

WEST VIRGINIA**PRODUCTS:**

- Single entity products containing pseudoephedrine (PSE), ephedrine (EPH) and phenylpropanolamine (PPA)
- The following products from the supplemental list pursuant to WV Code §60A-10-7: products containing PSE and triprolidine, and products containing PSE and loratadine. (WV Rule §15-11-2)

PRODUCT EXEMPTIONS:

- Single entity PSE, EPH or PPA products for pediatric use primarily intended for administration to children under 12 are not included in C-V drug designation (WV Code 60A-10-4)
- Single entity C-V PSE, EPH and PPA products purchased / possessed pursuant to a valid prescription order (WV Code 60A-10-4);
- C-V PSE, EPH and PPA products determined by the pharmacy board to be in a form which cannot be converted to meth (WV Code 60A-10-4);
- Purchase of C-V PSE, EPH and PPA products by distributors, wholesalers, manufacturers, pharmacist, pharmacy interns, pharmacy technicians, and health care professionals are not subject to the purchase / possession limit. (WV Code 60A-10-4)

PURCHASE LIMIT:

- Pharmacists, pharmacy interns, and registered technicians that sell C-V PSE, EPH, and PPA products shall exercise reasonable care to ensure that the purchaser has not purchased more than 3.6 g per day, 7.2 g in a 30 day period, and 48 g annually without a prescription. This applies to the total amount contained in the products not the overall weight. (WV Code 60A-10-4)

SALES RESTRICTIONS:

- All single entity PSE, EPH and PPA products (except pediatric products) are listed as C-V drugs (WV Code 60A-2-212)
- All C-V PSE, EPH and PPA products may be sold only by a physician; a health care professional; or in a pharmacy by a pharmacist, pharmacy interns, or a pharmacy technician; C-V controlled substances shall only be distributed or dispensed for a medicinal purpose (WV Code 60A-3-308)
- Sales of C-V PSE, EPH and PPA products to persons under 18 prohibited (WV Code 60A-10-5)
 - May be sold, delivered, or provided only in licensed pharmacies, behind the pharmacy counter, by a pharmacist, registered pharmacy intern, or registered pharmacy technician. (15 WVCSR 11)

ID REQUIREMENTS:

- Those purchasing C-V PSE / EPH / PPA products must produce photo ID issued by a state or federal government reflecting date of birth (WV Code 60A-3-308; WV Code 60A-10-5)

RECORDKEEPING REQUIREMENTS:

- Upon each sale, retail, transfer of distribution of a C-V PSE, EPH or PPA product (as well as any other board designated precursor product), the pharmacist or technician must report the transaction date; name, address and driver's license or state issued ID number of purchaser; and the name, quantity of packages and total gram weight of products purchased for inclusion in the board of pharmacy's central repository. The purchaser must sign a logbook, in either paper or electronic format. (WV Code 60A-10-5; WV Code 60A-10-8);

REPORTING REQUIREMENTS/ELECTRONIC TRANSMISSION:

- The electronic transmission of the information is required to be reported shall be reported to the Multi-State Real-Time Tracking System (MSRTTS), in real time at the time of the transaction. This system is administered by the National Association of Drug Diversion. If the establishment is unable to comply with the electronic sales tracking system, they may maintain a written log. (WV Code 60A-10-8)
- Requires presentation and electronic reporting of government-issued photo identification for purchasing these restricted products. (15 WVCSR 11)
- The seller may not complete the sale if the system generates a stop-sale alert. The system shall contain an override function that may be used by a dispenser of a drug product who has a reasonable fear of imminent bodily harm if he or she does not complete a sale.
- The Superintendent of the West Virginia State Police shall submit an annual report no later than July 1 of each year to the Legislative Oversight Commission on Health and Human Resources Accountability with data and statistics related to methamphetamine use, production and distribution in this state including, but not limited to, the number of clandestine methamphetamine lab incidents per year. (WV Code 60A-10-11)
- The provisions of this article enacted during the 2012 regular legislative session establishing the Multi-State Real-Time Tracking System shall expire on June 30, 2015. (WV Code 60A-10-16)

PRODUCT PLACEMENT:

- C-V PSE, EPH and PPA products must be sold, transferred or dispensed from behind a pharmacy counter (WV Code 60A-10-7)

PENALTIES:

