

H. B. 2397

(By Delegates Rodighiero and Perdue)

[Introduced January 27, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

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

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

(a) To supervise and direct the fiscal and administrative matters of the bureau, and in that regard and in accordance with law, employ, fix the compensation of and discharge all persons

1 necessary for the proper execution of the public health laws of this state and the efficient and proper
2 discharge of the duties imposed upon, and execution of powers vested in the commissioner by law
3 and as directed by the secretary;

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

9 The commissioner shall further make, or cause to be made, inspections and examinations of
10 food, drink and drugs offered for sale or public consumption in the manner the commissioner
11 considers necessary to protect the public health and shall report all violations of laws and rules
12 relating to the law to the prosecuting attorney of the county in which the violations occur;

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

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

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

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

1 objectives;

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

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

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

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

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

21 (l) To acquire by condemnation or otherwise any interest, right, privilege, land or
22 improvement and hold title to the land or improvement, for the use or benefit of the state or a state

1 hospital or facility, and, by and with the consent of the Governor, and at the direction of the
2 secretary, to sell, exchange or otherwise convey any interest, right, privilege, land or improvement
3 acquired or held by the state, state hospital or state facility and deposit the proceeds from the sale,
4 exchange or other conveyance into the hospital services revenue account. Any condemnation
5 proceedings shall be conducted pursuant to chapter fifty-four of this code;

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

12 (n) To make inspections, conduct hearings, and to enforce the legislative rules concerning
13 occupational and industrial health hazards, the sanitary condition of streams, sources of water supply,
14 sewerage facilities, and plumbing systems, and the qualifications of personnel connected with the
15 supplies, facilities or systems without regard to whether they are publicly or privately owned; and
16 to make inspections, conduct hearings and enforce the legislative rules concerning the design of
17 chlorination and filtration facilities and swimming pools;

18 (o) To provide in accordance with this subdivision and the definitions and other provisions
19 of article one-a, chapter twenty-seven of this code, and as directed by the secretary, for a
20 comprehensive program for the care, treatment and rehabilitation of alcoholics and drug abusers; for
21 research into the cause and prevention of alcoholism and drug abuse; for the training and
22 employment of personnel to provide the requisite rehabilitation of alcoholics and drug abusers; and

1 for the education of the public concerning alcoholism and drug abuse. Effective July 1, 2015, the
2 commissioner shall prohibit the establishment of any new methadone treatment program or facility
3 in this state and pursuant to 21 CFR §291.505 (1970) and, after that date may allow only a
4 comprehensive community mental health center as provided in article two-a, chapter twenty-seven
5 of this code to establish and operate a new methadone treatment program;

6 (p) To provide in accordance with this subdivision for a program for the care, treatment and
7 rehabilitation of the parents of sudden infant death syndrome victims; for the training and
8 employment of personnel to provide the requisite rehabilitation of parents of sudden infant death
9 syndrome victims; for the education of the public concerning sudden infant death syndrome; for the
10 responsibility of reporting to the Legislature on a quarterly basis the incidence of sudden infant death
11 syndrome cases occurring in West Virginia; for the education of police, employees and volunteers
12 of all emergency services concerning sudden infant death syndrome; for the state sudden infant death
13 syndrome advisory council to develop regional family support groups to provide peer support to
14 families of sudden infant death syndrome victims; and for requesting appropriation of funds in both
15 federal and state budgets to fund the sudden infant death syndrome program;

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

21 (r) To establish and fund a uniform health professionals data system to collect and maintain
22 uniform data on all health professionals in the state. This data shall include, but not be limited to,

1 the following information about each health professional: His or her name, profession, the area of
2 the state where he or she is practicing, his or her educational background, his or her employer's
3 name, and number of years practicing within the profession. The boards provided for in articles
4 three, four, four-a, five, seven, seven-a, fourteen, fourteen-a, fifteen, sixteen, twenty, twenty-one,
5 twenty-three, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six and thirty-seven,
6 chapter thirty of this code shall annually collect the data on health professionals under their
7 jurisdiction in the format prescribed by the commissioner. Each board shall pay to the bureau
8 annually, an amount determined by the commissioner to be a pro rata portion, for anticipated
9 expenses to establish and operate the uniform health professionals data system required by this
10 section. The commissioner may standardize data collection methods if necessary to implement the
11 provisions of this section. The commissioner shall publish annually and make available, upon
12 request, a report setting forth the data which was collected the previous year; areas of the state which
13 the collected data indicates have a shortage of health professionals; and projections, based upon the
14 collected data, as to the need for more health professionals in certain areas;

15 (s) To expend, for the purpose of performing the public health duties imposed on the bureau,
16 or authorized by law, any sums appropriated by the Legislature. The commissioner may make
17 advance payments to public and nonprofit health services providers when the commissioner
18 determines it is necessary for the initiation or continuation of public health services. The advance
19 payments, being in derogation of the principle of payment only after receipt of goods or services,
20 ~~shall be~~ is authorized only after serious consideration by the commissioner of the necessity of the
21 advance payments and shall be for a period no greater than ninety days in advance of rendition of
22 service or receipt of goods and continuation of health services; and

1 (t) To exercise all other powers delegated to the commissioner by the secretary or by this
2 chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities
3 necessary and incident to the authority and area of concern entrusted to the bureau or the
4 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.