

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2017 **CHAPTER:** 341

NJSA: 45:16-9.4c et al. (Concerns prescribing of certain controlled dangerous substances; requires practitioners to check prescription monitoring information before issuing certain prescriptions to emergency department patients; authorizes medical scribes and athletic trainers to access prescription monitoring information)

BILL NO: S3604 (Substituted for A5242/5300))

SPONSOR(S) Vitale and others

DATE INTRODUCED: 12/7/2017

COMMITTEE: **ASSEMBLY:** Health & Senior Services

SENATE: Health, Human Services & Senior Citizens

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 1/8/2018

SENATE: 1/8/2018

DATE OF APPROVAL: 1/16/2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

S3604

SPONSOR'S STATEMENT: (Begins on page 19 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

A5242/5300

INTRODUCED BILL (A5242): (Sponsors' statement begins on page 13) Yes

INTRODUCED BILL (A5300): (Sponsors' statement begins on page 19) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

(continued)

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

No

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"A look at new laws signed by Christie - Governor approves more than 100 bills on last day," The Record, January 16, 2018

RH/CL

§8 - C.45:16-9.4c
§9 –
C.45:9-37.48b
§10 –
C.45:15BB-11.1
§11 –
C.45:8B-45.1
§12 –
C.45:9-27.19b
§13 –
C.45:11-49.3

P.L. 2017, CHAPTER 341, *approved January 16, 2018*
Senate, No. 3604 (*Second Reprint*)

1 AN ACT concerning ¹**【opioid drugs】** controlled dangerous
2 substances and prescription monitoring¹, amending various parts
3 of the statutory law ^{1,1} and supplementing Title 45 of the
4 Revised Statutes.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Section 11 of P.L.2017, c.28 (C.24:21-15.2) is amended to
10 read as follows:

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

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

22 (1) take and document the results of a thorough medical history,
23 including the patient's experience with non-opioid medication and
24 non-pharmacological pain management approaches and substance
25 abuse history;

26 (2) conduct, as appropriate, and document the results of a
27 physical examination;

28 (3) develop a treatment plan, with particular attention focused
29 on determining the cause of the patient's pain;

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted December 14, 2017.

²Assembly floor amendments adopted January 8, 2018.

1 (4) access relevant prescription monitoring information under
2 the Prescription Monitoring Program pursuant to section 8 of
3 P.L.2015, c.74 (C. 45:1-46.1); and

4 (5) limit the supply of any opioid drug prescribed for acute pain
5 to a duration of no more than five days as determined by the
6 directed dosage and frequency of dosage.

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

12 (1) the subsequent prescription would not be deemed an initial
13 prescription under this section;

14 (2) the practitioner determines the prescription is necessary and
15 appropriate to the patient's treatment needs and documents the
16 rationale for the issuance of the subsequent prescription; and

17 (3) the practitioner determines that issuance of the subsequent
18 prescription does not present an undue risk of abuse, addiction, or
19 diversion and documents that determination.

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

30 (1) the risks of addiction and overdose associated with opioid
31 drugs and the dangers of taking opioid drugs with alcohol,
32 benzodiazepines and other central nervous system depressants;

33 (2) the reasons why the prescription is necessary;

34 (3) alternative treatments that may be available; and

35 (4) risks associated with the use of the drugs being prescribed,
36 specifically that opioids are highly addictive, even when taken as
37 prescribed, that there is a risk of developing a physical or
38 psychological dependence on the controlled dangerous substance,
39 and that the risks of taking more opioids than prescribed, or mixing
40 sedatives, benzodiazepines or alcohol with opioids, can result in
41 fatal respiratory depression.

42 The practitioner shall include a note in the patient's medical
43 record that the patient or the patient's parent or guardian, as
44 applicable, has discussed with the practitioner the risks of
45 developing a physical or psychological dependence on the
46 controlled dangerous substance and alternative treatments that may
47 be available. The Division of Consumer Affairs shall develop and

1 make available to practitioners guidelines for the discussion
2 required pursuant to this subsection.

3 e. **【At the time of the issuance of the third prescription for a
4 prescription】** Prior to the commencement of an ongoing course of
5 treatment for chronic pain with a Schedule II controlled dangerous
6 substance or any opioid 【drug】, the practitioner shall enter into a
7 pain management agreement with the patient.

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

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

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

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

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

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

29 g. As used in this section:

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

36 "Chronic pain" means pain that persists ²【for three or more
37 consecutive months and after reasonable medical efforts have been
38 made to relieve the pain or its causes, it continues, either
39 continuously or episodically】 or recurs for more than three
40 months².

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

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

45 (2) was previously issued a prescription for, or used or was
46 administered the drug or its pharmaceutical equivalent, but the date
47 on which the current prescription is being issued is more than one

1 year after the date the patient last used or was administered the drug
2 or its equivalent.

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

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

14 (1) prevent the possible development of physical or
15 psychological dependence in the patient;

16 (2) document the understanding of both the practitioner and the
17 patient regarding the patient's pain management plan;

18 (3) establish the patient's rights in association with treatment,
19 and the patient's obligations in relation to the responsible use,
20 discontinuation of use, and storage of Schedule II controlled
21 dangerous substances, including any restrictions on the refill of
22 prescriptions or the acceptance of Schedule II prescriptions from
23 practitioners;

24 (4) identify the specific medications and other modes of
25 treatment, including physical therapy or exercise, relaxation, or
26 psychological counseling, that are included as a part of the pain
27 management plan;

28 (5) specify the measures the practitioner may employ to monitor
29 the patient's compliance, including but not limited to random
30 specimen screens and pill counts; and

31 (6) delineate the process for terminating the agreement,
32 including the consequences if the practitioner has reason to believe
33 that the patient is not complying with the terms of the agreement.

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

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

45 i. Every policy, contract or plan delivered, issued, executed or
46 renewed in this State, or approved for issuance or renewal in this
47 State by the Commissioner of Banking and Insurance, and every
48 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.

(cf: P.L.2017, c.28, s.11)

2. Section 24 of P.L.2007, c.244 (C.45:1-44) is amended to read as follows:

24. Definitions. As used in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50):

"CDS registration" means registration with the Division of Consumer Affairs to manufacture, distribute, dispense, or conduct research with controlled dangerous substances issued pursuant to section 11 of P.L.1970, c.226 (C.24:21-11).

"Certified medical assistant" means a person who is a graduate of a post-secondary medical assisting educational program accredited by the **【American Medical Association's Committee】** Commission on Allied Health Education and Accreditation (CAHEA), or its successor, the Accrediting Bureau of Health Education Schools (ABHES), or its successor, or any accrediting agency recognized by the U.S. Department of Education, which educational program includes, at a minimum, **【600】** 330 clock hours of instruction, and encompasses training in the administration of intramuscular and subcutaneous injections, as well as instruction and demonstration in: pertinent anatomy and physiology appropriate to injection procedures; choice of equipment; proper technique, including sterile technique; hazards and complications; and emergency procedures; and who maintains current certification or registration, as appropriate, from the Certifying Board of the American Association of Medical Assistants (AAMA), the National Center for Competency Testing (NCCT), the National Healthcareer Association (NHA), the American Medical Certification Association (AMCA), the National Association for Health Professionals (NAHP), the National Certification Medical Association (NCMA), the American Medical Technologists (AMT), or any other recognized certifying body approved by the State Board of Medical Examiners.

"Controlled dangerous substance" means any substance that is listed in Schedules II, III, and IV of the schedules provided under the "New Jersey Controlled Dangerous Substances Act," P.L.1970,

c.226 (C.24:21-1 et seq.). Controlled dangerous substance also means any substance that is listed in Schedule V under the "New Jersey Controlled Dangerous Substances Act" when the director has determined that reporting Schedule V substances is required by federal law, regulation, or funding eligibility.

"Dental resident" means a person who practices dentistry as a resident pursuant to R.S.45:6-20 and, pursuant to N.J.A.C.13:30-1.3, is a graduate of a dental school approved by the Commission on Dental Accreditation and has passed Part I and Part II of the National Board Dental examination and obtained a resident permit from the New Jersey Board of Dentistry.

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

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

¹"Licensed athletic trainer" means an individual who is licensed by the State Board of Medical Examiners to practice athletic training, pursuant to the "Athletic Training Licensure Act," P.L.1984, c.203 (C.45:9-37.35 et seq.).¹

"Licensed health care professional" means a registered nurse, licensed practical nurse, advanced practice nurse, physician assistant, or dental hygienist licensed pursuant to Title 45 of the Revised Statutes.

"Licensed pharmacist" means a pharmacist licensed pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Medical resident" means a graduate physician who is authorized to practice medicine and surgery by means of a valid permit issued by the State Board of Medical Examiners to a person authorized to engage in the practice of medicine and surgery while in the second year or beyond of a graduate medical education program pursuant to N.J.A.C.13:35-1.5.

¹"Medical scribe" means an individual trained in medical documentation who assists a physician or other licensed health care professional by documenting the patient's encounter with the professional in the patient's medical record and gathering data for the professional, including, but not limited to, nursing notes, patient medical records, laboratory work, and radiology tests.¹

"Mental health practitioner" means a clinical social worker, marriage and family therapist, alcohol and drug counselor, professional counselor, psychologist, or psychoanalyst licensed or otherwise authorized to practice pursuant to Title 45 of the Revised Statutes.

"Pharmacy permit holder" means an individual or business entity that holds a permit to operate a pharmacy practice site pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Practitioner" means an individual currently licensed, registered, or otherwise authorized by this State or another state to prescribe drugs in the course of professional practice.

1 "Registered dental assistant" is a person who has fulfilled the
2 requirements for registration established by "The Dental Auxiliaries
3 Act," P.L.1979, c.46 (C.45:6-48 et al.) and works under the direct
4 supervision of a licensed dentist.

5 "Ultimate user" means a person who has obtained from a
6 dispenser and possesses for the person's own use, or for the use of a
7 member of the person's household or an animal owned by the
8 person or by a member of the person's household, a controlled
9 dangerous substance.
10 (cf: P.L.2015, c.74, s.2)

11

12 3. Section 26 of P.L.2007, c.244 (C.45:1-46) is amended to
13 read as follows:

14 26. Access to prescription information.

15 a. The division shall maintain procedures to ensure privacy and
16 confidentiality of patients and that patient information collected,
17 recorded, transmitted, and maintained is not disclosed, except as
18 permitted in this section, including, but not limited to, the use of a
19 password-protected system for maintaining this information and
20 permitting access thereto as authorized under sections 25 through
21 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), and a
22 requirement that a person as listed in subsection h. or i. of this
23 section provide affirmation of the person's intent to comply with the
24 provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45
25 through C.45:1-50) as a condition of accessing the information.

26 b. The prescription monitoring information submitted to the
27 division shall be confidential and not be subject to public disclosure
28 under P.L.1963, c.73 (C.47:1A-1 et seq.), or P.L.2001, c.404
29 (C.47:1A-5 et al.).

30 c. The division shall review the prescription monitoring
31 information provided by a pharmacy permit holder pursuant to
32 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
33 C.45:1-50). The review shall include, but not be limited to:

34 (1) a review to identify whether any person is obtaining a
35 prescription in a manner that may be indicative of misuse, abuse, or
36 diversion of a controlled dangerous substance. The director shall
37 establish guidelines regarding the terms "misuse," "abuse," and
38 "diversion" for the purposes of this review. When an evaluation of
39 the information indicates that a person may be obtaining a
40 prescription for the same or a similar controlled dangerous
41 substance from multiple practitioners or pharmacists during the
42 same time period, the division may provide prescription monitoring
43 information about the person to practitioners and pharmacists; and

44 (2) a review to identify whether a violation of law or regulation
45 or a breach of the applicable standards of practice by any person
46 may have occurred, including, but not limited to, diversion of a
47 controlled dangerous substance. If the division determines that
48 such a violation or breach may have occurred, the division shall

1 notify the appropriate law enforcement agency or professional
2 licensing board, and provide the prescription monitoring
3 information required for an investigation.

4 d. (Deleted by amendment, P.L.2015, c.74)

5 e. (Deleted by amendment, P.L.2015, c.74)

6 f. (Deleted by amendment, P.L.2015, c.74)

7 g. (Deleted by amendment, P.L.2015, c.74)

8 h. (1) **1** ~~["The division"]~~ A practitioner¹ shall register **1** ~~["a~~
9 practitioner"]¹ to access prescription monitoring information upon
10 **1** ~~["issuance"]~~ initial application for,¹ or renewal of ¹,¹ the
11 practitioner's CDS registration.

12 (2) The division shall provide to a pharmacist who is employed
13 by a current pharmacy permit holder online access to prescription
14 monitoring information for the purpose of providing health care to a
15 current patient or verifying information with respect to a patient or
16 a prescriber.

17 (3) The division shall provide to a practitioner who has a current
18 CDS registration online access to prescription monitoring
19 information for the purpose of providing health care to a current
20 patient or verifying information with respect to a patient or a
21 prescriber. The division shall also grant online access to
22 prescription monitoring information to as many licensed health care
23 professionals as are authorized by a practitioner to access that
24 information and for whom the practitioner is responsible for the use
25 or misuse of that information, subject to a limit on the number of
26 such health care professionals as deemed appropriate by the
27 division for that particular type and size of professional practice, in
28 order to minimize the burden to practitioners to the extent
29 practicable while protecting the confidentiality of the prescription
30 monitoring information obtained. The director shall establish, by
31 regulation, the terms and conditions under which a practitioner may
32 delegate that authorization, including procedures for authorization
33 and termination of authorization, provisions for maintaining
34 confidentiality, and such other matters as the division may deem
35 appropriate.

36 (4) The division shall provide online access to prescription
37 monitoring information to as many medical or dental residents as
38 are authorized by a faculty member of a medical or dental teaching
39 facility to access that information and for whom the practitioner is
40 responsible for the use or misuse of that information. The director
41 shall establish, by regulation, the terms and conditions under which
42 a faculty member of a medical or dental teaching facility may
43 delegate that authorization, including procedures for authorization
44 and termination of authorization, provisions for maintaining
45 confidentiality, provisions regarding the duration of a medical or
46 dental resident's authorization to access prescription monitoring
47 information, and such other matters as the division may deem
48 appropriate.

- 1 (5) ¹(a)¹ The division shall provide online access to
2 prescription monitoring information to ¹;
- 3 (i) ¹ as many certified medical assistants as are authorized by a
4 practitioner to access that information and for whom the
5 practitioner is responsible for the use or misuse of that information
6 ¹;
- 7 (ii) as many medical scribes working in a hospital's emergency
8 department as are authorized by a practitioner to access that
9 information and for whom the practitioner is responsible for the use
10 or misuse of that information; and
- 11 (iii) as many licensed athletic trainers working in a clinical
12 setting as are authorized by a practitioner to access that information
13 and for whom the practitioner is responsible for the use or misuse of
14 that information¹.
- 15 ¹(b)¹ The director shall establish, by regulation, the terms and
16 conditions under which a practitioner may delegate ¹~~that~~¹
17 authorization ¹pursuant to subparagraph (a) of this paragraph¹ ,
18 including procedures for authorization and termination of
19 authorization, provisions for maintaining confidentiality, provisions
20 regarding the duration of a certified medical assistant's ¹, medical
21 scribe's, or licensed athletic trainer's¹ authorization to access
22 prescription monitoring information, and ¹provisions addressing¹
23 such other matters as the division may deem appropriate.
- 24 (6) The division shall provide online access to prescription
25 monitoring information to as many registered dental assistants as
26 are authorized by a licensed dentist to access that information and
27 for whom the licensed dentist is responsible for the use or misuse of
28 that information. The director shall establish, by regulation, the
29 terms and conditions under which a licensed dentist may delegate
30 that authorization, including procedures for authorization and
31 termination of authorization, provisions for maintaining
32 confidentiality, provisions regarding the duration of a registered
33 dental assistant's authorization to access prescription monitoring
34 information, and such other matters as the division may deem
35 appropriate.
- 36 (7) A person listed in this subsection, as a condition of
37 accessing prescription monitoring information pursuant thereto,
38 shall certify that the request is for the purpose of providing health
39 care to a current patient or verifying information with respect to a
40 patient or practitioner. Such certification shall be furnished through
41 means of an online statement or alternate means authorized by the
42 director, in a form and manner prescribed by rule or regulation
43 adopted by the director. If the information is being accessed by an
44 authorized person using an electronic system authorized pursuant to
45 subsection q. of this section, the certification may be furnished
46 through the electronic system.

- 1 i. The division may provide online access to prescription
2 monitoring information, or may provide access to prescription
3 monitoring information through any other means deemed
4 appropriate by the director, to the following persons:
- 5 (1) authorized personnel of the division or a vendor or
6 contractor responsible for maintaining the Prescription Monitoring
7 Program;
- 8 (2) authorized personnel of the division responsible for
9 administration of the provisions of P.L.1970, c.226 (C.24:21-1 et
10 seq.);
- 11 (3) the State Medical Examiner, a county medical examiner, a
12 deputy or assistant county medical examiner, or a qualified
13 designated assistant thereof, who certifies that the request is for the
14 purpose of investigating a death pursuant to P.L.1967, c.234
15 (C.52:17B-78 et seq.);
- 16 (4) a controlled dangerous substance monitoring program in
17 another state with which the division has established an
18 interoperability agreement, or which participates with the division
19 in a system that facilitates the secure sharing of information
20 between states;
- 21 (5) a designated representative of the State Board of Medical
22 Examiners, New Jersey State Board of Dentistry, State Board of
23 Nursing, New Jersey State Board of Optometrists, State Board of
24 Pharmacy, State Board of Veterinary Medical Examiners, or any
25 other board in this State or another state that regulates the practice
26 of persons who are authorized to prescribe or dispense controlled
27 dangerous substances, as applicable, who certifies that the
28 representative is engaged in a bona fide specific investigation of a
29 designated practitioner or pharmacist whose professional practice
30 was or is regulated by that board;
- 31 (6) a State, federal, or municipal law enforcement officer who is
32 acting pursuant to a court order and certifies that the officer is
33 engaged in a bona fide specific investigation of a designated
34 practitioner, pharmacist, or patient. A law enforcement agency that
35 obtains prescription monitoring information shall comply with
36 security protocols established by the director by regulation;
- 37 (7) a designated representative of a state Medicaid or other
38 program who certifies that the representative is engaged in a bona
39 fide investigation of a designated practitioner, pharmacist, or
40 patient;
- 41 (8) a properly convened grand jury pursuant to a subpoena
42 properly issued for the records; and
- 43 (9) a licensed mental health practitioner providing treatment for
44 substance abuse to patients at a residential or outpatient substance
45 abuse treatment center licensed by the Division of Mental Health
46 and Addiction Services in the Department of Human Services, who
47 certifies that the request is for the purpose of providing health care
48 to a current patient or verifying information with respect to a patient

1 or practitioner, and who furnishes the division with the written
2 consent of the patient for the mental health practitioner to obtain
3 prescription monitoring information about the patient. The director
4 shall establish, by regulation, the terms and conditions under which
5 a mental health practitioner may request and receive prescription
6 monitoring information. Nothing in sections 25 through 30 of
7 P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed
8 to require or obligate a mental health practitioner to access or check
9 the prescription monitoring information in the course of treatment
10 beyond that which may be required as part of the mental health
11 practitioner's professional practice.

12 j. A person listed in subsection i. of this section, as a condition
13 of obtaining prescription monitoring information pursuant thereto,
14 shall certify the reasons for seeking to obtain that information.
15 Such certification shall be furnished through means of an online
16 statement or alternate means authorized by the director, in a form
17 and manner prescribed by rule or regulation adopted by the director.

