

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4254**

BY DELEGATES MOORE, SUMMERS, SOBONYA, SHOTT,

HANSHAW, WESTFALL, MAYNARD, PAYNTER,

HARSHBARGER, KESSINGER, AND QUEEN

[Introduced January 23, 2018; Referred

to the Committee on Prevention and Treatment of

Substance Abuse then the Judiciary.]

1 A BILL to amend and reenact §60A-3-308 of the Code of West Virginia, 1931, as amended,  
 2 relating to prescriptions of Schedule II drugs; placing a seven-day supply limitation on the  
 3 amount of Schedule II drugs which can be lawfully prescribed; and providing exceptions.

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

**ARTICLE 3. REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING  
 OF CONTROLLED SUBSTANCES.**

**§60A-3-308. Prescriptions.**

1 (a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate  
 2 user, no controlled substance in Schedule II may be dispensed without the lawful prescription of  
 3 a practitioner. In accord with the Centers' for Disease Control and Prevention *Guideline for*  
 4 *Prescribing Opioids for Chronic Pain* published in 2016, a practitioner is prohibited from issuing a  
 5 prescription for a Schedule II controlled substance for more than a seven-day supply of a  
 6 Schedule II controlled substance if the prescription is intended to treat pain as an acute medical  
 7 condition, with the following exceptions:

8 (1) The practitioner, in his or her professional judgment, believes that more than a seven-  
 9 day supply of a Schedule II controlled substance is medically necessary to treat the patient's pain  
 10 as an acute medical condition and the practitioner adequately documents the acute medical  
 11 condition and lack of alternative treatment options which justifies deviation from the seven-day  
 12 supply limit established in this subsection in the patient's medical records;

13 (2) The prescription for a Schedule II controlled substance is prescribed to treat chronic  
 14 pain;

15 (3) The prescription for a Schedule II controlled substance is prescribed to treat pain  
 16 associated with a valid cancer diagnosis;

17 (4) The prescription for a Schedule II controlled substance is prescribed to treat pain while  
 18 the patient is receiving hospice or end-of-life treatment;

19           (5) The prescription for a Schedule II controlled substance is prescribed as part of a drug  
20 treatment program approved by the Secretary of the Department of Health and Human  
21 Resources;

22           (6) The prescription for a Schedule II controlled substance is prescribed to treat pain  
23 following a major surgery or the treatment of significant trauma, as defined by the State Board of  
24 Pharmacy in consultation with the Office of Drug Control Policy;

25           (7) The Schedule II controlled substance is dispensed or administered directly to an  
26 ultimate user in an inpatient setting; or

27           (8) Any additional treatment scenario considered medically necessary by the State Board  
28 of Pharmacy in consultation with the Office of Drug Control Policy.

29           (b) Subsection (a) of this section does not authorize a state licensing board to promulgate  
30 rules which expands a practitioner's prescriptive authority beyond that which existed prior to the  
31 effective date of this subsection.

32           ~~(b)~~ (c) In emergency situations, as defined by rule of the said appropriate department,  
33 board or agency, Schedule II drugs may be dispensed upon oral prescription of a practitioner,  
34 reduced promptly to writing and filed by the pharmacy. Prescription shall be retained in conformity  
35 with the requirements of §60A-3-306 of this code. No prescription for a Schedule II substance  
36 may be refilled.

37           ~~(c)~~ (d) Except when dispensed directly by a practitioner, other than a pharmacy, to an  
38 ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug  
39 as determined under appropriate state or federal statute, ~~shall~~ may not be dispensed without a  
40 lawful prescription of a practitioner. The prescription ~~shall~~ may not be filled or refilled more than  
41 six months after the date thereof or be refilled more than five times unless renewed by the  
42 practitioner.

43           ~~(d)~~ (e) (1) A controlled substance included in Schedule V ~~shall~~ may not be distributed or  
44 dispensed other than for a medicinal purpose: *Provided*, That buprenorphine ~~shall~~ may be

45 dispensed only by prescription pursuant to subsections (a), ~~(b) and (c)~~ and (d) of this section:  
46 *Provided, however,* That the controlled substances included in §60A-2-212(e), of this code ~~shall~~  
47 may be dispensed, sold or distributed only by a physician, in a pharmacy by a pharmacist or  
48 pharmacy technician, or health care professional.

49 (2) If the substance described in §60A-2-212(e), of this code is dispensed, sold or  
50 distributed in a pharmacy:

51 (A) The substance shall be dispensed, sold or distributed only by a pharmacist or a  
52 pharmacy technician; and

53 (B) Any person purchasing, receiving or otherwise acquiring any such substance shall  
54 produce a photographic identification issued by a state or federal governmental entity reflecting  
55 his or her date of birth.

NOTE: The purpose of this bill is to place a seven-day supply limitation on the amount of Schedule II drugs which may be lawfully prescribed. It includes exceptions to the prohibition.

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