

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4110

BY DELEGATE SMITH

[Passed March 9, 2024; in effect from passage.]

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1 AN ACT to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended,
2 relating generally to authorizing certain miscellaneous agencies and boards to promulgate
3 legislative rules; authorizing the rules as filed. as modified and as disapproved by the
4 Legislative Rule-Making Review Committee, and as amended by the Legislature; directing
5 certain miscellaneous agencies and boards to amend current legislative rules; authorizing
6 the West Virginia Board of Accountancy to promulgate a legislative rule relating to board
7 rules and rules of professional conduct; authorizing the West Virginia Board of
8 Acupuncture to promulgate a legislative rule relating to applications for licensure to
9 practice acupuncture; authorizing the West Virginia Department of Agriculture to
10 promulgate a legislative rule relating to frozen desserts and imitation frozen desserts;
11 authorizing the West Virginia Department of Agriculture to promulgate a legislative rule
12 relating to certified pesticide applicators; authorizing the West Virginia Department of
13 Agriculture to promulgate a legislative rule relating to licensing pesticide businesses;
14 authorizing the West Virginia Department of Agriculture to promulgate a legislative rule
15 relating to West Virginia molluscan shellfish; not authorizing the West Virginia Department
16 of Agriculture to promulgate a legislative rule relating to select plant-based derivative
17 products; authorizing the West Virginia Department of Agriculture to promulgate a
18 legislative rule relating to agritourism; authorizing the West Virginia Board of Barbers and
19 Cosmetologists to promulgate a legislative rule relating to procedures, criteria, and
20 curricula for examination and licensure of barbers, cosmetologists, nail technicians,
21 aestheticians, and hair stylists; authorizing the West Virginia Board of Barbers and
22 Cosmetologists to promulgate a legislative rule relating to the application for waiver of
23 initial licensing fees for certain individuals; authorizing the West Virginia Board of Barbers
24 and Cosmetologists to promulgate a legislative rule relating to cosmetology
25 apprenticeships; authorizing the West Virginia Board of Examiners in Counseling to
26 promulgate a legislative rule relating to licensing; authorizing the West Virginia Board of

27 Examiners in Counseling to promulgate a legislative rule relating to marriage and family
28 therapist licensing; authorizing the West Virginia Board of Dentistry to promulgate a
29 legislative rule relating to practitioner requirements for accessing the West Virginia
30 Controlled Substances Monitoring Program database; authorizing the West Virginia Board
31 of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal
32 requirements; authorizing the West Virginia Board of Licensed Dietitians to promulgate a
33 legislative rule relating to continuing professional education requirements; authorizing the
34 West Virginia Board of Licensed Dietitians to promulgate a legislative rule relating to
35 telehealth practice, requirements, and definitions; relating to authorizing the West Virginia
36 Department of Economic Development to promulgate a legislative rule relating to the
37 operation of motorsports complexes and events; authorizing the State Election
38 Commission to promulgate a legislative rule relating to corporate and membership
39 organization political activity; authorizing the State Election Commission to promulgate a
40 legislative rule relating to regulation of campaign finance; authorizing the State Election
41 Commission to promulgate a legislative rule relating to the application and approval
42 process for Secretary of State expenditures from the County Assistance Voting Equipment
43 Fund; directing the Board of Funeral Home Service Examiners to amend a legislative rule
44 relating to funeral director, embalmer, apprentice, courtesy card holders, and funeral
45 establishment requirements; authorizing the West Virginia Massage Therapy Licensure
46 Board to promulgate a legislative rule relating to general provisions; authorizing the West
47 Virginia Massage Therapy Licensure Board to promulgate a legislative rule relating to a
48 schedule of fees; authorizing the West Virginia Massage Therapy Licensure Board to
49 promulgate a legislative rule relating to establishment licensure; authorizing the West
50 Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners to
51 promulgate a legislative rule relating to medical imaging technologists; authorizing the
52 West Virginia Board of Medicine to promulgate a legislative rule relating to licensure,

53 practice requirements, disciplinary and complaint procedures, continuing education, and
54 physician assistants; authorizing the West Virginia Board of Medicine to promulgate a
55 legislative rule relating to continuing education for physicians and podiatric physicians;
56 authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to
57 permitting and disciplinary procedures: educational permits for graduate medical interns,
58 residents and fellows; authorizing the West Virginia Nursing Home Administrators
59 Licensing Board to promulgate a legislative rule relating to nursing home administrators;
60 authorizing the Board to promulgate a legislative rule relating to the West Virginia Board
61 of Optometry; authorizing the West Virginia Board of Optometry to promulgate a legislative
62 rule relating to continuing education; authorizing the West Virginia Board of Optometry to
63 promulgate a legislative rule relating to injectable pharmaceutical agents certificates;
64 authorizing the West Virginia Board of Optometry to promulgate a legislative rule relating
65 to eyelid procedures; authorizing the West Virginia Board of Osteopathic Medicine to
66 promulgate a legislative rule relating to licensing procedures for osteopathic physicians;
67 to authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative
68 rule relating to osteopathic physician assistants; authorizing the West Virginia Board of
69 Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy;
70 authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating
71 to continuing education for licensure for pharmacists; authorizing the West Virginia Board
72 of Pharmacy to promulgate a legislative rule relating to registration of pharmacy
73 technicians; authorizing the West Virginia Board of Pharmacy to promulgate a legislative
74 rule relating to immunizations administered by pharmacists, pharmacy interns, and
75 pharmacy technicians; authorizing the West Virginia Board of Pharmacy to promulgate a
76 legislative rule relating to centralized prescription processing; authorizing the West Virginia
77 Board of Pharmacy to promulgate a legislative rule relating to pharmacy permits;
78 authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating

