SB 1001 S

WEST VIRGINIA LEGISLATURE

SEVENTY-EIGHTH LEGISLATURE

FIRST EXTRAORDINARY SESSION, 2007

ENROLLED

Senate Bill No. 1001

(By Senators Tomblin, Mr. President, and Caruth,
By Request of the Executive)

[Passed March 18, 2007; in effect ninety days from passage.]

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(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed March 18, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §30-5-1b, §30-5-12, §30-5-12b, §30-5-16b and §30-5-29 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §30-5-12c; to amend and reenact §30-7-15c of said code; and to amend and reenact §60A-3-308 of said code, all relating generally to the authorization of certain pharmacy-related practices; authorizing electronic prescribing; and extending the date for pharmacy collaborative agreements.

Be it enacted by the Legislature of West Virginia:

That §30-5-1b, §30-5-12, §30-5-12b, §30-5-16b and §30-5-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-5-12c; that §30-7-15c of said code be amended and reenacted; and that §60A-3-308 of said code be amended and reenacted, all to read as follows:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

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

§30-5-1b. Definitions.

The following words and phrases, as used in this article, have the following meanings, unless the context otherwise requires:

(1) "Administer" means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion or any other means.

(2) "Board of Pharmacy" or "board" means the West Virginia State Board of Pharmacy.

(3) "Collaborative pharmacy practice" is that practice of pharmacy where one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more physicians under written protocol where the pharmacist or pharmacists may perform certain patient care functions authorized by the physician or physicians under certain specified conditions and limitations.

(4) "Collaborative pharmacy practice agreement" is a written and signed agreement between a pharmacist, a

physician and the individual patient, or the patient's authorized representative who has granted his or her informed consent, that provides for collaborative pharmacy practice for the purpose of drug therapy management of a patient, which has been approved by the Board of Pharmacy, the Board of Medicine in the case of an allopathic physician or the West Virginia Board of Osteopathy in the case of an osteopathic physician.

(5) "Compounding" means:

(A) The preparation, mixing, assembling, packaging or labeling of a drug or device:

(i) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice for sale or dispensing; or

(ii) For the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing; and

(B) The preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(6) "Confidential information" means information maintained by the pharmacist in the patient record or which is communicated to the patient as part of patient counseling or which is communicated by the patient to the pharmacist. This information is privileged and may be released only to the patient or to other members of the health care team and other pharmacists where, in

the pharmacists' professional judgment, the release is necessary to the patient's health and well-being; to health plans, as that term is defined in 45 CFR §160.103, for payment; to other persons or governmental agencies authorized by law to receive the privileged information; as necessary for the limited purpose of peer review and utilization review; as authorized by the patient or required by court order. Appropriate disclosure, as permitted by this section, may occur by the pharmacist either directly or through an electronic data intermediary, as defined in subdivision (14) of this section.

(7) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

(8) "Device" means an instrument, apparatus, implement or machine, contrivance, implant or other similar or related article, including any component part or accessory, which is required under federal law to bear the label, "Caution: Federal or state law requires dispensing by or on the order of a physician".

(9) "Dispense" or "dispensing" means the preparation and delivery of a drug or device in an appropriately labeled and suitable container to a patient or patient's representative or surrogate pursuant to a lawful order of a practitioner for subsequent administration to, or use by, a patient.

(10) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(11) "Drug" means:

(A) Articles recognized as drugs in the USP-DI, facts and comparisons, physician's desk reference or supplements thereto for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals;

(B) Articles, other than food, intended to affect the structure or any function of the body of human or other animals; and

(C) Articles intended for use as a component of any articles specified in paragraph (A) or (B) of this subdivision.

(12) "Drug regimen review" includes, but is not limited to, the following activities:

(A) Evaluation of the prescription drug orders and patient records for:

(i) Known allergies;

(ii) Rational therapy-contraindications;

(iii) Reasonable dose and route of administration; and

(iv) Reasonable directions for use.

(B) Evaluation of the prescription drug orders and patient records for duplication of therapy.

(C) Evaluation of the prescription drug for interactions and/or adverse effects which may include,

but are not limited to, any of the following:

(i) Drug-drug;

(ii) Drug-food;

(iii) Drug-disease; and

(iv) Adverse drug reactions.

(D) Evaluation of the prescription drug orders and patient records for proper use, including overuse and underuse, and optimum therapeutic outcomes.

