1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 516**

4 (By Senators Leonhardt, Karnes and Blair)

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6 [Originating in the Committee on Health and Human Resources;

7 reported February 26, 2015.]

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9

10 A BILL to repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7,
11 §30-15-7a, §30-15-7b and §30-15-7c of the Code of West Virginia, 1931, as amended; to
12 amend and reenact §16-5-19 of said code; to amend and reenact §30-3-5 of said code; to
13 amend said code by adding thereto two new sections, designated §30-3-7b and §30-3-7c; to
14 amend and reenact §30-7-15a of said code; to amend said code by adding thereto a new
15 section, designated, §30-7-15d; to amend and reenact §30-14-3; and to amend said code by
16 adding thereto two new sections, designated §30-14-16 and §30-14-17, all relating to the
17 practice of advance practice registered nurses; allowing advance practice registered nurses
18 to sign death certificates; adding an advance practice registered nurse to the Board of
19 Medicine and the Board of Osteopathy; providing that under specified circumstances advance
20 practice registered nurses may prescribe without a collaborative agreements; providing
21 advance practice registered nurses who prescribe without a collaborative agreements shall
22 be licensed by either the Board of Medicine or the Board of Osteopathy for prescriptive
23 purposes; granting rule-making authority to the Board of Medicine and the Board of

1 Osteopathy to license advance practice registered nurses for prescriptive purposes; providing
2 for reports to the Legislature; and modifying the controlled substances which an advance
3 practice registered nurse may prescribe.

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

5 That §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a,
6 §30-15-7b and §30-15-7c of the Code of West Virginia, 1931, as amended, be repealed; that
7 §16-5-19 of said code be amended and reenacted; that §30-3-5 of said code be amended and
8 reenacted; that said code be amended by adding thereto two new sections, designated §30-3-7b and
9 §30-3-7c; that §30-7-15a of said code be amended and reenacted; that said code be amended by
10 adding thereto a new section, designated, §30-7-15d; that §30-14-3 of said code be amended and
11 reenacted; and that said code be amended by adding thereto two new sections, designated §30-14-16
12 and §30-14-17, all to read as follows:

13 **CHAPTER 16. PUBLIC HEALTH.**

14 **§16-5-19. Death registration.**

15 (a) A certificate of death for each death which occurs in this state shall be filed with the
16 section of vital statistics, or as otherwise directed by the State Registrar, within five days after death,
17 and prior to final disposition, and shall be registered if it has been completed and filed in accordance
18 with this section.

19 (1) If the place of death is unknown, but the dead body is found in this state, the place where
20 the body was found shall be shown as the place of death.

21 (2) If the date of death is unknown, it shall be approximated. If the date cannot be
22 approximated, the date found shall be shown as the date of death.

23 (3) If death occurs in a moving conveyance in the United States and the body is first removed

1 from the conveyance in this state, the death shall be registered in this state and the place where it is
2 first removed shall be considered the place of death.
3 (4) If death occurs in a moving conveyance while in international waters or air space or in
4 a foreign country or its air space and the body is first removed from the conveyance in this state, the
5 death shall be registered in this state but the certificate shall show the actual place of death insofar
6 as can be determined.
7 (5) In all other cases, the place where death is pronounced shall be considered the place
8 where death occurred.
9 (b) The funeral director or other person who assumes custody of the dead body shall:
10 (1) Obtain the personal data from the next of kin or the best qualified person or source
11 available including the deceased person's social security number or numbers, which shall be placed
12 in the records relating to the death and recorded on the certificate of death;
13 (2) Within forty-eight hours after death, provide the certificate of death containing sufficient
14 information to identify the decedent to the physician responsible for completing the medical
15 certification as provided in subsection (c) of this section; and
16 (3) Upon receipt of the medical certification, file the certificate of death: *Provided,* That for
17 implementation of electronic filing of death certificates, the person who certifies to cause of death
18 will be responsible for filing the electronic certification of cause of death as directed by the State
19 Registrar and in accordance with legislative rule.
20 (c) The medical certification shall be completed and signed within twenty-four hours after
21 receipt of the certificate of death by the physician in charge of the patient's care for the illness or
22 condition which resulted in death except when inquiry is required pursuant to chapter sixty-one,
23 article twelve or other applicable provisions of this code.

