

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 165

SENATOR MAYNARD, *original sponsor*

[Passed February 19, 2018; in effect from passage]

1 AN ACT to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as
2 amended, relating generally to authorizing various health agencies to promulgate certain
3 legislative rules as filed, modified, and amended by the Legislature; authorizing various
4 health agencies to repeal certain legislative rules; authorizing the Department of Health
5 and Human Resources to promulgate a legislative rule relating to hospital licensure;
6 authorizing the Department of Health and Human Resources to promulgate a legislative
7 rule relating to public water systems; authorizing the Department of Health and Human
8 Resources to promulgate a legislative rule relating to emergency medical services;
9 authorizing the Department of Health and Human Resources to promulgate a legislative
10 rule relating to West Virginia clearance for access: registry and employment screening;
11 authorizing the Department of Health and Human Resources to promulgate a legislative
12 rule relating to development of methodologies to examine needs for substance use
13 disorder treatment facilities within the state; authorizing the Department of Health and
14 Human Resources to promulgate a legislative rule relating to collection and exchange of
15 data related to overdoses; authorizing the Department of Health and Human Resources
16 to promulgate a legislative rule relating to child care centers licensing; authorizing the
17 Department of Health and Human Resources to promulgate a legislative rule relating to
18 family child care facility licensing requirements; authorizing the Department of Health and
19 Human Resources to promulgate a legislative rule relating to family child care home
20 registration requirements; authorizing the Department of Health and Human Resources to
21 promulgate a legislative rule relating to informal and relative family child care home
22 registration requirements; authorizing the Department of Health and Human Resources to
23 promulgate a legislative rule relating to out-of-school-time child care center licensing
24 requirements; authorizing the Department of Health and Human Resources to promulgate
25 a legislative rule relating to pilot program for drug screening of applicants for cash
26 assistance; directing the Department of Health and Human Resources to repeal a

27 legislative rule relating to regulation of opioid treatment programs; authorizing the Health
28 Care Authority to promulgate a legislative rule relating to financial disclosure; and
29 repealing a Health Care Authority legislative rule relating to certificate of need.

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 28, 2017, authorized under the
2 authority of §16-5B-8 of this code, modified by the Department of Health and Human Resources
3 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on August 30, 2017, relating to the Department of Health and Human Resources
5 (hospital licensure, 64 CSR 12), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2017, authorized under the
7 authority of §16-1-9a 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 October 25, 2017, relating to the Department of Health and Human Resources (public
10 water systems, 64 CSR 3), is authorized with the following amendment:

11 On page six, by striking out all of subdivision 8.1. and inserting in lieu thereof a new
12 subdivision 8.1., to read as follows:

13 8.1. A public water system which artificially adjusts fluoride levels shall strive to maintain
14 those levels between 0.6 milligrams per liter and 0.8 milligrams per liter. The optimum target
15 concentration for artificially adjusted fluoride is 0.7 milligrams per liter. If the drinking water of a
16 public water system is found to be outside of the 0.6 to 0.8 milligrams per liter range, the public
17 water system shall make any treatment or operational changes necessary to return the fluoride
18 level to within the range within 24 hours of receiving the analytical result unless doing so is

19 impracticable, in which case, the correction shall be made as soon as possible. A public water
20 system shall identify in its annual report to the Bureau the date and time of each instance where
21 the fluoride levels were found to be outside the target range and how long it took to implement
22 responsive adjustments.

23 (c) The legislative rule filed in the State Register on July 28, 2017, authorized under the
24 authority of §16-4C-6 of this code, modified by the Department of Health and Human Resources
25 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
26 Register on December 11, 2017, relating to the Department of Health and Human Resources
27 (emergency medical services, 64 CSR 48), is authorized.

28 (d) The legislative rule filed in the State Register on July 27, 2017, authorized under the
29 authority of §16-49-9 of this code, relating to the Department of Health and Human Resources
30 (West Virginia clearance for access: registry and employment screening, 69 CSR 10), is
31 authorized with the following amendment:

32 On page five, by striking out all of subdivision 7.3.a. and inserting in lieu thereof a new
33 subdivision 7.3.a., to read as follows:

34 7.3.a. The passage of time. The length of time an applicant is barred from employment in
35 direct access care starts from the date of conviction or the date of release from the penalty
36 imposed, whichever is later.

