

# WV Local Health Officer Enforcement of STI Treatment Case Review

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"speak softly and carry a big stick; you will go far" Theodore Roosevelt

# INITIAL HISTORY

- In July of 2018 I was notified by case investigator that a 26-year-old pregnant female had tested positive for syphilis and had not kept follow up with her obstetrician for treatment. The obstetrician's office had not been able to contact her. The investigator had made multiple attempts to contact person, but they did not respond. The investigator contacted the Wayne County Health Department with request that health officer enforce treatment.

# INITIAL CONSIDERATIONS

- I needed to confirm what authority I had to enforce this. The investigator had already reviewed this thoroughly. I just needed to see the code. Fortunately, the code was available online.
- I needed to contact our prosecuting attorney to discuss. This was helpful as it helped build a local team with connections and someone to review my work to assure by recommendations were appropriate.
- I needed to have a plan in place when/if person was brought in. Where would they be kept? Who would guard her? How would treatment be rendered?
- "speak softly and carry a big stick; you will go far" [Theodore Roosevelt](#)

# SALIENT FACTORS OF THE CASE

- Reasonable effort had been made by person's physician to render treatment.
- A very strong effort was made by the case investigator to provide treatment.
- The disease was sexually transmissible which has specific WV code regarding enforcing treatment.
- The person was pregnant which involves a second person at risk who could not protect themselves.
- The records we had listed a history of Penicillin allergy without any specifics to the nature of.

# HISTORY OF THE ENFORCEMENT

- After reviewing the facts of the case, it was determined this person had a STI, that they were not complying with treatment, they were at a minimum endangering themselves and their unborn child.
- Review of WV Code showed that it was the duty of the health officer to assure treatment of the individual and their child.
- After discussing with prosecuting attorney and county sheriff it was ascertained that cooperation would occur.
- Arrangements were made with treating physicians at our local hospital to accept patient for treatment and to educate them to specific details such as patient could not refuse treatment or leave AMA.
- Within 24 hours of issuance of the warrant the person was brought by deputies to my conference room. The person was very agreeable to treatment and was escorted by law enforcement to local hospital for admission.

# OUTCOME OF CASE

- Person with STI was admitted for three days to local hospital. It was found that fetal demise had occurred at approximately 30 weeks gestation. She was induced and delivered.
- Infectious disease treated patient with Penicillin G Benzathine 2.4 million units IM after determining that she did not have penicillin allergy. RPR titer 1:64 at hospital. Patient had secondary syphilis at the time.
- Person complied with follow up and RPR was followed until negative.

# REVIEW OF PERTINENT WV CODE

- WV CODE CHAPTER 16. PUBLIC HEALTH
- ARTICLE 4. SEXUALLY TRANSMITED DISEASE

# SUMMARY OF THE SECTIONS

- **§16-4-2. Investigations by local health officers.** Defining the duty of the health officer to investigate, assure treatment and protect the public.
- **§16-4-4. Evidence of infection.** Defining when an investigation is necessary.
- **§16-4-9. Treatment.** Treatment of STI is mandatory by WV code. The health officer has the authority to assure that treatment occurs, and the public is protected.
- **§16-4-14. Issuance of warrant or order as to custody.** Defining when the health officer needs to issue a warrant. This was the most confusing section for me.
- **§16-4-15. Form and execution of warrant.** How to issue a warrant, who to carry out the warrant, where to detain the individual, provide sample of warrant to issue.
- **§16-4-16. Hearing on warrant; detention.** Duty of health officer to conduct hearing. Duty to investigate including summoning witnesses, administer oaths, commit for contempt for failure to answer. Ordering treatment, maintaining custody until treatment completed and person found to be not infectious. Defining the duty of city and county agencies to house confined person under warrant.
- **§16-4-21. Quarantine.** Quarantine for STI. May confine. Jails are to made available if no other reasonable place of confinement is available. Providing authority of health officer to summon a guard.



