

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3115

BY DELEGATE PUSHKIN

[Introduced February 12, 2019; Referred
to the Committee on Prevention and Treatment of
Substance Abuse then Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §30-5-28, relating to extending the prescription length of certain life sustaining
 3 emergency prescriptions.

Be it enacted by the Legislature of West Virginia:

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

§30-5-28. Emergency prescriptions for life sustaining medication.

1 (a) A pharmacist may distribute or sell a dangerous drug, other than a schedule II-
 2 controlled substance as defined in §60A-2-206 of this code, without a written or oral prescription
 3 from a licensed health professional authorized to prescribe drugs if all the following conditions are
 4 met:

5 (1) The pharmacy at which the pharmacist works has a record of a prescription for the
 6 drug in the name of the patient who is requesting it, but the prescription does not provide for a
 7 refill or the time permitted by the rules adopted by the state board of pharmacy for providing refills
 8 has elapsed;

9 (2) The pharmacist is unable to obtain authorization to refill the prescription from a health
 10 care professional who issued the prescription or another health professional responsible for the
 11 patient's care;

12 (3) In the exercise of the pharmacist's professional judgment:

13 (A) The drug is essential to sustain the life of the patient or continue therapy for a chronic
 14 condition of the patient.

15 (B) Failure to dispense or sell the drug to the patient could result in harm to the health of
 16 the patient.

17 (4) Except as provided in this section, the amount of the drug that is dispensed or sold
 18 under this section does not exceed a 72-hour supply as provided in the prescription; and

19 (5) If the drug sold or dispensed under this section is not a controlled substance and the
20 patient has been on a consistent drug therapy as demonstrated by records maintained by a
21 pharmacy, the amount of the drug dispensed or sold does not exceed a 30-day supply as provided
22 in the prescription or, if the standard unit of dispensing for the drug exceeds a 30-day supply, the
23 amount of the drug dispensed or sold does not exceed the standard unit of dispensing. A
24 pharmacist shall not dispense or sell a particular drug to the same patient in an amount described
25 in this section more than once in any 12-month period.

26 (b) A Pharmacist who dispenses or sells a drug under this section shall:

27 (1) For one year after the date of dispensing or sale, maintain a record in accordance with
28 this chapter of the drug dispensed or sold, including the name and address of the patient and the
29 individual receiving the drug, if the individual receiving the drug is not the patient, the amount
30 dispensed or sold, and the original prescription number;

31 (2) Notify the health professional who issued the initial prescription or another health
32 professional responsible for the patient's care not later than 72 hours after the drug is sold or
33 dispensed; and within seven days after authorizing an emergency oral prescription, the
34 practitioner has a written prescription for the emergency quantity prescribed delivered to the
35 dispensing pharmacist. The prescription shall have written on its face "Authorization for
36 Emergency Dispensing" and the date of the orally or electronically transmitted prescription. The
37 written prescription may be delivered to the pharmacist in person or by mail, but if delivered by
38 mail, it must be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist
39 shall attach this written prescription to the emergency oral prescription which had earlier been
40 reduced to writing or to the hard copy of the electronically transmitted prescription. The pharmacist
41 shall notify the nearest office of the U.S. Drug Enforcement Administration if the prescribing
42 practitioner fails to deliver a written prescription.

43 (3) If applicable, obtain authorization for additional dispensing from one of the health
44 professionals in this section.

45 (4) A pharmacist who dispenses or sells a drug under this section may do so once for
46 each prescription described here.

NOTE: The purpose of this bill is to extend the prescription length for emergency prescriptions that may be filled by pharmacists to accommodate for persons who are unable to get a prescription in a timely matter for a life sustaining medication.

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