WEST VIRGINIA CODE CHAPTER 60A ARTICLE 8

WV Legislature

§60A-8-1. Short title.

This article may be cited as the "Wholesale Drug Distribution Licensing Act of 1991".

WV Legislature

§60A-8-2. Scope.

This article applies to any person, partnership, corporation or business firm engaging in the wholesale distribution of human prescription drugs within this state.

WV Legislature

§60A-8-3. Purpose.

The purpose of this article is to protect the health, safety and general welfare of residents of this state and to implement the federal Prescription Drug Marketing Act of 1987 ("PDMA"), U. S. Public Law 100-293, 102 Stat. 95, codified at 21 U. S. Code §321; and particularly PDMA requirements that no person or entity may engage in the wholesale distribution of human prescription drugs in any state unless such person or entity is licensed by such state in accordance with federally-prescribed minimum standards, terms and conditions as set forth in guidelines issued by United States food and drug administration (FDA) regulations pursuant to 21 U. S. Code §353(e)(2)(A) and (B); and such regulations as are set forth in 21 C. F. R. Part 205.

WV Legislature

§60A-8-4.

Repealed.

Acts, 2012 Reg. Sess., Ch. 203.

WV Legislature

§60A-8-5. Definitions.

As used in this article:

(a) "Wholesale distribution" and "wholesale distributions" mean distribution of prescription drugs, including directly or through the use of a third-party logistics provider or any other situation in which title, ownership or control over the prescription drug remains with one person or entity but the prescription drug is brought into this state by another person or entity on his, her or its behalf, to persons other than a consumer or patient, but does not include:

(1) Intracompany sales, being defined as any transaction, transfer or delivery into or within this state between any division, subsidiary, parent and/or affiliated or related company under the common ownership and control of a corporate entity;

(2) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(3) The sale, purchase or trade of a drug or an offer to sell, purchase or trade a drug by a charitable organization described in section 501(c)(3) of the United States Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(4) The sale, purchase or trade of a drug or an offer to sell, purchase or trade a drug among hospitals or other health care entities that are under common control. For purposes of this article, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(5) The sale, purchase or trade of a drug or an offer to sell, purchase or trade a drug for "emergency medical reasons" for purposes of this article includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, except that the gross dollar value of such transfers shall not exceed five percent of the total prescription drug sales revenue of either the transferor or transferee pharmacy during any twelve consecutive month period;

(6) The sale, purchase or trade of a drug, an offer to sell, purchase, or trade a drug or the dispensing of a drug pursuant to a prescription;

(7) The distribution of drug samples by manufacturers' representatives or distributors' representatives, if the distribution is permitted under federal law [21 U. S. C. 353(d)];

(8) Drug returns by a pharmacy or chain drug warehouse to wholesale drug distributor or the drug's manufacturer; or

WV Legislature

(9) The sale, purchase or trade of blood and blood components intended for transfusion.

(b) "Wholesale drug distributor" or "wholesale distributor" means any person or entity engaged in wholesale distribution of prescription drugs, including, but not limited to, manufacturers, repackers, own-label distributors, jobbers, private-label distributors, brokers, warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses and wholesale drug warehouses, independent wholesale drug traders, prescription drug repackagers, physicians, dentists, veterinarians, birth control and other clinics, individuals, hospitals, nursing homes and/or their providers, health maintenance organizations and other health care providers, and retail and hospital pharmacies that conduct wholesale distributions, including, but not limited to, any pharmacy distributor as defined in this section. A wholesale drug distributor shall not include any for hire carrier or person or entity hired solely to transport prescription drugs.

(c) "Pharmacy distributor" means any pharmacy licensed in this state or hospital pharmacy which is engaged in the delivery or distribution of prescription drugs either to any other pharmacy licensed in this state or to any other person or entity, including, but not limited to, a wholesale drug distributor as defined in subdivision (b) of this section engaged in the delivery or distribution of prescription drugs and who is involved in the actual, constructive or attempted transfer of a drug in this state to other than the ultimate consumer except as otherwise provided for by law.

(d) "Manufacturer" means any person who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging or labeling of a prescription drug, whether within or outside this state.

(e) "West Virginia Board of Pharmacy", "Board of Pharmacy" or "board" means the agency of this state authorized to license wholesale drug distribution except where otherwise provided.

