

Project 7873 - Emergency/NOIRA

May 21, 2024, Note: Final Emergency Language is under Administrative review and not yet final.

Board of Pharmacy

Allowances for emergency drugs by EMS agencies

18VAC110-20-10. Definitions.

In addition to words and terms defined in §§ 54.1-3300 and 54.1-3401 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Acquisition" of an existing entity permitted, registered, or licensed by the board means (i) the purchase or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor or change in partnership composition; (iii) the acquiring of 50% or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; or (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity with another business or corporation.

"Actively reports" means reporting all dispensing errors and analyses of such errors to a patient safety organization as soon as practical or at least within 30 days of identifying the error.

"Alternate delivery site" means a location authorized in 18VAC110-20-275 to receive dispensed prescriptions on behalf of and for further delivery or administration to a patient.

"Analysis" means a review of the findings collected and documented on each dispensing error, assessment of the cause and any factors contributing to the dispensing error, and any recommendation for remedial action to improve pharmacy systems and workflow processes to prevent or reduce future errors.

"Authorized collector" means a narcotic treatment program, hospital or clinic with an on-site pharmacy, or pharmacy that is authorized by the U.S. Drug Enforcement Administration to receive drugs for the purpose of destruction.

"Beyond-use date" means the date beyond which the integrity of a compounded, repackaged, or dispensed drug can no longer be assured and as such is deemed to be adulterated or misbranded as defined in §§ 54.1-3461 and 54.1-3462 of the Code of Virginia.

"Board" means the Virginia Board of Pharmacy.

"Chart order" means a lawful order for a drug or device entered on the chart or in a medical record of a patient by a prescriber or the prescriber's designated agent.

"Compliance packaging" means packaging for dispensed drugs that is comprised of a series of containers for solid oral dosage forms and designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Correctional facility" means any prison, penitentiary, penal facility, jail, detention unit, or other facility in which persons are incarcerated by government officials.

"DEA" means the U.S. Drug Enforcement Administration.

"Designated location" means a station, EMS agency sub-station or satellite location, or other location approved by the DEA, if applicable, and designated by an EMS agency or regional EMS council.

"Dispensing error" means one or more of the following discovered after the final verification by the pharmacist, regardless of whether the patient received the drug:

1. Variation from the prescriber's prescription drug order, including:
 - a. Incorrect drug;
 - b. Incorrect drug strength;
 - c. Incorrect dosage form;
 - d. Incorrect patient; or
 - e. Inadequate or incorrect packaging, labeling, or directions.
2. Failure to exercise professional judgment in identifying and managing:
 - a. Known therapeutic duplication;
 - b. Known drug-disease contraindications;
 - c. Known drug-drug interactions;
 - d. Incorrect drug dosage or duration of drug treatment;
 - e. Known drug-allergy interactions;
 - f. A clinically significant, avoidable delay in therapy; or
 - g. Any other significant, actual, or potential problem with a patient's drug therapy.
3. Delivery of a drug to the incorrect patient.
4. Variation in bulk repackaging or filling of automated devices, including:
 - a. Incorrect drug;
 - b. Incorrect drug strength;
 - c. Incorrect dosage form; or

d. Inadequate or incorrect packaging or labeling.

"Drug donation site" means a permitted pharmacy that specifically registers with the board for the purpose of receiving or redispensing eligible donated prescription drugs pursuant to § 54.1-3411.1 of the Code of Virginia.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedules II through V prescriptions shall be transmitted in accordance with 21 CFR Part 1300.

"EMS agency" ~~means emergency medical services.~~ has the same meaning as prescribed in § 32.1-111.1 of the Code of Virginia.

"Emergency medical services provider" or "EMS provider" means the same as defined in 12VAC5-31-10.

"Emergency medical services vehicle" or "EMS vehicle" has the same meaning prescribed in § 32.1-111.1 of the Code of Virginia.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Faxed prescription" means a written prescription or order that is transmitted by an electronic device that sends over telephone lines the exact image to the receiver (pharmacy) in a hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Floor stock" means a supply of drugs that have been distributed for the purpose of general administration by a prescriber or other authorized person pursuant to a valid order of a prescriber.

