

ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-1. State director of health authority to quarantine and to enforce regulations; state board of health Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and authority to issue regulations to control infectious or contagious diseases.

§16-3-2. Powers of county and municipal boards of health to establish quarantine; penalty for violation.

§16-3-3. Communicable diseases on vessels or trains; offenses; penalty.

§16-3-4. Compulsory immunization of school children; information disseminated; offenses; penalties.

§16-3-4a. Influenza Immunizations.

§16-3-5. Distribution of free vaccine preventives of disease.

§16-3-6. Nuisances affecting public health.

§16-3-7. Inflammation of the eyes of the newborn.

§16-3-8. Inflammation of the eyes of the newborn -- Duty of those assisting at childbirth to report cases; treatment.

§16-3-9. Inflammation of the eyes of the newborn -- Duties of local health officer.

§16-3-10. Inflammation of eyes of newborn -- Use of an appropriate medication as prophylactic.

§16-3-11. Same -- Duty of clerk of county commission.

§16-3-12. Same -- Duties of the state director of health; duties of board of health.

§16-3-13. Same -- Offenses; penalties.

[Hide all Article 3 Sections](#)

§16-3-1. State director of health authority to quarantine and to enforce regulations; state board of health Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and authority to issue regulations to control infectious or contagious diseases.

The state director of health is empowered to establish and strictly maintain quarantine at such places as he may deem proper and forbid and prevent the assembling of the people in any place, when the state director of health or any county or municipal health officer deems that the public health and safety so demand, and the state board of health Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and may adopt rules and regulations to obstruct and prevent the introduction or spread of smallpox or other communicable or infectious diseases into or within the state, and the state director of health shall have the power to enforce these regulations by detention and arrest, if necessary. The state director of health shall have power to enter into any town, city, factory, railroad train, steamboat or other place whatsoever, and enter upon and inspect private property for the purpose of investigating the sanitary and hygienic conditions and the presence of cases of infectious diseases, and may, at his discretion, take charge of any epidemic or endemic conditions, and enforce such regulations as the state board of health Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and Should this be Secretary of the

Department of Health and may prescribe. All expenses incurred in controlling any endemic or epidemic conditions shall be paid by the county or municipality in which such epidemic occurs.

§16-3-2. Powers of county and municipal boards of health to establish quarantine; penalty for violation.

The county board of health of any county may declare quarantine therein, or in any particular district or place therein, whenever in their judgment it is necessary to prevent the spread of any communicable or infectious disease prevalent therein, or to prevent the introduction of any communicable or infectious disease prevailing in any other state, county or place, and of any and all persons and things likely to spread such infection. As soon as such quarantine is established such board shall, in writing, inform the director of health thereof, the duty of whom it shall be to ascertain, as soon as practicable, the necessity therefor, if any exists, and if the state director of health finds that no such necessity exists, the same shall, by the said director, be declared raised. The said county board of health shall have power and authority to enforce such quarantine until the same is raised as aforesaid, or by themselves, and may confine any such infected person, or any person liable to spread such infection, to the house or premises in which he resides, or if he has no residence in the county, at a place to be provided by them for the purpose; and if it shall become necessary to do so, they shall summon sufficient guard for the enforcement of their orders in the premises. Every person who shall fail or refuse to comply with any order made by such board under this section, and every person summoned as such guard who shall, without a lawful excuse, fail or refuse to obey the orders and directions of such board in enforcing said quarantine, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than \$200. In cases of emergency or actual necessity, and when the county commission or corporate authorities are from any cause unable to meet or to provide for the emergency or the necessity of the case, all actual expenditures necessary for local and county quarantine, as provided for in this section, shall be certified by the county board of health to the county commission, and the whole, or as much thereof as the said commission may deem right and proper, shall be paid out of the county treasury. The board of health of any city, town or village shall have, within the municipality, the same powers and perform the same duties herein conferred upon and required of the county board of health in their county. So far as applicable the provisions of this section shall apply to any quarantine established and maintained by the state director of health pursuant to section one of this article.

