



1 of professionals in the areas of hospitals, nursing homes, barbers  
2 and beauticians, postmortem examinations, mental health and  
3 intellectual disability centers and any other areas necessary to  
4 advise the secretary on rules.

5 (b) The rules may include, but are not limited to, the  
6 regulation of:

7 (1) Land usage endangering the public health: *Provided*, That  
8 no rules may be promulgated or enforced restricting the subdivision  
9 or development of any parcel of land within which the individual  
10 tracts, lots or parcels exceed two acres each in total surface area  
11 and which individual tracts, lots or parcels have an average  
12 frontage of not less than one hundred fifty feet even though the  
13 total surface area of the tract, lot or parcel equals or exceeds  
14 two acres in total surface area, and which tracts are sold, leased  
15 or utilized only as single-family dwelling units. Notwithstanding  
16 the provisions of this subsection, nothing in this section may be  
17 construed to abate the authority of the department to:

18 (A) Restrict the subdivision or development of a tract for any  
19 more intense or higher density occupancy than a single-family  
20 dwelling unit;

21 (B) Propose or enforce rules applicable to single-family  
22 dwelling units for single-family dwelling unit sanitary sewerage  
23 disposal systems; or

24 (C) Restrict any subdivision or development which might

1 endanger the public health, the sanitary condition of streams or  
2 sources of water supply;

3 (2) The sanitary condition of all institutions and schools,  
4 whether public or private, public conveyances, dairies,  
5 slaughterhouses, workshops, factories, labor camps, all other  
6 places open to the general public and inviting public patronage or  
7 public assembly, or tendering to the public any item for human  
8 consumption and places where trades or industries are conducted;

9 (3) Occupational and industrial health hazards, the sanitary  
10 conditions of streams, sources of water supply, sewerage facilities  
11 and plumbing systems and the qualifications of personnel connected  
12 with any of those facilities, without regard to whether the  
13 supplies or systems are publicly or privately owned; and the design  
14 of all water systems, plumbing systems, sewerage systems, sewage  
15 treatment plants, excreta disposal methods and swimming pools in  
16 this state, whether publicly or privately owned: Provided, That  
17 the rules shall require that when urinals in all public rest areas,  
18 institutions and schools need to be replaced, they shall be  
19 replaced with water free urinals;

20 (4) Safe drinking water, including:

21 (A) The maximum contaminant levels to which all public water  
22 systems must conform in order to prevent adverse effects on the  
23 health of individuals and, if appropriate, treatment techniques  
24 that reduce the contaminant or contaminants to a level which will

1 not adversely affect the health of the consumer. The rule shall  
2 contain provisions to protect and prevent contamination of  
3 wellheads and well fields used by public water supplies so that  
4 contaminants do not reach a level that would adversely affect the  
5 health of the consumer;

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

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

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

21 (6) The training and examination requirements for emergency  
22 medical service attendants and emergency medical care technician-  
23 paramedics; the designation of the health care facilities, health  
24 care services and the industries and occupations in the state that

1 must have emergency medical service attendants and emergency  
2 medical care technician-paramedics employed and the availability,  
3 communications and equipment requirements with respect to emergency  
4 medical service attendants and to emergency medical care  
5 technician-paramedics. Any regulation of emergency medical service  
6 attendants and emergency medical care technician-paramedics may not  
7 exceed the provisions of article four-c of this chapter;

8       (7) The health and sanitary conditions of establishments  
9 commonly referred to as bed and breakfast inns. For purposes of  
10 this article, "bed and breakfast inn" means an establishment  
11 providing sleeping accommodations and, at a minimum, a breakfast  
12 for a fee. The secretary may not require an owner of a bed and  
13 breakfast providing sleeping accommodations of six or fewer rooms  
14 to install a restaurant-style or commercial food service facility.  
15 The secretary may not require an owner of a bed and breakfast  
16 providing sleeping accommodations of more than six rooms to install  
17 a restaurant-type or commercial food service facility if the entire  
18 bed and breakfast inn or those rooms numbering above six are used  
19 on an aggregate of two weeks or less per year;

20       (8) Fees for services provided by the Bureau for Public Health  
21 including, but not limited to, laboratory service fees,  
22 environmental health service fees, health facility fees and permit  
23 fees;

24       (9) The collection of data on health status, the health system

1 and the costs of health care;

2       (10) Opioid treatment programs duly licensed and operating  
3 under the requirements of chapter twenty-seven of this code.

