WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

E N R O L L E D

Com. Sub. for
HOUSE BILL No. 2042

(By Mr. Speaker, Mr. Albright)

Passed

April 13, 1985

In Effect

From Passage
AN ACT to amend and reenact sections two hundred one, two hundred four, two hundred six and two hundred twelve, article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three hundred eight, article three of said chapter, all relating to controlled substances; authority of board of pharmacy, emergency changes of schedules of controlled substances between legislative sessions; changing certain substances between schedules; adding buprenorphine to schedule five; and prescriptions for controlled substances.

Be it enacted by the Legislature of West Virginia:

That sections two hundred one, two hundred four, two hundred six and two hundred twelve, article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section three hundred eight, article three of said chapter be amended and reenacted, all to read as follows:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-201. Authority of state board of pharmacy; recommendations to Legislature.

1 (a) The state board of pharmacy shall administer the
provisions of this chapter. It shall also, on the first day of each
regular legislative session, recommend to the Legislature which
substances should be added to or deleted from the schedules
of controlled substances contained in this article or reschedule
therein. The state board of pharmacy shall also have the
authority between regular legislative sessions, on an emergency
basis, to add to or delete from the schedules of controlled
substances contained in this article or reschedule such
substances based upon the recommendations and approval of
the federal food, drug and cosmetic agency, and shall report
such actions on the first day of the regular legislative session
immediately following said actions.

In making any such recommendation regarding a substance,
the state board of pharmacy shall consider the following
factors:

(1) The actual or relative potential for abuse;
(2) The scientific evidence of its pharmacological effect, if
known;
(3) The state of current scientific knowledge regarding the
substance;
(4) The history and current pattern of abuse;
(5) The scope, duration and significance of abuse;
(6) The potential of the substance to produce psychic or
physiological dependence liability; and
(7) Whether the substance is an immediate precursor of a
substance already controlled under this article.

(b) After considering the factors enumerated in subsection
(a), the state board of pharmacy shall make findings with
respect to the substance under consideration. If it finds that
any substance not already controlled under any schedule has
a potential for abuse, it shall recommend to the Legislature
that the substance be added to the appropriate schedule. If it
finds that any substance already controlled under any schedule
should be rescheduled or deleted, it shall so recommend to the
Legislature.

(c) If the state board of pharmacy designates a substance
as an immediate precursor, substances which are precursor of
the controlled precursors shall not be subject to the control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal laws and notice thereof is given to the state board of pharmacy, the board shall recommend similar control of such substance to the Legislature, specifically stating that such recommendation is based on federal action and the reasons why the federal government deemed such action necessary and proper.

(e) The authority vested in the board by subsection (a) of this section shall not extend to distilled spirits, wine, malt beverages or tobacco as those terms are defined or used in other chapters of this code nor to any nonnarcotic substance if such substance may under the “Federal Food, Drug and Cosmetic Act” and the law of this state lawfully be sold over the counter without a prescription.

§60A-2-204. Schedule I.

(a) The controlled substances listed in this section are included in Schedule I.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

