WEST VIRGINIA CODE: §30-5-35

§30-5-35. Conversion of prescriptions authorizing refills.

(a) If a prescription authorizes a drug to be dispensed by refilling the prescription one or more times and the total quantity of the drug does not exceed a 90-day supply of the drug, a pharmacist who is filling or refilling the prescription may dispense a quantity of the drug that varies from the quantity or amount of the drug originally written on the prescription, if all of these conditions are met:

(1) The action taken by the pharmacist does not result in a quantity or amount of the drug being dispensed that exceeds the total quantity that may be dispensed by filling and refilling the prescription.

(2) The prescription is for one of the following:

(A) A maintenance drug to be taken on a regular, recurring basis to treat a chronic condition;

(B) A drug to be taken on a regular, recurring basis to prevent disease; or

(C) A contraceptive.

(3) If the prescription is for a maintenance drug, the patient has used an initial 30-day supply of the drug, or a 90-day supply of the drug has previously been prescribed to the patient, and the pharmacist determines, after consulting with the patient, that the drug has stabilized the patient's condition.

(4) The prescription is not for a controlled substance, as set forth in §60A-1-1 et seq.; and

(5) The pharmacist consults with the patient, and the pharmacist determines the action authorized by this section is appropriate for the patient.

(b) When a licensed practitioner authorizes a drug to be dispensed in a certain dosage, and the pharmacist is unable to dispense the drug in the same dosage as specified, the pharmacist may substitute the same drug in a different dosage, if the aggregate dosage of the prescription remains the same and the following conditions are met:

(1) The pharmacist counsels the patient on the differences; and

(2) The pharmacist notifies the patient's prescriber of the drug product substitution within five business days of the substitution.

(c) This section does not require a health care insurer, government health care program, pharmacy benefit manager, or other entity that offers health benefit plans to provide

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coverage for a drug in a manner that is inconsistent with the patient's benefit plan.

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