4       (A) The Health Care Authority shall develop new certificate of  
5 need standards, pursuant to the provisions of article two-d of this  
6 chapter, that are specific for opioid treatment program facilities.

7       (B) No applications for a certificate of need for opioid  
8 treatment programs may be approved by the Health Care Authority as  
9 of the effective date of the 2007 amendments to this subsection.

10       (C) There is a moratorium on the licensure of new opioid  
11 treatment programs that do not have a certificate of need as of the  
12 effective date of the 2007 amendments to this subsection, which  
13 shall continue until the Legislature determines that there is a  
14 necessity for additional opioid treatment facilities in West  
15 Virginia.

16       (D) The secretary shall file revised emergency rules with the  
17 Secretary of State to regulate opioid treatment programs in  
18 compliance with the provisions of this section. Any opioid  
19 treatment program facility that has received a certificate of need  
20 pursuant to article two-d of this chapter by the Health Care  
21 Authority shall be permitted to proceed to license and operate the  
22 facility.

23       (E) All existing opioid treatment programs shall be subject to  
24 monitoring by the secretary. All staff working or volunteering at

1 opioid treatment programs shall complete the minimum education,  
2 reporting and safety training criteria established by the  
3 secretary. All existing opioid treatment programs shall be in  
4 compliance within one hundred eighty days of the effective date of  
5 the revised emergency rules as required herein. The revised  
6 emergency rules shall provide at a minimum:

7 (i) That the initial assessment prior to admission for entry  
8 into the opioid treatment program shall include an initial drug  
9 test to determine whether an individual is either opioid addicted  
10 or presently receiving methadone for an opioid addiction from  
11 another opioid treatment program.

12 (ii) The patient may be admitted to the opioid treatment  
13 program if there is a positive test for either opioids or methadone  
14 or there are objective symptoms of withdrawal, or both, and all  
15 other criteria set forth in the rule for admission into an opioid  
16 treatment program are met. Admission to the program may be allowed  
17 to the following groups with a high risk of relapse without the  
18 necessity of a positive test or the presence of objective symptoms:  
19 Pregnant women with a history of opioid abuse, prisoners or  
20 parolees recently released from correctional facilities, former  
21 clinic patients who have successfully completed treatment but who  
22 believe themselves to be at risk of imminent relapse and HIV  
23 patients with a history of intravenous drug use.

24 (iii) That within seven days of the admission of a patient,

1 the opioid treatment program shall complete an initial assessment  
2 and an initial plan of care.

3 (iv) That within thirty days after admission of a patient, the  
4 opioid treatment program shall develop an individualized treatment  
5 plan of care and attach the plan to the patient's chart no later  
6 than five days after the plan is developed. The opioid treatment  
7 program shall follow guidelines established by a nationally  
8 recognized authority approved by the secretary and include a  
9 recovery model in the individualized treatment plan of care. The  
10 treatment plan is to reflect that detoxification is an option for  
11 treatment and supported by the program; that under the  
12 detoxification protocol the strength of maintenance doses of  
13 methadone should decrease over time, the treatment should be  
14 limited to a defined period of time, and participants are required  
15 to work toward a drug-free lifestyle.

