

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 361

BY SENATOR WOODRUM

[Originating in the Committee on the Judiciary;

reported on February 02, 2023]

1 A BILL 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 and as modified Legislative Rule-Making
4 Review Committee, and as amended by the Legislature; relating to authorizing the Board
5 of Accountancy to promulgate a legislative rule relating to board rules of professional
6 conduct; relating to authorizing the Board of Acupuncture to promulgate a legislative rule
7 relating to advertising by licensed acupuncturists; relating to authorizing the Board of
8 Acupuncture to promulgate a legislative rule relating to standards of practice of
9 acupuncture by licensed acupuncturists; relating to authorizing the Board of Acupuncture
10 to promulgate a legislative rule relating to continuing education requirements; relating to
11 authorizing the Department of Agriculture to promulgate a legislative rule relating to the
12 West Virginia apiary rule; relating to authorizing the Department of Agriculture to
13 promulgate a legislative rule relating to schedule of charges for inspection services: fruit;
14 relating to authorizing the Department of Agriculture to promulgate a legislative rule
15 relating to noxious weeds; relating to authorizing the Department of Agriculture to
16 promulgate a legislative rule relating to Grade "A" pasteurized milk; relating to authorizing
17 the Department of Agriculture to promulgate a legislative rule relating to inspection of
18 nontraditional, domesticated animals; relating to authorizing the Department of Agriculture
19 to promulgate a legislative rule relating to hemp products; relating to authorizing the
20 Department of Agriculture to promulgate a legislative rule relating to livestock care
21 standards; relating to authorizing the Department of Agriculture to promulgate a legislative
22 rule relating to farm-to-food bank tax credit; relating to authorizing the Department of
23 Agriculture to promulgate a legislative rule relating to farmers markets; relating to
24 authorizing the Athletic Commission to promulgate a legislative rule relating to
25 administrative rules; relating to authorizing the Athletic Commission to promulgate a
26 legislative rule relating to regulation of mixed martial arts; relating to authorizing the State

27 Auditor to promulgate a legislative rule relating to standards for voluntary payroll
28 deductions; relating to authorizing the Conservation Agency to promulgate a legislative
29 rule relating to operation of West Virginia State Conservation Committee and conservation
30 districts; relating to authorizing the Conservation Agency to promulgate a legislative rule
31 relating to conservation district accounting and auditing standards; relating to authorizing
32 the Board of Dentistry to promulgate a legislative rule relating to dental recovery networks;
33 relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative
34 rule relating to funeral director, embalmer, apprentice, courtesy card holders, and funeral
35 establishment requirements; relating to authorizing the Board of Funeral Service
36 Examiners to promulgate a legislative rule relating to crematory requirements; relating to
37 authorizing the Board of Funeral Service Examiners to promulgate a legislative rule
38 relating to a fee schedule; relating to authorizing the Board of Landscape Architects to
39 promulgate a legislative rule relating to registration of landscape architects; relating to
40 authorizing the Board of Medicine to promulgate a legislative rule relating to licensing of
41 physicians and podiatric physicians and disciplinary procedures for applicants, licensees,
42 and credential holders; relating to authorizing the Board of Medicine to promulgate a
43 legislative rule relating to relating to licensure, practice requirements, disciplinary and
44 complaint procedures, continuing education, physician assistants; authorizing the Board
45 of Medicine to promulgate a legislative rule relating to collaborative pharmacy practice;
46 relating to authorizing the Board of Medicine to promulgate a legislative rule relating to
47 prohibiting sexual misconduct by health care practitioners; relating to authorizing the
48 Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic
49 physician assistants; relating to authorizing the Board of Pharmacy to promulgate a
50 legislative rule relating to licensure and practice of pharmacy; relating to authorizing the
51 Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled
52 Substance Act; relating to authorizing the Board of Pharmacy to promulgate a legislative

