

**WEST VIRGINIA CODE****CHAPTER 16. PUBLIC HEALTH.****ARTICLE 5A. CANCER CONTROL.****§16-5A-1. Cancer control.**

The director of the state department of health shall execute and administer the provisions of this article relating to the diagnosis, treatment and care of persons suffering from cancer. The director shall have authority to direct, control, govern and provide for the management of any state institution for the care and treatment of cancer patients which may hereafter be created by law.

§16-5A-2. Educational program.

The director shall formulate and put into effect throughout the state an educational program for the purpose of preventing cancer and of aiding in its early diagnosis, and for the purpose of giving information to hospitals and cancer patients concerning the proper treatment. In furtherance of this program, the director may assist and cooperate with any state or national organization conducting an educational program for the prevention of cancer.

§16-5A-2a. Cancer and tumor registry.

(a) To the extent funds are available, the director of the division of health shall establish a cancer and tumor registry for the purpose of collecting information concerning the incidence of cancer and nonmalignant intracranial and central nervous system tumors. The information collected by the registry shall be analyzed to prepare reports and perform studies as necessary when such data identifies hazards to public health. Pending appropriate funding, a statewide system shall be phased in and be fully operational by the first day of July, two thousand two, pursuant to the enactment of this section in two thousand one.

(b) All reporting sources, including hospitals, physicians, laboratories, clinics or other similar units diagnosing or providing treatment for cancer and nonmalignant intracranial and central nervous system tumors, shall provide a report of each cancer or tumor case to the cancer and tumor registry in a format specified by the director. The reporting sources shall grant the director or an authorized representative of the registry access to all records which would identify cases of cancer or nonmalignant intracranial and central nervous system tumors or would establish characteristics of cancer or nonmalignant intracranial or central nervous system tumors.

(c) All information reported pursuant to this section is confidential and shall be used for the purpose of determining the sources of malignant neoplasms and nonmalignant

intracranial and central nervous system tumors and evaluating measures designed to eliminate, alleviate or ameliorate their effect. A report provided to the cancer and tumor registry disclosing the identity of an individual who was reported as having cancer or tumors shall only be released to reporting sources and persons demonstrating a need which is essential to health related research, except that the release shall be conditioned upon the reporting source and personal identities remaining confidential. No liability of any kind or character for damages or other relief shall arise or be enforced against any reporting source by reason of having provided the information or material to the cancer and tumor registry.

(d) The director of the division of health shall appoint an advisory committee on cancer and tumors with membership consisting of representatives of appropriate agencies, including the West Virginia hospital association; the American cancer society, West Virginia division; the American lung association of West Virginia; the West Virginia medical association; the association of osteopathic medicine; the West Virginia nurses association; the Mary Babb Randolph cancer center; and, at the discretion of the director, any other individuals directly involved. The advisory committee shall provide technical guidance regarding the operation of the cancer registry and shall provide such advice and assistance as needed to carry out effective cancer prevention and control activities. The members of the advisory committee shall serve four-year terms. Vacancies shall be filled in a like manner for the unexpired term.

(e) The director shall promulgate rules related to: (1) The content and design of all forms and reports required by this section; (2) the procedures for disclosure of information gathered by the cancer and tumor registry by monitoring and evaluating health data and from completed risk assessments; and (3) any other matter necessary to the administration of this section.

§16-5A-3. Establishment of clinics.

The director shall have authority to prescribe standard minimum requirements for the organization, equipment and conduct of cancer units or clinics in general hospitals of the state. The director shall establish and maintain, or aid in the establishment and maintenance of, a sufficient number of cancer diagnostic and treatment clinics meeting such requirements, so located that they are within reasonable traveling distance of any citizen of the state in need of treatment. In the establishment and operation of such clinics and in the fixing of such minimum requirements, the director shall consult and cooperate with the West Virginia state medical association.

In order to determine the progress of the disease and the success of the treatment being used, the director shall insofar as practicable provide a method for following up each case and bringing the patient back to the clinic at frequent intervals.

§16-5A-4. Tissue diagnostic service.

The director shall furnish, within the limits of available funds, free tissue diagnostic service to all needy patients. In providing this service the director may use either the

state- owned laboratory in the department of health, or privately owned laboratories approved by the department.

§16-5A-5. Care of needy patients.

