WEST VIRGINIA CODE CHAPTER 60a ARTICLE 3

§60A-3-301. Rules; fees.

The state Board of Pharmacy shall promulgate rules and charge fees relating to the registration and control of the manufacture and distribution of controlled substances within this state, and each department, board, or agency of this state which licenses or registers practitioners authorized to dispense any controlled substance shall promulgate rules and charge fees relating to the registration and control of the dispensing of controlled substances within this state by those practitioners licensed or registered by such department, board, or agency.

The state Board of Pharmacy or the department, board or agency shall collect the following annual registration fees from persons who manufacture, distribute, dispense or conduct research with controlled substances: For registration of a manufacturer, $50; for registration of a wholesaler, $50; for registration of a retailer, $15; for registration of a hospital or clinic, $15; and for registration of a research institution, $5.

§60A-3-302. Registration required; effect of registration; exemptions; waiver; inspections.

(a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the state Board of Pharmacy or the appropriate department, board, or agency, as the case may be, as specified in section three hundred one, in accordance with its rules.

(b) Persons registered by said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) (1) The following persons need not register and may lawfully possess, deliver, or transport into this state controlled substances under this act:

(A) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession, delivery, or transportation into this state of any controlled substance is in the usual course of a lawful business or employment;

(2) The following persons need not register and may lawfully possess or transport into this state controlled substances under this act: An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, may inspect the establishment of a registrant or applicant for registration in accordance with the rule of said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be.

§60A-3-303. What applicants to be registered; determination of public interest; rights of registrants.

(a) The state Board of Pharmacy shall register an applicant to manufacture or distribute controlled substances included in Schedules I, II, III, IV and V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the state Board of Pharmacy shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal or state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this act;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) Any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The appropriate department, board, or agency, as specified in section 301, need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the appropriate department, board, or agency evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act.

§60A-3-304. Suspension or revocation of registration generally.

(a) A registration under section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this act;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance; or

(3) Has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(b) The said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, may limit suspension or revocation of a registration to the particular controlled substance with respect to which grounds for suspension or revocation exist.

(c) If the said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

§60A-3-305. Order to show cause before denying, suspending, etc., registration; proceedings thereon; when order not required.

(a) Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, shall serve upon the applicant or registrant an order to show cause why registration should not be denied, suspended, or revoked, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted in accordance with article five, chapter twenty-nine-a of this code without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 304, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, or dissolved by a court of competent jurisdiction.

§60A-3-306. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the said state Board of Pharmacy or said appropriate department, board, or agency, as the case may be, issues.

§60A-3-307. Order forms.

Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

§60A-3-308. Prescriptions.

(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the lawful prescription of a practitioner.

(b) In emergency situations, as defined by rule of the said appropriate department, board or agency, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescription shall be retained in conformity with the requirements of section three hundred six of this article. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under appropriate state or federal statute, shall not be dispensed without a lawful prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times unless renewed by the practitioner.

(d) (1) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medicinal purpose: Provided, That buprenorphine shall be dispensed only by prescription pursuant to subsections (a), (b) and (c) of this section: Provided, however, That the controlled substances included in subsection (e), section two hundred twelve, article two of this chapter shall be dispensed, sold or distributed only by a physician, in a pharmacy by a pharmacist or pharmacy technician, or health care professional.

(2) If the substance described in subsection (e), section two hundred twelve, article two of this chapter is dispensed, sold or distributed in a pharmacy:

(A) The substance shall be dispensed, sold or distributed only by a pharmacist or a pharmacy technician; and

(B) Any person purchasing, receiving or otherwise acquiring any such substance shall produce a photographic identification issued by a state or federal governmental entity reflecting his or her date of birth.