW-INCOME INDIVIDUALS AND MILITARY PERSONNEL AND THEIR FAMILIES

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: 4/7/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 5/31/2023

COMMENTS RECEIVED: No

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

PUBLIC HEARING: No

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MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/14/2023 1:18:38 PM
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LEGISLATIVE

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

AGENCY: Barbers And Cosmetologists TITLE-SERIES: 3-16

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

RULE NAME: 3-16 Cosmetology Apprenticeship

PRIMARY CONTACT

NAME: DANIELLE CORDLE

ADDRESS: 1201 Dunbar Avenue

DUNBAR, WV 25064

EMAIL: danielle.j.cordle@wv.gov

PHONE NUMBER: 304-558-2924

CITE STATUTORY AUTHORITY: W. Va. Code §30-27-8(a)

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:

This legislative rule establishes procedures for a cosmetology apprenticeship pursuant to W. Va. Code §30-27-8 (a).

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: 4/7/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 5/31/2023

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

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
6/14/2023 3:00 PM
Office of West Virginia
Secretary Of State

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

AGENCY: Education TITLE-SERIES: 126-136

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

RULE NAME: Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications (5202)

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:

July 17, 2023

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

Yes

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

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

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6/9/2023 2:23:58 PM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Health

TITLE-SERIES: 64-123

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes

RULE NAME: WEST VIRGINIA CLEARANCE FOR ACCESS: REGISTRY AND EMPLOYMENT SCREENING

CITE STATUTORY AUTHORITY: 16-49-9

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: April L Robertson

ADDRESS: One Davis Square, Suite 100 E

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)

FILED
2023 JUN 15 P 1:26
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Jeffrey H. Coben, MD
Interim Cabinet Secretary

MEMORANDUM

TO: Secretary of State Mac Warner

FROM: Jeffrey H. Coben

RE: Common Chapters Manual
Ch. 700: Hearings Held by the Board of Review

DATE: June 15, 2023

The Department of Health and Human Resources, Office of Inspector General, Board of Review is required to amend §710.22.K. of the Common Chapters Manual pursuant to 7 CFR §273.15(q)(2) and guidance from the U.S. Department of Agriculture that all hearing decisions regarding the Supplemental Nutrition Assistance Program shall include specific citations to the applicable federal regulations relied upon in rendering the decisions.

Because this amendment is related to the receipt of public assistance and is required to comply with a federal regulation, the revised version of the Common Chapters, attached, should be effective upon filing with your office and not subject to the rule-making review process.

Thank you for your assistance with this matter.

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

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/15/2023 11:41:20 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Highways

TITLE-SERIES: 157-05

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

RULE NAME: Traffic and Safety Rules

CITE STATUTORY AUTHORITY: W. Va. Code §17-2A-8

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/17/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: LORI ANN SUITE

ADDRESS: 1900 Kanawha Blvd E.

1900 Kanawha Blvd E.

EMAIL: lori.a.suite@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)

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WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

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6/9/2023 12:45:27 PM
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NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Nursing Home Administrators Licensing Board

TITLE-SERIES: 21-01

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

RULE NAME: 21-01 Nursing Home Administrators

PRIMARY CONTACT

NAME: Veronica S Cummings ED

ADDRESS: PO Box 522

Winfield, WV 25213

EMAIL: veronica.s.cummings@wv.gov

PHONE NUMBER: 304-586-4070

CITE STATUTORY AUTHORITY: 30-25-5

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:

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: 5/8/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 6/8/2023

COMMENTS RECEIVED: Yes

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

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/15/2023 10:58:36 AM
Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Psychologists

TITLE-SERIES: 17-04

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: Disciplinary and Complaint Procedures for Psychologists

CITE STATUTORY AUTHORITY: §30-21-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/17/2023 9

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: WVBEP

ADDRESS: PO Box 3955

Charleston, WV 25339

EMAIL: psychbd@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)

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MAC WARNER

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6/15/2023 11:02:03 AM
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NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Psychologists

TITLE-SERIES: 17-05

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: CONTESTED CASE HEARING PROCEDURE

