

# WEST VIRGINIA CODE: §30-5-36

## §30-5-36. Emergency prescriptions for life-sustaining medication

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

- (1) The pharmacy at which the pharmacist works has a record of a prescription for the drug in the name of the patient who is requesting it, but the prescription does not provide for a refill or the time permitted by the rules adopted by the state board of pharmacy for providing refills has elapsed;
- (2) The pharmacist is unable to obtain authorization to refill the prescription from a health care professional who issued the prescription or another health professional responsible for the patient's care;
- (3) In the exercise of the pharmacist's professional judgment:

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

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

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

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

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

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

(2) Notify the health professional who issued the initial prescription or another health professional responsible for the patient's care not later than seventy-two hours after the

drug is sold or dispensed; and within seven days after authorizing an emergency oral prescription, the practitioner has a written prescription for the emergency quantity prescribed delivered to the dispensing pharmacist. The prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the orally or electronically transmitted prescription. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this written prescription to the emergency oral prescription which had earlier been reduced to writing or to the hard copy of the electronically transmitted prescription. The pharmacist shall notify the nearest office of the U.S. Drug Enforcement Administration if the prescribing practitioner fails to deliver a written prescription.

- (3) If applicable, obtain authorization for additional dispensing from one of the health professionals in division (A) (1) of this section.
- (4) A pharmacist who dispenses or sells a drug under this section may do so once for each prescription described here.