# WEST VIRGINIA REGISTER

Published by the Office of the Secretary of State

Volume XL

Issue 51

December 21, 2023

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:**

Corrections and Rehabilitation, WV Division of

Health Care Authority

Insurance Commission

Medicine, WV Board of

Parkways Authority

Respiratory Care

## CHRONOLOGICAL INDEX, VOLUME XL ISSUE 51

### NO RULES FILED FOR PUBLIC COMMENT THIS WEEK

| AGENCY | RULE/TYPE | AUTHORITY | HEARING/COMMENT PERIOD/LOCATION |
|---|---|---|---|
| | | | |

### NO EMERGENCY RULES FILED THIS WEEK

| AGENCY/RULE | RULE NAME | AUTHORITY | EFFECTIVE DATE | COMMENT END DATE |
|---|---|---|---|---|
| | | | | |

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 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 | 53 | PUBLIC ENERGY AUTHORITY |
| 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 | 71 | HEALTH FACILITIES |
| 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 | 103 | FIRE MARSHAL |
| 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 |
| TITLE | 220 | MULTIMODAL TRANSPORTATION FACILITIES |

## 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 | | 7/24/2023 | Approved 8/9/2023 | | | |
| Acupuncture (32-03) | Application for Licensure to Practice Acupunture Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/22/2023 | | | |
| Administration (148-03) Sunset Provision | State Owned Vehicles Legislative | | | | 10/25/2022 | Approved 8/7/2023 | | | |
| Agriculture (61-04B) | Frozen Desserts and Imitation Frozen Desserts Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 11/16/2023 | | | |
| Agriculture (61-12A) | Certified Pesticide Applicator Rules Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/27/2023 11/3/2023 | | | |
| Agriculture (61-12B) | Licensing of Pesticide Business Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Agriculture (61-19) Sunset Provision | WV Manufacture Grade Milk Legislative | | | | | | | | |
| Agriculture (61-20) Sunset Provision | Employment Reference and Inquiries and Background Checks Legislative | | | | | | | | |
| Agriculture (61-23B) | WV Shellfish Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Agriculture (61-30) | Hemp Products Legislative | 6/28/2023 | 7/28/2023 | 6/28/2023 Effective 8/9/2023 | 7/28/2023 | Recommends Rejection 10/24/2023 | | | |
| Agriculture (61-37) Sunset Provision | Agritourism Legislative | | | | 12/15/2022 | Approved 8/7/2023 | | | |
| Air Quality (45-01) | Alternative Emission Limitations During Startup and Shutdown Operations Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| 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 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Air Quality (45-03) | Control of Air Pollution from the Operation of Hot Mix Asphalt Plants Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| 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 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Air Quality (45-06) | Control of Air Pollution from Combustion of Refuse Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Air Quality (45-07) | Control of Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Air Quality (45-08) | Ambient Air Quality Standards Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| Air Quality (45-10) | Control of Air Pollution from the Emission of Sulfur Oxides Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Air Quality (45-16) | Standards of Performance for New Stationary Sources Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| Air Quality (45-21) | Control of Air Pollution from the Emission of Volatile Organic Compounds Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Air Quality (45-34) | Emission Standards for Hazardous Air Pollutants Legislative | 5/31/2023 | 7/6/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| 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 | | 7/28/2023 | Approved 9/10/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Auditor (155-12) | Rules for Private Trust Companies Legislative | 10/25/2023 | 11/27/2023 | 10/25/2023 Approved 10/31/2023 | | | | | |
| 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 | Modified & Approved 8/7/2023 Filed 8/11/2023 | | | |
| 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 | Modified & Approved 8/7/2023 Filed 8/24/2023 | | | |
| Barbers and Cosmetologists (3-16) | Cosmetology Apprenticeship Legislative | 4/10/2023 | 5/31/2023 | | 6/14/2023 | Modified & Approved 8/7/2023 Filed 8/21/2023 | | | |
| Coal Mine Health and Safety (36-57) | Rule Governing Proximity Detection Systems and Haulage Safety Generally Legislative Exempt | 12/11/2023 | 1/10/2024 | | | | | | |
| Community and Technical College Education (135-06) | Performance Indicators Legislative | 6/21/2023 | 7/24/2023 | | 7/26/2023 | Approved 10/15/2023 | | | |
| Community and Technical College Education (135-19) | Guidelines for the Offering of Early Enrollment Courses for High School Students Legislative | 6/21/2023 | 7/24/2023 | 6/21/2023 Approved 6/30/2023 | 7/26/2023 | Modified & Approved 9/12/2023 Filed 9/14/2023 | | | |
| Community and Technical College Education (135-20) | Initial Authorization of Degree-Granting Institutions Legislative | 6/21/2023 | 7/24/2023 | | 7/26/2023 | Approved 10/15/2023 | | | |
| Community and Technical College Education (135-32) | Tuition and Fees Legislative | 6/21/2023 | 7/24/2023 | | 7/26/2023 | Approved 10/15/2023 | | | |
| Community and Technical College Education (135-49, repeal) | Accountability System Legislative | 6/21/2023 | 7/24/2023 | | 7/26/2023 | Approved 10/15/2023 | | | |
| Conservation Agency (63-03) Sunset Provision | State Conservation Committee Grant Program Legislative | | | | 10/30/2023 | | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Counseling (27-01) | Licensing Rule Legislative | 9/5/2023 | 10/5/2023 | 8/31/2023 Effective 10/12/2023 | 10/6/2023 | Modified & Approved 10/30/2023 Filed 11/15/2023 | | | |
| Counseling (27-08) | Marriage and Family Therapist Licensing Rule Legislative | 9/5/2023 | 10/5/2023 | 8/31/2023 Effective 10/12/2023 | 10/6/2023 | Modified & Approved 10/30/2023 Filed 11/15/2023 | | | |
| Crime Delinquency and Correction (149-02) | Law Enforcement Training and Certification Legislative | 6/23/2023 | 7/24/2023 | | 7/26/2023 | Modified & Approved 9/10/2023 Filed 10/4/2023 | | | |
| Crime Delinquency and Correction (149-03) | Protocol for Law Enforcement Response to Domestic Violence Legislative | 6/26/2023 | 7/26/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 10/4/2023 | | | |
| Crime Delinquency and Correction (149-11) | Sexual Assault Forensic Examinations Legislative | 8/8/2023 | 9/8/2023 | | 9/8/2023 | Modified & Approved 10/24/2023 Filed 11/9/2023 | | | |
| Dentistry (5-10) | Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database Legislative | 4/19/2023 | 5/22/2023 | | 7/25/2023 | Modified & Approved 9/10/2023 Filed 9/18/2023 | | | |
| Dietitians (31-01) | Licensure And Renewal Requirements Legislative | 3/14/2023 | 4/14/2023 | | 4/25/2023 | Modified & Approved 8/7/2023 Filed 9/11/2023 | | | |
