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# New Jersey Controlled Dangerous Substances Law

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#### **24:21-1. Short title**

This act shall be known and may be cited as the "New Jersey Controlled Dangerous Substances Act."

L.1970, c. 226, s. 1.

#### **24:21-2. Definitions.**

As used in this act:

"Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in the practitioner's presence, by the practitioner's lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Commissioner" means the Commissioner of Health.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V of article 2 of P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products.

"Counterfeit substance" means a controlled dangerous substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Dispense" means to deliver a controlled dangerous substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance.

"Distributor" means a person who distributes.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Drug Enforcement Administration" means the Drug Enforcement Administration in the United States Department of Justice.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b), and (c) of this section; but does not include devices or their components, parts or accessories. "Drugs" shall not mean industrial hemp cultivated pursuant to the New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.).

"Hashish" means the resin extracted from any part of the plant genus Cannabis and any compound, manufacture, salt, derivative, mixture, or preparation of such resin. "Hashish" shall not mean industrial hemp cultivated pursuant to the New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.).

"Marihuana" means all parts of the plant genus Cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Marihuana" shall not mean industrial hemp cultivated pursuant to the New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.).

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled dangerous substance in the course of the practitioner's professional practice, or (2) by a practitioner (or under the practitioner's supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium, coca leaves, and opiates;
- (b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
- (c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

"Official written order" means an order written on a form provided for that purpose by the Attorney General of the United States or his delegate, under any laws of the United States making provisions therefor, if such order forms are authorized and required by the federal law, and if no such form is provided, then on an official form provided for that purpose by the division. If authorized by the Attorney General of the United States or the division, the term shall also include an order transmitted by electronic means.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 3 of this act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity, or one or more individuals.

"Pharmacist" means a registered pharmacist of this State.

"Pharmacy owner" means the owner of a store or other place of business where controlled dangerous substances are compounded or dispensed by a registered pharmacist; but nothing in this chapter contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right, or privilege that is not granted to the person by the pharmacy laws of this State.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this State.

- (a) "Physician" means a physician authorized by law to practice medicine in this or any other state.
- (b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.
- (c) "Dentist" means a dentist authorized by law to practice dentistry in this State.
- (d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances.
- (e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances for scientific, experimental, and medical purposes and for purposes of instruction approved by the Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

"Immediate precursor" means a substance which the division has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is

an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Substance use disorder involving drugs" means taking or using a drug or controlled dangerous substance, as defined in this chapter, in association with a state of psychic or physical dependence, or both, arising from the use of that drug or controlled dangerous substance on a continuous basis. A substance use disorder is characterized by behavioral and other responses, including, but not limited to, a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household.

L.1970, c.226, s.2; amended 1971, c.3, ss.1,12; 1971, c.367, s.1; 1985, c.134; 2007, c.244, s.1; 2012, c.17, s.92; 2017, c.131, s.65; 2018, c.138, s.7.

### **24:21-3. Authority to control.**

a. The director shall administer the provisions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, as provided herein. The director may add substances to or delete or reschedule all substances enumerated in the schedules in sections 5 through 8.1 of P.L.1970, c.226, as amended and supplemented (C.24:21-5 through 24:21-8.1). In determining whether to control a substance, the director shall consider the following:

- (1) Its actual or relative potential for abuse;
- (2) Scientific evidence of its pharmacological effect, if known;
- (3) State of current scientific knowledge regarding the substance;
- (4) Its history and current pattern of abuse;
- (5) The scope, duration, and significance of abuse;
- (6) What, if any, risk there is to the public health;
- (7) Its psychic or physiological dependence liability; and
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article.

After considering the above factors, the director shall make findings with respect thereto and shall issue an order controlling the substance if he finds that the substance has a potential for abuse.

b. If the director designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

c. If any substance is designated, rescheduled or deleted as a controlled dangerous substance under federal law and notice thereof is given to the director, the director shall similarly control the substance under P.L.1970, c.226, as amended and supplemented, after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled

dangerous substance or rescheduling or deleting a substance, unless within that 30-day period, the director objects to inclusion, rescheduling, or deletion. In that case, the director shall cause to be published in the New Jersey Register and made public the reasons for his objection and shall afford all interested parties an opportunity to be heard. At the conclusion of any such hearing, the director shall publish and make public his decision, which shall be final unless the substance is specifically otherwise dealt with by an act of the Legislature. Upon publication of objection to inclusion or rescheduling under P.L.1970, c.226 (C.24:21-1 et seq.) by the director, control of such substance under this section shall automatically be stayed until such time as the director makes public his final decision.

The director may by regulation exclude any nonnarcotic substance from a schedule if such substance may, under the provisions of federal or State law, be lawfully sold over the counter without a prescription, unless otherwise controlled pursuant to rules and regulations promulgated by the division.

d. The director shall update and republish the schedules in sections 5 through 8.1 of P.L.1970, c.226, as amended and supplemented (C.24:21-5 through 24:21-8.1) periodically.

L.1970, c.226, s.3; amended 2007, c.244, s.2.

#### **24:21-4. Schedules of controlled substances**

The schedules contained in sections 5 through 8 of this act include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

L.1970, c. 226, s. 4.