(f) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by prescription, including finished dosage forms and active ingredients subject to section 503(b) of the federal food, drug and cosmetic act.

(g) "Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(h) "Blood component" means that part of blood separated by physical or mechanical means.

(i) "Drug sample" means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

(j) "Person" means any individual, partnership, association, limited liability company, corporation or other entity.

(k) "Key person" means the person designated by the applicant or license holder from any of

WV Legislature

the following:

(1) An officer, director, trustee, partner, principal or proprietor of a person that has applied for or holds a license issued under this article or an affiliate or holding company that has control of a person that has applied for or holds a license under this article.

(2) A person that holds a combined direct, indirect or attributed debt or equity interest of more than five percent in a person that has applied for or holds a license under this article;

(3) A person that holds a combined direct, indirect or attributed equity interest of more than five percent in a person that has a controlling interest in a person that has applied for or holds license under this article;

(4) A managerial employee of a person that has applied for or holds a license under this article or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds a license under this article, who performs the function of principal executive officer, principal operating officer, principal accounting officer or an equivalent officer;

(5) A managerial employee of a person that has applied for or holds a license under this article or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds a license under this article who will perform or performs the function of an operations manager or will exercise or exercises management, supervisory or policy-making authority over the distribution of prescription drugs.

(l) "Third-party logistics provider" means a person who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. A third-party logistics provider must be licensed as a wholesale distributor under this article and, in order to be considered part of the normal distribution channel, must also be an authorized distributor of record.

WV Legislature

§60A-8-6. Prohibited drug purchases or receipt; penalties.

It is unlawful for any person or entity to knowingly purchase or receive any prescription drug from any source other than a person or entity licensed pursuant to the laws of this state except where otherwise provided, such person or entity to include, but not be limited to, a wholesale distributor, manufacturer, pharmacy distributor or pharmacy. Any person violating the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000. Any person who violates this section shall for a second offense be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000.

WV Legislature

§60A-8-6a. Distribution of safety net drugs to contract pharmacies; penalties; and preemption.

(a) Definitions. — As used in this section:

(1) "340B drug" means a drug that:

(A) Is a covered outpatient drug within the meaning of 42 U.S.C. §256b;

(B) Has been subject to any offer for reduced prices by a manufacturer under 42 U.S.C. §256b(a)(1); and

(C) Is purchased by a covered entity within the meaning of 42 U.S.C. §256b.

(2) "340B entity" has the same meaning as that term is defined in §33-51-3 of this code.

(3) "Biological product" has the same meaning as that term is defined in 42 U.S.C. §262.

(4) "Board of Pharmacy" means the West Virginia Board of Pharmacy, which is the agency of this state authorized to issue and condition licensure and permitting of wholesale drug distributors, third-party logistics providers, and manufacturers.

(5) "Commissioner" means the West Virginia Insurance Commissioner, his or her deputies, or the West Virginia Offices of the Insurance Commissioner.

(6) "Manufacturer" has the same meaning as that term is defined in §60A-8-5 of this code, except that such definition shall include manufacturers of biological products.

(7) "Package" has the same meaning as that term is defined in 21 U.S.C. §360eee(11)(A).

(8) "Pharmacy" has the same meaning as that term is defined in §30-5-4 of this code.

(b) Distribution of drugs to safety net providers and contract pharmacies. —

(1) A manufacturer, agent, or affiliate of such manufacturer shall not, either directly or indirectly, deny, restrict, or prohibit the acquisition of a 340B drug by, or delivery of a 340B drug to, a location authorized by a 340B entity to receive such 340B drug, unless the receipt of the 340B drug is prohibited by the United States Department of Health and Human Services.

(2) A manufacturer, agent, or affiliate of such manufacturer shall not, either directly or indirectly, require a 340B entity to submit any claims or utilization data as a condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B entity unless the claims or utilization data sharing is required by the United States Department of Health and Human Services.