| Dietitians (31-05) | Continuing Professional Education Requirements Legislative | 3/14/2023 | 4/14/2023 | | 4/25/2023 | Modified & Approved 8/7/2023 Filed 9/11/2023 | | | |
| Dietitians (31-07) | Telehealth Practice; Requirements; Definitions Legislative | 6/21/2023 | 7/21/2023 | | 7/28/2023 | Approved 8/7/2023 | | | |
| Economic Development, WV Dept. of (145-19) | Rule Governing the Operations of Motorsports Complexes and Events Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 11/13/2023 | | | |
| Education (126-012) | WV System of Support and Accountability (2322) Legislative Exempt | 12/13/2023 | 1/16/2024 | | | | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Education (126-042) | Assuring the Quaility of Education: Regulations for Education Programs (2510) Legislative Exempt | 12/13/2023 | 2/12/2024 | | | | | | |
| Education (126-044BB) | West Virginia College-and Career-Readiness Standards for Mathematics (Policy 2520.2B) Legislative Exempt | 4/13/2023 | 5/15/2023 | | | | | 8/29/2023 | 7/1/2024 |
| Education (126-044M) | WV College - and Career-Readiness Programs of Study/Standards for Career Technical Education (2520.13) Legislative Exempt | 9/13/2023 | 10/16/2023 | | | | | 11/8/2023 | 7/1/2024 |
| Education (126-203) | Exempt Purchasing Procedures(8210) Legislative Exempt | 10/11/2023 | 11/13/2023 | | | | | 12/13/2023 | 1/16/2024 |
| Election Commission (146-01) | Corporate and Membership Organization Political Activity Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 10/25/2023 | | | |
| Election Commission (146-03) | Regulation of Campaign Finance Legislative | 7/27/2023 | 8/28/2023 | | 9/13/2023 | Modified & Approved 10/24/2023 Filed 11/17/2023 | | | |
| Election Commission (146-07) | Application and Approval Process for Secretary of State Expenditures from the County Assistance Voting Equipment Fund Legislative | 6/27/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 10/25/2023 | | | |
| Emergency Management (170-02) | Industrial Accident Rapid Response Rule Legislative | 6/26/2023 | 7/26/2023 | | 7/27/2023 | Approved 9/10/2023 | | | |
| Emergency Management (170-06) | Purchasing Policy Procedural | 12/8/2023 | 1/8/2024 | | | | | | |
| Environmental Protection Secretarys's Office (60-12) | Administration of Drinking Water Treatment Revolving Fund and Safe Drinking Water Set-Asides Legislative | 6/28/2023 | 7/28/2023 | 6/29/2023 Effective 8/10/2023 | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Environmental Protection Secretarys's Office (60-13) | Design Build Program Procedural | 10/27/2023 | 11/28/2023 | | | | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Family Protection Services Board (191-02) | Domestic Violence Program Licensure Standards Legislative | 5/30/2023 | 6/29/2023 | | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Fire Commission (87-01) | Fire Code Legislative | 6/16/2023 | 7/17/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 10/4/2023 | | | |
| Fire Commission (87-06) | Certification and Evaluation of Local Fire Departments Legislative | 6/23/2023 | 7/24/2023 | | 7/26/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Fire Commission (87-13) | Certification of Fire Chiefs Legislative | 6/23/2023 | 7/24/2023 | | 7/26/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Fire Marshal (103-01) | Certification of Electrical Inspectors Legislative | 6/23/2023 | 7/24/2023 | | 7/26/2023 | Modified & Approved 9/10/2023 Filed 10/4/2023 | | | |
| Fire Marshal (103-03) | Supervision of Fire Protection Work Legislative | 6/23/2023 | 7/24/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Fire Marshal (103-05) | Electrician Licensing Rules Legislative | 6/23/2023 | 7/24/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Fire Marshal (103-06) | Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Bldg Code Officials, Bldg Code Inspectors and Plans Examiners Legislative | 6/23/2023 | 7/24/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Fire Marshal (103-07) | Certification of Home Inspectors Legislative | 6/23/2023 | 7/24/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Forestry (22-02) | Sediment Control During Commercial Timber-Harvesting Operations-Licensing Legislative | 6/26/2023 | 7/27/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 11/13/2023 | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Forestry (22-03) | Sediment Control During Timber-Harvesting Operations-Logger Certification Legislative | 6/26/2023 | 7/27/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 11/13/2023 | | | |
| Health (64-04) | Public Water Systems Operators Legislative | 5/17/2023 | 6/16/2023 | 10/26/2023 Approved 11/6/2023 | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-05) | Wastewater Systems and Operators Legislative | 5/17/2023 | 6/16/2023 | 10/26/2023 Approved 11/6/2023 | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-11) | Behavioral Health Centers Licensure Legislative | 6/5/2023 | 7/5/2023 | | 7/13/2023 | Modified & Approved 10/30/2023 Filed 11/7/2023 | | | |
| Health (64-12) | Hospital Licensure Legislative | 6/5/2023 | 7/5/2023 | | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-14) Sunset Provision | Assisted Living Residences Legislative | | | | 2/16/2023 | Modified & Approved 8/7/2023 Filed 8/21/2023 | | | |
| Health (64-15) | Cross-Connection Control and Backflow Prevention Legislative | 5/17/2023 | 6/16/2023 | | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-30, repeal) | Fees for Permits Legislative | 5/17/2023 | 6/16/2023 | | 7/21/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-51) | Fees for Services Legislative | 5/17/2023 | 6/16/2023 | | 7/21/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-84) | Medical Examiner Requirements for Postmortem Inquires Legislative | 5/17/2023 | 6/16/2023 | 12/12/2023 ERD by 1/23/2023 | 7/13/2023 | Modified & Approved 10/30/2023 Filed 11/7/2023 | | | |
| Health (64-91) Sunset Provision | Newborn Screening System Legislative | | | | 2/16/2023 | Modified & Approved 8/7/2023 Filed 8/22/2023 | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Health (64-116) | Distribution of Funds from Emergency Medical Services Salary Enhancement Fund Legislative | 5/17/2023 | 6/16/2023 | 5/18/2023 Approved 5/18/2023 Amendment 11/7/2023 Effective 12/19/2023 | 7/18/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health (64-123, formerly 69-10) | West Virginia Clearance for Access: Registry and Employment Screening Legislative | 6/9/2023 | 7/10/2023 | | 7/19/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Health and Human Resources (69-08) Sunset Provision | Chronic Pain Management Clinic Licensure Legislative | | | | 2/16/2023 | Modified & Approved 8/7/2023 Filed 8/21/2023 | | | |
| Health and Human Resources (69-12) Sunset Provision | Medication Assisted Treatment-Office-Based Medication-Assisted Treatment Legislative | | | | 2/16/2023 | Modified & Approved 8/7/2023 Filed 8/21/2023 | | | |
| Health Care Authority (65-06) Sunset Provision | Cooperative Agreement Approval and Compliance Legislative | | | | 10/5/2022 | Approved 8/7/2023 | | | |