(1) In the absence of the physician or with his or her approval, the certificate may be completed by his or her associate physician, any physician who has been placed in a position of responsibility for any medical coverage of the decedent, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided inquiry is not required pursuant to chapter sixty-one, article twelve of this code or the advanced practice registered nurse who was placed in a position of responsibility for the nursing care of the decedent.

(2) The person completing the cause of death shall attest to its accuracy either by signature or by an approved electronic process.

(d) When inquiry is required pursuant to article twelve, chapter sixty one, or other applicable provisions of this code, the State Medical Examiner or designee or county medical examiner or county coroner in the jurisdiction where the death occurred or where the body was found shall determine the cause of death and shall complete the medical certification within forty-eight hours after taking charge of the case.

(1) If the cause of death cannot be determined within forty-eight hours after taking charge of the case, the medical examiner shall complete the medical certification with a "Pending" cause of death to be amended upon completion of medical investigation.

(2) After investigation of a report of death for which inquiry is required, if the State Medical Examiner or designee or county medical examiner or county coroner decline jurisdiction, the State Medical Examiner or designee or county medical examiner or county coroner may direct the decedent's family physician or the physician who pronounces death to complete the certification of death: *Provided,* That the physician is not civilly liable for inaccuracy or other incorrect statement of death unless the physician willfully and knowingly provides information he or she knows to be

1 false.

2 (e) When death occurs in an institution and the person responsible for the completion of the
3 medical certification is not available to pronounce death, another physician may pronounce death.
4 If there is no physician available to pronounce death, then a designated licensed health professional
5 who views the body may pronounce death, attest to the pronouncement by signature or an approved
6 electronic process, and, with the permission of the person responsible for the medical certification,
7 release the body to the funeral director or other person for final disposition: *Provided,* That if the
8 death occurs in an institution during court-ordered hospitalization, in a correctional facility or under
9 custody of law-enforcement authorities, the death shall be reported directly to a medical examiner
10 or coroner for investigation, pronouncement and certification.

11 (f) If the cause of death cannot be determined within the time prescribed, the medical
12 certification shall be completed as provided by legislative rule. The attending physician or medical
13 examiner, upon request, shall give the funeral director or other person assuming custody of the body
14 notice of the reason for the delay, and final disposition of the body may not be made until authorized
15 by the attending physician, medical examiner or other persons authorized by this article to certify the
16 cause of death.

17 (g) Upon receipt of autopsy results, additional scientific study, or where further inquiry or
18 investigation provides additional information that would change the information on the certificate
19 of death from that originally reported, the certifier, or any State Medical Examiner who provides
20 such inquiry under authority of article twelve, chapter sixty-one of this code shall immediately file
21 a supplemental report of cause of death or other information with the section of vital statistics to
22 amend the record, but only for purposes of accuracy.

23 (h) When death is presumed to have occurred within this state but the body cannot be located,

a certificate of death may be prepared by the State Registrar only upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required to complete the certificate of death. The certificate of death will be marked "Presumptive" and will show on its face the date of death as determined by the court and the date of registration, and shall identify the court and the date of the order.

(i) The local registrar shall transmit each month to the county clerk of his or her county a copy of the certificates of all deaths occurring in the county, and if any person dies in a county other than the county within the state in which the person last resided prior to death, then the State Registrar shall furnish a copy of the death certificate to the clerk of the county commission of the county where the person last resided, from which copies the clerk shall compile a register of deaths, in a form prescribed by the State Registrar. The register shall be a public record.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal.

