WEST virginia legislature

2024 regular session

Enrolled

Committee Substitute

for

Senate Bill 17

By Senator Woodrum

[Passed March 9, 2024; in effect from passage]

AN ACT to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Health to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee; authorizing the Department of Health to promulgate a legislative rule relating to public water systems operators; authorizing the Department of Health to promulgate a legislative rule relating to wastewater systems and operators; authorizing the Department of Health to promulgate a legislative rule relating to behavioral health centers licensure; authorizing the Department of Health to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health to promulgate a legislative rule relating to assisted living residences; authorizing the Department of Health to promulgate a legislative rule relating to cross-connection control and backflow prevention; authorizing the Department of Health to promulgate a legislative rule relating to fees for permits; authorizing the Department of Health to promulgate a legislative rule relating to fees for services; authorizing the Department of Health to promulgate a legislative rule relating to medical examiner requirements for postmortem inquiries; authorizing the Department of Health to promulgate a legislative rule relating to newborn screening system; authorizing the Department of Health to promulgate a legislative rule relating to distribution of funds from Emergency Medical Services Salary Enhancement Fund; authorizing the Department of Health to promulgate a legislative rule relating to West Virginia Clearance for Access, registry and employment screening; authorizing the Department of Health to promulgate a legislative rule relating to cooperative agreement approval and compliance; authorizing the Department of Health to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health to promulgate a legislative rule relating to chronic pain management clinic licensure; and authorizing the Department of Health to promulgate a legislative rule relating to medication-assisted treatment and office-based, medication-assisted treatment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. Authorization for Department of health to promulgate legislative rules.

§64-5-1. Department of Health.

1. The legislative rule filed in the State Register on July 13, 2023, authorized under the authority of §16-1-4 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (public water systems operators, [64 CSR 04](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-04)), is authorized.

(b) The legislative rule filed in the State Register on July 13, 2023, authorized under the authority of §16-1-4 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (wastewater systems and operators, [64 CSR 05](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-05)), is authorized.

(c)The legislative rule filed in the State Register on July 13, 2023, authorized under the authority of §27-9-1 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (behavioral health centers licensure, [64 CSR 11](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-11)), is authorized.

(d) The legislative rule filed in the State Register on July 13, 2023, authorized under the authority of §16-5B-8 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (hospital licensure, [64 CSR 12](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-12)), is authorized.

(e)The legislative rule filed in the State Register on February 16, 2023, authorized under the authority of §16-5D-5 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 21, 2023, relating to the Department of Health (assisted living residences, [64 CSR 14](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-14)), is authorized.

(f) The legislative rule filed in the State Register on July 13, 2023, authorized under the authority of §16-1-9a of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (cross-connection control and backflow prevention, [64 CSR 15](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-15)), is authorized with the following amendment:

 “On page 3, by striking section 5 in its entirety and inserting in lieu thereof a new section 5 to read as follows:

§64-15-5. When Protection Is Required.

5.1. The commissioner or his or her designee may determine, upon conducting a risk assessment, that any water supply system must be equipped with a backflow prevention assembly to protect the health and sanitation of water, whether publicly or privately owned: *Provided,* That water supply systems shall not require a backflow prevention assembly unless any of the following are met:

5.1.1. it cross-connects with a sprinkler or fire suppression system;

5.1.2. it cross-connects with an active auxiliary water source or water well;

5.1.3. it cross-connects with any fluid storage tank, tub, pool or cistern 85 gallons or larger with a public water inlet that can be below the water level;

5.1.4. it cross-connects with a boiler system;

5.1.5. it cross-connects with any land irrigation system; or

5.1.6. The property serviced by the public water supply is a funeral home or mortuary, restaurant, dry cleaner, medical facility, beauty and nail salon, car wash, multi-tenant retail space, commercial building three stories or taller, or commercial space with a dedicated fire service line/sprinkler system, industrial facility, salvage and/or wastewater facility, food processing facility, recycling facility where cross-connected to the public water supply, correctional facility, or any other customer using chemicals harmful to human health that are cross-connected to the public water supply.”.

(g) The legislative rule filed in the State Register on July 21, 2023, authorized under the authority of §16-1-4 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (fees for permits, [64 CSR 30](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-30)), is authorized.

(h) The legislative rule filed in the State Register on July 21, 2023, authorized under the authority of §16-1-4 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (fees for services, [64 CSR 51](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-51)), is authorized.

(i) The legislative rule filed in the State Register on July 13, 2023, authorized under the authority of §61-12-16 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (medical examiner requirements for postmortem inquiries, [64 CSR 84](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-84)), is authorized.

(j) The legislative rule filed in the State Register on February 16, 2023, authorized under the authority of §16-22-3 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 22, 2023, relating to the Department of Health (newborn screening system, [64 CSR 91](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-91)), is authorized.

(k) The legislative rule filed in the State Register on July 18, 2023, authorized under the authority of §16-4C-25 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (distribution of funds from Emergency Medical Services Salary Enhancement Fund, [64 CSR 116](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-116)), is authorized.

(l) The legislative rule filed in the State Register on July 19, 2023, authorized under the authority of §16-49-9 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Department of Health (West Virginia Clearance for Access: registry and employment screening, [64 CSR 123](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-123)), is authorized.

(m) The legislative rule filed in the State Register on October 5, 2022, authorized under the authority of §16-29B-28 of this code, relating to the Department of Health (cooperative agreement approval and compliance, [65 CSR 06](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=65-06)), is authorized.

(n) The legislative rule filed in the State Register on July 21, 2023, authorized under the authority of §16-2D-4 of this code, relating to the Department of Health (certificate of need, [65 CSR 32](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=65-32)), is authorized.

(o) The legislative rule filed in the State Register on February 16, 2023, authorized under the authority of §16-5H-9 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 21, 2023, relating to the Department of Health (chronic pain management clinic licensure, [69 CSR 08](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-08)), is authorized.

(p) The legislative rule filed in the State Register on February 16, 2023, authorized under the authority of §16-5Y-13 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 21, 2023, relating to the Department of Health (medication-assisted treatment and office based, medication-assisted treatment, [69 CSR 12](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-12)), is authorized.