

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4111

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REED, G. WARD, BATES, ROWAN, FORSHT, MALLOW, AND
WORRELL

[Introduced January 17, 2022; referred to the
Committee on Health and Human Resources then the
Judiciary]

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 clarifying prescriptive authority
3 of physicians assistants and registered professional 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 ~~(87) A fee schedule; and~~

25 ~~(98) 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:

29 (A) Not prescribe a Schedule I.

30 (B) Prescribe a 3 day supply of a Schedule II narcotic;

31 (2) There are no other limitations on a physician assistant's prescribing authority, except
32 as provided in §16-54-1 et seq.

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 §29A-3-1 et seq. of~~
6 ~~this code of this code governing the eligibility and extent to which an advanced practice registered~~
7 ~~nurse may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying~~
8 ~~those categories of drugs which shall not be prescribed by advanced practice registered nurse~~
9 ~~including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act,~~
10 ~~antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III~~
11 ~~shall be limited to a thirty day supply without refill. In addition to the above referenced provisions~~

12 ~~and restrictions and pursuant to a collaborative agreement as set forth in §30-7-15b of this code,~~
13 ~~the rules shall permit the prescribing of an annual supply of any drug, with the exception of~~
14 ~~controlled substances, which is prescribed for the treatment of a chronic condition, other than~~
15 ~~chronic pain management. For the purposes of this section, a “chronic condition” is a condition~~
16 ~~which lasts three months or more, generally cannot be prevented by vaccines, can be controlled~~
17 ~~but not cured by medication and does not generally disappear. These conditions, with the~~
18 ~~exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease,~~
19 ~~cancer, diabetes, epilepsy and seizures, and obesity. The prescriber authorized in this section~~
20 ~~shall note on the prescription the chronic disease being treated.~~

21 ~~(c) The board may promulgate emergency rules to implement the provisions of this article~~
22 ~~pursuant to §29A-3-15 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:

29 (1) Not prescribe a Schedule I.

30 (2) Prescribe a 3 day supply of a Schedule II narcotic;

31 (b) There are no other limitations on an advanced practice registered nurse’s prescribing
32 authority, except as provided in §16-54-1 et seq.

NOTE: The purpose of this bill is to clean up the code concerning prescriptive authority of physicians assistants and advance 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.