

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 339

BY SENATORS TAKUBO, CLINE AND MARONEY

[Originating in the Committee on Health and Human
Resources; reported on March 3, 2017]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §16-52-1, §16-52-2, §16-52-3, §16-52-4, §16-52-5 and §16-52-6, all relating
3 to creating a legislative coalition on chronic pain management; setting forth findings and
4 purpose; providing for administrative functions of the coalition to be performed by
5 legislative staff; setting forth membership of the coalition; providing for appointments to be
6 made by the President of the Senate and the Speaker of the House of Delegates; setting
7 forth powers and duties of the coalition; setting forth required reporting; setting forth
8 reporting data elements; providing for compensation of members; and providing a sunset
9 date.

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 article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4, §16-52-5 and §16-52-6, all to read
3 as follows:

ARTICLE 52. COALITION FOR RESPONSIBLE PAIN MANAGEMENT.

§16-52-1. Findings and purpose.

1 The Legislature finds that treatment for pain is an important element in healthcare. Unlike
2 diseases such as hypertension and diabetes, pain is a subjective experience. There is no
3 objective measure of pain intensity. Consequently, the clinical and medical judgement of a
4 prescriber is more essential in rendering effective treatment of a person's level of pain.

5 The treatment of chronic pain has a significant impact on the individual and society as a
6 whole. Most chronic pain problems start with an acute nociceptive pain episode. Effective early
7 care is paramount in managing chronic pain. To that end, prescribers should have the flexibility
8 to effectively treat patients who present with chronic pain. However, there must be a balance
9 between proper treatment for chronic pain and the abuse of the opioids found most effective in its
10 treatment.

11 The abuse of pain medication in this state continues to be a nearly insurmountable plague.

12 Substance abuse continues to contribute to unnecessary deaths, causes countless societal
13 breakdowns and causes a strain on our state and its citizens both financially and emotionally. In
14 an effort to address this crisis the state has created a regulatory framework with the intended goal
15 of curbing overprescribing and overuse of prescription pain medication. This regulation, however,
16 has resulted in unforeseen outcomes often causing patients seeking pain treatment to suffer from
17 a lack of treatment options.

18 Accordingly, the Legislature finds that a comprehensive review of the regulatory structure
19 in place to provide oversight to prescribers whose practice has a significant focus on pain
20 management needs to be undertaken. In order to gain the necessary insight into effective
21 treatment for chronic pain and to maintain the state's interest in protecting its citizens from the
22 proliferation of prescription pain medication, the Legislature hereby creates the Coalition for
23 Responsible Chronic Pain Management.

§16-52-2. Creation of the Coalition for Responsible Chronic Pain Management.

1 There is created the Coalition for Responsible Chronic Pain Management. The
2 administrative functions of the coalition shall be the responsibility of staff assigned to the Joint
3 Committee on Health to be in the best interest of the state and its citizens.

§16-52-3. Members of the Coalition for Responsible Chronic Pain Management.

1 The Coalition for Responsible Chronic Pain Management shall consist of the following
2 members:

3 (1) The Dean of the School of Public Health at West Virginia University, or his or her
4 designee, who shall serve as chair of the coalition.

5 (2) A physician who is a board certified pain specialist.

6 (3) Three physicians licensed to practice in this state pursuant to article three or article
7 fourteen, chapter thirty of this code who shall be appointed by the President of the Senate and
8 the Speaker of the House of Delegates in consultation with the co-chairs of the Joint Committee
9 on Health. Two of these physician's practices shall have been classified as a pain clinic pursuant

10 to the regulations promulgated under article five-h, chapter sixteen of this code. The third
11 physician shall be a primary care physician who is not classified as a pain clinic.

12 (4) A pharmacist licensed to practice in this state pursuant to article five, chapter thirty of
13 this code who shall be appointed by the President of the Senate and the Speaker of the House of
14 Delegates in consultation with the co-chairs of the Joint Committee on Health.

