

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Enrolled**

**Senate Bill 545**

BY SENATOR AZINGER

[Passed March 2, 2019; in effect from passage]



1 AN ACT to amend and reenact §64-7-4 of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing the Office of the Insurance Commissioner to promulgate a legislative rule  
3 relating to HIV testing; and eliminating outdated testing protocols.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.**

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

5 “5.9. The testing is required to be administered on a nondiscriminatory basis for all  
6 individuals in the same underwriting class. No proposed insured may be denied coverage or  
7 rated a substandard risk on the basis of HIV testing unless acceptable testing protocol is followed  
8 including the use of FDA-licensed tests. ~~The following is the acceptable HIV testing protocol for~~  
9 ~~use in this state:~~

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

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

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

14 5.10. ~~If any of the tests in the ELISA-ELISA-Western Blot series produce~~ confirmatory  
15 test produces a negative result, the testing ceases and the proposed insured cannot be denied  
16 coverage based on AIDS-related testing.

17 For Example: ~~If the initial ELISA test yields a negative result, the testing ceases. If the~~  
18 ~~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.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*