WEST virginia legislature

2022 regular session

ENROLLED

Committee Substitute

for

House Bill 4126

By Delegate Foster

[Passed March 3, 2022; in effect from passage.]

AN ACT to amend and reenact §64-5-1 *et. seq.* of the Code of West Virginia, 1931, as amended, all relating to generally authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules; authorizing the rules as filed, as modified, and as amended 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 methods and standards for chemical tests for intoxication; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to childhood lead screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food manufacturing facilities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to sewage treatment and collection system design standards; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory practitioner licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to maternal risk screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment - opioid treatment programs; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to syringe services program licensure; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources and the Insurance Commissioner to promulgate a legislative rule relating to an all-payer claims database- data submission requirements; and authorizing the Department of Health and Human Resources and the Insurance Commissioner to promulgate a legislative rule relating to an all-payer claims database- privacy and security 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 legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 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 December 14, 2021, relating to the Department of Health and Human Resources (Methods and Standards for Chemical Tests for Intoxication, [64 CSR 10](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-10)), is authorized.
2. The legislative rule filed in the State Register on July 23, 2021, authorized under the authority of §16-5B-8 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 December 14, 2021, relating to the Department of Health and Human Resources (Hospital Licensure, [64 CSR 12](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-12)), is authorized with the following amendment:

On page 22, subdivision 7.3.11, by striking the words “as prescribed by the attending practitioner” and inserting the words, “as recommended by a qualified dietician;”.

1. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-35-4 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 September 24, 2021, relating to the Department of Health and Human Resources (Childhood Lead Screening, [64 CSR 42](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-42)), is authorized.
2. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 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 December 14, 2021, relating to the Department of Health and Human Resources (Food Manufacturing Facilities, [64 CSR 43](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-43)), is authorized.
3. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 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 September 24, 2021, relating to the Department of Health and Human Resources (Sewage Treatment and Collection System Design Standards, [64 CSR 47](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-47)), is authorized.
4. The legislative rule filed in the State Register on September 10, 2021, authorized under the authority of §16-4C-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 December 15, 2021, relating to the Department of Health and Human Resources (Emergency Medical Services, [64 CSR 48](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-48)), is authorized.
5. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §64-5-1 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 December 16, 2021, relating to the Department of Health and Human Resources (Clinical Laboratory Practitioner Licensure and Certification, [64 CSR 57](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-57)), is authorized.
6. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-11-3 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 December 16, 2021, relating to the Department of Health and Human Resources (Clandestine Drug Laboratory Remediation, [64 CSR 92](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-92)), is authorized with the amendments set forth below:

On page four, after the section caption, by adding the words “Licensed technicians shall:”;

On page four, Subsection 5.3., by striking out the words “and ceiling” and inserting in lieu thereof the words “ceiling, and HVAC unit, vent, and return”;

On page five, subdivision 7.1.2., by striking out the words “the residential property owner shall”;

On page six, subdivision 7.1.4. by striking out all of subdivision 7.1.4. and inserting in lieu thereof a new subdivision 7.1.4. to read as follows:

“7.1.4. When analytical testing shows a level of contamination of greater than 1.0 ug/100 cm2, contract within 60 days a licensed clandestine drug lab remediation contractor to either remediate or demolish the residential property in accordance with this rule.”;

On page six, subsection 9.1., after the word “commissioner”, by inserting the words “within 10 days of receipt of the initial analytical results”;

On page seven, paragraph 9.2.1.i. after the semicolon, by striking out the word “and”;

On page seven, paragraph 9.1.2.j. by striking out the words “must be”;

On page seven, after paragraph 9.1.2.j., by adding the following paragraphs:

“9.1.2.k. A general listing of items to be removed from the residential property for disposal;

9.1.2.l. Items requiring special handling for disposal; and

9.1.2.m. Any obvious safety hazards.”

And,

On page twelve, subdivision 12.8.6., by striking out the word “three” and inserting in lieu thereof the word “one”.

(i) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-4E-4 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 September 24, 2021, relating to the Department of Health and Human Resources (Maternal Risk Screening, [64 CSR 97](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-97)), is authorized.

(j) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §16-4F-5 of this code, relating to the Department of Health and Human Resources (Expedited Partner Therapy, [64 CSR 103](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-103)), is authorized.

(k) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §16-5Y-13 of this code, relating to the Department of Health and Human Resources (Medication-Assisted Treatment - Opioid Treatment Programs, [69 CSR 11](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-11)), is authorized.

(l) The legislative rule filed in the State Register on August 27, 2021, authorized under the authority of §16-64-7 of this code, relating to the Department of Health and Human Resources (Syringe Services Program Licensure, [69 CSR 17](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-17)), is authorized.

**§64-5-2. Health Care Authority.**

1. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-2D-4 of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Health Care Authority (Certificate of Need, [65 CSR 32](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=65-32)), is authorized with the following amendment:

On page 4, by striking paragraph 2.1.j.9, in its entirety, and renumbering the remaining paragraphs.

**§64-5-3. Department of Health and Human Resources and Insurance Commission.**

1. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §33-4A-8 of this code, modified by the Department of Health and Human Resources and Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 27, 2021, relating to the Department of Health and Human Resources and Insurance Commission (All Payer Claims Database - Data Submission Requirements, [114A CSR 01](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114A-01)), is authorized with the amendments set forth below:

On page 3, subsection 2.20. by striking out the word “procedural” and inserting in lieu thereof the word “legislative”;

And

On page 5, subsection 4.2. by striking out the word “procedural” and inserting in lieu thereof the word “legislative”

1. The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §33-4A-4 of this code, relating to the Department of Health and Human Resources and Insurance Commission (All-Payer Claims Database Program’s Privacy and Security Requirements, [114A CSR 02](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114A-02)), is authorized.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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

day of ..........................................................................................................., 2022.

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*Governor*