79 to substitution of biological pharmaceuticals; authorizing the Board of Professional
80 Surveyors to promulgate a legislative rule relating to the examination and licensing of
81 professional surveyors in West Virginia; authorizing the Board of Examiners of
82 Psychologists to promulgate a legislative rule relating to disciplinary and complaint
83 procedures for psychologists; authorizing the Board of Examiners of Psychologists to
84 promulgate a legislative rule relating to contested case hearing procedure; authorizing the
85 West Virginia Real Estate Commission to promulgate a legislative rule relating to licensing
86 real estate brokers, associate brokers, and salespersons and the conduct of brokerage
87 businesses; authorizing the West Virginia Real Estate Commission to promulgate a
88 legislative rule relating to a schedule of fees; authorizing the West Virginia Real Estate
89 Commission to promulgate a legislative rule relating to requirements for real estate
90 courses, course providers, and instructors; authorizing the West Virginia Board of
91 Registered Nurses to promulgate a legislative rule relating to policies, standards and
92 criteria for the evaluation, approval and national nursing accreditation of prelicensure
93 nursing education programs; authorizing the West Virginia Board of Registered Nurses to
94 promulgate a legislative rule relating to requirements for registration and licensure and
95 conduct constituting professional misconduct; authorizing the West Virginia Board of
96 Registered Nurses to promulgate a legislative rule relating to advanced practice registered
97 nurse licensure requirements; authorizing the West Virginia Board of Registered Nurses
98 to promulgate a legislative rule relating to fees for services rendered by the board;
99 authorizing the West Virginia Board of Respiratory Care to promulgate a legislative rule
100 relating to student temporary permits; authorizing the Secretary of State to promulgate a
101 legislative rule relating to guidelines for the use of nicknames and other designations on
102 the ballot; authorizing the Secretary of State to promulgate a legislative rule relating to
103 Combined Voter Registration and Driver Licensing Fund; authorizing the Secretary of
104 State to promulgate a legislative rule relating to minimum standards for election

105 administration, infrastructure, and security; authorizing the West Virginia State Treasurer
106 to promulgate a legislative rule relating to enforcement of the Uniform Unclaimed Property
107 Act; and authorizing the West Virginia State Treasurer to promulgate a legislative rule
108 relating to the Jumpstart Savings Program.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS BOARDS AND AGENCIES
TO PROMULGATE LEGISLATIVE RULES.**

§64-9-1. West Virginia Board of Accountancy.

1 The legislative rule filed in the State Register on July 24, 2023, authorized under the
2 authority of §30-9-5 of this code, relating to the West Virginia Board of Accountancy (board rules
3 and rules of professional conduct, 1 CSR 01), is authorized.

§64-9-2. West Virginia Board of Acupuncture.

1 The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §30-36-7 of this code, modified by the West Virginia Board of Acupuncture to meet
3 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
4 on September 22, 2023, relating to the West Virginia Board of Acupuncture (applications for
5 licensure to practice acupuncture, 32 CSR 03), is authorized.

§64-9-3. West Virginia Department of Agriculture.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §19-11B-10 of this code, modified by the West Virginia Department of Agriculture to
3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on November 16, 2023, relating to the West Virginia Department of Agriculture (frozen
5 desserts and imitation frozen desserts, 61 CSR 04B), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
7 authority of §19-16A-4 of this code, modified by the West Virginia Department of Agriculture to

8 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
9 Register on November 3, 2023, relating to the West Virginia Department of Agriculture (certified
10 pesticide applicator rules, 61 CSR 12A), is authorized.

11 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
12 authority of §19-16A-4 of this code, modified by the West Virginia Department of Agriculture to
13 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
14 Register on September 26, 2023, relating to the West Virginia Department of Agriculture (licensing
15 to pesticide businesses, 61 CSR 12B), is authorized.

16 (d) The legislative rule filed in the State Register on July 28, 2023, authorized under the
17 authority of §19-29-1 of this code, modified by the West Virginia Department of Agriculture to meet
18 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
19 on September 26, 2023, relating to the West Virginia Department of Agriculture (West Virginia
20 molluscan shellfish, 61 CSR 23B), is authorized.