§16-3-3. Communicable diseases on vessels or trains; offenses; penalty.

The state department of health, its agents and employees, and the local boards of health, in the absence of the state department, its agents and employees, when they have reason to believe that any steamboat or other watercraft navigating the Ohio river or its tributaries in this state, or any other of the waters of the state, or bordering thereon, is infected with any communicable disease, may prevent the landing of such boat or craft at any point in this state. They may also, if they have reason to believe that any railroad train, coach or other vehicle passing on or along any railroad in this state, contains any person having a communicable disease or any thing infected with contagious matter, detain such train, coach or vehicle at any station or point on such railroad where it can be done with safety, for a time sufficient to examine the same, and if found to be so infected, for a time sufficient to disinfect the same; and if the conductor or person in charge of such train, coach or vehicle, shall willfully fail or refuse to stop the said train, coach or vehicle for the time aforesaid, he shall be guilty of a misdemeanor and, punished as prescribed in section two of this article.

§16-3-4. Compulsory immunization of school children; information disseminated; offenses; penalties.

(a) Whenever a resident birth occurs, the commissioner shall promptly provide parents of the newborn child with information on immunizations mandated by this state or required for admission to a public, private and parochial school in this state or a state-regulated child care center.

(b) Except as hereinafter provided, a child entering school or a state-regulated child care center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough.

(c) No child or person may be admitted or received in any of the schools of the state or a state-regulated child care center until he or she has been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough or produces a certificate from the commissioner granting the child or person an exemption from the compulsory immunization requirements of this section.

(d) Any school or state-regulated child care center personnel having information concerning any person who attempts to be enrolled in a school or state-regulated child care center without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons to the commissioner.

(e) Persons may be provisionally enrolled under minimum criteria established by the commissioner so that the person's immunization may be completed while missing a minimum amount of school. No person shall be allowed to enter school without at least one dose of each required vaccine.

(f) County health departments shall furnish the biologicals for this immunization for children of parents or guardians who attest that they cannot afford or otherwise access vaccines elsewhere.

(g) Health officers and physicians who provide vaccinations must present the person vaccinated with a certificate free of charge showing that they have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough, or he or she may give the certificate to any person or child whom he or she knows to have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough.

(h) The commissioner is authorized to grant, renew, condition, deny, suspend or revoke exemptions to the compulsory immunization requirements of this section, on a statewide basis, upon sufficient medical evidence that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

(1) A request for an exemption to the compulsory immunization requirements of this section must be accompanied by the certification of a licensed physician stating that the physical condition of the child is such that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

(2) The commissioner is authorized to appoint and employ an Immunization Officer to make determinations on request for an exemption to the compulsory immunization requirements of this section, on a statewide basis, and delegate to the Immunization Officer the authority granted to the commissioner by this subsection.

(3) A person appointed and employed as the Immunization Officer must be a physician licensed under the laws of this state to practice medicine.

(4) The Immunization Officer's decision on a request for an exemption to the compulsory immunization requirements of this section may be appealed to the State Health Officer.

(5) The final determination of the State Health Officer is subject to a right of appeal pursuant to the provisions of article five, chapter twenty-nine a of this code.

(i) A physician who provides any person with a false certificate of immunization against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio,, rubella, tetanus and whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25 nor more than \$100.

§16-3-4a. Influenza Immunizations.

(a) A hospital licensed pursuant to the provisions of article five-b of this chapter shall offer to an inpatient who is sixty-five years of age or older an influenza immunization prior to discharge from October 1 of every year and continuing through March 1 of the following year.

(b) The immunizations may not be offered in cases where the immunization is contraindicated.

(c) The requirements of this section are subject to the availability for sufficient influenza immunizations.

(d) Nothing in this section may be construed to require an influenza immunization as a condition of receiving any type of service or as a condition of discharge.

§16-3-5. Distribution of free vaccine preventives of disease.

