

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

No: 720

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 720

(By Mr. Karras + Mr. Farley)

— ● —

Passed April 8, 1981

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 720
(MR. KARRAS and MR. FARLEY)

[Passed April 8, 1981; in effect ninety days from passage.]

AN ACT to amend article five-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine-a, and to amend article five, chapter thirty of said code by adding thereto a new section, designated section sixteen-a, all relating to the manufacture, prescription, and use of amygdalin (laetrile) under certain circumstances; requiring informed consent of the patient; allowing the parent or guardian of a minor child to consent to the use of amygdalin (laetrile); forwarding copy of the written informed request to state registrar of vital statistics; providing for the regulation, inspection, and licensing of persons or facilities producing, manufacturing, delivering or selling amygdalin (laetrile); and providing for certain immunities for physicians, pharmacists, chemists, and hospitals acting in compliance with this statute.

Be it enacted by the Legislature of West Virginia:

That article five-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine-a; and that article five, chapter thirty of said code be amended by adding thereto a new section, designated section sixteen-a, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5A. CANCER CONTROL.

§16-5A-9a. Laetrile use; informed consent.

1 A hospital or other health care facility may not interfere
2 with the physician-patient relationship by restricting or for-
3 bidding the intravenous use of amygdalin (laetrile) as certified
4 in accordance with section sixteen-a, article five, chapter
5 thirty of this code, as an adjunct to recognized, customary or
6 accepted modes of therapy in the treatment of any malignancy
7 for terminally ill cancer patients when it is prescribed or ad-
8 ministered by a physician holding an unlimited license for the
9 practice of medicine in the state of West Virginia and the
10 patient has signed the "written informed request" therefor as set
11 forth in this section: *Provided*, That a parent or guardian may
12 sign the "written informed request" on a minor's behalf.

13 In the event that no recognized, customary or accepted
14 mode of therapy is available for the treatment of any mal-
15 ignancy for a terminally ill cancer patient, the physician may
16 prescribe or administer intravenous amygdalin (laetrile), as
17 certified in accordance with section sixteen-a, article five,
18 chapter thirty of this code, as the sole mode of therapy, pro-
19 viding further that said patient executed the "written informed
20 request" as set forth in this section.

21 Any physician, hospital or other health care facility partici-
22 pating in any act permitted or required by this section is
23 immune from any civil or criminal liability that otherwise
24 might result by reason of such actions. A physician may not
25 be subjected to disciplinary action by the state board of
26 medicine of West Virginia for prescribing or administering in-
27 travenous amygdalin (laetrile), in compliance with the pro-
28 visions of this section.

29 Nothing in this section shall be construed as constituting an
30 endorsement of amygdalin (laetrile), as certified in accordance
31 with section sixteen-a, article five, chapter thirty of this code,
32 for the treatment of any malignancy, disease, illness or physical
33 condition.

34 The "written informed request" referred to in this section

35 shall be on a form prepared by and obtained from the state
36 department of health and shall be in substance as follows:

37 "WRITTEN INFORMED REQUEST"
38 FOR PRESCRIPTION OF INTRAVENOUS AMYGDALIN
39 (LAETRILE) FOR MEDICAL TREATMENT

40 Patient's name:

41 Address

42 Age Sex

43 Name and address of prescribing physician:

44

45 Nature of malignancy diagnosed for medical treatment by
46 amygdalin (laetrile):

47

48

49

50 My physician has explained to me:

51 (a) That the manufacture and distribution of amygdalin
52 (laetrile) has not been approved by the Federal Food and
53 Drug Administration.

54 (b) That neither the American Cancer Society, the Ameri-
55 can Medical Association nor the West Virginia State
56 Medical Association recommends use of amygdalin
57 (laetrile) in the treatment of any malignancy, disease,
58 illness or physical condition.

59 (c) That there are alternative recognized treatments for the
60 malignancy, disease, illness or physical condition from
61 which I suffer which he has offered to provide for me
62 including:

63 (here describe) (state "none" if applicable)

64

65

66 (d) That I have the right to refuse or terminate the intraven-
67 ous use of laetrile at any time.

68 I understand that physicians, hospitals or health care facilities

69 are immune from civil and criminal liability for prescribing or
70 administering amygdalin (laetrile) in compliance with state
71 statutes.

