

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 175

SENATOR MAYNARD, *original sponsor*

[Passed March 6, 2019; 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 authorizing certain agencies of the Department of Health
3 and Human Resources to promulgate legislative rules; authorizing the rules as filed, as
4 modified by the Legislative Rule-Making Review Committee and as amended by the
5 Legislature; authorizing the Department of Health and Human Resources to promulgate a
6 legislative rule relating to collection and exchange of data related to overdoses;
7 authorizing the Department of Health and Human Resources to promulgate a legislative
8 rule relating to behavioral health centers licensure; authorizing the Department of Health
9 and Human Resources to promulgate a legislative rule relating to assisted living
10 residences; authorizing the Department of Health and Human Resources to promulgate a
11 legislative rule relating to food establishments; authorizing the Department of Health and
12 Human Resources to promulgate a legislative rule relating to food manufacturing facilities;
13 authorizing the Department of Health and Human Resources to promulgate a legislative
14 rule relating to newborn screening system; authorizing the Department of Health and
15 Human Resources to promulgate a legislative rule relating to medication-assisted
16 treatment—office-based, medication-assisted treatment; authorizing the Department of
17 Health and Human Resources to promulgate a legislative rule relating to chronic pain
18 management clinic licensure; and authorizing the Health Care Authority to promulgate a
19 legislative rule relating to cooperative agreement approval and compliance.

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 legislative rule filed in the State Register on July 27, 2018, authorized under the
2 authority of §16-5T-5 of this code, relating to the Department of Health and Human Resources

3 (collection and exchange of data related to overdoses, 69 CSR 14), is authorized with the
4 following amendment:

5 On page 4, by striking out all of subsection 2.16 and inserting a new subsection to read
6 as follows:

7 “2.16. “Overdose” means an acute condition, including, but not limited to, extreme physical
8 illness, decreased level of consciousness, respiratory depression, coma, or death believed to be
9 caused by abuse and misuse of prescription or illicit drugs or by substances that a layperson
10 would reasonably believe to be a drug”.

11 (b) The legislative rule filed in the State Register on July 27, 2018, authorized under the
12 authority of §27-9-1 of this code, modified by the Department of Health and Human Resources to
13 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
14 Register on December 6, 2018, relating to the Department of Health and Human Resources
15 (behavioral health centers licensure, 64 CSR 11), is authorized with the following amendment:

16 On page 22, by adding a new subsection 4.11 to read as follows:

17 ‘4.11 For the purposes of substance use disorder services, if a provider is enrolled to
18 accept West Virginia Medicaid and is authorized to provide behavioral health services in its state,
19 the Office of Health Facility Licensure and Certification may through reciprocity authorize it as a
20 West Virginia Behavioral Health Center under this rule.’

21 On page 48, subdivision 9.1.2., by deleting the words “assessment and”.

22 (c) The legislative rule filed in the State Register on July 27, 2018, authorized under the
23 authority of §16-5D-5 of this code, modified by the Department of Health and Human Resources
24 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
25 Register on November 15, 2018, relating to the Department of Health and Human Resources
26 (assisted living residences, 64 CSR 14), is authorized with the following amendment:

27 On page 42, subdivision 11.8.1., by striking out the words “federal or state law or this rule”
28 and inserting in lieu thereof the words “subdivision 11.8.2., of this rule”.

29 (d) The legislative rule filed in the State Register on July 26, 2018, authorized under the
30 authority of §16-1-4 of this code, modified by the Department of Health and Human Resources to
31 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
32 Register on November 30, 2018, relating to the Department of Health and Human Resources
33 (food establishments, 64 CSR 17), is authorized.

34 (e) The legislative rule filed in the State Register on July 26, 2018, authorized under the
35 authority of §16-1-4 of this code, modified by the Department of Health and Human Resources to
36 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
37 Register on November 30, 2018, relating to the Department of Health and Human Resources
38 (food manufacturing facilities, 64 CSR 43), is authorized.

39 (f) The legislative rule filed in the State Register on July 26, 2018, authorized under the
40 authority of §16-1-4 of this code, relating to the Department of Health and Human Resources
41 (newborn screening system, 64 CSR 91), is authorized with the following amendment:

42 On page 5, after subsection 5.29 by adding the following:

43 5.30. Lysosomal Storage Disorders;

44 5.31. X-Linked Adrenoleukodystrophy, X-ALD; and

45 5.32. Spinal Muscular Atrophy, SMA.

46 (g) The legislative rule filed in the State Register on July 27, 2018, authorized under the
47 authority of §16-5Y-1 of this code, modified by the Department of Health and Human Resources
48 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
49 Register on November 15, 2018, relating to the Department of Health and Human Resources
50 (medication-assisted treatment—office-based medication-assisted treatment, 69 CSR 12), is
51 authorized with the following amendments:

52 On page 39, by inserting a subsection, 22.9 to read as follows, “Each OBMAT program
53 shall provide or make referrals for each patient to obtain contraceptive drugs, devices or
54 procedures.

55 (h) The legislative rule filed in the State Register on July 27, 2018, authorized under the
56 authority of §16-5H-9 of this code, relating to the Department of Health and Human Resources
57 (chronic pain management clinic licensure, 69 CSR 8), is authorized.

58 **§64-5-2. Health Care Authority.**

1 The legislative rule filed in the State Register on July 26, 2018, authorized under the
2 authority of §16-29B-28 of this code, relating to the Health Care Authority (cooperative agreement
3 approval and compliance, 65 CSR 6), is authorized.

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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Day of, 2019.

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Governor