#### **24:21-5. Schedule I.**

a. Tests. The director shall place a substance in Schedule I if he finds that the substance: (1) has high potential for abuse; and (2) has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

b. The controlled dangerous substances listed in this section are included in Schedule I, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any of the following opiates, including their isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetylmethadol
- (2) Allylprodine
- (3) Alphacetylmethadol
- (4) Alphameprodine
- (5) Alphamethadol
- (6) Benzethidine



- (7) Betacetylmethadol
- (8) Betameprodine
- (9) Betamethadol
- (10) Betaprodine
- (11) Clonitazene
- (12) Dextromoramide
- (13) Dextrorphan
- (14) Diampromide
- (15) Diethylthiambutene
- (16) Dimenoxadol
- (17) Dimepheptanol
- (18) Dimethylthiambutene
- (19) Dioxaphetyl butyrate
- (20) Dipipanone
- (21) Ethylmethylthiambutene
- (22) Etonitazene
- (23) Etoxidine
- (24) Furethidine
- (25) Hydroxypethidine
- (26) Ketobemidone
- (27) Levomoramide
- (28) Levophenacymorphan
- (29) Morpheridine
- (30) Noracymethadol
- (31) Norlevorphanol
- (32) Normethadone
- (33) Norpipanone
- (34) Phenadoxone
- (35) Phenampromide

- (36) Phenomorphan
- (37) Phenoperidine
- (38) Piritramide
- (39) Proheptazine
- (40) Properidine
- (41) Racemoramide
- (42) Trimeperidine.

d. Any of the following narcotic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine
- (2) Acetylcodone
- (3) Acetyldihydrocodeine
- (4) Benzylmorphine
- (5) Codeine methylbromide
- (6) Codeine-N-Oxide
- (7) Cyprenorphine
- (8) Desomorphine
- (9) Dihydromorphine
- (10) Etorphine
- (11) Heroin
- (12) Hydromorphenol
- (13) Methyldesorphine
- (14) Methylhydromorphine
- (15) Morphine methylbromide
- (16) Morphine methylsulfonate
- (17) Morphine-N-Oxide
- (18) Myrophine
- (19) Nicocodeine
- (20) Nicomorphine

(21) Normorphine

(22) Phoclodine

(23) Thebacon.

e. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine

(2) 5-methoxy-3,4-methylenedioxy amphetamine

(3) 3,4,5-trimethoxy amphetamine

(4) Bufotenine

(5) Diethyltryptamine

(6) Dimethyltryptamine

(7) 4-methyl-2,5-dimethoxylamphetamine

(8) Ibogaine

(9) Lysergic acid diethylamide

(10) Marihuana

(11) Mescaline

(12) Peyote

(13) N-ethyl-3-piperidyl benzilate

(14) N-methyl-3-piperidyl benzilate

(15) Psilocybin

(16) Psilocyn

(17) Tetrahydrocannabinols, except when found in industrial hemp cultivated pursuant to the New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.).

L.1970, c.226, s.5; amended 2007, c.244, s.3; 2018, c.139, s.8.

#### 24:21-6. Schedule II.

a. Tests. The director shall place a substance in Schedule II if he finds that the substance: (1) has high potential for abuse; (2) has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and (3) abuse may lead to severe psychic or physical dependence.

b. The controlled dangerous substances listed in this section are included in Schedule II, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, except that these substances shall not include the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine.

d. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine
- (2) Anileridine
- (3) Bezitramide
- (4) Dihydrocodeine
- (5) Diphenoxylate
- (6) Fentanyl
- (7) Isomethadone
- (8) Levomethorphan
- (9) Levorphanol
- (10) Metazocine
- (11) Methadone
- (12) Methadone--Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
- (13) Moramide--Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid
- (14) Pethidine
- (15) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine

- (16) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate
  - (17) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
  - (18) Phenazocine
  - (19) Piminodine
  - (20) Racemethorphan
  - (21) Racemorphan.
- L.1970, c.226, s.6; amended 2007, c.244, s.4.

**24:21-7. Schedule III.**

- a. Tests. The director shall place a substance in Schedule III if he finds that the substance: (1) has a potential for abuse less than the substances listed in Schedules I and II; (2) has currently accepted medical use in treatment in the United States; and (3) abuse may lead to moderate or low physical dependence or high psychological dependence.
- b. The controlled dangerous substances listed in this section are included in Schedule III, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.
- c. Any material, compound, mixture, or preparation which contains any quantity of the following substances associated with a stimulant effect on the central nervous system:
  - (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
  - (2) Phenmetrazine and its salts.
  - (3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
  - (4) Methylphenidate.
- d. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
  - (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules
  - (2) Chlorhexadol
  - (3) Glutethimide
  - (4) Lysergic acid
  - (5) Lysergic acid amide
  - (6) Methyprylon

- (7) Phencyclidine
  - (8) Sulfondiethylmethane
  - (9) Sulfonethylmethane
  - (10) Sulfonmethane
  - (11) Ketamine hydrochloride.
- e. Nalorphine.
- f. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
- (1) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
  - (2) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
  - (3) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.
  - (4) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
  - (5) Not more than 1.80 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
  - (6) Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
  - (7) Not more than 500 milligrams of opium or any of its salts per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
  - (8) Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- g. The director may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections c. and d. of this schedule from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

L.1970, c.226, s.7; amended 1971, c.3, ss.2,12; 1971, c.367, s.2; 1997, c.193; 2007, c.244, s.5.

#### **24:21-8. Schedule IV.**

a. Tests. The director shall place a substance in Schedule IV if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule III; (2) has currently accepted medical use in treatment in the United States; and (3) may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

b. The controlled dangerous substances listed in this section are included in Schedule IV.

c. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Barbital
- (2) Chloral betaine
- (3) Chloral hydrate
- (4) Ethchlorovynol
- (5) Ethinamate
- (6) Methohexital
- (7) Meprobamate
- (8) Methylphenobarbital
- (9) Paraldehyde
- (10) Petrichloral
- (11) Phenobarbital.

d. The director may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection c. from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

L.1970, c.226, s.8; amended 1971, c.3, s.3; 2007, c.244, s.6.

#### **24:21-8.1. Schedule V.**

a. Tests. The director shall place a substance in Schedule V if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule IV; (2) has currently accepted medical use in treatment in the United States; and (3) has limited physical dependence or psychological dependence liability relative to the substances listed in Schedule IV.

