

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 339**

SENATOR MAYNARD, *original sponsor*

[Passed March 5, 2020; in effect from passage]



1 AN ACT to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended,  
2 relating generally to authorizing certain agencies of the Department of Health and Human  
3 Resources to promulgate legislative rules; authorizing the rules as filed, as modified by  
4 the Legislative Rule-Making Review Committee, and as amended by the Legislature;  
5 authorizing the Department of Health and Human Resources to promulgate a legislative  
6 rule relating to public water systems; authorizing the Department of Health and Human  
7 Resources to promulgate a legislative rule relating to fees for permits; authorizing the  
8 Department of Health and Human Resources to promulgate a legislative rule relating to  
9 vital statistics; authorizing the Department of Health and Human Resources to promulgate  
10 a legislative rule relating to emergency medical services; authorizing the Department of  
11 Health and Human Resources to promulgate a legislative rule relating to primary care  
12 support program; authorizing the Department of Health and Human Resources to  
13 promulgate a legislative rule relating to primary care seed money grants; authorizing the  
14 Department of Health and Human Resources to promulgate a legislative rule relating to  
15 medical cannabis program—general provisions; authorizing the Department of Health and  
16 Human Resources to promulgate a legislative rule relating to medical cannabis program—  
17 grower/processors; authorizing the Department of Health and Human Resources to  
18 promulgate a legislative rule relating to medical cannabis program—laboratories;  
19 authorizing the Department of Health and Human Resources to promulgate a legislative  
20 rule relating to medical cannabis program—dispensaries; authorizing the Department of  
21 Health and Human Resources to promulgate a legislative rule relating to medical cannabis  
22 program—safe harbor letter; authorizing the Department of Health and Human Resources  
23 to promulgate a legislative rule relating to the collection and exchange of data related to  
24 overdoses; authorizing the Department of Health and Human Resources to promulgate a  
25 legislative rule relating to minimum licensing requirements for residential child care and  
26 treatment facilities for children and transitioning adults in West Virginia; authorizing the

27 Department of Health and Human Resources to promulgate a legislative rule relating to  
28 qualifications for a provisional license to practice as a social worker within the Department  
29 of Health and Human Resources; authorizing the Department of Health and Human  
30 Resources to promulgate a legislative rule relating to pilot program for drug screening of  
31 applicants for cash assistance; and authorizing the Health Care Authority to promulgate a  
32 legislative rule relating to critical access hospitals.

*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 16, 2019, authorized under the  
2 authority of §16-1-4 of this code, modified by the Department of Health and Human Resources to  
3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
4 Register on November 4, 2019, relating to the Department of Health and Human Resources  
5 (public water systems, 64 CSR 03), is authorized.

6 (b) The legislative rule filed in the State Register on July 16, 2019, authorized under the  
7 authority of §16-1-11(d) of this code, modified by the Department of Health and Human Resources  
8 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
9 Register on December 19, 2019, relating to the Department of Health and Human Resources  
10 (fees for permits, 64 CSR 30), is authorized.

11 (c) The legislative rule filed in the State Register on July 16, 2019, authorized under the  
12 authority of §16-5-3 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 November 4, 2019, relating to the Department of Health and Human Resources (vital  
15 statistics, 64 CSR 32), is authorized.

16 (d) The legislative rule filed in the State Register on July 16, 2019, authorized under the  
17 authority of §16-4C-23 of this code, modified by the Department of Health and Human Resources  
18 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
19 Register on November 4, 2019, relating to the Department of Health and Human Resources  
20 (emergency medical services, 64 CSR 48), is authorized.

21 (e) The legislative rule filed in the State Register on July 25, 2019, authorized under the  
22 authority of §16-2H-2(d) of this code, modified by the Department of Health and Human  
23 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
24 in the State Register on December 19, 2019, relating to the Department of Health and Human  
25 Resources (primary care support program, 64 CSR 70), is authorized, with the following  
26 amendment:

27 On page 4, by striking subsection 4.2.

28 (f) The legislative rule filed in the State Register on July 26, 2019, authorized under the  
29 authority of §16-2H-2(d) of this code, relating to the Department of Health and Human Resources  
30 (primary care seed money grants, 64 CSR 71), is authorized.

31 (g) The legislative rule filed in the State Register on July 25, 2019, authorized under the  
32 authority of §16A-3-1(b) of this code, modified by the Department of Health and Human  
33 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
34 in the State Register on October 4, 2019, relating to the Department of Health and Human  
35 Resources (medical cannabis program—general provisions, 64 CSR 109), is authorized, with the  
36 following amendment:

37 On page 5, by striking subsection 2.36 and inserting a new subsection 2.36 to read as  
38 follows: 2.36 “Medical cannabis” means cannabis that is grown and sold pursuant to the  
39 provisions for certified medical use as set forth in the Act and in a form set forth in the provisions  
40 of §64-110-10.

