WEST VIRGINIA LEGISLATURE

2022 SECOND EXTRAORDINARY SESSION

Introduced

House Bill 214

By Delegates Hanshaw (Mr. Speaker) and Skaff
(By Request of the Executive)

[Introduced April 25, 2022]

A BILL to amend and reenact §30-3E-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-7-15a of said code, all relating to prescriptive authority; eliminating certain legislative rulemaking authority concerning the prescriptive authority of a physician assistant; providing for prescriptive authority of physician assistants; eliminating certain discretionary authority of the Board of Nursing; eliminating certain legislative rulemaking authority of the Board of Nursing with respect to prescriptive authority of an advanced practice registered nurse; eliminating certain emergency rulemaking authority of the Board of Nursing; eliminating requirements regarding list of advanced practice registered nurses with prescriptive authority; and providing for prescriptive authority of advanced practice registered nurses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-3. Rulemaking.

(a) The boards shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to implement the provisions of this article, including:

(1) The extent to which physician assistants may practice in this state;

(2) The extent to which physician assistants may pronounce death;

(3) Requirements for licenses and temporary licenses;

(4) Requirements for practice notifications;

(5) Requirements for continuing education;

(6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe; ~~including: A state formulary classifying those categories of drugs which may not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals, and general anesthetics:~~ *~~Provided,~~* ~~That a physician assistant or an advanced practice registered nurse may prescribe no more than a three-day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a practice notification as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity~~

(8) A fee schedule; and

(9) Any other rules necessary to effectuate the provisions of this article.

(b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq*. of this code to ensure conformity with this article.

(c) (1) A physician assistant may not prescribe a Schedule I controlled substance as provided in §60A-2-204 of this code.

(2) A physician assistant may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-2-206 of this code.

(3) There are no other limitations on the prescribing authority of a physician assistant, except as provided in §16-54-1 *et seq.* of this code.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

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

~~(a) The board may, in its discretion, authorize an advanced practice registered nurse to prescribe prescription drugs in accordance with this article and all other 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) The board shall promulgate legislative rules in accordance with chapter twenty-nine-a of this code governing the eligibility and extent to which an advanced practice registered nurse may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying those categories of drugs which shall not be prescribed by advanced practice registered nurse including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a thirty day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a collaborative agreement as set forth in section fifteen-b of this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a "chronic condition" is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the prescription the chronic disease being treated.~~

~~(c) The board may promulgate emergency rules to implement the provisions of this article pursuant to section fifteen, article three, chapter twenty-nine-a of this code.~~

~~(d) The board shall transmit to the Board of Pharmacy a list of all advanced practice registered nurses with prescriptive authority. The list shall include:~~

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

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

~~(3) The effective date of prescriptive authority~~

(a) An advanced practice registered nurse may not prescribe a Schedule I controlled substance as provided in §60A-2-204 *et seq.* of this code.

(b) An advanced practice registered nurse may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-2-206 *et seq.* of this code.

(c) There are no other limitations on the prescribing authority of an advanced practice registered nurse, except as provided in §16-54-1 *et seq.* of this code.

NOTE: The purpose of this bill is to update the prescriptive authority of physician assistants and advanced practice registered nurses.

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