WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 545

BY SENATOR AZINGER

[Passed March 2, 2019; in effect from passage]
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[Passed March 2, 2019; in effect from passage]
AN ACT to amend and reenact §64-7-4 of the Code of West Virginia, 1931, as amended, relating
to authorizing the Office of the Insurance Commissioner to promulgate a legislative rule
relating to HIV testing; and eliminating outdated testing protocols.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO
PROMULGATE LEGISLATIVE RULES.

§64-7-4. Office of the Insurance Commissioner.

The legislative rule filed in the State Register on April 3, 2003, authorized under the
authority of §33-2-10(a) of this code, relating to standards for AIDS-related underwriting questions
and AIDS testing in connection with applications for life or health insurance policies (AIDS
Regulations, 114 CSR 27) is authorized with the following amendment:

"5.9. The testing is required to be administered on a nondiscriminatory basis for all
individuals in the same underwriting class. No proposed insured may be denied coverage or
rated a substandard risk on the basis of HIV testing unless acceptable testing protocol is followed
including the use of FDA-licensed tests. The following is the acceptable HIV testing protocol for
use in this state:

a. An initial enzyme-linked immunosorbent assay (ELISA) test is administered to the
proposed insured, and it indicates the presence of HIV antibodies; and

b. A second ELISA test is administered and it indicates the presence of HIV; and

c. A Western Blot test is conducted and it confirms the results of the two ELISA tests.

5.10. If any of the tests in the ELISA-ELISA-Western Blot series produce confirmatory
test produces a negative result, the testing ceases and the proposed insured cannot be denied
coverage based on AIDS-related testing.

For Example: If the initial ELISA test yields a negative result, the testing ceases. If the
initial ELISA test yields a positive result and the subsequent ELISA test yields a negative result,
19 the testing ceases. If both ELISA tests yield a positive result and the Western Blot test yields a
20 negative result, for purposes of insurability, the results are negative."
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

 Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 21st Day of March, 2019.

Governor