"Forgery" means a prescription that was falsely created, falsely signed, or altered.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the United States Adopted Names (USAN) and the USP Dictionary of Drug Names.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Hospital-owned" means, with respect to an EMS agency, owned by a hospital.

"Initials" means the first letters of a person's name or other unique personal identifier.

"Long-term care facility" means a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to resident patients.

"NABP" means the National Association of Boards of Pharmacy.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"On duty" means that a pharmacist is on the premises at the address of the permitted pharmacy and is available as needed.

"On-hold prescription" means a valid prescription that is received and maintained at the pharmacy for initial dispensing on a future date.

"Other EMS vehicle" means a vehicle used by the EMS agency or regional EMS council for the purpose of providing or facilitating emergency medical care or transporting controlled substances to and from the registered and designated locations. Such vehicles must be either owned or registered to an EMS agency, regional EMS council, or jurisdiction and operated by an EMS agency or regional EMS council.

"Patient safety organization" means an organization that has as its primary mission continuous quality improvement under the Patient Safety and Quality Improvement Act of 2005 (P.L. 109-41) and is credentialed by the Agency for Healthcare Research and Quality.

"Permitted physician" means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

"Perpetual inventory" means an ongoing system for recording quantities of drugs received, dispensed, or otherwise distributed by a pharmacy.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act being performed. Neither prior nor future instructions shall be sufficient nor shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

"Pharmacy closing" means that the permitted pharmacy ceases pharmacy services or fails to provide for continuity of pharmacy services or lawful access to patient prescription records or other required patient records for the purpose of continued pharmacy services to patients.

"PIC" means the pharmacist-in-charge of a permitted pharmacy.

"Practice location" means any location in which a prescriber evaluates or treats a patient.

"Prescription department" means any contiguous or noncontiguous areas used for the compounding, dispensing, and storage of all Schedules II through VI drugs and devices and any Schedule I investigational drug.

"Quality assurance plan" means a plan approved by the board for ongoing monitoring, measuring, evaluating, and, if necessary, improving the performance of a pharmacy function or system.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing salts

that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Regional EMS council" means an organization designated by the Board of Health pursuant to § 32.1-111.4:2 of the Code of Virginia.

"Registered EMS agency headquarters" means the principal office and primary business location of an EMS agency that maintains a controlled substances registration issued by the board or a hospital-owned EMS agency that is covered by the registration of a hospital.

"Registered location" means, for the purposes of emergency medical services, a location that appears on a DEA certificate of registration or controlled substances registration issued to an EMS agency or regional EMS council, which shall be the location at which the agency or council receives Schedule II through VI controlled substances from those entities authorized to distribute controlled substances.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Robotic pharmacy system" means a mechanical system controlled by a computer that performs operations or activities relative to the storage, packaging, compounding, labeling, dispensing, or distribution of medications and collects, controls, and maintains all transaction information.

"Safety closure container" means a container that meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), that is, in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration

of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Satellite pharmacy" means a pharmacy that is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children younger than five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly but does not mean packaging that all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Station" means an enclosed structure that houses one or more EMS vehicles or other EMS vehicles in the state that the EMS agency is registered that is actively and primarily being used for emergency response by the EMS agency.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is controlled between -25° and -10°C (-13° and 14°F). In those instances in which articles may have a recommended storage condition below -20°C (-4°F), the temperature of the storage location should be controlled to plus or minus 10 degrees.

2. "Room temperature" means the temperature prevailing in a working area.
3. "Controlled room temperature" means a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C (77°F); and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.
4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).
5. "Excessive heat" means any temperature above 40°C (104°F).
6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency or to the destructive alteration of its characteristics, the container label bears an appropriate instruction to protect the product from freezing.
7. "Cool" means any temperature between 8° and 15°C (46° and 59°F).

"Terminally ill" means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

"Ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or a member of his household.

"Unit dose container" means a container that is a single-unit container, as defined in United States Pharmacopeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container but are obtained by the person administering directly from a prescriber's order or medication administration record.