18 k. The division shall offer an online tutorial for those persons
19 listed in subsections h. and i. of this section, which shall, at a
20 minimum, include: how to access prescription monitoring
21 information; the rights of persons who are the subject of this
22 information; the responsibilities of persons who access this
23 information; a summary of the other provisions of sections 25
24 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) and
25 the regulations adopted pursuant thereto, regarding the permitted
26 uses of that information and penalties for violations thereof; and a
27 summary of the requirements of the federal health privacy rule set
28 forth at 45 CFR Parts 160 and 164 and a hypertext link to the
29 federal Department of Health and Human Services website for
30 further information about the specific provisions of the privacy rule.

31 l. The division may request and receive prescription
32 monitoring information from prescription monitoring programs in
33 other states and may use that information for the purposes of
34 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
35 C.45:1-50). When sharing data with programs in another state, the
36 division shall not be required to obtain a memorandum of
37 understanding unless required by the other state.

38 m. The director may provide nonidentifying prescription drug
39 monitoring information to public or private entities for statistical,
40 research, or educational purposes, in accordance with the provisions
41 of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
42 C.45:1-50).

43 n. Nothing shall be construed to prohibit the division from
44 obtaining unsolicited automated reports from the program or
45 disseminating such reports to pharmacists, practitioners, mental
46 health care practitioners, and other licensed health care
47 professionals.

1 o. (1) A current patient of a practitioner may request from that
2 practitioner that patient's own prescription monitoring information
3 that has been submitted to the division pursuant to sections 25
4 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). A
5 parent or legal guardian of a child who is a current patient of a
6 practitioner may request from that practitioner the child's
7 prescription monitoring information that has been submitted to the
8 division pursuant to sections 25 through 30 of P.L.2007, c.244
9 (C.45:1-45 through C.45:1-50).

10 (2) Upon receipt of a request pursuant to paragraph (1) of this
11 subsection, a practitioner or health care professional authorized by
12 that practitioner may provide the current patient or parent or legal
13 guardian, as the case may be, with access to or a copy of the
14 prescription monitoring information pertaining to that patient or
15 child.

16 (3) The division shall establish a process by which a patient, or
17 the parent or legal guardian of a child who is a patient, may request
18 a pharmacy permit holder that submitted prescription monitoring
19 information concerning a prescription for controlled dangerous
20 substances for that patient or child to the division pursuant to
21 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
22 C.45:1-50) to correct information that the person believes to have
23 been inaccurately entered into that patient's or child's prescription
24 profile. Upon confirmation of the inaccuracy of any such entry into
25 a patient's or child's prescription profile, the pharmacy permit
26 holder shall be authorized to correct any such inaccuracies by
27 submitting corrected information to the division pursuant to
28 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
29 C.45:1-50). The process shall provide for review by the Board of
30 Pharmacy of any disputed request for correction, which
31 determination shall be appealable to the director.

32 p. The division shall take steps to ensure that appropriate
33 channels of communication exist to enable any licensed health care
34 professional, licensed pharmacist, mental health practitioner,
35 pharmacy permit holder, or other practitioner who has online access
36 to the Prescription Monitoring Program pursuant to this section to
37 seek or provide information to the division related to the provisions
38 of this section.

39 q. (1) The division may ¹['provide'] make¹ prescription
40 monitoring information ¹['to'] available on¹ electronic systems that
41 collect and display health information, such as an electronic system
42 that connects hospital emergency departments for the purpose of
43 transmitting and obtaining patient health data from multiple sources
44 ¹.,¹ or ¹'an electronic system¹ that notifies practitioners of
45 information pertaining to the treatment of overdoses ¹['.'] ;¹
46 provided ¹'that¹ the division determines that any such electronic
47 system has appropriate security protections in place.

(2) Practitioners who are required to access prescription monitoring information pursuant to section 8 of P.L.2015, c.74 (C.45:1-46.1) may discharge that responsibility by accessing one or more authorized electronic systems into which the prescription monitoring information maintained by the division has been integrated.
(cf: P.L.2015, c.74, s.4)

4. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read as follows:

8. a. (1) Except as provided in subsection b. of this section, a practitioner or other person who is authorized by a practitioner to access prescription monitoring information pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access prescription monitoring information;

(a) the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance or any opioid to a new patient for acute or chronic pain;

(b) the first time a practitioner or other person prescribes a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance;

(c) if the practitioner or other person has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion, the first time the practitioner or other person prescribes a non-opioid drug other than a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance; and

(d) ¹on or after the date that the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46),¹ any time the practitioner or other person prescribes a Schedule II controlled dangerous substance ¹for acute or chronic pain¹ to a patient receiving care or treatment in the emergency department of a general hospital.

In addition, ¹**for** ¹in¹ any ¹case in which a¹ prescription ¹**of** ¹is issued to a new patient, either on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), ¹for¹ a Schedule II controlled dangerous substance ¹**any** ¹or¹ opioid ¹drug that has been prescribed for acute or chronic pain,¹ ¹or ¹for¹ a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance ¹**for** a new or current patient for acute or chronic pain which is written on or after the effective date of **[P.L.2015, c.74 (C.45:1-46.1 et al.)]** P.L. , c. (C.) (pending before the Legislature as this bill) a¹ , the¹ practitioner or other authorized person shall access prescription monitoring information

1 on a quarterly basis during the period of time the patient continues
2 to receive such ¹ ~~prescriptions~~ prescription¹.

3 (2) (a) A pharmacist shall not dispense a Schedule II controlled
4 dangerous substance, any opioid, or a benzodiazepine drug that is a
5 Schedule III or IV controlled dangerous substance to any person
6 without first accessing the prescription monitoring information, as
7 authorized pursuant to subsection h. of section 26 of P.L.2007,
8 c.244 (C.45:1-46), to determine if the person has received other
9 prescriptions that indicate misuse, abuse, or diversion, if the
10 pharmacist has a reasonable belief that the person may be seeking a
11 controlled dangerous substance, in whole or in part, for any purpose
12 other than the treatment of an existing medical condition, such as
13 for purposes of misuse, abuse, or diversion.

14 (b) A pharmacist shall not dispense a prescription to a person
15 other than the patient for whom the prescription is intended, unless
16 the person picking up the prescription provides personal
17 identification to the pharmacist, and the pharmacist, as required by
18 subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs
19 that identifying information into the Prescription Monitoring
20 Program if the pharmacist has a reasonable belief that the person
21 may be seeking a controlled dangerous substance, in whole or in
22 part, for any reason other than delivering the substance to the
23 patient for the treatment of an existing medical condition. The
24 provisions of this subparagraph shall not take effect until the
25 director determines that the Prescription Monitoring Program has
26 the technical capacity to accept such information.

27 b. The provisions of subsection a. of this section shall not
28 apply to:

29 (1) a veterinarian;

30 (2) a practitioner or the practitioner's agent administering
31 methadone, or another controlled dangerous substance designated
32 by the director as appropriate for treatment of a patient with a
33 substance abuse disorder, as interim treatment for a patient on a
34 waiting list for admission to an authorized substance abuse
35 treatment program;

36 (3) a practitioner administering a controlled dangerous
37 substance directly to a patient;

38 (4) a practitioner prescribing a controlled dangerous substance
39 to be dispensed by an institutional pharmacy, as defined in
40 N.J.A.C.13:39-9.2;

41 (5) ~~a practitioner prescribing a controlled dangerous substance~~
42 ~~in the emergency department of a general hospital, provided that the~~
43 ~~quantity prescribed does not exceed a five-day supply of the~~
44 ~~substance~~ ¹ ~~[(Deleted by amendment, P.L. , c.) (pending~~
45 ~~before the Legislature as this bill)]~~ a practitioner prescribing a
46 controlled dangerous substance in the emergency department of a
47 general hospital, provided that the quantity prescribed does not
48 exceed a five-day supply of the substance; however, the exemption

1 provided by this paragraph shall have no force or effect on or after
2 the date on which the division first makes prescription monitoring
3 information available on an electronic system that collects and
4 displays health information, pursuant to subsection q. of section 26
5 of P.L.2007, c.244 (C.45:1-46)¹;

6 (6) a practitioner prescribing a controlled dangerous substance
7 to a patient under the care of a hospice;

8 (7) a situation in which it is not reasonably possible for the
9 practitioner or pharmacist to access the Prescription Monitoring
10 Program in a timely manner, no other individual authorized to
11 access the Prescription Monitoring Program is reasonably available,
12 and the quantity of controlled dangerous substance prescribed or
13 dispensed does not exceed a five-day supply of the substance;

14 (8) a practitioner or pharmacist acting in compliance with
15 regulations promulgated by the director as to circumstances under
16 which consultation of the Prescription Monitoring Program would
17 result in a patient's inability to obtain a prescription in a timely
18 manner, thereby adversely impacting the medical condition of the
19 patient;

20 (9) a situation in which the Prescription Monitoring Program is
21 not operational as determined by the division or where it cannot be
22 accessed by the practitioner due to a temporary technological or
23 electrical failure, as set forth in regulation;

24 (10) a practitioner or pharmacist who has been granted a waiver
25 due to technological limitations that are not reasonably within the
26 control of the practitioner or pharmacist, or other exceptional
27 circumstances demonstrated by the practitioner or pharmacist,
28 pursuant to a process established in regulation, and in the discretion
29 of the director; or

30 (11) a practitioner who is prescribing a controlled dangerous
31 substance to a patient immediately after the patient has undergone
32 an operation **【, procedure,】** in a general hospital or a licensed
33 ambulatory care facility or treatment for acute trauma in a general
34 hospital or a licensed ambulatory care facility, so long as that
35 operation or treatment was not part of care or treatment in the
36 emergency department of a general hospital as provided in
37 subsection a. of this section, when **【less than a 30-day】** no more
38 than a five-day supply is prescribed.

39 (cf: P.L.2015, c.74, s.8)

40
41 5. Section 27 of P.L.2007, c.244 (C. 45:1-47) is amended to
42 read as follows:

43 27. Prescription Monitoring Program; provisions for expansion.

44 a. Notwithstanding the provisions of section 25 of P.L.2007,
45 c.244 (C.45:1-45) to the contrary, the director may adopt a
46 regulation to expand the program to require pharmacies to include
47 information about each prescription dispensed for a prescription
48 drug that is not a controlled dangerous substance. In determining

1 whether pharmacies should be required to submit to the program
2 information about a prescription drug other than a controlled
3 dangerous substance **【should be monitored】**, the director shall
4 consider: the actual or relative potential for abuse; scientific
5 evidence of its pharmacological effect, if known; the state of
6 current scientific knowledge regarding the drug; its history and
7 current pattern of abuse, including its use to potentiate or enhance
8 the effects of controlled dangerous substances that are subject to
9 abuse; the scope, duration and significance of abuse; what, if any,
10 risk to the public health; and its psychic or physiological
11 dependence liability. **【The regulation shall provide that the**
12 **prescription drug shall be monitored for a period of time. At the**
13 **conclusion of the monitoring period, the director shall publish and**
14 **make public the decision of whether inclusion of the prescription**
15 **drug in the program shall be permanent.】**

16 b. At the time the notice to expand the program pursuant to
17 subsection a. is published in the New Jersey Register, the director
18 shall provide a copy of the notice of proposed rule making to the
19 chairpersons of the standing legislative reference committees on
20 health of the Senate and General Assembly.

21 (cf: P.L.2007, c.244, s.27)

22

23 6. Section 1 of P.L.2000, c.119 (C.45:8B-24.1) is amended to
24 read as follows:

25 1. a. The State Board of Marriage and Family Therapy
26 Examiners shall require each marriage and family therapist, as a
27 condition of biennial license renewal pursuant to section 1 of
28 P.L.1972, c.108 (C.45:1-7), to complete any continuing education
29 requirements imposed by the board pursuant to this section.

30 b. The board shall:

31 (1) Promulgate rules and regulations for implementing
32 continuing education requirements as a condition of license renewal
33 for licenses issued under its jurisdiction;

34 (2) Establish standards for continuing education, including the
35 subject matter and content of courses of study, and the number and
36 type of continuing education credits required of a licensee as a
37 condition of biennial license renewal;

38 (3) Recognize the American Association for Marriage and
39 Family Therapy, the New Jersey Division of the American
40 Association for Marriage and Family Therapy and other
41 organizations as providers of continuing education, and accredit
42 educational programs, including, but not limited to, meetings of
43 constituents and components of marriage and family therapy
44 associations recognized by the board, examinations, papers,
45 publications, presentations, teaching and research appointments,
46 and shall establish procedures for the issuance of credit upon
47 satisfactory proof of the completion of these programs. In the case

1 of education courses or programs, each hour of instruction shall be
2 equivalent to one credit; and

3 (4) Approve only those continuing education programs as are
4 available to all marriage and family therapists in this State on a
5 reasonable nondiscriminatory basis.

6 c. The continuing education required pursuant to this section
7 shall include at least one credit of educational programs or topics
8 concerning prescription opioid drugs, including the risks and signs
9 of opioid abuse, addiction, and diversion.

10 (cf: P.L.2000, c.119, s.1)

11
12 7. Section 1 of P.L.2015, c.131 (C.45:14B-47) is amended to
13 read as follows:

14 1. a. The State Board of Psychological Examiners shall require
15 each person licensed as a practicing psychologist, as a condition for
16 biennial license renewal pursuant to section 1 of P.L.1972, c.108
17 (C.45:1-7), to complete 40 credits of continuing psychology
18 education, four credits of which shall be educational programs or
19 topics related to domestic violence.

20 b. The board shall:

21 (1) Establish standards for continuing psychology education,
22 including the nature of qualifying experience and amount of
23 applicable credits for such qualifying experience, and the subject
24 matter and content of courses of study; and

25 (2) Accredited education programs offering credit toward
26 continuing psychology education requirements or recognize
27 national or State organizations that may accredit education
28 programs.

29 c. The board may, in its discretion, waive requirements for
30 continuing education as set forth in subsection a. of this section on
31 an individual basis for reasons of hardship such as illness or
32 disability, retirement of license, or other good cause. A waiver
33 shall apply only to the current biennial renewal period at the time of
34 board issuance.

35 d. The board shall only approve programs that are provided on
36 a nondiscriminatory basis.

37 e. Prior to license renewal, each licensee shall submit to the
38 board proof of completion of the required number of hours of
39 continuing psychology education.

40 f. The continuing education required pursuant to this section
41 shall include at least one credit of educational programs or topics
42 concerning prescription opioid drugs, including the risks and signs
43 of opioid abuse, addiction, and diversion.

44 (cf: P.L.2015, c.131, s.1)

45
46 8. (New section) The State Board of Veterinary Medical
47 Examiners shall require that the number of credits of continuing
48 veterinary education required of each person licensed as a

1 veterinarian, as a condition of biennial license renewal, include at
2 least one credit of educational programs or topics concerning
3 prescription opioid drugs, including the risks and signs of opioid
4 abuse, addiction, and diversion. The continuing veterinary
5 education requirement in this section shall be subject to the
6 provisions of section 3 of P.L.2010, c.89 (C.45:16-9.4a), including,
7 but not limited to, the authority of the board to waive the provisions
8 of this section for a specific individual if the board deems it is
9 appropriate to do so.

10
11 9. (New section) The State Board of Medical Examiners shall
12 require that the number of credits of continuing athletic trainer
13 education required of each person licensed as an athletic trainer, as
14 a condition of biennial renewal pursuant to section 14 of P.L.1984,
15 c.203, s.14 (C.45:9-37.48), include at least one credit of educational
16 programs or topics concerning prescription opioid drugs, including
17 the risks and signs of opioid abuse, addiction, and diversion. The
18 continuing athletic trainer education requirement in this subsection
19 shall be subject to the provisions of section 6 of P.L.2010, c.94
20 (C.45:9-37.48a), including, but not limited to, the authority of the
21 board to waive the provisions of this section for a specific
22 individual if the board deems it is appropriate to do so.

23
24 ²[10. (New section) The standards and curricula for the
25 homemaker-home health aide education and training programs
26 specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-
27 24), shall include at least one hour of educational programs or
28 topics concerning prescription opioid drugs, including the risks and
29 signs of opioid abuse, addiction, and diversion.]²

30
31 ²[11.] 10.² (New section) The State Board of Social Work
32 Examiners shall require that the number of credits of continuing
33 education required of each person licensed or certified by the board
34 as a condition of renewal include at least one credit of educational
35 programs or topics concerning prescription opioid drugs, including
36 the risks and signs of opioid abuse, addiction, and diversion.

37
38 ²[12.] 11.² (New section) The Professional Counselor
39 Examiners Committee shall require that the number of credits of
40 continuing education required of each person licensed by the board
41 as a condition of renewal include at least one credit of educational
42 programs or topics concerning prescription opioid drugs, including
43 the risks and signs of opioid abuse, addiction, and diversion.

44
45 ²[13.] 12.² (New Section) a. Notwithstanding any other
46 provision of law to the contrary, a physician assistant who is
47 otherwise authorized to order, prescribe, and dispense controlled

1 dangerous substances pursuant to P.L.1991, c.c.378 (C.45:9-27.10
2 et seq.) may dispense narcotic drugs for maintenance treatment or
3 detoxification treatment if the physician assistant has met the
4 training and registration requirements set forth in subsection (g) of
5 21 U.S.C. s.823. A physician assistant who is authorized to
6 dispense such drugs may do so regardless of whether the physician
7 assistant's supervising physician has met the training and
8 registration requirements set forth in subsection (g) of 21 U.S.C.
9 s.823, provided that the written delegation agreement between the
10 supervising physician and the physician assistant executed pursuant
11 to subsection d. of section 8 of P.L.1991, c.378 (C.45:9-27.17)
12 included the supervising physician's written approval for the
13 physician assistant to dispense the drugs.

14 b. Notwithstanding any other provision of law to the contrary,
15 a physician assistant under the direct supervision of a licensed
16 physician may make the determination as to the medical necessity
17 for services for the treatment of substance use disorder, as provided
18 in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such
19 services.
20

21 ²[14.] 13.² (New Section) a. Notwithstanding any other
22 provision of law to the contrary, an advanced practice nurse may
23 dispense narcotic drugs for maintenance treatment or detoxification
24 treatment if the advanced practice nurse has met the training and
25 registration requirements set forth in subsection (g) of 21 U.S.C.
26 s.823. An advanced practice nurse who is authorized to dispense
27 such drugs may do so regardless of whether the advanced practice
28 nurse's collaborating physician has met the training and registration
29 requirements set forth in subsection (g) of 21 U.S.C. s.823,
30 provided that the joint protocol established by the advanced practice
31 nurse and the collaborating physician include the collaborating
32 physician's written approval for the advanced practice nurse to
33 dispense the drugs.

34 b. Notwithstanding any other provision of law to the contrary,
35 an advanced practice nurse, under the joint protocol established by
36 the advanced practice nurse and the collaborating physician, may
37 make the determination as to the medical necessity for services for
38 the treatment of substance use disorder, as provided in P.L.2017,
39 c.28 (C.17:48-6nn et al.), and may prescribe such services.
40

41 ²[15.] 14.² ¹[The] This¹ act shall take effect ¹[on the 90th day
42 after enactment] immediately¹.
43
44
45
46

47 Concerns prescribing of certain controlled dangerous substances;
48 requires practitioners to check prescription monitoring information

S3604 [2R]

20

- 1 before issuing certain prescriptions to emergency department
- 2 patients; authorizes medical scribes and athletic trainers to access
- 3 prescription monitoring information.