- Any person who or knowingly purchases, receives or otherwise possesses more than seven and two-tenths grams in a thirty-day period of ephedrine, pseudoephedrine or phenylpropanolamine in any form without a prescription is guilty of a misdemeanor and, upon conviction, shall be confined in a jail for not more than one year, fined not more than \$1,000, or both fined and confined. (WV Code 60A-10-4)
- Any pharmacy, wholesaler or other entity operating the retail establishment which sells, transfers or dispenses a product in violation of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 for the first offense, or more than \$10,000 for each subsequent offense. (WV Code 60A-10-4)
- Notwithstanding the provisions of possession, any person convicted of a second or subsequent violation of the provisions of said subdivision or a statute or ordinance of the United States or another state which contains the same essential elements is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than \$25,000, or both imprisoned and fined. (WV Code 60A-10-4)
- Notwithstanding any provision of this code to the contrary, any person who knowingly possesses any amount of ephedrine, pseudoephedrine, phenylpropanolamine or other designated precursor with the intent to use it in the manufacture of methamphetamine or who knowingly possesses a substance containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, optical isomers or salts of optical isomers in a state or form which is, or has been altered or converted from the state or form in which these chemicals are, or were, commercially distributed is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than two nor more than ten years, fined not more than \$25,000, or both imprisoned and fined. (WV Code 60A-10-4)
- In addition to any administrative penalties provided by law, any violation of this subsection is a misdemeanor, punishable upon conviction by a fine in an amount not more than \$10,000. (WV Code 60A-10-4)
- Any person who knowingly makes a false representation or statement of identity is guilty of a misdemeanor and, upon conviction, be confined in a jail for not more than six months, fined not more than \$5,000, or both fined and confined. (WV Code 60A-10-4)

WHOLESALE DISTRIBUTION REQUIREMENTS:

- Pharmacies, wholesalers, distributors and manufacturers must keep complete records of all sales and transactions including the date of transaction; name, address and driver's license or state issued ID number of the purchaser; and the

name, quantity of packages and total gram weight of product sold (WV Code 60A-10-4; WV Code 60A-10-8)

OTHER:

- Pharmacies, wholesalers, distributors and manufacturers of single entity PSE, EPH or PPA products must obtain a registration annually from the pharmacy board. Facilities holding a license as a pharmacy, manufacturer or wholesaler issued by the West Virginia Board of Pharmacy need not obtain an additional permit to sell (WV Code 60A-10-4; WV Code 60A-10-6)

OTHER NOTABLE IMPLICATIONS DUE TO C-V DESIGNATION:

- Permits
 - All persons who engage in wholesale distribution must annual obtain a controlled substances permit from the Board of Pharmacy. (WV Controlled Substances Act §60A-3-302; WV Rule §15-2-3.1.1)
- Security
 - All registrants who transfer substantial quantities of controlled substances in normal business operations must employ security procedures to guard against in transit losses. (WV Rule §15-2-4.2.3)
 - Controlled substances listed in C-V may be stored in a pharmacy's narcotic cabinet or may be dispersed throughout the stock of non-controlled substances in such a manner as to obstruct the theft or diversion of the controlled substance. (WV Rule §15-2-4.6.1)
- Theft / Loss Reporting
 - Registrant must notify the board of pharmacy of any theft or significant loss of any controlled substances upon discovery of the theft or loss. (WV Rule §15-2-4..5)
- Labeling
 - Each commercial container must have printed on the label the symbol designating the schedule in which the controlled substance is listed. The manufacturer must print this information on commercial labels. (WV Rule §15-2-5.2.1 -- 15-2-5.2.2)
- Inventory & Records
 - On the effective date of a rule or statutory change adding a substance to any schedule, when prior to that date, the substance was not listed on any schedule, every registrant must take an inventory of all stocks of the substance on hand. (WV Rule §15-2-6.61)
 - Each registered distributor must maintain distribution records (WV Rule §15-2-6.14.1)
 - Biennial inventories must be performed for all controlled substances, including C-V. (WV Rule §15-2-6.5)
- Dispensing Prescription vs. Non-Prescription C-V

- Pharmacist must maintain a bound record book for sales of nonprescription schedule drugs containing the name and address of the purchaser, the quantity of each controlled substance purchased, the date of each purchase, and the name / initials of the dispensing pharmacist. (WV Rule §15-2-7.19.1)