21 (e) The legislative rule filed in the State Register on July 28, 2023, authorized under the
22 authority of §19-12E-7 of this code, relating to the West Virginia Department of Agriculture (select
23 plant-based derivative products, 61 CSR 30), is not authorized.

24 (f) The legislative rule filed in the State Register on December 15, 2022, authorized under
25 the authority of §19-36-1 of this code, relating to the West Virginia Department of Agriculture
26 (agritourism, 61 CSR 37), is authorized.

§64-9-4. West Virginia Board of Barbers and Cosmetologists.

1 (a) The legislative rule filed in the State Register on June 14, 2023, authorized under the
2 authority of §30-27-5 of this code, modified by the West Virginia Board of Barbers and
3 Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and
4 refiled in the State Register on August 11, 2023, relating to the West Virginia Board of Barbers
5 and Cosmetologists (procedures, criteria, and curricula for examination and licensure of barbers,

6 cosmetologists, nail technicians, aestheticians, and hair stylists, 3 CSR 01), is authorized with the
7 following amendments:

8 On page 3, by striking out the entirety of subsection 11.1. and inserting in lieu thereof a
9 new subsection 11.1. to read as follows:

10 "11.1. The Board shall issue a professional license to practice to an applicant who holds
11 a comparable valid license or other authorization to practice in that particular field from another
12 state, if the applicant demonstrates that he or she:

13 11.1.a. Holds a valid license or other authorization to practice in another state which was
14 granted after completion of educational requirements required in another state;

15 11.1.b. Does not have charges pending against his or her valid license or other
16 authorization to practice and has never had a valid license or other authorization to practice
17 revoked;

18 11.1.c. Has paid the applicable fee;

19 11.1.d. Is at least 18 years of age;

20 11.1.e. Has a high school diploma, a GED, or has passed the "ability to benefit test"
21 approved by the United States Department of Education;

22 11.1.f. Is a citizen of the United States or is eligible for employment in the United States;

23 and

24 11.1.g. Has presented a certificate of health issued by a licensed physician.

25 11.2 The Board shall recognize reciprocity for military barbers with a DD214."

26 (b) The legislative rule filed in the State Register on June 14, 2023, authorized under the
27 authority of §30-1-23 of this code, modified by the West Virginia Board of Barbers and
28 Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and
29 refiled in the State Register on August 24, 2023, relating to the West Virginia Board of Barbers
30 and Cosmetologists (application for waiver of initial licensing fees for certain individuals, 3 CSR
31 15), is authorized.

32 (c) The legislative rule filed in the State Register on June 14, 2023, authorized under the
33 authority of §30-27-8a of this code, modified by the West Virginia Board of Barbers and
34 Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and
35 refiled in the State Register on August 21, 2023, relating to the West Virginia Board of Barbers
36 and Cosmetologists (cosmetology apprenticeship, 3 CSR 16), is authorized.

§64-9-5. West Virginia Board of Examiners in Counseling.

1 (a) The legislative rule filed in the State Register on October 6, 2023, authorized under
2 the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in
3 Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled
4 in the State Register on November 15, 2023, relating to the West Virginia Board of Examiners in
5 Counseling (licensing rule, 27 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on October 6, 2023, authorized under
7 the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in
8 Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled
9 in the State Register on November 15, 2023, relating to the West Virginia Board of Examiners in
10 Counseling (marriage and family therapist licensing rule, 27 CSR 08), is authorized.

§64-9-6. West Virginia Board of Dentistry.

1 The legislative rule filed in the State Register on July 25, 2023, authorized under the
2 authority of §60A-9-5A of this code, modified by the West Virginia Board of Dentistry to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 September 18, 2023, relating to the West Virginia Board of Dentistry (practitioner requirements
5 for accessing the West Virginia Controlled Substances Monitoring Program database, 5 CSR 10),
6 is authorized.

§64-9-7. West Virginia Board of Licensed Dietitians.

1 (a) The legislative rule filed in the State Register on April 25, 2023, authorized under the
2 authority of §30-35-4 of this code, modified by the West Virginia Board of Licensed Dietitians to

3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on September 11, 2023, relating to the West Virginia Board of Licensed Dietitians
5 (licensure and renewal requirements, 31 CSR 01), is authorized with the following amendment:

6 On page 2, paragraph 4.1.2.3., by striking out "\$50" and inserting in lieu thereof "\$46".

7 (b) The legislative rule filed in the State Register on April 25, 2023, authorized under the
8 authority of §30-35-4 of this code, modified by the West Virginia Board of Licensed Dietitians to
9 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
10 Register on September 11, 2023, relating to the West Virginia Board of Licensed Dietitians
11 (continuing professional education requirements, 31 CSR 05), is authorized.

12 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
13 authority of §30-35-4 of this code, relating to the West Virginia Board of Licensed Dietitians
14 (telehealth practice, requirements, and definitions, 31 CSR 07), is authorized.

§64-9-8. West Virginia Department of Economic Development.