SENATE, No. 3604

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED DECEMBER 7, 2017

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

Concerns regulation and prescribing of certain schedule II controlled dangerous substances and opioids.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning opioid drugs, amending various parts of the
2 statutory law and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 11 of P.L.2017, c.28 (C.24:21-15.2) is amended to
8 read as follows:

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

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

20 (1) take and document the results of a thorough medical history,
21 including the patient's experience with non-opioid medication and
22 non-pharmacological pain management approaches and substance
23 abuse history;

24 (2) conduct, as appropriate, and document the results of a
25 physical examination;

26 (3) develop a treatment plan, with particular attention focused
27 on determining the cause of the patient's pain;

28 (4) access relevant prescription monitoring information under
29 the Prescription Monitoring Program pursuant to section 8 of
30 P.L.2015, c.74 (C. 45:1-46.1); and

31 (5) limit the supply of any opioid drug prescribed for acute pain
32 to a duration of no more than five days as determined by the
33 directed dosage and frequency of dosage.

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

39 (1) the subsequent prescription would not be deemed an initial
40 prescription under this section;

41 (2) the practitioner determines the prescription is necessary and
42 appropriate to the patient's treatment needs and documents the
43 rationale for the issuance of the subsequent prescription; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) the practitioner determines that issuance of the subsequent
2 prescription does not present an undue risk of abuse, addiction, or
3 diversion and documents that determination.

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

14 (1) the risks of addiction and overdose associated with opioid
15 drugs and the dangers of taking opioid drugs with alcohol,
16 benzodiazepines and other central nervous system depressants;

17 (2) the reasons why the prescription is necessary;

18 (3) alternative treatments that may be available; and

19 (4) risks associated with the use of the drugs being prescribed,
20 specifically that opioids are highly addictive, even when taken as
21 prescribed, that there is a risk of developing a physical or
22 psychological dependence on the controlled dangerous substance,
23 and that the risks of taking more opioids than prescribed, or mixing
24 sedatives, benzodiazepines or alcohol with opioids, can result in
25 fatal respiratory depression.

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

34 e. **【At the time of the issuance of the third prescription for a**
35 **prescription】** Prior to the commencement of an ongoing course of
36 treatment for chronic pain with a Schedule II controlled dangerous
37 substance or any opioid 【drug】, the practitioner shall enter into a
38 pain management agreement with the patient.

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

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

46 (2) assess the patient prior to every renewal to determine
47 whether the patient is experiencing problems associated with

1 physical and psychological dependence and document the results of
2 that assessment;

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

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

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

13 g. As used in this section:

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

20 "Chronic pain" means pain that persists for three or more
21 consecutive months and after reasonable medical efforts have been
22 made to relieve the pain or its causes, it continues, either
23 continuously or episodically.

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

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

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

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

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

44 (1) prevent the possible development of physical or
45 psychological dependence in the patient;

46 (2) document the understanding of both the practitioner and the
47 patient regarding the patient's pain management plan;

1 (3) establish the patient's rights in association with treatment,
2 and the patient's obligations in relation to the responsible use,
3 discontinuation of use, and storage of Schedule II controlled
4 dangerous substances, including any restrictions on the refill of
5 prescriptions or the acceptance of Schedule II prescriptions from
6 practitioners;

7 (4) identify the specific medications and other modes of
8 treatment, including physical therapy or exercise, relaxation, or
9 psychological counseling, that are included as a part of the pain
10 management plan;

11 (5) specify the measures the practitioner may employ to monitor
12 the patient's compliance, including but not limited to random
13 specimen screens and pill counts; and

14 (6) delineate the process for terminating the agreement,
15 including the consequences if the practitioner has reason to believe
16 that the patient is not complying with the terms of the agreement.

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

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

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

38 (1) proportional between the cost sharing for a 30-day supply
39 and the amount of drugs the patient was prescribed; or

40 (2) equivalent to the cost sharing for a full 30-day supply of the
41 opioid drug, provided that no additional cost sharing may be
42 charged for any additional prescriptions for the remainder of the 30-
43 day supply.

44 (cf: P.L.2017, c.28, s.11)

45

46 2. Section 24 of P.L.2007, c.244 (C.45:1-44) is amended to
47 read as follows:

1 24. Definitions. As used in sections 25 through 30 of P.L.2007,
2 c.244 (C.45:1-45 through C.45:1-50):

3 "CDS registration" means registration with the Division of
4 Consumer Affairs to manufacture, distribute, dispense, or conduct
5 research with controlled dangerous substances issued pursuant to
6 section 11 of P.L.1970, c.226 (C.24:21-11).

7 "Certified medical assistant" means a person who is a graduate of
8 a post-secondary medical assisting educational program accredited
9 by the **【American Medical Association's Committee】** Commission
10 on Allied Health Education and Accreditation (CAHEA), or its
11 successor, the Accrediting Bureau of Health Education Schools
12 (ABHES), or its successor, or any accrediting agency recognized by
13 the U.S. Department of Education, which educational program
14 includes, at a minimum, **【600】** 330 clock hours of instruction, and
15 encompasses training in the administration of intramuscular and
16 subcutaneous injections, as well as instruction and demonstration
17 in: pertinent anatomy and physiology appropriate to injection
18 procedures; choice of equipment; proper technique, including sterile
19 technique; hazards and complications; and emergency procedures;
20 and who maintains current certification or registration, as
21 appropriate, from the Certifying Board of the American Association
22 of Medical Assistants (AAMA), the National Center for
23 Competency Testing (NCCT), the National Healthcareer
24 Association (NHA), the American Medical Certification
25 Association (AMCA), the National Association for Health
26 Professionals (NAHP), the National Certification Medical
27 Association (NCMA), the American Medical Technologists
28 (AMT), or any other recognized certifying body approved by the
29 State Board of Medical Examiners.

30 "Controlled dangerous substance" means any substance that is
31 listed in Schedules II, III, and IV of the schedules provided under
32 the "New Jersey Controlled Dangerous Substances Act," P.L.1970,
33 c.226 (C.24:21-1 et seq.). Controlled dangerous substance also
34 means any substance that is listed in Schedule V under the "New
35 Jersey Controlled Dangerous Substances Act" when the director has
36 determined that reporting Schedule V substances is required by
37 federal law, regulation, or funding eligibility.

38 "Dental resident" means a person who practices dentistry as a
39 resident pursuant to R.S.45:6-20 and, pursuant to N.J.A.C.13:30-
40 1.3, is a graduate of a dental school approved by the Commission on
41 Dental Accreditation and has passed Part I and Part II of the
42 National Board Dental examination and obtained a resident permit
43 from the New Jersey Board of Dentistry.

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

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

1 "Licensed health care professional" means a registered nurse,
2 licensed practical nurse, advanced practice nurse, physician
3 assistant, or dental hygienist licensed pursuant to Title 45 of the
4 Revised Statutes.

5 "Licensed pharmacist" means a pharmacist licensed pursuant to
6 P.L.2003, c.280 (C.45:14-40 et seq.).

7 "Medical resident" means a graduate physician who is authorized
8 to practice medicine and surgery by means of a valid permit issued
9 by the State Board of Medical Examiners to a person authorized to
10 engage in the practice of medicine and surgery while in the second
11 year or beyond of a graduate medical education program pursuant to
12 N.J.A.C.13:35-1.5.

13 "Mental health practitioner" means a clinical social worker,
14 marriage and family therapist, alcohol and drug counselor,
15 professional counselor, psychologist, or psychoanalyst licensed or
16 otherwise authorized to practice pursuant to Title 45 of the Revised
17 Statutes.

18 "Pharmacy permit holder" means an individual or business entity
19 that holds a permit to operate a pharmacy practice site pursuant to
20 P.L.2003, c.280 (C.45:14-40 et seq.).

21 "Practitioner" means an individual currently licensed, registered,
22 or otherwise authorized by this State or another state to prescribe
23 drugs in the course of professional practice.

24 "Registered dental assistant" is a person who has fulfilled the
25 requirements for registration established by "The Dental Auxiliaries
26 Act," P.L.1979, c.46 (C.45:6-48 et al.) and works under the direct
27 supervision of a licensed dentist.

28 "Ultimate user" means a person who has obtained from a
29 dispenser and possesses for the person's own use, or for the use of a
30 member of the person's household or an animal owned by the
31 person or by a member of the person's household, a controlled
32 dangerous substance.

33 (cf: P.L.2015, c.74, s.2)

34
35 3. Section 26 of P.L.2007, c.244 (C.45:1-46) is amended to
36 read as follows:

37 26. Access to prescription information.

38 a. The division shall maintain procedures to ensure privacy and
39 confidentiality of patients and that patient information collected,
40 recorded, transmitted, and maintained is not disclosed, except as
41 permitted in this section, including, but not limited to, the use of a
42 password-protected system for maintaining this information and
43 permitting access thereto as authorized under sections 25 through
44 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), and a
45 requirement that a person as listed in subsection h. or i. of this
46 section provide affirmation of the person's intent to comply with the
47 provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45
48 through C.45:1-50) as a condition of accessing the information.

1 b. The prescription monitoring information submitted to the
2 division shall be confidential and not be subject to public disclosure
3 under P.L.1963, c.73 (C.47:1A-1 et seq.), or P.L.2001, c.404
4 (C.47:1A-5 et al.).

5 c. The division shall review the prescription monitoring
6 information provided by a pharmacy permit holder pursuant to
7 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
8 C.45:1-50). The review shall include, but not be limited to:

9 (1) a review to identify whether any person is obtaining a
10 prescription in a manner that may be indicative of misuse, abuse, or
11 diversion of a controlled dangerous substance. The director shall
12 establish guidelines regarding the terms "misuse," "abuse," and
13 "diversion" for the purposes of this review. When an evaluation of
14 the information indicates that a person may be obtaining a
15 prescription for the same or a similar controlled dangerous
16 substance from multiple practitioners or pharmacists during the
17 same time period, the division may provide prescription monitoring
18 information about the person to practitioners and pharmacists; and

19 (2) a review to identify whether a violation of law or regulation
20 or a breach of the applicable standards of practice by any person
21 may have occurred, including, but not limited to, diversion of a
22 controlled dangerous substance. If the division determines that
23 such a violation or breach may have occurred, the division shall
24 notify the appropriate law enforcement agency or professional
25 licensing board, and provide the prescription monitoring
26 information required for an investigation.

27 d. (Deleted by amendment, P.L.2015, c.74)

28 e. (Deleted by amendment, P.L.2015, c.74)

29 f. (Deleted by amendment, P.L.2015, c.74)

30 g. (Deleted by amendment, P.L.2015, c.74)

31 h. (1) The division shall register a practitioner to access
32 prescription monitoring information upon issuance or renewal of the
33 practitioner's CDS registration.

34 (2) The division shall provide to a pharmacist who is employed
35 by a current pharmacy permit holder online access to prescription
36 monitoring information for the purpose of providing health care to a
37 current patient or verifying information with respect to a patient or
38 a prescriber.

39 (3) The division shall provide to a practitioner who has a current
40 CDS registration online access to prescription monitoring
41 information for the purpose of providing health care to a current
42 patient or verifying information with respect to a patient or a
43 prescriber. The division shall also grant online access to
44 prescription monitoring information to as many licensed health care
45 professionals as are authorized by a practitioner to access that
46 information and for whom the practitioner is responsible for the use
47 or misuse of that information, subject to a limit on the number of
48 such health care professionals as deemed appropriate by the

1 division for that particular type and size of professional practice, in
2 order to minimize the burden to practitioners to the extent
3 practicable while protecting the confidentiality of the prescription
4 monitoring information obtained. The director shall establish, by
5 regulation, the terms and conditions under which a practitioner may
6 delegate that authorization, including procedures for authorization
7 and termination of authorization, provisions for maintaining
8 confidentiality, and such other matters as the division may deem
9 appropriate.

10 (4) The division shall provide online access to prescription
11 monitoring information to as many medical or dental residents as
12 are authorized by a faculty member of a medical or dental teaching
13 facility to access that information and for whom the practitioner is
14 responsible for the use or misuse of that information. The director
15 shall establish, by regulation, the terms and conditions under which
16 a faculty member of a medical or dental teaching facility may
17 delegate that authorization, including procedures for authorization
18 and termination of authorization, provisions for maintaining
19 confidentiality, provisions regarding the duration of a medical or
20 dental resident's authorization to access prescription monitoring
21 information, and such other matters as the division may deem
22 appropriate.

23 (5) The division shall provide online access to prescription
24 monitoring information to as many certified medical assistants as
25 are authorized by a practitioner to access that information and for
26 whom the practitioner is responsible for the use or misuse of that
27 information. The director shall establish, by regulation, the terms
28 and conditions under which a practitioner may delegate that
29 authorization, including procedures for authorization and
30 termination of authorization, provisions for maintaining
31 confidentiality, provisions regarding the duration of a certified
32 medical assistant's authorization to access prescription monitoring
33 information, and such other matters as the division may deem
34 appropriate.

35 (6) The division shall provide online access to prescription
36 monitoring information to as many registered dental assistants as
37 are authorized by a licensed dentist to access that information and
38 for whom the licensed dentist is responsible for the use or misuse of
39 that information. The director shall establish, by regulation, the
40 terms and conditions under which a licensed dentist may delegate
41 that authorization, including procedures for authorization and
42 termination of authorization, provisions for maintaining
43 confidentiality, provisions regarding the duration of a registered
44 dental assistant's authorization to access prescription monitoring
45 information, and such other matters as the division may deem
46 appropriate.

47 (7) A person listed in this subsection, as a condition of
48 accessing prescription monitoring information pursuant thereto,

1 shall certify that the request is for the purpose of providing health
2 care to a current patient or verifying information with respect to a
3 patient or practitioner. Such certification shall be furnished through
4 means of an online statement or alternate means authorized by the
5 director, in a form and manner prescribed by rule or regulation
6 adopted by the director. If the information is being accessed by an
7 authorized person using an electronic system authorized pursuant to
8 subsection q. of this section, the certification may be furnished
9 through the electronic system.

10 i. The division may provide online access to prescription
11 monitoring information, or may provide access to prescription
12 monitoring information through any other means deemed
13 appropriate by the director, to the following persons:

14 (1) authorized personnel of the division or a vendor or
15 contractor responsible for maintaining the Prescription Monitoring
16 Program;

17 (2) authorized personnel of the division responsible for
18 administration of the provisions of P.L.1970, c.226 (C.24:21-1 et
19 seq.);

20 (3) the State Medical Examiner, a county medical examiner, a
21 deputy or assistant county medical examiner, or a qualified
22 designated assistant thereof, who certifies that the request is for the
23 purpose of investigating a death pursuant to P.L.1967, c.234
24 (C.52:17B-78 et seq.);

25 (4) a controlled dangerous substance monitoring program in
26 another state with which the division has established an
27 interoperability agreement, or which participates with the division
28 in a system that facilitates the secure sharing of information
29 between states;

30 (5) a designated representative of the State Board of Medical
31 Examiners, New Jersey State Board of Dentistry, State Board of
32 Nursing, New Jersey State Board of Optometrists, State Board of
33 Pharmacy, State Board of Veterinary Medical Examiners, or any
34 other board in this State or another state that regulates the practice
35 of persons who are authorized to prescribe or dispense controlled
36 dangerous substances, as applicable, who certifies that the
37 representative is engaged in a bona fide specific investigation of a
38 designated practitioner or pharmacist whose professional practice
39 was or is regulated by that board;

40 (6) a State, federal, or municipal law enforcement officer who is
41 acting pursuant to a court order and certifies that the officer is
42 engaged in a bona fide specific investigation of a designated
43 practitioner, pharmacist, or patient. A law enforcement agency that
44 obtains prescription monitoring information shall comply with
45 security protocols established by the director by regulation;

46 (7) a designated representative of a state Medicaid or other
47 program who certifies that the representative is engaged in a bona

1 fide investigation of a designated practitioner, pharmacist, or
2 patient;

3 (8) a properly convened grand jury pursuant to a subpoena
4 properly issued for the records; and

5 (9) a licensed mental health practitioner providing treatment for
6 substance abuse to patients at a residential or outpatient substance
7 abuse treatment center licensed by the Division of Mental Health
8 and Addiction Services in the Department of Human Services, who
9 certifies that the request is for the purpose of providing health care
10 to a current patient or verifying information with respect to a patient
11 or practitioner, and who furnishes the division with the written
12 consent of the patient for the mental health practitioner to obtain
13 prescription monitoring information about the patient. The director
14 shall establish, by regulation, the terms and conditions under which
15 a mental health practitioner may request and receive prescription
16 monitoring information. Nothing in sections 25 through 30 of
17 P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed
18 to require or obligate a mental health practitioner to access or check
19 the prescription monitoring information in the course of treatment
20 beyond that which may be required as part of the mental health
21 practitioner's professional practice.

22 j. A person listed in subsection i. of this section, as a condition
23 of obtaining prescription monitoring information pursuant thereto,
24 shall certify the reasons for seeking to obtain that information.
25 Such certification shall be furnished through means of an online
26 statement or alternate means authorized by the director, in a form
27 and manner prescribed by rule or regulation adopted by the director.

28 k. The division shall offer an online tutorial for those persons
29 listed in subsections h. and i. of this section, which shall, at a
30 minimum, include: how to access prescription monitoring
31 information; the rights of persons who are the subject of this
32 information; the responsibilities of persons who access this
33 information; a summary of the other provisions of sections 25
34 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) and
35 the regulations adopted pursuant thereto, regarding the permitted
36 uses of that information and penalties for violations thereof; and a
37 summary of the requirements of the federal health privacy rule set
38 forth at 45 CFR Parts 160 and 164 and a hypertext link to the
39 federal Department of Health and Human Services website for
40 further information about the specific provisions of the privacy rule.

41 l. The division may request and receive prescription
42 monitoring information from prescription monitoring programs in
43 other states and may use that information for the purposes of
44 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
45 C.45:1-50). When sharing data with programs in another state, the
46 division shall not be required to obtain a memorandum of
47 understanding unless required by the other state.

- 1 m. The director may provide nonidentifying prescription drug
2 monitoring information to public or private entities for statistical,
3 research, or educational purposes, in accordance with the provisions
4 of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
5 C.45:1-50).
- 6 n. Nothing shall be construed to prohibit the division from
7 obtaining unsolicited automated reports from the program or
8 disseminating such reports to pharmacists, practitioners, mental
9 health care practitioners, and other licensed health care
10 professionals.
- 11 o. (1) A current patient of a practitioner may request from that
12 practitioner that patient's own prescription monitoring information
13 that has been submitted to the division pursuant to sections 25
14 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). A
15 parent or legal guardian of a child who is a current patient of a
16 practitioner may request from that practitioner the child's
17 prescription monitoring information that has been submitted to the
18 division pursuant to sections 25 through 30 of P.L.2007, c.244
19 (C.45:1-45 through C.45:1-50).
- 20 (2) Upon receipt of a request pursuant to paragraph (1) of this
21 subsection, a practitioner or health care professional authorized by
22 that practitioner may provide the current patient or parent or legal
23 guardian, as the case may be, with access to or a copy of the
24 prescription monitoring information pertaining to that patient or
25 child.
- 26 (3) The division shall establish a process by which a patient, or
27 the parent or legal guardian of a child who is a patient, may request
28 a pharmacy permit holder that submitted prescription monitoring
29 information concerning a prescription for controlled dangerous
30 substances for that patient or child to the division pursuant to
31 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
32 C.45:1-50) to correct information that the person believes to have
33 been inaccurately entered into that patient's or child's prescription
34 profile. Upon confirmation of the inaccuracy of any such entry into
35 a patient's or child's prescription profile, the pharmacy permit
36 holder shall be authorized to correct any such inaccuracies by
37 submitting corrected information to the division pursuant to
38 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
39 C.45:1-50). The process shall provide for review by the Board of
40 Pharmacy of any disputed request for correction, which
41 determination shall be appealable to the director.
- 42 p. The division shall take steps to ensure that appropriate
43 channels of communication exist to enable any licensed health care
44 professional, licensed pharmacist, mental health practitioner,
45 pharmacy permit holder, or other practitioner who has online access
46 to the Prescription Monitoring Program pursuant to this section to
47 seek or provide information to the division related to the provisions
48 of this section.