- b. The controlled dangerous substances listed in this section are included in Schedule V.
- c. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:
  - (1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams;
  - (2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams;
  - (3) Not more than 50 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams;
  - (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
  - (5) Not more than 100 milligrams of opium or any of its salts per 100 milliliters or per 100 grams.

L.1971, c.3, s.4; amended 2007, c.244, s.7.

#### **24:21-9. Rules and regulations.**

The director is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances within this State.

L.1970, c.226, s.9; amended 2007, c.244, s.8.

#### **24:21-10. Registration requirements.**

- a. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this State, shall obtain a registration issued by the division in accordance with rules and regulations promulgated by it.
- b. Persons registered by the director under this act to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.
- c. The following persons shall not be required to register and may lawfully have under their control or possess controlled dangerous substances under the provisions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented; provided, however, that nothing in this section shall be construed as conferring on a person who is not registered or licensed as a practitioner or as a pharmacist any authority, right or privilege that is not granted him by the laws of this State:



- (1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;
- (2) A common carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;
- (3) An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance;
- (4) Peace officers or employees in the performance of their official duties requiring possession or control of controlled dangerous substances; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is authorized for the purpose of aiding peace officers in performing their official duties.

d. The director may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

e. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

f. The director is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

L.1970, c.226, s.10; amended 1971, c.3, s.5; 2007, c.244, s.9.

#### **24:21-11. Registration.**

a. The division shall not register an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through IV of article 2 of P.L.1970, c.226 (C.24:21-3 et seq.), as amended and supplemented, unless it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

- (1) Maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, or industrial channels;
- (2) Compliance with applicable State and local laws;
- (3) Any convictions of the applicant under any federal and State laws relating to any controlled dangerous substance;
- (4) Past experience in the manufacture of controlled dangerous substances, and the existence in the applicant's establishment of effective controls against diversion;
- (5) Furnishing by the applicant false or fraudulent material in any application filed under this act;
- (6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled dangerous substances as authorized by federal law; and
- (7) Such other factors as may be relevant to and consistent with the public health and safety.

b. Registration granted under subsection a. of this section shall not entitle a registrant to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the registration.

c. Practitioners shall be registered to dispense substances in Schedules II through IV if they are authorized to dispense or conduct research under the law of this State. The director need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled dangerous substances in Schedules II through IV where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research in Schedule I substances are permitted to conduct research in Schedule I substances within this State upon furnishing the director evidence of that federal registration.

d. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented.

e. The division shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled dangerous substances prior to the effective date of P.L.1970, c.226, as amended and supplemented, and who are registered or licensed by the State.

f. An incorporated humane society or a licensed animal control facility may designate an officer, a member of its board of trustees, the owner, the operator or the manager as its duly authorized agent. The division shall, consistent with the public interest, register such duly authorized agent for the limited purpose of buying, possessing, and dispensing to registered and certified personnel sodium pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets or domestic or wild animals. The duly authorized agent shall file, on a quarterly basis, a report of any purchase, possession and use of sodium pentobarbital, which report shall be certified by the humane society or animal control facility as to its accuracy and validity. This report shall be in addition to any other recordkeeping and reporting requirements of State and federal law and regulation.

The division shall adopt rules and regulations providing for the registration and certification of any individual who, under the direction of the duly authorized and registered agent of an incorporated humane society or licensed animal control facility, uses sodium pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets or domestic or wild animals. The division may also adopt such other rules and regulations as shall provide for the safe and efficient use of sodium pentobarbital by animal control facilities and humane societies. Nothing herein shall be deemed to waive any other requirement imposed on animal control facilities and humane societies by State and federal law and regulation.

L.1970, c.226, s.11; amended 1971, c.3, s.6; 1979, c.204; 2007, c.244, s.10.

#### **24:21-12. Denial, revocation, or suspension of registration.**

a. A registration pursuant to section 11 of P.L.1970, c.226 (C.24:21-11) to manufacture, distribute, or dispense a controlled dangerous substance, may be suspended or revoked by the director upon a finding that the registrant:

- (1) Has materially falsified any application filed pursuant to P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, or required by P.L.1970, c.226, as amended and supplemented;
- or

(2) Has been convicted of an indictable offense under P.L.1970, c.226, as amended and supplemented, or any law of the United States, or of any State, relating to any substance defined herein as a controlled dangerous substance; or

(3) Has violated or failed to comply with any duly promulgated regulation of the director and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to controlled dangerous substances; or

(4) Has had his federal registration suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances; or

(5) Has had his registration suspended or revoked by competent authority of another state for violation of its laws or regulations comparable to those of this State relating to the manufacture, distribution or dispensing of controlled dangerous substances.

b. The director may limit revocation or suspension of a registration to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

c. Before taking action pursuant to this section or pursuant to a denial of registration under section 11 of P.L.1970, c.226 (C.24:21-11), the director shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the director at a time and place stated in the order, but in no event less than 30 days after the date of receipt of the order unless an earlier date is requested by the applicant or registrant and agreed to by the director. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under P.L.1970, c.226, as amended and supplemented, or any law of the State.

d. The director may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section in cases where he finds that there is an imminent danger to the public health or safety. Such suspensions shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the director or dissolved by a court of competent jurisdiction.

e. In the event the director suspends or revokes a registration granted under section 11 of P.L.1970, c.226 (C.24:21-11), all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the director be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances may be forfeited to the State.

f. The director shall promptly notify the Drug Enforcement Administration of all orders suspending or revoking registration and all forfeitures of controlled dangerous substances.

L.1970, c.226, s.12; amended 2007, c.244, s.11.

**24:21-13. Records of registrants.**

Persons registered to manufacture, distribute, or dispense controlled dangerous substances under P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with such additional rules as may be issued by the director.

L.1970, c.226, s.13; amended 2007, c.244, s.12.