| Health Care Authority (65-09) Sunset Provision | Critical Access Hospitals Legislative | | | | 12/5/2023 | | | | |
| Health Care Authority (65-32) | Certificate of Need Legislative | 5/17/2023 | 6/16/2023 | | 7/21/2023 | Approved 10/24/2023 | | | |
| Higher Education Policy Commission (133-05) | Empolying and Evaluating Presidents Legislative | 6/21/2023 | 7/21/2023 | | 7/25/2023 | Approved 9/12/2023 | | | |
| Higher Education Policy Commission (133-06) | Higher Education Adult-Part Time Student (HEAPS) Grant Program Legislative | 6/21/2023 | 7/21/2023 | | 7/24/2023 | Modified & Approved 9/12/2023 Filed 9/12/2023 | | | |
| Higher Education Policy Commission (133-07) | WV Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program Legislative | 6/21/2023 | 7/21/2023 | | 7/26/2023 | Approved 9/12/2023 | | | |
| Higher Education Policy Commission (133-19) | Guidelines for College Courses for High School Students Legislative | 6/21/2023 | 7/21/2023 | 6/21/2023 Approved 6/27/2023 | 7/28/2023 | Approved 9/12/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Higher Education Policy Commission (133-28) | WV Engineering, Science and Technology Scholarship Program Legislative | 6/21/2023 | 7/21/2023 | | 7/24/2023 | Approved 9/12/2023 | | | |
| Higher Education Policy Commission (133-42) | WV Higher Education Grant Program Legislative | 6/21/2023 | 7/21/2023 | | 7/24/2023 | Approved 9/12/2023 | | | |
| Higher Education Policy Commission (133-58) | Nursing Scholarship Program Legislative | 6/21/2023 | 7/21/2023 | | 7/24/2023 | Approved 9/12/2023 | | | |
| Highways (157-03) | Construction and Reconstruction of State Roads Legislative | 6/22/2023 | 7/24/2023 | | 7/31/2023 | Modified & Approved 9/10/2023 Filed 11/7/2023 | | | |
| Highways (157-05) | Traffic and Safety Rules Legislative | 6/15/2023 | 7/17/2023 | | 7/26/2023 | Modified & Approved 9/10/2023 Filed 11/8/2023 | | | |
| Human Services (67-01, formerly 69-14) | Collection and Exchange of Data Related to Overdoses Legislative | 6/6/2023 | 7/6/2023 | | 7/18/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Human Services (78-26) Sunset Provisions | Pilot Program for Drug Screening of Applicants for Cash Assistance Legislative | | | | | | | | |
| Human Services (78-27) | Procedure to Contest the Substantiation of Child Abuse or Neglect Legislative | 5/30/2023 | 6/29/2023 | | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Insurance Comm. (114-27) Sunset Provision | Aids Regulations Legislative | | | | 3/29/2023 | Approved 8/7/2023 | | | |
| Insurance Comm. (114-100) | Health Benefit Plan Network Access and Adequacy Legislative | 6/2/2023 | 7/5/2023 | | 7/12/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Insurance Comm. (114-103) | Bail Bondsmen in Criminal Cases Legislative | 6/2/2023 | 7/5/2023 | | 7/11/2023 | Authorized as Modified w/Certain Amendements 9/12/2023 Filed 9/14/2023 | | | |
| Labor (42-08) | Minimum Wage, Maximum Hours, and Overtime Compensation Legislative | 5/4/2023 | 6/5/2023 | | 6/6/2023 | Modified & Approved 9/10/2023 Filed 9/19/2023 | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Labor (42-21A) | Licensing of Elevator Mechanics, Accessibility Technicians, and Limited Technicians and Registration of Elevator Mechanic Apprentices Legislative | 6/23/2023 | 7/26/2023 | | 7/27/2023 | Approved 9/10/2023 | | | |
| Massage Therapy Licensure Bd. (194-01) | General Provision Legislative | 6/27/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/22/2023 | | | |
| Massage Therapy Licensure Bd. (194-04) | Schedule of Fees Legislative | 6/28/2023 | 7/28/2023 | 6/27/2023 Effective 8/8/2023 | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/22/2023 | | | |
| Massage Therapy Licensure Bd. (194-07) | Establishment Licensure Legislative | 6/28/2023 | 7/28/2023 | 6/27/2023 Effective 8/8/2023 | 7/28/2023 | Approved 9/10/2023 | | | |
| Medical Imaging and Radiation Therapy Tech. Board of Examiners (18-01) | West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Legislative | 6/21/2023 | 7/22/2023 | | 7/24/2023 | Modified & Approved 10/30/2023 Filed 11/6/2023 | | | |
| Medicine (11-01B) | Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 10/30/2023 Filed 11/1/2023 | | | |
| Medicine (11-06) | Continuing Education for Physicians and Podiatric Physicians Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 10/30/2023 Filed 11/1/2023 | | | |
| Medicine (11-12) Sunset Provision | Permitting and Disciplinary Procedures: Educational Permits for Graduate Medical Interns, Residents and Fellows Legislative | | | | 11/21/2022 | Approved 8/7/2023 | | | |
| Miners Health Safety and Training (56-02) | Rule Governing Safety Provisions for Clearing Crews Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/14/2023 | | | |
| Miners Health Safety and Training (56-04) | Rule Governing Protective Clothing and Equipment Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Miners Health Safety and Training (56-10) | Rule Governing Reporting Requirements for Independent Contractors Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Approved 9/10/2023 | | | |
| Miners Health Safety and Training (56-12) | Rule Governing Assessing Health and Safety Violation Penalties Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Miners Health Safety and Training (56-14) | Rule Pertaining to the Office of Miners' Health, Safety and Training Application Process for the WV Innovative Mine Safety Technology Tax Credit Act Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Miners Health Safety and Training (56-18) | Rule for Governing the Program for the Sharing of Information Between Employers Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Miners Health Safety and Training (56-19) | Substance Abuse Screening, Standards and Procedures Legislative | 6/21/2023 | 7/21/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Miners Health Safety and Training (56-22) Sunset Provision | Rules Governing the Certification, Recertification and Training of EMT-Miners and the Certification of EMT-M Instructors Legislative | | | | 11/7/2023 | | | | |
| Miners Health Safety and Training (56-23) Sunset Provision | Operating Diesel Equipment in Underground Mines in WV Legislative | | | | 7/27/2023 | Approved 8/7/2023 | | | |
| Miner Training Education and Certification (48-04) | Initial Training Program for Prospective Mine Rescue Team Members and Additional Mine Rescue Requirements Legislative Exempt | 9/11/2023 | 10/11/2023 | | | | | 12/11/2023 | 1/10/2024 |
| Miner Training Education and Certification (48-09) | Duties and Standards for Certification of Underground Outby Mine Examiners for Coal Mines Legislative Exempt | 7/28/2023 | 8/30/2023 | | | | | 12/11/2023 | 1/10/2024 |
| Motor Vehicles (91-03) | Motor Vehicle Titling and Registration Legislative | 6/23/2023 | 7/23/2023 | 6/27/2023 Effective 8/8/2023 | 7/26/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Motor Vehicles (91-06) | Dealer Licensing Legislative | 6/23/2023 | 7/23/2023 | | 7/26/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Motor Vehicles (91-10) | Handicapped Parking Permits Legislative | 6/6/2023 | 7/7/2023 | | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/7/2023 | | | |
