

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In this Box

FILED  
1991 AUG 28 PM 4:12  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Board of Pharmacy TITLE NUMBER: 15

CITE AUTHORITY §30-5

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: Mail Order House

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Betty Jo Payne

Mr. Nick Willard  
Retired Person, Services, Inc.  
500 Montgomery Street  
Alexandria, VA 22314

Mr. Robert Waspe  
Thrift Drug, Inc.  
615 Alpha Drive  
Pittsburgh, PA 15238

Clifford Berman  
Baxter Healthcare Corporation  
111 Barclay Blvd., Suite 400  
Lincolnshire, Illinois 60069-3655

Del Konnor  
American Managed Care Pharmacy Association  
2300 Ninth Street South, Suite 210  
ARLington, Virginia 22204

Robert Marotta  
Emons, Hurd, Kegler and Ritter  
Capitol Square  
65 East State Street  
Columbus, Ohio 43215

The above attended the public hearing. Each person wanted Section 15-6-4.3 to be changed to read "as required by their respective home state" and Section 15-6-8 to delete "who shall be a registered pharmacy or a registered pharmacist who shall assume the responsibility of compliance with the pharmacy laws of West Virginia," and to add "for purposes of service of process and notice." We agreed that these were needed changes and made the above changes.



# Board of Pharmacy

FILED  
1991 JUN 27 PM 3:01

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
Office

236 Capitol Street  
Charleston, West Virginia 25301

Phone (304) 348-0558

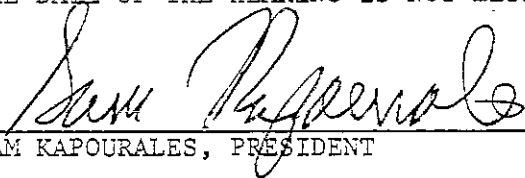
June 24, 1991

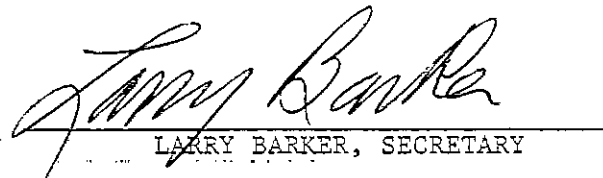
SPECIAL ORDER OF BUSINESS TO SET A DATE FOR A PUBLIC HEARING ON RULES AND REGULATIONS  
RE: THE PRESCRIPTION DRUG MARKETING ACT.  
TITLED: THE WHOLESALE DRUG DISTRIBUTORS' LICENSES.

THE WEST VIRGINIA BOARD OF PHARMACY BY A VOTE OF 7 FOR AND 0 AGAINST TO HOLD A PUBLIC HEARING ON THE SUBJECT RULES AND REGULATIONS ON 8/19/91 1991 AT 9:00 A. M. IN CHARLESTON, WEST VIRGINIA AT 236 CAPITOL STREET.

THIS IS TO FURTHER STATE THAT THE PROPOSED RULES AND REGULATIONS WERE APPROVED AS A PROPOSAL TO THE LEGISLATIVE RULE MAKING COMMITTEE AND THIS ACTION IS TO BE CERTIFIED TO THE SECRETARY OF STATE IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF THE CODE OF WEST VIRGINIA UNDER CHAPTER 29A.

THE DATE OF THE HEARING IS NOT LESS THAN 30 DAYS NOR MORE THAN 60 DAYS FROM THIS DATE.

  
\_\_\_\_\_  
SAM KAPOURALES, PRESIDENT

  
\_\_\_\_\_  
LARRY BARKER, SECRETARY

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Mail Order House

Type of Rule:  Legislative  Interpretive  Procedural

Agency Board of Pharmacy Address 236 Capitol St., Charleston  
WV 25301

| 1. Effect of Proposed Rule | ANNUAL   |          | FISCAL YEAR |      |            |
|----------------------------|----------|----------|-------------|------|------------|
|                            | Increase | Decrease | Current     | Next | Thereafter |
| Estimated Total Cost       | \$       | \$       | \$          | \$   | \$         |
| Personal Services          |          |          |             |      |            |
| Current Expense            |          |          |             |      |            |
| Repairs and Alterations    |          |          |             |      |            |
| Equipment                  |          |          |             |      |            |
| Other                      | 3,000    |          |             |      |            |

2. Explanation of above estimates:

There should be around 20 mail order pharmacies, and each will renew annually at an annual fee of \$150 each.