The West Virginia Board of Medicine has assumed, carried on and succeeded to all the duties, rights, powers, obligations and liabilities heretofore belonging to or exercised by the Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates, permits and other acts and undertakings of the medical licensing board of West Virginia as heretofore constituted have continued as those of the West Virginia Board of Medicine until they expired or were amended, altered or revoked. The board remains the sole authority for the issuance of licenses to practice medicine and surgery and to practice podiatry and to practice as physician assistants in this state under the supervision of physicians licensed under this article. The board shall continue to be a regulatory and disciplinary body for the practice of medicine and surgery and the practice of podiatry

1 and for physician assistants in this state.

2 The board shall consist of ~~fifteen~~ sixteen members. One member shall be the state health
3 officer ex officio, with the right to vote as a member of the board. The other fourteen members shall
4 be appointed by the Governor, with the advice and consent of the Senate. Eight of the members shall
5 be appointed from among individuals holding the degree of doctor of medicine and two shall hold
6 the degree of doctor of podiatric medicine. One member shall be an individual licensed by the board
7 as a physician assistant. Each of these members must be duly licensed to practice his or her
8 profession in this state on the date of appointment and must have been licensed and actively
9 practicing that profession for at least five years immediately preceding the date of appointment.
10 Three lay members shall be appointed to represent health care consumers. Neither the lay members
11 nor any person of the lay members' immediate families shall be a provider of or be employed by a
12 provider of health care services. One member shall be ad advance practice registered nurse licensed
13 pursuant to the provisions of article seven of this chapter. The state health officer's term shall
14 continue for the period that he or she holds office as state health officer. Each other member of the
15 board shall be appointed to serve a term of five years: *Provided,* That the members of the Board of
16 Medicine holding appointments on the effective date of this section shall continue to serve as
17 members of the Board of Medicine until the expiration of their term unless sooner removed. Each
18 term shall begin on October 1 of the applicable year, and a member may not be appointed to more
19 than two consecutive full terms on the board.

20 A person is not eligible for membership on the board who is a member of any political party
21 executive committee or, with the exception of the state health officer, who holds any public office
22 or public employment under the federal government or under the government of this state or any
23 political subdivision thereof.

1 In making appointments to the board, the Governor shall, so far as practicable, select the
2 members from different geographical sections of the state. When a vacancy on the board occurs and
3 less than one year remains in the unexpired term, the appointee shall be eligible to serve the
4 remainder of the unexpired term and two consecutive full terms on the board.
5 No member may be removed from office by the Governor except for official misconduct,
6 incompetence, neglect of duty or gross immorality: *Provided,* That the expiration, surrender or
7 revocation of the professional license by the board of a member of the board shall cause the
8 membership to immediately and automatically terminate.
9 ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.
10 **§30-3-7b. Findings and Rule-making authority regarding Advance Practice Registered Nurses.**
11 (a) The Legislature finds that it is in the best interest of the citizens of West Virginia for the
12 Board of Medicine and the Board of Osteopathy to license advance practice registered nurses as they
13 are defined in article seven of this chapter for prescriptive authority if they wish to prescribe without
14 a collaborative agreements as set forth in section fifteen-a, article seven of this chapter.
15 (b) The Board of Medicine and the Board of Osteopathy shall propose joint rules for
16 legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this
17 code. This rules shall include at a minimum:
18 (1) A standardized written agreement for a collaborative agreement between a physician and
19 an advance practice registered nurse;
20 (2) A standard application process and criteria for prescriptive authority for an advance
21 practice registered nurse who meets all of the requirements of section fifteen-d, article seven of this
22 code;
23 (3) Licensing requirements for an advance practice registered nurse who is prescribing

1 without a collaborative agreement pursuant to the provisions of section fifteen-d, article seven of this

2 code. These requirements shall include:

3 (A) Requirements for obtaining a license to prescribe, including any fees;

4 (B) Requirements for continuing education;

5 (C) Conduct of a licensee for which discipline may be imposed; and

6 (D) Any other rules necessary to effectuate the provisions of this section.

