

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4332**

BY DELEGATES ROHRBACH, FLEISCHAUER, LONGSTRETH,

SUMMERS AND FRICH

[Introduced January 26, 2018; Referred  
to the Committee on Health and Human Resources  
then the Judiciary.]



1 A BILL to amend and reenact §30-5-22 and §30-5-29 of the Code of West Virginia, 1931, as  
2 amended, all relating to home peritoneal renal dialysis to patients with end state renal  
3 disease.

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

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

**§30-5-22. Pharmacies to be registered.**

1 (a) A pharmacy, an ambulatory health care facility, and a charitable clinic pharmacy shall  
2 register with the board.

3 (b) A person desiring to operate, maintain, open or establish a pharmacy shall register  
4 with the board.

5 (c) To be eligible for a registration to operate, maintain, open or establish a pharmacy the  
6 applicant shall:

7 (1) Submit a written application to the board;

8 (2) Pay all applicable fees;

9 (3) Designate a pharmacist-in-charge; and

10 (4) Successfully complete an inspection by the board.

11 (d) A separate application shall be made and separate registration issued for each  
12 location.

13 (e) Registration ~~are~~ is not transferable.

14 (f) Registration expire and shall be renewed annually.

15 (g) If a registration expires, the pharmacy shall be reinspected and an inspection fee is  
16 required.

17 (h) A registrant shall employ a pharmacist-in-charge and operate in compliance with the  
18 legislative rules governing the practice of pharmacist care and the operation of a pharmacy.

19 (i) The provisions of this section do not apply to the sale of nonprescription drugs which  
20 are not required to be dispensed pursuant to a practitioner's prescription.

21 (j) The provisions of this section do not apply to the sale or distribution of dialysate, drugs,  
22 or devices necessary to perform home peritoneal renal dialysis to patients with end state renal  
23 disease, provided the requirements of §30-5-29 of this code are met.

**§30-5-29. Limitations of article.**

1 (a) This article may not be construed to prevent, restrict or in any manner interfere with  
2 the sale of nonnarcotic nonprescription drugs which may be lawfully sold without a prescription in  
3 accordance with the United States Food, Drug and Cosmetic Act or the laws of this state, nor may  
4 any legislative rule be adopted by the board which shall require the sale of nonprescription drugs  
5 by a licensed pharmacist or in a pharmacy or which shall prevent, restrict or otherwise interfere  
6 with the sale or distribution of such drugs by any retail merchant. The sale or distribution of  
7 nonprescription drugs may not be deemed to be improperly engaging in the practice of pharmacist  
8 care.

9 (b) This article may not be construed to interfere with any legally qualified practitioner of  
10 medicine, dentistry or veterinary medicine, who is not the proprietor of the store for the dispensing  
11 or retailing of drugs and who is not in the employ of such proprietor, in the compounding of his or  
12 her own prescriptions or to prevent him or her from supplying to his or her patients such medicines  
13 as he or she may deem proper, if such supply is not made as a sale.

14 (c) The exception provided in subsection (b) of this section does not apply to an  
15 ambulatory health care facility: *Provided*, That a legally licensed and qualified practitioner of  
16 medicine or dentistry may supply medicines to patients that he or she treats in a free clinic and  
17 that he or she deems appropriate.

18 (d) This article may not be construed to prevent, restrict, or in any manner interfere with  
19 the sale or distribution of dialysate, drugs, or devices necessary to perform home peritoneal renal  
20 dialysis to patients with end state renal disease, nor may any legislative rule be adopted by the

21 board which shall require the sale or distribution of such peritoneal dialysis products by a licensed  
22 pharmacist or in a pharmacy, provided the following criteria are met:

23 (1) The dialysate, drugs or devices are approved or cleared by the Food and Drug  
24 Administration, as required by federal law.

25 (2) The dialysate, drugs, or devices are lawfully held by a manufacturer or a  
26 manufacturer's agent that has obtained the proper permit from the board as a manufacturer or  
27 wholesale distributor, or third-party logistics provider.

28 (3) The dialysate, drugs, or devices are held and delivered in their original, sealed  
29 packaging from the manufacturing facility.

30 (4) The dialysate, drugs, or devices are delivered only upon receipt of a physician's  
31 prescription by a licensed pharmacy, and the transmittal of an order from the licensed pharmacy  
32 to the manufacturer or the manufacturer's agent; and

33 (5) The manufacturer or a manufacturer's agent delivers the dialysate, drugs, or devices  
34 directly to:

35 (A) A patient with chronic kidney failure, or his/her designee, for the patient's self-  
36 administration of the dialysis therapy; or

37 (B) A health care provider or institution for administration or delivery of the dialysis therapy  
38 to a patient with chronic kidney failure.

NOTE: The purpose of this bill is to permit the sale or distribution of dialysate, drugs, or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease.

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