15 (5) A consumer of health care services directly impacted by the regulation of pain clinics
16 who is appointed by the President of the Senate and the Speaker of the House of Delegates in
17 consultation with the co-chairs of the Joint Committee on Health.

18 (6) At least two members of the coalition shall be from each Congressional District of this
19 state and each Congressional District shall be represented in the membership of the coalition.

20 (7) The co-chairs of the Joint Committee on Health shall serve as nonvoting members, ex-
21 officio.

§16-52-4. Powers and duties of the Coalition for Responsible Chronic Pain Management.

1 (a) The Coalition for Responsible Chronic Pain Management shall:

2 (1) Meet at least quarterly, or at the call of the chairman. A quorum shall be a simple
3 majority of the coalition.

4 (2) Keep accurate records of the actions of the coalition.

5 (3) Make recommendations to the Legislature as required by this article.

6 (b) At a minimum, the coalition shall:

7 (1) Undertake a review of chronic pain regulations contained in article five-h, chapter
8 sixteen of this code and any legislative rules promulgated pursuant to that article to ascertain if a
9 less cumbersome, but equally or more effective manner exists to provide necessary regulation of
10 prescriber practices characterized as pain clinics.

11 (2) Review the statutory provisions of the Controlled Substance Monitoring Database
12 provided for in article nine, chapter sixty-a of this code. The purpose of this review is to ascertain
13 if there is a more effective manner for prescribers to access the database which would provide

14 sufficient regulation over the prescription of chronic pain medication, while still allowing access to
15 patients with established chronic pain conditions.

16 (3) Provide guidance to the Legislature on potential statutory solutions relative to
17 regulation of chronic pain medications.

18 (4) Establish workgroups and clinical advisory committees as the coalition deems
19 necessary to address pertinent issues related to chronic pain management and to provide
20 consistency in the development of further regulation.

21 (5) Consult with entities and persons with a particular expertise as the coalition deems
22 necessary in the fulfillment of their duties. This can include public and private sector partnerships.

23 (6) Offer any additional guidance to the Legislature which the coalition sees is within its
24 scope which would further enhance the provider patient relationship in the effective treatment and
25 management of chronic pain.

26 (7) Make recommendations regarding regulations of wholesalers of controlled substances
27 or terminal distributors of dangerous drugs.

28 (8) Provide insight into whether “take back” programs or limitations on prescriber furnished
29 controlled substances would be effective in this state.

30 (9) The coalition shall report its findings to the Joint Committee on Health by the December
31 31, 2017, and annually thereafter until the coalition terminates pursuant to the provisions of this
32 article. The report shall include, at a minimum, the following:

33 (A) Conclusions and recommendations to promote a better means for regulation of chronic
34 pain clinics while protecting the rights and needs of chronic pain patients.

35 (B) Recommendations for statutory and regulatory modifications.

36 (C) Identification of any action which may be taken by the Legislature to better foster a
37 balance between the clinical judgment of prescribers and the needs of chronic pain patients and
38 the state interest in maintaining an effective regulatory structure.

39 (D) Any other ancillary issues relative to chronic pain management.

§16-52-5. Compensation and expenses of coalition.

1 (a) Members of the coalition shall be reimbursed for their reasonable and necessary travel
2 and other expenses actually incurred in connection with the performance of their duties as
3 members of the coalition, including, but not limited to, their attendance at meetings.

4 (b) Members of the coalition shall be paid from legislative appropriations to the Joint
5 Committee on Government and Finance.

6 (c) Members of the coalition shall receive no other compensation for their services on or
7 with the coalition other than the reimbursement of expenses as provided in this section.

§16-52-6. Sunset.

1 The coalition shall terminate on December 31, 2020, unless continued by Act of the
2 Legislature.

NOTE: The purpose of this bill is to create a legislative coalition to study and report to the Legislature on chronic pain management in the state.

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