

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2205

(BY DELEGATES HOWELL, STANSBURY, AMBLER,
COOPER, MILLER, FAIRCLOTH, ZATEZALO, BLAIR,
STATLER AND WAGNER)

[Passed March 12, 2016; in effect ninety days from
passage.]

2 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
3 designated §61-8-30, relating to creating the offense of a psychotherapist, or one
4 fraudulently representing himself or herself as a psychotherapist, to engage in sexual
5 contact or sexual intercourse with a patient or client by means of therapeutic deception;
6 establishing elements of the crime; providing exceptions; providing definitions; and
7 providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §61-8-30, to read as follows:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-30. Therapeutic deception; penalties.

1 (a) In this section, unless a different meaning plainly is required:

2 (1) "Client" or "patient" means a person who is being treated clinically or medically by a
3 psychotherapist for more than one session or initial visit.

4 (2) "Psychotherapist" means any of the following:

5 (A) A psychiatrist licensed pursuant to article three, chapter thirty of this code;

6 (B) A psychologist licensed pursuant to article twenty-one, chapter thirty of this code or a
7 medical psychologist licensed pursuant to article three, chapter thirty of this code;

8 (C) A licensed clinical social worker licensed pursuant to article thirty, chapter thirty of this
9 code; or

10 (D) A mental health counselor licensed pursuant to article thirty-one, chapter thirty of this
11 code.

12 (3) "Sexual contact" has the same meaning as provided in article eight-b, chapter sixty-
13 one of this code.

14 (4) "Sexual intercourse" has the same meaning as provided in article eight-b, chapter sixty-
15 one of this code.

16 (5) "Therapeutic deception" means a representation by the psychotherapist to the patient
17 or client that sexual contact or sexual intercourse with the psychotherapist is consistent with or
18 part of the treatment of the patient or client.

19 (b) It is unlawful for any psychotherapist, or any person who fraudulently represents
20 himself or herself as a psychotherapist, to engage in sexual contact or sexual intercourse with a
21 client or patient by means of therapeutic deception.

22 (c) For purposes of this section, consent of the patient or client is not a defense, regardless
23 of the age of the patient or client.

24 (d) Any person who violates subsection (b) of this section is guilty of a felony and, upon
25 conviction thereof, shall be fined not more than \$10,000.00 or imprisoned in a state correctional
26 facility for not less than one year nor more than five years, or both fined and imprisoned.