(13) "Drug therapy management" means the review of drug therapy regimens of patients by a pharmacist for the purpose of evaluating and rendering advice to a physician regarding adjustment of the regimen in accordance with the collaborative pharmacy practice agreement. Decisions involving drug therapy management shall be made in the best interest of the patient. Drug therapy management shall be limited to:

(A) Implementing, modifying and managing drug therapy according to the terms of the collaborative pharmacy practice agreement;

(B) Collecting and reviewing patient histories;

(C) Obtaining and checking vital signs, including pulse, temperature, blood pressure and respiration;

(D) Ordering screening laboratory tests that are dose related and specific to the patient's medication or are protocol driven and are also specifically set out in the

collaborative pharmacy practice agreement between the pharmacist and physician.

(14) "Electronic data intermediary" means an entity that provides the infrastructure to connect a computer system, hand-held electronic device or other electronic device used by a prescribing practitioner with a computer system or other electronic device used by a pharmacist to facilitate the secure transmission of:

(A) An electronic prescription order;

(B) A refill authorization request;

(C) A communication; or

(D) Other patient care information.

(15) "E-prescribing" means the transmission, using electronic media, of prescription or prescription-related information between a practitioner, pharmacist, pharmacy benefit manager or health plan as defined in 45 CFR §160.103, either directly or through an electronic data intermediary. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the pharmacist. E-prescribing may also be referenced by the terms "electronic prescription" or "electronic order".

(16) "Intern" means an individual who is:

(A) Currently registered by this state to engage in the practice of pharmacy while under the supervision of a licensed pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a

pharmacist; or

(B) A graduate of an approved college of pharmacy or a graduate who has established educational equivalency by obtaining a foreign pharmacy graduate examination committee (FPGEC) certificate who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist; or

(C) A qualified applicant awaiting examination for licensure; or

(D) An individual participating in a residency or fellowship program.

(17) "Labeling" means the process of preparing and affixing a label to a drug container exclusive, however, of a labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any label shall include all information required by federal law or regulation and state law or rule.

(18) "Mail-order pharmacy" means a pharmacy, regardless of its location, which dispenses greater than ten percent prescription drugs via the mail.

(19) "Manufacturer" means a person engaged in the manufacture of drugs or devices.

(20) "Manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means

of chemical or biological synthesis and includes any packaging or repackaging of the substance or substances or labeling or relabeling of its contents and the promotion and marketing of the drugs or devices. Manufacturing also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners or other persons.

(21) "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of this state and the federal government.

(22) "Patient counseling" means the oral communication by the pharmacist of information, as defined in the rules of the board, to the patient to improve therapy by aiding in the proper use of drugs and devices.

(23) "Person" means an individual, corporation, partnership, association or any other legal entity, including government.

(24) "Pharmaceutical care" is the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms or arresting or slowing of a disease process as defined in the rules of the board.

(25) "Pharmacist" or "registered pharmacist" means an individual currently licensed by this state to engage in the practice of pharmacy and pharmaceutical care.

(26) "Pharmacist-in-charge" means a pharmacist currently licensed in this state who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs and who is personally in full and actual charge of the pharmacy and personnel.

(27) "Pharmacist's scope of practice pursuant to the collaborative pharmacy practice agreement" means those duties and limitations of duties placed upon the pharmacist by the collaborating physician, as jointly approved by the Board of Pharmacy and the Board of Medicine or the Board of Osteopathy.

(28) "Pharmacy" means any drugstore, apothecary or place within this state where drugs are dispensed and sold at retail or displayed for sale at retail and pharmaceutical care is provided and any place outside of this state where drugs are dispensed and pharmaceutical care is provided to residents of this state.

(29) "Physician" means an individual currently licensed, in good standing and without restrictions, as an allopathic physician by the West Virginia Board of Medicine or an osteopathic physician by the West Virginia Board of Osteopathy.

(30) "Pharmacy technician" means registered supportive personnel who work under the direct supervision of a pharmacist who have passed an approved training program as described in this article.

(31) "Practitioner" means an individual currently

licensed, registered or otherwise authorized by any state, territory or district of the United States to prescribe and administer drugs in the course of professional practices, including allopathic and osteopathic physicians, dentists, physician assistants, optometrists, veterinarians, podiatrists and nurse practitioners as allowed by law.

