

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**Senate Bill 125**

SENATOR MAYNARD, *original sponsor*

[Passed April 4, 2017; in effect from passage]



1 AN ACT to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as  
2 amended, all relating generally to promulgation of legislative rules by the Department of  
3 Health and Human Resources and the Health Care Authority; authorizing certain agencies  
4 to promulgate certain legislative rules with various modifications presented to and  
5 recommended by the Legislative Rule-Making Review Committee; authorizing certain  
6 agencies to promulgate certain legislative rules with amendments recommended by the  
7 Legislature; authorizing the Health Care Authority to promulgate a legislative rule relating  
8 to the Hospital Assistance Grant Program; authorizing the Health Care Authority to  
9 promulgate a legislative rule relating to exemption from certificate of need; authorizing the  
10 Health Care Authority to promulgate a legislative rule relating to Rural Health Systems  
11 Grant Program; authorizing the Health Care Authority to promulgate a legislative rule  
12 relating to certificate of need; authorizing the Department of Health and Human Resources  
13 to promulgate a legislative rule relating to expedited partner therapy; authorizing the  
14 Department of Health and Human Resources to promulgate a legislative rule relating to  
15 clinical laboratory technician and technologist licensure and certification; authorizing the  
16 Department of Health and Human Resources to promulgate a legislative rule relating to  
17 clandestine drug laboratory remediation; authorizing the Department of Health and Human  
18 Resources to promulgate a legislative rule relating to medication-assisted treatment—  
19 opioid treatment programs; and authorizing the Department of Health and Human  
20 Resources to promulgate a legislative rule relating to medication-assisted treatment—  
21 office-based, medication-assisted treatment.

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

1 That §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, be amended  
2 and reenacted, all to read as follows:

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

**§64-5-1. Health Care Authority.**

1 (a) The legislative rule filed in the State Register on August 24, 2016, authorized under  
2 the authority of section eight, article twenty-nine-b, chapter sixteen of this code, modified by the  
3 Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee  
4 and refiled in the State Register on December 16, 2016, relating to the Health Care Authority  
5 (Hospital Assistance Grant Program, 65 CSR 31), is authorized.

6 (b) The legislative rule filed in the State Register on August 22, 2016, authorized under  
7 the authority of section four, article two-d, chapter sixteen of this code, modified by the Health  
8 Care Authority to meet the objections of the Legislative Rule-Making Review Committee and  
9 refiled in the State Register on January 6, 2017, relating to the Health Care Authority (exemption  
10 from certificate of need, 65 CSR 29), is authorized.

11 (c) The legislative rule filed in the State Register on August 24, 2016, authorized under  
12 the authority of section four, article two-d, chapter sixteen of this code, modified by the Health  
13 Care Authority to meet the objections of the Legislative Rule-Making Review Committee and  
14 refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Rural  
15 Health Systems Grant Program, 65 CSR 30), is authorized.

16 (d) The legislative rule filed in the State Register on August 23, 2016, authorized under  
17 the authority of section four, article two-d, chapter sixteen of this code, modified by the Health  
18 Care Authority to meet the objections of the Legislative Rule-Making Review Committee and  
19 refiled in the State Register on December 19, 2016, relating to the Health Care Authority  
20 (certificate of need, 65 CSR 32), is authorized.

**§64-5-2. Department of Health and Human Resources.**

1 (a) The legislative rule filed in the State Register on August 26, 2016, authorized under  
2 the authority of section five, article four-f, chapter sixteen of this code, modified by the Department  
3 of Health and Human Resources to meet the objections of the Legislative Rule-Making Review  
4 Committee and refiled in the State Register on October 6, 2016, relating to the Department of  
5 Health and Human Resources (expedited partner therapy, 64 CSR 103), is authorized.

6 (b) The legislative rule filed in the State Register on August 26, 2016, authorized under  
7 the authority of section ten, article five-j, chapter sixteen of this code, modified by the Department  
8 of Health and Human Resources to meet the objections of the Legislative Rule-Making Review  
9 Committee and refiled in the State Register on October 6, 2016, relating to the Department of  
10 Health and Human Resources (clinical laboratory technician and technologist licensure and  
11 certification, 64 CSR 57), is authorized.