The board of health shall prescribe rules and regulations specifying to what extent and on what terms and conditions needy cancer patients may receive financial aid for the diagnosis and treatment of cancer in any approved hospital in this state. The director is authorized to furnish aid, within the limits of available funds, to such patients and shall have the power to administer such aid in any manner which in his judgment will afford the greatest benefit to cancer patients throughout the state.

In determining whether a particular patient is entitled to such assistance the director may call upon the department of welfare for such investigation as may be required. In order to receive such aid, however, the patient need not qualify for public assistance as administered by the department of welfare.

§16-5A-6.

Repealed.

Acts, 1997 Reg. Sess., Ch. 61.

§16-5A-7.

Repealed.

Acts, 1997 Reg. Sess., Ch. 61.

§16-5A-8.

Repealed.

Acts, 1997 Reg. Sess., Ch. 61.

§16-5A-9.

Repealed.

Acts, 1997 Reg. Sess., Ch. 61.

§16-5A-9a. Laetrile use; informed consent.

A hospital or other health care facility may not interfere with the physician-patient relationship by restricting or forbidding the intravenous use of amygdalin (laetrile) as certified in accordance with section sixteen-a, article five, chapter thirty of this code, as an adjunct to recognized, customary or accepted modes of therapy in the treatment of any malignancy for terminally ill cancer patients when it is prescribed or administered by a physician holding an unlimited license for the practice of medicine in the state of West Virginia and the patient has signed the "written informed request" therefor as set forth in

this section: **Provided**, That a parent or guardian may sign the "written informed request" on a minor's behalf.

In the event that no recognized, customary or accepted mode of therapy is available for the treatment of any malignancy for a terminally ill cancer patient, the physician may prescribe or administer intravenous amygdalin (laetrile), as certified in accordance with section sixteen-a, article five, chapter thirty of this code, as the sole mode of therapy, providing further that said patient executed the "written informed request" as set forth in this section.

Any physician, hospital or other health care facility participating in any act permitted or required by this section is immune from any civil or criminal liability that otherwise might result by reason of such actions. A physician may not be subjected to disciplinary action by the state board of medicine of West Virginia for prescribing or administering intravenous amygdalin (laetrile), in compliance with the provisions of this section.

Nothing in this section shall be construed as constituting an endorsement of amygdalin (laetrile), as certified in accordance with section sixteen-a, article five, chapter thirty of this code, for the treatment of any malignancy, disease, illness or physical condition.

The "written informed request" referred to in this section shall be on a form prepared by and obtained from the state department of health and shall be in substance as follows:

**"WRITTEN INFORMED REQUEST" FOR PRESCRIPTION OF
INTRAVENOUS AMYGDALIN (LAETRILE) FOR
MEDICAL TREATMENT**

Patient's name: _____

Address _____

Age _____ Sex _____

Name and address of prescribing physician:

Nature of malignancy diagnosed for medical treatment by amygdalin (laetrile):

My physician has explained to me:

(a) That the manufacture and distribution of amygdalin (laetrile) has not been approved

by the Federal Food and Drug Administration.

(b) That neither the American Cancer Society, the American Medical Association nor the West Virginia State Medical Association recommends use of amygdalin (laetrile) in the treatment of any malignancy, disease, illness or physical condition.

(c) That there are alternative recognized treatments for the malignancy, disease, illness or physical condition from which I suffer which he has offered to provide for me including:

(here describe) (state "none" if applicable) _____

(d) That I have the right to refuse or terminate the intravenous use of laetrile at any time.

I understand that physicians, hospitals or health care facilities are immune from civil and criminal liability for prescribing or administering amygdalin (laetrile) in compliance with state statutes.

That notwithstanding the foregoing, I hereby request prescription and use of intravenous amygdalin (laetrile) in the medical treatment of the malignancy from which I suffer.

Patient or person signing for patient

Date of execution of request _____

ATTEST: _____

Prescribing physician

The prescribing physician shall forward a copy of the written informed request to the state registrar of vital statistics within ten days of the execution of such request and shall retain a copy of the request in the patient's medical file.

§16-5A-10.

Repealed.

Acts, 1997 Reg. Sess., Ch. 61.

Note: Code updated with legislation passed through the 2009 4th Extraordinary Session