(32) "Preceptor" means an individual who is currently licensed as a pharmacist by the board, meets the qualifications as a preceptor under the rules of the board and participates in the instructional training of pharmacy interns.

(33) "Prescription drug" or "legend drug" means a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(A) "Caution: Federal law prohibits dispensing without prescription"; or

(B) "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or a drug which is required by any applicable federal or state law or rule to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only.

(34) "Prescription drug order" means a lawful order of a practitioner for a drug or device for a specific patient.

(35) "Prospective drug use review" means a review of the patients' drug therapy and prescription drug order, as defined in the rules of the board, prior to dispensing the drug as part of a drug regimen review.

(36) "USP-DI" means the United States pharmacopeia-dispensing information.

(37) "Wholesale distributor" means any person engaged in wholesale distribution of drugs, including, but not limited to, manufacturers' and distributors' warehouses, chain drug warehouses and wholesale drug warehouses, independent wholesale drug trader and retail pharmacies that conduct wholesale distributions.

§30-5-12. Responsibility for quality of drugs dispensed; exception; falsification of labels; deviation from prescription.

(a) All persons, whether licensed pharmacists or not, shall be responsible for the quality of all drugs, chemicals and medicines they may sell or dispense, with the exception of those sold in or dispensed unchanged from the original retail package of the manufacturer, in which event the manufacturer shall be responsible.

(b) Except as provided in section twelve-b of this article, the following acts shall be prohibited: (1) The falsification of any label upon the immediate container, box and/or package containing a drug; (2) the substitution or the dispensing of a different drug in lieu of any drug prescribed in a prescription without the approval of the practitioner authorizing the original prescription: *Provided,* That this shall not be construed to interfere with the art of prescription compounding which does not alter the therapeutic properties of the prescription or appropriate generic substitute; (3) the filling or refilling of any prescription for a greater quantity of any drug or drug product than that prescribed in the original prescription without a written

or electronic order or an oral order reduced to writing, or the refilling of a prescription without the verbal, written or electronic consent of the practitioner authorizing the original prescription.

§30-5-12b. Definitions; selection of generic drug products; exceptions; records; labels; manufacturing standards; rules; notice of substitution; complaints; notice and hearing; immunity.

(a) As used in this section:

(1) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug or drug product, its container, label or wrapping at the time of packaging.

(2) "Generic name" means the official title of a drug or drug combination for which a new drug application, or an abbreviated new drug application, has been approved by the United States Food and Drug Administration and is in effect.

(3) "Substitute" means to dispense without the prescriber's express authorization a therapeutically equivalent generic drug product in the place of the drug ordered or prescribed.

(4) "Equivalent" means drugs or drug products which are the same amounts of identical active ingredients and same dosage form and which will provide the same therapeutic efficacy and toxicity when administered to an individual and is approved by the United States Food and Drug Administration.

(b) A pharmacist who receives a prescription for a brand name drug or drug product shall substitute a less expensive equivalent generic name drug or drug product unless in the exercise of his or her professional judgment the pharmacist believes that the less expensive drug is not suitable for the particular patient: *Provided,* That no substitution may be made by the pharmacist where the prescribing practitioner indicates that, in his or her professional judgment, a specific brand name drug is medically necessary for a particular patient.

(c) A written prescription order shall permit the pharmacist to substitute an equivalent generic name drug or drug product except where the prescribing practitioner has indicated in his or her own handwriting the words "Brand Medically Necessary". The following sentence shall be printed on the prescription form. "This prescription may be filled with a generically equivalent drug product unless the words 'Brand Medically Necessary' are written, in the practitioner's own handwriting, on this prescription form.": *Provided,* That "Brand Medically Necessary" may be indicated on the prescription order other than in the prescribing practitioner's own handwriting unless otherwise required by federal mandate.

(d) A verbal prescription order shall permit the pharmacist to substitute an equivalent generic name drug or drug product except where the prescribing practitioner shall indicate to the pharmacist that the prescription is "Brand Necessary" or "Brand Medically Necessary". The pharmacist shall note the instructions on the file copy of the prescription or chart order form.