1 The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §20-19-7 of this code, modified by the West Virginia Department of Economic
3 Development to meet the objections of the Legislative Rule-Making Review Committee and refiled
4 in the State Register on November 13, 2023, relating to the West Virginia Department of Economic
5 Development (the operation of motorsports complexes and events, 145 CSR 19), is authorized
6 with the following amendments:

7 On page 1, subsection 2.5., after the word "to" and before the word "impact" by inserting
8 the word "reasonably";

9 On page 2, subsection 3.1, after the word "is" by inserting the word "reasonably";

10 On page 2, subsection 3.7., by striking out the words "at any time" and inserting in lieu
11 thereof the words "during normal business hours";

12 On page 2, by striking out the entirety of subdivision 3.8.1. and inserting in lieu thereof a
13 new subdivision 3.8.1. to read as follows:

14 “3.8.1. Helmet and eye protection requirements shall be governed by the safety
15 procedures and requirements established by the sanctioning body hosting the motorsports
16 events.”;

17 On page 2, by striking out the entirety of subdivisions 3.8.2., 3.8.3., and 3.8.4;

18 On page 3, by striking out the entirety of subdivisions 3.9.1., 3.9.2., 3.9.3., 3.9.4., and
19 3.9.5., and inserting in lieu thereof of new subdivision 3.9.1. to read as follows:

20 “3.9.1. Safety belts, shoulder harness, and crotch belt requirements shall be governed by
21 the safety procedures and requirements established by the sanctioning body hosting the
22 motorsport event.”;

23 On page 3, by striking out the entirety of subdivision 3.10.2. and inserting in lieu thereof a
24 new subdivision 3.10.2. to read as follows:

25 “3.10.2. Vehicles participating in a race or race practice shall be governed by the safety
26 procedures and requirements established by the sanctioning body hosting the motorsport event.”;

27 On page 3, by striking out the entirety of subdivisions 3.11.1, 3.11.2., and 3.11.3 and
28 inserting in lieu thereof a new subdivision 3.11.1. to read as follows:

29 “3.11.1. Clothing requirements for non-drivers shall be governed by the safety procedures
30 and requirements established by the sanctioning body hosting the motorsports event.”

31 On page 3, by striking out the entirety of subdivision 3.13.1. and inserting in lieu thereof a
32 new subdivision 3.13.1 to read as follows:

33 “3.13.1. Fences shall be erected around the perimeter of the road course, with the specific
34 requirements determined by a risk assessment considering the track’s size, terrain, type of racing,
35 and potential hazards.”

36 On page 4 by striking out the entirety of subdivisions 3.13.2. and 3.13.3. and inserting in
37 lieu thereof a new subdivision 3.13.2. to read as follows:

38 “3.13.2. If the infield of the road course is accessible by spectators or other non-driving
39 participants, multiple access points shall also be provided to allow emergency entry and exit.”;

40 On page 4, by striking out the entirety of subdivisions 3.14.1., 3.14.2., 3.14.3., 3.14.4., and
41 3.14.5. and inserting in lieu thereof a new subdivision 3.14.1. to read as follows:

42 "3.14.1. Flag station and flagmen requirements shall be governed by the safety
43 procedures and requirements established by the sanctioning body hosting the motorsports
44 event.";

45 On page 4, subsection 4.1., after the word "maintained" by adding the words "in
46 accordance with the requirements established by the sanctioning body hosting the motorsports
47 event.";

48 On page 5, by striking out the entirety of subsections 4.3. and 4.4.;

49 On page 5, by striking out the entirety of subsection 5.1. and inserting in lieu thereof a new
50 subsection 5.1. to read as follows:

51 "5.1. All run-off areas at a motorsport facility must be of sufficient size and constructed
52 with materials appropriate for the intended racing events to provide a reasonable expectation of
53 minimizing injury or damage to the drivers and spectators in the event of an off-track excursion.";

54 On page 5, by striking out the entirety of subdivision 6.1.1. and 6.1.2. and inserting in lieu
55 thereof a new subdivision 6.1.1. to read as follows:

56 "6.1.1. Fire services provided by a motorsports operator must ensure all emergency
57 equipment meets or exceeds State safety requirements.";

58 And,

59 On page 5, by striking out the entirety of subdivisions 6.2.1. and 6.2.2.

§64-9-9. State Election Commission.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §3-8-8 of this code, modified by the State Election Commission to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
4 25, 2023, relating to the State Election Commission (corporate and membership organization
5 political activity, 146 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on September 13, 2023, authorized under
7 the authority of §3-1A-5 of this code, modified by the State Election Commission to meet the
8 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
9 November 17, 2023, relating to the State Election Commission (regulation of campaign finance,
10 146 CSR 03), is authorized.

11 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
12 authority of §3-1-48 of this code, modified by the State Election Commission to meet the
13 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
14 October 25, 2023, relating to the State Election Commission (application and approval process
15 for Secretary of State expenditures from the County Assistance Voting Equipment Fund, 146 CSR
16 07), is authorized.