CITE STATUTORY AUTHORITY: §30-21-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/17/2023 9 AM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: WVBEP

ADDRESS: PO Box 3955

Charleston, WV 25339

EMAIL: psychbd@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)

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MAC WARNER

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6/12/2023 2:48:01 PM
Office of West Virginia
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LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Real Estate Commission

TITLE-SERIES: 174-01

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business

CITE STATUTORY AUTHORITY: §30-40-8

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 11:59 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Keri Ferro

ADDRESS: 300 Capitol Street

300 Capitol Street

EMAIL: keri.l.ferro@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)

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MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/12/2023 10:27:56 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Real Estate Commission

TITLE-SERIES: 174-02

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: Schedule of Fees

CITE STATUTORY AUTHORITY: §30-40-8

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 12:00 AM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Keri Ferro

ADDRESS: 300 Capitol Street

Suite 400

EMAIL: keri.l.ferro@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

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6/13/2023 12:00:52 PM

Office of West Virginia Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Real Estate Commission

TITLE-SERIES: 174-03

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: REAL ESTATE COURSES, COURSE PROVIDERS AND INSTRUCTORS

CITE STATUTORY AUTHORITY: §30-40-8

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 11:59 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Keri Ferro

ADDRESS: 300 Capitol Street

EMAIL: keri.l.ferro@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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6/14/2023 4:14:36 PM

Office of West Virginia Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Registered Nurses WV Board of

TITLE-SERIES: 19-01

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: POLICIES, STANDARDS AND CRITERIA FOR THE EVALUATION, APPROVAL AND NATIONAL NURSING ACCREDITATION OF PRELICENSURE NURSING EDUCATION PROGRAMS

CITE STATUTORY AUTHORITY: 30-1-4, 30-7-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Michael D. Payne

ADDRESS: 5001 MacCorkle Avenue Southwest

5001 MacCorkle Avenue Southwest

EMAIL: michael.d.payne@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)

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6/14/2023 4:27:16 PM
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LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Registered Nurses WV Board of

TITLE-SERIES: 19-03

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

RULE NAME: REQUIREMENTS FOR REGISTRATION AND LICENSURE AND CONDUCT CONSTITUTING PROFESSIONAL MISCONDUCT

CITE STATUTORY AUTHORITY: §30-7-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Michael D. Payne

ADDRESS: 5001 MacCorkle Avenue SW

South Charleston, WV 25309

EMAIL: michael.d.payne@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)

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6/14/2023 4:31:43 PM
Office of West Virginia
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NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Registered Nurses WV Board of

TITLE-SERIES: 19-07

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

RULE NAME: ADVANCED PRACTICE REGISTERED NURSE LICENSURE REQUIREMENTS

CITE STATUTORY AUTHORITY: 30-7-1a, 30-7-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Michael D. Payne

ADDRESS: 5001 MacCorkle Avenue SW

South Charleston, WV 25309

EMAIL: michael.d.payne@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
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ADMINISTRATIVE LAW DIVISION

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6/14/2023 3:51:06 PM
Office of West Virginia
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LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Registered Nurses WV Board of

TITLE-SERIES: 19-12

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

RULE NAME: FEES FOR SERVICES RENDERED BY THE BOARD

CITE STATUTORY AUTHORITY: 30-7-4, 30-7-8a, 30-1-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Michael D. Payne

ADDRESS: 5001 MacCorkle Avenue SW
South Charleston, WV 25309

EMAIL: michael.d.payne@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)

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6/9/2023 11:35:12 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Treasurer

TITLE-SERIES: 112-20

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

RULE NAME: Jumpstart Savings Program

CITE STATUTORY AUTHORITY: §18-30A-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2023 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: James Fuerhoff

ADDRESS: 1900 Kanawha Boulevard East, Rm E-145
Charleston, WV 25305

EMAIL: james.fuerhoff@wvsto.com

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

INCORPORATED BY REFERENCE: No

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

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MAC WARNER

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6/12/2023 3:13:50 PM

Office of West Virginia Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Waste Management Division Of Water And Waste Management