1 q. (1) The division may provide prescription monitoring
2 information to electronic systems that collect and display health
3 information, such as an electronic system that connects hospital
4 emergency departments for the purpose of transmitting and
5 obtaining patient health data from multiple sources or that notifies
6 practitioners of information pertaining to the treatment of
7 overdoses, provided the division determines that any such electronic
8 system has appropriate security protections in place.

9 (2) Practitioners who are required to access prescription
10 monitoring information pursuant to section 8 of P.L.2015, c.74
11 (C.45:1-46.1) may discharge that responsibility by accessing one or
12 more authorized electronic systems into which the prescription
13 monitoring information maintained by the division has been
14 integrated.

15 (cf: P.L.2015, c.74, s.4)

16
17 4. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read
18 as follows:

19 8. a. (1) Except as provided in subsection b. of this section, a
20 practitioner or other person who is authorized by a practitioner to
21 access prescription monitoring information pursuant to subsection
22 h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access
23 prescription monitoring information;

24 (a) the first time the practitioner or other person prescribes a
25 Schedule II controlled dangerous substance or any opioid to a new
26 patient for acute or chronic pain;

27 (b) the first time a practitioner or other person prescribes a
28 benzodiazepine drug that is a Schedule III or Schedule IV
29 controlled dangerous substance;

30 (c) if the practitioner or other person has a reasonable belief that
31 the person may be seeking a controlled dangerous substance, in
32 whole or in part, for any purpose other than the treatment of an
33 existing medical condition, such as for purposes of misuse, abuse,
34 or diversion, the first time the practitioner or other person
35 prescribes a non-opioid drug other than a benzodiazepine drug that
36 is a Schedule III or IV controlled dangerous substance; and

37 (d) any time the practitioner or other person prescribes a
38 Schedule II controlled dangerous substance to a patient receiving
39 care or treatment in the emergency department of a general hospital.

40 In addition, for any prescription of a Schedule II controlled
41 dangerous substance, any opioid, or a benzodiazepine drug that is a
42 Schedule III or IV controlled dangerous substance for a new or
43 current patient for acute or chronic pain which is written on or after
44 the effective date of **【P.L.2015, c.74 (C.45:1-46.1 et al.)】** P.L. ____,
45 c. (C.) (pending before the Legislature as this bill) a practitioner
46 or other authorized person shall access prescription monitoring
47 information on a quarterly basis during the period of time the
48 patient continues to receive such prescriptions.

1 (2) (a) A pharmacist shall not dispense a Schedule II controlled
2 dangerous substance, any opioid, or a benzodiazepine drug that is a
3 Schedule III or IV controlled dangerous substance to any person
4 without first accessing the prescription monitoring information, as
5 authorized pursuant to subsection h. of section 26 of P.L.2007,
6 c.244 (C.45:1-46), to determine if the person has received other
7 prescriptions that indicate misuse, abuse, or diversion, if the
8 pharmacist has a reasonable belief that the person may be seeking a
9 controlled dangerous substance, in whole or in part, for any purpose
10 other than the treatment of an existing medical condition, such as
11 for purposes of misuse, abuse, or diversion.

12 (b) A pharmacist shall not dispense a prescription to a person
13 other than the patient for whom the prescription is intended, unless
14 the person picking up the prescription provides personal
15 identification to the pharmacist, and the pharmacist, as required by
16 subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs
17 that identifying information into the Prescription Monitoring
18 Program if the pharmacist has a reasonable belief that the person
19 may be seeking a controlled dangerous substance, in whole or in
20 part, for any reason other than delivering the substance to the
21 patient for the treatment of an existing medical condition. The
22 provisions of this subparagraph shall not take effect until the
23 director determines that the Prescription Monitoring Program has
24 the technical capacity to accept such information.

25 b. The provisions of subsection a. of this section shall not
26 apply to:

27 (1) a veterinarian;

28 (2) a practitioner or the practitioner's agent administering
29 methadone, or another controlled dangerous substance designated
30 by the director as appropriate for treatment of a patient with a
31 substance abuse disorder, as interim treatment for a patient on a
32 waiting list for admission to an authorized substance abuse
33 treatment program;

34 (3) a practitioner administering a controlled dangerous
35 substance directly to a patient;

36 (4) a practitioner prescribing a controlled dangerous substance
37 to be dispensed by an institutional pharmacy, as defined in
38 N.J.A.C.13:39-9.2;

39 (5) **【a practitioner prescribing a controlled dangerous substance**
40 **in the emergency department of a general hospital, provided that the**
41 **quantity prescribed does not exceed a five-day supply of the**
42 **substance】** (Deleted by amendment, P.L. , c. (C.) (pending
43 before the Legislature as this bill);

44 (6) a practitioner prescribing a controlled dangerous substance
45 to a patient under the care of a hospice;

46 (7) a situation in which it is not reasonably possible for the
47 practitioner or pharmacist to access the Prescription Monitoring
48 Program in a timely manner, no other individual authorized to

1 access the Prescription Monitoring Program is reasonably available,
2 and the quantity of controlled dangerous substance prescribed or
3 dispensed does not exceed a five-day supply of the substance;

4 (8) a practitioner or pharmacist acting in compliance with
5 regulations promulgated by the director as to circumstances under
6 which consultation of the Prescription Monitoring Program would
7 result in a patient's inability to obtain a prescription in a timely
8 manner, thereby adversely impacting the medical condition of the
9 patient;

10 (9) a situation in which the Prescription Monitoring Program is
11 not operational as determined by the division or where it cannot be
12 accessed by the practitioner due to a temporary technological or
13 electrical failure, as set forth in regulation;

14 (10) a practitioner or pharmacist who has been granted a waiver
15 due to technological limitations that are not reasonably within the
16 control of the practitioner or pharmacist, or other exceptional
17 circumstances demonstrated by the practitioner or pharmacist,
18 pursuant to a process established in regulation, and in the discretion
19 of the director; or

20 (11) a practitioner who is prescribing a controlled dangerous
21 substance to a patient immediately after the patient has undergone
22 an operation **】, procedure,】** in a general hospital or a licensed
23 ambulatory care facility or treatment for acute trauma in a general
24 hospital or a licensed ambulatory care facility, so long as that
25 operation or treatment was not part of care or treatment in the
26 emergency department of a general hospital as provided in
27 subsection a. of this section, when **【less than a 30-day】** no more
28 than a five-day supply is prescribed.

29 (cf: P.L.2015, c.74, s.8)

30
31 5. Section 27 of P.L.2007, c.244 (C. 45:1-47) is amended to
32 read as follows:

33 27. Prescription Monitoring Program; provisions for expansion.

34 a. Notwithstanding the provisions of section 25 of P.L.2007,
35 c.244 (C.45:1-45) to the contrary, the director may adopt a
36 regulation to expand the program to require pharmacies to include
37 information about each prescription dispensed for a prescription
38 drug that is not a controlled dangerous substance. In determining
39 whether pharmacies should be required to submit to the program
40 information about a prescription drug other than a controlled
41 dangerous substance **【should be monitored】**, the director shall
42 consider: the actual or relative potential for abuse; scientific
43 evidence of its pharmacological effect, if known; the state of
44 current scientific knowledge regarding the drug; its history and
45 current pattern of abuse, including its use to potentiate or enhance
46 the effects of controlled dangerous substances that are subject to
47 abuse; the scope, duration and significance of abuse; what, if any,
48 risk to the public health; and its psychic or physiological

1 dependence liability. [The regulation shall provide that the
2 prescription drug shall be monitored for a period of time. At the
3 conclusion of the monitoring period, the director shall publish and
4 make public the decision of whether inclusion of the prescription
5 drug in the program shall be permanent.]

6 b. At the time the notice to expand the program pursuant to
7 subsection a. is published in the New Jersey Register, the director
8 shall provide a copy of the notice of proposed rule making to the
9 chairpersons of the standing legislative reference committees on
10 health of the Senate and General Assembly.

11 (cf: P.L.2007, c.244, s.27)

12
13 6. Section 1 of P.L.2000, c.119 (C.45:8B-24.1) is amended to
14 read as follows:

15 1. a. The State Board of Marriage and Family Therapy
16 Examiners shall require each marriage and family therapist, as a
17 condition of biennial license renewal pursuant to section 1 of
18 P.L.1972, c.108 (C.45:1-7), to complete any continuing education
19 requirements imposed by the board pursuant to this section.

20 b. The board shall:

21 (1) Promulgate rules and regulations for implementing
22 continuing education requirements as a condition of license renewal
23 for licenses issued under its jurisdiction;

24 (2) Establish standards for continuing education, including the
25 subject matter and content of courses of study, and the number and
26 type of continuing education credits required of a licensee as a
27 condition of biennial license renewal;

28 (3) Recognize the American Association for Marriage and
29 Family Therapy, the New Jersey Division of the American
30 Association for Marriage and Family Therapy and other
31 organizations as providers of continuing education, and accredit
32 educational programs, including, but not limited to, meetings of
33 constituents and components of marriage and family therapy
34 associations recognized by the board, examinations, papers,
35 publications, presentations, teaching and research appointments,
36 and shall establish procedures for the issuance of credit upon
37 satisfactory proof of the completion of these programs. In the case
38 of education courses or programs, each hour of instruction shall be
39 equivalent to one credit; and

40 (4) Approve only those continuing education programs as are
41 available to all marriage and family therapists in this State on a
42 reasonable nondiscriminatory basis.

43 c. The continuing education required pursuant to this section
44 shall include at least one credit of educational programs or topics
45 concerning prescription opioid drugs, including the risks and signs
46 of opioid abuse, addiction, and diversion.

47 (cf: P.L.2000, c.119, s.1)

1 7. Section 1 of P.L.2015, c.131 (C.45:14B-47) is amended to
2 read as follows:

3 1. a. The State Board of Psychological Examiners shall require
4 each person licensed as a practicing psychologist, as a condition for
5 biennial license renewal pursuant to section 1 of P.L.1972, c.108
6 (C.45:1-7), to complete 40 credits of continuing psychology
7 education, four credits of which shall be educational programs or
8 topics related to domestic violence.

9 b. The board shall:

10 (1) Establish standards for continuing psychology education,
11 including the nature of qualifying experience and amount of
12 applicable credits for such qualifying experience, and the subject
13 matter and content of courses of study; and

14 (2) Accredited education programs offering credit toward
15 continuing psychology education requirements or recognize
16 national or State organizations that may accredit education
17 programs.

18 c. The board may, in its discretion, waive requirements for
19 continuing education as set forth in subsection a. of this section on
20 an individual basis for reasons of hardship such as illness or
21 disability, retirement of license, or other good cause. A waiver
22 shall apply only to the current biennial renewal period at the time of
23 board issuance.

24 d. The board shall only approve programs that are provided on
25 a nondiscriminatory basis.

26 e. Prior to license renewal, each licensee shall submit to the
27 board proof of completion of the required number of hours of
28 continuing psychology education.

29 f. The continuing education required pursuant to this section
30 shall include at least one credit of educational programs or topics
31 concerning prescription opioid drugs, including the risks and signs
32 of opioid abuse, addiction, and diversion.

33 (cf: P.L.2015, c.131, s.1)
34

35 8. (New section) The State Board of Veterinary Medical
36 Examiners shall require that the number of credits of continuing
37 veterinary education required of each person licensed as a
38 veterinarian, as a condition of biennial license renewal, include at
39 least one credit of educational programs or topics concerning
40 prescription opioid drugs, including the risks and signs of opioid
41 abuse, addiction, and diversion. The continuing veterinary
42 education requirement in this section shall be subject to the
43 provisions of section 3 of P.L.2010, c.89 (C.45:16-9.4a), including,
44 but not limited to, the authority of the board to waive the provisions
45 of this section for a specific individual if the board deems it is
46 appropriate to do so.

1 9. (New section) The State Board of Medical Examiners shall
2 require that the number of credits of continuing athletic trainer
3 education required of each person licensed as an athletic trainer, as
4 a condition of biennial renewal pursuant to section 14 of P.L.1984,
5 c.203, s.14 (C.45:9-37.48), include at least one credit of educational
6 programs or topics concerning prescription opioid drugs, including
7 the risks and signs of opioid abuse, addiction, and diversion. The
8 continuing athletic trainer education requirement in this subsection
9 shall be subject to the provisions of section 6 of P.L.2010, c.94
10 (C.45:9-37.48a), including, but not limited to, the authority of the
11 board to waive the provisions of this section for a specific
12 individual if the board deems it is appropriate to do so.

13
14 10. (New section) The standards and curricula for the
15 homemaker-home health aide education and training programs
16 specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-
17 24), shall include at least one hour of educational programs or
18 topics concerning prescription opioid drugs, including the risks and
19 signs of opioid abuse, addiction, and diversion.

20
21 11. (New section) The State Board of Social Work Examiners
22 shall require that the number of credits of continuing education
23 required of each person licensed or certified by the board as a
24 condition of renewal include at least one credit of educational
25 programs or topics concerning prescription opioid drugs, including
26 the risks and signs of opioid abuse, addiction, and diversion.

27
28 12. (New section) The Professional Counselor Examiners
29 Committee shall require that the number of credits of continuing
30 education required of each person licensed by the board as a
31 condition of renewal include at least one credit of educational
32 programs or topics concerning prescription opioid drugs, including
33 the risks and signs of opioid abuse, addiction, and diversion.

34
35 13. (New Section) a. Notwithstanding any other provision of
36 law to the contrary, a physician assistant who is otherwise
37 authorized to order, prescribe, and dispense controlled dangerous
38 substances pursuant to P.L.1991, c.c.378 (C.45:9-27.10 et seq.) may
39 dispense narcotic drugs for maintenance treatment or detoxification
40 treatment if the physician assistant has met the training and
41 registration requirements set forth in subsection (g) of 21 U.S.C.
42 s.823. A physician assistant who is authorized to dispense such
43 drugs may do so regardless of whether the physician assistant's
44 supervising physician has met the training and registration
45 requirements set forth in subsection (g) of 21 U.S.C. s.823,
46 provided that the written delegation agreement between the
47 supervising physician and the physician assistant executed pursuant
48 to subsection d. of section 8 of P.L.1991, c.378 (C.45:9-27.17)

1 included the supervising physician's written approval for the
2 physician assistant to dispense the drugs.

3 b. Notwithstanding any other provision of law to the contrary,
4 a physician assistant under the direct supervision of a licensed
5 physician may make the determination as to the medical necessity
6 for services for the treatment of substance use disorder, as provided
7 in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such
8 services.

9
10 14. (New Section) a. Notwithstanding any other provision of
11 law to the contrary, an advanced practice nurse may dispense
12 narcotic drugs for maintenance treatment or detoxification treatment
13 if the advanced practice nurse has met the training and registration
14 requirements set forth in subsection (g) of 21 U.S.C. s.823. An
15 advanced practice nurse who is authorized to dispense such drugs
16 may do so regardless of whether the advanced practice nurse's
17 collaborating physician has met the training and registration
18 requirements set forth in subsection (g) of 21 U.S.C. s.823,
19 provided that the joint protocol established by the advanced practice
20 nurse and the collaborating physician include the collaborating
21 physician's written approval for the advanced practice nurse to
22 dispense the drugs.

23 b. Notwithstanding any other provision of law to the contrary,
24 an advanced practice nurse, under the joint protocol established by
25 the advanced practice nurse and the collaborating physician, may
26 make the determination as to the medical necessity for services for
27 the treatment of substance use disorder, as provided in P.L.2017,
28 c.28 (C.17:48-6nn et al.), and may prescribe such services.

29
30 15. The act shall take effect on the 90th day after enactment.

31 32 33 STATEMENT

34
35 This bill makes various revisions to the law to address the opioid
36 crisis.

37 First, the bill revises P.L.2017, c.28 to provide that a practitioner
38 must enter into a pain management agreement with a patient prior to
39 the commencement of an ongoing course of treatment for chronic
40 pain with a Schedule II controlled dangerous substance or any
41 opioid, instead of upon issuing the third prescription. The bill also
42 adds a definition of "chronic pain," which means pain that persists
43 for three or more consecutive months and after reasonable medical
44 efforts have been made to relieve the pain or its causes, it continues,
45 either continuously or episodically. The bill also clarifies, for the
46 purposes of that law, that when determining whether a patient was
47 previously issued a prescription for opioids, that determination is to

1 also include whether the patient also used or was administered a
2 drug or its pharmaceutical equivalent.

3 Current law also requires certain health care professionals to
4 receive training on topics related to prescription opioid drugs.
5 Health care professionals who have the authority to prescribe opioid
6 medications, including physicians, physician assistants, dentists,
7 and optometrists (who have limited authority to prescribe only
8 hydrocodone), are required to complete one continuing education
9 credit on topics that include responsible prescribing practices,
10 alternatives to opioids for managing and treating pain, and the risks
11 and signs of opioid abuse, addiction, and diversion. This bill adds a
12 similar continuing education requirement for veterinarians. Health
13 care professionals who do not have prescribing authority but who
14 frequently interact with patients who may be prescribed opioids,
15 including pharmacists, professional nurses, and practical nurses, are
16 required to complete one continuing education credit on topics that
17 include alternatives to opioids for managing and treating pain and
18 the risks and signs of opioid abuse, addiction, and diversion. This
19 bill adds a similar education or training requirements for marriage
20 and family therapists, psychologists, athletic trainers, homemaker-
21 home health aides, professionals licensed or certified by the State
22 Board of Social Work Examiners, and professional counselors. The
23 continuing education credits required under the bill will be part of a
24 professional's regular continuing education credits and will not
25 increase the total number of continuing education credits required.

26 This bill also revises various statutory provisions related to the
27 Prescription Monitoring Program (PMP), which was established in
28 the Division of Consumer Affairs in the Department of Law and
29 Public Safety pursuant to P.L.2007, c.244 (C.45:1-45 et seq.). The
30 PMP is an electronic system for monitoring controlled dangerous
31 substances dispensed in or into the State in outpatient settings. For
32 the purposes of the PMP, the bill revises the definition of a
33 "certified medical assistant." The bill changes the required
34 minimum clock hours of instruction for certified medical assistants
35 from 600 hours to 330 hours.

36 The bill provides that the Division of Consumer Affairs may
37 provide prescription monitoring information to electronic systems
38 that collect and display health information, such as an electronic
39 system that connects hospital emergency departments for the
40 purpose of transmitting and obtaining patient health data from
41 multiple sources or that notifies practitioners of information
42 pertaining to the treatment of overdoses, provided that the division
43 determines the system has appropriate security protections in place.
44 An electronic system that is approved by the division to integrate
45 prescription monitoring information may be used by prescribers in
46 hospital emergency departments required to access prescription
47 monitoring information under the bill, as well as other practitioners
48 required to check prescription monitoring information when issuing

1 certain prescriptions, to perform such checks. The system may
2 further be used to provide certifications that prescription monitoring
3 information is being accessed for an authorized purpose.

