

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4183**

BY DELEGATES STANSBURY, ROHRBACH, PERDUE, R.  
SMITH, CAMPBELL, BATES, B. WHITE, WELD, MCCUSKEY,  
WESTFALL AND ELLINGTON

[Introduced January 20, 2016; referred  
to the Select Committee on Prevention and Treatment  
of Substance Abuse then the committee on Health  
and Human Resources.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §16-4C-24; to amend and reenact §30-5-10; and to amend and reenact §60A-  
 3 9-4, all relating generally to reporting opioid overdoses; requiring emergency medical  
 4 service agencies and emergency medical service providers to report nonlethal opioid  
 5 overdoses to the Board of Pharmacy; establishing that the information reported be added  
 6 to the West Virginia Controlled Substance Monitoring Program; requiring pharmacists to  
 7 monitor the program and if an individual overdosed on a prescription filled by him or her  
 8 to report the overdose to the prescribing physician; and granting rule-making authority.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §16-4C-24; to amend and reenact §30-5-10 of said code; and to amend and  
 3 reenact §60A-9-4 of said code, all to read as follows:

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

**§16-4C-24. Reporting opioid overdoses.**

1 A recent study has determined that more than nine out of ten patients who overdosed on  
 2 an opioid medication continue to get prescriptions for powerful painkillers. In many cases the  
 3 prescribing physician is unaware of the overdose and continues to prescribe that medication.  
 4 Thus, in order to decrease the number of overdoses and potentially save lives, all nonlethal opioid  
 5 overdoses shall be reported by emergency medical service agencies and emergency medical  
 6 service providers to the Board of Pharmacy to be incorporated into the West Virginia Controlled  
 7 Substance Monitoring Program, also known as RxDataTrack, created by section three, article  
 8 nine, chapter sixty-a of this code and maintained by the board. The reporting shall be in  
 9 accordance with section four of that article.

**CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

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

**§30-5-10. Scope practice for licensed pharmacist.**

- 1 (a) A licensed pharmacist may:
- 2 (1) Provide care related to the interpretation, evaluation, and implementation of medical
- 3 orders;
- 4 (2) Dispense of prescription drug orders; participate in drug and device selection;
- 5 (3) Provide drug administration;
- 6 (4) Provide drug regimen review;
- 7 (5) Provide drug or drug-related research;
- 8 (6) Perform patient counseling;
- 9 (7) Provide pharmacy related primary care;
- 10 (8) Provide pharmacist care in all areas of patient care, including collaborative pharmacy
- 11 practice;
- 12 (9) Compound and label drugs and drug devices;
- 13 (10) Proper and safe storage of drugs and devices;
- 14 (11) Maintain proper records;
- 15 (12) Provide patient counseling concerning the therapeutic value and proper use of drugs
- 16 and devices;
- 17 (13) Order laboratory tests in accordance with drug therapy management; and
- 18 (14) Provide medication therapy management.

19 (b) A licensed pharmacist shall continually monitor the West Virginia Controlled Substance  
20 Monitoring Program, also known as RxDataTrack, created by section three, article nine, chapter  
21 sixty-a of this code and maintained by the Board of Pharmacy, to determine whether any of his or  
22 her clients have overdosed on a prescription filled by the pharmacist. If so, the pharmacist shall

23 immediately notify the doctor who prescribed the medication,

24 ~~(b)~~ (c) A licensee meeting the requirements as promulgated by legislative rule may  
25 administer immunizations.

26 ~~(c)~~ (d) The sale of any medicine, if the contents of its container, or any part thereof, taken  
27 at one time, are likely to prove poisonous, deleterious, or habit-forming is prohibited by any person  
28 other than a registered pharmacist, who shall take precautions to acquaint the purchaser of the  
29 nature of the medicine at the time of sale.

**CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.**

**ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.**

**§60A-9-4. Required information.**

1 (a) Whenever a medical services provider dispenses a controlled substance listed in  
2 Schedule II, III or IV as established under ~~the provisions of~~ article two of this chapter or whenever  
3 a prescription for the controlled substance is filled by: (i) A pharmacist or pharmacy in this state;  
4 (ii) a hospital, or other health care facility, for out-patient use; or (iii) a pharmacy or pharmacist  
5 licensed by the Board of Pharmacy, but situated outside this state for delivery to a person residing  
6 in this state, the medical services provider, health care facility, pharmacist or pharmacy shall, in  
7 a manner prescribed by rules promulgated by the board under this article, report the following  
8 information, as applicable:

9 (1) The name, address, pharmacy prescription number and Drug Enforcement  
10 Administration controlled substance registration number of the dispensing pharmacy or the  
11 dispensing physician or dentist;

12 (2) The full legal name, address and birth date of the person for whom the prescription is  
13 written;

14 (3) The name, address and Drug Enforcement Administration controlled substances  
15 registration number of the practitioner writing the prescription;

16 (4) The name and national drug code number of the Schedule II, III, and IV controlled  
17 substance dispensed;

18 (5) The quantity and dosage of the Schedule II, III, and IV controlled substance dispensed;

19 (6) The date the prescription was written and the date filled;

20 (7) The number of refills, if any, authorized by the prescription;

21 (8) If the prescription being dispensed is being picked up by someone other than the  
22 patient on behalf of the patient, the first name, last name and middle initial, address and birth date  
23 of the person picking up the prescription as set forth on the person's government-issued photo  
24 identification card shall be retained in either print or electronic form until such time as otherwise  
25 directed by rule promulgated by the board; and

26 (9) The source of payment for the controlled substance dispensed.

27 (b) Whenever an emergency medical service agency or emergency medical service  
28 provider treats or responds to an individual who has suffered an opioid overdose the agency or  
29 provider shall, in a manner prescribed by rules promulgated by the board under this article, report  
30 the following information, to the extent known:

31 (1) The full legal name, address and birth date of the person for whom the prescription is  
32 written;

33 (2) The name, address, pharmacy prescription number and Drug Enforcement  
34 Administration opioid registration number of the dispensing pharmacy or the dispensing physician  
35 or dentist;

36 (3) The name, address and Drug Enforcement Administration opioid registration number  
37 of the practitioner writing the prescription;

38 (4) The name and national drug code number of the opioid dispensed;

39 (5) The quantity and dosage of the opioid dispensed; and

40 (6) The date the prescription was written and the date filled.

41 ~~(b)~~ (c) The board may prescribe by rule promulgated under this article the form to be used

42 in prescribing a Schedule II, III, and IV substance if, in the determination of the board, the  
43 administration of the requirements of this section would be facilitated.

44 ~~(e)~~ (d) Products regulated by ~~the provisions of~~ article ten of this chapter shall be subject  
45 to reporting pursuant to the provisions of this article to the extent set forth in said article.

46 ~~(d)~~ (e) Reporting required by this section is not required for a drug administered directly to  
47 a patient by a practitioner. Reporting is, however, required by this section for a drug dispensed to  
48 a patient by a practitioner: *Provided*, That the quantity dispensed may not exceed an amount  
49 adequate to treat the patient for a maximum of seventy-two hours with no greater than two  
50 seventy-two-hour cycles dispensed in any fifteen-day period of time.

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NOTE: The purpose of this bill is to require emergency medical service agencies and emergency medical service providers to report nonlethal opioid overdoses to the Board of Pharmacy. The bill establishes the information to be reported. The bill adds those overdoses to the West Virginia Controlled Substance Monitoring Program. The bill requires pharmacists to monitor the program and if an individual overdosed on a prescription filled by him or her to report the overdose to the prescribing physician. The bill grants rule-making authority.

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