| Motor Vehicles (91-15) Sunset Provision | Safety and Treatment Program Legislative | | | | | | | | |
| Motor Vehicles (91-24) Sunset Provision | State Vehicle Title, Registration and Relicensing Project of 2018 Legislative | | | | | | | | |
| Multimodal Transportation Facilities (220-01) | Valuation of Used Rolling Stock and Equipment Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/29/2023 | | | |
| Natural Resources (58-11) | Hunting, Fishing, and Other Outfitters and Guides Legislative | 6/26/2023 | 7/27/2023 | | 7/27/2023 | Modified & Approved 10/24/2023 Filed 11/16/2023 | | | |
| Natural Resources (58-12) | Commercial Whitewater Outfitters Legislative | 6/26/2023 | 7/27/2023 | | 7/27/2023 | Modified & Approved 10/24/2023 Filed 11/16/2023 | | | |
| Natural Resources (58-16) Sunset Provision | Transporting and Selling Wildlife Pelts and Parts Legislative | | | | | | | | |
| Natural Resources (58-23) | Revocation of Hunting and Fishing Licenses Legislative | 6/26/2023 | 7/27/2023 | | 7/27/2023 | Modified & Approved 10/24/2023 Filed 11/16/2023 | | | |
| Natural Resources (58-25) Sunset Provision | Boating Rule Legislative | | | | | | | | |
| Natural Resources (58-26) Sunset Provision | Special Boating Rule Legislative | | | | | | | | |
| Natural Resources (58-32) Sunset Provision | Public Use of Campgrounds in WV State Parks and State Forests and Campsites in State Rail Trails under the DNR Legislative | | | | | | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Natural Resources (58-34) Sunset Provision | Special Projects and Grants for WV State Parks, State Forests, and State Rail Trails Under the DNR Legislative | | | | | | | | |
| Natural Resources (58-36) Sunset Provision | Cabwaylingo State Forest Trail System Two Year Pilot Project Permitting ATV's and ORVs Legislative | | | | 7/20/2023 | Approved 8/7/2023 | | | |
| Natural Resources (58-47) Sunset Provision | Prohibitions When Hunting and Trapping Legislative | | | | | | | | |
| Natural Resources (58-61) Sunset Provision | Special Fishing Rule Legislative | | | | | | | | |
| Natural Resources (58-62) Sunset Provision | Catching and Selling Baitfish Legislative | | | | | | | | |
| Natural Resources (58-67) | Lifetime Hunting, Trapping and Fishing Licenses Legislative | 6/26/2023 | 7/26/2023 | 6/26/2023 Effective 8/7/2023 | 7/27/2023 | Modified & Approved 10/24/2023 Filed 11/14/2023 | | | |
| Nursing Home Administrators Licensing Board (21-01) | Nursing Home Administrators Legislative | 5/8/2023 | 6/8/2023 | | 6/9/2023 | Approved 8/7/2023 | | | |
| Optometry (14-01) | Rules of the WV Board of Optometry Legislative | 6/28/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 10/24/2023 Filed 11/16/2023 | | | |
| Optometry (14-10) | Continuing Education Legislative | 6/27/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 10/24/2023 Filed 11/15/2023 | | | |
| Optometry (14-11) | Injectable Pharmaceuticals by Injection Certificate Legislative | 6/28/2023 | 7/28/2023 | | 7/31/2023 | Modified & Approved 10/24/2023 Filed 11/16/2023 | | | |
| Optometry (14-14) | Eyelid Procedures Legislative | 6/28/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 11/1/2023 Filed 11/15/2023 | | | |
| Osteopathic Medicine (24-01) | Licensing Procedures for Osteopathic Physicians Legislative | 6/26/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Osteopathic Medicine (24-02) | Osteopathic Physician Assistants Legislative | 6/26/2023 | 7/27/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Osteopathic Medicine (24-08) Sunset Provision | Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants Legislative | | | | 11/15/2023 | | | | |
| Parkways Authority (184-05) | Rules Providing for Electronic Toll Collection and the Enforcement Process Legislative | 8/17/2023 | 9/20/2023 | | | | | | |
| **THE ABOVE RULE FILING EXPIRED 12/19/2023** | | | | | | | | | |
| Pharmacy (15-01) | Licensure and Practice of Pharmacy Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Pharmacy (15-03) | Continuing Education for Licensure for Pharmacists Legislative | 6/27/2023 | 7/27/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| Pharmacy (15-07) | Registration of Pharmacy Technicians Legislative | 6/27/2023 | 7/27/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| Pharmacy (15-12) | Immunizations Administered by Pharmacists, Pharmacy Interns, and Pharmacy Technicians Legislative | 6/27/2023 | 7/27/2023 | 6/27/2023 Approved 6/29/2023 | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Pharmacy (15-14) | Centralized Prescription Processing Legislative | 6/29/2023 | 7/28/2023 | 6/27/2023 Approved 6/29/2023 | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Pharmacy (15-15) | Regulations Governing Pharmacy Permits Legislative | 6/27/2023 | 7/27/2023 | 6/27/2023 Approved 6/29/2023 | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Pharmacy (15-17) Sunset Provision | The Subsitution of Biological Pharmaceuticals Legislative | | | | 7/20/2023 | Approved 8/7/2023 | | | |
| Professional Surveyors (23-01) | Examination and Licensing of Professional Surveyors in West Virginia Legislative | 6/7/2023 | 7/7/2023 | | 7/31/2023 | Modified & Approved 9/10/2023 Filed 10/3/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Psychologists (17-04) | Disciplinary and Complaint Procedures for Psychologists Legislative | 6/15/2023 | 7/17/2023 | | 7/25/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Psychologists (17-05) | Contested Case Hearing Procedure Legislative | 6/15/2023 | 7/17/2023 | | 7/25/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| 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 | 6/23/2023 | 7/23/2023 | 6/14/2023 Approved 6/27/2023 | 9/7/2023 | Authorize with Certain Amendments 11/1/2023 | | | |
| Racing Commission (178-01) | Thoroughbred Racing Legislative | 6/5/2023 | 7/6/2023 | | 7/26/2023 | Authorized w/Certain Amendments 9/10/2023 Filed 9/25/2023 | | | |
| 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 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/27/2023 | | | |
| Real Estate Commission (174-02) | Schedule of Fees Legislative | 6/12/2023 | 7/14/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| Real Estate Commission (174-03) | Real Estate Courses, Course Providers and Instructors Legislative | 6/13/2023 | 7/14/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/27/2023 | | | |
| 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 Approved 6/27/2023 | 8/1/2023 | Modified & Approved 10/24/2023 Filed 11/16/2023 | | | |
| Registered Nurses, WV Board of (19-03) | Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative | 6/14/2023 | 7/14/2023 | | 7/26/2023 | Modified & Approved 10/30/2023 Filed 11/16/2023 | | | |
| Registered Nurses, WV Board of (19-07) | Advanced Practice Registered Nurse Licensure Requirements Legislative | 6/14/2023 | 7/14/2023 | | 7/26/2023 | Approved 10/24/2023 | | | |

RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Registered Nurses, WV Board of (19-12) | Fees for Services Rendered by the Board Legislative | 6/14/2023 | 7/14/2023 | 5/31/2023 Approved 6/27/2023 | 7/26/2023 | Approved 10/24/2023 | | | |
| Respiratory Care (30-09) | Student Temporary Permit - Amended Legislative | 4/28/2023 | 6/1/2023 | | 6/8/2023 | Modified & Approved 8/7/2023 Filed 9/28/2023 | | | |
| Respiratory Care (30-11) | Telehealth Practice Legislative | 9/26/2023 | 10/30/2023 | | | | | | |
| Secretary of State (153-14) | Guidelines fo the Use of Nicknames and Other Designations on the Ballot Legislative | 6/28/2023 | 7/28/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 10/25/2023 | | | |
| Secretary of State (153-25, repeal) | Combined Voter Registration and Driver Licensinig Fund Legislative | 6/282023 | 7/28/2023 | | 7/28/2023 | Approved 9/10/2023 | | | |
| Secretary of State (153-55) | Minimum Standards for Election Administration, Infrastructure, and Security Legislative | 6/27/20223 | 7/27/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 10/25/2023 | | | |
| State Police (81-08) | WV State Police Member Grievance Procedure Legislative | 6/23/2023 | 7/23/2023 | | 7/27/2023 | Approved 9/10/2023 | | | |
| State Police (81-19) | Motor Vehicle Inspection Legislative | 6/23/2023 | 7/23/2023 | | 7/27/2023 | Modified & Approved 9/10/2023 Filed 9/26/2023 | | | |
| Tax (110-15K) Sunset Provision | Aircraft Operated Under A Fractional Ownership Program Legislative | | | | 3/28/2023 | Approved 8/7/2023 | | | |
| Tax (110-21B) Sunset Provision | Citizen Tax Credit for Property Taxes Paid Legislative | | | | 12/30/2022 | Modified & Approved 8/7/2023 Filed 8/21/2023 | | | |
| Tax (110-21G) | Income Tax Paid at the Entity Level by Electing Pass-Through Entities Legislative | 6/8/2023 | 7/10/2023 | | 7/28/2023 | Approved 10/24/2023 | | | |
| Tax (110-21H) | Income Tax Credits for Property Taxes Paid Legislative | 6/8/2023 | 7/10/2023 | | 7/25/2023 | Approved 10/24/2023 | | | |
| Tax (110-49) Sunset Provision | Administration of Tax on Purchases of Wine and Liquor Legislative | | | | 12/30/2022 | Modified & Approved 8/7/2023 Filed 8/21/2023 | | | |

