

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4534**

BY DELEGATES WALKER, PYLES, WILLIAMS, HANSEN,  
SKAFF, ESTEP-BURTON, ANGELUCCI, STORCH, BYRD,  
HILL AND C. THOMPSON

[Introduced January 24, 2020; Referred to the  
Committee on Banking and Insurance then Education  
then Finance]

1 A BILL to amend and reenact §18B-1-6 of the Code of West Virginia, 1931, as amended, relating  
2 to rulemaking for healthcare plans; providing that the commission and council promulgate  
3 rules for healthcare plans offered to graduate students attending a college or university in  
4 this state; providing that the healthcare plans offered to graduate students permit adding  
5 dependents to the policy; providing that healthcare plans offered to graduate students not  
6 exclude any graduate student with a preexisting condition; and establishing an effective  
7 date.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. GOVERNANCE.**

### **§18B-1-6. Rulemaking.**

1 (a) The commission is hereby empowered to promulgate, adopt, amend or repeal rules,  
2 in accordance with §29A-3A-1 *et seq.*, of this code, subject to §18B-1-3 of this code. This grant  
3 of rule-making authority does not limit, overrule, restrict, supplant, or supersede the rule-making  
4 authority provided to the exempted schools.

5 (b) The council is hereby empowered to promulgate, adopt, amend or repeal rules in  
6 accordance with §29A-3A-1 *et seq.*, of this code, subject to §18B-1-3 of this code. This grant of  
7 rule-making power extends only to those areas over which the council has been granted specific  
8 authority and jurisdiction by law.

9 (c) As it relates to the authority granted to governing boards of state institutions of higher  
10 education to promulgate, adopt, amend, or repeal any rule under this code:

11 (1) "Rule" means any regulation, guideline, directive, standard, statement of policy, or  
12 interpretation of general application which has institution-wide effect, or which affects the rights,  
13 privileges or interests of employees, students, or citizens. Any regulation, guideline, directive,  
14 standard, statement of policy, or interpretation of general application that meets this definition is  
15 a rule for the purposes of this section.

16 (2) Regulations, guidelines, or policies established for individual units, divisions,

17 departments, or schools of the institution, which deal solely with the internal management or  
18 responsibilities of a single unit, division, department, or school or with academic curricular policies  
19 that do not constitute a mission change for the institution, are excluded from this subsection,  
20 except for the requirements relating to posting.

21 (3) The commission shall promulgate a rule to guide the development of rules made by  
22 the governing boards, including a process for comment by the commission as appropriate, except  
23 the exempted schools, who shall each promulgate their own such rules. The council shall  
24 promulgate a rule to guide the development and approval of rules made by the governing boards.  
25 The commission and council shall provide technical assistance in rulemaking as requested. The  
26 rules promulgated by the exempted schools, the commission and council shall include, but are  
27 not limited to, the following provisions which shall be included in the rule on rules adopted by each  
28 governing board of a state institution of higher education:

29 (A) A procedure to ensure that public notice is given and that the right of interested parties  
30 to have a fair and adequate opportunity to respond is protected, including providing for a 30 day  
31 public comment period prior to final adoption of a rule;

32 (B) Designation of a single location where all proposed and approved rules, guidelines  
33 and other policy statements are posted and can be accessed by the public;

34 (C) A procedure to maximize Internet access to all proposed and approved rules,  
35 guidelines and other policy statements to the extent technically and financially feasible; and

36 (D) Except for the exempted schools, a procedure for the governing board to follow in  
37 submitting its rules for review and comment by the commission and approval by the council, as  
38 appropriate:

39 (i) The governing boards shall submit rules for review and comment to the commission.

40 (ii) The commission shall return to the governing board its comments and suggestions  
41 within 15 business days of receiving the rule.

42 (iii) If a governing board receives comments or suggestions on a rule from the commission,

43 it shall record these as part of the minute record. The rule is not effective and may not be  
44 implemented until the governing board holds a meeting and places on the meeting agenda the  
45 comments it has received from the commission.

46 (d) Nothing in this section requires that any rule reclassified or transferred by the  
47 commission or the council under this section be promulgated again under the procedures set out  
48 in §29A-3A-1 et seq., of this code unless the rule is amended or modified.

49 (e) The commission and council each shall file with the Legislative Oversight Commission  
50 on Education Accountability any rule it proposes to promulgate, adopt, amend or repeal under the  
51 authority of this article.

52 (f) The governing boards shall promulgate and adopt any rule which they are required to  
53 adopt by this chapter or chapter 18C of this code no later than July 1, 2011 unless a later date is  
54 specified. On and after this date:

55 (1) Any rule of a governing board which meets the definition set out in subsection (c) of  
56 this section and which has not been promulgated and adopted by formal vote of the appropriate  
57 governing board is void and may not be enforced;

58 (2) Any authority granted by this code which inherently requires the governing board to  
59 promulgate and adopt a rule is void until the governing board complies with this section.

60 (g) Within 15 business days of the adoption of a rule, including repeal or amendment of  
61 an existing rule, and before the change is implemented, a governing board shall furnish a copy of  
62 each rule which it has adopted to the commission or the council, respectively, for review.

63 (h) Annually, by October 1, each governing board shall file with the commission or the  
64 council, as appropriate, a list of all rules that were in effect for that institution on July 1 of that  
65 year, including the most recent date on which each rule was considered and adopted, amended,  
66 or repealed by the governing board. For all rules adopted, amended, or repealed after the effective  
67 date of this section, the list shall include a statement by the chair of the governing board certifying  
68 that the governing board has complied with this section when each listed rule was promulgated

69 and adopted.

70 (i) Any rule of the commission or council in effect at the time of the re-enactment of this  
71 section or approved by the Legislature during its 2017 Regular Session shall remain in effect and  
72 applicable to an institution of higher education under the jurisdiction of the commission or council  
73 until such time as an institution exercises its authority to adopt a rule pursuant to this chapter.

74 (j) The commission and the council, whichever is appropriate, shall promulgate legislative  
75 rules pursuant to §29A-3A-1 et seq., of this code relating to healthcare plans offered by  
76 universities or colleges to graduate students attending an institution of higher education in this  
77 state by July 1, 2020. Rules for healthcare plans must include the following:

78 (1) The ability for a graduate student to add dependents to the healthcare policy; and

79 (2) Permit graduate students with preexisting conditions to enroll in a university or college  
80 sponsored healthcare plan.

NOTE: The purpose of this bill is to require the commission or the council to promulgate legislative rules relating to healthcare plans for graduate students attending a college or university in this state.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.