(e) No person may by trade rule, work rule, contract or in any other way prohibit, restrict, limit or attempt to prohibit, restrict or limit the making of a generic name substitution under the provisions of this section. No employer or his or her agent may use coercion or other means to interfere with the professional judgment of the pharmacist in deciding which generic name drugs or drug products shall be stocked or substituted: *Provided,* That this section shall not be construed to permit the pharmacist to generally refuse to substitute less expensive therapeutically equivalent generic drugs for brand name drugs and that any pharmacist so refusing shall be subject to the penalties prescribed in section twenty-two of this article.

(f) A pharmacist may substitute a drug pursuant to the provisions of this section only where there will be a savings to the buyer. Where substitution is proper, pursuant to this section, or where the practitioner prescribes the drug by generic name, the pharmacist shall, consistent with his or her professional judgment, dispense the lowest retail cost, effective brand which is in stock.

(g) All savings in the retail price of the prescription shall be passed on to the purchaser; these savings shall be equal to the difference between the retail price of the brand name product and the customary and usual price of the generic product substituted therefor: *Provided,* That in no event shall such savings be less than the difference in acquisition cost of the brand name product prescribed and the acquisition cost of the substituted product.

(h) Each pharmacy shall maintain a record of any

substitution of an equivalent generic name drug product for a prescribed brand name drug product on the file copy of a written, electronic or verbal prescription or chart order. Such record shall include the manufacturer and generic name of the drug product selected.

(i) All drugs shall be labeled in accordance with the instructions of the practitioner.

(j) Unless the practitioner directs otherwise, the prescription label on all drugs dispensed by the pharmacist shall indicate the generic name using abbreviations, if necessary, and either the name of the manufacturer or packager, whichever is applicable in the pharmacist's discretion. The same notation will be made on the original prescription retained by the pharmacist.

(k) A pharmacist may not dispense a product under the provisions of this section unless the manufacturer has shown that the drug has been manufactured with the following minimum good manufacturing standards and practices by:

(1) Labeling products with the name of the original manufacturer and control number;

(2) Maintaining quality control standards equal to or greater than those of the United States Food and Drug Administration;

(3) Marking products with identification code or monogram; and

(4) Labeling products with an expiration date.

(l) The West Virginia Board of Pharmacy shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code which establish a formulary of generic type and brand name drug products which are determined by the board to demonstrate significant biological or therapeutic inequivalence and which, if substituted, would pose a threat to the health and safety of patients receiving prescription medication. The formulary shall be promulgated by the board within ninety days of the date of passage of this section and may be amended in accordance with the provisions of chapter twenty-nine-a of this code.

(m) No pharmacist shall substitute a generic-named therapeutically equivalent drug product for a prescribed brand name drug product if the brand name drug product or the generic drug type is listed on the formulary established by the West Virginia Board of Pharmacy pursuant to this article or is found to be in violation of the requirements of the United States Food and Drug Administration.

(n) Any pharmacist who substitutes any drug shall, either personally or through his or her agent, assistant or employee, notify the person presenting the prescription of such substitution. The person presenting the prescription shall have the right to refuse the substitution. Upon request the pharmacist shall relate the retail price difference between the brand name and the drug substituted for it.

(o) Every pharmacy shall post in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign

which shall read: "West Virginia law requires pharmacists to substitute a less expensive generic-named therapeutically equivalent drug for a brand name drug, if available, unless you or your physician direct otherwise". The sign shall be printed with lettering of at least one and one-half inches in height with appropriate margins and spacing as prescribed by the West Virginia Board of Pharmacy.

(p) The West Virginia Board of Pharmacy shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code setting standards for substituted drug products, obtaining compliance with the provisions of this section and enforcing the provisions of this section.

(q) Any person shall have the right to file a complaint with the West Virginia Board of Pharmacy regarding any violation of the provisions of this article. Such complaints shall be investigated by the Board of Pharmacy.

(r) Fifteen days after the board has notified, by registered mail, a person, firm, corporation or copartnership that such person, firm, corporation or copartnership is suspected of being in violation of a provision of this section, the board shall hold a hearing on the matter. If, as a result of the hearing, the board determines that a person, firm, corporation or copartnership is violating any of the provisions of this section, it may, in addition to any penalties prescribed by section twenty-two of this article, suspend or revoke the permit of any person, firm, corporation or copartnership to operate a pharmacy.

(s) No pharmacist complying with the provisions of this section shall be liable in any way for the dispensing of a generic-named therapeutically equivalent drug, substituted under the provisions of this section, unless the generic-named therapeutically equivalent drug was incorrectly substituted.

