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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

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**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 2755**

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

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Passed March 13, 2004

In Effect Ninety Days from Passage

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FOR

## H. B. 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.

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

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

11       (a) Land usage endangering the public health: *Provided*,  
12 That no rules may be promulgated or enforced restricting the  
13 subdivision or development of any parcel of land within which  
14 the individual tracts, lots or parcels exceed two acres each in  
15 total surface area and which individual tracts, lots or parcels  
16 have an average frontage of not less than one hundred fifty feet  
17 even though the total surface area of the tract, lot or parcel  
18 equals or exceeds two acres in total surface area, and which  
19 tracts are sold, leased or utilized only as single family dwelling  
20 units. Notwithstanding the provisions of this subsection,  
21 nothing in this section may be construed to abate the authority  
22 of the department to: (1) Restrict the subdivision or develop-  
23 ment of a tract for any more intense or higher density occu-  
24 pancy than a single family dwelling unit; (2) propose or enforce  
25 rules applicable to single family dwelling units for single family  
26 dwelling unit sanitary sewerage disposal systems; or (3) restrict  
27 any subdivision or development which might endanger the  
28 public health, the sanitary condition of streams, or sources of  
29 water supply;

30       (b) The sanitary condition of all institutions and schools,  
31 whether public or private, public conveyances, dairies, slaugh-  
32 terhouses, workshops, factories, labor camps, all other places  
33 open to the general public and inviting public patronage or

34 public assembly, or tendering to the public any item for human  
35 consumption, and places where trades or industries are con-  
36 ducted;

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

46 (d) Safe drinking water, including:

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

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

64 (3) The requirements covering the production and distribu-  
65 tion of bottled drinking water and may establish requirements

66 governing the taste, odor, appearance and other consumer  
67 acceptability parameters of drinking water;

68 (e) Food and drug standards, including cleanliness, pro-  
69 scription of additives, proscription of sale and other require-  
70 ments in accordance with article seven of this chapter, as are  
71 necessary to protect the health of the citizens of this state;

72 (f) The training and examination requirements for emer-  
73 gency medical service attendants and emergency medical care  
74 technician-paramedics; the designation of the health care  
75 facilities, health care services, and the industries and occupa-  
76 tions in the state that must have emergency medical service  
77 attendants and emergency medical care technician-paramedics  
78 employed, and the availability, communications, and equipment  
79 requirements with respect to emergency medical service  
80 attendants and to emergency medical care technician-paramed-  
81 ics: *Provided*, That any regulation of emergency medical  
82 service attendants and emergency medical care technician-  
83 paramedics shall not exceed the provisions of article four-c of  
84 this chapter;

85 (g) The health and sanitary conditions of establishments  
86 commonly referred to as bed and breakfast inns. For purposes  
87 of this article, "bed and breakfast inn" means an establishment  
88 providing sleeping accommodations and, at a minimum, a  
89 breakfast for a fee: *Provided*, That the secretary may not require  
90 an owner of a bed and breakfast providing sleeping accommo-  
91 dations of six or fewer rooms to install a restaurant style or  
92 commercial food service facility: *Provided, however*, That the  
93 secretary may not require an owner of a bed and breakfast  
94 providing sleeping accommodations of more than six rooms to  
95 install a restaurant-type or commercial food service facility if  
96 the entire bed and breakfast inn or those rooms numbering  
97 above six are used on an aggregate of two weeks or less per  
98 year;

99 (h) Fees for services provided by the bureau for public  
100 health including, but not limited to, laboratory service fees,  
101 environmental health service fees, health facility fees and  
102 permit fees;

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

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

115 (k) Other health-related matters which the department is  
116 authorized to supervise and for which the rule-making authority  
117 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 5<sup>th</sup>  
day of April, 2004.

Governor

PRESENTED TO THE

GOVERNOR

DATE 3/31/04

TIME 10:00am