

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3070

By Delegate Heckert

[Introduced ; referred
to the Committee on]

1 A BILL to amend and reenact §16-54-1 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding three new sections, designated §16-54-10, §16-54-11, and
3 §16-54-12, relating to nonopioid drugs; providing definitions; requiring insurance coverage
4 for nonopioid drugs; providing legislative findings; requiring the Bureau of Health to make
5 information available to the public about the availability of such treatments; and clarifying
6 prescriber practices.

Be it enacted by the Legislature of West Virginia:

ARTICLE 54. OPIOID REDUCTION ACT.

§16-54-1. Definitions.

1 As used in this section:

2 "Acute pain" means a time limited pain caused by a specific disease or injury.

3 "Chronic pain" means a noncancer, nonend of life pain lasting more than three months or
4 longer than the duration of normal tissue healing.

5 "Health care practitioner" or "practitioner" means:

6 (1) A physician authorized pursuant to the provisions of §30-3-1 *et seq.* and §30-14-1 *et*
7 *seq.* of this code;

8 (2) A podiatrist licensed pursuant to the provisions of §30-3-1 *et seq.* of this code;

9 (3) A physician assistant with prescriptive authority as set forth in §30-3E-3 of this code;

10 (4) An advanced practice registered nurse with prescriptive authority as set forth in §30-7-
11 15a of this code;

12 (5) A dentist licensed pursuant to the provisions of §30-4-1 *et seq.* of this code;

13 (6) An optometrist licensed pursuant to the provisions of §30-8-1 *et seq.* of this code;

14 (7) A physical therapist licensed pursuant to the provisions of §30-20-1 *et seq.* of this code;

15 (8) An occupational therapist licensed pursuant to the provisions of §30-28-1 *et seq.* of this
16 code;

(9) An osteopathic physician licensed pursuant to the provisions of §30-14-1 *et seq.* of this code; and

(10) A chiropractor licensed pursuant to the provisions of §30-16-1 *et seq.* of this code.

"Insurance provider" means an entity that is regulated under the provisions of §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.* and §33-25A-1 *et seq.* of this code.

"Nonopioid medicinal drug or drug product" means a drug or biological that has a label indication approved by the Federal Food and Drug Administration to reduce pain or produce analgesia without acting upon the body's opioid receptors.

"Office" means the Office of Drug Control Policy.

"Pain clinic" means the same as that term is defined in §16-5H-2 of this code.

"Pain specialist" means a practitioner who is board certified in pain management or a related field.

"Prescribe" means the advisement of a physician or other licensed practitioner to a patient for a course of treatment. It can include but is not limited to medication, services, supplies, equipment, procedures, diagnostic tests, or screening as permitted by the physician or other licensed practitioner's scope of practice.

"Referral" means the recommendation by a person to another person for the purpose of initiating care by a health care practitioner.

"Schedule II opioid drug" means an opioid drug listed in §60A-2-206 of this code.

"Surgical procedure" means a medical procedure involving an incision with instruments performed to repair damage or arrest disease in a living body.

§16-54-10. Coverage for non-opioid pain medications.

In establishing and maintaining its formulary or preferred drug list, it shall be unlawful for an insurance provider, Medicaid, Medicaid Managed Care Organization, health maintenance organization, pharmacy benefit manager or the West Virginia Public Employees Insurance Agency (PEIA) to disadvantage or discourage a nonopioid medicinal drug or drug product with

5 respect to coverage relative to any opioid drug for the treatment or management of pain, where
6 impermissible disadvantaging or discouragement includes, without limitation: imposing more
7 restrictive coverage criteria on any such nonopioid medicinal drug or drug product than the least
8 restrictive coverage criteria imposed on an opioid drug; establishing more restrictive or more
9 extensive utilization management requirements, including, but not limited to, more restrictive or
10 more extensive prior authorization or step therapy requirements, for such nonopioid medicinal
11 drug or drug product than the least restrictive or extensive utilization management requirements
12 applicable to any such opioid drug; or, if such entity maintains a formulary grouped into tiers for the
13 purposes of determining cost sharing, placing any such nonopioid medicinal drug or drug product
14 on a tier that requires a cost sharing responsibility that exceeds the lowest cost sharing
15 responsibility required for any opioid drug on such formulary.

16 This section shall apply to a nonopioid medicinal drug or drug product immediately upon its
17 approval by the Federal Food and Drug Administration for the treatment or management of pain.

§16-54-11. Non-opioid alternatives, education, and awareness.

1 (a) The Legislature finds that every competent adult has the fundamental right of self-
2 determination regarding decisions pertaining to their own health, including the right to refuse an
3 opioid drug.

4 (b) The West Virginia Bureau of Public Health shall develop and publish on its website an
5 educational pamphlet regarding the use of nonopioid alternatives for the treatment of acute
6 nonoperative, acute perioperative, subacute, or chronic pain. The pamphlet shall, at a minimum,
7 conform with the most current Clinical Practice Guideline for Prescribing Opioids for Pain of the
8 Centers for Disease Control and Prevention and shall include:

9 (1) Information on available nonopioid alternatives for the treatment of pain, including
10 available nonopioid medicinal drugs or drug products and nonpharmacological therapies.

11 (2) The advantages and disadvantages of the use of nonopioid alternatives.

§16-54-12. Prescriber practices relative to non-opioid alternatives.

1 (a) The health care practitioner shall exercise their professional judgment in selecting
2 appropriate treatment modalities for acute nonoperative, acute perioperative, subacute, or chronic
3 pain in accordance with the most current Clinical Practice Guideline for Prescribing Opioids for
4 Pain of the Centers for Disease Control and Prevention, including the use of nonopioid alternatives
5 whenever reasonable, clinically appropriate, evidence-based alternatives exist.

6 (b) The health care practitioner shall consider prescribing a nonopioid medicinal drug or
7 drug product, as the first line of pain control in patients unless not clinically appropriate in
8 accordance with the provisions of subsection (a) of this section.

9 (c) Except when a patient is receiving care in a hospital critical care unit or emergency
10 department or a patient is receiving hospice services, before providing care requiring the
11 administration of anesthesia involving the use of an opioid drug, or prescribing or ordering an
12 opioid drug for the treatment of pain, a health care practitioner who prescribes or orders an opioid
13 drug shall, when clinically appropriate:

14 (1) Discuss with the patient or the patient's representative the advantages and
15 disadvantages of the use of nonopioid alternatives, and whether the patient is at a high risk of, or
16 has a history of, controlled substance abuse or misuse and the patient's personal preferences.

17 (2) Refer the patient or the patient's representatives to the West Virginia Bureau of Public
18 Health website for the educational pamphlet described in §16-54-11(b) of this code.

19 (3) Document in the patient's record that nonopioid alternatives were considered and
20 discussed with the patient or the patient's representative and, to the extent that the health care
21 practitioner prescribes or orders an opioid for the treatment of pain, document the reasons for such
22 a prescription or order.

NOTE: The purpose of this bill is to require insurance coverage to not prioritize the use of an opioid over a nonopioid drug for the treatment of pain and to increase the availability of prescription nonopioid medications. The bill requires the Bureau of Public Health to make information available to the public about the availability of such treatments.

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