(c) Penalties and investigations. —

WV Legislature

(1) The commission of any act prohibited by subsection (b) of this section constitutes:

(A) A violation of §46A-6-104 of this code and shall subject the violator to a civil penalty of $50,000 per each violation, as well as any and all actions, including investigative demands, remedies, and penalties provided for in §46A-7-101 *et seq*. of this code, except that there shall be no right to bring a private cause of action; and

(B) A violation of §33-11-1 *et seq*. of this code and shall subject the violator to any and all actions, including cease and desist orders, civil penalties, and restitution provided for in §33-11-6 of this code, except that there shall be no right to bring a private cause of action.

(2) Each package of 340B drugs determined to be subject to a prohibited act under subsection (b) of this section constitutes a separate violation under this section.

(3) Upon receipt by the Board of Pharmacy of a complaint that a manufacturer has violated subsection (b) of this section, the Board of Pharmacy:

(A) May investigate the complaint, including by investigating the manufacturer or any agent, affiliate, or contractor thereof, including any wholesaler or third-party logistics provider that may possess evidence supporting such complaint; and

(B) Shall consider appropriate penalties, including imposing discipline, or suspending, or revoking the license or permit of any manufacturer; and

(C) Shall share the results of the investigation with the Attorney General and commissioner if an investigation is conducted.

(3) The Board of Pharmacy and commissioner may promulgate rules to implement the provisions of subsection (b) of this section.

(d) Preemption. —

(1) Nothing in this section is to be construed or applied to be less restrictive than any federal law as to any person or other entity regulated by this section. Nothing in this section is to be construed or applied to be in conflict with any of the following:

(A) Applicable federal law and related regulations.

(B) Other laws of this state, if the state law is compatible with applicable federal law.

(2) Limited distribution of a drug required under 21 U.S.C. §355-1 is not to be construed as a violation of this section.

WV Legislature

§60A-8-7. Wholesale drug distributor licensing requirements.

(a) Every applicant for a license under this article shall provide the board with the following as part of the application for a license and as part of any renewal of such license:

(1) The name, full business address and telephone number of the licensee;

(2) All trade or business names used by the licensee;

(3) Addresses, telephone numbers and the names of contact persons for all facilities used by the licensee for the storage, handling and distribution of prescription drugs;

(4) The type of ownership or operation (i.e., partnership, corporation or sole proprietorship);

(5) The name(s) of the owner and operator, or both, of the licensee, including:

(A) If a person, the name of the person;

(B) If a partnership, the name of each partner and the name of the partnership;

(C) If a corporation, the name and title of each corporate officer and director, the corporate names and the name of the state of incorporation; and

(D) If a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and

(6) Any other information or documentation that the board may require.

(b) All wholesale distributors and pharmacy distributors shall be subject to the following requirements:

(1) No person or distribution outlet may act as a wholesale drug distributor without first obtaining a license to do so from the Board of Pharmacy and paying any reasonable fee required by the Board of Pharmacy, such fee not to exceed four hundred dollars per year: Provided, That for licenses that are effective on and after July 1, 2012, the annual fee shall be $750 per license until modified by legislative rule. All fees collected pursuant to this section shall be used for the operation and implementation of the West Virginia Controlled Substances Monitoring Program database or in the same manner as those fees governed by article five, chapter thirty of this code.

(2) The Board of Pharmacy may grant a temporary license when a wholesale drug distributor first applies to the board for a wholesale drug distributor's license and the temporary license shall remain valid until the Board of Pharmacy finds that the applicant meets or fails to meet the requirements for regular licensure, except that no temporary license shall be valid for more than ninety days from the date of issuance. Any temporary license issued pursuant to this subdivision shall be renewable for a similar period of time not to exceed ninety days

WV Legislature

pursuant to policies and procedures to be prescribed by the Board of Pharmacy.

(3) No license may be issued or renewed for a wholesale drug distributor to operate unless the distributor operates in a manner prescribed by law and according to the rules promulgated by the Board of Pharmacy with respect thereto.