§64-9-10. Board of Funeral Service Examiners.

1 The legislature directs the Board of Funeral Service Examiners to amend the legislative
2 rule filed in the State Register on April 1, 2023, authorized under the authority of §30-6-6 of this
3 code, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice,
4 courtesy card holder, and funeral establishment requirements, 6 CSR 01), with the following
5 amendments:

6 On page 1, subsection 2.2, by striking out the word "general" and inserting in lieu thereof
7 the word "direct";

8 On page 6, subdivision 5.7.1., by striking out the word "ABFSC" and inserting in lieu
9 thereof the words "American Board of Funeral Home Education (ABFSE)";

10 On page 10, by striking out subdivision 12.1.2 in its entirety;

11 And,

12 By renumbering the remaining subdivisions.

§64-9-11. West Virginia Massage Therapy Licensure Board.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §30-37-6 of this code, modified by the West Virginia Massage Therapy Licensure
3 Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the
4 State Register on September 22, 2023, relating to the West Virginia Massage Therapy Licensure
5 Board (general provisions, 194 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
7 authority of §30-37-6 of this code, modified by the West Virginia Massage Therapy Licensure
8 Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the
9 State Register on September 22, 2023, relating to the West Virginia Massage Therapy Licensure
10 Board (schedule of fees, 194 CSR 04), is authorized.

11 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
12 authority of §30-37-6 of this code, relating to the West Virginia Massage Therapy Licensure Board
13 (establishment licensure, 194 CSR 07), is authorized.

**§64-9-12. West Virginia Medical Imaging and Radiation Therapy Technology Board of
Examiners.**

1 The legislative rule filed in the State Register on July 24, 2023, authorized under the
2 authority of §30-23-7 of this code, modified by the West Virginia Medical Imaging and Radiation
3 Therapy Technology Board of Examiners to meet the objections of the Legislative Rule-Making
4 Review Committee and refiled in the State Register on November 6, 2023, relating to the West
5 Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (medical
6 imaging technologists, 18 CSR 01), is authorized.

§64-9-13. West Virginia Board of Medicine.

1 (a) The legislative rule filed in the State Register on July 27, 2023, authorized under the
2 authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 November 1, 2023, relating to the West Virginia Board of Medicine (licensure, practice

5 requirements, disciplinary and complaint procedures, continuing education, and physician
6 assistants, 11 CSR 01B), is authorized.

7 (b) The legislative rule filed in the State Register on July 27, 2023, authorized under the
8 authority of §30-3-7 of this code, modified by the West Virginia Board of Medicine to meet the
9 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
10 November 1, 2023, relating to the West Virginia Board of Medicine (continuing education for
11 physicians and podiatric physicians, 11 CSR 06), is authorized.

12 (c) The legislative rule filed in the State Register on November 21, 2022, authorized under
13 the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (permitting
14 and disciplinary procedures: educational permits for graduate medical interns, residents and
15 fellows, 11 CSR 12), is authorized.

§64-9-14. West Virginia Nursing Home Administrators Licensing Board.

1 The legislative rule filed in the State Register on June 9, 2023, authorized under the
2 authority of §30-25-6 of this code, relating to the West Virginia Nursing Home Administrators
3 Licensing Board (nursing home administrators, 21 CSR 01), is authorized with the following
4 amendment:

5 On page 13, by adding a new paragraph 6.2.a.3.G., to read as follows:

6 "6.2.a.3.G Failure to cooperate with OHFLAC or the designated Medicare Beneficiary and
7 Family Centered Care – Quality Improvement Organization is grounds for disciplinary action and
8 further review by the Board."

9 And,

10 By renumbering the remaining paragraphs.

§64-9-15. West Virginia Board of Optometry.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §30-8-6 of this code, modified by the West Virginia Board of Optometry to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

4 November 16, 2023, relating to the West Virginia Board of Optometry (rules of the West Virginia
5 Board of Optometry, 14 CSR 01), is authorized with the following amendments:

6 On page 6, by striking out all of subsection 11.1. and inserting in lieu thereof a new
7 subsection 11.1. to read as follows:

8 11.1. The Board may issue a temporary permit to practice optometry to an applicant who
9 has graduated from an optometry school accredited by the Accreditation Council of Optometric
10 Education or its successor. The applicant shall also meet the requirements of subsections 11.2-
11 11.3. and pay the temporary permit fee required in the Board's rule, Schedule of Fees, W. Va.
12 Code of State Rules, §14CSR5. The temporary permit may be issued before the applicant passes
13 all sections of the prescribed exam administered by the National Board of Examiners in
14 Optometry, its successor or equivalent. A certified copy of the applicant's accredited optometry
15 school transcript indicating successful completion of the requirements for a doctorate degree in
16 optometry must be submitted to qualify for a non-military temporary permit. The provisions of §14-
17 1-18 of this rule establish alternative temporary permit requirements for members of the military
18 and their spouses.;

19 On page 6, subdivision 11.2.1. by striking out the words "parts I and II of";

20 On page 6, subdivision 11.2.1. by striking out the words "registration for the exam National
21 Board exam";

22 On page 7, by striking out all of subsection 11.3 and renumbering the remaining
23 subsections.

24 And,

25 On page 9, subsection 16.1. by striking the words "if the spouse" and inserting in lieu
26 thereof the word "and".

27 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
28 authority of §30-8-6 of this code, modified by the West Virginia Board of Optometry to meet the
29 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

30 November 15, 2023, relating to the West Virginia Board of Optometry (continuing education, 14
31 CSR 10), is authorized.