**24:21-14. Order forms.**

a. Controlled dangerous substances in Schedules I and II shall be distributed only by a registrant, pursuant to an official written order form, clearly identifying it as covering or relating to Schedule I and Schedule II, or either thereof, controlled dangerous substances and bearing the registration number of the registrant. Compliance with federal law respecting order forms shall be deemed compliance with this section.

b. A pharmacist, only upon an official written order, may sell to a practitioner in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions compounded by him of which the content of narcotic drugs or other controlled dangerous substances does not exceed a proportion greater than 20% of the complete solution, to be used for medical purposes.

c. An official written order for any controlled dangerous substance in Schedule I or Schedule II shall be signed in triplicate by the person giving said order or by his duly authorized agent. The original and triplicate shall be presented to the person who sells or dispenses the controlled dangerous substance or substances named therein. In the event of the acceptance of such order by said person, except as may be otherwise required by rule, regulation, or order of the director, each party to the transaction shall preserve his copy of such order for a period of two years, in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter.

d. Use of an official written order in electronic form shall comply with the requirements of State law and regulations.

L.1970, c.226, s.14; amended 2007, c.244, s.13.

**24:21-15. Prescriptions.**

a. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41), may be dispensed without the written prescription of a practitioner; provided that in emergency situations, as prescribed by the division by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist, if such oral prescription is authorized by federal law. Prescriptions shall be retained in conformity with the requirements of section 13 of P.L.1970, c.226 (C.24:21-13). No prescription for a Schedule II substance may be refilled.

b. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance

included in Schedules III and IV which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41) may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

c. No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a valid and accepted medical purpose.

d. A practitioner other than a veterinarian who prescribes a controlled dangerous substance in good faith and in the course of his professional practice may administer the same or cause the same to be administered by a nurse or intern under his direction and supervision.

e. A veterinarian who prescribes a controlled dangerous substance not for use by a human being in good faith and in the course of his professional practice may administer the same or cause the same to be administered by an assistant or orderly under his direction and supervision.

f. A person who has obtained a controlled dangerous substance from the prescribing practitioner for administration to a patient during the absence of the practitioner shall return to the practitioner any unused portion of the substance when it is no longer required by the patient or when its return is requested by the practitioner.

g. Whenever it appears to the division that a drug not considered to be a prescription drug under existing State law should be so considered because of its abuse potential, it shall so advise the New Jersey State Board of Pharmacy and furnish to it all available data relevant thereto.

L.1970, c.226, s.15; amended 1971, c.3, s.7; 2007, c.244, s.14.

#### **24:21-15.1. Prescriber to discuss risks of dependence on certain drugs with certain patients.**

a. A health care professional authorized to issue prescriptions shall, prior to issuing a prescription for an opioid drug which is a Schedule II controlled dangerous substance, discuss with a patient who is under 18 years of age and is an emancipated minor, or with the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor, the risks of developing a physical or psychological dependence on the opioid drug and, if the prescriber deems it appropriate, such alternative treatments as may be available.

b. A prescriber who engages in a discussion required pursuant to subsection a. of this section shall include a note in the patient's medical record indicating that the discussion took place.

c. The discussion required under subsection a. of this section shall not be required prior to issuing a prescription to any patient who is currently receiving hospice care from a licensed hospice.

L.2017, c.8, s.1.

#### **24:21-15.2. Limitation on amount of opioid initially prescribed under certain circumstances.**

a. A practitioner shall not issue an initial prescription for an opioid drug which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41) in a quantity exceeding a five-day supply for treatment of acute pain. Any prescription for acute pain pursuant to this subsection shall be for the lowest effective dose of immediate-release opioid drug.

b. Prior to issuing an initial prescription of a Schedule II controlled dangerous substance or any other opioid drug which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41) in a course of treatment for acute or chronic pain, a practitioner shall:

- (1) take and document the results of a thorough medical history, including the patient's experience with non-opioid medication and non-pharmacological pain management approaches and substance abuse history;
- (2) conduct, as appropriate, and document the results of a physical examination;
- (3) develop a treatment plan, with particular attention focused on determining the cause of the patient's pain;
- (4) access relevant prescription monitoring information under the Prescription Monitoring Program pursuant to section 8 of P.L.2015, c.74 (C. 45:1-46.1); and
- (5) limit the supply of any opioid drug prescribed for acute pain to a duration of no more than five days as determined by the directed dosage and frequency of dosage.

c. No less than four days after issuing the initial prescription pursuant to subsection a. of this subsection, the practitioner, after consultation with the patient, may issue a subsequent prescription for the drug to the patient in any quantity that complies with applicable State and federal laws, provided that:

- (1) the subsequent prescription would not be deemed an initial prescription under this section;
- (2) the practitioner determines the prescription is necessary and appropriate to the patient's treatment needs and documents the rationale for the issuance of the subsequent prescription; and
- (3) the practitioner determines that issuance of the subsequent prescription does not present an undue risk of abuse, addiction, or diversion and documents that determination.

d. Prior to issuing the initial prescription of a Schedule II controlled dangerous substance or any other opioid drug which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41) in a course of treatment for acute pain and prior to issuing a prescription at the outset of a course of treatment for chronic pain, a practitioner shall discuss with the patient, or the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor, the risks associated with the drugs being prescribed, including but not limited to:

- (1) the risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs with alcohol, benzodiazepines and other central nervous system depressants;
- (2) the reasons why the prescription is necessary;
- (3) alternative treatments that may be available; and
- (4) risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the controlled dangerous substance, and that the risks of taking more opioids than prescribed, or mixing sedatives, benzodiazepines or alcohol with opioids, can result in fatal respiratory depression.