1. Acetylmethadol;
2. Allylprodine;
3. Alphacetylmethadol;
4. Alphameprodine;
5. Alphamethadol;
6. Alpha-methylfentanyl;
7. Benzethidine;
8. Betacetylmethadol;
9. Betameprodine;
10. Betamethadol;
18  (11)  Betaprodine;
19  (12)  Clonitazene;
20  (13)  Dextromoramide;
21  (14)  Diampromide;
22  (15)  Diethylthiambutene;
23  (16)  Difenoxin;
24  (17)  Dimenoxadol;
25  (18)  Dimephtoanole;
26  (19)  Dimethylthiambutene;
27  (20)  Dioxaphethylbutyrate;
28  (21)  Dipipanone;
29  (22)  Ethylmethylthiambutene;
30  (23)  Etonitazene;
31  (24)  Etoxeridine;
32  (25)  Fenethylline;
33  (26)  Furethidine;
34  (27)  Hydroxypethidine;
35  (28)  Ketobemidone;
36  (29)  Levomoramide;
37  (30)  Levophenacylmorphan;
38  (31)  Morpheridine;
39  (32)  Noracymethadol;
40  (33)  Norlevorphanol;
41  (34)  Normethadone;
42  (35)  Norpipanone;
43  (36)  Phenadoxone;
44  (37)  Phenampromide;
45  (38)  Phenomorphan;
56 (c) Unless specifically excepted or unless listed in another
57 schedule, any of the following opium derivatives, its salts,
58 isomers and salts of isomers whenever the existence of such
59 salts, isomers and salts of isomers is possible within the specific
60 chemical designation:
61 (1) Acetorphine;
62 (2) Acetyldihydrocodeine;
63 (3) Benzylmorphine;
64 (4) Codeine methylbromide;
65 (5) Codeine-N-Oxide;
66 (6) Cyprenorphine;
67 (7) Desomorphine;
68 (8) Dihydromorphine;
69 (9) Drotebanol;
70 (10) Etorphine (except HCl Salt);
71 (11) Heroin;
72 (12) Hydromorphinol;
73 (13) Methyldesorphine;
74 (14) Methylidihydromorphine;
75 (15) Morphine methylbromide;
76 (16) Morphine methylsulfonate;
77 (17) Morphine-N-Oxide;
76  (18)  Myrophine;
77  (19)  Nicocodeine;
78  (20)  Nicomorphine;
79  (21)  Normorphine;
80  (22)  Phoclodine;
81  (23)  Thebacon.
82  
83  (d)  Unless specifically excepted or unless listed in another
84  schedule, any material, compound, mixture or preparation,
85  which contains any quantity of the following hallucinogenic
86  substances, or which contains any of the salts, isomers and
87  salts of isomers of any thereof whenever the existence of such
88  salts, isomers and salts of isomers is possible within the specific
89  chemical designation and for the purposes of this subsection
90  only, “isomer” includes the optical position and geometric
91  isomers:
92  
93  (1)  2,5-dimethoxyamphetamine; also known by these trade
94  or other names: 2,5-dimethoxy-a-methylphenethyl-amine; 2,5-
95  DMA;
96  (2)  3,4-methylenedioxyamphetamine;
97  (3)  4-bromo-2, 5-dimethoxyamphetamine or 4-bromo-2,5-
98  dimethoxy-a-methylphenethylamine, or 4-bromo-2,5-DMA;
99  (4)  5-methyloxy-3, 4-methylenedioxyamphetamine;
100  (5)  4-methoxyamphetamine; also known by these trade or
101  other names: 4-methoxy-amethylphenethylamine; paramen-
102  hoxylamphetamine; PMA;
103  (6)  3,4,5-trimethoxyamphetamine;
104  (7)  Bufotenine; known also by these trade and other
105  names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-
106  dimethylamino-ethyl)-5 indolol; N-N-dimethylserotonin; 5-
107  hydroxy-N-dimethyltryptamine; mappine;
108  (8)  Diethyltryptamine; known also by these trade and
109  other names: N-N-Diethyltryptamine; “DET”;
110  (9)  Dimethyltryptamine; known also by the name “DMT”;
111  (10)  4-methyl-2,5-dimethoxyamphetamine; known also by
these trade and other names: 4-methyl-2,5-dimethoxy-a-
imethylphenethylamine; “DOM”; “STP”;

(11) Ibogaine; known also by these trade and other names:
7-Ethyl-6, 6a, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,9-
methano-5H-pyrido (1’, 2’: 1, 2 azepino 4,5b) indole;
tabernanthe iboga;

(12) Lysergic acid diethylamide;

(13) Marihuana;

(14) Mescaline;

(15) Peyote; meaning all parts of the plant presently
classified botanically as Lophophora Williamsii Lematre,
whether growing or not; the seeds thereof; any extract from
any part of such plant; and every compound, manufacture,
salt, derivative, mixture or preparation of such plant, its seeds
or extracts;

(16) N-ethyl-3-piperidyl benzilate;

(17) N-methyl-3-piperidyl benzilate;

(18) Psilocybin;

(19) Psilocyn;

(20) Tetrahydrocannabinols; including synthetic equival-
ents of the substances contained in the plant or in the resinous
extractives of Cannabis or synthetic substances, derivatives
and their isomers with similar chemical structure and
pharmacological activity such as the following:

Delta 1

Cis or trans tetrahydrocannabinol, and their optical isomers;

Delta 6

Cis or trans tetrahydrocannabinol, and their optical isomers;

Delta 3, 4

Cis or trans tetrahydrocannabinil tetrahydrocannabinol, and
their optical isomers;