(4) The Board of Pharmacy may require a separate license for each facility directly or indirectly owned or operated by the same business entity within this state, or for a parent entity with divisions, subsidiaries, or affiliate companies within this state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(c) The minimum qualifications for licensure are set forth in this section as follows:

(1) As a condition for receiving and retaining any wholesale drug distributor license issued pursuant to this article, each applicant shall satisfy the Board of Pharmacy that it has and will continuously maintain:

(A) Acceptable storage and handling conditions plus facilities standards;

(B) Minimum liability and other insurance as may be required under any applicable federal or state law;

(C) A security system which includes after hours central alarm or comparable entry detection capability, restricted premises access, adequate outside perimeter lighting, comprehensive employment applicant screening and safeguards against employee theft;

(D) An electronic, manual or any other reasonable system of records describing all wholesale distributor activities governed by this article for the two-year period following disposition of each product and being reasonably accessible as defined by Board of Pharmacy regulations during any inspection authorized by the Board of Pharmacy;

(E) Officers, directors, managers and other persons in charge of wholesale drug distribution, storage and handling, who must at all times demonstrate and maintain their capability of conducting business according to sound financial practices as well as state and federal law;

(F) Complete, updated information to be provided to the Board of Pharmacy as a condition for obtaining and retaining a license about each wholesale distributor to be licensed under this article including all pertinent licensee ownership and other key personnel and facilities information determined necessary for enforcement of this article;

(G) Written policies and procedures which assure reasonable wholesale distributor preparation for protection against and handling of any facility security or operation problems, including, but not limited to, those caused by natural disaster or government emergency, inventory inaccuracies or product shipping and receiving, outdated product or other unauthorized product control, appropriate disposition of returned goods and product

WV Legislature

recalls;

(H) Sufficient inspection procedures for all incoming and outgoing product shipments; and

(I) Operations in compliance with all federal legal requirements applicable to wholesale drug distribution.

(2) The board of pharmacy shall consider, at a minimum, the following factors in reviewing the qualifications of persons who apply for a wholesale distributor license under this section or for renewal of that license:

(A) Any conviction of the applicant under any federal, state or local laws relating to drug samples, wholesale or retail drug distribution or distribution of controlled substances;

(B) Any felony convictions of the applicant or any key person under federal, state or local laws;

(C) The applicant's past experience in the manufacture or distribution of prescription drugs, including, but not limited to, controlled substances;

(D) The furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;

(E) Suspension or revocation by federal, state or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drug, including, but not limited to, controlled substances;

(F) Compliance with licensing requirements under previously granted licenses, if any;

(G) Whether personnel employed by the applicant in wholesale drug distribution have appropriate education or experience, or both education and experience, to assume responsibility for positions related to compliance with the requirements of this article;

(H) Compliance with requirements to maintain and make available to the Board of Pharmacy or to federal, state or local law-enforcement officials those records required by this article; and

(I) Any other factors or qualifications the Board of Pharmacy considers relevant to and consistent with the public health and safety, including whether the granting of the license would not be in the public interest.

(3) All requirements set forth in this subsection shall conform to wholesale drug distributor licensing guidelines formally adopted by the United States Food and Drug Administration (FDA); and in case of conflict between any wholesale drug distributor licensing requirement imposed by the Board of Pharmacy pursuant to this subsection and any food and drug administration wholesale drug distributor licensing guideline, the latter shall control.

WV Legislature

(d) An employee of any licensed wholesale drug distributor need not seek licensure under this section and may lawfully possess pharmaceutical drugs when the employee is acting in the usual course of business or employment.

(e) The issuance of a license pursuant to this article does not change or affect tax liability imposed by this state's Department of Tax and Revenue on any wholesale drug distributor.

(f) An applicant who is awarded a license or renewal of a license shall give the board written notification of any material change in the information previously submitted in, or with the application for the license or for renewal thereof, whichever is the most recent document filed with the board, within thirty days after the material change occurs or the licensee becomes aware of the material change, whichever event occurs last. Material changes include, but are not limited to:

(1) A change of the physical address or mailing address;

(2) A change of the responsible individual, compliance officer or other executive officers or board members;

(3) A change of the licensee's name or trade name;

(4) A change in the location where the records of the licensee are retained;

(5) The felony conviction of a key person of the licensee; and

(6) Any other material change that the board may specify by rule.

(g) Before denial of a license or application for renewal of a license, the applicant shall be entitled to a hearing in accordance with subsection (h), section eight, article one, chapter thirty of this code.

(h) The licensing of any person as a wholesale drug distributor subjects the person and the person's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this article, article five, chapter thirty of this code and the rules of the board. However, the filing of an application for a license as a wholesale drug distributor by, or on behalf of, any person or the licensing of any person as a wholesale drug distributor may not, of itself, constitute evidence that the person is doing business within this state.