TITLE-SERIES: 33-20

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: HAZARDOUS WASTE MANAGEMENT SYSTEM

CITE STATUTORY AUTHORITY: W. Va. Code § 22-18-6

COMMENTS LIMITED TO:

Oral and Written

DATE OF PUBLIC HEARING: 07/18/2023 5:30 PM

LOCATION OF PUBLIC HEARING:

Coopers Rock Conference Hall, WV Department of Environmental Protection, 601 57th Street SE., Charleston, WV 25304

DATE WRITTEN COMMENT PERIOD ENDS: 07/18/2023 6:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Johnsely S Cyrus

ADDRESS: 601 57th Street S.E.

Charleston WV 25304

EMAIL: johnsely.cyrus@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

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

INCORPORATED BY REFERENCE: No

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

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/12/2023 2:42:48 PM

Office of West Virginia Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Water Resources Division Of Water And Waste Management

TITLE-SERIES: 47-13

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: UNDERGROUND INJECTION CONTROL

CITE STATUTORY AUTHORITY: W. Va. Code §22-11-8(B)(7)

COMMENTS LIMITED TO:

Oral and Written

DATE OF PUBLIC HEARING: 07/18/2023 5:30 PM

LOCATION OF PUBLIC HEARING:

Coopers Rock Conference Hall, WV Department of Environmental Protection, 601 57th Street SE., Charleston, WV 25304

DATE WRITTEN COMMENT PERIOD ENDS: 07/18/2023 6:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Albert Barbery

ADDRESS: 601 57th Street S.E.

Charleston WV 25304

EMAIL: albert.barbery@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

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6/14/2023 10:26:55 AM
Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Auditor

TITLE-SERIES: 155-11

RULE TYPE: Procedural

Amendment to Existing Rule: No

Repeal of existing rule: No

RULE NAME: Rules for Electronic Filing of Legal Notices for State Agencies

CITE STATUTORY AUTHORITY: 59-3-2(f)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Vincent Smith

ADDRESS: 1900 Kanawha Blvd E, W-100

Charleston, WV 25305

EMAIL: vincent.smith@wvsao.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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PROCEDURAL

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/14/2023 12:28 PM
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NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL RULE

AGENCY: Psychologists

TITLE-SERIES: 17-02

RULE TYPE: Procedural

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: ORGANIZATION AND PROCEDURES OF THE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CITE STATUTORY AUTHORITY: §30-21-6

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

July 15, 2023

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

Yes

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

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

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6/14/2023 4:29:15 PM
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Secretary Of State

PROCEDURAL

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Registered Nurses WV Board of

TITLE-SERIES: 19-05

RULE TYPE: Procedural

Amendment to Existing Rule: Yes

Repeal of existing rule: Yes

RULE NAME: CONTESTED CASE HEARING PROCEDURE

CITE STATUTORY AUTHORITY: 30-7-1, 30-1-1, 29A-5-1

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Michael D. Payne

ADDRESS: 5001 MacCorkle Avenue SW

South Charleston, WV 25309

EMAIL: michael.d.payne@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

6/14/2023 8:33:00 AM

Office of West Virginia Secretary Of State

EMERGENCY

NOTICE OF AN EMERGENCY RULE

AGENCY: Public Energy Authority

TITLE-SERIES: 53-05

RULE TYPE: Legislative

Amendment to Existing Rule: No

RULE NAME: Rule to Petition the Public Energy Authority for Approval of Decommissioning or Deconstruction Activities Related to Any Coal, Oil, or Natural Gas Fueled Power Plant

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code 5d-1-5c(c)

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

PRIMARY CONTACT:

