WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

House Bill No. 4483
(By Delegates Capito, Hubbard, Douglas, Mahan, Hutchins, Compton and Capito)

Passed March 12, 1998
In Effect from Passage
AN ACT to amend and reenact sections one, two, four, six, nine, eleven, fifteen and twenty-four, article four, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to sexually transmitted disease; changing the phrase "venereal disease" to "sexually transmitted disease"; authorizing the secretary of the department of health and human resources to designate the diseases which are sexually transmitted; modifying the time frame for mailing diagnostic reports; permitting the sale of federally approved over-the-counter drugs for treatment of sexually transmitted diseases; and making various technical and drafting changes.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four, six, nine, eleven, fifteen and twenty-four, article four, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4. SEXUALLY TRANSMITTED DISEASES.

§16-4-1. Diseases designated as sexually transmitted.

1 Sexually transmitted diseases, as designated by the
secretary of the department of health and human resources in rules proposed for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, are hereby declared to be infectious, contagious, communicable and dangerous to the public health. If a conflict exists between a provision of this article and a provision of article three-c of this chapter, the provision of article three-c prevails.

§16-4-2. Investigations by local health officers.

(a) All municipal and county health officers shall:

(1) Use every available means to ascertain the existence of, and to investigate all cases of sexually transmitted disease coming within their respective jurisdictions and, when it is necessary, have all cases treated, if they are not already under treatment;

(2) To ascertain the sources and transmission of the infection; and

(3) To institute measures for the protection of other persons from infection by the infected person, or from persons reasonably suspected of being so infected, and for the protection of the public health at all times.

(b) A municipal health officer may designate any member of the city police or health department to make any investigation required by the provisions of this section. A county health officer may designate any discreet person to make any investigation required by the provisions of this section. Any person conducting an investigation has all authority necessary for the purpose, the same as the health officer.

§16-4-4. Evidence of infection.

The following are prima facie grounds and reasons for suspecting that a person is infected with a sexually transmitted disease:

(a) Being a person who has been convicted in any court, or before a police judge, or before a magistrate, upon any charge growing out of sexual behavior;
(b) Being a person reported by a physician as infected with a sexually transmitted disease, where the person is afterwards reported as having failed to return for treatment; and

(c) Being a person designated in a sexually transmitted disease report as having a sexual exposure to the infected person reported.

§16-4-6. Reports by physicians.

(a) Every practicing physician or other person who makes a diagnosis in or treats a case of sexually transmitted disease and every superintendent or manager of a hospital, dispensary or charitable or penal institution in which there is a case of sexually transmitted disease shall make two reports of the case, as follows:

(1) One report shall be made to the local municipal health officer, if the party for whom the diagnosis was made or case treated lives within any municipality having a health officer, and if the municipality has no health officer, or if the party lives outside of a municipality, then to the health officer of the county in which the person lives;

(2) The second report shall be made to the director of health of the state.

(b) The reports required by this section shall state: (1) The street number and address of the person reported as diseased; (2) the age, sex, color, race, marital state and occupation of the person; (3) the date of the onset of the disease; (4) the anatomical site of the infection and the date and type of treatment; and (5) persons having a sexual exposure to the infected person reported, if any are identified by the infected person. The reports shall be mailed or delivered to the parties to whom they are directed within the specifications and time frame established by the director pursuant to rules proposed for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.

(c) Municipal and county health officers shall file and preserve the reports required by this section: Provided,
That all records, reports and other information provided under this section shall be confidential and exempt from public disclosure under the provisions of chapter twenty-nine-b of this code: Provided, however, That all reports shall be open to inspection by the director of the division of health, and by local health officers, or officers whose duties are connected with executing the laws against these diseases: Provided further, That any person who knowingly and willfully divulges or discloses any information entitled to protection under this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the county jail for not more than one year, or both fined and imprisoned: And provided further, That the department shall propose regulations relating hereto for approval by the Legislature in accordance with article three, chapter twenty-nine-a and such regulations shall include, but not be limited to, provisions for the implementation of the confidentiality provisions pertaining to this section.

§16-4-9. Treatment.

(a) Every physician or other person who examines or treats a person having a sexually transmitted disease shall instruct the person in measures for preventing the spread of the disease, and to inform him or her of the necessity of taking treatment until cured.

(b) Any person who has been examined and found infected, or is being treated for a sexually transmitted disease as provided by this section, shall follow the directions given by the treating physician or other person and take precautions as are necessary and are recommended. Any person starting to take treatment shall continue the treatment until discharged by the physician or other person treating him or her.

(c) Any infected person who fails to return for further treatment within ten days after the last date set by the physician or other person for the patient to return for further treatment, without lawful excuse therefor, is guilty of a misdemeanor and shall be punished as provided in section twenty-six of this article.
(d) After the expiration of the ten days provided in subsection (c) of this section, the physician or other person to whom the patient should have returned for treatment shall, unless he or she has knowledge of good reasons why the patient failed to return, make a report of the facts in the case to the local health officer having proper jurisdiction. The local health officer shall at once make an investigation to ascertain why the patient failed to return, and shall take any steps necessary in the matter to protect the public health, including obtaining the arrest, detention and quarantine of the patient.

§16-4-11. Precautions as to exposure to disease.

Whenever any attending physician or other person knows or has good reasons to believe that any person having a sexually transmitted disease is conducting himself or herself, or is about to conduct himself or herself, in a manner as to expose other persons to infection, the physician or other person shall at once notify the local health officer having jurisdiction of the facts in the case, giving the name and address of the person. The local health officer, upon receipt of the notice, shall at once cause an investigation to be made to ascertain what should be done in the premises, and may do whatever is necessary to protect the public health.

§16-4-15. Form and execution of warrant.

(a) Any warrant or order issued pursuant to the provisions of section fourteen of this article shall be directed to the chief of police if within a municipality, or to the county sheriff if not in a municipality or to any other officer qualified to execute process, directing the officer to apprehend the person mentioned, and to bring him or her before the health officer at a time and place set out in the warrant or order, there to be further dealt with as provided by law. The officer to whom the warrant is directed shall execute the warrant in the same manner as other papers of like character or kind.

(b) Pending a hearing in the matter the officer may for safekeeping, lodge the person apprehended under warrant, in jail or in any other place of detention that has
been provided for such persons. The health officer may
at his or her discretion and by indorsement on the warrant
at the time of its issuance, direct any other disposition to
be made of the person arrested, before trial. The officer
executing the warrant shall be guided by the warrant, but
may not be held responsible if the person arrested escapes.

(c) The warrant is sufficient if it is in words and
figures as follows (the blanks to be filled as necessary in
each case):

State of West Virginia, Office of .................................

County (or City) of ..................... County (or City) of

...................................... Officer.

To........................., Chief of Police or Sheriff of

............... City, of County of ...........................:

It having been brought to the attention of the
undersigned health officer for (city or county) of
............... , West Virginia, that ............... , reported as living
or residing at ............... in(city or county), is infected, or
is reasonably suspected of being infected, with one or
more sexually transmitted diseases by reason of the fact
that ............... has been reported as (set out any reasons
set in section fourteen of this article, or other reasons)

..............................................................

..............................................................

and therefore reasonably suspected of being infected; and
as the diseases have been declared to be infectious,
contagious, communicable and dangerous to the public
health.

This warrant commands you to apprehend
............... , if found within your jurisdiction and to
bring ............... before me at my office in the city or
county of ............... on the ........... day of ..............,
19 ...., at ........ o'clock, .... M, there to be further dealt with
as provided by law.

Given under my hand, this the .......... day of
............... , 19 ....
§16-4-24. Offenses by druggists.

(a) No druggist, pharmacist or other person, not a licensed physician under the laws of the state, may prescribe, recommend, sell, compound or mix any drugs, medicines or other substances to be used for the cure or alleviation of a sexually transmitted disease, including drugs, medicines or substances that are patented, proprietary or otherwise, unless:

(1) The druggist or pharmacist receives a written prescription, formula or order written for the person for whom the drugs or medicines are compounded and signed by a physician licensed to practice under the laws of the state; or

(2) The drug being recommended or sold has received federal food and drug administration approval for over-the-counter use.

(b) All drugs, medicines or substances that are known to the medical profession as being commonly used for the cure or alleviation of sexually transmitted diseases, whether the name is on the bottles or labels or not, is subject to the prohibitions established pursuant to the provisions of this section.

(c) All drugstores shall be at all times open to the inspection of any local health officer, or to any party designated by the director of the sexually transmitted diseases program of the state, to determine whether the provisions of this section are being carried out by the druggists or stores. A sale by a clerk is considered a sale by the owner or proprietor, and both may be prosecuted under the provisions of this article for a misdemeanor.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within approved this the 24th day of _______ 1998.

[Signature]
Governor