WEST VIRGINIA CODE CHAPTER 16 ARTICLE 3D

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§16-3D-1. Purpose and legislative findings.

(a) The purpose of this article is to bring together the state law governing compulsory testing for tuberculosis (TB) of students and school personnel as well as the statutes pertaining to the treatment, control and commitment of persons with the disease at hospitals, clinics and other health care facilities throughout the state.

(b) The targeted tuberculin testing and treatment guidelines published by the Centers for Disease Control and Prevention (CDC) in the year two thousand recommends that routine testing of low-risk populations for administrative purposes be discontinued. The elimination of routine retesting of school personnel in accordance with this recommendation will result in significant savings to the state.

(c) According to the CDC, high risk groups or persons that should be tested for latent TB infection include:

(1) Close contacts of a person known or suspected to have TB;

(2) Foreign-born persons from areas where TB is common;

(3) Residents and employees of high-risk congregate settings;

(4) Health care workers who serve high-risk clients;

(5) Medically underserved, low-income populations;

(6) High-Risk racial or ethnic minority populations;

(7) Children exposed to adults in high-risk categories;

(8) Persons who inject illicit drugs;

(9) Persons with HIV infection; and

(10) Persons with certain medical conditions, such as substance abuse, chest X-ray findings suggestive of previous TB, diabetes mellitus, silicosis, prolonged corticosteroid therapy, other immunosuppressive therapy, cancer of the head and neck, end-stage renal disease, intestinal bypass or gastrectomy, chronic malabsorption syndromes, or low body weight of ten percent or more below the ideal.

(d) Early diagnosis, proper and complete treatment for people with active TB disease prevents transmission to others as well as preventing the emergence of multidrug resistant TB.

(e) The TB Control Program should be funded at levels necessary to accomplish directly observed therapy for all patients with active TB disease in West Virginia and to implement

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targeted testing of high-risk groups.

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§16-3D-2. Definitions.

As used in this article:

(1) "Active Tuberculosis" or "Tuberculosis" means a communicable disease caused by the bacteria, Mycobacterium tuberculosis, which is demonstrated by clinical, bacteriological, radiographic or epidemiological evidence. An infected person whose tuberculosis has progressed to active disease may experience symptoms such as coughing, fever, fatigue, loss of appetite and weight loss and is capable of spreading the disease to others if the tuberculosis germs are active in the lungs or throat.

(2) "Bureau" means the Bureau for Public Health;

(3) "Commissioner" means the Commissioner of the Bureau for Public Health, who is the state health officer;

(4) "Local board of health," "local board" or "board" means a board of health serving one or more counties or one or more municipalities or a combination thereof;

(5) "Local health department" means the staff of the local board of health; and

(6) "Local health officer" means the individual physician with a current West Virginia license to practice medicine who supervises and directs the activities of the local health department services, staff and facilities and is appointed by the local board of health with approval by the commissioner.

(7) "Tuberculosis suspect" means a person who is suspected of having tuberculosis disease due to any or all of the following medical factors: the presence of symptoms, the result of a positive skin test, risk factors for tuberculosis, or findings on an abnormal chest x ray, during the time period when an active tuberculosis disease diagnosis is pending.

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§16-3D-3. Compulsory testing for tuberculosis of school children and school personnel; commissioner to approve the test; X rays required for reactors; suspension from school or employment for pupils and personnel found to have tuberculosis.

(a) Pupils found or suspected to have active tuberculosis shall be temporarily removed from school while their case is reviewed and evaluated by their personal physician and the local health officer. Pupils shall return to school when their personal physician and the local health officer, in consultation with the commissioner, indicate that it is safe and appropriate for them to return.

(b) School personnel found or suspected to have active tuberculosis shall have their employment suspended until the local health officer, in consultation with the commissioner, approves a return to work.

(c) The commissioner may require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism or they have signs and symptoms indicative of the disease. School nurses shall identify and refer any students or school personnel to the local health department in instances where they have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.

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§16-3D-4. Report of cases, admissions, registration of patients.

(a) Every physician practicing in this state, every public health officer in the state, and every chief medical officer having charge of any hospital or clinic or other similar public or private institution in the state shall report electronically or in writing to the local health department in the patient's county of residence all information required by the Commissioner for every person having tuberculosis who comes under his or her observation or care. Such report shall be made within twenty-four hours after diagnosis.

