



# WEST VIRGINIA BOARD OF PHARMACY

*newsletter to promote pharmacy and drug law compliance*

## **PIC Responsibilities**

At the start of the new year, people are moving into new jobs and new positions with their current employers. If you are a pharmacist-in-charge (PIC), make sure that you are fully aware of your responsibilities. Do not have a false sense of security that something is handled by your employer. Below you will find the list of responsibilities for the PIC.

“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 legislative rules pertinent to the practice of pharmacist care and the distribution of drugs and who is personally in full charge of the pharmacy and pharmacy personnel.

### **§15-1-16. Duties and Responsibilities of the Pharmacist-in-Charge**

16.1. A pharmacy may not operate without a pharmacist-in-charge (hereinafter “PIC”), who shall be designated on the application for a pharmacy license, and in each license renewal. A pharmacist may not serve as PIC unless he or she is physically present in the pharmacy a sufficient amount of time to provide supervision and control. A pharmacist may not serve as PIC for more than one pharmacy at any one time . . .

16.2. The pharmacist-in-charge has the following responsibilities:

16.2.1. The pharmacist-in-charge shall be **responsible for the practice of pharmacy . . .** at the pharmacy for which he or she is the pharmacist-in-charge. The pharmacy permit holder shall be responsible for all other functions, administrative

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and operational, of the pharmacy. The pharmacist-in-charge may advise the pharmacy permit holder in writing of administrative and operational matters . . .

**16.2.2.** The pharmacist-in-charge shall **notify the pharmacy permit holder of potential violations of any statute, rule or court order existing within the pharmacy.** If appropriate action has not been taken within a reasonable amount of time the pharmacist-in-charge shall reduce to writing the above and submit to the pharmacy permit holder with a copy to the Board. The pharmacy permit holder shall be responsible for such violations;

**16.2.3. Implementing quality assurance programs for pharmacy services**

designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems. Quality assurance programs shall be designed to prevent and detect drug diversion;

**16.2.4.** The PIC shall **implement, and maintain a Pharmacy Technician Training Manual** for the specific practice setting of which he or she is in charge. He or she shall supervise a training program conducted pursuant to the training manual for all individuals employed by the pharmacy who will assist in the practice of pharmacy. The PIC shall maintain a record of all technicians successfully completing the pharmacy's technician training program and shall attest to the Board, in a timely manner, those persons who, from time to time, have met the training requirements necessary for registration with the Board;

**16.2.5. Implementing policies and procedures for the procurement, storage, security, and disposition of drugs and devices;**

**16.2.6. Assuring that all pharmacists and pharmacy interns employed at the pharmacy are currently licensed and that all pharmacy technicians employed at the pharmacy are currently registered with the board;**

**16.2.7. Notifying the board immediately of any of the following changes:**

16.2.7.a. Change of employment or responsibility as the PIC

16.2.7.b. Change of ownership of the pharmacy;

16.2.7.c. Change of address of the pharmacy; or

16.2.7.d. Permanent closing of the pharmacy which shall be accompanied with a statement of the location where records will be retained for the required time period;

**16.2.8. Making or filing any reports required by state or federal laws, rules, and regulations;**

**16.2.9. Responding to the board** regarding any warning notice issued by the Board.

The Board shall provide notification of the issuance of the warning notice to the pharmacy permit holder;

**16.2.10. Implementing policies and procedures for maintaining the integrity and confidentiality of prescription information and patient health care information**, or verifying their existence and ensuring that all employees of the pharmacy read, sign, and comply with the established policies and procedures; and

**16.2.11. Providing the board with prior written notice** of the installation or removal of an Automated Pharmacy System. The notice shall include, but is not limited to:

16.2.11.a. The name and address of the pharmacy;

16.2.11.b. The location of the automated equipment; and

16.2.11.c. The identification of the responsible pharmacist.

16.3. The PIC shall be assisted by a sufficient number of pharmacists and pharmacy technicians as may be required to competently and safely provide pharmacy services.