(21) Thiophene analog of phencyclidine; also known by
theses trade or other names: (A) (1-(2-thienyl) cyclohexyl)
piperidine; (B) Thienyl analog of phencyclidine; TPCP;
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144 (22) Ethylamine analog of phencyclidine. . . Some trade or
145 other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyc-
146 lohexyl)ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclo-
147 hexamine, PCE;
148 (23) Pyrrolidine analog of phencyclidine. . . Some trade or
149 other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
150 (24) N-ethylamphetamine;
151 (25) Parahexyl.
152 (e) Unless specifically excepted or unless listed in another
153 schedule, any of the following depressants, its salts, isomers
154 and salts of isomers whenever the existence of such salts,
155 isomers and salts of isomers is possible within the specific
156 chemical designation:
157 (1) Mecloqualone.
158 (2) Methaqualone.

§60A-2-206. Schedule II.

1 (a) The controlled substances listed in this section are
2 included in Schedule II.
3 (b) Unless specifically excepted or unless listed in another
4 schedule, any of the following substances whether produced
5 directly or indirectly by extraction from substances of
6 vegetable origin, or independently by means of chemical
7 synthesis, or by a combination of extraction and chemical
8 synthesis:
9 (1) Opium and opiate, and any salt, compound, derivative
10 or preparation of opium or opiate excluding nalorphine,
11 naloxone and naltrexone and their respective salts, but
12 including the following:
13 (A) Raw opium;
14 (B) Opium extracts;
15 (C) Opium fluid extracts;
16 (D) Powdered opium;
17 (E) Granulated opium;
18 (F) Tincture of opium;
19 (G) Codeine;
20 (H) Ethylmorphine;
21 (I) Ethorphine HCL;
(J) Hydrocodone;
(K) Hydromorphone;
(L) Metopon;
(M) Morphine;
(N) Oxycodone;
(O) Oxymorphone;
(P) Thebaine;

(2) Any salt, compound, isomer derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1) of this subsection, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or eegonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy);

(c) Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Alphaprodine;
(2) Anileridine;
(3) Bezitramide;
(4) Dextrorphan — excepted;
(5) Dihydrocodeine;
(6) Diphenoxylate;
(7) Fentanyl;
(8) Isomethadone;

58   (9) Levopropoxyphene — excepted;
59   (10) Levomethorphan;
60   (11) Levorphanol;
61   (12) Metazocine;
62   (13) Methadone;
63   (14) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
65   (15) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
67   (16) Pethidine; (meperidine);
68   (17) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
70   (18) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-ethyl-4-phenylpiper-idin-4-carboxylate;
72   (19) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
74   (20) Phenazocine;
75   (21) Piminodine;
76   (22) Racemethorphan;
77   (23) Racemorphan;
78   (24) Bulk Dextropropoxyphene (non dosage forms).
79   (25) Sufentanil.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

84   (1) Methamphetamine, including its salts, isomers and salts of isomers:
86   (2) Amphetamine, its salts, optical isomers and salts of its optical isomers;
88   (3) Phenmetrazine and its salts;
89   (4) Methylphenidate and its salts.
(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

1. Amobarbital;
2. Secobarbital;
3. Pentobarbital;
4. Phencyclidine.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances:

1. Immediate precursor to amphetamine and methamphetamine:
   (i) Phenylacetone
   Some trade or other names: phenyl-2-propanone; P2P; benzylmethyl ketone; methyl benzyl ketone.

2. Immediate precursors to phencyclidine (PCP):
   (i) 1-phenylcyclohexylamine
   (ii) 1-piperidinocyclohexanecarbonitrile (PCC).

§60A-2-212. Schedule V.

(a) The controlled substances listed in this section are included in Schedule V.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs and their salts, as set forth below:

1. Buprenorphine.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs
or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams and not more than 10 milligrams per dosage unit;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

Amyl nitrite, isobutyl nitrite and the other organic nitrites are controlled substances and no product containing these compounds as a significant component shall be possessed, bought or sold other than pursuant to a bona fide prescription, or for industrial or manufacturing purposes.

§60A-3-308. Prescriptions.

(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, as defined by rule of the said appropriate department, board or agency, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescription shall be retained in conformity with the requirements of section 306. No prescription for a Schedule II substance may be refilled.
(c) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under appropriate state or federal statute, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medicinal purpose: Provided, That buprenorphine shall be dispensed only by prescription pursuant to subsections (a), (b) and (c) of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 2nd day of __________, 1985.

Governor
PRESENTED TO THE
GOVERNOR
Date: 4/30/55
Time: 6:45 p.m.