53 rule relating to Board of Pharmacy rules for registration of pharmacy technicians; relating
54 to authorizing the Board of Pharmacy to promulgate a legislative rule relating to
55 regulations governing pharmacy permit; relating to authorizing the Board of Pharmacy to
56 promulgate a legislative rule relating to inspections; relating to authorizing the Board of
57 Pharmacy to promulgate a legislative rule relating to the Donated Drug Repository
58 Program; relating to authorizing the Psychologists to promulgate a legislative rule relating
59 to code of conduct; relating to authorizing the Board of Registered Professional Nurses to
60 promulgate a legislative rule relating to requirements for registration and licensure and
61 conduct constituting professional misconduct; relating to authorizing the Board of
62 Registered Professional Nurses to promulgate a legislative rule relating to advanced
63 practice registered nurse licensure requirements; relating to authorizing the Board of
64 Registered Professional Nurses to promulgate a legislative rule relating to limited
65 prescriptive authority for nurses in advanced practice; relating to authorizing the Board of
66 Registered Professional Nurses to promulgate a legislative rule relating to continuing
67 education and competence; relating to authorizing the Board of Registered Professional
68 Nurses to promulgate a legislative rule relating to fees for services rendered by the board;
69 relating to authorizing the Board of Registered Professional Nurses to promulgate a
70 legislative rule relating to practitioner requirements for accessing the West Virginia
71 Controlled Substance Monitoring Program database; relating to authorizing the Board of
72 Registered Professional Nurses to promulgate a legislative rule relating to telehealth
73 practice; requirements; definitions; relating to authorizing the Secretary of State to
74 promulgate a legislative rule relating to early voting in-person satellite precincts; relating
75 to authorizing the Secretary of State to promulgate a legislative rule relating to the
76 Combined Voter Registration and Driver Licensing Fund; relating to authorizing the
77 Secretary of State to promulgate a legislative rule relating to administrative procedures for
78 the Nonpublic Funding for Election Administration Fund; relating to authorizing the State

79 Treasurer to promulgate a legislative rule relating to enforcement of the Uniform
80 Unclaimed Property Act; relating to authorizing the State Treasurer to promulgate a
81 legislative rule relating to the Hope Scholarship Program; and relating to authorizing the
82 State Treasurer to promulgate a legislative rule relating to Jumpstart Savings Program.

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

§64-9-1. Board of Accountancy.

1 The legislative rule filed in the State Register on July 27, 2022, authorized under the
2 authority of §30-9-5 of this code, relating to the Board of Accountancy (board rules of professional
3 conduct, 1 CSR 01), is authorized.

§64-9-2. Board of Acupuncture.

1 (a) The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §30-36-14(f) of this code, modified by the Board of Acupuncture to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on September
4 28, 2022, relating to the Board of Acupuncture (advertising by licensed acupuncturists, 32 CSR
5 05), is authorized.

6 (b) The legislative rule filed in the State Register on July 30, 2022, authorized under the
7 authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections
8 of the Legislative Rule-Making Review Committee and refiled in the State Register on September
9 28, 2022, relating to the Board of Acupuncture (standards of practice of acupuncture by licensed
10 acupuncturists, 32 CSR 06), is authorized.

11 (c) The legislative rule filed in the State Register on July 29, 2022, authorized under the
12 authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections
13 of the Legislative Rule-Making Review Committee and refiled in the State Register on September

14 28, 2022, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 09),
15 is authorized.

§64-9-3. Department of Agriculture.

1 (a) The legislative rule filed in the State Register on July 18, 2022, authorized under the
2 authority of §19-13-4 of this code, modified by the Department of Agriculture to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 October 3, 2022, relating to the Department of Agriculture (West Virginia apiary rule, 61 CSR 02),
5 is authorized.

6 (b) The legislative rule filed in the State Register on May 12, 2022, authorized under the
7 authority of §19-2-10 of this code, modified by the Department of Agriculture to meet the
8 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
9 September 22, 2022, relating to the Department of Agriculture (schedule of charges for inspection
10 services: fruit, 61 CSR 08B), is authorized.

