WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

ENROLLED

Com. Sub. For

HOUSE BILL No. 4180

(By Delegate Gary)

Passed March 11, 1988

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4180
(By Delegate Leary)

[Passed March 11, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section ten, article twelve, chapter sixty-one of said code, all relating to authorizing the director of health to promulgate a program for sudden infant death syndrome, and providing medical examiners with stringent guidelines to follow in sudden infant death syndrome cases.

Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section ten, article twelve, chapter sixty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 1. STATE DEPARTMENT OF HEALTH.

§16-1-10. Powers and duties of the director of health.

1 The director shall be the chief executive, administrative and fiscal officer of the department of health and shall have the following powers and duties:

4 (1) To supervise and control the business, fiscal, administrative and health affairs of the department of
health, and in that regard and in accordance with law, employ, fix the compensation of, and discharge all persons necessary for the proper execution of the laws of this state relating to health and mental health, and the efficient and proper discharge of the duties imposed upon, and execution of powers vested in the director by law; to that end the director may promulgate such written rules as are necessary and proper to delegate functions, establish divisions, specify duties and responsibilities, prescribe qualifications of division directors and otherwise administer or supervise the department, subject to the safeguards of the state civil service system as it now exists;

(2) To enforce all laws of this state concerning public health, health and mental health; to that end, the director shall make, or cause to be made, sanitary investigations and inquiries respecting the cause of disease, especially of epidemics and endemic conditions, and the means of prevention, suppression or control of such conditions; the source of sickness and mortality, and the effects of environment, employment, habits and circumstances of life on the public health. The director shall further make, or cause to be made, inspections and examinations of food, drink and drugs offered for sale or public consumption in such manner as he shall deem necessary to protect the public health and shall report all violations of laws and regulations relating thereto to the prosecuting attorney of the county in which such violations occur;

(3) To make complaint or cause proceedings to be instituted against any person, corporation or other entity for the violation of any health law before any court or agency, without being required to give security for costs; such action may be taken without the sanction of the prosecuting attorney of the county in which the proceedings are instituted or to which the proceedings relate;

(4) To supervise and coordinate the administration and operation of the state hospitals named in article two, chapter twenty-seven of this code, and any other state facility hereafter created for the mentally ill, mentally retarded or addicted;
(5) To supervise and coordinate the administration and operation of the health and other facilities named in chapter twenty-six of this code, except as otherwise therein provided, and any other state facility hereafter created relating to health, not otherwise provided for;

(6) To supervise and coordinate the administration and operation of the county and municipal boards of health and health officers;

(7) To develop and maintain a state plan of operation which sets forth the needs of the state in the areas of health and mental health; goals and objectives for meeting those needs; methods for achieving the stated goals and objectives; and needed personnel, funds and authority for achieving the goals and objectives;

(8) To collect data as may be required to foster knowledge on the citizenry's health status, the health system and costs of health care;

(9) To delegate to any appointee, assistant or employee any and all powers and duties vested in the director, including, but not limited to, the power to execute contracts and agreements in the name of the department: Provided, That the director shall be responsible for the acts of such appointees, assistants and employees;

(10) To transfer any patient or resident between hospitals and facilities under the control of the director and, by agreement with the state commissioner of public institutions or his successor and otherwise in accord with law, accept a transfer of a resident of a facility under the jurisdiction of the state commissioner of public institutions or his successor;

(11) To make periodic reports to the governor and to the Legislature relative to specific subject areas of public health or mental health, the state facilities under the supervision of the director, or other matters affecting the health or mental health of the people of the state;

(12) To accept and use for the benefit of the state, for the benefit of the health of the people of this state, any gift or devise of any property or thing which is lawfully
given: Provided, That if any gift is for a specific purpose or for a particular state hospital or facility, it shall be used as specified. Any profit which may arise from any such gift or devise of any property or thing shall be deposited in a special revenue fund with the state treasurer and shall be used only as specified by the donor or donors;

(13) To acquire by condemnation or otherwise any interest, right, privilege, land or improvement and hold title thereto, for the use or benefit of the state or a state hospital or facility, and, by and with the consent of the governor, to sell, exchange or otherwise convey any interest, right, privilege, land or improvement acquired or held by the state, state hospital or state facility; which condemnation proceedings shall be conducted pursuant to chapter fifty-four of this code;

(14) To inspect and enforce rules and regulations to control the sanitary conditions of and license all institutions and health care facilities as set forth in this chapter, including, but not limited to, schools, whether public or private, public conveyances, dairies, slaughter-houses, workshops, factories, labor camps, places of entertainment, hotels, motels, tourist camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

(15) To make inspections, conduct hearings, and to enforce the rules and regulations of the board concerning occupational and industrial health hazards, the sanitary condition of streams, sources of water supply, sewerage facilities, and plumbing systems, and the qualifications of personnel connected with such supplies, facilities or systems without regard to whether they are publicly or privately owned; and to make inspections, conduct hearings and enforce the rules and regulations of the board concerning the design of chlorination and filtration facilities and swimming pools;