NAME: Graham Platz

ADDRESS: Building 3 Suite 800

1900 Kanawha Blvd East, Charleston, WV 25305

EMAIL: graham.b.platz@wv.gov

PHONE NUMBER: 304-352-3963

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
11-FY-2023	Medical Imaging And Radiation Therapy Technology Board Of Examiners	Alicia R. Trimble	6/13/2023
22-91-W	Medicine, West Virginia Board Of	Robert Fraser Stokes, MD	6/6/2023
22-114-W	Medicine, West Virginia Board Of	Andres Laurente Rago, MD	6/6/2023
22-26-W, 22-115-W	Medicine, West Virginia Board Of	Lukask Rostocki	6/6/2023
22-81-W	Medicine, West Virginia Board Of	Vishwanatha Subramanya Nadig, MD	6/6/2023
23-16-W	Medicine, West Virginia Board Of	Andra Kofahl, MD	6/12/2023
22-125-W	Medicine, West Virginia Board Of	Gene Hyung Lee, MD	6/12/2023

Grievances Report

Docket Number	Grievants Name	Respondents Name	Date Decision
2023-0596-MISC	Carla Dawn Vincent	Barbour County Assessor	3/3/2023
2022-0667-CONS	Randall R. Hazlewood	General Services Division	3/3/2023
		Division Of Personnel	3/3/2023
2023-0413-MonED	Travis Wells	Monongalia County Board Of Education	3/14/2023
2021-2450-CONS	Mark Blackburn	Mingo County Board Of Education	3/16/2023
2022-0838-CONS	Janelle Pekarek	Department Of Health And Human Resources	3/17/2023
		Bureau For Child Support Enforcement	3/17/2023
2023-0312-DHHR	Debbie Pigman	Department Of Health And Human Resources	3/24/2023
		Bureau of Social Services	3/24/2023
2023-0209-WVSU	Ronald Mercer	West Virginia State University	3/28/2023
2023-0365-DHS	Kendall Alan Gooden	Department of Homeland Security	3/28/2023
		Huttonsville Correctional Center and Jail	3/28/2023
2022-0270-DOA	Jeffrey Swisher	General Service Division	4/12/2023
		Division Of Personnel	4/12/2023
2023-0066-DHS	Twan D. Reynolds	Department of Homeland Security	4/14/2023
		Mount Olive Correctional Complex and Jail	4/14/2023
2022-0635-DOT	Ray Owens	Division Of Highways	4/17/2023
		Matthew Chipps	4/17/2023
2022-0752-DHHR	Kimberly Dawson	Department Of Health And Human Resources	4/26/2023
2023-0345-MrnED	Stacy Butcher	Marion County Board Of Education	4/26/2023
2023-0067-DOT	Christopher Peck	Division Of Highways	4/28/2023
2022-0812-DHHR	Kenya Burton	Department Of Health And Human Resources	5/4/2023
		Bureau for Public Health	5/4/2023
		Division Of Personnel	5/4/2023

6/15/2023 3:59:04 PM

CONT. GRIEVANCES REPORT

2023-0597-CabED	William Blake	Cabell County Board Of Education	5/5/2023
2023-0340-DOT	Andrew M. Florence	Division Of Highways	5/8/2023
2023-0564-CONS	Don Cremeans	Department Of Health And Human Resources	5/9/2023
		Mildred Mitchell-Bateman Hospital	5/9/2023
2022-0738-DHHR	Allison Renee Saunders	Department Of Health And Human Resources	5/18/2023
		Lakin Hospital	5/18/2023
2023-0585-GilED	John Putnam	Gilmer County Board Of Education	5/18/2023
2022-0801-WVU	Hangang Yu	West Virginia University	5/22/2023
2023-0287-DOC	Kevin Wriston	Miners' Health, Safety and Training	5/25/2023
2023-0044-MinED	Crystal Canterbury	Mingo County Board Of Education	5/25/2023
2021-1037-CONS	Christina Adams, et al.	Boone County Board Of Education	5/31/2023

FILED
2023 JUN -9 P 2:14
OFFICE OF 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

June 8, 2023

The Honorable Kent A. Leonhardt
Chairman
West Virginia State Conservation Committee
1900 Kanawha Blvd. E., Bldg. 1, Rm 28E
Charleston, WV 25305

Dear Chairman Leonhardt:

You have asked for an Opinion of the Attorney General regarding the provision in West Virginia's Conservation District Law that allows the State Conservation Committee (the Committee) to set conservation district supervisors' per diem compensation rate. This Opinion is being issued pursuant to West Virginia Code § 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 … any … state officer, board or commission." Where this Opinion relies on facts, it depends solely on the factual assertions in your correspondence with the Office of the Attorney General.

