WEST virginia legislature

2023 regular session

ENROLLED

Committee Substitute

for

House Bill 2648

By Delegate Foster

[Passed March 6, 2023; in effect from passage.]

AN ACT to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, and to amend and reenact §64-12-2 of said code; all relating to generally authorizing the Department of Health and Human Resources to promulgate legislative rules; authorizing or rejecting the rules as filed and as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature, and directing the Department of Health and Human Resources to amend a current legislative rule; relating to directing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to procedures pertaining to the Dangerousness Assessment Advisory Board; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to standards for local boards of health; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medical examiner requirements for postmortem inquiries; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to Medical Cannabis Program - grower and processors; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to Medical Cannabis Program – dispensaries; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to financial disclosures; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Uniform Bill Database; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to development of methodologies to examine needs for substance use disorder treatment facilities within the state; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Core Behavioral Health Crisis Services System; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care centers licensing; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care facility licensing requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to out-of-school-time child care center licensing requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to deemed head start child care center licenses; relating to rejecting the rule proposed by the Department of Health and Human Resources and the Insurance Commissioner relating to All-Payers Claims Database - Submission Manual; and relating to repealing the Department of Health and Human Resources and the Insurance Commissioner a legislative rule relating to All-Payer Claims 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. Department of Health and Human Resources.

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

On page 2, by striking out all of subdivision 3.1.h. and inserting in lieu thereof a new subdivision 3.1.h. to read as follows:

3.1.h. Chapter 6, section 6-501.115 is not applicable if the following conditions are met:

3.1.h.1. The dog is prohibited from entering any areas where food is being prepared

3.1.h.2. The dog owner will be asked to leave, if a dog creates a nuisance;

3.1.h.3. The establishment is licensed as a private club, restaurant, coffee shop, brew pub, or micro distillery;

3.1.h.4. The establishment has liability insurance for dog-related incidents;

3.1.h.5. Dog accidents are cleaned and sanitized. Dog waste stations are available. A written procedure shall be established and posted concerning dog accident cleanup; and

3.1.h.6. Signage is present indicating that the establishment is dog friendly.

1. The legislative rule filed in the State Register on March 8, 2022, authorized under the authority of §27-6A-2 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Department of Health and Human Resources (procedures pertaining to the Dangerousness Assessment Advisory Board, [64 CSR 26](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-26)), is authorized.
2. The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §16-1-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (standards for local boards of health, [64 CSR 73](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-73)), is authorized.
3. The legislative rule filed in the State Register on July 25, 2022, authorized under the authority of §16-12-3 of this code, modified by the Department of Health and Human Resources to meet the objectives of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (medical examiner requirements for postmortem inquiries, [64 CSR 84](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-84)), is authorized with the following amendment:

On page 14, by striking out all of section 13.5. and inserting in lieu thereof a new section 13.5 to read as follows:

“13.5. This section applies only to remains of persons whose death have been pronounced within the State of West Virginia or for remains of persons whose deaths have been pronounced in another state and does not have a prior authorization for cremation issued by the state in which the death occurred.”

1. The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources (Medical Cannabis Program - grower and processors, [64 CSR 110](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-10)), is authorized with the amendment set forth below:

On page 12, subdivision 8.1.d., by striking out the words “not to exceed 180 days” and inserting in lieu thereof the words “not less than 180 days”.

1. The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources (Medical Cannabis Program - dispensaries, ([64 CSR 112](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-112)), is authorized with the amendment set forth below:

On page 12, subdivision 11.1.d., by striking out the words “not to exceed 180 days” and inserting in lieu thereof the words “not less than 180 days”.

1. The legislative rule filed in the State Register on August 24, 2022, authorized under the authority of §16-29B-8 of this code, relating to the Department of Health and Human Resources (financial disclosure, [65 CSR 13](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=65-13)), is authorized.
2. The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §16-29B-24 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Department of Health and Human Resources (Uniform Bill Database, [65 CSR 34](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=65-34)), is authorized.

(i) The legislative rule filed in the State Register on June 22, 2022, authorized under the authority of §16-53-3 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 26, 2022, relating to the Department of Health and Human Resources (development of methodologies to examine needs for substance use disorder treatment facilities within the state, [69 CSR 13](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-13)), is authorized.

1. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §16-42-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Department of Health and Human Resources (Core Behavioral Health Crisis Services System, [69 CSR 19](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-19)), is authorized.
2. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (child care centers licensing, [78 CSR 01](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-01)), is authorized.
3. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §27-17-3 of this code, relating to the Department of Health and Human Resources (minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia, [78 CSR 03](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-03)), is authorized.
4. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, relating to the Department of Health and Human Resources (family child care facility licensing requirements, [78 CSR 18](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-18)), is authorized.
5. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (family child care home registration requirements, [78 CSR 19](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-19)), is authorized with the amendments set forth below:

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

And,

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

1. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (informal and relative family child care home registration requirements, [78 CSR 20](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-20)), is authorized.
2. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (out-of-school-time child care center licensing requirements, [78 CSR 21](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-21)), is authorized.
3. The legislative rule filed in the State Register on September 20, 2022, authorized under the authority of §49-2-126 of this code, relating to the Department of Health and Human Resources (goals for foster children, [78 CSR 25](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-25)), is authorized.
4. The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-115A of this code, relating to the Department of Health and Human Resources (deemed head start child care center licenses, [78 CSR 28](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-28)), is authorized.

§64-5-2. Department of Health and Human Resources and the Insurance Commissioner.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §33-4A-8 of this code, relating to the Department of Health and Human Resources and the Insurance Commissioner (All-Payers Claims Database - Submission Manual, [114A CSR 03](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114-03)), is disapproved.

Article 12. repeal of unauthorized and obsolete rules.

§64-12-2. Department of Health and Human Resources, the Insurance Commissioner, and the Chair of the Department of Health and Human Resources.

The legislative rule effective April 1, 2022, authorized under the authority of §33-4A-8 of this code, relating to the Secretary of the Department of Health and Human Resources, the Insurance Commissioner, and Chair of the Department of Health and Human Resources (All-Payer Claims Database – Data Submission Requirements, 114A CSR 01), is repealed.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

Originated in the House of Delegates.

In effect from passage.

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within is ................................................ this the...........................................

Day of ..........................................................................................................., 2023.

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*Governor*