

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #4

FILED  
1992 JAN -8 PM 3:17  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Board of Pharmacy TITLE NUMBER: 15

CITE AUTHORITY West Virginia Code, 30-5-6a

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15-6

TITLE OF RULE BEING AMENDED: Mail Order House

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Lawrence Barker, Sr.

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, 30-5-6a.
- 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 West Virginia Code, 30-5-1 (6) and 30-5-12 (5) (6).
- 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. A Mail Order House shall submit the application for the permit to the West Virginia Board of Pharmacy.

The application shall contain the following information:

- (a) The owner of the Mail Order House, whether an individual, a partnership, or a corporation.
- (b) The names and titles of all individual owners, partners or corporate officers.
- (c) The pharmacy manager.
- (d) The pharmacist-in-charge.

- (e) The complete address, telephone number and fax number of the Mail Order House.
- 3.3. The Mail Order House shall obtain separate permits if it operates more than one pharmacy.
- 3.4. The Mail Order House shall maintain a permit or license as required by the state where located.
- 3.5. 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 the state where located.
- 3.6. The pharmacist-in-charge shall submit the names of all pharmacists employed at the Mail Order House.
- 15-6-4. The Mail Order House shall maintain prescription records which are available for review if required by the Board.
- 15-6-5. Mail Order Houses shall have a toll free accessible telephone for consumers to obtain counseling with a licensed pharmacist during regular working hours and the telephone number shall be prominently identified on the prescription container or on the prescription container label.
- 15-6-6. Mail Order Houses soliciting, receiving, and dispensing and delivering orders comprising legend drugs and scheduled controlled drug substances as defined in 21 UCS 1 ET SEQ., and 21 CFR 1 ET SEQ., (1989) and delivered to ultimate consumers in West Virginia constitutes doing business in West Virginia.
- 15-6-7. Mail Order Houses doing business in West Virginia by dispensing and delivering prescription orders to West Virginia consumers shall designate a resident agent for purposes of service of process and notice.



WEST VIRGINIA LEGISLATURE  
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
 Room M-152, State Capitol  
 Charleston, West Virginia 25305  
 (304) 340-3286

Senator William R. Wooton, Co-Chair  
 Delegate David Grubb, Co-Chair

Debra A. Graham, Counsel  
 Michael McThomas, Associate Counsel  
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

January 16, 1992

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Betty Jo Payne  
 Board of Pharmacy  
 236 Capitol Street  
 Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Mail Order House

1992 JAN 21 PM 12:29  
 FILED

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed \_\_\_\_\_
  - (b) as modified by the agency \_\_\_\_\_
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendment; amendment and a statement of reasons for such recommendation is attached.  X
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. \_\_\_\_\_

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Larry Barker, Bd. of Pharmacy

AMENDMENT: BOARD OF PHARMACY

Proposed Rule: Mail Order House

On page 2, following section 7, by adding a new section 8, to read as follows:

"15-6-8. Freedom of Choice.

No licensed pharmacist or pharmacy or any other person, partnership, corporation or entity that is regulated by the Board shall enter into any agreement or arrangement with any private or public third party payor, insurance company, health maintenance organization, health care service corporation, hospital or medical service corporation or employee benefit plan whereby, in any way, a patient is denied, limited or restricted to choose a pharmacist, pharmacy or pharmaceutical service or whereby, in any way, a patient is denied face-to-face oral consultation with a pharmacist licensed by the Board."

The committee felt that all patients should have freedom of choice in choosing a pharmacist or pharmacy.