"USP-NF" means the United States Pharmacopeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

18VAC110-20-500. ~~Licensed emergency medical services (EMS) agencies. (Repealed.)~~

~~A. The pharmacy may prepare a kit for a licensed EMS agency provided:~~

~~1. The PIC of the hospital pharmacy shall be responsible for all prescription drugs and Schedule VI controlled devices contained in this kit. Except as authorized in 18VAC110-20-505, a pharmacist shall check each kit after filling and initial the filling record certifying the accuracy and integrity of the contents of the kit.~~

~~2. The kit is sealed, secured, and stored in such a manner that it will deter theft or loss of drugs and devices and aid in detection of theft or loss.~~

~~a. The hospital pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.~~

~~b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.~~

~~c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.~~

~~3. Drugs and devices may be administered by an EMS provider upon an oral or written order or standing protocol of an authorized medical practitioner in accordance with § 54.1-3408 of the Code of Virginia. Oral orders shall be reduced to writing by the EMS provider and shall be signed by a medical practitioner. Written standing protocols shall be signed by the operational medical director for the EMS agency. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit exchange. The EMS provider shall make a record of all drugs and devices administered to a patient.~~

~~4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician, or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance shall be reported in accordance with § 54.1-3404 of the Code of Virginia.~~

~~5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:~~

~~a. The record of filling and verifying the kit to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be~~

~~no later than the expiration date associated with the first drug or device scheduled to expire.~~

~~b. The record of the exchange of the kit to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.~~

~~6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.~~

~~7. The record of the drugs and devices administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.~~

~~8. Intravenous and irrigation solutions provided by a hospital pharmacy to an emergency medical services agency may be stored separately outside the kit.~~

~~9. Any drug or device showing evidence of damage or tampering shall be immediately removed from the kit and replaced.~~

~~10. In lieu of exchange by the hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, or prescriber if the kit contents include Schedule II, III, IV, or V drugs.~~

~~B. A licensed EMS agency may obtain a controlled substances registration pursuant to § 54.1-3423 D of the Code of Virginia for the purpose of performing a one-to-one exchange of Schedule VI drugs or devices.~~

~~1. The controlled substances registration may be issued to a single agency or to multiple agencies within a single jurisdiction.~~

~~2. The controlled substances registration issued solely for this intended purpose does not authorize the storage of drugs within the agency facility.~~

~~3. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs and devices from an automated drug dispensing device.~~

~~4. If such drugs or devices are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist in charge, which shall include a requirement to record the date of exchange, name of licensed person providing drug or device, name of the EMS agency and provider receiving the drug or device, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.~~

~~5. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs or devices, Schedule II, III, IV, or V drugs shall remain in a separate, sealed container and shall only be exchanged in accordance with provisions of subsection A of this section.~~

18VAC110-20-505. Use of radio-frequency identification.

A. A hospital pharmacy may use radio-frequency identification (RFID) to verify the accuracy of drugs placed into a kit for licensed emergency medical services pursuant to ~~18VAC110-20-500~~ 18VAC110-20-591 or other kits used as floor stock throughout the hospital under the following conditions:

1. A pharmacist shall be responsible for performing and verifying the accuracy of the following tasks:

a. The addition, modification, or deletion of drug information into the RFID database for assignment of a RFID tag to an individual drug; and

b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.

2. A pharmacy technician may place the RFID tag on the drugs, and a pharmacist shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.

3. A pharmacy technician may remove RFID-tagged drugs from the pharmacy's inventory whose RFID tags have been previously verified for accuracy by a pharmacist and place the drugs into the kit's container. A pharmacy technician may then place the container into the pharmacy's device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.

4. A pharmacist shall perform a daily random check for verification of the accuracy of 5.0% of all kits prepared that day utilizing the RFID technology. A manual or electronic record from which information can be readily retrieved, shall be maintained that includes:

- a. The date of verification;
- b. A description of all discrepancies identified, if any; and
- c. The initials of pharmacist_s verifying the accuracy of the process.