4 Additionally, the bill adds to the circumstances under which a
5 practitioner or other authorized person is required to access
6 prescription monitoring information. In addition to the first time the
7 practitioner or other person prescribes a Schedule II controlled
8 dangerous substance to a new patient for acute or chronic pain, it
9 would be required:

10 (1) the first time a practitioner or other person prescribes a
11 benzodiazepine drug that is a Schedule III or Schedule IV
12 controlled dangerous substance;

13 (2) if the practitioner or other person has a reasonable belief that
14 the person may be seeking a controlled dangerous substance, in
15 whole or in part, for any purpose other than the treatment of an
16 existing medical condition, such as for purposes of misuse, abuse,
17 or diversion, the first time the practitioner or other person
18 prescribes a non-opioid drug other than a benzodiazepine drug that
19 is a Schedule III or IV controlled dangerous substance; and

20 (3) any time the practitioner or other person prescribes a
21 Schedule II controlled dangerous substance to a patient receiving
22 care or treatment in the emergency department of a general hospital.

23 In addition to the current exclusions from this requirement to
24 access the prescription monitoring information, the bill adds an
25 exclusion for a practitioner who is prescribing a controlled
26 dangerous substance to a patient immediately after the patient has
27 undergone an operation in a general hospital or a licensed
28 ambulatory care facility or treatment for acute trauma in a general
29 hospital or a licensed ambulatory care facility, so long as that
30 operation or treatment was not part of care or treatment in the
31 emergency department of a general hospital, no more than a five-
32 day supply is prescribed.

33 The bill also clarifies that the director may adopt a regulation to
34 expand the program to require pharmacies to include information
35 about each prescription dispensed for a prescription drug that is not
36 a controlled dangerous substance.

37 Finally, the bill permits a physician assistant or an advanced
38 practice nurse to, under certain circumstances, dispense narcotic
39 drugs for maintenance treatment or detoxification treatment. The
40 bill also provides that a physician assistant or advanced practice
41 nurse, under certain circumstances, may make the determination as
42 to the medical necessity for services for the treatment of substance
43 use disorder, as provided in P.L.2017, c.28 (C.17:48-6nn et al.), and
44 may prescribe such services.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 3604

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2017

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3604.

As amended by the committee, this bill makes various revisions to the law to address the opioid crisis.

First, the bill revises P.L.2017, c.28 to provide that a practitioner must enter into a pain management agreement with a patient prior to the commencement of an ongoing course of treatment for chronic pain with a Schedule II controlled dangerous substance or any opioid, instead of upon issuing the third prescription. The bill also adds a definition of “chronic pain,” which means pain that persists for three or more consecutive months and after reasonable medical efforts have been made to relieve the pain or its causes, it continues, either continuously or episodically. The bill also clarifies, for the purposes of that law, that when determining whether a patient was previously issued a prescription for opioids, that determination is to also include whether the patient also used or was administered a drug or its pharmaceutical equivalent.

Current law requires certain health care professionals to receive training on topics related to prescription opioid drugs. Health care professionals who have the authority to prescribe opioid medications, including physicians, physician assistants, dentists, and optometrists (who have limited authority to prescribe only hydrocodone), are required to complete one continuing education credit on topics that include responsible prescribing practices, alternatives to opioids for managing and treating pain, and the risks and signs of opioid abuse, addiction, and diversion. This bill adds a similar continuing education requirement for veterinarians. Health care professionals who do not have prescribing authority but who frequently interact with patients who may be prescribed opioids, including pharmacists, professional nurses, and practical nurses, are also required by existing law to complete one continuing education credit on topics that include alternatives to opioids for managing and treating pain and the risks and signs of opioid abuse, addiction, and diversion. This bill adds a

similar education or training requirements for marriage and family therapists, psychologists, athletic trainers, homemaker-home health aides, professionals licensed or certified by the State Board of Social Work Examiners, and professional counselors. The continuing education credits required under the bill will be part of a professional's regular continuing education credits and will not increase the total number of continuing education credits required.

This bill also revises various statutory provisions related to the Prescription Monitoring Program (PMP), which was established in the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to P.L.2007, c.244 (C.45:1-45 et seq.). The PMP is an electronic system for monitoring controlled dangerous substances dispensed in or into the State in outpatient settings. For the purposes of the PMP, the bill revises the definition of a "certified medical assistant," and changes the required minimum clock hours of instruction required for certified medical assistants from 600 hours to 330 hours. The bill also adds two new definitions of "licensed athletic trainer" and "medical scribe," and it authorizes such actors to access prescription monitoring information under the authorization and responsibility of a medical practitioner.

The bill provides that the Division of Consumer Affairs may make prescription monitoring information available on electronic systems that collect and display health information, such as an electronic system that connects hospital emergency departments for the purpose of transmitting and obtaining patient health data from multiple sources, or an electronic system that notifies practitioners of information pertaining to the treatment of overdoses, provided that the division determines the system has appropriate security protections in place. An electronic system that is approved by the division to integrate prescription monitoring information may be used by prescribers in hospital emergency departments who are required to access prescription monitoring information under the bill, as well as by other practitioners who are required to check prescription monitoring information when issuing certain prescriptions. The system may further be used to provide certifications that prescription monitoring information is being accessed for an authorized purpose.

Additionally, the bill adds to the circumstances under which a practitioner or other authorized person is required to access prescription monitoring information. In addition to the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance to a new patient for acute or chronic pain, it would be required to check prescription monitoring information:

(1) the first time a practitioner or other person prescribes a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance;

(2) the first time the practitioner or other person prescribes a non-opioid drug other than a benzodiazepine drug that is a Schedule III or

IV controlled dangerous substance, but only if the practitioner or other person has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion; and

(3) on or after the date that the division first makes prescription monitoring information available on an electronic system that collects and displays health information, any time a practitioner or other person prescribes a Schedule II controlled dangerous substance to a patient receiving care or treatment in the emergency department of a general hospital.

Current law provides certain exemptions from PMP monitoring requirements. The bill adds an exemption for a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation in a general hospital or a licensed ambulatory care facility or treatment for acute trauma in a general hospital or a licensed ambulatory care facility, so long as that operation or treatment was not part of care or treatment in the emergency department of a general hospital, no more than a five-day supply is prescribed.

The bill also clarifies that the director may adopt a regulation to expand the program to require pharmacies to include information about each prescription dispensed for a prescription drug that is not a controlled dangerous substance.

Finally, the bill permits a physician assistant or an advanced practice nurse to, under certain circumstances, dispense narcotic drugs for maintenance treatment or detoxification treatment. The bill also provides that a physician assistant or advanced practice nurse, under certain circumstances, may make the determination as to the medical necessity for services for the treatment of substance use disorder, as provided in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such services.

The committee amended the bill to:

- add new definitions of “licensed athletic trainer” and “medical scribe” in the PMP law, and authorize such actors to access prescription monitoring information under the authorization and responsibility of a medical practitioner;
- delay the implementation of the provision that requires a practitioner or other authorized person to access the PMP whenever the practitioner or other person prescribes a Schedule II controlled dangerous substance to a patient receiving care or treatment in the emergency department of a general hospital. Specifically, the amendments provide that this provision will remain inoperable, and that emergency department practitioners will remain exempt from the requirement, as provided by existing law, until such time as the division makes prescription monitoring information available on an electronic system that collects and displays health information;

- clarify that the remaining portions of the bill will take effect immediately; and
- make technical changes to improve grammar and punctuation.

STATEMENT TO

[First Reprint]

SENATE, No. 3604

with Assembly Floor Amendments
(Proposed by Assemblyman CONAWAY)

ADOPTED: JANUARY 8, 2018

These Assembly floor amendments revise the definition of “chronic pain” to mean “pain that persists or recurs for more than three months.

The Assembly floor amendments remove a requirement that would have required the education and training programs that certified homemaker-home health aides are required to complete as a condition of initial certification to include at least one hour of educational programs or topics concerning prescription opioid drugs, including the risks and signs of opioid abuse, addiction, and diversion.

ASSEMBLY, No. 5242

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED DECEMBER 4, 2017

Sponsored by:
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)

SYNOPSIS

Concerns regulation and prescribing of certain schedule II controlled dangerous substances and opioids.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning opioid drugs, amending various parts of the
2 statutory law and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 11 of P.L.2017, c.28 (C.24:21-15.2) is amended to
8 read as follows:

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

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

20 (1) take and document the results of a thorough medical history,
21 including the patient's experience with non-opioid medication and
22 non-pharmacological pain management approaches and substance
23 abuse history;

24 (2) conduct, as appropriate, and document the results of a
25 physical examination;

26 (3) develop a treatment plan, with particular attention focused
27 on determining the cause of the patient's pain;

28 (4) access relevant prescription monitoring information under
29 the Prescription Monitoring Program pursuant to section 8 of
30 P.L.2015, c.74 (C. 45:1-46.1); and

31 (5) limit the supply of any opioid drug prescribed for acute pain
32 to a duration of no more than five days as determined by the
33 directed dosage and frequency of dosage.

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

39 (1) the subsequent prescription would not be deemed an initial
40 prescription under this section;

41 (2) the practitioner determines the prescription is necessary and
42 appropriate to the patient's treatment needs and documents the
43 rationale for the issuance of the subsequent prescription; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) the practitioner determines that issuance of the subsequent
2 prescription does not present an undue risk of abuse, addiction, or
3 diversion and documents that determination.

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

14 (1) the risks of addiction and overdose associated with opioid
15 drugs and the dangers of taking opioid drugs with alcohol,
16 benzodiazepines and other central nervous system depressants;

17 (2) the reasons why the prescription is necessary;

18 (3) alternative treatments that may be available; and

19 (4) risks associated with the use of the drugs being prescribed,
20 specifically that opioids are highly addictive, even when taken as
21 prescribed, that there is a risk of developing a physical or
22 psychological dependence on the controlled dangerous substance,
23 and that the risks of taking more opioids than prescribed, or mixing
24 sedatives, benzodiazepines or alcohol with opioids, can result in
25 fatal respiratory depression.

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

34 e. **【At the time of the issuance of the third prescription for a**
35 **prescription】** Prior to the commencement of an ongoing course of
36 treatment for chronic pain with a Schedule II controlled dangerous
37 substance or any opioid 【drug】, the practitioner shall enter into a
38 pain management agreement with the patient.

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

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

46 (2) assess the patient prior to every renewal to determine
47 whether the patient is experiencing problems associated with

1 physical and psychological dependence and document the results of
2 that assessment;

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

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

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

13 g. As used in this section:

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

20 "Chronic pain" means pain that persists for three or more
21 consecutive months and after reasonable medical efforts have been
22 made to relieve the pain or its causes, it continues, either
23 continuously or episodically.

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

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

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

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

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

44 (1) prevent the possible development of physical or
45 psychological dependence in the patient;

46 (2) document the understanding of both the practitioner and the
47 patient regarding the patient's pain management plan;

1 (3) establish the patient's rights in association with treatment,
2 and the patient's obligations in relation to the responsible use,
3 discontinuation of use, and storage of Schedule II controlled
4 dangerous substances, including any restrictions on the refill of
5 prescriptions or the acceptance of Schedule II prescriptions from
6 practitioners;

7 (4) identify the specific medications and other modes of
8 treatment, including physical therapy or exercise, relaxation, or
9 psychological counseling, that are included as a part of the pain
10 management plan;

11 (5) specify the measures the practitioner may employ to monitor
12 the patient's compliance, including but not limited to random
13 specimen screens and pill counts; and

14 (6) delineate the process for terminating the agreement,
15 including the consequences if the practitioner has reason to believe
16 that the patient is not complying with the terms of the agreement.

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

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

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

38 (1) proportional between the cost sharing for a 30-day supply
39 and the amount of drugs the patient was prescribed; or

40 (2) equivalent to the cost sharing for a full 30-day supply of the
41 opioid drug, provided that no additional cost sharing may be
42 charged for any additional prescriptions for the remainder of the 30-
43 day supply.

44 (cf: P.L.2017, c.28, s.11)

45

46 2. Section 24 of P.L.2007, c.244 (C.45:1-44) is amended to read
47 as follows:

24. Definitions. As used in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50):

"CDS registration" means registration with the Division of Consumer Affairs to manufacture, distribute, dispense, or conduct research with controlled dangerous substances issued pursuant to section 11 of P.L.1970, c.226 (C.24:21-11).

"Certified medical assistant" means a person who is a graduate of a post-secondary medical assisting educational program accredited by the **Commission** on Allied Health Education and Accreditation (CAHEA), or its successor, the Accrediting Bureau of Health Education Schools (ABHES), or its successor, or any accrediting agency recognized by the U.S. Department of Education, which educational program includes, at a minimum, **330** clock hours of instruction, and encompasses training in the administration of intramuscular and subcutaneous injections, as well as instruction and demonstration in: pertinent anatomy and physiology appropriate to injection procedures; choice of equipment; proper technique, including sterile technique; hazards and complications; and emergency procedures; and who maintains current certification or registration, as appropriate, from the Certifying Board of the American Association of Medical Assistants (AAMA), the National Center for Competency Testing (NCCT), the National Healthcareer Association (NHA), the American Medical Certification Association (AMCA), the National Association for Health Professionals (NAHP), the National Certification Medical Association (NCMA), the American Medical Technologists (AMT), or any other recognized certifying body approved by the State Board of Medical Examiners.

"Controlled dangerous substance" means any substance that is listed in Schedules II, III, and IV of the schedules provided under the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.). Controlled dangerous substance also means any substance that is listed in Schedule V under the "New Jersey Controlled Dangerous Substances Act" when the director has determined that reporting Schedule V substances is required by federal law, regulation, or funding eligibility.

"Dental resident" means a person who practices dentistry as a resident pursuant to R.S.45:6-20 and, pursuant to N.J.A.C.13:30-1.3, is a graduate of a dental school approved by the Commission on Dental Accreditation and has passed Part I and Part II of the National Board Dental examination and obtained a resident permit from the New Jersey Board of Dentistry.

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

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

1 "Licensed health care professional" means a registered nurse,
2 licensed practical nurse, advanced practice nurse, physician
3 assistant, or dental hygienist licensed pursuant to Title 45 of the
4 Revised Statutes.

5 "Licensed pharmacist" means a pharmacist licensed pursuant to
6 P.L.2003, c.280 (C.45:14-40 et seq.).

7 "Medical resident" means a graduate physician who is authorized
8 to practice medicine and surgery by means of a valid permit issued
9 by the State Board of Medical Examiners to a person authorized to
10 engage in the practice of medicine and surgery while in the second
11 year or beyond of a graduate medical education program pursuant to
12 N.J.A.C.13:35-1.5.

13 "Mental health practitioner" means a clinical social worker,
14 marriage and family therapist, alcohol and drug counselor,
15 professional counselor, psychologist, or psychoanalyst licensed or
16 otherwise authorized to practice pursuant to Title 45 of the Revised
17 Statutes.

18 "Pharmacy permit holder" means an individual or business entity
19 that holds a permit to operate a pharmacy practice site pursuant to
20 P.L.2003, c.280 (C.45:14-40 et seq.).

21 "Practitioner" means an individual currently licensed, registered,
22 or otherwise authorized by this State or another state to prescribe
23 drugs in the course of professional practice.

24 "Registered dental assistant" is a person who has fulfilled the
25 requirements for registration established by "The Dental Auxiliaries
26 Act," P.L.1979, c.46 (C.45:6-48 et al.) and works under the direct
27 supervision of a licensed dentist.

28 "Ultimate user" means a person who has obtained from a
29 dispenser and possesses for the person's own use, or for the use of a
30 member of the person's household or an animal owned by the
31 person or by a member of the person's household, a controlled
32 dangerous substance.

33 (cf: P.L.2015, c.74, s.2)

34
35 3. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read
36 as follows:

37 8. a. (1) Except as provided in subsection b. of this section, a
38 practitioner or other person who is authorized by a practitioner to
39 access prescription monitoring information pursuant to subsection
40 h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access
41 prescription monitoring information the first time the practitioner or
42 other person prescribes a Schedule II controlled dangerous
43 substance to a new patient for acute or chronic pain and any time
44 the practitioner or other person prescribes a Schedule II controlled
45 dangerous substance to a patient receiving care or treatment in the
46 emergency department of a general hospital. In addition, for any
47 prescription of a Schedule II controlled dangerous substance for a
48 new or current patient for acute or chronic pain which is written on

1 or after the effective date of P.L.2015, c.74 (C.45:1-46.1 et al.) a
2 practitioner or other authorized person shall access prescription
3 monitoring information on a quarterly basis during the period of
4 time the patient continues to receive such prescriptions.

5 (2) (a) A pharmacist shall not dispense a Schedule II controlled
6 dangerous substance to any person without first accessing the
7 prescription monitoring information, as authorized pursuant to
8 subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to
9 determine if the person has received other prescriptions that
10 indicate misuse, abuse, or diversion, if the pharmacist has a
11 reasonable belief that the person may be seeking a controlled
12 dangerous substance, in whole or in part, for any purpose other than
13 the treatment of an existing medical condition, such as for purposes
14 of misuse, abuse, or diversion.

15 (b) A pharmacist shall not dispense a prescription to a person
16 other than the patient for whom the prescription is intended, unless
17 the person picking up the prescription provides personal
18 identification to the pharmacist, and the pharmacist, as required by
19 subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs
20 that identifying information into the Prescription Monitoring
21 Program if the pharmacist has a reasonable belief that the person
22 may be seeking a controlled dangerous substance, in whole or in
23 part, for any reason other than delivering the substance to the
24 patient for the treatment of an existing medical condition. The
25 provisions of this subparagraph shall not take effect until the
26 director determines that the Prescription Monitoring Program has
27 the technical capacity to accept such information.

28 b. The provisions of subsection a. of this section shall not
29 apply to:

30 (1) a veterinarian;

31 (2) a practitioner or the practitioner's agent administering
32 methadone, or another controlled dangerous substance designated
33 by the director as appropriate for treatment of a patient with a
34 substance abuse disorder, as interim treatment for a patient on a
35 waiting list for admission to an authorized substance abuse
36 treatment program;

37 (3) a practitioner administering a controlled dangerous
38 substance directly to a patient;

39 (4) a practitioner prescribing a controlled dangerous substance
40 to be dispensed by an institutional pharmacy, as defined in
41 N.J.A.C.13:39-9.2;

42 (5) **【a practitioner prescribing a controlled dangerous substance**
43 **in the emergency department of a general hospital, provided that the**
44 **quantity prescribed does not exceed a five-day supply of the**
45 **substance】** (Deleted by amendment, P.L. , c.) (pending before
46 the Legislature as this bill);

47 (6) a practitioner prescribing a controlled dangerous substance
48 to a patient under the care of a hospice;

(7) a situation in which it is not reasonably possible for the practitioner or pharmacist to access the Prescription Monitoring Program in a timely manner, no other individual authorized to access the Prescription Monitoring Program is reasonably available, and the quantity of controlled dangerous substance prescribed or dispensed does not exceed a five-day supply of the substance;

(8) a practitioner or pharmacist acting in compliance with regulations promulgated by the director as to circumstances under which consultation of the Prescription Monitoring Program would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of the patient;

(9) a situation in which the Prescription Monitoring Program is not operational as determined by the division or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation;

(10) a practitioner or pharmacist who has been granted a waiver due to technological limitations that are not reasonably within the control of the practitioner or pharmacist, or other exceptional circumstances demonstrated by the practitioner or pharmacist, pursuant to a process established in regulation, and in the discretion of the director; or

(11) a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation **【, procedure,】** in a general hospital or a licensed ambulatory care facility or treatment for acute trauma in a general hospital or a licensed ambulatory care facility, so long as that operation or treatment was not part of care or treatment in the emergency department of a general hospital as provided in subsection a. of this section, when **【less than a 30-day】** no more than a five-day supply is prescribed.