32 (c) The legislative rule filed in the State Register on July 31, 2023, authorized under the
33 authority of §30-8-6 of this code, modified by the West Virginia Board of Optometry to meet the
34 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
35 November 16, 2023, relating to the West Virginia Board of Optometry (injectable pharmaceutical
36 agents certificate, 14 CSR 11), is authorized with the following amendments:

37 On page 3, after section 7, by adding a new section 8 to read as follows:

38 **“§14-11-8. Reporting.**

39 8.1. The certificate holder shall notify the primary care physician or other health care
40 provider as identified by the patient receiving the medication by injection and shall document in
41 the patient’s record that the patient’s primary care provider was notified of an injection given to
42 the patient. The notification shall include the diagnosis, treatment, any adverse effects of the
43 injection, and the expected results of the injection. In no event shall the reporting be construed as
44 permission or approval of an order for treatment by injection.

45 8.2. If the patient does not have a primary care provider or refuses to provide written
46 permission to report the injection to his or her primary care provider, the certificate holder may
47 provide a written statement to the patient regarding the injections he or she received to give to his
48 or her current primary care provider or any subsequent primary care provider.

49 8.3. The certificate holder shall maintain a logbook of all injections and submit it to the
50 Board upon request. The logbook shall include:

51 8.3.a. The patient’s initials, age, gender and race;

52 8.3.b. The purpose of the injection;

53 8.3.c. The name of the medication administered and the type and location of the injection;

54 8.3.d. The treatment guidelines which were followed and which must be compliant with

55 the guidelines approved by the Board:

56 8.3.e. The name and certification or licensure level of any persons working in conjunction
57 with the certificate holder to administer medication through injections; and

58 8.3.f. How the primary care provider was notified that the patient needed an injection.

59 8.4. The Board may require a certificate holder to supply the complete medical record for
60 any of the patients listed in the logbook for review and may also request an audit of the certificate
61 holder's full records to ensure compliance with injection certificate requirements.

62 8.5. If a patient has an adverse reaction to the injection, the certificate holder shall provide
63 the Board with an incident report, within 5 business days, listing the details of the adverse reaction
64 and the measures used to correct that reaction.

65 8.6. A certificate holder's reports containing patient Protected Health Information (PHI)
66 shall comply with the Health Insurance Portability and Accountability Act (HIPAA) patient privacy
67 requirements.”;

68 And,

69 Renumbering the following sections accordingly.

70 (d) The legislative rule filed in the State Register on July 28, 2023, authorized under the
71 authority of §30-8-6 of this code, modified by the West Virginia Board of Optometry to meet the
72 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
73 November 15, 2023, relating to the West Virginia Board of Optometry (eyelid procedures, 14 CSR
74 14), is authorized with the following amendments:

75 On page 1, subsection 3.1, after the word ‘adnexa’ by adding the following: ‘that do not
76 extend beyond the dermal layer of the skin or mucus membranes’;

77 On page 1, after section 3, by adding a new section 4 to read as follows:

78 **“§14-14-4. Exclusions.**

79 An optometrist may not perform:

80 4.1. Surgery related to removal of the eye from a living human being;

81 4.2. Surgery requiring full thickness incision or excision of the cornea or sclera other than
82 paracentesis in an emergency situation requiring immediate reduction of the pressure inside the
83 eye;

84 4.3. Penetrating keratoplasty (corneal transplant) or lamellar keratoplasty;

85 4.4. Surgery requiring incision of the iris or ciliary body;

86 4.5. Surgery of the eyelid for eyelid malignancies or mechanical repair of blepharochalasis,
87 ptosis, or tarsorrhaphy;

88 4.6. Surgery of the bony orbit, including orbital implants;

89 4.7. Incisional or excisional surgery of the lacrimal system other than lacrimal probing or
90 related procedures; or

91 4.8. Surgery requiring full thickness conjunctivoplasty.”

