

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 245

(By Senator Minard)

[Originating in the Committee on the Judiciary;
reported February 10, 2012.]

A BILL to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register and as amended by the Legislature;

authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to credentialing verification organizations; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to a safety and treatment program; authorizing the Secretary of the Department of Health and Human Resources, the Insurance Commissioner and the Chair of the West Virginia Health Care Authority to promulgate a legislative rule relating to an all-payer claims database —data submission requirements; authorizing the Secretary of the Department of Health and Human Resources, the Insurance Commissioner and the Chair of the West Virginia Health Care Authority to promulgate a legislative rule relating to the all-payer claims database program’s privacy and security; authorizing the Department of Health and Human Resources to promulgate a legislative rule

relating to public water systems; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems operators; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to wastewater systems and operations; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to vital statistics; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to manufactured home communities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems design standards; authorizing the Division of Human Services to promulgate a legislative rule relating to family child care facility licensing requirements; authorizing the Division of Human Services to promulgate a legislative rule relating to family child care home registration requirements; authorizing the Division of Human Services to promulgate a legislative rule relating to a child care quality rating and improvement system; authorizing the Commission for the Deaf and Hard of

Hearing to promulgate a legislative rule relating to fees for qualified interpreters; authorizing the Commission for the Deaf and Hard of Hearing to promulgate a legislative rule relating to the establishment of required qualifications and ethical standards for interpreters and transliterators; and authorizing the Board of Directors of the West Virginia Health Insurance Plan to promulgate a legislative rule relating to a premium subsidy.

Be it enacted by the Legislature of West Virginia:

That article 5, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND
HUMAN RESOURCES TO PROMULGATE LEGISLA-
TIVE RULES.**

§64-5-1. Department of Health and Human Resources.

1 (a) The legislative rule filed in the State Register on July
2 28, 2011, authorized under the authority of section three,
3 article two, chapter thirty-three of this code, modified by the
4 Department of Health and Human Resources to meet the
5 objections of the Legislative Rule-Making Review Committee
6 and refiled in the State Register on December 9, 2011,
7 relating to the Department of Health and Human Resources

8 (credentialing verification organizations, 64 CSR 89B), is
9 authorized.

10 (b) The legislative rule filed in the State Register on July
11 29, 2011, authorized under the authority of section three,
12 article five-a, chapter seventeen-c of this code, modified by
13 the Department of Health and Human Resources to meet the
14 objections of the Legislative Rule-Making Review Committee
15 and refiled in the State Register on December 14, 2011,
16 relating to the Department of Health and Human Resources
17 (safety and treatment program, 64 CSR 98), is authorized.

18 (c) The legislative rule filed in the State Register on July
19 28, 2011, authorized under the authority of section three,
20 article two, chapter thirty-three of this code, modified by the
21 Secretary of the Department of Health and Human Re-
22 sources, the Insurance Commissioner and the Chair of the
23 West Virginia Health Care Authority to meet the objections
24 of the Legislative Rule-Making Review Committee and
25 refiled in the State Register on October 21, 2011, relating to
26 the Secretary of the Department of Health and Human
27 Resources, the Insurance Commissioner and the Chair of the
28 West Virginia Health Care Authority (all-payer claims

29 database — data submission requirements, 114A CSR 1), is
30 authorized with the following amendments:

31 On page four, subsection 3.2., by striking out “OIC” and
32 inserting in lieu thereof the words “Offices of the Insurance
33 Commissioner”;

34 On page four, subdivision 3.2.a., by striking out “OIC”
35 and inserting in lieu thereof the words “Offices of the
36 Insurance Commissioner”;

37 And,

38 On page seven, by striking out all of subdivision 7.1.e.
39 and inserting in lieu thereof a new subdivision 7.1.e., to read
40 as follows:

41 7.1.e. The Director of the Public Employees Insurance
42 Agency or his or her designee, the Commissioner of the
43 Bureau for Medical Services or his or her designee and the
44 Director of the Children’s Health Insurance Program or his
45 or her designee.

46 (d) The legislative rule filed in the State Register on July
47 28, 2011, authorized under the authority of section three,
48 article two, chapter thirty-three of this code, relating to the
49 Secretary of the Department of Health and Human Re-
50 sources, the Insurance Commissioner and the Chair of the

51 West Virginia Health Care Authority (all-payer claims
52 database program's privacy and security, 114A CSR 2), is
53 authorized.

§64-5-2. Bureau for Public Health.

1 (a) The legislative rule filed in the State Register on July
2 29, 2011, authorized under the authority of section four,
3 article one, chapter sixteen of this code, modified by the
4 Department of Health and Human Resources to meet the
5 objections of the Legislative Rule-Making Review Committee
6 and refiled in the State Register on December 1, 2011,
7 relating to the Department of Health and Human Resources
8 (public water systems, 64 CSR 3), is authorized.

