

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 362**

By Senator Stuart

[Introduced January 12, 2024; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-54-3 and §16-54-8 of the Code of West Virginia, 1931, as  
 2 amended; and to amend said code by adding thereto a new section, designated §16-54-  
 3 8a, all relating to the availability of prescription nonopioid medications available; and  
 4 requiring the Department of Health and Human Resources to make information available  
 5 to the public about the availability of such treatments.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 54. OPIOID REDUCTION ACT.**

**§16-54-3. Opioid prescription notifications.**

1 Prior to issuing a prescription for a Schedule II opioid drug, a practitioner shall:

2 (1) Advise the patient regarding the quantity of the Schedule II opioid drug and a patient's  
 3 option to fill the prescription in a lesser quantity; ~~and~~

4 (2) Inform the patient of the risks associated with the Schedule II opioid drug prescribed;

5 (3) Inform the patient or the patient's representative of available prescription nonopioid  
 6 alternatives for the treatment of pain, which may include available prescription nonopioid  
 7 medicinal drugs or drug products, interventional procedures or treatments, acupuncture,  
 8 chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other  
 9 appropriate therapy as determined by the health care practitioner;

10 (4) Discuss with the patient or the patient's representative the advantages and  
 11 disadvantages of the use of prescription nonopioid alternatives, and whether the patient is at high  
 12 risk of, or has a history of, controlled substance abuse or misuse and the patient's personal  
 13 preferences;

14 (5) Provide the patient or the patient's representative, electronically or in printed form, with  
 15 the educational pamphlet described in §16-54-8(g) of this code; and

16 (6) Document in the patient's record that prescription nonopioid alternatives were  
 17 considered and discussed with the patient or the patient's representative and, to the extent that the  
 18 health care practitioner prescribes or orders an opioid for the treatment of pain, document the

19 reasons for such a prescription or order.

**§16-54-8. Treatment of pain.**

1 (a) The Legislature finds that every competent adult has the fundamental right of self-  
2 determination regarding decisions pertaining to their own health, including the right to refuse an  
3 opioid drug.

4 ~~(a)~~ (b) When a patient seeks treatment:

5 (1) a A health care practitioner shall refer or prescribe to the patient any of the following  
6 treatment alternatives, as is appropriate based on the practitioner's clinical judgment and the  
7 availability of the treatment, before starting a patient on a Schedule II opioid drug: physical  
8 therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic  
9 pain management program, and chiropractic services, as defined in §30-16-3 of this code.

10 (2) The health care practitioner shall exercise their professional judgment in selecting  
11 appropriate treatment modalities for acute nonoperative, acute perioperative, subacute, or chronic  
12 pain in accordance with the most current Clinical Practice Guideline for Prescribing Opioids for  
13 Pain of the Centers for Disease Control and Prevention, including the use of nonopioid alternatives  
14 whenever reasonable, clinically appropriate, evidence-based alternatives exist.

15 (3) The health care practitioner should consider prescribing nonopioids as the first line of  
16 pain control in patients unless not clinically appropriate in accordance with the provisions of  
17 subdivision (2) of this section.

18 ~~(b)~~ (c) Nothing in this section should be construed to require that all of the treatment  
19 alternatives set forth in §16-54-8~~(a)~~ (b)(1) of this code are required to be exhausted prior to the  
20 patient's receiving a prescription for a Schedule II opioid drug.

21 ~~(e)~~ (d) At a minimum, an insurance provider who offers an insurance product in this state,  
22 the Bureau for Medical Services, and the Public Employees Insurance Agency shall provide  
23 coverage for 20 visits per event of physical therapy, occupational therapy, osteopathic  
24 manipulation, a chronic pain management program, and chiropractic services, as defined in §30-

25 16-3 of this code, when ordered or prescribed by a health care practitioner.

26 ~~(d)~~ (e) A person may seek physical therapy, occupational therapy, osteopathic  
27 manipulation, a chronic pain management program, and chiropractic services, as defined in §30-  
28 16-3 of this code, prior to seeking treatment from any other health care practitioner. The licensed  
29 health care practitioner providing services pursuant to this section may prescribe within their  
30 scope of practice as defined in §16-54-1 of this code. A health care practitioner referral although  
31 permitted is not required as a condition of coverage by the Bureau for Medical Services the Public  
32 Employees Insurance Agency, and any insurance provider who offers an insurance product in this  
33 state. Any deductible, coinsurance, or copay required for any of these services may not be greater  
34 than the deductible, coinsurance, or copay required for a primary care visit.

35 ~~(e)~~ (f) Nothing in this section precludes a practitioner from simultaneously prescribing a  
36 Schedule II opioid drug and prescribing or recommending any of the procedures set forth in §16-  
37 54-8(a) (b)(1) of this code.

38 (g) The Department of Health and Human Resources shall develop and publish on its  
39 website an educational pamphlet regarding the use of prescription nonopioid alternatives for the  
40 treatment of acute nonoperative, acute perioperative, subacute, or chronic pain. The pamphlet  
41 shall, at a minimum, conform with the most current Clinical Practice Guideline for Prescribing  
42 Opioids for Pain of the Centers for Disease Control and Prevention and shall include:

43 (1) Information on available prescription nonopioid alternatives for the treatment of pain,  
44 including available prescription nonopioid medicinal drugs or drug products and  
45 nonpharmacological therapies.

46 (2) The advantages and disadvantages of the use of prescription nonopioid alternatives.

**§16-54-8a. Coverage of nonopioid alternatives for the treatment of pain.**

1 Notwithstanding any provision of law to the contrary, when a licensed health care  
2 practitioner prescribes a nonopioid medication for the treatment of acute nonoperative, acute  
3 perioperative, subacute, or chronic pain, it shall be unlawful for a health insurance carrier and for

4 the purpose of this section, includes the Public Employees and Medicaid to deny coverage of the  
5 nonopioid prescription drug in favor of an opioid prescription drug.

NOTE: The purpose of this bill is to increase the availability of prescription nonopioid medications. The bill requires the Department of Health and Human Resources to make information available to the public about the availability of such treatments.

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