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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

## House Bill No. 4277

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



Passed February 22, 2002

In Effect Ninety Days from Passage

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### H. B. 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.**

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

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

27       (c) Any organization that enters into an agreement with the  
28 board to create a pharmacist recovery network shall establish

29 and maintain a program for impaired pharmacists, pharmacy  
30 interns and pharmacy technicians for the purpose of identifying,  
31 reviewing and evaluating the ability of those individuals to  
32 function as pharmacist, pharmacy intern or pharmacy techni-  
33 cian, and to provide programs for treatment and rehabilitation,  
34 including supervision and follow up for participating persons.

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

41 (1) Definitions of impairment;

42 (2) Guidelines for program elements;

43 (3) Procedures for receipt and use of information of  
44 suspected impairment;

45 (4) Procedures for intervention and referral;

46 (5) Arrangements for mandatory monitoring, treatment,  
47 rehabilitation, post-treatment support and performance;

48 (6) Reports of individual cases to the board;

49 (7) Periodic reporting of statistical information;

50 (8) Assurance of confidentiality of nonpublic information  
51 and of the peer review process; and

52 (9) Assessment of a fee to be added to each licensure  
53 renewal application fee payable to the board and dedication of  
54 any revenue generated by the assessment for the operation of  
55 pharmacist recovery networks developed under this section.

56 (e) Upon investigation and review of a pharmacist, phar-  
57 macy intern or pharmacy technician, or upon receipt of a  
58 complaint or other information, an organization that enters into  
59 an agreement with the board to operate a pharmacist recovery  
60 network shall report immediately to the board detailed informa-  
61 tion about any pharmacist, pharmacy intern or pharmacy  
62 technician, if:

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

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

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

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

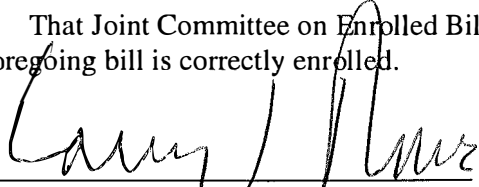
75 (g) If the board has not instituted any disciplinary proceed-  
76 ings as provided in this article, any information received,  
77 maintained or developed by a pharmacist recovery network  
78 relating to the alcohol or chemical dependency impairment of  
79 any pharmacist, pharmacy intern or pharmacy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

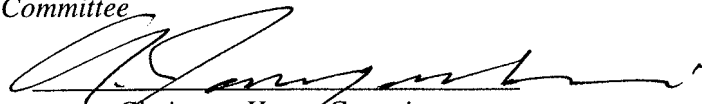
85 (h) No person participating in a pharmacist recovery  
86 network developed under this section may be required in a civil

87 case to disclose any information, including opinions, recom-  
88 mendations or evaluations, acquired or developed solely in the  
89 course of participating in the program.

90 (i) All persons engaged in activities conducted pursuant to  
91 a pharmacist recovery network developed under this section  
92 when acting in good faith and without malice enjoy immunity  
93 from individual civil liability while acting within the scope of  
94 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

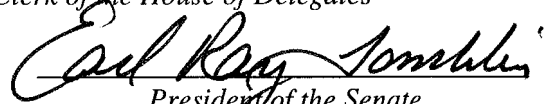
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

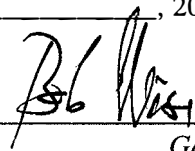
  
\_\_\_\_\_  
Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 4<sup>th</sup>  
day of March, 2002.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 2/26/02

Time 4:30 pm