(cf: P.L.2015, c.74, s.8)

4. Section 27 of P.L.2007, c.244 (C. 45:1-47) is amended to read as follows:

27. Prescription Monitoring Program; provisions for expansion.

a. Notwithstanding the provisions of section 25 of P.L.2007, c.244 (C.45:1-45) to the contrary, the director may adopt a regulation to expand the program to require pharmacies to include information about each prescription dispensed for a prescription drug that is not a controlled dangerous substance. In determining whether pharmacies should be required to submit to the program information about a prescription drug other than a controlled dangerous substance **【should be monitored】**, the director shall consider: the actual or relative potential for abuse; scientific evidence of its pharmacological effect, if known; the state of current scientific knowledge regarding the drug; its history and current pattern of abuse, including its use to potentiate or enhance

1 the effects of controlled dangerous substances that are subject to
2 abuse; the scope, duration and significance of abuse; what, if any,
3 risk to the public health; and its psychic or physiological
4 dependence liability. **【The regulation shall provide that the**
5 **prescription drug shall be monitored for a period of time. At the**
6 **conclusion of the monitoring period, the director shall publish and**
7 **make public the decision of whether inclusion of the prescription**
8 **drug in the program shall be permanent.】**

9 b. At the time the notice to expand the program pursuant to
10 subsection a. is published in the New Jersey Register, the director
11 shall provide a copy of the notice of proposed rule making to the
12 chairpersons of the standing legislative reference committees on
13 health of the Senate and General Assembly.
14 (cf: P.L.2007, c.244, s.27)

15
16 5. Section 1 of P.L.2000, c.119 (C.45:8B-24.1) is amended to
17 read as follows:

18 1. a. The State Board of Marriage and Family Therapy
19 Examiners shall require each marriage and family therapist, as a
20 condition of biennial license renewal pursuant to section 1 of
21 P.L.1972, c.108 (C.45:1-7), to complete any continuing education
22 requirements imposed by the board pursuant to this section.

23 b. The board shall:

24 (1) Promulgate rules and regulations for implementing
25 continuing education requirements as a condition of license renewal
26 for licenses issued under its jurisdiction;

27 (2) Establish standards for continuing education, including the
28 subject matter and content of courses of study, and the number and
29 type of continuing education credits required of a licensee as a
30 condition of biennial license renewal;

31 (3) Recognize the American Association for Marriage and
32 Family Therapy, the New Jersey Division of the American
33 Association for Marriage and Family Therapy and other
34 organizations as providers of continuing education, and accredit
35 educational programs, including, but not limited to, meetings of
36 constituents and components of marriage and family therapy
37 associations recognized by the board, examinations, papers,
38 publications, presentations, teaching and research appointments,
39 and shall establish procedures for the issuance of credit upon
40 satisfactory proof of the completion of these programs. In the case
41 of education courses or programs, each hour of instruction shall be
42 equivalent to one credit; and

43 (4) Approve only those continuing education programs as are
44 available to all marriage and family therapists in this State on a
45 reasonable nondiscriminatory basis.

46 c. The continuing education required pursuant to this section
47 shall include at least one credit of educational programs or topics

1 concerning prescription opioid drugs, including the risks and signs
2 of opioid abuse, addiction, and diversion.

3 (cf: P.L.2000, c.119, s.1)
4

5 6. Section 1 of P.L.2015, c.131 (C.45:14B-47) is amended to
6 read as follows:

7 1. a. The State Board of Psychological Examiners shall require
8 each person licensed as a practicing psychologist, as a condition for
9 biennial license renewal pursuant to section 1 of P.L.1972, c.108
10 (C.45:1-7), to complete 40 credits of continuing psychology
11 education, four credits of which shall be educational programs or
12 topics related to domestic violence.

13 b. The board shall:

14 (1) Establish standards for continuing psychology education,
15 including the nature of qualifying experience and amount of
16 applicable credits for such qualifying experience, and the subject
17 matter and content of courses of study; and

18 (2) Accredited education programs offering credit toward
19 continuing psychology education requirements or recognize
20 national or State organizations that may accredit education
21 programs.

22 c. The board may, in its discretion, waive requirements for
23 continuing education as set forth in subsection a. of this section on
24 an individual basis for reasons of hardship such as illness or
25 disability, retirement of license, or other good cause. A waiver
26 shall apply only to the current biennial renewal period at the time of
27 board issuance.

28 d. The board shall only approve programs that are provided on
29 a nondiscriminatory basis.

30 e. Prior to license renewal, each licensee shall submit to the
31 board proof of completion of the required number of hours of
32 continuing psychology education.

33 f. The continuing education required pursuant to this section
34 shall include at least one credit of educational programs or topics
35 concerning prescription opioid drugs, including the risks and signs
36 of opioid abuse, addiction, and diversion.

37 (cf: P.L.2015, c.131, s.1)
38

39 7. (New section) The State Board of Veterinary Medical
40 Examiners shall require that the number of credits of continuing
41 veterinary education required of each person licensed as a
42 veterinarian, as a condition of biennial license renewal, include at
43 least one credit of educational programs or topics concerning
44 prescription opioid drugs, including the risks and signs of opioid
45 abuse, addiction, and diversion. The continuing veterinary
46 education requirement in this section shall be subject to the
47 provisions of section 3 of P.L.2010, c.89 (C.45:16-9.4a), including,
48 but not limited to, the authority of the board to waive the provisions

1 of this section for a specific individual if the board deems it is
2 appropriate to do so.

3
4 8. (New section) The State Board of Medical Examiners shall
5 require that the number of credits of continuing athletic trainer
6 education required of each person licensed as an athletic trainer, as
7 a condition of biennial renewal pursuant to section 14 of P.L.1984,
8 c.203, s.14 (C.45:9-37.48), include at least one credit of educational
9 programs or topics concerning prescription opioid drugs, including
10 the risks and signs of opioid abuse, addiction, and diversion. The
11 continuing athletic trainer education requirement in this subsection
12 shall be subject to the provisions of section 6 of P.L.2010, c.94
13 (C.45:9-37.48a), including, but not limited to, the authority of the
14 board to waive the provisions of this section for a specific
15 individual if the board deems it is appropriate to do so.

16
17 9. (New section) The standards and curricula for the
18 homemaker-home health aide education and training programs
19 specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-
20 24), shall include at least one hour of educational programs or
21 topics concerning prescription opioid drugs, including the risks and
22 signs of opioid abuse, addiction, and diversion.

23
24 10. (New section) The State Board of Social Work Examiners
25 shall require that the number of credits of continuing education
26 required of each person licensed or certified by the board as a
27 condition of renewal include at least one credit of educational
28 programs or topics concerning prescription opioid drugs, including
29 the risks and signs of opioid abuse, addiction, and diversion.

30
31 11. (New section) The Professional Counselor Examiners
32 Committee shall require that the number of credits of continuing
33 education required of each person licensed by the board as a
34 condition of renewal include at least one credit of educational
35 programs or topics concerning prescription opioid drugs, including
36 the risks and signs of opioid abuse, addiction, and diversion.

37
38 12. (New Section) a. Notwithstanding any other provision of
39 law to the contrary, a physician assistant who is otherwise
40 authorized to order, prescribe, and dispense controlled dangerous
41 substances pursuant to P.L.1991, c.c.378 (C.45:9-27.10 et seq.) may
42 dispense narcotic drugs for maintenance treatment or detoxification
43 treatment if the physician assistant has met the training and
44 registration requirements set forth in subsection (g) of 21 U.S.C.
45 s.823. A physician assistant who is authorized to dispense such
46 drugs may do so regardless of whether the physician assistant's
47 supervising physician has met the training and registration
48 requirements set forth in subsection (g) of 21 U.S.C. s.823,

1 provided that the written delegation agreement between the
2 supervising physician and the physician assistant executed pursuant
3 to subsection d. of section 8 of P.L.1991, c.378 (C.45:9-27.17)
4 included the supervising physician's written approval for the
5 physician assistant to dispense the drugs.

6 b. Notwithstanding any other provision of law to the contrary, a
7 physician assistant under the direct supervision of a licensed
8 physician may make the determination as to the medical necessity
9 for services for the treatment of substance use disorder, as provided
10 in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such
11 services.

12
13 13. (New Section) a. Notwithstanding any other provision of
14 law to the contrary, an advanced practice nurse may dispense
15 narcotic drugs for maintenance treatment or detoxification treatment
16 if the advanced practice nurse has met the training and registration
17 requirements set forth in subsection (g) of 21 U.S.C. s.823. An
18 advanced practice nurse who is authorized to dispense such drugs
19 may do so regardless of whether the advanced practice nurse's
20 collaborating physician has met the training and registration
21 requirements set forth in subsection (g) of 21 U.S.C. s.823,
22 provided that the joint protocol established by the advanced practice
23 nurse and the collaborating physician include the collaborating
24 physician's written approval for the advanced practice nurse to
25 dispense the drugs.

26 b. Notwithstanding any other provision of law to the contrary,
27 an advanced practice nurse, under the joint protocol established by
28 the advanced practice nurse and the collaborating physician, may
29 make the determination as to the medical necessity for services for
30 the treatment of substance use disorder, as provided in P.L.2017,
31 c.28 (C.17:48-6nn et al.), and may prescribe such services.

32
33 14. The act shall take effect on the 90th day after enactment.
34
35

36 STATEMENT

37
38 This bill makes various revisions to the law to address the opioid
39 crisis.

40 First, the bill, revises P.L.2017, c.28 to provide that a
41 practitioner must enter into a pain management agreement with a
42 patient, instead of upon issuing the third prescription, prior to the
43 commencement of an ongoing course of treatment for chronic pain
44 with a Schedule II controlled dangerous substance or any opioid.
45 The bill also adds a definition of "chronic pain," which means pain
46 that persists for three or more consecutive months and after
47 reasonable medical efforts have been made to relieve the pain or its
48 causes, it continues, either continuously or episodically. The bill

1 also clarifies, for the purposes of that law, that when determining
2 whether a patient was previously issued a prescription for opioids,
3 that determination is to also include whether the patient also used or
4 was administered a drug or its pharmaceutical equivalent.

5 Current law also requires certain health care professionals to
6 receive training on topics related to prescription opioid drugs.
7 Health care professionals who have the authority to prescribe opioid
8 medications, including physicians, physician assistants, dentists,
9 and optometrists (who have limited authority to prescribe only
10 hydrocodone), are required to complete one continuing education
11 credit on topics that include responsible prescribing practices,
12 alternatives to opioids for managing and treating pain, and the risks
13 and signs of opioid abuse, addiction, and diversion. Health care
14 professionals who do not have prescribing authority but who
15 frequently interact with patients who may be prescribed opioids,
16 including pharmacists, professional nurses, and practical nurses, are
17 required to complete one continuing education credit on topics that
18 include alternatives to opioids for managing and treating pain and
19 the risks and signs of opioid abuse, addiction, and diversion. This
20 bill adds a similar education or training requirements for marriage
21 and family therapists, psychologists, veterinarians, athletic trainers,
22 homemaker-home health aides, professionals licensed or certified
23 by the State Board of Social Work Examiners, and professional
24 counselors. The continuing education credits required under the bill
25 will be part of a professional's regular continuing education credits
26 and will not increase the total number of continuing education
27 credits required.

28 This bill also revises various statutory provisions related to the
29 Prescription Monitoring Program (PMP), which was established in
30 the Division of Consumer Affairs in the Department of Law and
31 Public Safety pursuant to P.L.2007, c.244 (C.45:1-45 et seq.). The
32 PMP is an electronic system for monitoring controlled dangerous
33 substances dispensed in or into the State in outpatient settings. For
34 the purposes of the PMP, the bill revises the definition of a
35 "certified medical assistant." The bill changes the required
36 minimum clock hours of instruction for certified medical assistants
37 from 600 hours to 330 hours.

38 Additionally, the bill provides that any time a practitioner or
39 other person prescribes a Schedule II controlled dangerous
40 substance to a patient receiving care or treatment in an emergency
41 department of a general hospital, they must access the information
42 in the PMP. The bill also modifies a current exemption from the
43 requirement to access prescription monitoring information, by
44 exempting a practitioner who is prescribing a controlled dangerous
45 substance to a patient immediately after the patient has undergone
46 an operation in a licensed general hospital or a licensed ambulatory
47 care facility or treatment for acute trauma in a licensed general

1 hospital or a licensed ambulatory care facility, when no more than a
2 5-day supply is prescribed.

3 The bill also clarifies that the director may adopt a regulation to
4 expand the program to require pharmacies to include information
5 about each prescription dispensed for a prescription drug that is not
6 a controlled dangerous substance.

7 Finally, the bill permits a physician assistant or an advanced
8 practice nurse to, under certain circumstances, dispense narcotic
9 drugs for maintenance treatment or detoxification treatment. The
10 bill also provides that a physician assistant or advanced practice
11 nurse, under certain circumstances, may make the determination as
12 to the medical necessity for services for the treatment of substance
13 use disorder, as provided in P.L.2017, c.28 (C.17:48-6nn et al.), and
14 may prescribe such services.

ASSEMBLY, No. 5300

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED DECEMBER 14, 2017

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Concerns regulation and prescribing of certain schedule II controlled dangerous substances and opioids.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning opioid drugs, amending various parts of the
2 statutory law and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 11 of P.L.2017, c.28 (C.24:21-15.2) is amended to
8 read as follows:

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

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

20 (1) take and document the results of a thorough medical history,
21 including the patient's experience with non-opioid medication and
22 non-pharmacological pain management approaches and substance
23 abuse history;

24 (2) conduct, as appropriate, and document the results of a
25 physical examination;

26 (3) develop a treatment plan, with particular attention focused
27 on determining the cause of the patient's pain;

28 (4) access relevant prescription monitoring information under
29 the Prescription Monitoring Program pursuant to section 8 of
30 P.L.2015, c.74 (C. 45:1-46.1); and

31 (5) limit the supply of any opioid drug prescribed for acute pain
32 to a duration of no more than five days as determined by the
33 directed dosage and frequency of dosage.

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

39 (1) the subsequent prescription would not be deemed an initial
40 prescription under this section;

41 (2) the practitioner determines the prescription is necessary and
42 appropriate to the patient's treatment needs and documents the
43 rationale for the issuance of the subsequent prescription; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) the practitioner determines that issuance of the subsequent
2 prescription does not present an undue risk of abuse, addiction, or
3 diversion and documents that determination.

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

14 (1) the risks of addiction and overdose associated with opioid
15 drugs and the dangers of taking opioid drugs with alcohol,
16 benzodiazepines and other central nervous system depressants;

17 (2) the reasons why the prescription is necessary;

18 (3) alternative treatments that may be available; and

19 (4) risks associated with the use of the drugs being prescribed,
20 specifically that opioids are highly addictive, even when taken as
21 prescribed, that there is a risk of developing a physical or
22 psychological dependence on the controlled dangerous substance,
23 and that the risks of taking more opioids than prescribed, or mixing
24 sedatives, benzodiazepines or alcohol with opioids, can result in
25 fatal respiratory depression.

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

34 e. **【At the time of the issuance of the third prescription for a**
35 **prescription】** Prior to the commencement of an ongoing course of
36 treatment for chronic pain with a Schedule II controlled dangerous
37 substance or any opioid 【drug】, the practitioner shall enter into a
38 pain management agreement with the patient.

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

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

46 (2) assess the patient prior to every renewal to determine
47 whether the patient is experiencing problems associated with

1 physical and psychological dependence and document the results of
2 that assessment;

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

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

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

13 g. As used in this section:

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

20 "Chronic pain" means pain that persists for three or more
21 consecutive months and after reasonable medical efforts have been
22 made to relieve the pain or its causes, it continues, either
23 continuously or episodically.

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

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

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

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

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

44 (1) prevent the possible development of physical or
45 psychological dependence in the patient;

46 (2) document the understanding of both the practitioner and the
47 patient regarding the patient's pain management plan;

1 (3) establish the patient's rights in association with treatment,
2 and the patient's obligations in relation to the responsible use,
3 discontinuation of use, and storage of Schedule II controlled
4 dangerous substances, including any restrictions on the refill of
5 prescriptions or the acceptance of Schedule II prescriptions from
6 practitioners;

7 (4) identify the specific medications and other modes of
8 treatment, including physical therapy or exercise, relaxation, or
9 psychological counseling, that are included as a part of the pain
10 management plan;

11 (5) specify the measures the practitioner may employ to monitor
12 the patient's compliance, including but not limited to random
13 specimen screens and pill counts; and

14 (6) delineate the process for terminating the agreement,
15 including the consequences if the practitioner has reason to believe
16 that the patient is not complying with the terms of the agreement.

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

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

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

38 (1) proportional between the cost sharing for a 30-day supply
39 and the amount of drugs the patient was prescribed; or

40 (2) equivalent to the cost sharing for a full 30-day supply of the
41 opioid drug, provided that no additional cost sharing may be
42 charged for any additional prescriptions for the remainder of the 30-
43 day supply.

44 (cf: P.L.2017, c.28, s.11)

45

46 2. Section 24 of P.L.2007, c.244 (C.45:1-44) is amended to
47 read as follows:

24. Definitions. As used in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50):

"CDS registration" means registration with the Division of Consumer Affairs to manufacture, distribute, dispense, or conduct research with controlled dangerous substances issued pursuant to section 11 of P.L.1970, c.226 (C.24:21-11).

"Certified medical assistant" means a person who is a graduate of a post-secondary medical assisting educational program accredited by the **Commission** on Allied Health Education and Accreditation (CAHEA), or its successor, the Accrediting Bureau of Health Education Schools (ABHES), or its successor, or any accrediting agency recognized by the U.S. Department of Education, which educational program includes, at a minimum, **330** clock hours of instruction, and encompasses training in the administration of intramuscular and subcutaneous injections, as well as instruction and demonstration in: pertinent anatomy and physiology appropriate to injection procedures; choice of equipment; proper technique, including sterile technique; hazards and complications; and emergency procedures; and who maintains current certification or registration, as appropriate, from the Certifying Board of the American Association of Medical Assistants (AAMA), the National Center for Competency Testing (NCCT), the National Healthcareer Association (NHA), the American Medical Certification Association (AMCA), the National Association for Health Professionals (NAHP), the National Certification Medical Association (NCMA), the American Medical Technologists (AMT), or any other recognized certifying body approved by the State Board of Medical Examiners.

"Controlled dangerous substance" means any substance that is listed in Schedules II, III, and IV of the schedules provided under the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.). Controlled dangerous substance also means any substance that is listed in Schedule V under the "New Jersey Controlled Dangerous Substances Act" when the director has determined that reporting Schedule V substances is required by federal law, regulation, or funding eligibility.

"Dental resident" means a person who practices dentistry as a resident pursuant to R.S.45:6-20 and, pursuant to N.J.A.C.13:30-1.3, is a graduate of a dental school approved by the Commission on Dental Accreditation and has passed Part I and Part II of the National Board Dental examination and obtained a resident permit from the New Jersey Board of Dentistry.

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

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

1 "Licensed health care professional" means a registered nurse,
2 licensed practical nurse, advanced practice nurse, physician
3 assistant, or dental hygienist licensed pursuant to Title 45 of the
4 Revised Statutes.

5 "Licensed pharmacist" means a pharmacist licensed pursuant to
6 P.L.2003, c.280 (C.45:14-40 et seq.).

7 "Medical resident" means a graduate physician who is authorized
8 to practice medicine and surgery by means of a valid permit issued
9 by the State Board of Medical Examiners to a person authorized to
10 engage in the practice of medicine and surgery while in the second
11 year or beyond of a graduate medical education program pursuant to
12 N.J.A.C.13:35-1.5.

