House Bill No. 4277

(By Delegates Douglas, Butcher, DeLong, Ennis, Hatfield, Martin and Overington)

Passed February 22, 2002

In Effect Ninety Days from Passage
AN ACT to amend article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven-c, relating to authorizing the board of pharmacy to enter into agreements with organizations to form pharmacist recovery networks for impaired pharmacists, pharmacy interns, and pharmacy technicians; providing for rule-making authority; and providing for fees to be set by legislative rule.

Be it enacted by the Legislature of West Virginia:

That article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven-c, to read as follows:

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.
§30-5-7c. Authorization for the board of pharmacy to enter into agreements with organizations to form pharmacist recovery networks for treatment of impaired pharmacists, pharmacy interns and pharmacy technicians.

(a) The board may, under legislative rules adopted by the board in accordance with article three, chapter twenty-nine-a of this code, enter into agreements with organizations to form pharmacist recovery networks. Any pharmacist recovery network shall promote the early identification, intervention, treatment, and rehabilitation of pharmacists, pharmacy interns and pharmacy technicians who may be impaired by reason of illness, alcohol or drug abuse, or as a result of any other physical or mental condition. Activities to be covered by the agreements shall include investigation, review and evaluation of records, reports, complaints, litigation and other information about the practices and practice patterns of pharmacists licensed by the board, as such matters may relate to impaired pharmacists, pharmacy interns or pharmacy technicians.

(b) Agreements authorized under this section shall include provisions for the impaired pharmacist recovery network to receive relevant information from the board and other sources, conduct any investigation, review and evaluation in an expeditious manner, provide assurance of confidentiality of nonpublic information, make reports of investigations and evaluations to the board, and to do other related activities for operating and promoting a coordinated and effective peer review process. The agreements shall include provisions assuring basic due process for pharmacists, pharmacy interns or pharmacy technicians as well as provisions for the adequate treatment, supervision and follow through for participants.

(c) Any organization that enters into an agreement with the board to create a pharmacist recovery network shall establish
and maintain a program for impaired pharmacists, pharmacy interns and pharmacy technicians for the purpose of identifying, reviewing and evaluating the ability of those individuals to function as pharmacist, pharmacy intern or pharmacy technician, and to provide programs for treatment and rehabilitation, including supervision and follow up for participating persons.

(d) Prior to entering into any agreement with any organization to form a pharmacist recovery network, the board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code regarding the operation of any pharmacist recovery network, with provisions for:

1. Definitions of impairment;
2. Guidelines for program elements;
3. Procedures for receipt and use of information of suspected impairment;
4. Procedures for intervention and referral;
5. Arrangements for mandatory monitoring, treatment, rehabilitation, post-treatment support and performance;
6. Reports of individual cases to the board;
7. Periodic reporting of statistical information;
8. Assurance of confidentiality of nonpublic information and of the peer review process; and
9. Assessment of a fee to be added to each licensure renewal application fee payable to the board and dedication of any revenue generated by the assessment for the operation of pharmacist recovery networks developed under this section.
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(e) Upon investigation and review of a pharmacist, pharmacy intern or pharmacy technician, or upon receipt of a complaint or other information, an organization that enters into an agreement with the board to operate a pharmacist recovery network shall report immediately to the board detailed information about any pharmacist, pharmacy intern or pharmacy technician, if:

(1) The individual constitutes an imminent danger to the public or himself or herself; or

(2) The individual refuses to cooperate with the program, refuses to submit to treatment, refuses to participate in follow up treatment and monitoring, or is still impaired after treatment; or

(3) It reasonably appears that there are other grounds for disciplinary action.

(f) Any confidential patient information acquired, created or used by a pharmacist recovery network pursuant to this section shall remain confidential and may not be subject to discovery or subpoena in a civil case.

(g) If the board has not instituted any disciplinary proceedings as provided in this article, any information received, maintained or developed by a pharmacist recovery network relating to the alcohol or chemical dependency impairment of any pharmacist, pharmacy intern or pharmacy technician shall be confidential and not available for public information, discovery or court subpoena nor for introduction into evidence in any professional liability action or other action for damages arising out of the provision of or failure to provide health care services.

(h) No person participating in a pharmacist recovery network developed under this section may be required in a civil
case to disclose any information, including opinions, recom-
mandations or evaluations, acquired or developed solely in the
course of participating in the program.

(i) All persons engaged in activities conducted pursuant to
a pharmacist recovery network developed under this section
when acting in good faith and without malice enjoy immunity
from individual civil liability while acting within the scope of
their duties as part of a pharmacist recovery network.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 4th day of March, 2002.

Governor