7 **§30-3-7c. Report.**

8 (a) The Board of Medicine and the Board of Osteopathy shall submit a joint report to the

9 Legislative Oversight Commission on Health and Human Resources Accountability concerning its

10 activities within the state relative to the licensing of advance practice registered nurses. The report

11 is due December 1, 2020.

12 (b) The report set forth in subsection (a) shall provide an analysis of the impact of allowing

13 advance practice registered nurses to prescribe without a collaborative relationship pursuant to the

14 provisions of section fifteen-a, article seven of this chapter.

15 (c) An annual report shall also be submitted jointly by the Board of Medicine and the Board

16 of Osteopathy to include statistical information concerning:

17 (1) The number of licenses issued in the preceding year;

18 (2) The number of advance practice registered nurses who have been approved for

19 prescriptive authority that have a collaborative agreement with a physician;

20 (3) The number of advance practice registered nurses who have been approved for

21 prescriptive authority without a collaborative agreement with a physician;

22 (4) The number of complaints filed against an advance practice registered nurse;

23 (5) What the most prescribed controlled substances are;

(6) The number of reported adverse events;

(7) The total number of patient visits in the preceding year; and

(8) The geographic locations of advance practice registered nurses both with and without a collaborative agreement as self reported by the advance practice registered nurse.

This report is due on the first day of December, 2015 and annually thereafter.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-15a. Prescriptive authority for prescription drugs; coordination with Board of Pharmacy.

(a) The board may, in its discretion, authorize an advanced practice registered nurse to prescribe prescription drugs in a collaborative relationship with a physician licensed to practice in West Virginia and in accordance with applicable state and federal laws. An authorized advanced practice registered nurse may write or sign prescriptions or transmit prescriptions verbally or by other means of communication.

(b) For purposes of this section an agreement to a collaborative relationship for prescriptive practice between a physician and an advanced practice registered nurse shall be set forth in writing. Verification of the agreement shall be filed with the board by the advanced practice registered nurse. The board shall forward a copy of the verification to the Board of Medicine and the Board of Osteopathic Medicine. Collaborative agreements shall include, but are not limited to, the following:

(1) Mutually agreed upon written guidelines or protocols for prescriptive authority as it applies to the advanced practice registered nurse's clinical practice;

(2) Statements describing the individual and shared responsibilities of the advanced practice registered nurse and the physician pursuant to the collaborative agreement between them;

(3) Periodic and joint evaluation of prescriptive practice; and

1 (4) Periodic and joint review and updating of the written guidelines or protocols.

2 (c) The board shall promulgate legislative rules in accordance with the provisions of chapter
3 twenty-nine-a of this code governing the eligibility and extent to which an advanced practice
4 registered nurse may prescribe drugs. Such rules shall provide, at a minimum, a state formulary
5 classifying those categories of drugs which shall not be prescribed by advanced practice registered
6 nurse including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act,
7 antineoplastics, radiopharmaceuticals and general anesthetics. An advance practice registered nurse
8 may prescribe up to a seventy-two-hour supply of hydrocodone combinations, so long as the
9 prescription is nonrefillable. Drugs listed under Schedule III shall be limited to a seventy-two hour
10 supply without refill. In addition to the above referenced provisions and restrictions and pursuant
11 to a collaborative agreement as set forth in subsections (a) and (b) of this section, the rules shall
12 permit the prescribing of an annual supply of any drug, with the exception of controlled substances,
13 which is prescribed for the treatment of a chronic condition, other than chronic pain management.
14 For the purposes of this section, a "chronic condition" is a condition which lasts three months or
15 more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and
16 does not generally disappear. These conditions, with the exception of chronic pain, include, but are
17 not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and
18 obesity. The prescriber authorized in this section shall note on the prescription the chronic disease
19 being treated.