Under West Virginia Code § 19-21A-7(c), conservation district supervisors may be paid a per diem of $30 to $150. Your letter explains that the Committee has set the rate at $150. But given questions about "the duration of a 'work day,'" the Committee wants to prorate this rate hourly "to make the rate account for actual time increments in [a] workday" instead of paying a "flat rate of $150" in all circumstances.

Your letter raises the following legal question:

> *For purposes of West Virginia Code § 19-21A-7(c), may the Committee prorate conservation district supervisors' per diem rate by the hour so long as the total rate paid stays within the statutory range?*

We conclude that "per diem" means "by the day" or "for each day"—in contrast to an hourly wage. The Legislature's choice to use a per diem reimbursement scheme thus means the Committee may not prorate the per diem rate.

Discussion

In 2006, the Legislature amended the Conservation District Law's then-existing per diem provision to read:

> A supervisor is entitled to reasonable and necessary expenses and a per diem of not more than $150 nor less than $30 when engaged in the performance of his or her duties. The expense and per diem rate shall be established by the state committee based on availability of funds.

W. Va. Code § 19-21A-7(c).

The Supreme Court of Appeals has not weighed in on the meaning of "per diem" in this context. And the precise line between what is included within the categories of "expenses" and "per diem" is beyond the scope of this Opinion. But when it comes to your question about potential proration, the ordinary definition of the term is straightforward. While neither the Conservation District Law, W. Va. Code § 19-21A-3 (defining many other terms), nor other West Virginia statutes that use the term define it, *see, e.g.*, *id.* § 51-9-10, other authorities do. Black's Law Dictionary (11th ed. 2019), translating the Latin phrase, says "per diem" means "[b]y the day; for each day." A 1970 Attorney General Opinion defined "per diem" using nearly identical dictionary definitions. *See* 53 W. Va. Op. Att'y Gen. 375 (1970) (defining "per diem" as "'for the day,' or 'by the day'"). Nothing in Section 19-21A-7(c) suggests the Legislature intended a more specialized meaning. "Per diem" thus means *by the day* or *for each day*.

By contrast, prorated per diem compensation is conceptually the same as hourly compensation. Prorating a per diem takes a longer way around—it requires dividing the per diem rate by the standard number of hours in the workday and then multiplying by the number of hours actually worked, rather than just multiplying a set hourly rate by the number of hours worked. But it comes out to the same thing in the end. Here, the Committee has settled on a $150 per diem. Dividing $150 by eight hours for a standard workday is $18.75 per hour. Flexibility to prorate the per diem would effectively mean authority to pay supervisors $18.75 an hour for anything above Section 19-21A-7(c)'s absolute floor of $30 a day.

So a reviewing court would likely say that the plain meaning of "per diem" forecloses proration. "The primary object in construing a statute is to ascertain and give effect to the intent of the Legislature." Syl. pt. 3, *State v. McClain*, 247 W. Va. 423, 880 S.E.2d 889 (2022). Courts therefore begin statutory analyses with the statute's "plain language," giving that text its ordinary and straightforward meaning. *Alan Enterprizes LLC v. Mac's Convenience Stores LLC*, 240 W. Va. 250, 254, 810 S.E.2d 61, 65 (2018). Here, an ordinary person would almost certainly understand "per diem" compensation to be paid for all work done in a 24-hour period—no matter the actual hours spent. And as noted above, the definitions of per diem are "by the day" or "for the day"—meaning the relevant block of time in the per diem context is a day, not an hour. Reading proration into "per diem" would likely strike most ordinary readers as unusual because paying someone "by the day" is fundamentally different than paying someone "by the hour."