5. Pharmacies engaged in RFID tagging of drugs shall be exempt from the requirements in subsection C of 18VAC110-20-490, subsection A of 18VAC110-20-460, and subsection A of 18VAC110-20-355.

6. All records required by this subsection shall be maintained for a period of one year from the date of verification by the pharmacist.

B. A registered EMS agency headquarters, regional EMS council, or designated location of the EMS agency or regional EMS council may use RFID to verify the accuracy of drugs placed into a kit for emergency medical services under the following conditions:

1. An EMS supervising practitioner or responsible party shall be responsible for performing and verifying the accuracy of the following tasks:

a. The addition, modification, or deletion of drug information into the RFID database for assignment of a RFID tag to an individual drug; and

b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.

2. A person authorized to administer drugs or a pharmacy technician may place the RFID tag on the drugs, and the EMS responsible party or designee authorized to administer drugs shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.

3. A person authorized to administer drugs or a pharmacy technician may remove RFID-tagged drugs from the EMS' inventory whose RFID tags have been previously verified for accuracy by the EMS responsible party or designee authorized to administer drugs and place the drugs into the kit's container. A person authorized to administer drugs may then place the container into the device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.

4. An EMS responsible party or designee authorized to administer drugs shall perform a weekly random check for verification of the accuracy of 5.0% of all kits prepared that week utilizing RFID technology. A manual or electronic record from which information can be readily retrieved, shall be maintained that includes:

a. The date of verification;

b. A description of all discrepancies identified, if any; and

- c. The initials of the EMS responsible party or designee authorized to administer drugs verifying the accuracy of the process.
5. All records required by this subsection shall be maintained for a period of one year from the date of verification by the EMS responsible party or designee authorized to administer drugs.

18VAC110-20-591. Allowances for emergency medical services (EMS) agencies to obtain drugs.

A. This section contains specific provisions by which an EMS agency may obtain drugs for administration.

B. Unless prohibited by federal law, a pharmacy may prepare a kit for an EMS agency provided:

1. The PIC of the pharmacy shall be responsible for all prescription drugs contained in this kit. Except as authorized in 18VAC110-20-505, a pharmacist shall check each kit after filling and initial the filling record certifying the accuracy and integrity of the contents of the kit.
2. The kit containing drugs in Schedules II through V is sealed, secured, and stored in such a manner that it will deter theft or loss of drugs and aid in detection of theft or loss. Kits containing only drugs in Schedule VI are not required to be sealed but must be secured in a manner to deter theft or loss.
 - a. The pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.
 - b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.

3. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit exchange. The EMS provider shall make a record of all drugs administered to a patient.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician, or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance shall be reported in accordance with § 54.1-3404 of the Code of Virginia.

5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:

a. The record of filling and verifying the kit to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be no later than the expiration date associated with the first drug scheduled to expire.

b. The record of the exchange of the kit to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.

6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.

7. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.

8. Intravenous and irrigation solutions provided by a pharmacy to an emergency medical services agency may be stored separately outside the kit.

9. Any drug showing evidence of damage or tampering shall be immediately removed from the kit and replaced.

10. In lieu of exchange by a hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, prescriber, or pharmacy technician if the kit contents include Schedule II, III, IV, or V drugs.

11. Drug kits shall be secured on the EMS vehicle or other EMS vehicle at all times, unless the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service. The EMS agency is not required to obtain a controlled substances registration pursuant to § 54.1-3423 D of the Code of Virginia to participate in a pharmacy kit exchange in accordance with this section unless the EMS agency needs to temporarily store a secured drug kit within the EMS building when a vehicle is incapable of maintaining appropriate drug storage temperature or is out of service and the EMS agency does not otherwise serve as a designated location of a current, active controlled substances registration. An alarm system consistent with requirements in 18VAC110-20-710 is not required under these conditions.

C. An EMS agency or regional EMS council that has been issued a controlled substances registration pursuant to 18VAC110-20-690 G and a registration from DEA in accordance with federal law may receive drugs in Schedules II through VI and deliver or transfer the drugs to any designated location of the registered EMS agency headquarters or regional EMS council. Delivery of the drugs shall not constitute wholesale distribution.