16 (v) That each opioid treatment program shall report and  
17 provide statistics to the Department of Health and Human Resources  
18 at least semiannually which includes the total number of patients;  
19 the number of patients who have been continually receiving  
20 methadone treatment in excess of two years, including the total  
21 number of months of treatment for each such patient; the state  
22 residency of each patient; the number of patients discharged from  
23 the program, including the total months in the treatment program  
24 prior to discharge and whether the discharge was for:

1 (A) Termination or disqualification;

2 (B) Completion of a program of detoxification;

3 (C) Voluntary withdrawal prior to completion of all  
4 requirements of detoxification as determined by the opioid  
5 treatment program;

6 (D) Successful completion of the individualized treatment care  
7 plan; or

8 (E) An unexplained reason.

9 (vi) That random drug testing of all patients shall be  
10 conducted during the course of treatment at least monthly. For  
11 purposes of these rules, "random drug testing" means that each  
12 patient of an opioid treatment program facility has a statistically  
13 equal chance of being selected for testing at random and at  
14 unscheduled times. Any refusal to participate in a random drug  
15 test shall be considered a positive test. Nothing contained in  
16 this section or the legislative rules promulgated in conformity  
17 herewith will preclude any opioid treatment program from  
18 administering such additional drug tests as determined necessary by  
19 the opioid treatment program.

20 (vii) That all random drug tests conducted by an opioid  
21 treatment program shall, at a minimum, test for the following:

22 (A) Opiates, including oxycodone at common levels of dosing;

23 (B) Methadone and any other medication used by the program as  
24 an intervention;

1 (C) Benzodiazepine including diazepam, lorazepam, clonazepam  
2 and alprazolam;

3 (D) Cocaine;

4 (E) Methamphetamine or amphetamine;

5 (F) Tetrahydrocannabinol, delta-9-tetrahydrocannabinol or  
6 dronabinol or other similar substances; or

7 (G) Other drugs determined by community standards, regional  
8 variation or clinical indication.

9 (viii) That a positive drug test is a test that results in the  
10 presence of any drug or substance listed in this schedule and any  
11 other drug or substance prohibited by the opioid treatment program.  
12 A positive drug test result after the first six months in an opioid  
13 treatment program shall result in the following:

14 (A) Upon the first positive drug test result, the opioid  
15 treatment program shall:

16 (1) Provide mandatory and documented weekly counseling of no  
17 less than thirty minutes to the patient, which shall include weekly  
18 meetings with a counselor who is licensed, certified or enrolled in  
19 the process of obtaining licensure or certification in compliance  
20 with the rules and on staff at the opioid treatment program;

21 (2) Immediately revoke the take home methadone privilege for  
22 a minimum of thirty days; and

23 (B) Upon a second positive drug test result within six months  
24 of a previous positive drug test result, the opioid treatment

1 program shall:

2 (1) Provide mandatory and documented weekly counseling of no  
3 less than thirty minutes, which shall include weekly meetings with  
4 a counselor who is licensed, certified or enrolled in the process  
5 of obtaining licensure or certification in compliance with the  
6 rules and on staff at the opioid treatment program;

7 (2) Immediately revoke the take-home methadone privilege for  
8 a minimum of sixty days; and

9 (3) Provide mandatory documented treatment team meetings with  
10 the patient.

11 (C) Upon a third positive drug test result within a period of  
12 six months the opioid treatment program shall:

13 (1) Provide mandatory and documented weekly counseling of no  
14 less than thirty minutes, which shall include weekly meetings with  
15 a counselor who is licensed, certified or enrolled in the process  
16 of obtaining licensure or certification in compliance with the  
17 rules and on staff at the opioid treatment program;

18 (2) Immediately revoke the take-home methadone privilege for  
19 a minimum of one hundred twenty days; and

20 (3) Provide mandatory and documented treatment team meetings  
21 with the patient which will include, at a minimum: The need for  
22 continuing treatment; a discussion of other treatment alternatives;  
23 and the execution of a contract with the patient advising the  
24 patient of discharge for continued positive drug tests.