## RULE MONITOR

| AGENCY/SERIES NUMBER | RULE | NOTICE | HEARING | EMER RULE | AGENCY APPROVED | LRMRC/LOCEA ACTION | LEGIS | FINAL FILE | EFFECTIVE |
|---|---|---|---|---|---|---|---|---|---|
| Tax (110-99) | Privilege Tax on Sales of Hemp-Derived Cannabinoid and Kratom Products Legislative | 6/8/2023 | 7/10/2023 | | 7/25/2023 | Approved 10/24/2023 | | | |
| Treasurer (112-05) | Enforcement of the Unifrom Unclaimed Property Act Legislative | 6/27/2023 | 7/27/2023 | | 7/28/2025 | Modified & Approved 10/24/2023 Filed 11/2/2023 | | | |
| Treasurer (112-19) | West Virginia Hope Scholarship Board Procedures and Bylaws Procedural | 8/16/2023 | 9/15/2023 | | | | | 12/14/2023 | 1/15/2024 |
| Treasurer (112-20) | Jumpstart Savings Program Legislative | 6/9/2023 | 7/10/2023 | | 7/13/2023 | Modified & Approved 10/24/2023 Filed 11/2/2023 | | | |
| Waste Mgmt. Division of Water and Waste Mgmt. (33-20) | Hazardous Waste Management System Legislative | 6/12/2023 | 7/18/2023 | | 7/24/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |
| Water Resources Division of Water and Waste Mgmt. (47-13) | Underground Injection Control Legislative | 6/12/2023 | 7/18/2023 | | 7/28/2023 | Modified & Approved 9/10/2023 Filed 9/15/2023 | | | |

FILED

2023 DEC 20 P 2:23

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA DIVISION OF CORRECTIONS & REHABILITATION

POLICY DIRECTIVE UPDATES

| NUMBER | DATE | SUBJECT |
|---|---|---|
| 138.00 | 01 January 2024 | Employee Performance Appraisals |
| 151.00 | 01 January 2024 | Offender Records |
| 453.06 | 01 January 2024 | G.O.A.L.S. Substance Abuse Treatment Units |
| 503.02 | 01 January 2024 | Legal Mail from Public Defender Corporations |

# WEST VIRGINIA SECRETARY OF STATE MAC WARNER ADMINISTRATIVE LAW DIVISION

Do Not Mark In This Box

FILED

2023 DEC 20 A 10:26

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

LEGISLATIVE

## EXPIRATION OF FILING OF A PROPOSED LEGISLATIVE RULE

AGENCY: PARKWAYS AUTHORITY

TITLE NUMBER: 184 SERIES NUMBER OF RULE PROPOSED: 05

TITLE OF RULE PROPOSED: RULES PROVIDING FOR ELECTRONIC TOLL COLLECTION AND THE ENFORCEMENT PROCESS

THE ABOVE NOTICE OF PUBLIC COMMENT PERIOD RULE FILING EXPIRED December 19, 2023 DUE TO THE AGENCY NOT FILING AN AGENCY APPROVED RULE WITHIN NINETY DAYS AFTER THE END OF THE HEARING/PUBLIC COMMENT PERIOD AS REQUIRED BY W. VA. CODE §29A-3-9. IF THE AGENCY WANTS TO CONTINUE THE RULE MAKING PROCESS ON THIS RULE, THE ENTIRE RULE INCLUDING ASSOCIATED FORMS MUST RESUBMITTED WITH THE SECRETARY OF STATE FOR ANOTHER HEARING/PUBLIC COMMENT PERIOD.

Maureen Lewis

DIRECTOR, ADMINISTRATIV LAW DIVISION

# Orders Report

| Docket Number | Agency | Respondent | Date Rendered |
|---|---|---|---|
| 23-6-12825-X | Health Care Authority | Blueprints, Inc. | 11/15/2023 |
| 22-5-12356-H | Health Care Authority | Jackson General Hospital | 11/15/2023 |
| 23-3-12654-P | Health Care Authority | Saint Francis Hospital | 11/15/2023 |
| 23-3-12654-P | Health Care Authority | THS Physician Partners, Inc. | 11/15/2023 |
| 23-4-12826-X | Health Care Authority | Seneca Health Services, Inc. | 11/15/2023 |
| 23-11-12709-X | Health Care Authority | Healthways | 6/14/2023 |
| 23-IC-02064 | Insurance Commission | Farmers & Mechanics Mutual Insurance Company of West Virginia | 12/18/2023 |
| 23-IC-02063 | Insurance Commission | Farmers & Mechanics Fire and Casualty Insurance Company | 12/18/2023 |
| 23-75-W | Medicine, West Virginia Board Of | Ali Reza Homayuni, MD | 12/14/2023 |
| 23-85-W | Medicine, West Virginia Board Of | Gregory B. Krivchenia, II, MD | 12/14/2023 |
| 23-70-W | Medicine, West Virginia Board Of | Barry Van Barrows, MD | 12/14/2023 |
| 23-83-W | Medicine, West Virginia Board Of | Consuela J. Cruden-Parham, MD | 12/14/2023 |
| 23-82-W | Medicine, West Virginia Board Of | Rosemarie Cannarella Lorenzetti, MD | 12/14/2023 |
| 21-96-W | Medicine, West Virginia Board Of | David Nathaniel Smith, M.D. | 11/13/2023 |

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

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

AG

FILED
2023 DEC 18 P 3: 20
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

December 18, 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 about the rate and tax implications for conservation district supervisors' per diem compensation. 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), the State Conservation Committee shall set "[t]he expense and per diem rate" for district supervisors. Last year the Committee set that rate at the statutory maximum of $150. Earlier this year, you asked us whether the statute allowed for prorating the per diem or if a per diem truly refers to a flat, daily rate. We advised that "per diem" has its ordinary meaning in Section 19-21A-7(c): It means a rate for each day worked, and prorating would effectively turn a per diem into an hourly wage. *See* Letter from Patrick Morrisey, W. Va. Att'y Gen., to Kent A. Leonhardt, W. Va. State Conservation Comm. Chairman (June 8, 2023), https://bit.ly/3sTBDLT.

