WEST VIRGINIA CODE: §30-3A-2

§30-3A-2. Limitation on disciplinary sanctions or criminal punishment related to management of pain.

(a) A prescriber is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for prescribing, administering, or dispensing pain-relieving controlled substances for the purpose of alleviating or controlling pain if:

(1) In the case of a dying patient experiencing pain, the prescriber practices in accordance with an accepted guideline as defined in §30-3A-1 of this code and discharges his or her professional obligation to relieve the dying patient's pain and promote the dignity and autonomy of the dying patient; or

(2) In the case of a patient who is not dying and is experiencing pain, the prescriber discharges his or her professional obligation to relieve the patient's pain, if the prescriber can demonstrate by reference to an accepted guideline that his or her practice substantially complied with that accepted guideline. Evidence of substantial compliance with an accepted guideline may be rebutted only by the testimony of a clinical expert. Evidence of noncompliance with an accepted guideline is not sufficient alone to support disciplinary or criminal action.

(b) A health care provider, as defined in §55-7B-2 of this code, with prescriptive authority is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for declining to prescribe, or declining to continue to prescribe, any controlled substance to a patient which the health care provider with prescriptive authority is treating if the health care provider with prescriptive authority in the exercise of reasonable prudent judgment believes the patient is misusing the controlled substance in an abusive manner or unlawfully diverting a controlled substance legally prescribed for their use.

(c) A licensed registered professional nurse is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for administering pain-relieving controlled substances to alleviate or control pain, if administered in accordance with the orders of a licensed physician.

(d) A licensed pharmacist is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for dispensing a prescription for a pain-relieving controlled substance to alleviate or control pain, if dispensed in accordance with the orders of a licensed physician.

(e) For purposes of this section, the term "disciplinary sanctions" includes both remedial and punitive sanctions imposed on a licensee by a licensing board, arising from either formal or informal proceedings.

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(f) The provisions of this section apply to the treatment of all patients for pain, regardless of the patient's prior or current chemical dependency or addiction. The board may develop and issue policies or guidelines establishing standards and procedures for the application of this article to the care and treatment of persons who are chemically dependent or addicted.

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