9 (b) The legislative rule filed in the State Register on July
10 29, 2011, authorized under the authority of section four,
11 article one, chapter sixteen of this code, modified by the
12 Department of Health and Human Resources to meet the
13 objections of the Legislative Rule-Making Review Committee
14 and refiled in the State Register on December 30, 2011,
15 relating to the Department of Health and Human Resources
16 (public water systems operators, 64 CSR 4), is authorized
17 with the following amendments:

18 On page three, subsection 3.23., after the words “Water
19 Distribution” by inserting the word “System”;

20 And,

21 On page six, subdivision 5.5.c., by striking out the word
22 “subsection” and inserting in lieu thereof the word “subdi-
23 vision”.

24 (c) The legislative rule filed in the State Register on July
25 29, 2011, authorized under the authority of section four,
26 article one, chapter sixteen of this code, modified by the
27 Department of Health and Human Resources to meet the
28 objections of the Legislative Rule-Making Review Committee
29 and refiled in the State Register on December 30, 2011,
30 relating to the Department of Health and Human Resources
31 (wastewater systems and operations, 64 CSR 5), is authorized
32 with the following amendments:

33 On page three, subsection 3.26., by striking out the words
34 “West Virginia Department of Environmental Protection
35 (WVDEP)” and inserting in lieu thereof “WV DEP”;

36 On page four, subdivision 4.1.e., by striking out the word
37 “Extended” and inserting in lieu thereof the words “This
38 class includes extended”;

39 On page five, by striking out “5.4.a.2.” and inserting in
40 lieu thereof “5.4.a.1.A.”;

41 On page five, by striking out “5.4.a.3.” and inserting in
42 lieu thereof “5.4.a.1.B.”;

43 On page seven, subsection 6.2., after the words “based
44 on” by inserting the words “his or her”;

45 On page nine, subdivision 7.7.a., by striking out the word
46 “requirement” and inserting in lieu thereof the word
47 “requirements”;

48 On page ten, subsection 10.1., by striking out the word
49 “applications” and inserting in lieu thereof the word
50 “application”;

51 On page ten, subsection 10.4., by striking out the word
52 “Applicant” and inserting in lieu thereof the words “An
53 applicant”;

54 On page eleven, subdivision 12.1.d., after the word “one”
55 by inserting “(1)”;

56 On page twelve, subdivision 12.1.g., after the word
57 “three” by inserting “(3)”;

58 And,

59 On page twelve, subdivision 12.1.h., after the words
60 “with this rule,” by inserting the word “an”.

61 (d) The legislative rule filed in the State Register on July
62 29, 2011, authorized under the authority of section three,
63 article five, chapter sixteen of this code, modified by the
64 Department of Health and Human Resources to meet the
65 objections of the Legislative Rule-Making Review Committee
66 and refiled in the State Register on December 1, 2011,
67 relating to the Department of Health and Human Resources
68 (vital statistics, 64 CSR 32), is authorized.

69 (e) The legislative rule filed in the State Register on July
70 29, 2011, authorized under the authority of section four,
71 article one, chapter sixteen of this code, modified by the
72 Department of Health and Human Resources to meet the
73 objections of the Legislative Rule-Making Review Committee
74 and refiled in the State Register on December 1, 2011,
75 relating to the Department of Health and Human Resources
76 (manufactured home communities, 64 CSR 40), is authorized
77 with the following amendments:

78 On page four, by striking out all of subdivision 5.1.5. and
79 inserting in lieu thereof a new subdivision 5.1.5., to read as
80 follows:

81 5.1.5. The Commissioner shall deny a permit if the
82 information on the application form, plans or specifications

83 is incomplete, inaccurate, false or misleading, or indicates
84 that the application provisions of this rule cannot be met. A
85 permit to construct shall be issued or denied within forty-
86 five (45) days of receipt of the completed application.
87 Reasons for denial shall be in writing;

88 And,

89 On page four, by striking out all of paragraph 5.1.5.a.

90 (f) The legislative rule filed in the State Register on July
91 29, 2011, authorized under the authority of section four,
92 article one, chapter sixteen of this code, modified by the
93 Department of Health and Human Resources to meet the
94 objections of the Legislative Rule-Making Review Committee
95 and refiled in the State Register on December 1, 2011,
96 relating to the Department of Health and Human Resources
97 (AIDS-related medical testing and confidentiality, 64 CSR
98 64), is authorized with the following amendments:

99 On page four, by striking out all of paragraph 4.1.d.4.
100 and inserting in lieu thereof a new paragraph 4.1.d.4., to read
101 as follows:

102 4.1.d.4. It is recommended that health care providers test
103 women as early as possible during each pregnancy. Women

104 who decline the test early in prenatal care may be encour-
105 aged to be tested at subsequent visits.;

106 On page five, by striking out all of subdivision 4.2.c. and
107 inserting in lieu thereof a new subdivision 4.2.c. to read as
108 follows:

109 4.2.c. If the pregnant woman's HIV status is unknown at
110 the time she presents for delivery, an HIV test shall be
111 offered and if she refuses the test, the infant may be tested
112 and the mother shall be informed of the testing and the
113 results.;

