

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 2648

BY Delegate Foster

[Originating in the Committee on Health and Human
Resources; Reported on February 15, 2023]

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

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

1 (a) The legislative rule filed in the State Register on March 8, 2022, authorized under
2 the authority of §27-6A-2 of this code, modified by the Bureau of Public Health to meet the

3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 October 4, 2022, relating to the Bureau of Public Health (procedures pertaining to the
5 Dangerousness Assessment Advisory Board, 64 CSR 26), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2022, authorized under
7 the authority of §16-1-6 of this code, modified by the Bureau of Public Health to meet the
8 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
9 October 14, 2022, relating to the Bureau of Public Health (standards for local boards of health, 64
10 CSR 73), is authorized.

11 (c) The legislative rule filed in the State Register on July 25, 2022, authorized under
12 the authority of §16-12-3 of this code, modified by the Bureau of Public Health to meet the
13 objectives of the Legislative Rule-Making Review Committee and refiled in the State Register on
14 October 14, 2022, relating to the Bureau of Public Health (medical examiner requirements for
15 postmortem inquiries, 64 CSR 84), is authorized with the following amendments:

16 On page 14, by striking out all of section 13.5. and inserting in lieu thereof a new section to
17 read as follows: "13.5. This section applies only to remains of persons whose death have been
18 pronounced within the State of West Virginia or for remains of persons whose deaths have been
19 pronounced in another state and does not have a prior authorization for cremation issued by the
20 state in which the death occurred." and,

21 On page 21, subdivision 20.3 by inserting after the last sentence, "To facilitate the efficient
22 and economical recovery of anatomical gifts, the Chief Medical Examiner, shall authorize the
23 presence of persons approved or assigned by the procurement organization to perform duties at
24 the Office of the Chief Medical Examiner necessary to the timely recovery of anatomical gifts
25 including access to electronic medical records and other information necessary to identify a
26 potential donor, evaluate donor eligibility, and obtain authorization for recovery. This position shall
27 be grant funded and provided at no cost to the state."

28 (d) The legislative rule filed in the State Register on July 22, 2022, authorized under
29 the authority of §16A-3-1 of this code, relating to the Bureau of Public Health (Medical Cannabis
30 Program - grower and processors, 64 CSR 110), is authorized.

31 (e) The legislative rule filed in the State Register on July 22, 2022, authorized under
32 the authority of §16A-3-1 of this code, relating to the Bureau of Public Health (Medical Cannabis
33 Program - dispensaries, 64 CSR 112), is authorized.

§64-5-2. Health Care Authority.

1 (a) The legislative rule filed in the State Register on August 24, 2022, authorized
2 under the authority of §16-29B-8 of this code, relating to the Health Care Authority (financial
3 disclosure, 65 CSR 13), is authorized.

4 (b) The legislative rule filed in the State Register on July 29, 2022, authorized under
5 the authority of §16-29B-24 of this code, modified by the Health Care Authority to meet the
6 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
7 October 4, 2022, relating to the Health Care Authority (Uniform Bill Database, 65 CSR 34), is
8 authorized.

§64-5-3. Department of Health and Human Resources.

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

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

11 “On page 2, by striking 3.1.5.2, 3.1.h.3. and 3.1.h.9 and renumbering the remaining
12 subparagraphs accordingly; and, On page 2, subparagraph 3.1.h.5. after the word, “private club”
13 by inserting the word, “restaurant”.

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

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

24 (e) The legislative rule filed in the State Register on July 27, 2022, authorized under
25 the authority of §27-17-3 of this code, relating to the Department of Health and Human Resources
26 (minimum licensing requirements for residential child care and treatment facilities for children and
27 transitioning adults and vulnerable and transitioning youth group homes and programs in West
28 Virginia, 78 CSR 03), is authorized.

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

32 (g)The legislative rule filed in the State Register on July 27, 2022, authorized under
33 the authority of §49-2-121 of this code, modified by the Department of Health and Human
34 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in
35 the State Register on October 14, 2022, relating to the Department of Health and Human

36 Resources (family child care home registration requirements, 78 CSR 19), is authorized with the
37 amendments set forth below:

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

40 And,

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

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

49 (i) The legislative rule filed in the State Register on July 27, 2022, authorized under
50 the authority of §49-2-121 of this code, modified by the Department of Health and Human
51 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in
52 the State Register on October 14, 2022, relating to the Department of Health and Human
53 Resources (out-of-school-time child care center licensing requirements, 78 CSR 21), is
54 authorized.

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

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

§64-5-4. 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 and
3 the Insurance Commissioner (All-Payers Claims Database - Submission Manual, 114A CSR 03),
4 is disapproved.

ARTICLE 12. REPEAL OF UNAUTHORIZED AND OBSOLETE RULES.

64-12-2. 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 Health Care Authority (All-Payer Claims Database –
4 Data Submission Requirements, 114A CSR 01), is repealed.