AG OPINION

It's also grammatically important that this statute uses the article "a" alongside the singular "per diem": "A supervisor is entitled to … a per diem of not more than $150 nor less than $30." W. Va. Code § 19-21A-7(c). In this "context," the "indefinite article 'a'" should be read restrictively to "mean [just] one" thing. *Maupin v. Sidiropolis*, 215 W. Va. 492, 497-98, 600 S.E.2d 204, 209-10 (2004) (explaining how "a" can behave differently when describing a singular or plural word). So "a" means a singular flat rate—not the multiple rates that would result from proration. *See DeGasperin v. Ballard*, No. 16-0133, 2017 WL 663577, at *20 (W. Va. Feb. 17, 2017) (finding that "a" referred to a "singular deceased human body" (citing *Wikimedia Found. v. Nat'l Sec. Agency/Cent. Sec. Serv.*, 14 F.4th 276, 293 (4th Cir. 2021))).

The Legislature's choice to use "per diem" in the singular—"a per diem" and "[t]he … per diem rate," W. Va. Code § 19-21A-7(c)—confirms that reading, too. Indeed, making that choice "on two subsequent occasions" in the statute made it more "apparent that the legislature intended ['per diem'] to have a singular meaning." *Copier Word Processing Supply, Inc. v. WesBanco Bank, Inc.*, 220 W. Va. 39, 48, 640 S.E.2d 102, 111 (2006) (concluding that two singular nouns confirmed the Court's statutory interpretation based on the term "an").

Other tools of statutory construction beyond plain-text analysis get to the same result. When a statutory term is unclear, courts often discern legislative intent by examining how the Legislature uses the term in other laws. *Jam v. Int'l Fin. Corp.*, 139 S. Ct. 759, 768 (2019). Considering other statutes here shows that the Legislature routinely treats hourly and per diem compensation as two distinct methods of compensation. W. Va. Code § 5-10-22c(c), for example, differentiates between "salary, wage or per diem compensation" in the legislative employee context. *See also id.* § 18-7A-35b(b) (same). The Consolidated Public Retirement Board's record-keeping requirements for "type of pay" offer as examples "salary, hourly or per diem." *Id.* § 5-10D-12. Similar statutes abound. *See, e.g., id.* § 5-10-48(b) (defining "regular" legislative employees by using their hours worked as compared to "reemployed" legislative staff, who come out of retirement to work "per diem" for no more than 175 *days* a year); *id.* § 21-5C-1(f)(18) (defining "employee" for purposes of the minimum wage law in part by differentiating regular legislative employees and those paid "per diem"). In fact, even requirements that counties and municipalities pay a "per diem" charge for incarcerating inmates speak in terms like "per day" and "intervals of 24 hours." *Id.* § 15A-3-16(g), (h).

Out-of-state authorities appear to agree with this analysis. Some state courts say hourly and per diem compensation are mutually exclusive. *See, e.g., Grubel v. City of Philadelphia*, No. 1307 C.D. 2014, 2015 WL 7736941, at *4 (Pa. Commw. Ct. Nov. 30, 2015) ("[A]n hourly wage and a per diem are two different methods of compensation."). And even when state courts do allow per diem proration, it's often because whatever text they're interpreting explicitly contemplates it. *See, e.g., Newman v. Advanced Tech. Innovation Corp.*, 749 F.3d 33, 37 (1st Cir. 2014) (handbook permitting prorated per diem); *Myres v. Strom Aviation, Inc.*, 255 N.C. App. 309, 313, 804 S.E.2d 785, 789 (2017) (same with employee agreement); *City of Fairbanks v. Rice*, 628 P.2d 565, 567 n.4 (Alaska 1981) (allowing proration because the Fairbanks ordinance said "[p]er diem may be pro-rated for a period of not less than one-quarter (1/4) day"). That our Legislature did not include that sort of explicit language in Section § 19-21A-7(c)'s text is strong evidence

that it never intended the Committee to prorate per diem compensation. In short, the Legislature appears to view "per diem" compensation as a single lump sum owed once every 24 hours.

To be sure, there are some potential counterarguments. First, at least one statute says that certain commission members "shall be paid $50 per diem for actual time spent in the performance of duties." W. Va. Code § 5-11-5. At first blush, someone could take the "time spent" language to mean "hours spent." But there's no reason to assume that "time" means hours rather than days. Especially given the use of "per diem" in other statutes, it makes more sense to conclude that the Legislature was reflecting the intrinsic nature of per diem compensation as time-based, not task-based. And in any event, Section 19-21A-7(c) does not talk of "time spent."