37 (e) The legislative rule filed in the State Register on July 28, 2017, authorized under the
38 authority of §16-53-3 of this code, modified by the Department of Health and Human Resources
39 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
40 Register on October 25, 2017, relating to the Department of Health and Human Resources
41 (development of methodologies to examine needs for substance use disorder treatment facilities
42 within the state, 69 CSR 13), is authorized with the following amendments:

43 On page two, subdivision 2.6, by striking out the word “six” and inserting in lieu thereof the
44 word “seven”;

45 On page two, in subdivision 2.6.c, by striking out “Roane,”;

46 On page two, in subdivision 2.6.e, by striking out “Kanawha,” and “Clay,”;

47 On page two, in subdivision 2.6.f, by striking out “Fayette,” and “Nicholas,”; and

48 On page two, following subdivision 2.6.f, creating a new subdivision by inserting the
49 following: “2.6.g. Region 7: Clay, Fayette, Kanawha, Nicholas, and Roane counties.”.

50 (f) The legislative rule filed in the State Register on July 28, 2017, authorized under the
51 authority of §16-5T-5 of this code, modified by the Department of Health and Human Resources
52 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
53 Register on December 11, 2017, relating to the Department of Health and Human Resources
54 (collection and exchange of data related to overdoses, 69 CSR 14), is authorized.

55 (g) The legislative rule filed in the State Register on July 27, 2017, authorized under the
56 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
57 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
58 Register on October 4, 2017, relating to the Department of Health and Human Resources (child
59 care centers licensing, 78 CSR 1), is authorized.

60 (h) The legislative rule filed in the State Register on July 28, 2017, authorized under the
61 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
62 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
63 Register on October 4, 2017, relating to the Department of Health and Human Resources (family
64 child care facility licensing requirements, 78 CSR 18), is authorized.

65 (i) The legislative rule filed in the State Register on July 27, 2017, authorized under the
66 authority of §49-2-121 of this code, relating to the Department of Health and Human Resources
67 (family child care home registration requirements, 78 CSR 19), is authorized.

68 (j) The legislative rule filed in the State Register on July 28, 2017, authorized under the
69 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
70 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State

71 Register on December 11, 2017, relating to the Department of Health and Human Resources
72 (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

73 (k) The legislative rule filed in the State Register on July 28, 2017, authorized under the
74 authority of §49-2-121 of this code, relating to the Department of Health and Human Resources
75 (out-of-school-time child care center licensing requirements, 78 CSR 21), is authorized.

76 (l) The legislative rule filed in the State Register on July 28, 2017, authorized under the
77 authority of §9-3-6 of this code, modified by the Department of Health and Human Resources to
78 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
79 Register on December 11, 2017, relating to the Department of Health and Human Resources
80 (pilot program for drug screening of applicants for cash assistance, 78 CSR 26), is authorized.

81 (m) The legislative rule effective on October 10, 2013, authorized under the authority of
82 §16-1-4 of this code, relating to the Department of Health and Human Resources (regulation of
83 opioid treatment programs, 69 CSR 7), is repealed.

§64-5-2. Health Care Authority.

1 (a) The legislative rule filed in the State Register on July 28, 2017, authorized under the
2 authority of §16-29B-8 of this code, modified by the Health Care Authority to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
4 25, 2017, relating to the Health Care Authority (financial disclosure, 65 CSR 13), is authorized
5 with the following amendment:

6 On page nine, by inserting a new section seven to read as follows:

7 **§65-13-7. Exemption.**

8 The provisions of this rule do not apply to the legally authorized practice of medicine by
9 any one or more persons in the private office of any healthcare provider.

10 (b) The legislative rule effective on April 13, 2011, authorized under the authority of §16-
11 2D-3 of this code, relating to the Health Care Authority (certificate of need rule, 65 CSR 7), is
12 repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2018.

.....
Governor