11 (c) The legislative rule filed in the State Register on June 14, 2022, authorized under the
12 authority of §19-12D-4 of this code, modified by the Department of Agriculture to meet the
13 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
14 September 22, 2022, relating to the Department of Agriculture (noxious weeds rule, 61 CSR 14A),
15 is authorized.

16 (d) The legislative rule filed in the State Register on July 21, 2022, authorized under the
17 authority of §19-11E-8(1) of this code, modified by the Department of Agriculture to meet the
18 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
19 September 22, 2022, relating to the Department of Agriculture (Grade "A" pasteurized milk, 61
20 CSR 15), is authorized.

21 (e) The legislative rule filed in the State Register on November 15, 2021, authorized under
22 the authority of §19-29-4 of this code, modified by the Agriculture Commissioner to meet the
23 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

24 October 26, 2022, relating to the Agriculture Commissioner (inspection of nontraditional,
25 domesticated animals, 61 CSR 23D), is authorized.

26 (f) The legislative rule filed in the State Register on July 28, 2022, authorized under the
27 authority of §19-12E-7 of this code, modified by the Department of Agriculture to meet the
28 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
29 September 22, 2022, relating to the Department of Agriculture (hemp products, 61 CSR 30), is
30 authorized.

31 (g) The legislative rule filed in the State Register on June 2, 2022, authorized under the
32 authority of §19-1C-4 of this code, modified by the Department of Agriculture to meet the
33 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
34 September 22, 2022, relating to the Department of Agriculture (livestock care standards, 61 CSR
35 31), is authorized.

36 (h) The legislative rule filed in the State Register on May 18, 2022, authorized under the
37 authority of §11-13DD-5(b) of this code, modified by the Department of Agriculture to meet the
38 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
39 September 22, 2022, relating to the Department of Agriculture (farm-to-food bank tax credit, 61
40 CSR 36), is authorized.

41 (i) The legislative rule filed in the State Register on June 24, 2022, authorized under the
42 authority of §19-35-4 of this code, modified by the Department of Agriculture to meet the
43 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
44 September 22, 2022, relating to the Department of Agriculture (farmers markets, 61 CSR 38), is
45 authorized with the amendment set forth below:

46 On page 6, by striking out subdivision 6.2.h. and inserting in lieu thereof a new subdivision
47 6.2.h. to read as follows:

48 6.2.h. Any potentially hazardous freeze-dried foods.

§64-9-4. Athletic Commission.

1 (a) The legislative rule filed in the State Register on July 26, 2022, authorized under the
2 authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
4 20, 2022, relating to the Athletic Commission (administrative rules of the West Virginia State
5 Athletic Commission, 177 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on July 27, 2022, authorized under the
7 authority of §29-5A-3a of this code, modified by the Athletic Commission to meet the objections
8 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
9 20, 2022, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is
10 authorized.

§64-9-5. State Auditor.

1 The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §12-3-13b of this code, relating to the State Auditor (standards for voluntary payroll
3 deductions, 155 CSR 03), is authorized.

§64-9-6. Conservation Agency.

1 (a) The legislative rule filed in the State Register on July 12, 2022, authorized under the
2 authority of §19-21A-4a of this code, modified by the Conservation Agency to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on September
4 20, 2022, relating to the Conservation Agency (operation of West Virginia State Conservation
5 Committee and conservation districts, 63 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on July 12, 2022, authorized under the
7 authority of §19-21A-4 of this code, modified by the Conservation Agency to meet the objections
8 of the Legislative Rule-Making Review Committee and refiled in the State Register on September
9 20, 2022, relating to the Conservation Agency (conservation district accounting and auditing
10 standards, 63 CSR 04), is authorized.

§64-9-7. Board of Dentistry.

1 The legislative rule filed in the State Register on July 22, 2022, authorized under the
2 authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022,
4 relating to the Board of Dentistry (dental recovery networks, 5 CSR 15), is authorized.

§64-9-8. Board of Funeral Service Examiners.

