Enrolled

Committee Substitute for

Senate Bill 165

SENATOR MAYNARD, original sponsor

[Passed February 19, 2018; in effect from passage]
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[Passed February 19, 2018; in effect from passage]
AN ACT to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, relating generally to authorizing various health agencies to promulgate certain legislative rules as filed, modified, and amended by the Legislature; authorizing various health agencies to repeal certain legislative rules; 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 public water systems; 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 West Virginia clearance for access: registry and employment screening; 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; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to collection and exchange of data related to overdoses; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care centers licensing; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care facility licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to out-of-school-time child care center licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to pilot program for drug screening of applicants for cash assistance; directing the Department of Health and Human Resources to repeal a
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.

(a) The legislative rule filed in the State Register on July 28, 2017, 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 August 30, 2017, relating to the Department of Health and Human Resources (hospital licensure, 64 CSR 12), is authorized.

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

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

8.1. A public water system which artificially adjusts fluoride levels shall strive to maintain those levels between 0.6 milligrams per liter and 0.8 milligrams per liter. The optimum target concentration for artificially adjusted fluoride is 0.7 milligrams per liter. If the drinking water of a public water system is found to be outside of the 0.6 to 0.8 milligrams per liter range, the public water system shall make any treatment or operational changes necessary to return the fluoride level to within the range within 24 hours of receiving the analytical result unless doing so is
impracticable, in which case, the correction shall be made as soon as possible. A public water system shall identify in its annual report to the Bureau the date and time of each instance where the fluoride levels were found to be outside the target range and how long it took to implement responsive adjustments.

(c) The legislative rule filed in the State Register on July 28, 2017, 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 11, 2017, relating to the Department of Health and Human Resources (emergency medical services, 64 CSR 48), is authorized.

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

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

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

(e) The legislative rule filed in the State Register on July 28, 2017, 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 25, 2017, 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), is authorized with the following amendments:

On page two, subdivision 2.6, by striking out the word "six" and inserting in lieu thereof the word "seven";
On page two, in subdivision 2.6.c, by striking out “Roane,”;

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

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

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

(f) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-5T-5 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 11, 2017, relating to the Department of Health and Human Resources (collection and exchange of data related to overdoses, 69 CSR 14), is authorized.

(g) The legislative rule filed in the State Register on July 27, 2017, 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 4, 2017, relating to the Department of Health and Human Resources (child care centers licensing, 78 CSR 1), is authorized.

(h) The legislative rule filed in the State Register on July 28, 2017, 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 4, 2017, relating to the Department of Health and Human Resources (family child care facility licensing requirements, 78 CSR 18), is authorized.

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

(j) The legislative rule filed in the State Register on July 28, 2017, 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 4, 2017, relating to the Department of Health and Human Resources (family child care home registration requirements, 78 CSR 19), is authorized.
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71 Register on December 11, 2017, relating to the Department of Health and Human Resources (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

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

73 (l) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §9-3-6 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 11, 2017, relating to the Department of Health and Human Resources (pilot program for drug screening of applicants for cash assistance, 78 CSR 26), is authorized.

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


1 (a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-29B-8 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 October 25, 2017, relating to the Health Care Authority (financial disclosure, 65 CSR 13), is authorized with the following amendment:

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


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

(b) The legislative rule effective on April 13, 2011, authorized under the authority of §16-2D-3 of this code, relating to the Health Care Authority (certificate of need rule, 65 CSR 7), is repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman, Senate Committee
Chairman, House Committee

Originated in the Senate.
In effect from passage.

[Signatures]
Clerk of the Senate
Clerk of the House of Delegates

[Signatures]
President of the Senate
Speaker of the House of Delegates

The within is approved this the ______ Day of ______ 2018.

[Signature]
Governor