20 (d) The board shall consult with other appropriate boards for the development of the
21 formulary.

22 (e) The board shall transmit to the Board of Pharmacy a list of all advanced practice
23 registered nurse with prescriptive authority. The list shall include:

1 (1) The name of the authorized advanced practice registered nurse;

2 (2) The prescriber's identification number assigned by the board; and

3 (3) The effective date of prescriptive authority.

4 **§30-7-15d. Eligibility for prescriptive authority without collaborative relationship.**

5 (a) An advanced practice registered nurse as defined in this article may prescribe prescription 6 drugs without a collaborative relationship with a physician as set forth in section fifteen-a of this 7 article, when all of the requirements of this section have been met: *Provided,* That an advance 8 practice registered nurse practicing as a certified nurse midwife or a certified registered nurse 9 anaesthetist shall not be permitted to prescribe without a collaborative agreement.

10 (b) An advanced practice registered nurse seeking to prescribe prescription drugs without a 11 collaborative relationship with a physician shall obtain a license from the West Virginia Board of 12 Medicine as set forth in article three of this chapter or the West Virginia Board of Osteopathy as set 13 forth in article fourteen of this chapter for the purpose of prescribing. This license shall be in 14 addition to any license issued to the advance practice nurse from the Board of Examiners for 15 Registered Nurses pursuant to this article. To be eligible to prescribe without a collaborative 16 arrangement the advance practice registered nurse shall submit an application to the Board of 17 Medicine or the Board of Osteopathy on a form prescribed by the Board of Medicine or the Board 18 of Osteopathy. The application shall be submitted to the board who licensed the physician with 19 whom the advance practice registered nurse has or had his or her collaborative agreement. The 20 Board of Medicine or the Board of Osteopathy may authorize an advanced practice registered nurse 21 to prescribe prescription drugs without a collaborative relationship with a physician if the Board of 22 Medicine or the Board of Osteopathy determines:

23 (1) The advanced practice registered nurse has at least five years of clinical prescribing

experience in a collaborative arrangement with a physician as set forth in section fifteen-a of this article;

(2) Is working solely in an area that has been designated by the United States Department of Health and Human Services, Health Resources and Services Administration as a Health Professional Shortage Area;

(3) Has a recommendation from his or her collaborative physician which recommends that the advance practice registered nurse be permitted to prescribe without a collaborative arrangement; and

(4) Has never had any action taken to encumber their license.

The Board of Medicine and the Board of Osteopathy shall issue a license to prescribe to an advance practice registered nurse who meets all of the requirements of this section and any rules jointly promulgated by the two boards: *Provided*, That an advance practice registered nurse practicing as a certified nurse midwife or a certified registered nurse anaesthetist shall not be permitted to prescribe without a collaborative agreement.

§30-14-3. Board of Osteopathic Medicine.

(a)The West Virginia Board of Osteopathy is continued and effective July 1, 2012 shall be known as the West Virginia Board of Osteopathic Medicine. The members of the board shall continue to serve until a successor is appointed and may be reappointed.

(b) The Governor shall appoint, by and with advice and consent of the Senate, two additional members and stagger their initial terms:

(1) One person who is a licensed osteopathic physician or surgeon; and

(2) One person who is a licensed osteopathic physician assistant.

(c) The board consists of the following ~~seven~~ eight members, who are appointed to staggered

terms by the Governor with the advice and consent of the Senate:

(1) Four licensed osteopathic physicians and surgeons;

(2) One licensed osteopathic physician assistant; ~~and~~

(3) Two citizen members, who are not associated with the practice of osteopathic medicine; and

(4) One licensed advance practice registered nurse.

(d) After the initial appointment, a board member’s term shall be for 5 years.

(e) The West Virginia Osteopathic Medical Association may submit recommendations to the Governor for the appointment of an osteopathic physician board member, and the West Virginia Association of Physician Assistants may submit recommendations to the Governor for the appointment of an osteopathic physician assistant board member.

