

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENGROSSED

Committee Substitute

for

Senate Bill 371

BY SENATOR SYPOLT

[Originating in the Committee on the Judiciary;

reported on February 14, 2022]

1 A BILL to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended,
2 all relating generally to authorizing certain miscellaneous agencies and boards to
3 promulgate legislative rules; authorizing the rules, as filed and as modified by the
4 Legislative Rule-Making Review Committee and as amended by the Legislature; relating
5 to authorizing the Board of Medicine to promulgate a legislative rule relating to telehealth
6 and interstate telehealth registration for physicians, podiatric physicians, and physician
7 assistants; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule
8 relating to telehealth practice and interstate telehealth registration for osteopathic
9 physicians and physician assistants; and authorizing the Board of Registered Professional
10 Nurses to promulgate a legislative rule relating to telehealth practice.

Be it enacted by the Legislature of West Virginia:

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

§64-9-1. Board of Medicine.

1 The legislative rule filed in the State Register on July 30, 2021, authorized under the
2 authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on December 16,
4 2021, relating to the Board of Medicine (Telehealth and Interstate Telehealth Registration for
5 Physicians, Podiatric Physicians and Physician Assistants, 11 CSR 15), is authorized with the
6 amendment set forth below:

7 On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new
8 subsection 7.4 to read as follows:

9 7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a
10 patient if the practitioner, in his or her discretion, determines that an in-person encounter is
11 required.;

12 And,

13 On page nine, subsection 8.4, by striking out the words “based solely upon a telemedicine
14 encounter”.

§64-9-2. Board of Osteopathic Medicine.

1 The legislative rule filed in the State Register on July 30, 2021, authorized under the
2 authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 December 15, 2021, relating to the Board of Osteopathic Medicine (Telehealth Practice and
5 Interstate Telehealth Registration for Osteopathic Physicians and Physician Assistants, 24 CSR
6 10), is authorized with the amendment set forth below:

7 On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new
8 subsection 7.4 to read as follows:

9 7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a
10 patient if the practitioner, in his or her discretion, determines that an in-person encounter is
11 required.;

12 And,

13 On page nine, subsection 8.4, by striking out the words “based solely upon a telemedicine
14 encounter”.

§64-9-3. Board of Registered Professional Nurses.

1 The legislative rule filed in the State Register on August 31, 2021, authorized under the
2 authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses
3 (Telehealth Practice, 19 CSR 16), is authorized with the amendments set forth below:

4 On page three, subdivision 3.3.2., by striking out the word “state” and inserting in lieu
5 thereof the words “State of West Virginia”;

6 On page three, subdivision 3.3.2., by striking out the words “location or”;

7 On page five, subsection 5.9., by striking out the word “applicant” and inserting in lieu
8 thereof the word “registrant”;

9 On page five, after subsection 5.12, by renumbering the remaining subsections;

10 On page six, subsection 5.11., by striking out the words “apply anew” and inserting in lieu
11 thereof the word “reapply”;

12 On page seven, subsection 7.3., after the words “prescription if” by inserting in lieu thereof
13 the words “the nurse”;

14 On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new
15 subsection 7.4 to read as follows:

16 7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a
17 patient if the practitioner, in his or her discretion, determines that an in-person encounter is
18 required.;

19 ~~On page seven, subsection 7.4., after the words “standard of care” by inserting the~~
20 ~~words “with respect to an established patient”;~~

21 On page eight, subsection 7.8., after the word “practices” by striking out the word “to”
22 and inserting in lieu thereof the words “while treating”;

23 On page eight, subsection 8.1, by striking out the words “of the provider’s profession in
24 the State of West Virginia pursuant to qualified advanced practice registered nurses to prescribe
25 prescription drugs in accordance with the” and inserting in lieu thereof the words “as set forth in
26 the”;

27 On page eight, subsection 8.2, by striking out the words “Schedules III through V of”;

28 On page eight, subsection 8.3, by striking out the words “based solely upon a telemedicine
29 encounter”;

30 On page nine, subdivision 10.2.1., by striking out the words “Shall not engage” and
31 inserting in lieu thereof the word “Engaging”;

32 On page nine, subdivision 10.2.1., by inserting a period after the words “this rule”;

33 On page nine, subdivision 10.2.1., by striking out the words “or they” and inserting in lieu
34 thereof the words “A registered nurse or advance practice registered nurse who engages in
35 professional misconduct”;

36 And,

37 On page nine, subsection 11.2., by striking out the words “the following” and inserting in
38 lieu thereof the word “that”.