## §16-4-2. Investigations by local health officers.

- (a) All municipal and county health officers shall:
  - (1) Use every available means to ascertain the existence of, and to investigate all cases of sexually transmitted disease coming within their respective jurisdictions and, when it is necessary, have all cases treated, if they are not already under treatment;
  - (2) To ascertain the sources and transmission of the infection; and
  - (3) To institute measures for the protection of other persons from infection by the infected person, or from persons reasonably suspected of being so infected, and for the protection of the public health at all times.
- (b) A municipal health officer may designate any member of the city police or health department to make any investigation required by the provisions of this section. A county **health officer may designate** any discreet person to make any investigation required by the provisions of this section. **Any person conducting an investigation has all authority necessary for the purpose, the same as the health officer.**

## §16-4-4. Evidence of infection.

- The following are prima facie grounds and reasons for suspecting that a person is infected with a sexually transmitted disease:
  - (a) Being a person who has been convicted in any court, or before a police judge, or before a magistrate, upon any charge growing out of sexual behavior;
  - (b) Being a person reported by a physician as infected with a sexually transmitted disease, where the person is afterwards reported as having failed to return for treatment; and
  - (c) Being a person designated in a sexually transmitted disease report as having a sexual exposure to the infected person reported.

# §16-4-9. Treatment.

- (a) Every physician or other person who examines or treats a person having a sexually transmitted disease shall instruct the person in measures for preventing the spread of the disease, and to inform him or her of the necessity of taking treatment until cured.
- (b) Any person who has been examined and found infected, or is being treated for a sexually transmitted disease as provided by this section, shall follow the directions given by the treating physician or other person and take precautions as are necessary and are recommended. Any person starting to take treatment shall continue the treatment until discharged by the physician or other person treating him or her.
- (c) Any infected person who fails to return for further treatment within ten days after the last date set by the physician or other person for the patient to return for further treatment, without lawful excuse therefor, is guilty of a misdemeanor and, shall be punished as provided in section twenty-six of this article.
- (d) After the expiration of the ten days provided in subsection (c) of this section, the physician or other person to whom the patient should have returned for treatment shall, unless he or she has knowledge of good reasons why the patient failed to return, make a report of the facts in the case to the local health officer having proper jurisdiction. The local health officer shall at once make an investigation to ascertain why the patient failed to return, and shall take any steps necessary in the matter to protect the public health, including obtaining the arrest, detention and quarantine of the patient.

# §16-4-14. Issuance of warrant or order as to custody.

- Upon receipt of a written report or of any other reliable information by the local health officer that any person infected with a venereal disease in an infectious stage
- is conducting himself or herself, or is about to conduct himself or herself, so as to infect others, or expose others to infection;
- or that a person infected with a venereal disease under treatment;
- or that any person is a prostitute, or person associating with prostitutes, and is reasonably suspected of being infected, or of conducting himself or herself so as to infect others;
- or that a person has been convicted in any court or municipality, or before a justice of the peace, of an offense growing out of sex immorality;
- or that a person is being held by any court, municipality, or justice of the peace, pending an examination for a venereal disease;
- or that a certain person has been reported in a venereal disease report as the source of a venereal disease;
- or when any other facts are brought to the attention of the local health officer having proper jurisdiction, showing that any person is reasonably suspected of being infected with a venereal disease, or is about to conduct himself or herself so as to infect others, said health officer shall at once issue his warrant or order, if the party be not already in custody, and shall proceed as hereinafter provided.

# §16-4-15. Form and execution of warrant.

- (a) Any warrant or order issued pursuant to the provisions of section fourteen of this article shall be directed to the chief of police if within a municipality, or to the county sheriff if not in a municipality or to any other officer qualified to execute process, directing the officer to apprehend the person mentioned, and to bring him or her before the health officer at a time and place set out in the warrant or order, there to be further dealt with as provided by law. The officer to whom the warrant is directed shall execute the warrant in the same manner as other papers of like character or kind.
- (b) Pending a hearing in the matter the officer may for safekeeping, lodge the person apprehended under warrant, in jail or in any other place of detention that has been provided for such persons. The health officer may at his or her discretion and by indorsement on the warrant at the time of its issuance, direct any other disposition to be made of the person arrested, before trial. The officer executing the warrant shall be guided by the warrant, but may not be held responsible if the person arrested escapes. (c) The warrant is sufficient if it is in words and figures as follows (the blanks to be filled as necessary in each case):

