

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2397

FISCAL  
NOTE

2015 Carryover

(BY DELEGATES RODIGHIERO AND PERDUE)

[Introduced January 13, 2016; referred to the  
Committee on Health and Human Resources then the  
Judiciary.]

1 A BILL to amend and reenact §16-1-6 of the Code of West Virginia, 1931, as amended, relating  
 2 to prohibiting the establishment of methadone treatment programs and clinics in this state,  
 3 except for programs and clinics operated by comprehensive community mental health  
 4 centers.

*Be it enacted by the Legislature of West Virginia:*

1 That §16-1-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
 2 to read as follows:

**ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

**§16-1-6. Powers and duties of the commissioner.**

1 The commissioner is the chief executive, administrative and fiscal officer of the Bureau for  
 2 Public Health and has the following powers and duties:

3 (a) To supervise and direct the fiscal and administrative matters of the bureau, and in that  
 4 regard and in accordance with law, employ, fix the compensation of and discharge all persons  
 5 necessary for the proper execution of the public health laws of this state and the efficient and  
 6 proper discharge of the duties imposed upon, and execution of powers vested in the  
 7 commissioner by law and as directed by the secretary;

8 (b) To enforce all laws of this state concerning public health; to that end, the commissioner  
 9 shall make, or cause to be made, investigations and inquiries respecting the cause of disease,  
 10 especially of epidemics and endemic conditions, and the means of prevention, suppression or  
 11 control of those conditions; the source of sickness and mortality, and the effects of environment,  
 12 employment, habits and circumstances of life on the public health.

13 The commissioner shall further make, or cause to be made, inspections and examinations  
 14 of food, drink and drugs offered for sale or public consumption in the manner the commissioner  
 15 considers necessary to protect the public health and shall report all violations of laws and rules

16 relating to the law to the prosecuting attorney of the county in which the violations occur;

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

22 (d) To promote the provision of essential public health services to citizens of this state;

23 (e) To monitor the administration, operation and coordination of the local boards of health  
24 and local health officers;

25 (f) To develop and maintain a state plan of operation that sets forth the needs of the state  
26 in the areas of public health; goals and objectives for meeting those needs; methods for achieving  
27 the stated goals and objectives; and needed personnel, funds and authority for achieving the  
28 goals and objectives;

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

31 (h) To delegate to any appointee, assistant or employee any and all powers and duties  
32 vested in the commissioner, including, but not limited to, the power to execute contracts and  
33 agreements in the name of the bureau: *Provided*, That the commissioner is responsible for the  
34 acts of his or her appointees, assistants and employees;

35 (i) To transfer at the direction of the secretary, notwithstanding other provisions of this  
36 code, any patient or resident between hospitals and facilities under the control of the  
37 commissioner and, by agreement with the state Commissioner of Corrections and otherwise in  
38 accord with law, accept a transfer of a resident of a facility under the jurisdiction of the state  
39 Commissioner of Corrections;

40 (j) To make periodic reports to the Governor and to the Legislature relative to specific  
41 subject areas of public health, the state facilities under the supervision of the commissioner, or  
42 other matters affecting the public health of the people of the state, at the direction of the secretary;

43 (k) At the direction of the secretary, to accept and use for the benefit of the health of the  
44 people of this state, any gift or devise of any property or thing which is lawfully given: *Provided,*  
45 That if any gift is for a specific purpose or for a particular state hospital or facility it ~~shall be~~ is used  
46 as specified. Any profit which may arise from any gift or devise of any property or thing shall be  
47 deposited in a Special Revenue Fund with the State Treasurer and ~~shall be~~ is used only as  
48 specified by the donor or donors;

49 (l) To acquire by condemnation or otherwise any interest, right, privilege, land or  
50 improvement and hold title to the land or improvement, for the use or benefit of the state or a state  
51 hospital or facility, and, by and with the consent of the Governor, and at the direction of the  
52 secretary, to sell, exchange or otherwise convey any interest, right, privilege, land or improvement  
53 acquired or held by the state, state hospital or state facility and deposit the proceeds from the  
54 sale, exchange or other conveyance into the hospital services revenue account. Any  
55 condemnation proceedings shall be conducted pursuant to chapter fifty-four of this code;