§64-9-16. West Virginia Board of Osteopathic Medicine.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §30-14-14 of this code, modified by the West Virginia Board of Osteopathic Medicine
3 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on September 15, 2023, relating to the West Virginia Board of Osteopathic Medicine
5 (licensing procedures for osteopathic physicians, 24 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
7 authority of §30-3E-3 of this code, modified by the West Virginia Board of Osteopathic Medicine
8 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
9 Register on September 15, 2023, relating to the West Virginia Board of Osteopathic Medicine
10 (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-17. West Virginia Board of Pharmacy.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the

3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 September 26, 2023, relating to the West Virginia Board of Pharmacy (licensure and practice of
5 pharmacy, 15 CSR 01), is authorized with the following amendments:

6 On page 16, subdivision 12.3.1. by striking out the word “current” and inserting in lieu
7 thereof 2023;

8 On page 14, subsection 9.4, by striking out 15 CSR 19 and inserting in lieu thereof 15CSR
9 20;

10 On page 16, subdivision 12.3.2. by striking out the word “current” and inserting in lieu
11 thereof 2023;

12 And,

13 On page 19, subdivision 13.2.2. by striking out the word “current” and inserting in lieu
14 thereof 2023;

15 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
16 authority of §30-5-7 of this code, relating to the West Virginia Board of Pharmacy (Board of
17 Pharmacy rules for continuing education for licensure for pharmacists, 15 CSR 03), is authorized.

18 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
19 authority of §30-5-7 of this code, relating to the West Virginia Board of Pharmacy (Board of
20 Pharmacy rules for registration of pharmacy technicians, 15 CSR 07), is authorized.

21 (d) The legislative rule filed in the State Register on July 28, 2023, authorized under the
22 authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the
23 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
24 September 26, 2023, relating to the West Virginia Board of Pharmacy (immunizations
25 administered by pharmacists, pharmacy interns, and pharmacy technicians, 15 CSR 12), is
26 authorized.

27 (e) The legislative rule filed in the State Register on July 28, 2023, authorized under the
28 authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the

29 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
30 September 26, 2023, relating to the West Virginia Board of Pharmacy (Board of Pharmacy rules
31 for centralized prescription processing, 15 CSR 14), is authorized.

32 (f) The legislative rule filed in the State Register on July 28, 2023, authorized under the
33 authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the
34 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
35 September 26, 2023, relating to the West Virginia Board of Pharmacy (regulations governing
36 pharmacy permits, 15 CSR 15), is authorized.

37 (g) The legislative rule filed in the State Register on July 20, 2023, authorized under the
38 authority of §30-5-7 of this code, relating to the West Virginia Board of Pharmacy (Board of
39 Pharmacy rules for the substitution of biological pharmaceuticals, 15 CSR 17), is authorized.

§64-9-18. Board of Professional Surveyors.

1 The legislative rule filed in the State Register on July 31, 2023, authorized under the
2 authority of §30-13A-6 of this code, modified by the Board of Professional Surveyors to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 October 3, 2023, relating to the Board of Professional Surveyors (examination and licensing of
5 professional surveyors in West Virginia, 23 CSR 01), is authorized.

§64-9-19. Board of Examiners of Psychologists.

1 (a) The legislative rule filed in the State Register on July 25, 2023, authorized under the
2 authority of §30-21-6 of this code, modified by the Board of Examiners of Psychologists to meet
3 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
4 on September 15, 2023, relating to the Board of Examiners of Psychologists (disciplinary and
5 complaint procedures for psychologists, 17 CSR 04), is authorized with the following
6 amendments:

7 On page 2, section 5, subsection 6, after the word “shall” by inserting the following: “first
8 determine whether the conduct alleged in the complaint, if true, would constitute a violation of the

9 rules of the Board or otherwise falls within the jurisdiction of the Board. Upon completing that
10 initial determination, the Board shall”;

11 On page 3, section 5, subsection 6, subdivision 2, after the word “Board” by inserting the
12 words “and dismissed”;

13 On page 3, section 5, subsection 7, by striking out the word “The” and inserting in lieu
14 thereof “If it determines that the complaint falls within its jurisdiction, the”;

15 On page 3, section 5, subsection 12, by striking out the words “unless the complaint is
16 determined to fall within the provisions of sub-division 5.6.2. of this rule” and inserting in lieu
17 thereof the words “initially determined pursuant to sub-section 5.6 of this rule to be within its
18 jurisdiction”; and

19 On page 4, section 5, subsection 17, after the words “discretion to dismiss a complaint
20 hereunder”, by inserting the words “or under subsection 5.6”.

21 (b) The legislative rule filed in the State Register on July 25, 2023, authorized under the
22 authority of §30-21-6 of this code, modified by the Board of Examiners of Psychologists to meet
23 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
24 on September 15, 2023, relating to the Board of Examiners of Psychologists (contested case
25 hearing procedure, 17 CSR 05), is authorized.

§64-9-20. West Virginia Real Estate Commission.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §30-40-8 of this code, modified by the West Virginia Real Estate Commission to meet
3 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
4 on September 27, 2023, relating to the West Virginia Real Estate Commission (licensing real
5 estate brokers, associate brokers, and salespersons and the conduct of brokerage business, 174
6 CSR 01), is authorized.

7 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
8 authority of §30-40-8 of this code, relating to the West Virginia Real Estate Commission (schedule
9 of fees, 174 CSR 02), is authorized.