Your second letter now raises similar questions:

*(1) Is the per diem a flat rate, or is a range within the $30 to $150 statutory range permitted?*

*(2) For tax purposes, is a W-2 or a 1099 form appropriate for reporting the per diem?*





For the first question, we reiterate our previous conclusion that a per diem is a single daily rate. For the second question, we conclude that W-2 forms are appropriate to report supervisors' per diems as the per diem is a wage and supervisors are not independent contractors.

***Discussion***

**I. Under West Virginia Code § 19-21A-7(c), A Per Diem Means A Single Rate.**

The June 2023 Opinion answers your first question. There, we explained that because a per diem rate is a rate "by the day" or "for each day," the Committee may not prorate it by calculating how many hours a supervisor worked on a given day. Letter, *supra,* at 1. Though we gave this answer in the context of prorating by the hour, the same result holds for any approach that would allow paying some supervisors more than others each day. As we also explained in the previous letter, Section 91-21A-7(c) refers to a singular per diem rate—"a per diem" versus "per diems," and "[t]he … per diem rate" versus "per diem rates." *See* Letter, *supra,* at 3. The Legislature's choice confirms that the per diem may be any amount between $30 and $150, but it must be a single rate and cannot vary among supervisors—including by setting a range instead of one rate. A per diem is *daily* compensation as opposed to an hourly rate or an annual salary.

**II. Per Diem Payments Should Be Included On Supervisors' W-2 Forms.**

Your next question turns to tax reporting. To begin, your letter appears to assume that Section 19-21A-7(c) per diems are taxable income. That's correct. The term "per diem" can also refer to a reimbursement for expenses like meals and lodging, and under certain circumstances that type of per diem is not taxable. *See Frequently Asked Questions: Per Diem Payments,* IRS, https://bit.ly/3T5cM2B (last visited Dec. 13, 2023) (explaining that expense-based per diems are not taxable income when the per diem is "equal to or less than the federal per diem rate" and the employee submits "an expense report" for the specific trip). Here, however, the statute says supervisors are "entitled to reasonable and necessary expenses *and* a per diem." W. VA. CODE § 19-21A-7(c) (emphasis added). In this context, then, payments for expenses and per diem compensation are distinct.

So your question is about where to report per diem compensation. W-2s and 1099s are both IRS tax forms, and thus we start by looking to how the IRS defines who should receive which form. For W-2s, the IRS says they should be given to "employee[s]." *About Form W-2, Wage and Tax Statement,* IRS (July 14, 2023), https://bit.ly/47QIX9T. And 1099s are given to anyone who performs services but "is not your employee." *Am I Required to File a Form 1099 or Other Information Return?,* IRS (Nov. 2, 2023), https://bit.ly/3Gj6Ues. In other words, W-2s go to employees and 1099s go to independent contractors.

Sticking with federal law for the moment, the federal tax code provides that the "term 'employee' includes an … elected official of the United States, a State, or any political subdivision thereof." 28 U.S.C. § 3401(c). District supervisors are employees under this definition since "voters in each county in a district shall elect" their supervisors. W. VA. CODE § 19-21A-6(a). As such, their per diems should go on W-2 forms for tax purposes.

State law says the same. The crux of the inquiry is whether "the right to control or supervise the work in question is retained by the person for whom the work is being done." Syl. pt. 3, *Myers v. Workmen's Comp. Comm'r*, 150 W. Va. 563, 148 S.E.2d 664 (1966). If someone other than the individual worker retains that control, then "the person doing the work is an employee and not an independent contractor." *Id.* Further, "the determining factor" is "the existence" of control or supervision and not whether it is exercised in a given case. *Id.*

Here, numerous statutory constraints show that district supervisors are employees under this "determinative" factor. Syl. pt. 5, *Paxton v. Crabtree,* 184 W. Va. 237, 400 S.E.2d 245 (1990). The statute contains an entire section enumerating the "[p]owers and duties of conservation[] districts and supervisors." W. VA. CODE § 19-21A-8. This section says that supervisors "shall have the following powers and duties, in addition to the others granted in other sections of this article." *Id.* In other words, the statute lays out directly what supervisors are expected to do. The statute also explains some of the particulars when it comes to how supervisors must exercise these duties. *See id.* § 19-21A-7(f)(1)-(3) (supervisors must require "surety bonds" in certain circumstances, keep "full and accurate record of all proceedings and of all resolutions, rules and orders," and "[p]rovide for an annual audit").

Further, the Legislature made the supervisors responsible to the State Conservation Committee. One section entitles the Committee to keep the supervisors "organized under the provisions of this article." W. VA. CODE § 19-21A-4(g)(3). Another demands that supervisors get the "approval of the State Conservation Committee" before hiring any "officers, agents and employees, permanent and temporary, either with or without compensation." *Id.* § 19-21A-7(d). Though less demanding, yet another mandates that "upon request," the supervisors must "furnish to the State Conservation Committee" a number of "documents they adopt or employ ... concerning their activities required in the performance" of their "duties under this article." *Id.* § 19-21A-7(e). All of this indicates "a level of control over [supervisors] such that [they are] ... employee[s]." *Cunningham v. Herbert J. Thomas Mem'l Hosp. Ass'n*, 230 W. Va. 242, 252, 737 S.E.2d 270, 280 (2012).

So at both a statutory- and Committee-level, a district supervisor does not retain "the right to control or supervise the work in question." *Spencer v. Travelers Ins. Co.,* 148 W. Va. 111, 117, 133 S.E.2d 735, 739 (1963). He or she "is an employee and not an independent contractor." *Id.* Declining to exempt taxes and instead reporting per diems on a 1099 is not appropriate.

***

We understand that one of the concerns driving both of your letters is lack of funds to pay all supervisors for all days worked at a $150 per diem rate. We reiterate that the Committee has statutory discretion to set a different per diem rate within the $30-to-$150 range—indeed, the Legislature said the Committee should base this decision on "availability of funds." W. VA. CODE § 19-21A-7(c). So the Committee remains free to return to last year's $80 per diem or to establish any other appropriate rate. Similarly, the Committee can seek the Legislature's involvement to either increase funding or amend the Code to allow for multiple per diem rates. In

AG



the meantime, the Committee must follow the law as written and allow for a single per diem reported as taxable income to an employee.