(f) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for a period of not less than five years immediately preceding the appointment.

(g) Each member of the board must be a U.S. citizen and a resident of this state for a period of not less than five years immediately preceding the appointment and while serving as a member of the board.

(h) A member may not serve more than two consecutive full terms. A member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member may continue to serve until a successor has been appointed and has qualified.

(i) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty days of the vacancy.

(j) The Governor may remove any member from the board for neglect of duty, incompetency

or official misconduct.

(k) A member of the board immediately and automatically forfeits membership to the board if his or her license to practice is suspended or revoked, he or she is convicted of a felony under the laws of any jurisdiction, or he or she becomes a nonresident of this state.

(l) The board shall elect annually one of its members as a chairperson and one of its members as a secretary who shall serve at the will of the board.

(m) Each member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.

(n) A simple majority of the membership serving on the board at a given time constitutes a quorum.

(o) The board shall hold at least two meetings each year. Other meetings may be held at the call of the chairperson or upon the written request of two members, at the time and place as designated in the call or request.

(p) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(q) The members of the board when acting in good faith, without malice and within the scope of their duties as board members shall enjoy immunity from individual civil liability.

§30-14-16. Findings and Rule-making authority regarding Advance Practice Registered Nurses.

(a) The Legislature finds that it is in the best interest of the citizens of West Virginia for the Board of Medicine and the Board of Osteopathy to regulate and license advance practice registered nurses as they are defined in article seven of this chapter and who are prescribing without a collaborative agreements as set forth in section fifteen-a, article seven of this chapter.

1 (b) The Board of Osteopathy and the Board of Medicine shall propose joint rules for
2 legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this
3 code. This rules shall include at a minimum:
4 (1) A standardized written agreement for a collaborative agreement between a physician and
5 an advance practice registered nurse;
6 (2) A standard application process and criteria for prescriptive authority for an advance
7 practice registered nurse who meets all of the requirements of section fifteen-d, article seven of this
8 code;
9 (3) Licensing requirements for an advance practice registered nurse who is prescribing
10 without a collaborative agreement pursuant to the provisions of section fifteen-d, article seven of this
11 code. These requirements shall include:
12 (A) Requirements for obtaining a licenses and a temporary licenses, including fees;
13 (B) Requirements for continuing education;
14 (C) Conduct of a licensee for which discipline may be imposed; and
15 (D) Any other rules necessary to effectuate the provisions of this section.
16 **§30-3-7c. Report.**
17 (a) The Board of Osteopathy and the Board of Medicine shall submit a joint report to the
18 Legislative Oversight Commission on Health and Human Resources Accountability concerning its
19 activities within the state relative to the licensing of advance practice registered nurses. The report
20 is due December 1, 2020.
21 (b) The report set forth in subsection (a) shall provide an analysis of the impact of allowing
22 advance practice registered nurses to prescribe without a collaborative relationship pursuant to the
23 provisions of section fifteen-a, article seven of this chapter.

1 (c) An annual report shall also be submitted jointly by the Board of Medicine and the Board
2 of Osteopathy to include statistical information concerning:
3 (1) The number of licenses issued in the preceding year;
4 (2) The number of advance practice registered nurses who have been approved for
5 prescriptive authority that have a collaborative agreement with a physician;
6 (3) The number of advance practice registered nurses who have been approved for
7 prescriptive authority without a collaborative agreement with a physician;
8 (4) The number of complaints filed against an advance practice registered nurse;
9 (5) What the most prescribed controlled substances are;
10 (6) The number of reported adverse events;
11 (7) The total number of patient visits in the preceding year; and
12 (8) The geographic locations of advance practice registered nurses both with and without a
13 collaborative agreement as self reported by the advance practice registered nurse.
14 This report is due on the first day of December, 2015 and annually thereafter.