

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4327**

4 (By Delegates Tomblin, R. Phillips, Sponaugle,  
5 Lynch, Skaff, Boggs, Caputo, Marcum, White,  
6 Manchin and Mr. Speaker (Mr. Miley))

7 (Originating in the Committee on the Judiciary)

8 [February 20, 2014]

9

10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §60A-4-414, relating  
12 to prohibiting health care practitioners from knowingly and in  
13 bad faith prescribing or administering drugs, in a manner not  
14 in accordance with accepted medical standards in the course of  
15 professional practice; providing felony criminal penalties for  
16 violations; and creating a defense to alleged violations.

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 §60A-4-414, to read as  
20 follows:

21 **ARTICLE 4. OFFENSES AND PENALTIES.**

22 **§60A-4-414. Prohibited acts - Prescribing or administering drugs**  
23 **other than in a good faith, therapeutic manner; penalties;**  
24 **defenses.**

25 (a) Except as authorized by this act, it is unlawful for any  
26 practitioner, as that term is defined at section one hundred one,

1 article one of this chapter, to knowingly and in bad faith  
2 prescribe, dispense, administer, mix or otherwise prepare a drug,  
3 including any controlled substance under state or federal law, in  
4 a manner not in accordance with accepted medical standards in the  
5 course of the practitioner's professional practice.

6 (b) It shall be a defense to an alleged violation of  
7 subsection (a) of this section that a practitioner was discharging  
8 his or her professional obligation to relieve pain and suffering  
9 and promote the dignity and autonomy of dying patients in his or  
10 her care and, in so doing, exceeded the average dosage of a pain-  
11 relieving controlled substance, as defined in sections two hundred  
12 six and two hundred eight, article two of this chapter.

13 (c) Any person who violates subsection (a) of this section is  
14 guilty of a felony and, in addition to a minimum fine imposed of  
15 \$250,000, shall be imprisoned in a state correctional facility for  
16 not less than five nor more than ten years.