Sincerely,



Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

Caleb A. Seckman
Assistant Solicitor General

FILED
WV SECRETARY OF STATE
DECEMBER 18, 2023 11:04 AM

OTHER

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

**Sherri A. Young, DO, MBA, FAAFP**
**Interim Cabinet Secretary**

**Stacy L. Pridemore**
**Executive Director**

# Notice of Review

**December 18, 2023**

**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:.

December 13, 2023 - Physician Reliance Network, LLC, CON File #23-1/4-12836-A, for Physician Reliance Network, LLC to acquire the existing radiation oncology services and equipment, including the linear accelerators and other equipment utilized to provide megavoltage radiation therapy services currently located at 187 Skylar Drive, Fairlea, Greenbrier County, WV 24901 and 660 New Hope Road, Princeton, Mercer County, WV 24740. Capital Expenditure $8,125,000.

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 **December 15, 2023.**

On or before **January 16, 2024**, 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 **January 19, 2024.** After that date, no further information or evidence will be accepted by the Authority for the remainder of the review of the applications.

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 **February 13, 2024.**

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, Director, Certificate of Need, West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia, 25311. 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.

12-18-23
Date

**Stacy L. Pridemore**
**Executive Director**
West Virginia Health Care Authority

FILED
WV SECRETARY OF STATE
DECEMBER 18, 2023 10:27 AM

OTHER

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

December 18, 2023

## *LEGAL NOTICE*

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **December 15, 2023**.

### LETTER OF INTENT RECEIVED

December 15, 2023- Potomac Valley Hospital, CON File #23-8-12845-P, for the development of an ambulatory health care facility in Mineral County, West Virginia, through the development of a physician practice; capital expenditure, $455,000.

### CERTIFICATE OF NEED APPLICATION RECEIVED

December 11, 2023- Essential Needs Homecare, CON File #23-6-12835-PC, to provide personal care services in Marion, Harrison, and Monongalia Counties in West Virginia; capital expenditure, $1,500.

December 11, 2023- Physician Reliance Network, LLC (PRN), CON File #23-1/4-12836-A, seeking regulatory approval of a proposed transaction between West Virginia Radiation Therapy Services, Inc, GenesisCare USA of Florida, LLC and GenesisCare USA Services, LLC, as sellers and PRN as purchaser; capital expenditure, $8,125,000.

December 11, 2023- UnitedHealth Group Inc. (UHG), CON File #23-1/3/5/6-12837-A, for the pending transaction/merger of UHG and Amedysis, Inc., in Monongalia, Mercer, Kanawha, Raleigh, and Wood counties in West Virginia; capital expenditure, $112,000,000.

### PROJECTS DETERMINED NOT REVIEWABLE

December 14, 2023- Blueprints, Inc., CON File #23-6-12825-X, for the office relocation from 1800 Locust Avenue, Fairmont, Marion County, to 1000 Technology Drive, Suite 2150, Fairmont, Marion County, West Virginia; no capital expenditure.

### PROJECTS EXEMPT FROM REVIEW

December 14, 2023- Ten Up Ministries, Inc. d/b/a The Anchor Project Center, CON File #23-3-12820-X- Amended, for the addition of a satellite office that will operate under the name of Anchor Training Center to provide outpatient treatment services for substance use disorder at 136 6th Street, Dunbar, Kanawha County, West Virginia.

December 14, 2023- Huntington Mental Health Associates dba HBH Primary Care and Behavioral Health, CON File #23-2-12791-X, Amended, for the new ownership of Huntington Mental Health Associates to provide Mental Health and a Medication Assisted Treatment Program at 11713 Route 152, STE 1, Wayne, Wayne County, West Virginia. (This exemption does not include primary care services.)

### RENEWAL GRANTED

December 14, 2023- Jackson General Hospital, CON File #22-5-12356-H, for the construction of a new wing immediately adjacent to and connected to the existing hospital. The project is approximately 56% complete. There have been delays related to delivery of equipment and unexpected wet and unsuitable soils. There have been no additional changes to the project since the last report in April 2023. Approved capital expenditures are$30,271,000, current projected capital expenditures are $36,254,794, as approved in April 2023 by the board, and current actual capital expenditures are $15,795,611. Projected completion date is August 31, 2024. Renewal granted through August 31, 2024.

### NOTICE OF Annual DRI update

Pursuant to W. Va. Code § 16-2D-3(a)(3), the Authority is required to adjust the expenditure minimum annually and publish an update of the amount on or before December 31 of each year. The expenditure minimum adjustment shall be based on the DRI inflation index. The DRI inflation index as of December 31, 2023 is 4.3%. The capital expenditure minimum for calendar year 2024 is $104,300,000.00.

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

FILED
WV SECRETARY OF STATE
DECEMBER 15, 2023 12:22 PM

Date: December 15, 2023

OTHER

## NOTICE OF COMMENT PERIOD ON A PROPOSED AUTOMOBILE LIABILITY INSURANCE RATE INCREASE

Pursuant to West Virginia Code Section **§33-20-4(l)**, a comment period has been established during which any interested person may submit written comments on the following proposed automobile liability insurance rate increase.

Insurance Company: Farmers Direct Property and Casualty Insurance Company

Proposed Liability Rate Increase:

Farmers Direct Property and Casualty Insurance Company 19.90%

Insureds Affected: 1,489

The comment period will end on January 16, 2024, at 4:30 p.m.

Only written comments will be accepted, our mailing address is:

Rates & Forms Division
Re: Liability Increase
West Virginia Offices of the Insurance Commissioner
P. O. Box 50540
Charleston, WV 25305-0540

# STATE OF WEST VIRGINIA

# BOARD OF RESPIRATORY CARE

FILED
2023 DEC 19 P 12: 13
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

## ANNUAL REPORT

## JULY 1, 2022 – JUNE 30, 2023

106 DEE DRIVE, SUITE 1
CHARLESTON, WV 25311
(304) 558-1382