

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2648

BY DELEGATE FOSTER

[Passed March 6, 2023; in effect from passage.]

1 AN ACT to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended,
2 and to amend and reenact §64-12-2 of said code; all relating to generally authorizing the
3 Department of Health and Human Resources to promulgate legislative rules; authorizing
4 or rejecting the rules as filed and as modified by the Legislative Rule-Making Review
5 Committee, and as amended by the Legislature, and directing the Department of Health
6 and Human Resources to amend a current legislative rule; relating to directing the
7 Department of Health and Human Resources to promulgate a legislative rule relating to
8 food establishments; relating to authorizing the Department of Health and Human
9 Resources to promulgate a legislative rule relating to procedures pertaining to the
10 Dangerousness Assessment Advisory Board; relating to authorizing the Department of
11 Health and Human Resources to promulgate a legislative rule relating to standards for
12 local boards of health; relating to authorizing the Department of Health and Human
13 Resources to promulgate a legislative rule relating to medical examiner requirements for
14 postmortem inquiries; relating to authorizing the Department of Health and Human
15 Resources to promulgate a legislative rule relating to Medical Cannabis Program - grower
16 and processors; relating to authorizing the Department of Health and Human Resources
17 to promulgate a legislative rule relating to Medical Cannabis Program – dispensaries;
18 relating to authorizing the Department of Health and Human Resources to promulgate a
19 legislative rule relating to financial disclosures; relating to authorizing the Department of
20 Health and Human Resources to promulgate a legislative rule relating to the Uniform Bill
21 Database; relating to authorizing the Department of Health and Human Resources to
22 promulgate a legislative rule relating to development of methodologies to examine needs
23 for substance use disorder treatment facilities within the state; relating to authorizing the
24 Department of Health and Human Resources to promulgate a legislative rule relating to
25 the Core Behavioral Health Crisis Services System; relating to authorizing the Department
26 of Health and Human Resources to promulgate a legislative rule relating to child care

27 centers licensing; relating to authorizing the Department of Health and Human Resources
28 to promulgate a legislative rule relating to minimum licensing requirements for residential
29 child care and treatment facilities for children and transitioning adults and vulnerable and
30 transitioning youth group homes and programs in West Virginia; relating to authorizing the
31 Department of Health and Human Resources to promulgate a legislative rule relating to
32 family child care facility licensing requirements; relating to authorizing the Department of
33 Health and Human Resources to promulgate a legislative rule relating to informal and
34 relative family child care home registration requirements; relating to authorizing the
35 Department of Health and Human Resources to promulgate a legislative rule relating to
36 informal and relative family child care home registration requirements; relating to
37 authorizing the Department of Health and Human Resources to promulgate a legislative
38 rule relating to out-of-school-time child care center licensing requirements; relating to
39 authorizing the Department of Health and Human Resources to promulgate a legislative
40 rule relating to goals for foster children; relating to authorizing the Department of Health
41 and Human Resources to promulgate a legislative rule relating to deemed head start child
42 care center licenses; relating to rejecting the rule proposed by the Department of Health
43 and Human Resources and the Insurance Commissioner relating to All-Payers Claims
44 Database - Submission Manual; and relating to repealing the Department of Health and
45 Human Resources and the Insurance Commissioner a legislative rule relating to All-Payer
46 Claims Database – Data Submission Requirements.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN
RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

§64-5-1. Department of Health and Human Resources.

1 (a) The legislature directs the Department of Health and Human Resources to amend the
2 legislative rule filed in the State Register on April 30, 2021, authorized under the authority of §16-
3 1-4 of this code, relating to the Department of Health and Human Resources (Food
4 Establishments, 64 CSR 17), with the amendment set forth below:

5 On page 2, by striking out all of subdivision 3.1.h. and inserting in lieu thereof a new
6 subdivision 3.1.h. to read as follows:

7 3.1.h. Chapter 6, section 6-501.115 is not applicable if the following conditions are met:

8 3.1.h.1. The dog is prohibited from entering any areas where food is being prepared

9 3.1.h.2. The dog owner will be asked to leave, if a dog creates a nuisance;

10 3.1.h.3. The establishment is licensed as a private club, restaurant, coffee shop, brew pub,
11 or micro distillery;

12 3.1.h.4. The establishment has liability insurance for dog-related incidents;

13 3.1.h.5. Dog accidents are cleaned and sanitized. Dog waste stations are available. A
14 written procedure shall be established and posted concerning dog accident cleanup; and

15 3.1.h.6. Signage is present indicating that the establishment is dog friendly.

16 (b) The legislative rule filed in the State Register on March 8, 2022, authorized under the
17 authority of §27-6A-2 of this code, modified by the Department of Health and Human Resources
18 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
19 Register on October 4, 2022, relating to the Department of Health and Human Resources
20 (procedures pertaining to the Dangerousness Assessment Advisory Board, 64 CSR 26), is
21 authorized.

22 (c) The legislative rule filed in the State Register on July 28, 2022, authorized under the
23 authority of §16-1-6 of this code, modified by the Department of Health and Human Resources to
24 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
25 Register on October 14, 2022, relating to the Department of Health and Human Resources
26 (standards for local boards of health, 64 CSR 73), is authorized.