16.3.1. The PIC **shall maintain and file with the Board, on a form provided by the Board, a current list of all pharmacy technicians assisting in the provision of pharmacy services.**

16.3.2. The PIC **shall implement written policies and procedures to specify the duties to be performed by pharmacy technicians.** (emphasis added)

## **Governor's COVID-19 State of Emergency Over**

Governor Jim Justice signed a proclamation that ended all West Virginia coronavirus disease 2019 (COVID-19) emergency measures put into place beginning March 13, 2020, to handle the COVID-19 public health emergency. The information provided below serves as a summary of the waivers that were rescinded on January 1, 2023. However, all waivers issued will return to current statutory and code of state rules even if not mentioned here.

### ***Use of Personal Protective Equipment***

The West Virginia Board of Pharmacy permitted the conserving of personal protective equipment (PPE) related to sterile compounding and other activities requiring garbing for the preparation of pharmaceuticals. The Centers for Disease Control and Prevention and Food and Drug Administration (FDA) published guidance on these topics. These strategies may no longer be utilized, and the facility must adhere to United States Pharmacopeia Chapter <797> and other requirements for PPE and garbing.

## ***Out-of-State Pharmacy Staffing Temporary Permits***

The Board issued temporary COVID-19 permits to pharmacists, pharmacy technicians, or pharmacy interns serving under special circumstances of public need after demonstrating that they had current, unrestricted licensure in another state. These temporary COVID-19 permits became inactive and null on January 1, 2023, and you may **not** practice pharmacy in the state of West Virginia without a full, active license.

## ***Pharmacy Technician-to-Pharmacist Ratios***

During the COVID-19 West Virginia State of Emergency, the Board permitted the exceeding of the ratio **only** if the need to exceed the ratio was due to the actual impact of the COVID-19 virus directly on the pharmacy, facility, or staff. The exceeding of the ratio is no longer permitted as of January 1, 2023.

## ***Controlled Substance Monitoring Program Reporting***

During the COVID-19 West Virginia State of Emergency, the Board waived the requirement to submit reports of "zero" when the pharmacy is closed due to COVID-19 during the state of emergency. The notice of the pharmacy being closed served as the notice for this. This waiver ended on January 1, 2023.

## ***Continuing Education***

During the COVID-19 West Virginia State of Emergency, the Board permitted some variance initially with the six hours of live continuing education and drug diversion. This ended in December 2021. The third variance was the requirement in 15 CSR 12-14.1.c for basic life-support (BLS) training for immunization renewal. While the BLS training has still been required, the Board permitted an American Heart Association (AHA)-compliant course, but it did not need to have a hands-on component. BLS course cards dated for completion on or after January 1, 2023, must be AHA compliant and have a hands-on component for successful renewal of the immunizing pharmacist permit.

## ***Schedule II Prescribing by Advanced Practice Registered Nurses***

Pursuant to West Virginia Code §30-7-15a, West Virginia advanced practice registered nurses (APRNs) with current prescriptive authority and an active Drug Enforcement Administration (DEA) number are permitted to prescribe a three-day supply of Schedule II narcotics. West Virginia APRNs with current prescriptive authority and an active DEA number who were approved to practice in West Virginia during the state of emergency could, pursuant to EO 17-20, renew Schedule II narcotic prescriptions, as defined by the Uniform Controlled Substances Act, for a period of 30 days if the patient had been on these medications and had been previously prescribed these medications by a physician. This COVID-19-related executive order ended on December 31, 2022.

As of January 1, 2023, both physician assistants (PAs) and APRNs have the same prescriptive authority. Per §30-3E-3 and §30-7-15E, the new prescriptive authority for APRNs and PAs is listed below:

- No Schedule I substances
- Up to a three-day supply of a Schedule II **narcotic**; nonnarcotic Schedule IIs may be prescribed as would a physician
- **No other limitations** other than the Opioid Reduction Act (found in the Pharmacy Law Book)

### ***Remote Processing of Prescriptions***

During the COVID-19 West Virginia State of Emergency, the Board permitted prescription processing from remote locations (other than the physical, licensed pharmacy). Remote processing as permitted by the waiver will no longer be permitted.

