

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4126**

BY DELEGATE FOSTER

[Originating in the Committee on the Judiciary;  
reported on February 9, 2022]



1 A BILL to amend and reenact §64-5-1 *et. seq.* of the Code of West Virginia, 1931, as amended,  
2 all relating to generally authorizing certain agencies of the Department of Health and  
3 Human Resources to promulgate legislative rules; authorizing the rules as filed, as  
4 modified, and as amended by the Legislative Rule-Making Review Committee and as  
5 amended by the Legislature; authorizing the Department of Health and Human Resources  
6 to promulgate a legislative rule relating to methods and standards for chemical tests for  
7 intoxication; authorizing the Department of Health and Human Resources to promulgate  
8 a legislative rule relating to hospital licensure; authorizing the Department of Health and  
9 Human Resources to promulgate a legislative rule relating to childhood lead screening;  
10 authorizing the Department of Health and Human Resources to promulgate a legislative  
11 rule relating to food manufacturing facilities; authorizing the Department of Health and  
12 Human Resources to promulgate a legislative rule relating to sewage treatment and  
13 collection system design standards; authorizing the Department of Health and Human  
14 Resources to promulgate a legislative rule relating to emergency medical services;  
15 authorizing the Department of Health and Human Resources to promulgate a legislative  
16 rule relating to clinical laboratory practitioner licensure and certification; authorizing the  
17 Department of Health and Human Resources to promulgate a legislative rule relating to  
18 clandestine drug laboratory remediation; authorizing the Department of Health and Human  
19 Resources to promulgate a legislative rule relating to maternal risk screening; authorizing  
20 the Department of Health and Human Resources to promulgate a legislative rule relating  
21 to expedited partner therapy; authorizing the Department of Health and Human Resources  
22 to promulgate a legislative rule relating to medication-assisted treatment - opioid treatment  
23 programs; authorizing the Department of Health and Human Resources to promulgate a  
24 legislative rule relating to syringe services program licensure; authorizing the Health Care  
25 Authority to promulgate a legislative rule relating to certificate of need; authorizing the  
26 Department of Health and Human Resources and the Insurance Commissioner to

27 promulgate a legislative rule relating to an all-payer claims database- data submission  
28 requirements; and authorizing the Department of Health and Human Resources and the  
29 Insurance Commissioner to promulgate a legislative rule relating to an all-payer claims  
30 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 (a) The legislative rule filed in the State Register on July 30, 2021, authorized under  
2 the authority of §16-1-4 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 December 14, 2021, relating to the Department of Health and Human Resources  
5 (Methods and Standards for Chemical Tests for Intoxication, 64 CSR 10), is authorized.

6 (b) The legislative rule filed in the State Register on July 23, 2021, authorized under  
7 the authority of §16-5B-8 of this code, modified by the Department of Health and Human  
8 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
9 in the State Register on December 14, 2021, relating to the Department of Health and Human  
10 Resources (Hospital Licensure, 64 CSR 12), is authorized with the following amendment:

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

13 (c) The legislative rule filed in the State Register on July 30, 2021, authorized under  
14 the authority of §16-35-4 of this code, modified by the Department of Health and Human  
15 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
16 in the State Register on September 24, 2021, relating to the Department of Health and Human  
17 Resources (Childhood Lead Screening, 64 CSR 42), is authorized.

18 (d) The legislative rule filed in the State Register on July 30, 2021, authorized under  
19 the authority of §16-1-4 of this code, modified by the Department of Health and Human Resources  
20 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
21 Register on December 14, 2021, relating to the Department of Health and Human Resources  
22 (Food Manufacturing Facilities, 64 CSR 43), is authorized.

23 (e) The legislative rule filed in the State Register on July 30, 2021, authorized under  
24 the authority of §16-1-4 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 September 24, 2021, relating to the Department of Health and Human Resources  
27 (Sewage Treatment and Collection System Design Standards, 64 CSR 47), is authorized.

28 (f) The legislative rule filed in the State Register on September 10, 2021, authorized  
29 under the authority of §16-4C-6 of this code, modified by the Department of Health and Human  
30 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
31 in the State Register on December 15, 2021, relating to the Department of Health and Human  
32 Resources (Emergency Medical Services, 64 CSR 48), is authorized.

33 (g) The legislative rule filed in the State Register on July 30, 2021, authorized under  
34 the authority of §64-5-1 of this code, modified by the Department of Health and Human Resources  
35 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
36 Register on December 16, 2021, relating to the Department of Health and Human Resources  
37 (Clinical Laboratory Practitioner Licensure and Certification, 64 CSR 57), is authorized.

38 (h) The legislative rule filed in the State Register on July 30, 2021, authorized under  
39 the authority of §60A-11-3 of this code, modified by the Department of Health and Human  
40 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
41 in the State Register on December 16, 2021, relating to the Department of Health and Human  
42 Resources (Clandestine Drug Laboratory Remediation, 64 CSR 92), is authorized.

43 (i) The legislative rule filed in the State Register on July 30, 2021, authorized under  
44 the authority of §16-4E-4 of this code, modified by the Department of Health and Human  
45 Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled  
46 in the State Register on September 24, 2021, relating to the Department of Health and Human  
47 Resources (Maternal Risk Screening, 64 CSR 97), is authorized.

48 (j) The legislative rule filed in the State Register on May 10, 2021, authorized under  
49 the authority of §16-4F-5 of this code, relating to the Department of Health and Human Resources  
50 (Expedited Partner Therapy, 64 CSR 103), is authorized.

51 (k) The legislative rule filed in the State Register on May 10, 2021, authorized under  
52 the authority of §16-5Y-13 of this code, relating to the Department of Health and Human  
53 Resources (Medication-Assisted Treatment - Opioid Treatment Programs, 69 CSR 11), is  
54 authorized.

55 (l) The legislative rule filed in the State Register on August 27, 2021, authorized under  
56 the authority of §16-64-7 of this code, relating to the Department of Health and Human Resources  
57 (Syringe Services Program Licensure, 69 CSR 17), is authorized.

**§64-5-2. Health Care Authority.**

1 (a) The legislative rule filed in the State Register on July 30, 2021, authorized under  
2 the authority of §16-2D-4 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 December 20, 2021, relating to the Health Care Authority (Certificate of Need, 65 CSR 32), is  
5 authorized with the following amendment:

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

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

1 (a) The legislative rule filed in the State Register on July 30, 2021, authorized under  
2 the authority of §33-4A-8 of this code, modified by the Department of Health and Human

3 Resources and Insurance Commission to meet the objections of the Legislative Rule-Making  
4 Review Committee and refiled in the State Register on December 27, 2021, relating to the  
5 Department of Health and Human Resources and Insurance Commission (All Payer Claims  
6 Database - Data Submission Requirements, 114A CSR 01), is authorized with the amendments  
7 set forth below:

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

10           And

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

13           (b) The legislative rule filed in the State Register on July 30, 2021, authorized under  
14 the authority of §33-4A-4 of this code, relating to the Department of Health and Human Resources  
15 and Insurance Commission (All-Payer Claims Database Program’s Privacy and Security  
16 Requirements, 114A CSR 02), is authorized.

NOTE: The purpose of this bill is to authorize the Department of Health and Human Resources to promulgate a legislative rule relating to Methods and Standards for Chemical Tests for Intoxication.

This section is new; therefore, strike-throughs and underscoring have been omitted.