

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 428**

BY SENATORS WELD, STOLLINGS AND TAKUBO

[Originating in the Committee on Health and Human

Resources; reported on March 10, 2017]



1 A BILL to amend and reenact §30-5-27 of the Code of West Virginia, 1931, as amended, relating  
2 to partial filling of prescriptions; permitting partial filling of prescriptions for controlled  
3 substances listed in Schedule II under certain circumstances; setting conditions for partial  
4 filling of prescriptions for controlled substances listed in Schedule II; permitting remaining  
5 portion of prescription to be filled within thirty days of first partial filling; setting forth steps  
6 to be followed if pharmacist is unable to fill remaining portion of prescription; prohibiting  
7 further quantities from being supplied beyond seventy-two hours in absence of new  
8 prescription; providing that remaining portions of a partially filled prescription for controlled  
9 substances listed in Schedule II may be filled in emergency situations; and defining  
10 “emergency situation”.

*Be it enacted by the Legislature of West Virginia:*

1 That §30-5-27 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS  
AND PHARMACIES.**

**§30-5-27. Partial filling of prescriptions.**

1 (a) The partial filling of a prescription is permissible for any prescription if the pharmacist  
2 is unable to supply, or the patient or the prescribing individual practitioner requests less than the  
3 full quantity called for in a written, electronic, or oral prescription, provided the pharmacist makes  
4 a notation of the quantity supplied on either the written prescription or in the electronic record.

5 (b) The partial filling of a prescription for a controlled substance listed in Schedule II is  
6 permissible if: ~~the pharmacist is unable to supply or the patient requests less than the full quantity~~  
7 ~~called for in the prescription~~

8 (1) The prescription is written and filled in accordance with the provisions of this article;

9 (2) The partial filling is requested by the patient or the prescribing individual practitioner  
10 that wrote the prescription; and

11 (3) The total quantity dispensed in all partial fillings does not exceed the total quantity  
12 prescribed.

13 (c) Except as provided in subsection (d) of this section, the remaining portion of the any  
14 prescription partially filled pursuant to the provisions of subsection (a) or (b) of this section may  
15 be filled within ~~seventy-two hours~~ thirty days of the first partial filling: *Provided*, That if the  
16 remaining portion is not or cannot be filled within the ~~seventy-two hour~~ thirty-day period, the  
17 pharmacist shall notify the prescribing individual practitioner and further quantity may not be  
18 supplied beyond ~~seventy-two hours~~ thirty days without a new prescription.

19 (d) In emergency situations, the remaining portions of a partially filled prescription for a  
20 controlled substance in Schedule II may be filled, but shall be filled no later than seventy-two  
21 hours after the prescription is issued.

22 (e) For purposes of subsection (d) of this section, the term “emergency situation” means  
23 those situations in which the prescribing practitioner determines:

24 (1) That immediate administration of the controlled substance is necessary for proper  
25 treatment of the intended ultimate user;

26 (2) That no appropriate alternative treatment is available, including administration of a  
27 drug which is not a controlled substance listed in Schedule II; and

28 (3) That it is not reasonably possible for the prescribing practitioner to provide a written  
29 prescription to be presented to the person dispensing the substance prior to the dispensing.

NOTE: The purpose of this bill is to bring West Virginia Code into conformity with federal law and the provisions of 21 U.S.C. § 829, as modified in the Comprehensive Addiction and Recovery Act of 2016. The bill provides the conditions under which a pharmacist may partially fill a prescription, and the limitations on subsequently filling the remaining portion of that prescription.

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