13 "Mental health practitioner" means a clinical social worker,
14 marriage and family therapist, alcohol and drug counselor,
15 professional counselor, psychologist, or psychoanalyst licensed or
16 otherwise authorized to practice pursuant to Title 45 of the Revised
17 Statutes.

18 "Pharmacy permit holder" means an individual or business entity
19 that holds a permit to operate a pharmacy practice site pursuant to
20 P.L.2003, c.280 (C.45:14-40 et seq.).

21 "Practitioner" means an individual currently licensed, registered,
22 or otherwise authorized by this State or another state to prescribe
23 drugs in the course of professional practice.

24 "Registered dental assistant" is a person who has fulfilled the
25 requirements for registration established by "The Dental Auxiliaries
26 Act," P.L.1979, c.46 (C.45:6-48 et al.) and works under the direct
27 supervision of a licensed dentist.

28 "Ultimate user" means a person who has obtained from a
29 dispenser and possesses for the person's own use, or for the use of a
30 member of the person's household or an animal owned by the
31 person or by a member of the person's household, a controlled
32 dangerous substance.

33 (cf: P.L.2015, c.74, s.2)

34

35 3. Section 26 of P.L.2007, c.244 (C.45:1-46) is amended to
36 read as follows:

37 26. Access to prescription information.

38 a. The division shall maintain procedures to ensure privacy and
39 confidentiality of patients and that patient information collected,
40 recorded, transmitted, and maintained is not disclosed, except as
41 permitted in this section, including, but not limited to, the use of a
42 password-protected system for maintaining this information and
43 permitting access thereto as authorized under sections 25 through
44 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), and a
45 requirement that a person as listed in subsection h. or i. of this
46 section provide affirmation of the person's intent to comply with the
47 provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45
48 through C.45:1-50) as a condition of accessing the information.

1 b. The prescription monitoring information submitted to the
2 division shall be confidential and not be subject to public disclosure
3 under P.L.1963, c.73 (C.47:1A-1 et seq.), or P.L.2001, c.404
4 (C.47:1A-5 et al.).

5 c. The division shall review the prescription monitoring
6 information provided by a pharmacy permit holder pursuant to
7 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
8 C.45:1-50). The review shall include, but not be limited to:

9 (1) a review to identify whether any person is obtaining a
10 prescription in a manner that may be indicative of misuse, abuse, or
11 diversion of a controlled dangerous substance. The director shall
12 establish guidelines regarding the terms "misuse," "abuse," and
13 "diversion" for the purposes of this review. When an evaluation of
14 the information indicates that a person may be obtaining a
15 prescription for the same or a similar controlled dangerous
16 substance from multiple practitioners or pharmacists during the
17 same time period, the division may provide prescription monitoring
18 information about the person to practitioners and pharmacists; and

19 (2) a review to identify whether a violation of law or regulation
20 or a breach of the applicable standards of practice by any person
21 may have occurred, including, but not limited to, diversion of a
22 controlled dangerous substance. If the division determines that
23 such a violation or breach may have occurred, the division shall
24 notify the appropriate law enforcement agency or professional
25 licensing board, and provide the prescription monitoring
26 information required for an investigation.

27 d. (Deleted by amendment, P.L.2015, c.74)

28 e. (Deleted by amendment, P.L.2015, c.74)

29 f. (Deleted by amendment, P.L.2015, c.74)

30 g. (Deleted by amendment, P.L.2015, c.74)

31 h. (1) The division shall register a practitioner to access
32 prescription monitoring information upon issuance or renewal of the
33 practitioner's CDS registration.

34 (2) The division shall provide to a pharmacist who is employed
35 by a current pharmacy permit holder online access to prescription
36 monitoring information for the purpose of providing health care to a
37 current patient or verifying information with respect to a patient or
38 a prescriber.

39 (3) The division shall provide to a practitioner who has a current
40 CDS registration online access to prescription monitoring
41 information for the purpose of providing health care to a current
42 patient or verifying information with respect to a patient or a
43 prescriber. The division shall also grant online access to
44 prescription monitoring information to as many licensed health care
45 professionals as are authorized by a practitioner to access that
46 information and for whom the practitioner is responsible for the use
47 or misuse of that information, subject to a limit on the number of
48 such health care professionals as deemed appropriate by the

1 division for that particular type and size of professional practice, in
2 order to minimize the burden to practitioners to the extent
3 practicable while protecting the confidentiality of the prescription
4 monitoring information obtained. The director shall establish, by
5 regulation, the terms and conditions under which a practitioner may
6 delegate that authorization, including procedures for authorization
7 and termination of authorization, provisions for maintaining
8 confidentiality, and such other matters as the division may deem
9 appropriate.

10 (4) The division shall provide online access to prescription
11 monitoring information to as many medical or dental residents as
12 are authorized by a faculty member of a medical or dental teaching
13 facility to access that information and for whom the practitioner is
14 responsible for the use or misuse of that information. The director
15 shall establish, by regulation, the terms and conditions under which
16 a faculty member of a medical or dental teaching facility may
17 delegate that authorization, including procedures for authorization
18 and termination of authorization, provisions for maintaining
19 confidentiality, provisions regarding the duration of a medical or
20 dental resident's authorization to access prescription monitoring
21 information, and such other matters as the division may deem
22 appropriate.

23 (5) The division shall provide online access to prescription
24 monitoring information to as many certified medical assistants as
25 are authorized by a practitioner to access that information and for
26 whom the practitioner is responsible for the use or misuse of that
27 information. The director shall establish, by regulation, the terms
28 and conditions under which a practitioner may delegate that
29 authorization, including procedures for authorization and
30 termination of authorization, provisions for maintaining
31 confidentiality, provisions regarding the duration of a certified
32 medical assistant's authorization to access prescription monitoring
33 information, and such other matters as the division may deem
34 appropriate.

35 (6) The division shall provide online access to prescription
36 monitoring information to as many registered dental assistants as
37 are authorized by a licensed dentist to access that information and
38 for whom the licensed dentist is responsible for the use or misuse of
39 that information. The director shall establish, by regulation, the
40 terms and conditions under which a licensed dentist may delegate
41 that authorization, including procedures for authorization and
42 termination of authorization, provisions for maintaining
43 confidentiality, provisions regarding the duration of a registered
44 dental assistant's authorization to access prescription monitoring
45 information, and such other matters as the division may deem
46 appropriate.

47 (7) A person listed in this subsection, as a condition of
48 accessing prescription monitoring information pursuant thereto,

1 shall certify that the request is for the purpose of providing health
2 care to a current patient or verifying information with respect to a
3 patient or practitioner. Such certification shall be furnished through
4 means of an online statement or alternate means authorized by the
5 director, in a form and manner prescribed by rule or regulation
6 adopted by the director. If the information is being accessed by an
7 authorized person using an electronic system authorized pursuant to
8 subsection q. of this section, the certification may be furnished
9 through the electronic system.

10 i. The division may provide online access to prescription
11 monitoring information, or may provide access to prescription
12 monitoring information through any other means deemed
13 appropriate by the director, to the following persons:

14 (1) authorized personnel of the division or a vendor or
15 contractor responsible for maintaining the Prescription Monitoring
16 Program;

17 (2) authorized personnel of the division responsible for
18 administration of the provisions of P.L.1970, c.226 (C.24:21-1 et
19 seq.);

20 (3) the State Medical Examiner, a county medical examiner, a
21 deputy or assistant county medical examiner, or a qualified
22 designated assistant thereof, who certifies that the request is for the
23 purpose of investigating a death pursuant to P.L.1967, c.234
24 (C.52:17B-78 et seq.);

25 (4) a controlled dangerous substance monitoring program in
26 another state with which the division has established an
27 interoperability agreement, or which participates with the division
28 in a system that facilitates the secure sharing of information
29 between states;

30 (5) a designated representative of the State Board of Medical
31 Examiners, New Jersey State Board of Dentistry, State Board of
32 Nursing, New Jersey State Board of Optometrists, State Board of
33 Pharmacy, State Board of Veterinary Medical Examiners, or any
34 other board in this State or another state that regulates the practice
35 of persons who are authorized to prescribe or dispense controlled
36 dangerous substances, as applicable, who certifies that the
37 representative is engaged in a bona fide specific investigation of a
38 designated practitioner or pharmacist whose professional practice
39 was or is regulated by that board;

40 (6) a State, federal, or municipal law enforcement officer who is
41 acting pursuant to a court order and certifies that the officer is
42 engaged in a bona fide specific investigation of a designated
43 practitioner, pharmacist, or patient. A law enforcement agency that
44 obtains prescription monitoring information shall comply with
45 security protocols established by the director by regulation;

46 (7) a designated representative of a state Medicaid or other
47 program who certifies that the representative is engaged in a bona

1 fide investigation of a designated practitioner, pharmacist, or
2 patient;

3 (8) a properly convened grand jury pursuant to a subpoena
4 properly issued for the records; and

5 (9) a licensed mental health practitioner providing treatment for
6 substance abuse to patients at a residential or outpatient substance
7 abuse treatment center licensed by the Division of Mental Health
8 and Addiction Services in the Department of Human Services, who
9 certifies that the request is for the purpose of providing health care
10 to a current patient or verifying information with respect to a patient
11 or practitioner, and who furnishes the division with the written
12 consent of the patient for the mental health practitioner to obtain
13 prescription monitoring information about the patient. The director
14 shall establish, by regulation, the terms and conditions under which
15 a mental health practitioner may request and receive prescription
16 monitoring information. Nothing in sections 25 through 30 of
17 P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed
18 to require or obligate a mental health practitioner to access or check
19 the prescription monitoring information in the course of treatment
20 beyond that which may be required as part of the mental health
21 practitioner's professional practice.

22 j. A person listed in subsection i. of this section, as a condition
23 of obtaining prescription monitoring information pursuant thereto,
24 shall certify the reasons for seeking to obtain that information.
25 Such certification shall be furnished through means of an online
26 statement or alternate means authorized by the director, in a form
27 and manner prescribed by rule or regulation adopted by the director.

28 k. The division shall offer an online tutorial for those persons
29 listed in subsections h. and i. of this section, which shall, at a
30 minimum, include: how to access prescription monitoring
31 information; the rights of persons who are the subject of this
32 information; the responsibilities of persons who access this
33 information; a summary of the other provisions of sections 25
34 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) and
35 the regulations adopted pursuant thereto, regarding the permitted
36 uses of that information and penalties for violations thereof; and a
37 summary of the requirements of the federal health privacy rule set
38 forth at 45 CFR Parts 160 and 164 and a hypertext link to the
39 federal Department of Health and Human Services website for
40 further information about the specific provisions of the privacy rule.

41 l. The division may request and receive prescription
42 monitoring information from prescription monitoring programs in
43 other states and may use that information for the purposes of
44 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
45 C.45:1-50). When sharing data with programs in another state, the
46 division shall not be required to obtain a memorandum of
47 understanding unless required by the other state.

- 1 m. The director may provide nonidentifying prescription drug
2 monitoring information to public or private entities for statistical,
3 research, or educational purposes, in accordance with the provisions
4 of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
5 C.45:1-50).
- 6 n. Nothing shall be construed to prohibit the division from
7 obtaining unsolicited automated reports from the program or
8 disseminating such reports to pharmacists, practitioners, mental
9 health care practitioners, and other licensed health care
10 professionals.
- 11 o. (1) A current patient of a practitioner may request from that
12 practitioner that patient's own prescription monitoring information
13 that has been submitted to the division pursuant to sections 25
14 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). A
15 parent or legal guardian of a child who is a current patient of a
16 practitioner may request from that practitioner the child's
17 prescription monitoring information that has been submitted to the
18 division pursuant to sections 25 through 30 of P.L.2007, c.244
19 (C.45:1-45 through C.45:1-50).
- 20 (2) Upon receipt of a request pursuant to paragraph (1) of this
21 subsection, a practitioner or health care professional authorized by
22 that practitioner may provide the current patient or parent or legal
23 guardian, as the case may be, with access to or a copy of the
24 prescription monitoring information pertaining to that patient or
25 child.
- 26 (3) The division shall establish a process by which a patient, or
27 the parent or legal guardian of a child who is a patient, may request
28 a pharmacy permit holder that submitted prescription monitoring
29 information concerning a prescription for controlled dangerous
30 substances for that patient or child to the division pursuant to
31 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
32 C.45:1-50) to correct information that the person believes to have
33 been inaccurately entered into that patient's or child's prescription
34 profile. Upon confirmation of the inaccuracy of any such entry into
35 a patient's or child's prescription profile, the pharmacy permit
36 holder shall be authorized to correct any such inaccuracies by
37 submitting corrected information to the division pursuant to
38 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through
39 C.45:1-50). The process shall provide for review by the Board of
40 Pharmacy of any disputed request for correction, which
41 determination shall be appealable to the director.
- 42 p. The division shall take steps to ensure that appropriate
43 channels of communication exist to enable any licensed health care
44 professional, licensed pharmacist, mental health practitioner,
45 pharmacy permit holder, or other practitioner who has online access
46 to the Prescription Monitoring Program pursuant to this section to
47 seek or provide information to the division related to the provisions
48 of this section.

1 q. (1) The division may provide prescription monitoring
2 information to electronic systems that collect and display health
3 information, such as an electronic system that connects hospital
4 emergency departments for the purpose of transmitting and
5 obtaining patient health data from multiple sources or that notifies
6 practitioners of information pertaining to the treatment of
7 overdoses, provided the division determines that any such electronic
8 system has appropriate security protections in place.

9 (2) Practitioners who are required to access prescription
10 monitoring information pursuant to section 8 of P.L.2015, c.74
11 (C.45:1-46.1) may discharge that responsibility by accessing one or
12 more authorized electronic systems into which the prescription
13 monitoring information maintained by the division has been
14 integrated.

15 (cf: P.L.2015, c.74, s.4)

16
17 4. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read
18 as follows:

19 8. a. (1) Except as provided in subsection b. of this section, a
20 practitioner or other person who is authorized by a practitioner to
21 access prescription monitoring information pursuant to subsection
22 h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access
23 prescription monitoring information;

24 (a) the first time the practitioner or other person prescribes a
25 Schedule II controlled dangerous substance or any opioid to a new
26 patient for acute or chronic pain;

27 (b) the first time a practitioner or other person prescribes a
28 benzodiazepine drug that is a Schedule III or Schedule IV
29 controlled dangerous substance;

30 (c) if the practitioner or other person has a reasonable belief that
31 the person may be seeking a controlled dangerous substance, in
32 whole or in part, for any purpose other than the treatment of an
33 existing medical condition, such as for purposes of misuse, abuse,
34 or diversion, the first time the practitioner or other person
35 prescribes a non-opioid drug other than a benzodiazepine drug that
36 is a Schedule III or IV controlled dangerous substance; and

37 (d) any time the practitioner or other person prescribes a
38 Schedule II controlled dangerous substance to a patient receiving
39 care or treatment in the emergency department of a general hospital.

40 In addition, for any prescription of a Schedule II controlled
41 dangerous substance, any opioid, or a benzodiazepine drug that is a
42 Schedule III or IV controlled dangerous substance for a new or
43 current patient for acute or chronic pain which is written on or after
44 the effective date of **【P.L.2015, c.74 (C.45:1-46.1 et al.)】** P.L. ____,
45 c. (C.) (pending before the Legislature as this bill) a practitioner
46 or other authorized person shall access prescription monitoring
47 information on a quarterly basis during the period of time the
48 patient continues to receive such prescriptions.

1 (2) (a) A pharmacist shall not dispense a Schedule II controlled
2 dangerous substance, any opioid, or a benzodiazepine drug that is a
3 Schedule III or IV controlled dangerous substance to any person
4 without first accessing the prescription monitoring information, as
5 authorized pursuant to subsection h. of section 26 of P.L.2007,
6 c.244 (C.45:1-46), to determine if the person has received other
7 prescriptions that indicate misuse, abuse, or diversion, if the
8 pharmacist has a reasonable belief that the person may be seeking a
9 controlled dangerous substance, in whole or in part, for any purpose
10 other than the treatment of an existing medical condition, such as
11 for purposes of misuse, abuse, or diversion.

12 (b) A pharmacist shall not dispense a prescription to a person
13 other than the patient for whom the prescription is intended, unless
14 the person picking up the prescription provides personal
15 identification to the pharmacist, and the pharmacist, as required by
16 subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs
17 that identifying information into the Prescription Monitoring
18 Program if the pharmacist has a reasonable belief that the person
19 may be seeking a controlled dangerous substance, in whole or in
20 part, for any reason other than delivering the substance to the
21 patient for the treatment of an existing medical condition. The
22 provisions of this subparagraph shall not take effect until the
23 director determines that the Prescription Monitoring Program has
24 the technical capacity to accept such information.

25 b. The provisions of subsection a. of this section shall not
26 apply to:

27 (1) a veterinarian;

28 (2) a practitioner or the practitioner's agent administering
29 methadone, or another controlled dangerous substance designated
30 by the director as appropriate for treatment of a patient with a
31 substance abuse disorder, as interim treatment for a patient on a
32 waiting list for admission to an authorized substance abuse
33 treatment program;

34 (3) a practitioner administering a controlled dangerous
35 substance directly to a patient;

36 (4) a practitioner prescribing a controlled dangerous substance
37 to be dispensed by an institutional pharmacy, as defined in
38 N.J.A.C.13:39-9.2;

39 (5) **【a practitioner prescribing a controlled dangerous substance**
40 **in the emergency department of a general hospital, provided that the**
41 **quantity prescribed does not exceed a five-day supply of the**
42 **substance】** (Deleted by amendment, P.L. , c.) (pending before
43 the Legislature as this bill);

44 (6) a practitioner prescribing a controlled dangerous substance
45 to a patient under the care of a hospice;

46 (7) a situation in which it is not reasonably possible for the
47 practitioner or pharmacist to access the Prescription Monitoring
48 Program in a timely manner, no other individual authorized to

1 access the Prescription Monitoring Program is reasonably available,
2 and the quantity of controlled dangerous substance prescribed or
3 dispensed does not exceed a five-day supply of the substance;

4 (8) a practitioner or pharmacist acting in compliance with
5 regulations promulgated by the director as to circumstances under
6 which consultation of the Prescription Monitoring Program would
7 result in a patient's inability to obtain a prescription in a timely
8 manner, thereby adversely impacting the medical condition of the
9 patient;

10 (9) a situation in which the Prescription Monitoring Program is
11 not operational as determined by the division or where it cannot be
12 accessed by the practitioner due to a temporary technological or
13 electrical failure, as set forth in regulation;

14 (10) a practitioner or pharmacist who has been granted a waiver
15 due to technological limitations that are not reasonably within the
16 control of the practitioner or pharmacist, or other exceptional
17 circumstances demonstrated by the practitioner or pharmacist,
18 pursuant to a process established in regulation, and in the discretion
19 of the director; or

20 (11) a practitioner who is prescribing a controlled dangerous
21 substance to a patient immediately after the patient has undergone
22 an operation **【, procedure,】** in a general hospital or a licensed
23 ambulatory care facility or treatment for acute trauma in a general
24 hospital or a licensed ambulatory care facility, so long as that
25 operation or treatment was not part of care or treatment in the
26 emergency department of a general hospital as provided in
27 subsection a. of this section, when **【less than a 30-day】** no more
28 than a five-day supply is prescribed.

29 (cf: P.L.2015, c.74, s.8)

30
31 5. Section 27 of P.L.2007, c.244 (C. 45:1-47) is amended to
32 read as follows:

33 27. Prescription Monitoring Program; provisions for expansion.

