WEST VIRGINIA CODE: §16-3D-7

§16-3D-7. Procedure when patient is a health menace to others; court ordered treatment; requirements for discharge; appeals.

(a) If any practicing physician, public health officer, or chief medical officer having under observation or care any person with tuberculosis is of the opinion that the environmental conditions of that person are not suitable for proper isolation or control by any type of local quarantine as prescribed by the Bureau, and that the person is unable or unwilling to conduct himself or herself and to live in such a manner as not to expose members of his or her family or household or other persons with whom he or she may be associated to danger of infection, he or she shall report the facts to the Bureau which shall investigate or have investigated the circumstances alleged.

(b) If the Commissioner or local health officer finds that any person's physical condition is a health menace to others, the Commissioner or local health officer shall petition the circuit court of the county in which the person resides, requesting an individualized course of treatment to deal with the person's current or inadequately treated tuberculosis. Refusal to adhere to prescribed treatment may result in an order of the court committing the person to a health care facility equipped for the treatment of tuberculosis: Provided, That if the Commissioner or local health officer determines that an emergency situation exists which warrants the immediate detention and commitment of a person with tuberculosis, an application for immediate involuntary commitment may be filed pursuant to section nine of this article.

(c) Upon receiving the petition, the court shall fix a date for hearing thereof and notice of the petition and the time and place for hearing shall be served personally, at least seven days before the hearing, upon the person with tuberculosis alleged to be dangerous to the health of others.

(d) If, upon hearing, it appears that the complaint of the Bureau is well founded, that other less restrictive treatment options have been exhausted, that the person has tuberculosis, and that the person is a danger to others, the court shall commit the individual to a health care facility equipped for the care and treatment of persons with tuberculosis. The person shall be deemed to be committed until discharged in the manner authorized in subsection (e) of this section: Provided, That the hearing and notice provisions of this subsection do not apply to immediate involuntary commitments as provided in section nine of this article.

(e) The chief medical officer of the institution to which any person with tuberculosis has been committed may discharge that person when, after consultation with the Commissioner and the local health officer in the patient's county of residence, it is agreed that the person may be discharged without danger to the health of others. The chief medical officer shall report immediately to the Commissioner and to the local health officer in the patient's county of residence each discharge of a person with tuberculosis.

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(f) Every person committed under the provisions of this section shall observe all the rules of the institution. Any patient so committed may, by direction of the chief medical officer of the institution, be placed apart from the others and restrained from leaving the institution so long as he or she continues to have tuberculosis and remains a health menace.

(g) Nothing in this section may be construed to prohibit any person committed to any institution under the provisions of this section from applying to the Supreme Court of Appeals for a review of the evidence on which the commitment was made. Nothing in this section may be construed or operate to empower or authorize the Commissioner or the chief medical officer of the institution to restrict in any manner the individual's right to select any method of tuberculosis treatment offered by the institution.

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