1 (D) Upon a fourth positive drug test within a six-month  
2 period, the patient shall be immediately discharged from the opioid  
3 treatment program or, at the option of the patient, shall  
4 immediately be provided the opportunity to participate in a twenty-  
5 one day detoxification plan, followed by immediate discharge from  
6 the opioid treatment program: *Provided*, That testing positive  
7 solely for tetrahydrocannabinol, delta-9-tetrahydrocannabinol or  
8 dronabinol or similar substances shall not serve as a basis for  
9 discharge from the program.

10 (ix) That the opioid treatment program must report and provide  
11 statistics to the Department of Health and Human Resources  
12 demonstrating compliance with the random drug test rules,  
13 including:

14 (A) Confirmation that the random drug tests were truly random  
15 in regard to both the patients tested and to the times random drug  
16 tests were administered by lottery or some other objective standard  
17 so as not to prejudice or protect any particular patient;

18 (B) Confirmation that the random drug tests were performed at  
19 least monthly for all program participants;

20 (C) The total number and the number of positive results; and

21 (D) The number of expulsions from the program.

22 (x) That all opioid treatment facilities be open for business  
23 seven days per week; however, the opioid treatment center may be  
24 closed for eight holidays and two training days per year. During

1 all operating hours, every opioid treatment program shall have a  
2 health care professional as defined by rule promulgated by the  
3 secretary actively licensed in this state present and on duty at  
4 the treatment center and a physician actively licensed in this  
5 state available for consultation.

6 (xi) That the Office of Health Facility Licensure and  
7 Certification develop policies and procedures in conjunction with  
8 the Board of Pharmacy that will allow physicians treating patients  
9 through an opioid treatment program access to the Controlled  
10 Substances Monitoring Program database maintained by the Board of  
11 Pharmacy at the patient's intake, before administration of  
12 methadone or other treatment in an opioid treatment program, after  
13 the initial thirty days of treatment, prior to any take-home  
14 medication being granted, after any positive drug test, and at each  
15 ninety-day treatment review to ensure the patient is not seeking  
16 prescription medication from multiple sources. The results  
17 obtained from the Controlled Substances Monitoring Program database  
18 shall be maintained with the patient records.

19 (xii) That each opioid treatment program shall establish a  
20 peer review committee, with at least one physician member, to  
21 review whether the program is following guidelines established by  
22 a nationally recognized authority approved by the secretary. The  
23 secretary shall prescribe the procedure for evaluation by the peer  
24 review. Each opioid treatment program shall submit a report of the

1 peer review results to the secretary on a quarterly basis.

2 (xiii) The secretary shall propose a rule for legislative  
3 approval in accordance with the provisions of article three,  
4 chapter twenty-nine-a of this code for the distribution of state  
5 aid to local health departments and basic public health services  
6 funds.

7 The rule shall include the following provisions:

8 Base allocation amount for each county;

9 Establishment and administration of an emergency fund of no  
10 more than two percent of the total annual funds of which unused  
11 amounts are to be distributed back to local boards of health at the  
12 end of each fiscal year;

13 A calculation of funds utilized for state support of local  
14 health departments;

15 Distribution of remaining funds on a per capita weighted  
16 population approach which factors coefficients for poverty, health  
17 status, population density and health department interventions for  
18 each county and a coefficient which encourages counties to merge in  
19 the provision of public health services;

20 A hold-harmless provision to provide that each local health  
21 department receives no less in state support for a period of four  
22 years beginning in the 2009 budget year.

23 The Legislature finds that an emergency exists and, therefore,  
24 the secretary shall file an emergency rule to implement the

1 provisions of this section pursuant to the provisions of section  
2 fifteen, article three, chapter twenty-nine-a of this code. The  
3 emergency rule is subject to the prior approval of the Legislative  
4 Oversight Commission on Health and Human Resources Accountability  
5 prior to filing with the Secretary of State.

6 (xiv) Other health-related matters which the department is  
7 authorized to supervise and for which the rule-making authority has  
8 not been otherwise assigned.

NOTE: The purpose of this bill is to require the installation  
of water free urinals in public rest areas, institutions and  
schools.

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