1 (a) The legislative rule filed in the State Register on July 27, 2022, authorized under the
2 authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 October 4, 2022, relating to the Board of Funeral Service Examiners (funeral director, embalmer,
5 apprentice, courtesy card holders, and funeral establishment requirements, 6 CSR 01), is
6 authorized.

7 (b) The legislative rule filed in the State Register on July 27, 2022, authorized under the
8 authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the
9 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
10 October 4, 2022, relating to the Board of Funeral Service Examiners (crematory requirements, 6
11 CSR 02), is authorized.

12 (c) The legislative rule filed in the State Register on July 27, 2022, authorized under the
13 authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the
14 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
15 October 4, 2022, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07),
16 is authorized.

§64-9-9. Board of Landscape Architects.

1 The legislative rule filed in the State Register on July 30, 2022, authorized under the
2 authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

4 September 22, 2022, relating to the Board of Landscape Architects (registration of landscape
5 architects, 9 CSR 01), is authorized.

§64-9-10. Board of Medicine.

1 (a) The legislative rule filed in the State Register on July 27, 2022, authorized under the
2 authority of §30-3-7(a) of this code, relating to the Board of Medicine (licensing of physicians and
3 podiatric physicians and disciplinary procedures for applicants, licensees, and credential holders,
4 11 CSR 01A), is authorized.

5 (b) The legislative rule filed in the State Register on July 27, 2022, authorized under the
6 authority of §30-3E-3 of this code, relating to the Board of Medicine (licensure, practice
7 requirements, disciplinary and complaint procedures, continuing education, physician assistants,
8 11 CSR 01B), is authorized.

9 (c) The legislative rule filed in the State Register on July 29, 2022, authorized under the
10 authority of §30-5-7(c) of this code, relating to the Board of Medicine (collaborative pharmacy
11 practice, 11 CSR 08), is authorized.

12 (d) The legislative rule filed in the State Register on July 28, 2022, authorized under the
13 authority of §30-3-14 of this code, relating to the Board of Medicine (prohibiting sexual misconduct
14 by health care practitioners, 11 CSR 16), is authorized.

§64-9-11. Board of Osteopathic Medicine.

1 The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §30-3E-3 of this code, relating to the Board of Osteopathic Medicine (osteopathic
3 physician assistants, 24 CSR 02), is authorized.

§64-9-12. Board of Pharmacy.

1 (a) The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022,
4 relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

5 (b) The legislative rule filed in the State Register on July 29, 2022, authorized under the
6 authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections
7 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
8 17, 2022, relating to the Board of Pharmacy (Uniform Controlled Substance Act, 15 CSR 02), is
9 authorized.

10 (c) The legislative rule filed in the State Register on July 29, 2022, authorized under the
11 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
12 Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022,
13 relating to the Board of Pharmacy (registration of pharmacy technicians, 15 CSR 07), is
14 authorized.

15 (d) The legislative rule filed in the State Register on July 29, 2022, authorized under the
16 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
17 Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022,
18 relating to the Board of Pharmacy (pharmacy permits, 15 CSR 15), is authorized.

19 (e) The legislative rule filed in the State Register on April 4, 2022, authorized under the
20 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
21 Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022,
22 relating to the Board of Pharmacy (inspections, 15 CSR 19), is authorized.

23 (f) The legislative rule filed in the State Register on July 29, 2022, authorized under the
24 authority of §60B-1-8 of this code, modified by the Board of Pharmacy to meet the objections of
25 the Legislative Rule-Making Review Committee and refiled in the State Register on October 17,
26 2022, relating to the Board of Pharmacy (Donated Drug Repository Program, 15 CSR 20), is
27 authorized.

§64-9-13. Psychologists.

1 The legislative rule filed in the State Register on September 7, 2022, authorized under the
2 authority of §30-21-6 of this code, relating to the Board of Examiners of Psychologists (code of
3 conduct, 17 CSR 06), is authorized.

§64-9-14. Board of Registered Professional Nurses.

1 (a) The legislative rule filed in the State Register on July 27, 2022, authorized under the
2 authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses
3 (requirements for registration and licensure and conduct constituting professional misconduct, 19
4 CSR 03), is authorized.