41 (h) The legislative rule filed in the State Register on July 25, 2019, authorized under the  
42 authority of §16A-3-1(b) of this code, modified by the Department of Health and Human  
43 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
44 in the State Register on October 4, 2019, relating to the Department of Health and Human  
45 Resources (medical cannabis program—grower/processors, 64 CSR 110), is authorized, with the  
46 following amendments:

47 On page 4, by striking subsection 2.29 and inserting a new subsection 2.29 to read as  
48 follows: 2.29 “Medical cannabis” means cannabis that is grown and sold pursuant to the  
49 provisions for certified medical use as set forth in the Act and in a form set forth in the provisions  
50 of §64-110-10.;

51 On page 12, subdivision 8.1.d., after the words “minimum of”, by deleting the words “four  
52 years” and inserting in lieu thereof the words “two years”; and

53 On page 13, subparagraph 8.2.f.2., after the words “recording for”, by deleting the words  
54 “four years” and inserting in lieu thereof the words “two years”.

55 And,

56 On page 15, by striking section §64-110-10 and inserting in lieu thereof a new §64-110-  
57 10 to read as follows:

58 **“§64-110-10. Forms of medical cannabis.**

59 10.1. A grower/processor may only process medical cannabis for dispensing to a patient  
60 or caregiver in the following forms:

61 10.1.a. Pill;

62 10.1.b. Oil;

63 10.1.c. Topical forms, including gel, creams, and ointments;

64 10.1.d. A form medically appropriate for administration by vaporization or nebulization;

65 10.1.e. Liquid;

66 10.1.f. Dermal patch; or

67 10.1.g. Dry leaf or plant form.

68 10.2. A grower/processor may not manufacture, produce, or assemble any medical  
69 cannabis product, instrument, or device without prior written approval of the bureau.

70 (i) The legislative rule filed in the State Register on July 25, 2019, authorized under the  
71 authority of §16A-3-1(b) of this code, modified by the Department of Health and Human  
72 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
73 in the State Register on October 4, 2019, relating to the Department of Health and Human  
74 Resources (medical cannabis program—laboratories, 64 CSR 111), is authorized, with the  
75 following amendment:

76 On page 3, by striking subsection 2.15 and inserting a new subsection 2.15 to read as  
77 follows: 2.15 “Medical cannabis” means cannabis that is grown and sold pursuant to the  
78 provisions for certified medical use as set forth in the Act and in a form set forth in the provisions  
79 of §64-110-10.

80 (j) The legislative rule filed in the State Register on July 25, 2019, authorized under the  
81 authority of §16A-3-1(b) of this code, modified by the Department of Health and Human  
82 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
83 in the State Register on October 4, 2019, relating to the Department of Health and Human  
84 Resources (medical cannabis program—dispensaries, 64 CSR 112), is authorized, with the  
85 following amendments:

86 On page 3, by striking subsection 2.19 and inserting a new subsection 2.19 to read as  
87 follows: 2.19 “Medical cannabis” means cannabis that is grown and sold pursuant to the  
88 provisions for certified medical use as set forth in the Act and in a form set forth in the provisions  
89 of §64-110-10.; and

90 On page 12, subdivision 11.1.d., after the words “minimum of”, by deleting the words “four  
91 years” and inserting in lieu thereof the words “two years”.

92 (k) The legislative rule filed in the State Register on July 24, 2019, authorized under the  
93 authority of §16A-3-1(b) of this code, modified by the Department of Health and Human  
94 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
95 in the State Register on December 19, 2019, relating to the Department of Health and Human  
96 Resources (medical cannabis program—safe harbor letter, 64 CSR 113), is authorized, with the  
97 following amendment:

98 On page 1, by striking subsection 2.7 and inserting a new subsection 2.7 to read as  
99 follows: 2.7 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions  
100 for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-  
101 10.

102 (l) The legislative rule filed in the State Register on July 22, 2019, authorized under the  
103 authority of §16-5T-5 of this code, modified by the Department of Health and Human Resources  
104 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
105 Register on November 21, 2019, relating to the Department of Health and Human Resources  
106 (collection and exchange of data related to overdoses, 69 CSR 14), is authorized.

107 (m) The legislative rule filed in the State Register on July 26, 2019, authorized under the  
108 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources  
109 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
110 Register on January 7, 2020, relating to the Department of Health and Human Resources  
111 (minimum licensing requirements for residential child care and treatment facilities for children and  
112 transitioning adults in West Virginia, 78 CSR 03), is authorized.

113 (n) The legislative rule filed in the State Register on July 24, 2019, authorized under the  
114 authority of §30-30-16(c)(2) of this code, modified by the Department of Health and Human  
115 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
116 in the State Register on November 25, 2019, relating to the Department of Health and Human



117 Resources (qualifications for a provisional license to practice as a social worker within the  
118 Department of Health and Human Resources, 78 CSR 24), is authorized.

119 (o) The legislative rule filed in the State Register on September 4, 2019, authorized under  
120 the authority of §9-3-6 of this code, relating to the Department of Health and Human Resources  
121 (pilot program for drug screening of applicants for cash assistance, 78 CSR 26), is authorized.

**§64-5-2. Health Care Authority.**

1 The legislative rule filed in the State Register on July 16, 2019, authorized under the  
2 authority of §16-5B-14(d) of this code, modified by the Health Care Authority to meet the  
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on  
4 November 22, 2019, relating to the Health Care Authority (critical access hospitals, 65 CSR 09),  
5 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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The within ..... this the.....  
Day of ....., 2020.

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*Governor*