

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2614

FISCAL
NOTE

BY DELEGATES PHILLIPS, ELDRIDGE, MILLER, R.,
BARRETT, MILLER, C., MAYNARD, MARCUM, WHITE,
ELLINGTON AND RODIGHIERO

[Introduced February 21, 2017; Referred
to the Committee on Prevention and Treatment of
Substance Abuse then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §60A-4-414, relating to prohibiting health care practitioners from knowingly
 3 and in bad faith prescribing or administering drugs, in a manner not in accordance with
 4 accepted medical standards in the course of professional practice; providing felony
 5 criminal penalties for violations; and creating a defense to alleged violations.

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 §60A-4-414, to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Prohibited acts - Prescribing or administering drugs other than in a good faith, therapeutic manner; penalties; defenses.

1 (a) Except as authorized by this section, it is unlawful for any practitioner, as that term is
 2 defined in section one hundred one, article one of this chapter, to knowingly and in bad faith
 3 prescribe, dispense, administer, mix or otherwise prepare a drug, including any controlled
 4 substance under state or federal law, in a manner not in accordance with accepted medical
 5 standards in the course of the practitioner’s professional practice.

6 (b) It shall be a defense to an alleged violation of subsection (a) of this section that a
 7 practitioner was discharging his or her professional obligation to relieve pain and suffering and
 8 promote the dignity and autonomy of dying patients in his or her care and, in so doing, exceeded
 9 the average dosage of a pain-relieving controlled substance, as defined in sections two hundred
 10 six and two hundred eight, article two of this chapter.

11 (c) Any person who violates subsection (a) of this section is guilty of a felony and, in
 12 addition to a minimum fine imposed of \$250,000, shall be imprisoned in a state correctional facility
 13 for not less than five nor more than ten years.

NOTE: The purpose of this bill is to make it a crime to prescribe, dispense, administer, mix or otherwise prepare a drug in a manner not in accordance with accepted medical standards, to provide defenses, and to establish penalties.

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