

**WEST VIRGINIA LEGISLATURE**  
**2022 SECOND EXTRAORDINARY SESSION**

**Introduced**

**House Bill 214**

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Introduced April 25, 2022]

1 A BILL to amend and reenact §30-3E-3 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §30-7-15a of said code, all relating to prescriptive authority;  
3 eliminating certain legislative rulemaking authority concerning the prescriptive authority of  
4 a physician assistant; providing for prescriptive authority of physician assistants;  
5 eliminating certain discretionary authority of the Board of Nursing; eliminating certain  
6 legislative rulemaking authority of the Board of Nursing with respect to prescriptive  
7 authority of an advanced practice registered nurse; eliminating certain emergency  
8 rulemaking authority of the Board of Nursing; eliminating requirements regarding list of  
9 advanced practice registered nurses with prescriptive authority; and providing for  
10 prescriptive authority of advanced practice registered nurses.

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

### **ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.**

#### **§30-3E-3. Rulemaking.**

1 (a) The boards shall propose rules for legislative approval in accordance with the  
2 provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including:  
3 (1) The extent to which physician assistants may practice in this state;  
4 (2) The extent to which physician assistants may pronounce death;  
5 (3) Requirements for licenses and temporary licenses;  
6 (4) Requirements for practice notifications;  
7 (5) Requirements for continuing education;  
8 (6) Conduct of a licensee for which discipline may be imposed;  
9 (7) The eligibility and extent to which a physician assistant may prescribe; ~~including: A~~  
10 ~~state formulary classifying those categories of drugs which may not be prescribed by a physician~~  
11 ~~assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances~~  
12 ~~Act, antineoplastics, radiopharmaceuticals, and general anesthetics: *Provided*, That a physician~~  
13 ~~assistant or an advanced practice registered nurse may prescribe no more than a three-day~~

14 ~~supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II~~  
15 ~~drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition~~  
16 ~~to the above referenced provisions and restrictions and pursuant to a practice notification as set~~  
17 ~~forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the~~  
18 ~~exception of controlled substances, which is prescribed for the treatment of a chronic condition,~~  
19 ~~other than chronic pain management. For the purposes of this section, a chronic condition is a~~  
20 ~~condition which lasts three months or more, generally cannot be prevented by vaccines, can be~~  
21 ~~controlled but not cured by medication, and does not generally disappear. These conditions, with~~  
22 ~~the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular~~  
23 ~~disease, cancer, diabetes, epilepsy and seizures, and obesity~~

24 (8) A fee schedule; and

25 (9) Any other rules necessary to effectuate the provisions of this article.

26 (b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code  
27 to ensure conformity with this article.

28 (c) (1) A physician assistant may not prescribe a Schedule I controlled substance as  
29 provided in §60A-2-204 of this code.

30 (2) A physician assistant may prescribe up to a three-day supply of a Schedule II narcotic  
31 as provided in §60A-2-206 of this code.

32 (3) There are no other limitations on the prescribing authority of a physician assistant,  
33 except as provided in §16-54-1 *et seq.* of this code.

## **ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

### **§30-7-15a. Prescriptive authority for prescription drugs. ~~coordination with Board of~~ ~~Pharmacy; rule-making authority~~**

1 ~~(a) The board may, in its discretion, authorize an advanced practice registered nurse to~~  
2 ~~prescribe prescription drugs in accordance with this article and all other applicable state and~~  
3 ~~federal laws. An authorized advanced practice registered nurse may write or sign prescriptions or~~

4 ~~transmit prescriptions verbally or by other means of communication.~~

5 ~~(b) The board shall promulgate legislative rules in accordance with chapter twenty-nine-a~~  
6 ~~of this code governing the eligibility and extent to which an advanced practice registered nurse~~  
7 ~~may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying those~~  
8 ~~categories of drugs which shall not be prescribed by advanced practice registered nurse including,~~  
9 ~~but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics,~~  
10 ~~radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to~~  
11 ~~a thirty day supply without refill. In addition to the above referenced provisions and restrictions~~  
12 ~~and pursuant to a collaborative agreement as set forth in section fifteen-b of this article, the rules~~  
13 ~~shall permit the prescribing of an annual supply of any drug, with the exception of controlled~~  
14 ~~substances, which is prescribed for the treatment of a chronic condition, other than chronic pain~~  
15 ~~management. For the purposes of this section, a "chronic condition" is a condition which lasts~~  
16 ~~three months or more, generally cannot be prevented by vaccines, can be controlled but not cured~~  
17 ~~by medication and does not generally disappear. These conditions, with the exception of chronic~~  
18 ~~pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes,~~  
19 ~~epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the~~  
20 ~~prescription the chronic disease being treated.~~

21 ~~(c) The board may promulgate emergency rules to implement the provisions of this article~~  
22 ~~pursuant to section fifteen, article three, chapter twenty-nine-a of this code.~~

23 ~~(d) The board shall transmit to the Board of Pharmacy a list of all advanced practice~~  
24 ~~registered nurses with prescriptive authority. The list shall include:~~

25 ~~(1) The name of the authorized advanced practice registered nurse;~~

26 ~~(2) The prescriber's identification number assigned by the board; and~~

27 ~~(3) The effective date of prescriptive authority~~

28 (a) An advanced practice registered nurse may not prescribe a Schedule I controlled  
29 substance as provided in §60A-2-204 et seq. of this code.

30           (b) An advanced practice registered nurse may prescribe up to a three-day supply of a  
31 Schedule II narcotic as provided in §60A-2-206 et seq. of this code.

32           (c) There are no other limitations on the prescribing authority of an advanced practice  
33 registered nurse, except as provided in §16-54-1 et seq. of this code.

NOTE: The purpose of this bill is to update the prescriptive authority of physician assistants and advanced practice registered nurses.

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