The practitioner shall include a note in the patient's medical record that the patient or the patient's parent or guardian, as applicable, has discussed with the practitioner the risks of developing a physical or psychological dependence on the controlled dangerous substance and alternative treatments that may be available. The Division of Consumer Affairs shall develop and make available to practitioners guidelines for the discussion required pursuant to this subsection.

e. Prior to the commencement of an ongoing course of treatment for chronic pain with a Schedule II controlled dangerous substance or any opioid, the practitioner shall enter into a pain management agreement with the patient.

f. When a Schedule II controlled dangerous substance or any other prescription opioid drug is continuously prescribed for three months or more for chronic pain, the practitioner shall:

(1) review, at a minimum of every three months, the course of treatment, any new information about the etiology of the pain, and the patient's progress toward treatment objectives and document the results of that review;

(2) assess the patient prior to every renewal to determine whether the patient is experiencing problems associated with physical and psychological dependence and document the results of that assessment;

(3) periodically make reasonable efforts, unless clinically contraindicated, to either stop the use of the controlled substance, decrease the dosage, try other drugs or treatment modalities in an effort to reduce the potential for abuse or the development of physical or psychological dependence and document with specificity the efforts undertaken;

(4) review the Prescription Drug Monitoring information in accordance with section 8 of P.L.2015, c.74 (C. 45:1-46.1); and

(5) monitor compliance with the pain management agreement and any recommendations that the patient seek a referral.

g. As used in this section:

"Acute pain" means pain, whether resulting from disease, accidental or intentional trauma, or other cause, that the practitioner reasonably expects to last only a short period of time. "Acute pain" does not include chronic pain, pain being treated as part of cancer care, hospice or other end of life care, or pain being treated as part of palliative care.

"Chronic pain" means pain that persists or recurs for more than three months.

"Initial prescription" means a prescription issued to a patient who:

(1) has never previously been issued a prescription for the drug or its pharmaceutical equivalent; or

(2) was previously issued a prescription for, or used or was administered the drug or its pharmaceutical equivalent, but the date on which the current prescription is being issued is more than one year after the date the patient last used or was administered the drug or its equivalent.

When determining whether a patient was previously issued a prescription for, or used or was administered a drug or its pharmaceutical equivalent, the practitioner shall consult with the patient and review the patient's medical record and prescription monitoring information.

"Pain management agreement" means a written contract or agreement that is executed between a practitioner and a patient, prior to the commencement of treatment for chronic pain using a Schedule II controlled dangerous substance or any other opioid drug which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41), as a means to:

- (1) prevent the possible development of physical or psychological dependence in the patient;
- (2) document the understanding of both the practitioner and the patient regarding the patient's pain management plan;
- (3) establish the patient's rights in association with treatment, and the patient's obligations in relation to the responsible use, discontinuation of use, and storage of Schedule II controlled dangerous substances, including any restrictions on the refill of prescriptions or the acceptance of Schedule II prescriptions from practitioners;
- (4) identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation, or psychological counseling, that are included as a part of the pain management plan;
- (5) specify the measures the practitioner may employ to monitor the patient's compliance, including but not limited to random specimen screens and pill counts; and
- (6) delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement.

"Practitioner" means a medical doctor, doctor of osteopathy, dentist, optometrist, podiatrist, physician assistant, certified nurse midwife, or advanced practice nurse, acting within the scope of practice of their professional license pursuant to Title 45 of the Revised Statutes.

h. This section shall not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice or palliative care, or is a resident of a long term care facility, or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

i. Every policy, contract or plan delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, and every contract purchased by the School Employees' Health Benefits Commission or State Health Benefits Commission, on or after the effective date of this act, that provides coverage for prescription drugs subject to a co-payment, coinsurance or deductible shall charge a co-payment, coinsurance or deductible for an initial prescription of an opioid drug prescribed pursuant to this section that is either:

- (1) proportional between the cost sharing for a 30-day supply and the amount of drugs the patient was prescribed; or
- (2) equivalent to the cost sharing for a full 30-day supply of the opioid drug, provided that no additional cost sharing may be charged for any additional prescriptions for the remainder of the 30-day supply.



L.2017, c.28, s.11; amended 2017, c.341, s.1.

**24:21-15.3. Rules, regulations.**

a. The Director of the Division of Consumer Affairs, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of sections 11 and 12 of P.L.2017, c.28 (C.24:21-15.2 and C.45:9-22.19).

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Consumer Affairs may adopt, immediately upon filing with the Office of Administrative Law, and no later than the 90th day after the effective date of this act, such regulations as the director deems necessary to implement any of the provisions of P.L.2017, c.28 (C.17:48-6nn et al.). Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection a. of this section, and may be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2017, c.28, s.13.

**24:21-16. Form of label on containers of manufacturers and wholesalers; altering or removing label.**

Whenever a manufacturer sells or dispenses a controlled dangerous substance in a package prepared by him, he shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of the substance contained therein. Whenever a wholesaler sells or dispenses a controlled dangerous substance in any package or shipping container other than the package in which received from the manufacturer, he shall securely affix to such package a label showing in legible English his name and address.

No person except a pharmacist for the purpose of filling a prescription under this act, shall alter, deface or remove any label so affixed by the manufacturer.

L.1970,c.226,s.16.

**24:21-17. Form of label to be used by pharmacists; altering or removing label.**

Whenever a pharmacist sells or dispenses any controlled dangerous substance on a prescription issued by a practitioner, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the pharmacist or pharmacy owner for whom he is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the practitioner by whom the prescription was issued; the brand name or generic name of the drug dispensed unless the prescriber states otherwise on the prescription, such directions as may be stated on the prescription and such directions as may be required by rules or regulations promulgated by the director.

No person shall alter, deface, or remove any label so affixed as long as any of the original contents remain.

L.1970, c.226, s.17; amended 1979, c.146, s.2; 1986, c.75, s.1; 2007, c.244, s.15.