(a) Declaration of legislative findings and purpose. -- The Legislature finds and declares that early immunization for preventable diseases represents one of the most cost-effective means of disease prevention. The savings which can be realized from immunization, compared to the cost of health care necessary to treat the illness and lost productivity, are substantial. Immunization of children at an early age serves as a preventive measure both in time and money and is essential to maintain our children's health and well-being. The costs of childhood immunizations should not be allowed to preclude the benefits available from a comprehensive, medically supervised child immunization service.

(b) The Commissioner of the Bureau for Public Health shall acquire vaccine for the prevention of polio, measles, meningitis, mumps, rubella, chickenpox, diphtheria, pertussis, tetanus, hepatitis-b, haemophilus influenzae-b and other vaccine preventable diseases as considered necessary or required by law and shall distribute the same, free of charge, in quantities he or she considers necessary, to public and private providers, to be used by them for the benefit of citizens to check contagions and control epidemics.

(c) The Commissioner of the Bureau for Public Health, through the immunization program, has the responsibility to ensure the distribution, free of charge, of federally supplied vaccines to public and

private providers to be used to check contagions and control epidemics: Provided, That the public and private providers may not make a charge for the vaccine itself when administering it to a patient. The Commissioner of the Bureau for Public Health, through the immunization program, shall keep an accurate record of any vaccine delivered as provided in this section.

(d) The commissioner is charged with establishing an Immunization Advisory Committee. The advisory committee is to make recommendations on the distribution of vaccines acquired pursuant to this section, advise the secretary on the changing needs and opportunities for immunization from known diseases for all persons across their life span and track immunization compliance in accordance with federal and state laws. Members of the Immunization Advisory Committee shall be designated and appointed by the commissioner no later than July 1, 2015. The advisory committee shall be comprised of representatives from the following groups: Public health nursing, public health officers, primary health care providers, pediatricians, family practice physicians, health care administrators, pharmacists, the Commissioner of the Bureau for Medical Services, or his or her designee, the health insurance industry, the Director of the Public Employees Insurance Agency, or his or her designee, the self-insured industry and a minimum of three consumers. The state epidemiologist serves as an advisor to the committee. The commissioner, or his or her designee, serves as the chair of the advisory committee. Members of the advisory committee serve four-year terms.

(e) An advisory committee member may not participate in a matter involving specific parties that will have a direct and predicable effect on their financial interest. An effect will not be direct in instances where the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative.

(f) All health insurance policies and prepaid care policies issued in this state which provide coverage for the children of the insured shall provide coverage for child immunization services to include the cost of the vaccine, if incurred by the health care provider, and all costs of administration from birth through age eighteen years. These services are exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not exempt other health care services provided at the time of immunization from any deductible or copayment provisions.

(g) Attending physicians, midwives, nurse practitioners, hospitals, birthing centers, clinics and other appropriate health care providers shall provide parents of newborns and preschool age children with information on the following immunizations: Diphtheria, polio, mumps, meningitis, measles, rubella, tetanus, hepatitis-b, haemophilus influenzae-b, chickenpox and whooping cough. This information should include the availability of free immunization services for children.

§16-3-6. Nuisances affecting public health.

The state director of health or any county or municipal health officer shall inquire into and investigate all nuisances affecting the public health within his jurisdiction; and the said director or any such officer or the county commission of any county or any municipality is authorized and empowered to apply to the circuit court of the county in which any such nuisance exists, or to the judge thereof in vacation, for an injunction forthwith to restrain, prevent or abate such nuisance.

§16-3-7. Inflammation of the eyes of the newborn.

Any inflammation, swelling, or unusual redness in either one or both eyes of any infant, either apart from, or together with any unnatural discharge from the eye or eyes of such infant, independent of the nature of the infection, if any, occurring at any time within two weeks after the birth of such infant, shall be known as "inflammation of the eyes of the newborn" (ophthalmia neonatorum).

§16-3-8. Inflammation of the eyes of the newborn -- Duty of those assisting at childbirth to report cases; treatment.