D. For sites that are not designated locations of the entity providing the drug, nothing shall preclude a hospital, EMS agency, or regional EMS council from transferring or distributing drugs in Schedule VI to another EMS agency, regional EMS council, or a designated location of either entity during a shortage of drugs or in an emergency.

E. A hospital, EMS agency, regional EMS council, and designated locations may deliver drugs in Schedule II through Schedule V to each other consistent with federal law in the event of shortages of such drugs, a public health emergency, or a mass casualty event. All entities transferring, delivering, and receiving drugs shall comply with record-keeping requirements listed in 18VAC110-20-721.

F. In compliance with federal law, a hospital pharmacy may provide drugs to a hospital-owned EMS agency operating as an extension of the hospital pharmacy's DEA registration.

G. If an EMS agency that is not hospital-owned has obtained a controlled substances registration and a DEA registration in accordance with federal law, a pharmacy may provide that EMS agency drugs for restocking an EMS vehicle or other EMS vehicle provided all of the following criteria are met:

1. The registered or designated location of the agency operating the EMS vehicle or other EMS vehicle maintains the record of receipt of drugs in accordance with state and federal law;

2. The pharmacy maintains a record of the delivery to the EMS agency in accordance with state and federal law; and

3. If the EMS vehicle or other EMS vehicle is primarily situated at a designated location of an EMS agency, the designated location notifies the registered location of the agency within 72 hours of the EMS vehicle or other EMS vehicle receiving drugs in Schedules II through V.

4. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs from an automated drug dispensing device.

5. If such drugs are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist-in-charge, which shall include a requirement to record the date of exchange, name of licensed person providing the drug, name of the EMS agency and provider receiving the drug, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.

6. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs, such Schedule VI drugs shall remain in a separate container.

H. Schedule VI drugs stored on an EMS vehicle or other EMS vehicle are not required to be stored in a sealed kit, but must be stored in a manner to deter theft or loss. Drugs in Schedules II - V stored on a ground EMS vehicle, other EMS vehicle, or EMS vehicle which is a licensed fixed wing aircraft shall be stored in a sealed, secured kit or device within a locked cabinet that is accessible from the patient compartment of the vehicle. Drugs in Schedules II through V stored on an EMS vehicle which is a licensed rotary aircraft shall be stored in a sealed, secured kit or device to deter theft or loss.

1. The method of sealing the kits shall ensure that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

2. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The EMS registered agency headquarters, regional EMS council, or designated location sealing and resealing the kit shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

3. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by EMS personnel may be used.

I. Registered EMS agency headquarters, regional EMS councils, and designated locations of the registered EMS agency headquarters or regional EMS councils shall implement a process to review expiration dates no less than every three months to ensure drugs are not administered beyond the expiration date.

J. Registered EMS agency headquarters, regional EMS councils, and designated locations of the registered EMS agency headquarters or regional EMS councils shall perform drug inventories and report drug theft or unusual loss to the board in accordance with § 54.1-3404 of the Code of Virginia.

K. Registered EMS agency headquarters and regional EMS councils shall audit the security of the drug storage location and perform a random audit of Schedule II - V drugs and required record-keeping for accuracy at least every six months at each designated location under the controlled substances registration. Documentation verifying the completion of the audit for each designated location shall be maintained at the registered EMS agency headquarters or regional EMS council for two years from the date performed.

18VAC110-20-690. Persons or entities authorized or required to obtain a controlled substances registration.

A. A person or entity that maintains or intends to maintain a supply of Schedules II through Schedule VI controlled substances, other than manufacturers' samples, in accordance with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) may apply for a controlled substances registration on forms approved by the board.

B. Persons or entities that may be registered by the board shall include hospitals without in-house pharmacies, nursing homes without in-house pharmacies that use automated drug dispensing systems, ambulatory surgery centers, outpatient clinics, alternate delivery sites, crisis stabilization units, persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, ~~and~~ emergency medical services agencies, and regional EMS councils provided such persons or entities are otherwise authorized by law and hold required licenses or appropriate credentials to administer the drugs for which the registration is being sought.