10 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
11 authority of §30-40-8 of this code, modified by the West Virginia Real Estate Commission to meet
12 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
13 on September 27, 2023, relating to the West Virginia Real Estate Commission (requirements for
14 real estate courses, course providers, and instructors, 174 CSR 03), is authorized.

§64-9-21. West Virginia Board of Registered Nurses.

1 (a) The legislative rule filed in the State Register on August 1, 2023, authorized under the
2 authority of §30-7-4 of this code, modified by the West Virginia Board of Registered Nurses to
3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on November 16, 2023, relating to the West Virginia Board of Registered Nurses
5 (policies, standards and criteria for the evaluation, approval and national nursing accreditation of
6 prelicensure nursing education programs, 19 CSR 01), is authorized.

7 (b) The legislative rule filed in the State Register on July 26, 2023, authorized under the
8 authority of §30-7-4 of this code, modified by the West Virginia Board of Registered Nurses to
9 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
10 Register on November 16, 2023, relating to the West Virginia Board of Registered Nurses
11 (requirements for registration and licensure and conduct constituting professional misconduct, 19
12 CSR 03), is authorized with the following amendments:

13 On page 2, paragraph 3.1.a.4. by striking out the word “that” and inserting in lieu thereof
14 the word “this”;

15 On page 3, paragraph 3.1.b.5., by striking out the word “state” and inserting in lieu thereof
16 the words “West Virginia”;

17 On page 4, paragraph 3.1.c.4., by striking out the word “state” and inserting in lieu thereof
18 the words “West Virginia”;

19 And,

20 On page 6, subdivision 6.1.e., by striking out the word “state” and inserting in lieu thereof
21 the words “West Virginia”;

22 (c) The legislative rule filed in the State Register on July 26, 2023, authorized under the
23 authority of §30-7-4 of this code, relating to the West Virginia Board of Registered Nurses
24 (advanced practice registered nurse licensure requirements, 19 CSR 07), is authorized.

25 (d) The legislative rule filed in the State Register on July 26, 2023, authorized under the
26 authority of §30-7-4 of this code, relating to the West Virginia Board of Registered Nurses (fees
27 for services rendered by the board, 19 CSR 12), is authorized.

§64-9-22. West Virginia Board of Respiratory Care.

1 The legislative rule filed in the State Register on June 8, 2023, authorized under the
2 authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to
3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on September 28, 2023, relating to the West Virginia Board of Respiratory Care (student
5 temporary permit, 30 CSR 09), is authorized with the following amendment:

6 On page 2, subsection 3.2, after the word “review” by inserting the words “and approval”.

§64-9-23. Secretary of State.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2023,
4 relating to the Secretary of State (guidelines for the use of nicknames and other designations on
5 the ballot, 153 CSR 14), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2023, authorized under the
7 authority of §3-1A-6 of this code, relating to the Secretary of State (Combined Voter Registration
8 and Driver Licensing Fund, 153 CSR 25), is authorized.

9 (c) The legislative rule filed in the State Register on July 28, 2023, authorized under the
10 authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the
11 Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2023,
12 relating to the Secretary of State (minimum standards for election administration, infrastructure,
13 and security minimum standards and reserve funding, 153 CSR 55), is authorized.

§64-9-24. State Treasurer.

1 (a) The legislative rule filed in the State Register on July 28, 2023, authorized under the
2 authority of §36-8-28 of this code, modified by the West Virginia State Treasurer to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 November 2, 2023, relating to the West Virginia State Treasurer (enforcement of the Uniform
5 Unclaimed Property Act, 112 CSR 05), is authorized with the following amendments:

6 On page 1, line 6, in the name of the Series, following the words "PROPERTY ACT", by
7 adding the words "AND THE UNKNOWN AND UNLOCATABLE INTEREST OWNERS ACT";


8 And,

9 On page 7, subsection 15.4, following the words "requirements of section", by striking out
10 the number "10" and inserting in lieu thereof the number "9."

11 (b) The legislative rule filed in the State Register on July 13, 2023, authorized under the
12 authority of §18-30A-6 of this code, modified by the West Virginia State Treasurer to meet the
13 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
14 November 2, 2023, relating to the West Virginia State Treasurer (Jumpstart Savings Program,
15 112 CSR 20), is authorized.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

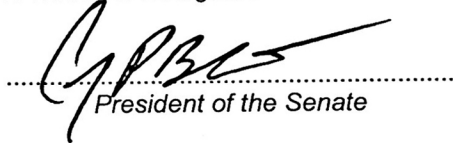

Clerk of the House of Delegates


Clerk of the Senate

Originated in the House of Delegates.

In effect from passage.


Speaker of the House of Delegates


President of the Senate

FILED
2024 MAR 27 P 5:44
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

The within is approved this the 27th
Day of March, 2024.


Governor

PRESENTED TO THE GOVERNOR

MAR 21 2024

Time 10:42am