(t) In no event where the pharmacist substitutes a drug under the provisions of this section shall the prescribing physician be liable in any action for loss, damage, injury or death of any person occasioned by or arising from the use of the substitute drug unless the original drug was incorrectly prescribed.

(u) Failure of a practitioner to specify that a specific brand name is necessary for a particular patient shall not constitute evidence of negligence unless the practitioner had reasonable cause to believe that the health of the patient required the use of a certain product and no other.

§30-5-12c. Electronic prescribing.

(a) Notwithstanding any other provision of this code to the contrary, E-prescribing, as defined in subdivision (15), section one-b of this article, is hereby permitted and electronic prescriptions shall be treated as valid prescriptions orders. E-prescribing of controlled substances shall not be permitted, except as provided by emergency rules promulgated by the board pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code, which such rules shall not be contrary to any applicable federal law, rule or regulation.

(b) All electronic data intermediaries shall ensure the integrity of all electronic prescriptions and confidential information, such that the data or information are not altered or destroyed in an unauthorized manner. Electronic data intermediaries shall implement policies and procedures to protect electronic prescriptions and all confidential information from improper alteration or destruction.

(c) All electronic prescriptions shall be transmitted in a manner consistent with applicable federal law, rules and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996, 29 U. S. C. §1181, as amended, the Medicare Prescription Drug, Improvement and Modernization Act of 2003, 42 U. S. C. §1395w, as amended, the Controlled Substances Act of 1970, 21 U. S. C. §801, as amended, the Drug Abuse Prevention, Treatment and Rehabilitation Act, 21 U. S. C. §1101, as amended, and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, 42 U. S. C. §4541, as amended.

(d) The board shall promulgate emergency rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to implement and enforce the provisions of this section.

§30-5-16b. Partial filling of prescriptions.

(a) The partial filling of a prescription for a controlled substance listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and the pharmacist makes a notation of the quantity supplied

on the face of the written prescription or on the written record of the emergency oral prescription. The remaining portion of the prescription may be filled within seventy-two hours of the first partial filling: *Provided,* That if the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall so notify the prescribing individual practitioner. No further quantity may be supplied beyond seventy-two hours without a new prescription.

(b) To the extent E-prescribing of controlled substances is permitted by rules promulgated pursuant to the provisions of subsection (d), section twelve of this article and not contrary to any applicable federal law, rule or regulation, the partial filling of an electronic prescription for a controlled substance listed in Schedule II shall be permissible if the pharmacist is unable to supply the full quantity called for in an electronic prescription and the pharmacist makes a notation on the quantity supplied within the electronic record. The remaining portion of the prescription may be filled consistent with the limitations set forth in subsection (a) of this section.

§30-5-29. Collaborative pharmacy practice continuation.

Pursuant to the provisions of article ten, chapter four of this code, pharmacy collaborative agreements in community settings shall continue to exist until the first day of July, two thousand ten, unless sooner terminated, continued or reestablished pursuant to that article.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-15c. Form of prescriptions; termination of authority; renewal; notification of termination of authority.

(a) Prescriptions authorized by an advanced nurse practitioner must comply with all applicable state and federal laws; must be signed by the prescriber with the initials "A. N. P." or the designated certification title of the prescriber; and must include the prescriber's identification number assigned by the board or the prescriber's national provider identifier assigned by the National Provider System pursuant to 45 CFR §162.408.

(b) Prescriptive authorization shall be terminated if the advanced nurse practitioner has:

(1) Not maintained current authorization as an advanced nurse practitioner; or

(2) Prescribed outside the advanced nurse practitioner's scope of practice or has prescribed drugs for other than therapeutic purposes; or

(3) Has not filed verification of a collaborative agreement with the board.

(c) Prescriptive authority for an advanced nurse practitioner must be renewed biennially. Documentation of eight contact hours of pharmacology during the previous two years must be submitted at the time of renewal.

(d) The board shall notify the Board of Pharmacy and the Board of Medicine within twenty-four hours after termination of, or change in, an advanced nurse practitioner's prescriptive authority.

CHAPTER 60A. UNIFORMED CONTROLLED SUBSTANCES ACT.

ARTICLE 3. REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES.

§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.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of April, 2007.

Governor

PRESENTED TO THE
GOVERNOR

APR 02 2007

Time 9:00am