C. In determining whether to register an applicant, the board shall consider factors listed in subsections A and D of § 54.1-3423 of the Code of Virginia and compliance with applicable requirements of this chapter.

1. The proposed location shall be inspected by an authorized agent of the board prior to issuance of a controlled substances registration.
2. Controlled substances registration applications that indicate a requested inspection date or requests that are received after the application is filed shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

3. Requested inspection dates that do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

4. Any person wishing to change an approved location of the drug stock, make structural changes to an existing approved drug storage location, or make changes to a previously approved security system shall file an application with the board and be inspected.

5. Drugs shall not be stocked within the proposed drug storage location or moved to a new location until approval is granted by the board.

D. The application shall be signed by a person who will act as a responsible party for the controlled substances. The responsible party may be a prescriber, nurse, pharmacist, pharmacy technician for alternate delivery sites, a person authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, or other person approved by the board who is authorized to administer the controlled substances.

E. The board may require a person or entity to obtain a controlled substances registration upon a determination that Schedules II through VI controlled substances have been obtained and are being used as common stock by multiple practitioners and that one or more of the following factors exist:

1. A federal, state, or local government agency has reported that the person or entity has made large purchases of controlled substances in comparison with other persons or entities in the same classification or category.

2. The person or entity has experienced a diversion, theft, or other unusual loss of controlled substances which requires reporting pursuant to § 54.1-3404 of the Drug Control Act.

3. The person or entity has failed to comply with recordkeeping requirements for controlled substances.

4. The person or entity or any other person with access to the common stock has violated any provision of federal, state, or local law or regulation relating to controlled substances.

F. The board may issue a controlled substance registration to an entity at which a patient is being treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is being prescribed Schedules II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration provided:

1. There is a documented need for such registration, and issuance of the registration of the entity is consistent with the public interest;

2. The entity is under the general supervision of a licensed pharmacist or a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine; and

3. The application is signed by a person who will act as the responsible party for the entity for the purpose of compliance with provisions of this subsection. The responsible party shall be a prescriber, nurse, pharmacist, or other person who is authorized by provisions of § 54.1-3408 of the Code of Virginia to administer controlled substances.

G. The board may issue a controlled substances registration to an EMS agency or regional EMS council to receive controlled substances in Schedules II - VI from a wholesale distributor, manufacturer, third-party logistics provider, warehouse, or pharmacy. The EMS agency or regional EMS council shall identify to the board any designated location to which the EMS agency or regional EMS council may deliver controlled substances. The EMS agency or regional EMS

council shall also obtain a registration from DEA in accordance with federal law prior to delivery of Schedules II - V. The EMS agency or regional EMS council shall identify on the controlled substances registration application the name and physical address of the designated locations and attest that at each designated location of the EMS agency or regional EMS council complies with the storage and security requirements of 18VAC110-20-710. Any changes to the designated locations shall be submitted to the board in advance of delivering or ceasing to deliver controlled substances to that location and the designated locations must be approved sites under federal law.

H. An EMS agency receiving only Schedule VI drugs from a wholesale distributor, manufacturer, third-party logistics provider, warehouser, or pharmacy, or temporarily storing a secured drug kit within the EMS building when the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service shall obtain a controlled substance registration or operate as a designated location of a registered EMS agency headquarters.

18VAC110-20-710. Requirements for storage and security for controlled substances registrants.

A. Drugs shall be stored under conditions that meet USP-NF specifications or manufacturers' suggested storage for each drug.

B. Any drug that has exceeded the expiration date shall not be administered; it shall be separated from the stock used for administration and maintained in a separate, locked area until properly disposed.

C. If a controlled substances registrant wishes to dispose of unwanted or expired Schedules II through VI drugs, he shall transfer the drugs to another person or entity authorized to possess and to provide for proper disposal of such drugs.