Current West Virginia law does permit limited remote order entry and remote order review in limited settings. The remote order entry/review must fit into one of the scenarios listed below.

#### **§15-14-4. Remote Order Entry and Remote Order Review**

**4.1. Remote-order-entry or remote-order-review of prescription orders for prescriptions received at a pharmacy registered by this state is permitted to be performed by another pharmacy registered by the state,** Provided that:

4.1.a. for purposes of data entry, the data entry must be performed by a licensed pharmacist, licensed pharmacy intern, or registered pharmacy technician or pharmacy technician trainee who is located at the other pharmacy registered by the state which shares a common automated data processing system, and such system creates an audit trail of which pharmacist, pharmacy intern, or pharmacy technician or pharmacy technician trainee entered the data; and

4.1.b. for purpose of drug regimen review, the review must be performed by a licensed pharmacist who is located at the other pharmacy registered by the state which shares a common automated data processing system, and such system creates an audit trail of which pharmacist or pharmacy intern provided the drug regimen review. (emphasis added)

#### **§15-1-24. Practice of Telepharmacy**

24.1. Except as otherwise provided specifically herein, the practice of telepharmacy is permitted only as follows: **24.1.b. for after-hours drug regimen review of prescription orders for a patient in an institutional facility when the institutional pharmacy is closed, for the pharmacist to authorize the dispensing and administration, provided the pharmacist is licensed to practice pharmacist care in West Virginia. (emphasis added)**

"Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services, including but not limited to a hospital, convalescent home, nursing home, extended care facility, mental health facility, rehabilitation center, psychiatric center, developmental disability center, drug abuse treatment center, family planning clinic, correctional facility, hospice, public health facility, or athletic facility.

## ***PREP Act and COVID-19 Federal Permissions***

The Public Readiness Emergency Preparedness Act (PREP Act) permits pharmacists, pharmacy interns, and pharmacy technicians to perform COVID-19 tests; pharmacists to prescribe and dispense Paxlovid™; and expanded immunization authorizations. At this time, the Board anticipates that the federal government will keep the federal state of emergency in place until at least April 11, 2023. With this information, pharmacists, pharmacy interns, and pharmacy technicians who meet the requirements of the PREP Act may continue to practice under the authority granted to them via this law.

### **Pharmacy Technicians and Pharmacy Interns:**

The administration authority comes with a number of prerequisites. Specifically, in order to administer FDA-approved/licensed, Advisory Committee on Immunization Practices (ACIP)-recommended immunizations, state-authorized pharmacy interns and qualified pharmacy technicians will need to meet the PREP Act requirements. Under the PREP Act and after meeting the qualifications of the PREP Act, pharmacy technicians and interns can administer:

- Ages three through 18: all ACIP-recommended vaccinations without a prescription from a physician (pharmacist writes the order). Must counsel on the importance of well-child visit.
- Ages three and older: only flu and COVID-19.

Visit <https://naspa.us/resource/federal-prep-act-actions> for a list of all requirements and PREP Act inclusions and exceptions.

### **Pharmacists:**

Under the PREP Act and after meeting the qualifications of the PREP Act, pharmacists can order and administer:

- Ages three through 18: all ACIP-recommended vaccinations without a prescription from a physician (pharmacist writes the order). Must counsel on the importance of well-child visit.
- Ages three and older: flu and COVID-19 vaccines.

Visit <https://naspa.us/resource/federal-prep-act-actions> for a list of all requirements and PREP Act inclusions and exceptions.

## **Retirement of Board Inspector Pat Regan**

The Board wishes to thank and congratulate Board Inspector Patrick Regan for more than five years of service to the Board and over 45 years as a pharmacist taking care of patients in West Virginia. Pat has been an integral member of the Board team, helping pharmacists across the state meet and exceed practice standards. Thank you for your wisdom and many years of service to West Virginia. It is greatly appreciated!

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