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

62 (n) To make inspections, conduct hearings, and to enforce the legislative rules concerning  
63 occupational and industrial health hazards, the sanitary condition of streams, sources of water

64 supply, sewerage facilities, and plumbing systems, and the qualifications of personnel connected  
65 with the supplies, facilities or systems without regard to whether they are publicly or privately  
66 owned; and to make inspections, conduct hearings and enforce the legislative rules concerning  
67 the design of chlorination and filtration facilities and swimming pools;

68 (o) To provide in accordance with this subdivision and the definitions and other provisions  
69 of article one-a, chapter twenty-seven of this code, and as directed by the secretary, for a  
70 comprehensive program for the care, treatment and rehabilitation of alcoholics and drug abusers;  
71 for research into the cause and prevention of alcoholism and drug abuse; for the training and  
72 employment of personnel to provide the requisite rehabilitation of alcoholics and drug abusers;  
73 and for the education of the public concerning alcoholism and drug abuse. Effective July 1,  
74 2015, the commissioner shall prohibit the establishment of any new methadone treatment  
75 program or facility in this state and pursuant to 21 CFR §291.505 (1970) and, after that date may  
76 allow only a comprehensive community mental health center as provided in article two-a, chapter  
77 twenty-seven of this code to establish and operate a new methadone treatment program;

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

88 program;

89 (q) To establish and maintain a state hygienic laboratory as an aid in performing the duties  
90 imposed upon the commissioner, and to employ chemists, bacteriologists, and other employees  
91 that may be necessary to properly operate the laboratory. The commissioner may establish  
92 branches of the state laboratory at any points within the state that are necessary in the interest of  
93 the public health;

94 (r) To establish and fund a uniform health professionals data system to collect and  
95 maintain uniform data on all health professionals in the state. This data shall include, but not be  
96 limited to, the following information about each health professional: His or her name, profession,  
97 the area of the state where he or she is practicing, his or her educational background, his or her  
98 employer's name, and number of years practicing within the profession. The boards provided  
99 ~~for~~ in articles three, four, four-a, five, seven, seven-a, fourteen, fourteen-a, fifteen, sixteen, twenty,  
100 twenty-one, twenty-three, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six and  
101 thirty-seven, chapter thirty of this code shall annually collect the data on health professionals  
102 under their jurisdiction in the format prescribed by the commissioner. Each board shall pay to  
103 the bureau annually, an amount determined by the commissioner to be a pro rata portion, for  
104 anticipated expenses to establish and operate the uniform health professionals data system  
105 required by this section. The commissioner may standardize data collection methods if  
106 necessary to implement the provisions of this section. The commissioner shall publish annually  
107 and make available, upon request, a report setting forth the data which was collected the previous  
108 year; areas of the state which the collected data indicates have a shortage of health professionals;  
109 and projections, based upon the collected data, as to the need for more health professionals in  
110 certain areas;

111 (s) To expend, for the purpose of performing the public health duties imposed on the

112 bureau, or authorized by law, any sums appropriated by the Legislature. The commissioner may  
113 make advance payments to public and nonprofit health services providers when the commissioner  
114 determines it is necessary for the initiation or continuation of public health services. The  
115 advance payments, being in derogation of the principle of payment only after receipt of goods or  
116 services, ~~shall be~~ is authorized only after serious consideration by the commissioner of the  
117 necessity of the advance payments and shall be for a period no greater than ninety days in  
118 advance of rendition of service or receipt of goods and continuation of health services; and  
119 (t) To exercise all other powers delegated to the commissioner by the secretary or by this  
120 chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities  
121 necessary and incident to the authority and area of concern entrusted to the bureau or the  
122 commissioner.

NOTE: The purpose of this bill is to provide that the Commissioner of the Bureau of Public Health shall prohibit the establishment of a new methadone treatment program or facility after July 1, 2015, except those established at comprehensive mental health centers.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.