**24:21-21. Prohibited acts C.--Records and order forms of registered manufacturers and distributors--Penalties**

a. It shall be unlawful for any person:

- (1) Who is subject to the requirements of article 3 of this act to distribute or dispense a controlled dangerous substance in violation of section 14;
- (2) Who is a registrant, to manufacture, distribute, or dispense a controlled dangerous substance not authorized by his registration;
- (3) To omit, remove, alter, or obliterate a symbol, label or mark required by Federal or State law;
- (4) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act;
- (5) To refuse, any entry into any premises or inspection authorized by this act; or,
- (6) Knowingly to keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled dangerous substances in violation of this act for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this act.

b. Any person who violates this section shall be subject to a fine of not more than \$25,000.00; provided, that if the violation is prosecuted by an accusation or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 3 years, or by a fine of not more than \$25,000.00, or both.

L.1970, c. 226, s. 21.

**24:21-22. Prohibited acts D.--Fraud or misrepresentation by registered manufacturers or distributors--penalties.**

a. It shall be unlawful for any person knowingly or intentionally:

- (1) Who is a registrant to distribute a controlled dangerous substance classified in Schedule I or II, in the course of his legitimate business, except pursuant to an order form as required by section 14 of this act;
- (2) To use in the course of the manufacture or distribution of a controlled dangerous substance a registration number which is fictitious, revoked, suspended or issued to another person;
- (3) (Deleted by amendment, P.L. 1987, c. 106.)
- (4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or
- (5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device

of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.

b. Any person who violates this section shall be punished by imprisonment for not more than three years, or by a fine of not more than \$30,000.00, or both.

L. 1970, c. 226, s. 22; amended by L. 1987, c. 106, s. 18.

#### **24:21-23. General penalty**

Any person who violates any provision of this act for which no specific penalty is provided shall be guilty of a disorderly persons offense.

L. 1970, c. 226, s. 23; amended by L. 1987, c. 106, s. 19.

#### **24:21-24. Attempt, endeavor and conspiracy**

a. Any person who attempts, endeavors or conspires to commit any offense defined in this act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the endeavor or conspiracy.

b. (Deleted by amendment, P.L. 1987, c. 106.)

L. 1970, c. 226, s. 24; amended by L. 1987, c. 106, s. 20.

#### **24:21-25. Additional penalties**

Any penalty imposed for violation of this act shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law. In any case where a violation of this act is violation of a Federal law or the law of another state, the conviction or acquittal under Federal law or the law of another state for the same act is a bar to prosecution in this State.

L.1970, c. 226, s. 25.

#### **24:21-29. Second or subsequent offenses**

a. Any person convicted of any offense under this act, if the offense is a second or subsequent offense, shall be punished by a term of imprisonment of up to twice that otherwise authorized, by up to twice the fine otherwise authorized, or by both.

b. For purposes of this section, an offense shall be considered a second or subsequent offense, if, prior to the commission of the offense, the offender has at any time been convicted of an offense or offenses under this act or under any law of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

L. 1970, c. 226, s. 29; amended by L. 1979, c. 388, s. 5; 1987, c. 106, s. 21.

**24:21-31 Powers of enforcement personnel.**

a. (1) It is hereby made the duty of the division, its officers, agents, inspectors, and representatives, and of all peace officers within the State, and of the Attorney General and all county prosecutors, to enforce all provisions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs or controlled dangerous substances, and it shall be the duty of the New Jersey State Board of Pharmacy and other professional licensing boards in the Division of Consumer Affairs in the Department of Law and Public Safety, and their officers, agents, inspectors, and representatives also to assist the division, peace officers, and county prosecutors in the enforcement of all provisions of P.L.1970, c.226, as amended and supplemented, relating to the handling of controlled dangerous substances by pharmacy owners and pharmacists and other licensed professionals.

(2) The Attorney General shall coordinate and direct the Statewide efforts of law enforcement agencies, the Division of Consumer Affairs, and professional licensing boards to: identify, investigate, and prosecute the illegal sources and distribution of prescription opioid drugs; take appropriate steps to enhance the oversight by professional licensing boards relating to the administration and dispensing of controlled dangerous substances by regulated professionals; and provide training for law enforcement officials and recommend training for physicians, pharmacists, and other health care professionals in state-of-the-art methods to detect prescription drug diversion and related abuses. The Attorney General shall issue appropriate directives, establish such task forces, and implement such other measures as the Attorney General deems necessary to carry out the purposes of this paragraph, and may call to his assistance the services of employees of any State, county, or municipal department, board, bureau, commission, or agency as may be required and as may be available for these purposes.

The Attorney General shall report annually to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, on the Attorney General's activities in implementing this subsection, including: the coordination of the Statewide effort by various agencies to combat opioid abuse; and progress in efforts to investigate and prosecute the illegal sources and distribution of illegal opioid drugs.

b. Authority is hereby granted to the director:

(1) To promulgate all necessary rules and regulations for the efficient enforcement of P.L.1970, c.226, as amended and supplemented;

(2) To promulgate, insofar as applicable, regulations from time to time promulgated by the Attorney General of the United States;

(3) To promulgate an order relative to any controlled dangerous substance under P.L.1970, c.226, as amended and supplemented, when the delay occasioned by acting through promulgation of a regulation would constitute an imminent danger to the public health or safety.

(a) An order of the director shall take effect immediately and shall expire 270 days after promulgation thereof; except that the director may extend, with the approval of the Attorney General, the order for a maximum of two additional 270-day periods if the director determines that the imminent danger to the public health or safety warrants an extension. Rules and regulations pursuant to such order may be adopted and promulgated by the

director, but they shall not take effect until the director has given due notice of his intention to take such action and has held a public hearing.