5 (b) The legislative rule filed in the State Register on July 26, 2022, authorized under the
6 authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet
7 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
8 on November 10, 2022, relating to the Board of Registered Professional Nurses (advanced
9 practice registered nurse licensure requirements, 19 CSR 07), is authorized.

10 (c) The legislative rule filed in the State Register on July 26, 2022, authorized under the
11 authority of §30-7-15a of this code, modified by the Board of Registered Professional Nurses to
12 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
13 Register on November 10, 2022, relating to the Board of Registered Professional Nurses (limited
14 prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized.

15 (d) The legislative rule filed in the State Register on July 26, 2022, authorized under the
16 authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet
17 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
18 on November 10, 2022, relating to the Board of Registered Professional Nurses (continuing
19 education and competence, 19 CSR 11), is authorized.

20 (e) The legislative rule filed in the State Register on July 26, 2022, authorized under the
21 authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet
22 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
23 on November 10, 2022, relating to the Board of Registered Professional Nurses (fees for services
24 rendered by the board, 19 CSR 12), is authorized with the amendments set forth below:

25 On page 1, subsection 2.4., by striking out the number "30.00" and inserting in lieu thereof
26 the number "20.00";

27 On page 2, subsection 2.8., by striking out the number "35.00" and inserting in lieu thereof
28 the number "25.00";

29 And,

30 On page 2, by striking out subsection 2.20. and renumbering the remaining subsections.

31 (f) The legislative rule filed in the State Register on July 26, 2022, authorized under the
32 authority of §60A-9-5a of this code, modified by the Board of Registered Professional Nurses to
33 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
34 Register on November 10, 2022, relating to the Board of Registered Professional Nurses
35 (practitioner requirements for accessing the West Virginia Controlled Substance Monitoring
36 Program database, 19 CSR 14), is authorized.

37 (g) The legislative rule filed in the State Register on July 26, 2022, authorized under the
38 authority of §30-1-26 of this code, relating to the Board of Registered Professional Nurses
39 (telehealth practice; requirements; definitions, 19 CSR 16), is authorized.

§64-9-15. Secretary of State.

1 (a) The legislative rule filed in the State Register on August 1, 2022, authorized under the
2 authority of §3-3-2a 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 November 10,
4 2022, relating to the Secretary of State (early voting in-person satellite precincts, 153 CSR 13), is
5 authorized.

6 (b) The legislative rule filed in the State Register on July 29, 2022, authorized under the
7 authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the
8 Legislative Rule-Making Review Committee and refiled in the State Register on November 10,
9 2022, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund,
10 153 CSR 25), is authorized.

11 (c) The legislative rule filed in the State Register on August 1, 2022, authorized under the
12 authority of §3-1A-9 of this code, modified by the Secretary of State to meet the objections of the
13 Legislative Rule-Making Review Committee and refiled in the State Register on November 10,
14 2022, relating to the Secretary of State (administrative procedures for the Nonpublic Funding for
15 Election Administration Fund, 153 CSR 54), is authorized.

§64-9-16. State Treasurer.

1 (a) The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §36-8-28 of this code, modified by the State Treasurer to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on September 15,
4 2022, relating to the State Treasurer (enforcement of the Uniform Unclaimed Property Act, 112
5 CSR 05), is authorized.

6 (b) The legislative rule filed in the State Register on April 21, 2022, authorized under the
7 authority of §18-31-9 of this code, modified by the Treasurer's Office to meet the objections of the
8 Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2023,
9 relating to the Treasurer's Office (Hope Scholarship Program, 112 CSR 18), is authorized.

10 (c) The legislative rule filed in the State Register on July 22, 2022, authorized under the
11 authority of §18-30A-16 of this code, modified by the State Treasurer to meet the objections of
12 the Legislative Rule-Making Review Committee and refiled in the State Register on September
13 15, 2022, relating to the State Treasurer (Jumpstart Savings Program, 112 CSR 20), is
14 authorized.