12 (c) The legislative rule filed in the State Register on August 26, 2016, authorized under  
13 the authority of section three, article eleven, chapter sixty-a of this code, modified by the  
14 Department of Health and Human Resources to meet the objections of the Legislative Rule-  
15 making Review Committee and refiled in the State Register on October 11, 2016, relating to the  
16 Department of Health and Human Resources (clandestine drug laboratory remediation, 64 CSR  
17 92), is authorized with the following amendments:

18 On page five, section 6.1.c., by striking out subdivision 6.1.c. in its entirety and inserting  
19 in lieu thereof a new subdivision 6.1.c. to read as follows:

20 6.1.c. In the case of a hotel, motel, or apartment building, all units or areas immediately  
21 adjacent to a unit or area within the hotel, motel, or apartment unit that contained a clandestine  
22 drug laboratory and that is under the control of the residential property owner must be secured,  
23 vacated and tested in accordance with this rule.

24 (d) The legislative rule filed in the State Register on August 26, 2016, authorized under  
25 the authority of section thirteen, article five-y, chapter sixteen of this code, modified by the  
26 Department of Health and Human Resources to meet the objections of the Legislative Rule-  
27 Making Review Committee and refiled in the State Register on January 25, 2017, relating to the  
28 Department of Health and Human Resources (medication-assisted treatment—opioid treatment  
29 programs, 69 CSR 11), is authorized with the following amendments:

30 On page sixteen, section 8.4.e., after the word “shall” by striking out the words “practice  
31 90 percent of the hours in which the opioid treatment program is dispensing or administering  
32 medications each week in order to”;

33 And,

34 On page seventeen, section 8.5.d., after the word “operation” by inserting the words “when  
35 medication is dispensed or administered”.

36 (e) The legislative rule filed in the State Register on August 26, 2016, authorized under  
37 the authority of section one, article five-y, chapter sixteen of this code, modified by the Department  
38 of Health and Human Resources to meet the objections of the Legislative Rule-Making Review  
39 Committee and refiled in the State Register on January 25, 2017, relating to the Department of  
40 Health and Human Resources (medication-assisted treatment—office-based medication assisted  
41 treatment, 69 CSR 12), is authorized with the following amendments:

42 On page two, after section 2.8. by inserting a new section 2.9. to read as follows:

43 2.9. Coordination of Care Agreement – An agreement signed by the physician, counsel  
44 and patient allowing open communication and the exchange of health information between the  
45 indicated providers to ensure the patient is provided comprehensive and holistic treatment for  
46 substance use disorder, when medical treatment and counselling services are not being treated  
47 within the same program.;

48 And by renumbering the remaining sections;

49 On page four, after section 2.24. by inserting a new section 2.25. to read as follows:

50 2.25. Maintenance Treatment – treatment following induction and stabilization phases of  
51 treatment, and means the prescribing of a partial agonist treatment medication at stable dosage  
52 levels for a period in excess of twenty-one days in the treatment of an individual for opioid use  
53 disorder.;

54 And by renumbering the remaining sections;

55 On page fourteen, section 7.5.b., after the words “primary counselor” by inserting the  
56 words “or counseling service”;

57 On page twenty-one, section 13.3.b.3., after the word “patient” by inserting the words  
58 “related to the treatment being provided”;

59           On page twenty-five, section 19.5., after the words “program staff” by inserting a period  
60 and striking out the remainder of the sentence;

61           On page forty-seven, section 29.6., after the period by inserting the words “Refer to section  
62 32.5 of this rule for administrative withdrawal for female patients with a positive pregnancy screen.”;

63           On page forty-eight, section 30.6., after the period by inserting the words “Refer to section  
64 32.5 of this rule for administrative withdrawal for female patients with a positive pregnancy screen.”;

65           And,

66           On page fifty-two, section 32.5.f., by striking out the section and inserting in lieu thereof a  
67 new section to read as follows:

68           32.5.f. If a pregnant patient is discharged, the OBMAT program shall identify the physician  
69 to whom the patient is being discharged. If a provider is not available, a referral shall be made to  
70 a Comprehensive Behavioral Health Center. This information shall be retained in the clinical  
71 record.





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 ....., 2017.

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*Governor*