(16) To reorganize the functions and divisions of the department of health, structuring all functions pre-
viously assigned to the board of health, department of
health, department of mental health, and otherwise
assigned to the department of health by this chapter, to
the end of establishing the most efficient and economic
delivery of health services in accord with the purposes
of this chapter; to achieve such goal the director shall
establish such divisions, and delegate and assign such
responsibilities and functions as he deems necessary to
accomplish such reorganization. On or before the first
day of February, one thousand nine hundred seventy-
eight, the director shall submit to the Legislature a
report on the reorganization of such department and the
effect thereof, including, but not limited to, the cost, the
administrative results and the effect on the delivery of
health services;

(17) To direct and supervise the provision of dental
services in all state institutions;

(18) To provide for, except as otherwise specified
herein, a comprehensive system of community mental
health and mental retardation supportive services to the
end of preventing the unnecessary institutionalization of
persons and promoting the community placement of
persons presently residing in mental health and mental
retardation facilities and other institutions and for the
planning of the provisions of comprehensive mental
health and mental retardation services throughout the
state;

(19) To provide in accordance with this subdivision
and the definitions and other provisions of article one-
a, chapter twenty-seven of the code, for a comprehensive
program for the care, treatment and rehabilitation of
alcoholics and drug abusers; for research into the cause
and prevention of alcoholism and drug abuse; for the
training and employment of personnel to provide the
requisite rehabilitation of alcoholics and drug abusers;
and for the education of the public concerning alcohol-
ism and drug abuse; and

(20) To provide in accordance with this subsection for
a program for the care, treatment and rehabilitation of
the parents of sudden infant death syndrome victims; for
the training and employment of personnel to provide the
requisite rehabilitation of parents of sudden infant
death syndrome victims; for the education of the public
concerning sudden infant death syndrome; for the
responsibility of reporting to the Legislature on a
quarterly basis the incidence of sudden infant death
syndrome cases occurring in West Virginia; for the
education of police, employees and volunteers of all
emergency services concerning sudden infant death
syndrome; for the state sudden infant death syndrome
advisory council to develop regional family support
groups to provide peer support to families of sudden
infant death syndrome victims; and for requesting
appropriation of funds in both federal and state budgets
to fund the sudden infant death syndrome program; and

(21) To exercise all other powers delegated to the
department by this chapter or otherwise in this code, to
enforce all health laws and the rules and regulations
promulgated by the board, and to pursue all other
activities necessary and incident to the authority and
area of concern entrusted to the department or director.

CHAPTER 61. CRIMES AND
THEIR PUNISHMENT.

ARTICLE 12. POSTMORTEM EXAMINATIONS.

§61-12-10. When autopsies made and by whom per-
formed; reports; records of deaths investigate-
gated; copies of records and information.

1 If in the opinion of the chief medical examiner, or of
the medical examiner of the county in which the death
in question occurred, it is advisable and in the public
interest that an autopsy be made, or if an autopsy be
requested by either the prosecuting attorney or the
judge of the circuit court or other court of record having
criminal jurisdiction in such county, such autopsy shall
be made by the chief medical examiner, by a member
of his staff, or by such competent pathologist as the chief
medical examiner shall designate and employ pursuant
to the provisions of this article. The chief medical
examiner may employ any medical examiner who is a
qualified pathologist to make such autopsies, and the
fees to be paid hereunder for autopsies hereunder shall be in addition to the fee provided for investigations and made pursuant to section eight of this article. A full record and report of the findings developed by the autopsy shall be filed with the office of medical examinations by such person making the autopsy.

Within the discretion of the chief medical examiner, or of the person making such autopsy, or if requested by the prosecuting attorney of such county, or of the county where any injury contributing to or causing the death was sustained, a copy of such report of the autopsy shall be furnished such prosecuting attorney.

The office of medical examinations shall keep full, complete, and properly indexed records of all deaths investigated, containing all relevant information concerning the death, and the autopsy report if such be made. Any prosecuting attorney or law-enforcement officer may secure copies of such records or information necessary to him for the performance of his official duties. Copies of such records or information shall be furnished, upon request, to any party to whom the cause of death is a material issue. Any person performing an autopsy pursuant to the authority of this section shall be empowered to keep and retain, for and on behalf of the chief medical examiner, any tissue from the body upon which the autopsy was performed which may be necessary for further study or consideration.

In cases of the death of any infant in the state of West Virginia where sudden infant death syndrome is the suspected cause of death and the chief medical examiner or the medical examiner of the county in which the death in question occurred considers it advisable to perform an autopsy, it is the duty of the chief medical examiner or the medical examiner of the county in which the death occurred to notify at least one parent or legal guardian in written form of the purpose for the autopsy examination and to provide to the parents or legal guardian(s) a report of the findings of the autopsy examination within thirty days of completion of such examination.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is hereby approved this the 25th day of March, 1988.

Governor