WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 2755

(By Delegates Stemple, Kominar, Pethtel, Crosier, Williams and Amores)

Passed March 13, 2004

In Effect Ninety Days from Passage
AN ACT to amend and reenact §16-1-4 of the code of West Virginia, 1931, as amended, relating to authorizing the secretary of the department of health and human resources to promulgate emergency rules to regulate opioid treatment centers; establishing a moratorium on licensure of new opioid treatment facilities without certificates of need until emergency rule filed; and establishing time period for compliance.

Be it enacted by the Legislature of West Virginia:

That §16-1-4 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-4. Proposal of rules by the secretary.
The secretary may propose rules, in accordance with the provisions of article three, chapter twenty-nine-a of the code, that are necessary and proper to effectuate the purposes of this chapter. The secretary may appoint or designate advisory councils of professionals in the areas of hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and mental retardation centers and any other areas necessary to advise the secretary on rules.

The rules may include, but are not limited to, the regulation of:

(a) Land usage endangering the public health: Provided, that no rules may be promulgated or enforced restricting the subdivision or development of any parcel of land within which the individual tracts, lots or parcels exceed two acres each in total surface area and which individual tracts, lots or parcels have an average frontage of not less than one hundred fifty feet even though the total surface area of the tract, lot or parcel equals or exceeds two acres in total surface area, and which tracts are sold, leased or utilized only as single family dwelling units. Notwithstanding the provisions of this subsection, nothing in this section may be construed to abate the authority of the department to: (1) Restrict the subdivision or development of a tract for any more intense or higher density occupancy than a single family dwelling unit; (2) propose or enforce rules applicable to single family dwelling units for single family dwelling unit sanitary sewerage disposal systems; or (3) restrict any subdivision or development which might endanger the public health, the sanitary condition of streams, or sources of water supply;

(b) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor 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;

(c) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods and swimming pools in this state, whether publicly or privately owned;

(d) Safe drinking water, including:

(1) The maximum contaminant levels to which all public water systems must conform in order to prevent adverse effects on the health of individuals, and, if appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(2) The minimum requirements for: Sampling and testing; system operation; public notification by a public water system on being granted a variance or exemption or upon failure to comply with specific requirements of this section and rules promulgated under this section; record keeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems rules; and

(3) The requirements covering the production and distribution of bottled drinking water and may establish requirements
governing the taste, odor, appearance and other consumer acceptability parameters of drinking water;

(e) Food and drug standards, including cleanliness, proscription of additives, proscription of sale and other requirements in accordance with article seven of this chapter, as are necessary to protect the health of the citizens of this state;

(f) The training and examination requirements for emergency medical service attendants and emergency medical care technician-paramedics; the designation of the health care facilities, health care services, and the industries and occupations in the state that must have emergency medical service attendants and emergency medical care technician-paramedics employed, and the availability, communications, and equipment requirements with respect to emergency medical service attendants and to emergency medical care technician-paramedics: Provided, That any regulation of emergency medical service attendants and emergency medical care technician-paramedics shall not exceed the provisions of article four-c of this chapter;

(g) The health and sanitary conditions of establishments commonly referred to as bed and breakfast inns. For purposes of this article, “bed and breakfast inn” means an establishment providing sleeping accommodations and, at a minimum, a breakfast for a fee: Provided, That the secretary may not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer rooms to install a restaurant style or commercial food service facility: Provided, however, That the secretary may not require an owner of a bed and breakfast providing sleeping accommodations of more than six rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;
(h) Fees for services provided by the bureau for public health including, but not limited to, laboratory service fees, environmental health service fees, health facility fees and permit fees;

(i) The collection of data on health status, the health system and the costs of health care;

(j) Opioid treatment programs duly licensed and operating under the requirements of chapter twenty-seven of this code. The secretary shall promulgate emergency rules to govern such programs: Provided, That there shall be a moratorium on the licensure of new opioid treatment programs that do not have a certificate of need as of the effective date of this subsection until such time as the secretary files emergency rules with the secretary of state to regulate such programs. All existing opioid treatment programs shall be in compliance within one hundred eighty days of the effective date of this rule; and

(k) Other health-related matters which the department is authorized to supervise and for which the rule-making authority has not been otherwise assigned.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In 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 approved this the 5th day of _Capital_, 2004.

Governor
PRESENTED TO THE
GOVERNOR
DATE 3/31/09
TIME 10:00A