# Sample of Warrant in WV Code

- State of West Virginia, Office of
- County (or City) of ..... County (or City) of .....
- ..... Officer.
- To....., Chief of Police or Sheriff of ..... City, of County of .....
- It having been brought to the attention of the undersigned health officer for (city or county) of ....., West Virginia, that ....., reported as living or residing at ..... in (city or county), is infected, or is reasonably suspected of being infected, with one or more sexually transmitted diseases by reason of the fact that ..... has been reported as (set out any reasons set in section fourteen of this article, or other reasons)
- and therefore reasonably suspected of being infected; and as the diseases have been declared to be infectious, contagious, communicable and dangerous to the public health.
- This warrant commands you to apprehend ....., if found within your jurisdiction, and to bring ..... before me at my office in the city or county of ..... on the ..... day of ....., 19 ..., at ..... o'clock, .... M, there to be further dealt with as provided by law.
- Given under my hand, this the ..... day of ....., 19 .....
- .....
- Health Officer or Commissioner.

## §16-4-16. Hearing on warrant; detention.

- When a party is brought in for a hearing upon arrest under the warrant provided in the preceding section, the health officer shall at once proceed to ascertain the facts in the case, and to this end he may summon witnesses, and administer oaths to such witnesses touching their testimony, and may commit for contempt for failure to answer proper questions, and may, if proper, discharge the party from further custody; but if from the testimony it appears that the party so apprehended is properly classifiable under any subdivision of section four of this article, touching persons reasonably suspected of being infected with a venereal disease, then such party shall not be released from custody until proof has been made showing the party is already under treatment from a reputable physician, or other person, or until an examination has been made to ascertain whether in fact said party is so infected, and results of all tests and examinations are known, and shall make all orders touching the care, custody, and examination of the party as are reasonably necessary in the premises, and if it is found that said party is infected, then he may make any other orders that may be necessary touching the treatment of such party, and if said party is suffering with one or more venereal diseases in an infectious stage, said party shall not be released from custody until the diseases are past such infectious stage, and said party may be detained or quarantined in any place or institution provided for the purpose, or in the patient's own home if the health officer thinks best; and if no other place is available for such purposes, then such party shall be detained in the city or county jail, as the case may be. And it shall be the duty of every city and every county in the state to take this contingency in hand when they are making up their estimates for taxation and levy purposes and to provide therefor.

## §16-4-21. Quarantine.

- In establishing quarantine for a venereal disease under the provisions of this article, the health officer establishing said quarantine may confine any person infected, or reasonably suspected of having such venereal disease, or any other person liable to spread such disease, to the house or premises in which such infected person lives, or he may require any such person to be quarantined in any other place, hospital or institution in his jurisdiction that may have been provided. **If no such place has been provided, then such person shall be confined in the county or city jail under a quarantine order, and such jails shall always be available for such purposes.** But if such person is to be quarantined in his home, then said health officer shall designate the area, room or rooms, that such person is to occupy while so confined, and no one except the attending physician or his immediate attendants shall enter or leave such room or rooms so designated without permission of said health officer, and no one except the local health officer shall terminate said quarantine, and this shall not be done until the diseased person has become noninfectious as determined by thorough clinical tests, or permission has been given by the West Virginia state director of health. If, to make any quarantine effective as provided herein, it becomes necessary, the local health officer may summon a sufficient guard for the enforcement of his orders in the premises. And every person who fails or refuses to obey or comply with any order made by said health officer hereunder, or under any other section concerning quarantine, and every person summoned as a guard who shall, without a lawful excuse therefor, fail or refuse to obey the orders and directions of the health officer in enforcement of said quarantine, shall be guilty of a misdemeanor and, shall be punished as hereinafter provided.