3. Objectives of these rules:

To establish rules for the Mail Order House

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

B. Economic Impact on Political Subdivisions; Specific Industries;  
Specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

Date: \_\_\_\_\_

Signature of Agency Head or Authorized Representative

\_\_\_\_\_

DATE: August 28, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Betty Jo Payne  
Board of Pharmacy

LEGISLATIVE RULE TITLE: Mail Order House

1. Authorizing statute(s) citation §30-5

2. a. Date filed in State Register with Notice of Hearing:

June 27, 1991

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of hearing(s): August 19, 1991, 10:30 a.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received                     

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 28, 1991

f. Name and phone number(s) of agency person(s) to contact for additional information:

Betty Jo Payne, Board of Pharmacy

348-0558

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

\_\_\_\_\_

\_\_\_\_\_

b. Date of hearing: \_\_\_\_\_

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

\_\_\_\_\_

d. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

TITLE 15  
LEGISLATIVE RULE  
SERIES 6

15-6-1. GENERAL.

- 1.1. Scope. To establish rules for the Mail Order House.
- 1.2. West Virginia Code, Chapter 30, Article 5, Section 6a.
- 1.3. Filing date.
- 1.4. Effective date.

15-6-2. DEFINITIONS.

- 2.1. Mail Order House means a pharmacy which dispenses drugs or medicines through the United States mail or otherwise.
- 2.2. Mail Order Prescription means the drug or medicine prescribed by a practitioner on a prescription order as authorized under Chapter 30, Article 5, Sections 1 (6) and 12b (5) (b) of the Code of West Virginia.
- 2.3. Board means the West Virginia Board of Pharmacy.

15-6-3. PERMITS FOR MAIL ORDER HOUSES.

- 3.1. A Mail Order House is required to apply for a permit for authorization to dispense prescription drugs or medicines in West Virginia.
- 3.2. The application for such permit shall be submitted to the West Virginia Board of Pharmacy to indicate the following:
  - (a) The owner as an individual, or as a partnership, or as a corporation.
  - (b) The names and titles of such persons indicated in 3.1. (a).
  - (c) The pharmacy manager.
  - (d) The pharmacist-in-charge.
  - (e) The complete address, telephone number and fax number (if any).

- 15-6-4. THE PROVISIONS OF THIS ACT DO NOT APPLY TO A WHOLESALE DRUG DISTRIBUTOR AS DESCRIBED IN CHAPTER 60A, ARTICLE 8 OF THE CODE OF WEST VIRGINIA.
- 4.1. Separate permits are required of the Mail Order House if such facility operates more than one pharmacy.
  - 4.2. The Mail Order House shall maintain a permit or license as required by their respective home state.
  - 4.3. The manager-in-charge shall certify that the Mail Order House is in compliance with the standards of care relative to the dispensing of prescription drug orders as required by their respective home state.
  - 4.4. The pharmacist-in-charge shall submit the names of all pharmacists employed at the facility.
- 15-6-5. PRESCRIPTION RECORDS SHALL BE IDENTIFIED AND RETRIEVABLE AT THE REQUEST FOR REVIEW BY THE BOARD.
- 15-6-6. MAIL ORDER HOUSES SHALL HAVE TOLL FREE ACCESSIBLE TELEPHONE COUNSELING WITH A LICENSED PHARMACIST DURING REGULAR WORKING HOURS AND SUCH TELEPHONE NUMBER SHALL BE PROMINENTLY IDENTIFIED ON THE PRESCRIPTION CONTAINER OR ON THE PRESCRIPTION CONTAINER LABEL.
- 15-6-7. JURISDICTION. MAIL ORDER HOUSES SOLICITING, RECEIVING, AND DISPENSING AND DELIVERING ORDERS COMPRISING LEGEND DRUGS AND SCHEDULE CONTROLLED DRUG SUBSTANCES AS DEFINED IN 21 USC 1 ET SEQ., AND 21 USC 811 ET SEQ., (1989) AND DELIVERED TO ULTIMATE CONSUMERS IN WEST VIRGINIA CONSTITUTES DOING BUSINESS IN WEST VIRGINIA.
- 15-6-8. AGENT. MAIL ORDER HOUSES DOING BUSINESS IN WEST VIRGINIA BY DISPENSING AND DELIVERING PRESCRIPTION ORDERS TO WEST VIRGINIA CONSUMERS SHALL DESIGNATE A RESIDENT AGENT, ~~WHO SHALL BE A REGISTERED PHARMACY OR A REGISTERED PHARMACIST WHO SHALL ASSUME THE RESPONSIBILITY OF COMPLIANCE WITH THE PHARMACY LAWS OF WEST VIRGINIA.~~ FOR PURPOSES OF SERVICE OF PROCESS AND NOTICE.