

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 125**

BY SENATOR MAYNARD

[Originating in the Committee on the Judiciary;

reported on February 23, 2017]

1 A BILL to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as  
2 amended, all relating to authorizing the Health Care Authority to promulgate a legislative  
3 rule relating to the Hospital Assistance Grant Program; authorizing the Health Care  
4 Authority to promulgate a legislative rule relating to certificate of need; authorizing the  
5 Health Care Authority to promulgate a legislative rule relating to exemption from certificate  
6 of need; authorizing the Health Care Authority to promulgate a legislative rule relating to  
7 Rural Health Systems Grant Program; authorizing the Department of Health and Human  
8 Resources to promulgate a legislative rule relating to expedited partner therapy;  
9 authorizing the Department of Health and Human Resources to promulgate a legislative  
10 rule relating to clinical laboratory technician and technologist licensure and certification;  
11 authorizing the Department of Health and Human Resources to promulgate a legislative  
12 rule relating to clandestine drug laboratory remediation; authorizing the Department of  
13 Health and Human Resources to promulgate a legislative rule relating to medication-  
14 assisted treatment—opioid treatment programs; and authorizing the Department of Health  
15 and Human Resources to promulgate a legislative rule relating to medication-assisted  
16 treatment—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.

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

24 On page sixteen, section 8.4.e., after the word “shall” by striking out the words “practice  
25 90 percent of the hours in which the opioid treatment program is dispensing or administering  
26 medications each week in order to”;

27 And,

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

30 (e) The legislative rule filed in the State Register on August 26, 2016, authorized under  
31 the authority of section one, article five-y, chapter sixteen of this code, modified by the Department  
32 of Health and Human Resources to meet the objections of the Legislative Rule-Making Review  
33 Committee and refiled in the State Register on January 25, 2017, relating to the Department of

34 Health and Human Resources (medication-assisted treatment—office-based medication assisted  
35 treatment, 69 CSR 12), is authorized with the following amendments:

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

37 2.9. Coordination of Care Agreement – An agreement signed by the physician, counsel  
38 and patient allowing open communication and the exchange of health information between the  
39 indicated providers to ensure the patient is provided comprehensive and holistic treatment for  
40 substance use disorder, when medical treatment and counselling services are not being treated  
41 within the same program.;

42 And by renumbering the remaining sections;

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

44 2.25. Maintenance Treatment – treatment following induction and stabilization phases of  
45 treatment, and means the dispensing of an opioid agonist or partial agonist treatment medication  
46 at stable dosage levels for a period not in excess of twenty-one days in the treatment of an  
47 individual for opioid use disorder.;

48 And by renumbering the remaining sections;

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

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

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

55 On page forty-seven, section 29.6., after the period by inserting the words “Refer to section  
56 3.2 of this rule for administrative withdrawal for female patients with a positive pregnancy screen.”;

57 On page forty-eight, section 30.6., after the period by inserting the words “Refer to section  
58 3.2 of this rule for administrative withdrawal for female patients with a positive pregnancy screen.”;

59 And

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

62           32.5.f. If a pregnant patient is discharged, the OBMAT program shall identify the physician  
63 to whom the patient is being discharged. If a provider is not available, a referral shall be made to  
64 a Comprehensive Behavioral Health Center. This information shall be retained in the clinical  
65 record.