

58-17b-615 Sale of prescription drugs not in normal course of business.

- (1) As used in this section, "seller" means a person selling prescription drugs or devices owned or lawfully controlled by him, or a party arranging for the sale of prescription drugs or devices owned by or lawfully controlled by another person, including salvage companies that acquire prescription drugs and devices from, or act as an agent or representative for freight haulers and forwarders.
- (2) Any sale of prescription drugs in bankruptcy, at public auction, at freight liquidation sales, or any other sale of prescription drugs other than in the normal course of business or practice shall comply with the following:
 - (a) a seller of prescription drugs shall be licensed by the division as a prescription drug distributor or wholesaler with a regular license, or a temporary license for that sale only, before engaging in the sale of any prescription drugs; and
 - (b) a person licensed as a pharmacy under this chapter may not acquire by purchase or other means prescription drugs or devices outside the normal course of business within the meaning of this section unless:
 - (i) the prescription drugs or devices are accompanied by a certificate signed by a licensed pharmacist employed or retained by the seller, as required in Subsection (3), attesting that the prescription drugs or devices have not been adversely affected by circumstances relating to their transportation, storage, or distribution; and
 - (ii) the licensee acquiring the prescription drugs or devices employs a qualified pharmacist who is responsible for determining that all prescription drugs being acquired do not pose any threat to the public welfare if introduced into commerce than would be presented by the acquisition of those prescription drugs and devices in the normal course of business through established channels of prescription drug distribution.
- (3) A seller of prescription drugs outside the normal course of business shall retain the services of a qualified pharmacist licensed to practice in the state to serve as either an employee or independent consultant to determine if the:
 - (a) prescription drugs and devices to be offered for sale have been transported, stored, and distributed in accordance with applicable federal, state, and local laws; and
 - (b) condition of the prescription drugs and devices to be offered for sale has been adversely affected by the circumstances of transportation, storage, or distribution.
- (4) The written notice provided to the division prior to the sale of any prescription drugs or devices under this section shall contain written verification of the pharmacist retained by the seller, stating the drugs or devices offered for sale have not been adversely affected by the circumstances of transportation, storage, or distribution.
- (5) A pharmacist employed by a seller under Subsection (3) or a pharmacy, distributor, or wholesaler for whom that pharmacist may be employed or in which he may have an interest, may not purchase any prescription drugs or devices from the seller for which that pharmacist has provided verification regarding the drugs or devices.

Enacted by Chapter 280, 2004 General Session