34 a. Notwithstanding the provisions of section 25 of P.L.2007,
35 c.244 (C.45:1-45) to the contrary, the director may adopt a
36 regulation to expand the program to require pharmacies to include
37 information about each prescription dispensed for a prescription
38 drug that is not a controlled dangerous substance. In determining
39 whether pharmacies should be required to submit to the program
40 information about a prescription drug other than a controlled
41 dangerous substance **【should be monitored】**, the director shall
42 consider: the actual or relative potential for abuse; scientific
43 evidence of its pharmacological effect, if known; the state of
44 current scientific knowledge regarding the drug; its history and
45 current pattern of abuse, including its use to potentiate or enhance
46 the effects of controlled dangerous substances that are subject to
47 abuse; the scope, duration and significance of abuse; what, if any,
48 risk to the public health; and its psychic or physiological

1 dependence liability. [The regulation shall provide that the
2 prescription drug shall be monitored for a period of time. At the
3 conclusion of the monitoring period, the director shall publish and
4 make public the decision of whether inclusion of the prescription
5 drug in the program shall be permanent.]

6 b. At the time the notice to expand the program pursuant to
7 subsection a. is published in the New Jersey Register, the director
8 shall provide a copy of the notice of proposed rule making to the
9 chairpersons of the standing legislative reference committees on
10 health of the Senate and General Assembly.

11 (cf: P.L.2007, c.244, s.27)

12
13 6. Section 1 of P.L.2000, c.119 (C.45:8B-24.1) is amended to
14 read as follows:

15 1. a. The State Board of Marriage and Family Therapy
16 Examiners shall require each marriage and family therapist, as a
17 condition of biennial license renewal pursuant to section 1 of
18 P.L.1972, c.108 (C.45:1-7), to complete any continuing education
19 requirements imposed by the board pursuant to this section.

20 b. The board shall:

21 (1) Promulgate rules and regulations for implementing
22 continuing education requirements as a condition of license renewal
23 for licenses issued under its jurisdiction;

24 (2) Establish standards for continuing education, including the
25 subject matter and content of courses of study, and the number and
26 type of continuing education credits required of a licensee as a
27 condition of biennial license renewal;

28 (3) Recognize the American Association for Marriage and
29 Family Therapy, the New Jersey Division of the American
30 Association for Marriage and Family Therapy and other
31 organizations as providers of continuing education, and accredit
32 educational programs, including, but not limited to, meetings of
33 constituents and components of marriage and family therapy
34 associations recognized by the board, examinations, papers,
35 publications, presentations, teaching and research appointments,
36 and shall establish procedures for the issuance of credit upon
37 satisfactory proof of the completion of these programs. In the case
38 of education courses or programs, each hour of instruction shall be
39 equivalent to one credit; and

40 (4) Approve only those continuing education programs as are
41 available to all marriage and family therapists in this State on a
42 reasonable nondiscriminatory basis.

43 c. The continuing education required pursuant to this section
44 shall include at least one credit of educational programs or topics
45 concerning prescription opioid drugs, including the risks and signs
46 of opioid abuse, addiction, and diversion.

47 (cf: P.L.2000, c.119, s.1)

1 7. Section 1 of P.L.2015, c.131 (C.45:14B-47) is amended to
2 read as follows:

3 1. a. The State Board of Psychological Examiners shall require
4 each person licensed as a practicing psychologist, as a condition for
5 biennial license renewal pursuant to section 1 of P.L.1972, c.108
6 (C.45:1-7), to complete 40 credits of continuing psychology
7 education, four credits of which shall be educational programs or
8 topics related to domestic violence.

9 b. The board shall:

10 (1) Establish standards for continuing psychology education,
11 including the nature of qualifying experience and amount of
12 applicable credits for such qualifying experience, and the subject
13 matter and content of courses of study; and

14 (2) Accredite education programs offering credit toward
15 continuing psychology education requirements or recognize
16 national or State organizations that may accredit education
17 programs.

18 c. The board may, in its discretion, waive requirements for
19 continuing education as set forth in subsection a. of this section on
20 an individual basis for reasons of hardship such as illness or
21 disability, retirement of license, or other good cause. A waiver
22 shall apply only to the current biennial renewal period at the time of
23 board issuance.

24 d. The board shall only approve programs that are provided on
25 a nondiscriminatory basis.

26 e. Prior to license renewal, each licensee shall submit to the
27 board proof of completion of the required number of hours of
28 continuing psychology education.

29 f. The continuing education required pursuant to this section
30 shall include at least one credit of educational programs or topics
31 concerning prescription opioid drugs, including the risks and signs
32 of opioid abuse, addiction, and diversion.

33 (cf: P.L.2015, c.131, s.1)
34

35 8. (New section) The State Board of Veterinary Medical
36 Examiners shall require that the number of credits of continuing
37 veterinary education required of each person licensed as a
38 veterinarian, as a condition of biennial license renewal, include at
39 least one credit of educational programs or topics concerning
40 prescription opioid drugs, including the risks and signs of opioid
41 abuse, addiction, and diversion. The continuing veterinary
42 education requirement in this section shall be subject to the
43 provisions of section 3 of P.L.2010, c.89 (C.45:16-9.4a), including,
44 but not limited to, the authority of the board to waive the provisions
45 of this section for a specific individual if the board deems it is
46 appropriate to do so.

1 9. (New section) The State Board of Medical Examiners shall
2 require that the number of credits of continuing athletic trainer
3 education required of each person licensed as an athletic trainer, as
4 a condition of biennial renewal pursuant to section 14 of P.L.1984,
5 c.203, s.14 (C.45:9-37.48), include at least one credit of educational
6 programs or topics concerning prescription opioid drugs, including
7 the risks and signs of opioid abuse, addiction, and diversion. The
8 continuing athletic trainer education requirement in this subsection
9 shall be subject to the provisions of section 6 of P.L.2010, c.94
10 (C.45:9-37.48a), including, but not limited to, the authority of the
11 board to waive the provisions of this section for a specific
12 individual if the board deems it is appropriate to do so.

13
14 10. (New section) The standards and curricula for the
15 homemaker-home health aide education and training programs
16 specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-
17 24), shall include at least one hour of educational programs or
18 topics concerning prescription opioid drugs, including the risks and
19 signs of opioid abuse, addiction, and diversion.

20
21 11. (New section) The State Board of Social Work Examiners
22 shall require that the number of credits of continuing education
23 required of each person licensed or certified by the board as a
24 condition of renewal include at least one credit of educational
25 programs or topics concerning prescription opioid drugs, including
26 the risks and signs of opioid abuse, addiction, and diversion.

27
28 12. (New section) The Professional Counselor Examiners
29 Committee shall require that the number of credits of continuing
30 education required of each person licensed by the board as a
31 condition of renewal include at least one credit of educational
32 programs or topics concerning prescription opioid drugs, including
33 the risks and signs of opioid abuse, addiction, and diversion.

34
35 13. (New Section) a. Notwithstanding any other provision of law
36 to the contrary, a physician assistant who is otherwise authorized to
37 order, prescribe, and dispense controlled dangerous substances
38 pursuant to P.L.1991, c.c.378 (C.45:9-27.10 et seq.) may dispense
39 narcotic drugs for maintenance treatment or detoxification treatment
40 if the physician assistant has met the training and registration
41 requirements set forth in subsection (g) of 21 U.S.C. s.823. A
42 physician assistant who is authorized to dispense such drugs may do
43 so regardless of whether the physician assistant's supervising
44 physician has met the training and registration requirements set
45 forth in subsection (g) of 21 U.S.C. s.823, provided that the written
46 delegation agreement between the supervising physician and the
47 physician assistant executed pursuant to subsection d. of section 8
48 of P.L.1991, c.378 (C.45:9-27.17) included the supervising

1 physician's written approval for the physician assistant to dispense
2 the drugs.

3 b. Notwithstanding any other provision of law to the contrary,
4 a physician assistant under the direct supervision of a licensed
5 physician may make the determination as to the medical necessity
6 for services for the treatment of substance use disorder, as provided
7 in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such
8 services.

9
10 14. (New Section) a. Notwithstanding any other provision of
11 law to the contrary, an advanced practice nurse may dispense
12 narcotic drugs for maintenance treatment or detoxification treatment
13 if the advanced practice nurse has met the training and registration
14 requirements set forth in subsection (g) of 21 U.S.C. s.823. An
15 advanced practice nurse who is authorized to dispense such drugs
16 may do so regardless of whether the advanced practice nurse's
17 collaborating physician has met the training and registration
18 requirements set forth in subsection (g) of 21 U.S.C. s.823,
19 provided that the joint protocol established by the advanced practice
20 nurse and the collaborating physician include the collaborating
21 physician's written approval for the advanced practice nurse to
22 dispense the drugs.

23 b. Notwithstanding any other provision of law to the contrary,
24 an advanced practice nurse, under the joint protocol established by
25 the advanced practice nurse and the collaborating physician, may
26 make the determination as to the medical necessity for services for
27 the treatment of substance use disorder, as provided in P.L.2017,
28 c.28 (C.17:48-6nn et al.), and may prescribe such services.

29
30 15. The act shall take effect on the 90th day after enactment.

31 32 33 STATEMENT

34
35 This bill makes various revisions to the law to address the opioid
36 crisis.

37 First, the bill revises P.L.2017, c.28 to provide that a practitioner
38 must enter into a pain management agreement with a patient prior to
39 the commencement of an ongoing course of treatment for chronic
40 pain with a Schedule II controlled dangerous substance or any
41 opioid, instead of upon issuing the third prescription. The bill also
42 adds a definition of "chronic pain," which means pain that persists
43 for three or more consecutive months and after reasonable medical
44 efforts have been made to relieve the pain or its causes, it continues,
45 either continuously or episodically. The bill also clarifies, for the
46 purposes of that law, that when determining whether a patient was
47 previously issued a prescription for opioids, that determination is to

1 also include whether the patient also used or was administered a
2 drug or its pharmaceutical equivalent.

3 Current law also requires certain health care professionals to
4 receive training on topics related to prescription opioid drugs.
5 Health care professionals who have the authority to prescribe opioid
6 medications, including physicians, physician assistants, dentists,
7 and optometrists (who have limited authority to prescribe only
8 hydrocodone), are required to complete one continuing education
9 credit on topics that include responsible prescribing practices,
10 alternatives to opioids for managing and treating pain, and the risks
11 and signs of opioid abuse, addiction, and diversion. This bill adds a
12 similar continuing education requirement for veterinarians. Health
13 care professionals who do not have prescribing authority but who
14 frequently interact with patients who may be prescribed opioids,
15 including pharmacists, professional nurses, and practical nurses, are
16 required to complete one continuing education credit on topics that
17 include alternatives to opioids for managing and treating pain and
18 the risks and signs of opioid abuse, addiction, and diversion. This
19 bill adds a similar education or training requirements for marriage
20 and family therapists, psychologists, athletic trainers, homemaker-
21 home health aides, professionals licensed or certified by the State
22 Board of Social Work Examiners, and professional counselors. The
23 continuing education credits required under the bill will be part of a
24 professional's regular continuing education credits and will not
25 increase the total number of continuing education credits required.

26 This bill also revises various statutory provisions related to the
27 Prescription Monitoring Program (PMP), which was established in
28 the Division of Consumer Affairs in the Department of Law and
29 Public Safety pursuant to P.L.2007, c.244 (C.45:1-45 et seq.). The
30 PMP is an electronic system for monitoring controlled dangerous
31 substances dispensed in or into the State in outpatient settings. For
32 the purposes of the PMP, the bill revises the definition of a
33 "certified medical assistant." The bill changes the required
34 minimum clock hours of instruction for certified medical assistants
35 from 600 hours to 330 hours.

36 The bill provides that the Division of Consumer Affairs may
37 provide prescription monitoring information to electronic systems
38 that collect and display health information, such as an electronic
39 system that connects hospital emergency departments for the
40 purpose of transmitting and obtaining patient health data from
41 multiple sources or that notifies practitioners of information
42 pertaining to the treatment of overdoses, provided that the division
43 determines the system has appropriate security protections in place.
44 An electronic system that is approved by the division to integrate
45 prescription monitoring information may be used by prescribers in
46 hospital emergency departments required to access prescription
47 monitoring information under the bill, as well as other practitioners
48 required to check prescription monitoring information when issuing

1 certain prescriptions, to perform such checks. The system may
2 further be used to provide certifications that prescription monitoring
3 information is being accessed for an authorized purpose.

4 Additionally, the bill adds to the circumstances under which a
5 practitioner or other authorized person is required to access
6 prescription monitoring information. In addition to the first time the
7 practitioner or other person prescribes a Schedule II controlled
8 dangerous substance to a new patient for acute or chronic pain, it
9 would be required:

10 (1) the first time a practitioner or other person prescribes a
11 benzodiazepine drug that is a Schedule III or Schedule IV
12 controlled dangerous substance;

13 (2) if the practitioner or other person has a reasonable belief that
14 the person may be seeking a controlled dangerous substance, in
15 whole or in part, for any purpose other than the treatment of an
16 existing medical condition, such as for purposes of misuse, abuse,
17 or diversion, the first time the practitioner or other person
18 prescribes a non-opioid drug other than a benzodiazepine drug that
19 is a Schedule III or IV controlled dangerous substance; and

20 (3) any time the practitioner or other person prescribes a
21 Schedule II controlled dangerous substance to a patient receiving
22 care or treatment in the emergency department of a general hospital.

23 In addition to the current exclusions from this requirement to
24 access the prescription monitoring information, the bill adds an
25 exclusion for a practitioner who is prescribing a controlled
26 dangerous substance to a patient immediately after the patient has
27 undergone an operation in a general hospital or a licensed
28 ambulatory care facility or treatment for acute trauma in a general
29 hospital or a licensed ambulatory care facility, so long as that
30 operation or treatment was not part of care or treatment in the
31 emergency department of a general hospital, no more than a five-
32 day supply is prescribed.

33 The bill also clarifies that the director may adopt a regulation to
34 expand the program to require pharmacies to include information
35 about each prescription dispensed for a prescription drug that is not
36 a controlled dangerous substance.

37 Finally, the bill permits a physician assistant or an advanced
38 practice nurse to, under certain circumstances, dispense narcotic
39 drugs for maintenance treatment or detoxification treatment. The
40 bill also provides that a physician assistant or advanced practice
41 nurse, under certain circumstances, may make the determination as
42 to the medical necessity for services for the treatment of substance
43 use disorder, as provided in P.L.2017, c.28 (C.17:48-6nn et al.), and
44 may prescribe such services.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 5242 and 5300

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Assembly Health and Senior Services Committee reports favorably an Assembly committee substitute for Assembly Bill Nos. 5242 and 5300.

The substitute bill makes various revisions to the law to address the opioid crisis.

First, the substitute bill revises P.L.2017, c.28 to provide that a practitioner must enter into a pain management agreement with a patient prior to the commencement of an ongoing course of treatment for chronic pain with a Schedule II controlled dangerous substance or any opioid, instead of upon issuing the third prescription. The bill also adds a definition of “chronic pain,” which means “pain that persists or recurs for more than three months.” The substitute bill also clarifies, for the purposes of that law, that when determining whether a patient was previously issued a prescription for opioids, that determination is to also include whether the patient also used or was administered a drug or its pharmaceutical equivalent.

Current law requires certain health care professionals to receive training on topics related to prescription opioid drugs. Health care professionals who have the authority to prescribe opioid medications, including physicians, physician assistants, dentists, and optometrists (who have limited authority to prescribe only hydrocodone), are required to complete one continuing education credit on topics that include responsible prescribing practices, alternatives to opioids for managing and treating pain, and the risks and signs of opioid abuse, addiction, and diversion. This substitute bill adds a similar continuing education requirement for veterinarians. Health care professionals who do not have prescribing authority but who frequently interact with patients who may be prescribed opioids, including pharmacists, professional nurses, and practical nurses, are also required by existing law to complete one continuing education credit on topics that include alternatives to opioids for managing and treating pain and the risks and signs of opioid abuse, addiction, and diversion. This substitute bill adds a similar education or training requirements for marriage and family therapists, psychologists, athletic trainers, professionals licensed or certified by the State Board of Social Work Examiners, and professional counselors. The continuing education credits required

under the substitute bill will be part of a professional's regular continuing education credits and will not increase the total number of continuing education credits required.

This substitute bill also revises various statutory provisions related to the Prescription Monitoring Program (PMP), which was established in the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to P.L.2007, c.244 (C.45:1-45 et seq.). The PMP is an electronic system for monitoring controlled dangerous substances dispensed in or into the State in outpatient settings. For the purposes of the PMP, the substitute bill revises the definition of a "certified medical assistant," and changes the required minimum clock hours of instruction required for certified medical assistants from 600 hours to 330 hours. The substitute bill also adds two new definitions to the PMP law, "licensed athletic trainer" and "medical scribe," and authorizes licensed athletic trainers practicing in a clinical setting, and medical scribes practicing in a hospital emergency department, to access prescription monitoring information under the authorization and responsibility of a medical practitioner, as is currently permitted for certified medical assistants.

The substitute bill provides that the Division of Consumer Affairs may make prescription monitoring information available on electronic systems that collect and display health information, such as an electronic system that connects hospital emergency departments for the purpose of transmitting and obtaining patient health data from multiple sources, or an electronic system that notifies practitioners of information pertaining to the treatment of overdoses, provided that the division determines the system has appropriate security protections in place. An electronic system that is approved by the division to integrate prescription monitoring information may be used by practitioners to check PMP information when such checks are required in connection with issuing certain prescriptions. The system may also be used to provide certifications that prescription monitoring information is being accessed for an authorized purpose.

Additionally, the substitute bill adds to the circumstances under which a practitioner or other authorized person is required to access PMP information. In addition to the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance to a new patient for acute or chronic pain, mandatory checks of PMP information will apply:

(1) the first time a practitioner or other person prescribes a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance;

(2) the first time the practitioner or other person prescribes a non-opioid drug other than a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance, but only if the practitioner or other person has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose

other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion; and

(3) on or after the date that the division first makes PMP information available on an electronic health information exchange system, as required under the bill, any time a practitioner or other person prescribes a Schedule II controlled dangerous substance for acute or chronic pain to a patient receiving care or treatment in the emergency department of a general hospital.

Current law provides certain exemptions from PMP monitoring requirements. The substitute bill adds an exemption for a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation in a general hospital or a licensed ambulatory care facility or treatment for acute trauma in a general hospital or a licensed ambulatory care facility, so long as that operation or treatment was not part of care or treatment in the emergency department of a general hospital, and no more than a five-day supply is prescribed.

The substitute bill also clarifies that the Director of the Division of Consumer Affairs may adopt a regulation to expand the program to require pharmacies to include information about each prescription dispensed for a prescription drug that is not a controlled dangerous substance.

Finally, the substitute bill permits physician assistants and advanced practice nurses to dispense narcotic drugs for maintenance treatment or detoxification treatment, provided the physician assistant or advanced practice nurse has met the federal requirements to dispense such drugs. For physician assistants, the written delegation agreement will be required to include the supervising physician's written approval for the physician assistant to dispense the drugs; for advanced practice nurses, the collaboration agreement will be required to include the collaborating physician's written approval for the advanced practice nurse to dispense the drugs. Physician assistants and advanced practice nurses who meet these requirements may dispense the drugs even if the supervising or collaborating physician does not independently have the authority to dispense such drugs.

The substitute bill provides that a physician assistant or advanced practice nurse, under certain circumstances, may make the determination as to the medical necessity for services for the treatment of substance use disorder, as provided in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such services.