

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2487

FISCAL
NOTE

2015 Carryover

(BY DELEGATES A. EVANS AND ROWAN)

[Introduced January 13, 2016; referred to the
Committee on Health and Human Resources then the
Judiciary.]

1 A BILL to amend and reenact §27-2-3 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring a person restraining a mentally ill or mentally challenged person in a "four
 3 point restraint" to administer sedation by injection at the time the patient is secured in the
 4 "four point restraint"; providing guidelines for handling the patient after initial restraint and
 5 sedation; and establishing a criminal penalty for failure to sedate by injection upon use of
 6 the "four point restraint."

Be it enacted by the Legislature of West Virginia:

7 That §27-2-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted
 8 to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.

§27-2-3. Rules as to patients.

1 The director of health shall implement rules and regulations as promulgated by the board
 2 of health in regard to the admission of patients to mental health facilities, the care, maintenance
 3 and treatment of inpatients, residents and outpatients of such facilities and the release, trial visit
 4 and discharge of patients therefrom.

5 No patient under eighteen years of age in any state hospital shall be housed in any area
 6 also occupied by any patient over eighteen years of age. Any patient adjudged by the chief
 7 medical officer to have a likelihood of seriously harming others shall be confined in a secure area
 8 of a health facility.

9 Notwithstanding any provision in this chapter to the contrary, the restraint technique known
 10 as the "four point restraint," whereby a patient's arms and legs are strapped down on a bed, may
 11 not be used to restrain a patient unless the procedure is coupled with an injection to sedate the
 12 patient at the time the patient is secured in the "four point restraint." After the initial four point
 13 restraint and sedation by injection, the following guidelines should be adhered to in handling the

14 patient:

15 (1) Once a patient awakens, the restraint should be undone;

16 (2) After initial restraint, the doctor should prescribe the maintenance dose to cover highs
17 and lows without need for further restraint;

18 (3) Instead of a second injection, the patient should be placed in a safe seclusion room;

19 (4) Safe seclusion by itself or with an injection should be the first alternative, and the least
20 restrictive; and

21 (5) Hospitals or facilities licensed to treat the mentally ill or mentally challenged in this
22 state should have a seclusion room or rooms with padded walls and padded floors, and no beds
23 or furniture except for approved mattresses.

24 Any person using the "four point restraint" technique on a patient who fails to provide
25 sedation by injection upon securing the patient in the "four point restraint" is guilty of a
26 misdemeanor and, upon conviction thereof, shall be fined \$5,000.

NOTE: The purpose of this bill is to require a person restraining a mentally ill or mentally challenged person in a "four point restraint" to administer sedation by injection at the time the patient is secured in the "four point restraint". The bill provides guidelines for handling the patient after initial restraint and sedation and establishes a penalty for failure to sedate by injection upon use of the "four point restraint." The bill establishes a criminal penalty.

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