

1 **H. B. 2506**

2  
3 (By Delegates Hatfield and Doyle)

4 [Introduced January 17, 2011; referred to the  
5 Committee on Health and Human Resources then the  
6 Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §30-5-31, relating to  
12 prohibiting pharmacists and other persons involved in  
13 dispensing medicines from refusing to fill prescriptions;  
14 creating exceptions; providing for complaints to be filed with  
15 the Board of Pharmacy; providing for an administrative fine;  
16 and providing for a civil cause of action.

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

18 That the Code of West Virginia, 1931, as amended, be amended  
19 by adding thereto a new section, designated §30-5-31, to read as  
20 follows:

21 **ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS**  
22 **AND PHARMACIES.**

23 **§30-5-31. Prohibition against refusal to dispense prescriptive**  
24 **medicines; exceptions and remedies.**

1 (a) No pharmacist licensed in West Virginia and no other  
2 person involved in dispensing medications may refuse to fill any  
3 prescription or dispense any substance for any reason other than  
4 those exceptions provided in subsection (b) of this section.

5 (b) A pharmacist or other person involved in dispensing  
6 medications may refuse to fill a prescription only if:

7 (1) The medication is not in stock and is unavailable for  
8 dispensation; or

9 (2) A review of the patient history at the pharmacy shows that  
10 the medication sought to be purchased is contraindicated when used  
11 in combination with other medications that the patient takes and it  
12 appears that the patient's physician is not aware of the  
13 contraindication.

14 (c) Any pharmacist or other individual involved in dispensing  
15 medicines who refuses to fill or dispense any prescription in  
16 violation of this section is subject to disciplinary action by the  
17 Board of Pharmacy.

18 (d) Upon receipt of a written complaint to the Board of  
19 Pharmacy about any violation of this section, the board shall  
20 conduct an investigation pursuant to its administrative provisions.  
21 Any person found in violation of this section is subject to a fine  
22 by the Board of Pharmacy of not less than \$500 and not more than  
23 \$1,000 per occurrence.

24 (e) In the event a person suffers physical or emotional harm

1 as a result of any pharmacist or other person refusing to dispense  
2 medications or other substances in violation of this section, the  
3 pharmacist or other person and the pharmaceutical business or  
4 employer is liable for the damages, including physical, economical  
5 or special damages, attorney fees, costs and punitive damages.

NOTE: The purpose of this bill is to prohibit pharmacists and other persons involved in dispensing medicines from refusing to fill prescriptions or dispense any substance without a valid reason. It provides for complaints to the Board of Pharmacy and a civil cause of action.

This section is new; therefore, it has been completely underscored.