72 That notwithstanding the foregoing, I hereby request pre-
73 scription and use of intravenous amygdalin (laetrile) in the
74 medical treatment of the malignancy from which I suffer.

75 -----
76 Patient or person signing for patient

77 Date of execution of request -----

78 ATTEST: -----

79 -----
80 Prescribing physician

81 The prescribing physician shall forward a copy of the written
82 informed request to the state registrar of vital statistics within
83 ten days of the execution of such request and shall retain a
84 copy of the request in the patient's medical file.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND DRUGSTORES.

§30-5-16a. Manufacture of laetrile.

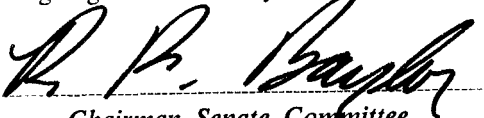
1 The manufacture, distribution, delivery, possession, sale and
2 use of amygdalin (laetrile) is lawful under specified conditions
3 within the state of West Virginia unless the United States food
4 and drug administration shall make a formal finding that the
5 substance is harmful: *Provided*, That no person shall manu-
6 facture, distribute, sell or deliver amygdalin (laetrile) for the
7 purpose of transporting such substance to any other state,
8 district or territory beyond the borders of West Virginia.

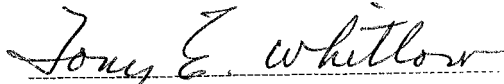
9 The director of the state department of health and the state
10 board of pharmacy shall regulate the manufacture, distribu-
11 tion and sale of amygdalin (laetrile) for use within the state
12 to ensure that the substance is not adulterated in accordance
13 with the provisions of article seven, chapter sixteen of this
14 code: *Provided*, That amygdalin (laetrile) manufactured under
15 the provisions of this section shall be certified as to com-
16 position and purity by the director of the state department of
17 health or a qualified testing laboratory approved to make

18 such certification by the director of the state department of
19 health. The board of pharmacy shall have all necessary
20 authority for the regulation, inspection and licensing of any
21 person or facility producing, manufacturing, delivering or
22 selling any amygdalin (laetrile) in this state in accordance with
23 the provisions of this article and shall promulgate and adopt
24 rules and regulations outlining minimum standards for manu-
25 facturers in preparing, packaging, processing and compounding
26 amygdalin (laetrile) and for the enforcement of such standards:
27 *Provided, however,* That application for a permit to manu-
28 facture amygdalin (laetrile) shall be accompanied by the per-
29 mit fee of five thousand dollars and by a bond of the applicant
30 in the surety sum of one million dollars with a corporate
31 surety authorized to transact business in the state of West
32 Virginia, which bond shall be conditioned on the payment of
33 all fees herein prescribed and on the faithful performance of
34 and compliance with the provisions of this section and of
35 the regulations issued hereunder by the board of pharmacy.

36 Any physician, pharmacist or chemist is immune from civil
37 or criminal liability and from disciplinary actions for activities
38 which comply with the provisions of this section or regulations
39 promulgated pursuant thereto.

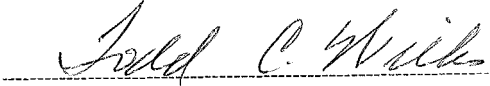
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

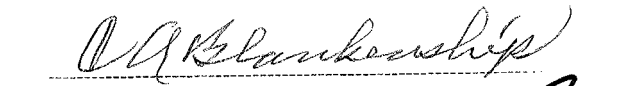
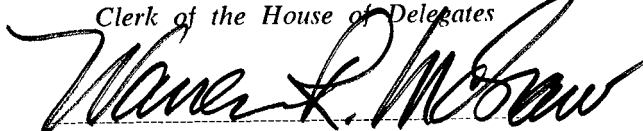

Chairman Senate Committee

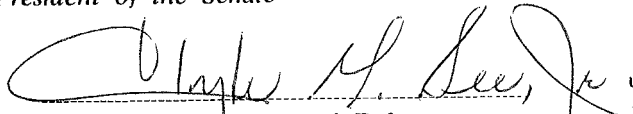

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates

President of the Senate


Speaker House of Delegates

The within is approved this the 28
day of April, 1981.


Governor

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SECY. OF STATE

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