D. Drugs shall be maintained in a lockable cabinet, cart, device, or other area that shall be locked at all times when not in use. The keys or access code shall be restricted to the supervising practitioner and persons designated access in accordance with 18VAC110-20-700 C.

E. A registered EMS agency headquarters or regional EMS council may store controlled substances in an automated dispensing device which is located at a secured site at the registered location or designated location of the EMS agency or regional EMS council which is: (i) installed and operated by the EMS agency or regional EMS council, (ii) not used to directly dispense controlled substances to an ultimate user, and (iii) is in compliance with the requirements of state law.

~~E.~~ F. In a facility not staffed 24 hours a day, the drugs shall be stored in a fixed and secured room, cabinet or area that has a security device for the detection of breaking that meets the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.
2. The installation and device shall be based on accepted alarm industry standards.
3. The device shall be maintained in operating order, have an auxiliary source of power, be monitored in accordance with accepted industry standards, be maintained in operating order; and shall be capable of sending an alarm signal to the monitoring entity if breached and the communication line is not operational.
4. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.
5. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.

6. An alarm system is not required for researchers, animal control officers, humane societies, alternate delivery sites as provided in 18VAC110-20-275, ~~emergency medical services agencies~~ registered EMS agencies or regional EMS councils or designated locations of registered EMS agency headquarters or regional EMS councils stocking only ~~intravenous fluids with no added drug~~ Schedule VI drugs or temporarily securing a secured drug kit which may contain Schedule II through VI drugs when the EMS vehicle or other EMS vehicle cannot maintain appropriate drug storage temperature or is out of service, persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, and teaching institutions possessing only Schedule VI drugs.

G. A registered EMS agency headquarters or regional EMS council may store controlled substances at any of the following secured locations:

1. A registered location of the EMS agency or regional EMS council;
2. A designated location of the EMS agency or regional EMS council of which the board has been notified and DEA has granted approval if stocking drugs in Schedules II - V;
3. In an EMS vehicle or other EMS vehicle situated at a registered location or designated location of the EMS agency or regional EMS council; or
4. In an EMS vehicle or other EMS vehicle used by the EMS agency that is traveling from, or returning to, a registered location or designated location of the EMS agency or EMS council in the course of responding to an emergency, or otherwise actively in use by the EMS agency.

H. Drugs secured in an EMS agency, regional EMS council, or EMS vehicle or other EMS vehicle shall be stored at an appropriate temperature pursuant to manufacturer's directions at all times. If the EMS vehicle or other EMS vehicle cannot maintain appropriate temperature or is out

of service, the drug kit may be temporarily maintained within the building of the EMS agency. The drug kit shall be stored in compliance with this section.

18VAC110-20-720. Requirements for recordkeeping.

The person named as the responsible party on the controlled substances registration shall be responsible for recordkeeping for Schedule II through VI drugs in accordance with provisions of § 54.1-3404 of the Code of Virginia to include the reporting of any drug theft or unusual loss and the following:

1. Inventories and administration records of Schedule II drugs shall be maintained separately from all other records and shall be kept in chronological order by date of administration.
2. ~~All~~ Except as provided in subsection 9, all records shall be maintained at the same location as listed on the controlled substances registration or, if maintained in an off-site database, retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.
3. In the event that an inventory is taken as the result of a theft of drugs, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening or after the close of business on that date. An entity which is open 24 hours a day shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.
4. Any computerized system used to maintain records shall also provide retrieval via computer monitor display or printout of the history for drugs administered during the past

two years. It shall also have the capacity of producing a printout of any data which the registrant is responsible for maintaining under the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

5. The Department of Forensic Science may exclude from any inventory quantities of controlled substances used to conduct chemical analyses and controlled substances received for analyses as evidentiary material as provided in § 54.1-3404 G of the Code of Virginia.

6. Documents which describe the conditions and extent of the responsible party's authorization to dispense controlled substances for each EMS provider employed by or practicing at an EMS agency holding a controlled substances registration. Such documents shall be maintained in a readily retrievable manner and be available for inspection and copying by authorized agents of the board. Examples of such documentation include, but are not limited to, protocols, practice guidelines, or practice agreements.