(i) The Board of Pharmacy may adopt rules pursuant to section nine of this article which permit out-of-state wholesale drug distributors to obtain any license required by this article on the basis of reciprocity to the extent that: (1) An out-of-state wholesale drug distributor possesses a valid license granted by another state pursuant to legal standards comparable to those which must be met by a wholesale drug distributor of this state as prerequisites for obtaining a license under the laws of this state; and (2) such other state would extend reciprocal treatment under its own laws to a wholesale drug distributor of this state.

WV Legislature

§60A-8-8. License renewal application procedures.

Application blanks for renewal of any license required by this article shall be mailed to each licensee at least thirty days before July 1, of each calendar year by the board. All licenses issued under this section are not transferable and expire on June 30 of each calendar year. If application for renewal of such license with required fee is not made before the expiration date of the license, the existing license, or renewal thereof, shall lapse and become null and void upon the last day of June of each calendar year.

WV Legislature

§60A-8-9. West Virginia Board of Pharmacy powers to promulgate rules.

The Board of Pharmacy shall promulgate rules not inconsistent with law, as may be necessary to carry out the purposes and enforce the provisions of this article pursuant to chapter twenty-nine-a of this code. Rules which incorporate and set detailed standards for meeting each of the license prerequisites set forth in section seven of this article shall be promulgated in final form by no later than September 14, 1992. All rules promulgated pursuant to this section shall conform to wholesale drug distributor licensing guidelines formally adopted by the food and drug administration at 21 C.F.R. Part 205; and in case of conflict between any rule adopted by the Board of Pharmacy and any food and drug administration wholesale drug distributor guideline, the latter shall control.

WV Legislature

§60A-8-10. West Virginia Board of Pharmacy complaint provisions.

Complaints arising under any provision of this article shall be handled as follows:

(a) The Board of Pharmacy is hereby authorized and empowered, when complaints or examinations or inspections of a wholesale drug distributor disclose that a wholesale drug distributor is not operating or conducting business according to the state and federal laws, to file a written complaint with the board charging the holder of a license to operate a wholesale drug distributorship operation with violations of this article which are grounds for restriction, suspension or revocation of the wholesale drug distributor's license.

(b) If the Board of Pharmacy concludes that a wholesale drug distributor has committed an act or is engaging in a course of conduct which constitutes a clear and present danger to the public health and safety in this state, the Board of Pharmacy may hold an expedited hearing. Within fifteen days after service of the complaint on a wholesale drug distributor, the West Virginia Board of Pharmacy shall conduct a preliminary hearing to determine whether the alleged activities of the wholesale drug distributor appear to constitute a clear and present danger to the public health and safety which justify that the wholesale drug distributor's license be immediately restricted or suspended. The burden of proving that a wholesale drug distributor is a clear and present danger to the public health and safety shall be upon the board. The board shall issue its decision immediately after the hearing and shall dismiss the action or suspend, restrict or revoke the license. The board shall require any wholesale drug distributor found in violation of this article to take all necessary measures for compliance.

(c) If the board restricts, revokes or suspends the wholesale drug distributor's license, such temporary restriction, revocation or suspension shall become a final restriction or suspension if there is no request by the wholesale drug distributor for a final hearing within thirty days of the preliminary hearing. The board shall, if requested by the wholesale drug distributor named in the complaint, set a date to hold a final hearing which shall be held pursuant to the provisions of chapter twenty-nine-a of this code.

WV Legislature

§60A-8-11. The West Virginia Board of Pharmacy inspection powers and access to wholesale drug distributor records.

(a) A person authorized by the board may inspect during normal business hours any premises being used by a wholesale drug distributor in this state in the course of its business. Any wholesale drug distributor providing adequate documentation of the most recent satisfactory inspection less than three years old of such distributor's wholesale drug distribution activities and facilities by either the food and drug administration or a state agency, or any person or entity lawfully designated by a state agency to perform such inspection, determined to be comparable by the board shall be exempt from further inspection for a period of time to be determined by the Board of Pharmacy. Such exemption shall not bar the board from initiating an investigation pursuant to a public or governmental complaint received by the board regarding a wholesale drug distributor.

