

1 **§60A-9-3. Reporting system requirements; implementation; central**
2 **repository requirement.**

3 (a) On or before September 1, 2002, the Board of Pharmacy
4 shall implement a program wherein a central repository is
5 established and maintained which shall contain such information as
6 is required by the provisions of this article regarding Schedule
7 II, III and IV controlled substance prescriptions written or filled
8 in this state. In implementing this program, the Board of Pharmacy
9 shall consult with the West Virginia State Police, the licensing
10 boards of practitioners affected by this article and affected
11 practitioners.

12 (b) The program authorized by subsection (a) of this section
13 shall be designed to minimize inconvenience to patients,
14 prescribing practitioners and pharmacists while effectuating the
15 collection and storage of the required information. The State
16 Board of Pharmacy shall allow reporting of the required information
17 by electronic data transfer where feasible, and where not feasible,
18 on reporting forms promulgated by the Board of Pharmacy. The
19 information required to be submitted by the provisions of this
20 article shall be required to be filed ~~no more frequently than once~~
21 ~~a week~~ within twenty-four hours.

22 (c) (1) The State Board of Pharmacy shall provide for the
23 electronic transmission of the information required to be provided
24 by this article by and through the use of a toll-free telephone

1 line.

2 (2) A dispenser, who does not have an automated recordkeeping
3 system capable of producing an electronic report in the established
4 format may request a waiver from electronic reporting. The request
5 for a waiver shall be made to the State Board of Pharmacy in
6 writing and shall be granted if the dispenser agrees in writing to
7 report the data by submitting a completed "Pharmacy Universal Claim
8 Form" as defined by legislative rule.

9 **§60A-9-4. Required information.**

10 (a) Whenever a medical services provider dispenses a
11 controlled substance listed in Schedule II, III or IV, as
12 established under the provisions of article two of this chapter or
13 whenever a prescription for the controlled substance is filled by:
14 (i) A pharmacist or pharmacy in this state; (ii) a hospital, or
15 other health care facility, for out-patient use; or (iii) a
16 pharmacy or pharmacist licensed by the board of pharmacy, but
17 situated outside this state for delivery to a person residing in
18 this state, the medical services provider, health care facility,
19 pharmacist or pharmacy shall, in a manner prescribed by rules
20 promulgated by the board of pharmacy under this article, report the
21 following information, as applicable:

22 (1) The name, address, pharmacy prescription number and Drug
23 Enforcement Administration controlled substance registration number
24 of the dispensing pharmacy;

1 (2) The name, address and birth date of the person for whom
2 the prescription is written;

3 (3) The name, address and Drug Enforcement Administration
4 controlled substances registration number of the practitioner
5 writing the prescription;

6 (4) The name and national drug code number of the Schedule II,
7 III and IV controlled substance dispensed;

8 (5) The quantity and dosage of the Schedule II, III and IV
9 controlled substance dispensed;

10 (6) The date the prescription was filled; ~~and~~

11 (7) The number of refills, if any, authorized by the
12 prescription;

13 (8) The method of payment for the prescription; and

14 (9) The name and address of the person receiving the
15 prescription if other than the individual for whom the prescription
16 was written.

17 (b) The board of pharmacy may prescribe by rule promulgated
18 under this article the form to be used in prescribing a Schedule
19 II, III and IV substance if, in the determination of the board, the
20 administration of the requirements of this section would be
21 facilitated.

22 (c) Products regulated by the provisions of article ten of
23 this chapter shall be subject to reporting pursuant to the
24 provisions of this article to the extent set forth in said article.

1 (d) Reporting required by this section is not required for a
2 drug administered directly to a patient or a drug dispensed by a
3 practitioner at a facility licensed by the state: *Provided*, That
4 the quantity dispensed is limited to an amount adequate to treat
5 the patient for a maximum of seventy-two hours with no greater than
6 two seventy-two-hour cycles in any fifteen-day period of time.

7 **§60A-9-5. Confidentiality; limited access to records; period of**
8 **retention; no civil liability for required reporting.**

9 (a) The information required by this article to be kept by the
10 State Board of Pharmacy is confidential and is open to inspection
11 only by inspectors and agents of the State Board of Pharmacy,
12 members of the West Virginia State Police expressly authorized by
13 the Superintendent of the West Virginia State Police to have access
14 to the information, authorized agents of local law-enforcement
15 agencies as a member of a drug task force, authorized agents of the
16 federal Drug Enforcement Administration, duly authorized agents of
17 the Bureau for Medical Services and the Workers' Compensation
18 Commission, duly authorized agents of the Office of the Chief
19 Medical Examiner for use in post-mortem examinations, duly
20 authorized agents of licensing boards of practitioners in this
21 state and other states authorized to prescribe Schedules II, III
22 and IV controlled substances, prescribing practitioners and
23 pharmacists and persons with an enforceable court order or
24 regulatory agency administrative subpoena: *Provided*, That all

1 information released by the State Board of Pharmacy must be related
2 to a specific patient or a specific individual or entity under
3 investigation by any of the above parties except that practitioners
4 who prescribe controlled substances may request specific data
5 related to their Drug Enforcement Administration controlled
6 substance registration number or for the purpose of providing
7 treatment to a patient. The board shall maintain the information
8 required by this article for a period of not less than five years.
9 Notwithstanding any other provisions of this code to the contrary,
10 data obtained under the provisions of this article may be used for
11 compilation of educational, scholarly or statistical purposes as
12 long as the identities of persons or entities remain confidential.
13 No individual or entity required to report under section four of
14 this article may be subject to a claim for civil damages or other
15 civil relief for the reporting of information to the Board of
16 Pharmacy as required under and in accordance with the provisions of
17 this article;

18 (b) All practitioners, as that term is defined in section one
19 hundred-one, article two of this chapter who prescribe or dispense
20 schedule II, III or IV controlled substances shall, on or before
21 July 1, 2011, have online or other form of electronic access to the
22 West Virginia Controlled Substances Monitoring Program database;

23 (c) Persons or entities with access to the West Virginia
24 Controlled Substances Monitoring Program database pursuant to this

1 section may, pursuant to rules promulgated by the board of
2 pharmacy, delegate appropriate personnel to have access to said
3 database;

4 (d) Good faith reliance by a practitioner on information
5 contained in the West Virginia Controlled Substances Monitoring
6 Program database in prescribing or dispensing or refusing or
7 declining to prescribe or dispense a schedule II, III or IV
8 controlled substance or reporting to law enforcement reasonable
9 suspicion of illegal activity ~~shall~~ constitutes an absolute defense
10 in any civil or criminal action brought due to prescribing or
11 dispensing or refusing or declining to prescribe or dispense or
12 reporting to law enforcement reasonable suspicion of illegal
13 activity; and

14 (e) The board of pharmacy is hereby authorized to promulgate
15 an emergency rule under chapter twenty-nine-a to effectuate the
16 amendments to this section enacted during the 2010 Regular Session
17 of the Legislature.

18 (f) Nothing in the article shall be construed to require a
19 practitioner to access the West Virginia Controlled Substances
20 Monitoring Program database.

NOTE: The purpose of this bill is to decrease the time period
for filing 'required information'; to add data regarding method of
payment for prescriptions and identification of person receiving
the prescription if other than person for whom prescription is

written to 'required information'; and to provide a good faith defense to practitioners for reporting reasonable suspicion of illegal activity to law enforcement in reliance on information contained in database.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.