7. Records of all controlled substances that are received, administered, or otherwise disposed of, records of deliveries of controlled substances between all locations of an EMS agency or regional EMS council pursuant to the controlled substance registration, and record of the standing or verbal orders issued or adopted.

8. Documentation verifying the completion of audit for each designated location pursuant to 18VAC110-20-591 K.

9. Records required to be maintained by an EMS agency or regional EMS council shall be maintained, whether electronically or otherwise, pursuant to subsection 2 or at each registered location, designated location of the EMS agency, or regional EMS council

where the controlled substances involved are received, administered, or otherwise disposed of for two years from the date of execution of the record.

18VAC110-20-721. Additional recordkeeping requirements for EMS agencies.

A. Each EMS agency holding a controlled substances registration or serving as a designated location of an EMS agency or regional EMS council, including a hospital-owned EMS agency operating under a hospital registration, responsible for administering a drug must maintain written standing protocols signed by the operational medical director for the EMS agency which authorize the administration. Oral orders authorizing the administration shall be reduced to writing by the EMS provider, shall be signed by a medical practitioner, and maintained by the EMS entity responsible for administering the drug.

B. A record for each dose of drug in Schedules II through VI administered and destruction of partially administered drug in the course of providing emergency medical services must also be maintained. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Except as indicated in 18VAC110-20-591 for emergency drug kits provided by a pharmacy, documentation shall be maintained in the EMS agency or the designated location of an EMS agency or regional EMS council for a period of two years from the date of destruction.

C. The following records shall be maintained for each acquisition of drug in Schedules II - VI from another registrant of the board or each distribution of a drug in Schedules II through VI to another registrant of the board:

1. For each acquisition of a drug from another registrant:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);

d. Number of commercial containers acquired;

e. Date of the acquisition;

f. Name, address, and registration number of the person from whom the substance was acquired; and

g. Name and title of the person acquiring the drug.

2. For each distribution of drug in Schedules II through VI to another registrant:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);

d. Number of commercial containers distributed;

e. Date of the distribution;

f. Name, address, and registration number of the person to whom the substance was distributed; and

g. Name and title of the person in receipt of the distributed drugs.

3. For each delivery of drug in Schedules II through VI between a designated location and a registered location:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);

d. Number of units or volume of finished form in each commercial container and number of commercial containers delivered (e.g., 100-tablet bottle or 3-milliliter vial);

e. Date of the delivery;

f. Name and address of the designated location to which the substance was delivered;
and

g. Name and title of the person in receipt of the controlled substances.

4. For destruction of a drug in Schedules II through VI, unless otherwise authorized under federal law, expired or unwanted drugs shall be transferred to another person or entity authorized to possess or provide for proper disposal of such drugs.

D. A designated location of an EMS agency that receives drugs in Schedules II through V must notify the EMS agency's registered location within 72 hours of receipt of the drugs in the following circumstances:

1. An EMS vehicle or other EMS vehicle primarily situated at a designated location of the EMS agency acquires drug from a hospital while restocking following a response; or

2. The designated location of the EMS agency receives drugs from another designated location of the same agency.

E. To the extent permitted by federal law, registered EMS agency headquarters, regional EMS councils, or designated locations of the EMS agency or regional EMS council in which the

repackaging or prepackaging of over-the-counter drugs is performed shall maintain adequate control records for a period of one year, or until the expiration of the drugs, whichever is greater.

1. The records shall show the name of the drugs used; strength, if any; date repackaged; quantity prepared; initials of the pharmacist, EMS responsible party, or designee authorized to administer drugs verifying the process; the assigned lot or control number; the manufacturer or distributor name and lot or control number; and an expiration date.

2. Any subsequently repackaged units shall show the name of the drug; strength, if any; the assigned lot or control number or the manufacturer or distributor name and lot or control number; and an appropriate expiration date determined by the pharmacist, EMS responsible party, or designee authorized to administer drugs in accordance with USP guidelines.

3. Repackaging of drugs shall be performed in compliance with USP-NF standards.