(b) Every local health department shall forward all reports of tuberculosis cases filed pursuant to this section to the Bureau tuberculosis program within twenty-four hours of receipt of such reports.

(c) The chief medical officer of each tuberculosis institution, hospital or other health care facility shall report the admission of any patient with tuberculosis to the Bureau together with any other information the Commissioner may require. He or she shall make a similar report of the discharge or death of any patient. From such reports and other sources, the Bureau shall prepare and keep current a register of persons in this state with tuberculosis. The name of a person so registered shall not be made public nor shall the register be accessible to anyone except by order of the Bureau, the patient, or by the order of the judge of a court of record.

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§16-3D-5. Forms for reporting and committing patients; other records.

(a) The Bureau shall prescribe the written and electronic forms for reporting all required information regarding patients with tuberculosis.

(b) The Bureau shall prescribe the written and electronic forms to be used in committing patients to any state hospital or other health care facility where care and treatment of tuberculosis patients is conducted.

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§16-3D-6. Cost of maintenance and treatment of patients.

The cost of maintenance and treatment of patients admitted to state designated tuberculosis institutions shall be paid out of funds appropriated for the respective institutions. No patient shall be required to pay for such maintenance and treatment, but the institutions are authorized to receive any voluntary payments therefore.

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§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.

(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

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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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§16-3D-8. Return of escapees from state tuberculosis institutions.

If any person confined in a state tuberculosis institution by virtue of an order of a circuit court as provided in sections seven and nine of this article shall escape, the chief medical officer shall issue a notice giving the name and description of the person escaping and requesting his or her apprehension and return to the hospital. The chief medical officer shall issue a warrant directed to the sheriff of the county commanding him or her to arrest and carry the escaped person back to the hospital, which warrant may be executed in any part of the state. If the person flees to another state, the chief medical officer shall notify the appropriate state health official in the state where the person has fled, and that state health official may take the actions that are necessary for the return of the person to the hospital.

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§16-3D-9. Procedures for immediate involuntary commitment; rules.

(a) An application for immediate involuntary commitment of a person with tuberculosis may be filed by the Commissioner or local health officer, in the circuit court of the county in which the person resides. The application shall be filed under oath, and shall present information and facts which establish that the person with tuberculosis has been uncooperative or irresponsible with regard to treatment, quarantine or safety measures, presents a health menace to others, and is in need of immediate hospitalization.

(b) Upon receipt of the application, the circuit court may enter an order for the individual named in the action to be detained and taken into custody for the purpose of holding a probable cause hearing. The order shall specify that the hearing be held forthwith and shall appoint counsel for the individual: Provided, That in the event immediate detention is believed to be necessary for the protection of the individual or others at a time when no circuit court judge is available for immediate presentation of the application, a magistrate may accept the application and, upon a finding that immediate detention is necessary, may order the individual to be temporarily committed until the earliest reasonable time that the application can be presented to the circuit court, which period of time shall not exceed twenty-four hours except as provided in subsection (c) of this section.

(c) A probable cause hearing shall be held before a magistrate or circuit judge of the county in which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed forty-eight hours, or as soon thereafter as possible.

(d) The individual shall be present at the probable cause hearing and shall have the right to present evidence, confront all witnesses and other evidence against him or her, and to examine testimony offered, including testimony by the Bureau or its designees.

(e) At the conclusion of the hearing the magistrate or circuit court judge shall enter an order stating whether there is probable cause to believe that the individual is likely to cause serious harm to herself or others as a result of his or her disease and actions. If probable cause is found, the individual shall be immediately committed to a health care facility equipped for the care and treatment of persons with tuberculosis. The person shall remain so committed until discharged in the manner authorized pursuant to subsection (e), section seven of this article: Provided, That in the case of an alcoholic or drug user, the judge or magistrate shall first order the individual committed to a detoxification center for detoxification prior to commitment to health care facility equipped for the care and treatment of persons with tuberculosis.

(f) The Bureau shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article, including, but not limited to, rules relating to the transport and temporary involuntary commitment of patients.

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