(b) Any person who denies that a drug or pharmaceutical preparation is properly subject to an order by the director which applies the provisions of P.L.1970, c.226, as amended and supplemented, to that drug or pharmaceutical preparation, may apply to the director for a hearing which shall be afforded, except where a drug or pharmaceutical preparation has been the subject of a prior hearing or determination by the director, in which case a hearing shall be discretionary with the director. In that case, a decision shall be rendered by the director or the director's designee within 48 hours of the request for a hearing. If the petitioning party is aggrieved by the decision, that party shall have the right to apply for injunctive relief against the order. Jurisdiction for that injunctive relief shall be in the Superior Court of New Jersey by way of summary proceedings.

c. In addition to the powers set forth in subsection a. of this section, any officer or employee of the division designated by the director may:

- (1) Execute search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this State;
- (2) Make seizures of property pursuant to the provisions of P.L.1970, c.226, as amended and supplemented; and
- (3) Perform such other law enforcement duties as may be designated by the director, with the approval of the Attorney General.

L.1970, c.226, s.31; amended 2007, c.244, s.16; 2015, c.34, s.1; 2017, c.379, s.1.

#### **24:21-32 Administrative inspections and warrants.**

a. Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted, may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of P.L.1970, c.226, as amended and supplemented, or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by section 31 of P.L.1970, c.226 (C.24:21-31) to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support

thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

b. The director is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this article only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under P.L.1970, c.226, as amended and supplemented, are required to keep records, and

(b) Places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under P.L.1970, c.226, as amended and supplemented, are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to paragraph (1) of subsection a. of this section, an officer or employee designated by the director upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the director shall have the right:

(a) To inspect and copy records required by P.L.1970, c.226, as amended and supplemented, to be kept;

(b) To inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph (5) of subsection b. of this section, all other things therein including records, files, papers, processes, controls, and facilities bearing on violation of P.L.1970, c.226, as amended and supplemented; and

- (c) To inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.
- (4) This section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant:
  - (a) With the consent of the owner, operator or agent in charge of the controlled premises;
  - (b) In situations presenting imminent danger to health or safety;
  - (c) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
  - (d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and
  - (e) In all other situations where a warrant is not constitutionally required.
- (5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:
  - (a) Financial data;
  - (b) Sales data other than shipment data;
  - (c) Pricing data;
  - (d) Personnel data; or
  - (e) Research data.

L.1970, c.226, s.32; amended 2007, c.244, s.17.

#### **24:21-33. Injunctions**

The Superior Court shall have jurisdiction in accordance with the rules of court to enjoin violations of this act.

L.1970, c. 226, s. 33.

#### **24:21-34. Cooperative arrangements.**

a. The director may cooperate with federal and other State, county, and municipal law enforcement and other agencies in discharging the director's responsibilities concerning traffic in dangerous substances and in suppressing the abuse of dangerous substances, including but not limited to prescription opioid drugs. To this end, the director is authorized to:

- (1) Except as otherwise provided by law, arrange for the exchange of information between government officials concerning the use and abuse of dangerous substances; provided, however, that in no case shall any officer having knowledge by virtue of that individual's office of any such prescription, order, or record divulge such knowledge, except in connection with a

prosecution or proceeding in court or before a licensing board or officer to which prosecution or proceeding the person to whom the records relate, is a party;

(2) Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and State levels; and

(3) Conduct educational programs for: members of the general public; pharmacy permit holders and pharmacists; and health care professionals, mental health practitioners, and practitioners as defined in section 24 of P.L.2007, c.244 (C.45:1-44).

b. Results, information, and evidence received from the Drug Enforcement Administration relating to the regulatory functions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, including results of inspections conducted by that agency, may be relied upon and acted upon by the director in conformance with the director's regulatory functions under P.L.1970, c.226, as amended and supplemented.

L.1970, c.226, s.34; amended 2007, c.244, s.18; 2015, c.34, s.2; 2015, c.74, s.1.

#### **24:21-35. Nuisances**

The maintenance of any building, conveyance or premises whatever which is resorted to by persons for the unlawful manufacture, distribution, dispensing, administration or use of controlled dangerous substances shall constitute the keeping of a common nuisance.

L.1970, c. 226, s. 35. Amended by L.1975, c. 42, s. 1, eff. April 2, 1975; L.1979, c. 344, s. 9, eff. Jan. 23, 1980.

#### **24:21-36. Reports of convictions of manufacturers and practitioners.**

Whenever a manufacturer or practitioner is convicted of violating any provision of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, or of a rule or regulation issued thereunder or of any offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes, the court shall cause a copy of the judgment and sentence and opinion of the court, if any, to be sent to the division or professional board, as the case may be, by which the defendant was registered or licensed.

L.1970, c.226, s.36; amended 1987, c.106, s.22; 2007, c.244, s.19.

#### **24:21-37. Burden of proof; liabilities; immunity**

a. It shall not be necessary for the State to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this act, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

b. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this act, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.



c. No liability shall be imposed by virtue of this act upon any duly authorized State officer, engaged in the enforcement of this act, who shall be engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances.

L.1970, c. 226, s. 37.

#### **24:21-38. Judicial review.**

All final determinations, findings and conclusions of the director under P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, shall be final and conclusive decisions of the matters involved, subject to the provisions for judicial review provided by the Rules of Court.

L.1970, c.226, s.38; amended 2007, c.244, s.20.

#### **24:21-40. Pending proceedings**

a. Prosecutions for any violation of law occurring prior to the effective date of this act shall not be affected or abated by the repealers contained in section 47 of this act.

b. Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act shall not be affected or abated by the repealers contained in section 47 of this act.

c. All administrative proceedings pending before any enforcing authority on the effective date of this act shall be continued and brought to final determination in accord with laws and regulations in effect prior to the effective date of this act. Such drugs placed under control prior to the effective date of this act which are not listed within Schedules I through IV shall automatically be controlled and listed in the appropriate schedule.

d. The provisions of this act shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

L.1970, c. 226, s. 40.

#### **24:21-42. Uniformity of interpretation**

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

L.1970, c. 226, s. 42.

