

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2302

By Delegate Walker

[Introduced January 11, 2023; 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 may promulgate, adopt, amend, or repeal
2 rules, in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This
3 grant of rule-making authority does not limit, overrule, restrict, supplant, or supersede the rule-
4 making authority provided to the exempted schools.

5 (b) The council is hereby empowered to may 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 rule-
7 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 a
15 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 the
22 governing boards, including a process for comment by the commission as appropriate, except the
23 exempted schools, who shall each promulgate their own such rules. The council shall promulgate
24 a rule to guide the development and approval of rules made by the governing boards. The
25 commission and council shall provide technical assistance in rulemaking as requested. The rules
26 promulgated by the exempted schools, the commission and council shall include, but are not
27 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 and
33 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 fifteen 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 this
56 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 an
61 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 year,
65 including the most recent date on which each rule was considered and adopted, amended or
66 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 shall promulgate legislative rules pursuant to §29A-3A-
75 1 et seq., of this code relating to healthcare plans offered by their respective universities or
76 colleges to graduate students attending these institutions of higher education in this state by July
77 1, 2023. Rules for healthcare plans shall 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.