It shall be the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature, parent, relative and persons attendant on or assisting in any way whatsoever any infant, or the mother of any infant, at childbirth, or at any time within two weeks after childbirth, knowing that the condition described in the preceding section exists, immediately to report such fact in writing to the local health officer of the county or municipality within which the infant or the mother of any infant may reside. In the event of there being no health officer in such county or municipality, the nurse or midwife in attendance shall immediately report the condition to some qualified practitioner of medicine and thereupon withdraw from the case except as she may act under the physician's instructions. On receipt of such report, the health officer, or the physician notified by a midwife where no health officer exists, shall immediately give to the parents or persons having charge of such infant a warning of the dangers to the eye, or eyes, of said infant, and shall for indigent cases provide the necessary treatment at the expense of said county or municipality.

§16-3-9. Inflammation of the eyes of the newborn -- Duties of local health officer.

It shall be the duty of the local health officer to investigate, or have investigated, every such case reported to him in pursuance of law, and any other cases that may come to his attention; to report all cases of inflammation of the eyes of the newborn and the result of all such investigations as the West Virginia board of health shall direct; and to conform to such other rules and regulations as the West Virginia board of health shall promulgate for his further guidance.

§16-3-10. Inflammation of eyes of newborn -- Use of an appropriate medication as prophylactic.

It shall be unlawful for any physician, nurse-midwife or midwife, practicing midwifery, or other health care professional to neglect or otherwise fail to instill or have instilled, immediately upon its birth, in the eyes of the newborn babe, the contents of a single-use tube of an ophthalmic ointment containing one percent tetracycline or one half of one percent erythromycin or the equivalent dosage of such medications or other appropriate medication approved by the director for prevention of inflammation of the eyes of the newborn. Every physician, nurse-midwife or midwife or other health care professional shall, in making a report of a birth, state the name of the appropriate medication which was instilled into the eyes of said infant. The director shall establish a list of appropriate medications for prevention of inflammation of the eyes of the newborn. The list shall be kept current and distributed to appropriate health care facilities and such other sources as the director may determine to be necessary.

§16-3-11. Same -- Duty of clerk of county commission.

It shall be the duty of the clerk of the county commission of each county, on or before the fifteenth day of each month, to certify to the prosecuting attorney of his county all reports of births filed during

the preceding calendar month which fail to show that an appropriate medication for prevention of inflammation of the eyes of the newborn hereinbefore provided for was instilled.

§16-3-12. Same -- Duties of the state director of health; duties of board of health.

It shall be the duty of the state director of health:

- (a) To enforce the provisions of sections seven through thirteen, inclusive, of this article;
- (b) To provide for the gratuitous distribution of one percent solution of silver nitrate outfits, together with proper directions for the use and administration thereof, to all physicians and midwives who may be engaged in the practice of obstetrics, or assisting at childbirth;
- (c) To publish and promulgate such further advice and information concerning the dangers of inflammation of the eyes of the newborn as is necessary for prompt and effective treatment;
- (d) To furnish copies of sections seven through thirteen, inclusive, of this article to all physicians and midwives who may be engaged in the practice of obstetrics, or assisting at childbirth;
- (e) To keep a proper record of any and all cases of inflammation of the eyes of the newborn of which reports are filed with the state director of health pursuant to law, or which may come to his attention in any way, and to constitute such records a part of the annual report to the Governor; and
- (f) To report any and all violations of the public health laws or of any rules or regulations lawfully adopted pursuant thereto that may come to his attention, to the prosecuting attorney of the county wherein said violations may have occurred, and to assist said official in any way possible in the prosecution of such cases.

It shall be the duty of the state board of health Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and Should this be Secretary of the Department of Health and to promulgate such rules and regulations as shall be necessary for the purpose of enforcing said provisions, and as the state director of health may deem necessary for the further and proper guidance of local health officers.

§16-3-13. Same -- Offenses; penalties.

Whoever, being a physician, surgeon, midwife, obstetrician, nurse, manager or person in charge of a maternity home or hospital, parent, relative, or person attending upon or assisting at the birth of an infant, violates any of the provisions of sections eight or ten of this article, shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be fined not less than ten nor more than \$50.