27 (d) The legislative rule filed in the State Register on July 25, 2022, authorized under the
28 authority of §16-12-3 of this code, modified by the Department of Health and Human Resources
29 to meet the objectives of the Legislative Rule-Making Review Committee and refiled in the State
30 Register on October 14, 2022, relating to the Department of Health and Human Resources
31 (medical examiner requirements for postmortem inquiries, 64 CSR 84), is authorized with the
32 following amendment:

33 On page 14, by striking out all of section 13.5. and inserting in lieu thereof a new section
34 13.5 to read as follows:

35 “13.5. This section applies only to remains of persons whose death have been pronounced
36 within the State of West Virginia or for remains of persons whose deaths have been pronounced
37 in another state and does not have a prior authorization for cremation issued by the state in which
38 the death occurred.”

39 (e) The legislative rule filed in the State Register on July 22, 2022, authorized under the
40 authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources
41 (Medical Cannabis Program - grower and processors, 64 CSR 110), is authorized with the
42 amendment set forth below:

43 On page 12, subdivision 8.1.d., by striking out the words “not to exceed 180 days” and
44 inserting in lieu thereof the words “not less than 180 days”.

45 (f) The legislative rule filed in the State Register on July 22, 2022, authorized under the
46 authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources
47 (Medical Cannabis Program - dispensaries, (64 CSR 112), is authorized with the amendment set
48 forth below:

49 On page 12, subdivision 11.1.d., by striking out the words “not to exceed 180 days” and
50 inserting in lieu thereof the words “not less than 180 days”.

51 (g) The legislative rule filed in the State Register on August 24, 2022, authorized under
52 the authority of §16-29B-8 of this code, relating to the Department of Health and Human
53 Resources (financial disclosure, 65 CSR 13), is authorized.

54 (h) The legislative rule filed in the State Register on July 29, 2022, authorized under the
55 authority of §16-29B-24 of this code, modified by the Department of Health and Human Resources
56 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
57 Register on October 4, 2022, relating to the Department of Health and Human Resources
58 (Uniform Bill Database, 65 CSR 34), is authorized.

59 (i) The legislative rule filed in the State Register on June 22, 2022, authorized under the
60 authority of §16-53-3 of this code, modified by the Department of Health and Human Resources
61 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
62 Register on October 26, 2022, relating to the Department of Health and Human Resources
63 (development of methodologies to examine needs for substance use disorder treatment facilities
64 within the state, 69 CSR 13), is authorized.

65 (j) The legislative rule filed in the State Register on July 27, 2022, authorized under the
66 authority of §16-42-6 of this code, modified by the Department of Health and Human Resources
67 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
68 Register on October 4, 2022, relating to the Department of Health and Human Resources (Core
69 Behavioral Health Crisis Services System, 69 CSR 19), is authorized.

70 (k) The legislative rule filed in the State Register on July 27, 2022, authorized under the
71 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
72 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
73 Register on October 14, 2022, relating to the Department of Health and Human Resources (child
74 care centers licensing, 78 CSR 01), is authorized.

75 (l) The legislative rule filed in the State Register on July 27, 2022, authorized under the
76 authority of §27-17-3 of this code, relating to the Department of Health and Human Resources

77 (minimum licensing requirements for residential child care and treatment facilities for children and
78 transitioning adults and vulnerable and transitioning youth group homes and programs in West
79 Virginia, 78 CSR 03), is authorized.

80 (m) The legislative rule filed in the State Register on July 27, 2022, authorized under the
81 authority of §49-2-121 of this code, relating to the Department of Health and Human Resources
82 (family child care facility licensing requirements, 78 CSR 18), is authorized.

83 (n) The legislative rule filed in the State Register on July 27, 2022, authorized under the
84 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
85 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
86 Register on October 14, 2022, relating to the Department of Health and Human Resources (family
87 child care home registration requirements, 78 CSR 19), is authorized with the amendments set
88 forth below:

89 On page 13, subdivision 9.2.1.a, after the word, “signed” by inserting the words, “and
90 dated”;

91 And,

92 On page 13, subdivision 9.2.1.a., after the word, “available” by inserting the words, “the
93 date the pet it brought into the home,”.

94 (o) The legislative rule filed in the State Register on July 27, 2022, authorized under the
95 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
96 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
97 Register on October 14, 2022, relating to the Department of Health and Human Resources
98 (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

99 (p) The legislative rule filed in the State Register on July 27, 2022, authorized under the
100 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
101 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State

102 Register on October 14, 2022, relating to the Department of Health and Human Resources (out-
103 of-school-time child care center licensing requirements, 78 CSR 21), is authorized.

104 (q) The legislative rule filed in the State Register on September 20, 2022, authorized
105 under the authority of §49-2-126 of this code, relating to the Department of Health and Human
106 Resources (goals for foster children, 78 CSR 25), is authorized.

107 (r) The legislative rule filed in the State Register on July 27, 2022, authorized under the
108 authority of §49-2-115A of this code, relating to the Department of Health and Human Resources
109 (deemed head start child care center licenses, 78 CSR 28), is authorized.

§64-5-2. Department of Health and Human Resources and the Insurance Commissioner.

1 The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §33-4A-8 of this code, relating to the Department of Health and Human Resources
3 and the Insurance Commissioner (All-Payers Claims Database - Submission Manual, 114A CSR
4 03), is disapproved.

ARTICLE 12. REPEAL OF UNAUTHORIZED AND OBSOLETE RULES.

**§64-12-2. Department of Health and Human Resources, the Insurance Commissioner, and
the Chair of the Department of Health and Human Resources.**

1 The legislative rule effective April 1, 2022, authorized under the authority of §33-4A-8 of
2 this code, relating to the Secretary of the Department of Health and Human Resources, the
3 Insurance Commissioner, and Chair of the Department of Health and Human Resources (All-
4 Payer Claims Database – Data Submission Requirements, 114A CSR 01), is repealed.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor