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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 4483

(By Delegates Capito, Hubbard, Douglas, Mahan,
Hutchins, Compton and Caputo)



Passed March 12, 1998

In Effect from Passage

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H. B. 4483

(BY DELEGATES CAPITO, HUBBARD, DOUGLAS, MAHAN
HUTCHINS, COMPTON AND CAPUTO)

[Passed March 12, 1998; in effect ninety days 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

2 secretary of the department of health and human
3 resources in rules proposed for legislative approval in
4 accordance with the provisions of article three, chapter
5 twenty-nine-a of this code, are hereby declared to be
6 infectious, contagious, communicable and dangerous to
7 the public health. If a conflict exists between a provision
8 of this article and a provision of article three-c of this
9 chapter, the provision of article three-c prevails.

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

1 (a) All municipal and county health officers shall:

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

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

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

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

§16-4-4. Evidence of infection.

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

4 (a) Being a person who has been convicted in any
5 court, or before a police judge, or before a magistrate,
6 upon any charge growing out of sexual behavior;

7 (b) Being a person reported by a physician as infected
8 with a sexually transmitted disease, where the person is
9 afterwards reported as having failed to return for
10 treatment; and

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

§16-4-6. Reports by physicians.

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

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

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

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

29 (c) Municipal and county health officers shall file and
30 preserve the reports required by this section: *Provided,*

31 That all records, reports and other information provided
32 under this section shall be confidential and exempt from
33 public disclosure under the provisions of chapter twenty-
34 nine-b of this code: *Provided, however,* That all reports
35 shall be open to inspection by the director of the division
36 of health, and by local health officers, or officers whose
37 duties are connected with executing the laws against these
38 diseases: *Provided further,* That any person who
39 knowingly and willfully divulges or discloses any
40 information entitled to protection under this section is
41 guilty of a misdemeanor and, upon conviction thereof,
42 shall be fined not more than five thousand dollars, or
43 imprisoned in the county jail for not more than one year,
44 or both fined and imprisoned: *And provided further,* That
45 the department shall propose regulations relating hereto
46 for approval by the Legislature in accordance with article
47 three, chapter twenty-nine-a and such regulations shall
48 include, but not be limited to, provisions for the
49 implementation of the confidentiality provisions
50 pertaining to this section.

§16-4-9. Treatment.

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

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

14 (c) Any infected person who fails to return for further
15 treatment within ten days after the last date set by the
16 physician or other person for the patient to return for
17 further treatment, without lawful excuse therefor, is guilty
18 of a misdemeanor and shall be punished as provided in
19 section twenty-six of this article.

20 (d) After the expiration of the ten days provided in
21 subsection (c) of this section, the physician or other
22 person to whom the patient should have returned for
23 treatment shall, unless he or she has knowledge of good
24 reasons why the patient failed to return, make a report of
25 the facts in the case to the local health officer having
26 proper jurisdiction. The local health officer shall at once
27 make an investigation to ascertain why the patient failed to
28 return, and shall take any steps necessary in the matter to
29 protect the public health, including obtaining the arrest,
30 detention and quarantine of the patient.

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

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

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

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

12 (b) Pending a hearing in the matter the officer may
13 for safekeeping, lodge the person apprehended under
14 warrant, in jail or in any other place of detention that has

15 been provided for such persons. The health officer may
16 at his or her discretion and by indorsement on the warrant
17 at the time of its issuance, direct any other disposition to
18 be made of the person arrested, before trial. The officer
19 executing the warrant shall be guided by the warrant, but
20 may not be held responsible if the person arrested escapes.

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

24 State of West Virginia, Office of

25 County (or City) of County (or City) of
26 Officer.

27 To....., Chief of Police or Sheriff of
28 City, of County of

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

37

38

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

43 This warrant commands you to apprehend
44, if found within your jurisdiction and to
45 bring before me at my office in the city or
46 county of on the day of,
47 19, at o'clock, M, there to be further dealt with
48 as provided by law.

49 Given under my hand, this the day of
50, 19

51
52 Health Officer or Commissioner.
53 City (or County) of
54 West Virginia.

§16-4-24. Offenses by druggists.

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

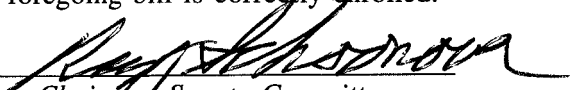
8 (1) The druggist or pharmacist receives a written
9 prescription, formula or order written for the person for
10 whom the drugs or medicines are compounded and signed
11 by a physician licensed to practice under the laws of the
12 state; or

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

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

22 (c) All drugstores shall be at all times open to the
23 inspection of any local health officer, or to any party
24 designated by the director of the sexually transmitted
25 diseases program of the state, to determine whether the
26 provisions of this section are being carried out by the
27 druggists or stores. A sale by a clerk is considered a sale
28 by the owner or proprietor, and both may be prosecuted
29 under the provisions of this article for a misdemeanor.

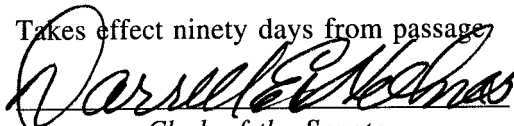
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

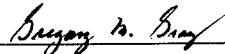

Chairman Senate Committee



Chairman House Committee

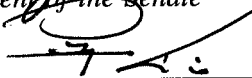
Originating in the House.

Takes effect ninety days from passage

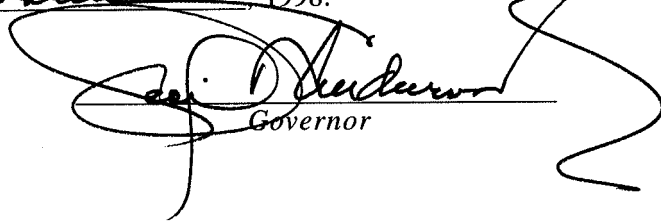

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

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


Governor

PRESENTED TO THE

GOVERNOR

Date

3/20/98

Time

4:30 pm