# WEST VIRGINIA CODE: §55-7-23

**§55-7-23. Prescription drugs and medical devices; limiting health care providers' liability exposure.**

(a) No health care provider, as defined in section two, article seven-b of this chapter, is liable to a patient or third party for injuries sustained as a result of the ingestion of a prescription drug or use of a medical device that was prescribed or used by the health care provider in accordance with instructions approved by the U. S. Food and Drug Administration regarding the dosage and administration of the drug, the indications for which the drug should be taken or device should be used, and the contraindications against taking the drug or using the device: Provided, That the provisions of this section do not apply if: (1) The health care provider had actual knowledge that the drug or device was inherently unsafe for the purpose for which it was prescribed or used; or (2) a manufacturer of the drug or device publicly announces changes in the dosage or administration of the drug or changes in contraindications against taking the drug or using the device and the health care provider fails to follow the publicly announced changes and the failure proximately caused or contributed to the plaintiff's injuries or damages.

(b) A health care provider with prescriptive authority is not liable to a patient or third party 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) The provisions of this section are not intended to create a new cause of action.

WV Legislature