#### **24:21-43. Severability**

If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the case in which said judgment shall have been rendered.

L.1970, c. 226, s. 43.

#### **24:21-44. Study of penalties relating to use and possession of marihuana**

Within 1 year after the date the Federal Commission on Marihuana and Drug Abuse submits its report to the President and the United States Congress, the Legislature shall conduct a comprehensive study and review of the penalties established in this act concerning offenses relating to the use and possession of marihuana.

L.1970, c. 226, s. 46.

#### **24:21-45. Repealer**

The following acts and parts of acts are repealed:

R.S. 24:18-1 to 24:18-7, 24:18-9 to 24:18-16, 24:18-18 to 24:18-28, 24:18-30 to 24:18-48 (constituting the remaining sections in chapter 18 of Title 24 of the Revised Statutes not previously repealed); P.L.1953, chapter 190 (C. 24:18-24.1, 24:18-24.2); P.L.1951, chapter 57 (C. 24:18-38.1 to 24:18-38.3); P.L.1966, chapter 314, sections 1-3 (C. 24:6C-1 to 24:6C-3); N.J.S. 2A:170-8.

L.1970, c. 226, s. 47.

#### **24:21-52. Seizure in violation of act**

Drug paraphernalia seized in violation of this act shall be subject to the forfeiture provisions of Chapter 64 of the "New Jersey Code of Criminal Justice" (N.J.S. 2C:64-1 et seq.).

L.1980, c. 133, s. 7.

#### **24:21-53. Severability**

If any provisions of sections 2, 3, 4, 5, 6 and 7 or the application thereof to any person or circumstance are held invalid, the invalidity shall not affect other provisions or applications of the sections which can be given effect without the invalid provision or application, and to this end the provisions of sections 2, 3, 4, 5, 6 and 7 are severable.

L.1980, c. 133, s. 8.

#### **24:21-54. "Controlled Dangerous Substances Administration and Enforcement Fund."**

a. There is established in the Department of the Treasury a special, dedicated nonlapsing fund to be known as the "Controlled Dangerous Substances Administration and Enforcement Fund." The fund shall be the depository for fees, cost recoveries and penalties collected in connection with the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, and the Prescription Monitoring Program established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45). Monies deposited in the fund and the interest earned thereon shall be used for the collection of information, administration and enforcement of laws relating to controlled dangerous substances.

b. The Legislature shall annually appropriate monies from the fund to the Division of Consumer Affairs in the Department of Law and Public Safety for the collection of information, administration, and enforcement of laws relating to controlled dangerous substances.

L.2007, c.244, s.23.

**24:21-55. "Project Medicine Drop" program.**

a. There is established and continued in the Department of Law and Public Safety the "Project Medicine Drop" program, which shall be administered by the Director of the Division of Consumer Affairs.

b. The purpose of the program shall be to provide for the secure collection and safe disposal of unused and expired prescription drugs and other common household medications that are surrendered by members of the public in accordance with the program.

c. The director shall continue to maintain at each participating law enforcement agency that meets program participation requirements a secure prescription medicine drop-off receptacle wherein unused or expired prescription drugs and other common household medications may be anonymously surrendered by members of the public seven days a week, 365 days a year.

d. Within the limits of funds made available for purposes of the program, the director shall supply and install at each participating law enforcement agency that agrees to participate in the program on or after the effective date of P.L.2015, c.35 (C.24:21-55 et seq.) and meets program requirements a secure prescription medicine drop-off receptacle wherein unused or expired prescription drugs and other common household medications may be anonymously surrendered by members of the public seven days a week, 365 days a year.

e. Within the limits of funds made available for purposes of the program, the director shall deploy or cause to be deployed mobile secure prescription medicine drop-off receptacles wherein unused or expired prescription drugs and other common household medications may be anonymously surrendered by members of the public. The director shall arrange for the periodic deployment of the mobile receptacles by participating law enforcement agencies that are selected by the director at the times and in the places as shall be determined to be necessary and appropriate to provide maximum access to members of the public in all geographic regions of the State.

f. A law enforcement agency that does not maintain or otherwise have a secure prescription medicine drop-off receptacle on its premises shall display, in a conspicuous location, notice informing members of the public where the closest secure prescription medicine drop-off receptacles are located.

g. The Division of Consumer Affairs shall post on its Internet website a list of all secure prescription medicine drop-off locations in the State. The list shall include receptacles maintained by the division, as well as any receptacle located in the State that is approved by the federal Drug Enforcement Administration. The website shall contain locations of all receptacles, including hours of operation. The website shall also contain information about mobile receptacles and collection events.

h. A person, including, but not limited to, a participating law enforcement agency, pharmaceutical company, and any employee thereof, shall not be liable in any civil proceeding as a result of an act of commission or omission by that person arising out of and in the course of participation in, or

assistance with, in good faith, the implementation and administration of the program established by this section, including, but not limited to, the drop-off, collection, and transport of unused or expired prescription drugs and other common household medications and the proper and safe disposal of those drugs and medications. The immunity provided by this subsection shall not extend to a person who sells or attempts to sell any unused or expired prescription drugs or other common household medications surrendered in accordance with the program.

i. For purposes of this section:

"Law enforcement agency" means a State, county, or municipal police department or force or a federal law enforcement agency or other entity that is permitted to participate in the program by the Administrator of the Drug Enforcement Administration in the United States Department of Justice.

L.2015, c.35, s.1.

#### **24:21-56. Rules, regulations.**

Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt immediately upon filing with the Office of Administrative Law such rules and regulations as the director determines to be necessary to implement the "Project Medicine Drop" program established by section 1 of P.L.2015, c.35 (C.24:21-55), which rules and regulations shall be effective for a period not to exceed 360 days following the effective date of P.L.2015, c.35 (C.24:21-55 et seq.) and may thereafter be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410.

L.2015, c.35, s.2.