

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]

1 A BILL to amend and reenact §30-3E-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §30-7-15a of said code, all relating to prescriptive authority;
 3 eliminating certain legislative rulemaking authority concerning the prescriptive authority of
 4 a physician assistant; providing for prescriptive authority of physician assistants;
 5 eliminating certain discretionary authority of the Board of Nursing; eliminating certain
 6 legislative rulemaking authority of the Board of Nursing with respect to prescriptive
 7 authority of an advanced practice registered nurse; eliminating certain emergency
 8 rulemaking authority of the Board of Nursing; eliminating requirements regarding list of
 9 advanced practice registered nurses with prescriptive authority; and providing for
 10 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.

1 (a) The boards shall propose rules for legislative approval in accordance with the
 2 provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including:
 3 (1) The extent to which physician assistants may practice in this state;
 4 (2) The extent to which physician assistants may pronounce death;
 5 (3) Requirements for licenses and temporary licenses;
 6 (4) Requirements for practice notifications;
 7 (5) Requirements for continuing education;
 8 (6) Conduct of a licensee for which discipline may be imposed;
 9 (7) The eligibility and extent to which a physician assistant may prescribe; ~~including: A~~
 10 ~~state formulary classifying those categories of drugs which may not be prescribed by a physician~~
 11 ~~assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances~~
 12 ~~Act, antineoplastics, radiopharmaceuticals, and general anesthetics: *Provided, That* a physician~~
 13 ~~assistant or an advanced practice registered nurse may prescribe no more than a three-day~~

14 ~~supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II~~
15 ~~drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition~~
16 ~~to the above referenced provisions and restrictions and pursuant to a practice notification as set~~
17 ~~forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the~~
18 ~~exception of controlled substances, which is prescribed for the treatment of a chronic condition,~~
19 ~~other than chronic pain management. For the purposes of this section, a chronic condition is a~~
20 ~~condition which lasts three months or more, generally cannot be prevented by vaccines, can be~~
21 ~~controlled but not cured by medication, and does not generally disappear. These conditions, with~~
22 ~~the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular~~
23 ~~disease, cancer, diabetes, epilepsy and seizures, and obesity~~

24 (8) A fee schedule; and

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

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

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

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

32 (3) There are no other limitations on the prescribing authority of a physician assistant,
33 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~~

1 ~~(a) The board may, in its discretion, authorize an advanced practice registered nurse to~~
2 ~~prescribe prescription drugs in accordance with this article and all other applicable state and~~
3 ~~federal laws. An authorized advanced practice registered nurse may write or sign prescriptions or~~

4 ~~transmit prescriptions verbally or by other means of communication.~~

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

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

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

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

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

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

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

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

32 (c) There are no other limitations on the prescribing authority of an advanced practice
33 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.