1 **Senate Bill No. 358**

2 (By Senators Laird, Browning, Foster, Green, Hall, Miller,

3 Kessler (Mr. President), Unger, Beach and Jenkins)

4 _____

5 [Introduced January 20, 2012; referred to the Committee on Health

6 and Human Resources; and then to the Committee on the Judiciary.]

7 _____

8

9

10

11 A BILL to amend and reenact §60A-4-410 of the Code of West

12   Virginia, 1931, as amended, relating to the possession of

13   multiple prescribed medications or prescriptions for

14   controlled substances with the same or similar therapeutic

15   medical purposes; exceptions; limitations; and criminal

16   penalties.

17 *Be it enacted by the Legislature of West Virginia:*

18   That §60A-4-410 of the Code of West Virginia, 1931, as

19 amended, be amended and reenacted to read as follows:

20 **ARTICLE 4. OFFENSES AND PENALTIES.**

21 **§60A-4-410.   Prohibited acts -- Withholding information from**

22   **practitioner; additional controlled substances;**

23   **possession of multiple prescriptions of same or**

1   **similar drug; penalties.**

2   (a) It is unlawful for a patient, in an attempt to obtain a

3 prescription for a controlled substance, <u>as defined in this</u>

4 <u>chapter,</u> to knowingly withhold from a practitioner that the patient

5 has obtained a prescription for a controlled substance of the same

6 or similar therapeutic use in a concurrent time period from another

7 practitioner.

8   <u>(b) For the purpose of this subsection, the word</u>

9 <u>"prescription" means either: (1) A written prescription for a</u>

10 <u>controlled substance; or (2) an amount of a controlled substance</u>

11 <u>obtained as a result of a written prescription.</u>

12   <u>(c) (1) For the specific controlled substances listed in</u>

13 <u>subdivision (2) of this subsection, it is unlawful for a patient to</u>

14 <u>possess more than two prescribed medication or current prescription</u>

15 <u>of a particular controlled substance or any other controlled</u>

16 <u>substance of the same or similar therapeutic use if any of the</u>

17 <u>prescriptions are filled within seventy-two hours of each other</u>

18 <u>unless the patient can provide an affidavit from a practitioner</u>

19 <u>explaining why the multiple prescriptions are medically necessary.</u>

20   <u>(2) Controlled substances prohibited by this section include</u>

21 <u>all Schedules II, III and IV drugs.</u>

22   ~~(b)~~ <u>(d)</u> ~~Any~~ <u>A</u> person who violates this section is guilty of a

23 misdemeanor and, upon conviction thereof, may be confined in jail

1 for not more than nine months, or fined not more than $2,500, or

2 both fined and confined.

3   ~~(c)~~ (e) ~~The~~ Each offense established by this section is in

4 addition to and a separate and distinct offense from any other

5 offense set forth in this code.

     NOTE: The purpose of the bill is to establish prohibited acts
relating to possession of controlled substances obtained from more
than one health practitioner.

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