114 On page six, by striking out all of paragraph 4.2.c.1.;

115 On page six, by striking out all of paragraph 4.2.c.2.;

116 On page six, by striking out "4.2.c.3." and inserting in
117 lieu thereof "4.2.c.1.";

118 On page six, by striking out "4.2.c.4." and inserting in
119 lieu thereof "4.2.c.2.";

120 On page six, by striking out all of paragraph 4.3.b.1. and
121 inserting in lieu thereof a new paragraph 4.3.b.1, to read as
122 follows:

123 4.3.b.1. Upon his or her initial appearance for an offense
124 set forth in subdivision two, subsection f, section two, article
125 three-c, chapter sixteen of this code, the courts shall order

126 the defendant to undergo an oral test for HIV within forty-
127 eight hours of the defendant's appearance.;

128 And,

129 On page seven, by striking out all of subsection 5.3.

130 (g) The legislative rule filed in the State Register on July
131 29, 2011, authorized under the authority of section four,
132 article one, chapter sixteen of this code, relating to the
133 Department of Health and Human Resources (public water
134 systems design standards, 64 CSR 77), is authorized with the
135 following amendments:

136 On page seven, after subdivision 3.3.d., by inserting a
137 new subsection, designated subsection 3.4., to read as
138 follows:

139 3.4. Specifications – The applicant or the applicant's
140 engineer shall supply complete, detailed technical specifica-
141 tions for the proposed project, including: pipe, valves and
142 other building materials; a program for keeping existing
143 public water system facilities in operation during construc-
144 tion of additional facilities so as to minimize interruption of
145 service; laboratory facilities and equipment; the number and
146 design of chemical feeding equipment; and materials or
147 proprietary equipment for sanitary or other facilities

148 including any necessary backflow or backsiphonage protec-
149 tion.;

150 On page eleven, by striking out “§65-77-5.” and inserting
151 in lieu thereof “§64-77-5.”;

152 On page thirty-five, paragraph 6.3.h.2., after the words
153 “at a minimum,” by inserting the word “of”;

154 On page forty, paragraph 6.4.g.1., by striking out the
155 word “led” and inserting in lieu thereof the word “lead”;

156 On page forty-five, paragraph 6.4.i.2., by striking out the
157 word “devise” and inserting in lieu thereof the word
158 “device”;

159 On page sixty-seven, paragraph 7.5.d.2., by striking out
160 the word “shallbe” and inserting in lieu thereof the words
161 “shall be”;

162 And,

163 On page sixty-seven, paragraph 7.5.e.3., by striking out
164 the word “serve” and inserting in lieu thereof the word
165 “severe”.

§64-5-3. Division of Human Services.

1 (a) The legislative rule filed in the State Register on July
2 29, 2011, authorized under the authority of section four,
3 article two-b, chapter forty-nine of this code, modified by

4 the Division of Human Services to meet the objections of the
5 Legislative Rule-Making Review Committee and refiled in
6 the State Register on November 23, 2011, relating to the
7 Division of Human Services (family child care facility
8 licensing requirements, 78 CSR 18), is authorized.

9 (b) The legislative rule filed in the State Register on July
10 29, 2011, authorized under the authority of section four,
11 article two-b, chapter forty-nine of this code, modified by
12 the Division of Human Services to meet the objections of the
13 Legislative Rule-Making Review Committee and refiled in
14 the State Register on November 23, 2011, relating to the
15 Division of Human Services (family child care home registra-
16 tion requirements, 78 CSR 19), is authorized.

17 (c) The legislative rule filed in the State Register on July
18 29, 2011, authorized under the authority of section two,
19 article two-e, chapter forty-nine of this code, modified by the
20 Division of Human Services to meet the objections of the
21 Legislative Rule-Making Review Committee and refiled in
22 the State Register on November 23, 2011, relating to the
23 Division of Human Services (child care quality rating and
24 improvement system, 78 CSR 22), is authorized.

§64-5-4. Commission for the Deaf and Hard of Hearing.

1 (a) The legislative rule filed in the State Register on July
2 29, 2011, authorized under the authority of section nine,
3 article fourteen-a, chapter five of this code, relating to the
4 Commission for the Deaf and Hard of Hearing (fees for
5 qualified interpreters, 192 CSR 1), is authorized.

6 (b) The legislative rule filed in the State Register on July
7 29, 2011, authorized under the authority of section five,
8 article fourteen-a, chapter five of this code, modified by the
9 Commission for the Deaf and Hard of Hearing to meet the
10 objections of the Legislative Rule-Making Review Committee
11 and refiled in the State Register on December 1, 2011,
12 relating to the Commission for the Deaf and Hard of Hearing
13 (establishment of required qualifications and ethical stan-
14 dards for interpreters and transliterators, 192 CSR 3), is
15 authorized.

§64-5-5. Directors of the West Virginia Health Insurance Plan.

1 The legislative rule filed in the State Register on July 28,
2 2011, authorized under the authority of section seven-b,
3 article forty-eight, chapter thirty-three of this code, relating
4 to the Board of Directors of the West Virginia Health
5 Insurance Plan (premium subsidy, 113 CSR 1), is authorized.