Second, the Supreme Court of Appeals has several times discussed a prohibited form of calculating pain-and-suffering damages it calls the "per diem" method. *Crum v. Ward*, 146 W. Va. 421, 427, 122 S.E.2d 18, 23 (1961) (saying this method is "sometimes referred to as the 'per diem', 'unit of time', 'blackboard', or 'mathematical formula' basis … for determining the value of pain and suffering"). That "per diem" method *does* allow "hourly" damages calculations. Douglas L. Price, *Hedonic Damages: To Value A Life or Not to Value A Life?*, 95 W. VA. L. REV. 1055, 1090 n.34 (1993). Yet the Court didn't come up with the label (others did), and it uses it only to explain a certain argument in a particular, non-employment-based context. It does not use it to interpret statutes. So this example shows only that it is possible to use "per diem" in some contexts to include hour-by-hour calculations. But your question is about the Legislature's intent in *this* context, and the Legislature did not tie Section 19-21A-7(c) to that separate doctrine. And if that choice leads to objectionable results in certain circumstances depending on the volume of district supervisors' work at different times, the solution belongs to the Legislature, too.

Finally, nothing in this Opinion calls into question the Committee's broad discretion over conservation districts—and especially their finances. The Committee must administer any law "appropriating funds for expenditures in connection with the activities of conservation districts," "distribute to conservation districts funds," "adopt rules" for using "such funds," review districts' administrative procedures and operations, and "advise the districts concerning their conformance with applicable laws and rules." W. Va. Code § 19-21A-4(10)-(11). The Committee may also allocate any money it receives from any source to districts, *id.* § 19-21A-4(12), and must "[e]stablish by rule, adequate and reasonably uniform accounting and auditing procedures," *id.* § 19-21A-4(17). So even though the Legislature set a particular method of compensation in this context, the Committee retains significant power over districts and their finances.

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

FILED
WV SECRETARY OF STATE
JUNE 12, 2023 11:35 AM

OTHER

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

June 12, 2023

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **June 9, 2023**.

LETTER OF INTENT RECEIVED

June 9, 2023- West Virginia Home Health, LLC, Martinsburg, Berkeley County, West Virginia, CON File #23-8/9-12713-Z, for the expansion of its home health agency service area into Morgan, Hampshire, and Mineral counties in West Virginia; capital expenditure, $60,380.

LETTER OF INTENT WITHDRAWN

June 9, 2023- West Virginia Home Health, LLC, Martinsburg, Berkeley County, West Virginia, CON File #23-8/9-12615-Z, for the expansion of the service area of its existing Medicare and Medicaid certified home health agency, which currently services Berkeley and Jefferson counties, to Grant, Hampshire, Mineral, Morgan, and Pendleton counties, West Virginia; capital expenditure, $75,000

CERTIFICATE OF NEED APPLICATION RECEIVED

June 9, 2023- Option Care Health, Inc, CON File #23-12-12688-A, for the following merger; On May 3, 2023, Amedisys signed a Merger Agreement with Option Care. On or around September 3, 2023 (the "Closing Date"), subject to customary closing conditions , the parties expect that Uintah Merger Sub, Inc.(the "Merger Sub"), Option Care's subsidiary created for the purposes of this merger transaction, shall merge with and into Amedisys (the "Merger"). Amedisys will continue as the surviving corporation in the Merger as a wholly owned subsidiary of Option Care. The Merger is a broader transaction, but the Letter of Intent and the Certificate of Need application will focus on the West Virginia portion of the Merger; capital expenditure, $102,000,000.

PROJECTS EXEMPT FROM REVIEW

June 8, 2023- Arch Recovery Group, LLC, CON File #23-6-12671-X, for the development of a residential substance use disorder treatment facility with floor plans to include 21 3.7 level detox beds and 52, 3.5 level residential beds to be located at 132 Williams Lane, Mt. Clare, Harrison County, West Virginia.