(b) Wholesale drug distributors may keep records regarding purchase and sales transactions at a central location apart from the principal office of the wholesale drug distributor or the location at which the drugs were stored and from which they were shipped: Provided, That such records shall be made available for inspection within two working days after a request to inspect by the board is made. Such records may be kept in any form permissible under federal law applicable to prescription drugs record keeping.

WV Legislature

§60A-8-12. Judicial enforcement of the article.

(a) Upon proper application by the board, a court of competent jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required by any applicable federal or state law, including, but not limited to, this act upon a showing that such acts or practices were or are likely to be performed or offered to be performed without a certificate of registration or authority, permit or license.

(b) Any such judicial actions shall be commenced either in the county in which such conduct occurred or in the county in which defendant resides.

(c) Any action brought under this section shall be in addition to and not in lieu of any other penalty provided by law and may be brought concurrently with other actions to enforce this article.

WV Legislature

§60A-8-13. Criminal penalties.

Every person who violates any provision of section seven of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $200 nor more than $1,000.

WV Legislature

§60A-8-14. Disciplinary actions - wholesale drug distributor.

(a) In accordance with article five, chapter thirty of this code, the Board of Pharmacy may suspend, revoke or refuse to renew any license issued to a wholesale distributor of prescription drugs pursuant to this article or may impose a civil money penalty not to exceed $1,000, in the discretion of the board for any of the following causes:

(1) Making any false material statements in an application for a license or for renewal of a license as a wholesale distributor or pharmacy distributor of prescription drugs;

(2) Violating any federal, state or local drug law, any provision of this article or any rule of the board;

(3) Conviction of a felony. For purposes of this subdivision "felony" means a felony or crime punishable as a felony under the laws of this state, any other state or the United States;

(4) Ceasing to satisfy the qualifications for licensure under section seven of this article or the rules of the board;

(5) The license or registration of a wholesale drug distributor licensed under this article has been revoked by the licensing authority of another state, jurisdiction of foreign nation; or

(6) Any reason for which the board may impose disciplinary sanctions under the provisions of chapter thirty of this code.

(b) Upon the suspension or revocation of the license of any wholesale distributor of prescription drugs, the distributor shall immediately surrender the license to the board.

(c) If the board suspends, revokes or refuses to renew any license issued to a wholesale distributor of prescription drugs and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the board may place under seal all drugs owned by or in the possession, custody or control of the affected wholesale distributor. Except as provided in this article, the board may not dispose of the drugs sealed under this subsection until the distributor exhausts all of his or her appeal rights under this article or article five, chapter thirty of this code. The court involved in the appeal may order the board, during the pendency of the appeal, to sell sealed dangerous drugs that are perishable. The board shall deposit the proceeds of the sale with the court.

WV Legislature

§60A-8-15. Maintenance of register and roster of wholesale and pharmacy distributors.

(a) The Executive Director of the Board of Pharmacy shall maintain a register of the names, addresses and the date the current license was issued or renewed pursuant to this article for license years beginning on and after July 1, 2013. The register shall be the property of the board and shall be open for public examination and inspection at all reasonable times, as the board may direct.

(b) The register shall set forth the names and addresses of:

(1) Those persons who are or have been licensed under this article for the current license year;

(2) Those persons whose licenses have been suspended, revoked or surrendered during the current license year or during the two preceding license years; and

(3) Those persons whose licenses have not been renewed for the current license year.

(c) In lieu of annually publishing a typed or printed register providing the information required by this subsection, the board may make the information required to be published available at its website.

(d) A written statement signed and verified by the executive director of the board, in which it is stated that after diligent search of the register no record or entry of the issuance of a license or registration certificate to a person is found, is admissible in evidence and constitutes presumptive evidence of the fact that the person is not a licensed as a wholesale drug distributor under this article.

WV Legislature

§60A-8-16. Disposition of fees.

The board shall pay all fees it collects under this article into the separate fund created in the State Treasury for the board pursuant to section ten, article one, chapter thirty of this code. The money in this fund shall be used exclusively by the board for the purposes of administering and enforcement of its duties pursuant to this article, articles one and five, chapter thirty of this code, or any other duty of the board prescribed by any other provision of this code.

WV Legislature