45:16-9.4c et al.

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)***

AN ACT concerning [1]**[**opioid drugs**]** <u>controlled dangerous substances and prescription monitoring</u>[1], amending various parts of the statutory law [1],[1] and supplementing Title 45 of the Revised Statutes.

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SHH committee amendments adopted December 14, 2017.
[2]Assembly floor amendments adopted January 8, 2018.

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

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

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

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

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

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

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

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

(2) the reasons why the prescription is necessary;

(3) alternative treatments that may be available; and

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

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

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

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

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

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

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

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

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

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

g. As used in this section:

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

"Chronic pain" means pain that persists [2]⟦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⟧ or recurs for more than three months[2].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. Every policy, contract or plan delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, and every contract purchased by the School Employees' Health Benefits

Commission or State Health Benefits Commission, on or after the effective date of this act, that provides coverage for prescription drugs subject to a co-payment, coinsurance or deductible shall charge a co-payment, coinsurance or deductible for an initial prescription of an opioid drug prescribed pursuant to this section that is either:

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

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

(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.

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

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

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

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

26. Access to prescription information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) [1](a)[1] The division shall provide online access to prescription monitoring information to [1]:

(i)[1] as many certified medical assistants as are authorized by a practitioner to access that information and for whom the practitioner is responsible for the use or misuse of that information [1];

(ii) as many medical scribes working in a hospital's emergency department as are authorized by a practitioner to access that information and for whom the practitioner is responsible for the use or misuse of that information; and

(iii) as many licensed athletic trainers working in a clinical setting as are authorized by a practitioner to access that information and for whom the practitioner is responsible for the use or misuse of that information[1].

[1](b)[1] The director shall establish, by regulation, the terms and conditions under which a practitioner may delegate [1][[that]][1] authorization [1]pursuant to subparagraph (a) of this paragraph[1] , including procedures for authorization and termination of authorization, provisions for maintaining confidentiality, provisions regarding the duration of a certified medical assistant's [1], medical scribe's, or licensed athletic trainer's[1] authorization to access prescription monitoring information, and [1]provisions addressing[1] such other matters as the division may deem appropriate.

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

(7) A person listed in this subsection, as a condition of accessing prescription monitoring information pursuant thereto, shall certify that the request is for the purpose of providing health care to a current patient or verifying information with respect to a patient or practitioner. Such certification shall be furnished through means of an online statement or alternate means authorized by the director, in a form and manner prescribed by rule or regulation adopted by the director. If the information is being accessed by an authorized person using an electronic system authorized pursuant to subsection q. of this section, the certification may be furnished through the electronic system.

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

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

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

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

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

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

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

(7) a designated representative of a state Medicaid or other program who certifies that the representative is engaged in a bona fide investigation of a designated practitioner, pharmacist, or patient;

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

(9) a licensed mental health practitioner providing treatment for substance abuse to patients at a residential or outpatient substance abuse treatment center licensed by the Division of Mental Health and Addiction Services in the Department of Human Services, who certifies that the request is for the purpose of providing health care to a current patient or verifying information with respect to a patient

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

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

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

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

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

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

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

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

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

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

q. (1) The division may [1]**[**provide**]** make[1] prescription monitoring information [1]**[**to**]** available on[1] 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 [1]**[**,**]**[1] or [1]an electronic system[1] that notifies practitioners of information pertaining to the treatment of overdoses [1]**[**,**]** ;[1] provided [1]that[1] the division determines that any such electronic 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) [1]on 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 [1]for acute or chronic pain[1] to a patient receiving care or treatment in the emergency department of a general hospital.

In addition, [1][for] in[1] any [1]case in which a[1] prescription [1][of] is issued to a new patient, either on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), for[1] a Schedule II controlled dangerous substance [1][any] or[1] opioid [1]drug that has been prescribed for acute or chronic pain,[1] or [1]for[1] 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) a] , the[1] practitioner or other authorized person shall access prescription monitoring information

on a quarterly basis during the period of time the patient continues to receive such [1]⟦prescriptions⟧ prescription[1].

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist 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.

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

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

(1) a veterinarian;

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

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

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

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

provided by this paragraph shall have no force or effect on or after the date on which 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];

(6) a practitioner prescribing a controlled dangerous substance 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)

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

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

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

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

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

b. The board shall:

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

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

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

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

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

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

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

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

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

b. The board shall:

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

(2) Accredit education programs offering credit toward continuing psychology education requirements or recognize national or State organizations that may accredit education programs.

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

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

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

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

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

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

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

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

[210. (New section) The standards and curricula for the homemaker-home health aide education and training programs specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-24), shall 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.**]2**

[211.**]** 10.**2** (New section) The State Board of Social Work Examiners shall require that the number of credits of continuing education required of each person licensed or certified by the board as a condition of renewal include at least one credit of educational programs or topics concerning prescription opioid drugs, including the risks and signs of opioid abuse, addiction, and diversion.

[212.**]** 11.**2** (New section) The Professional Counselor Examiners Committee shall require that the number of credits of continuing education required of each person licensed by the board as a condition of renewal include at least one credit of educational programs or topics concerning prescription opioid drugs, including the risks and signs of opioid abuse, addiction, and diversion.

[213.**]** 12.**2** (New Section) a. Notwithstanding any other provision of law to the contrary, a physician assistant who is otherwise authorized to order, prescribe, and dispense controlled

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

b. Notwithstanding any other provision of law to the contrary, a physician assistant under the direct supervision of a licensed physician 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.

[2][14.] 13.[2] (New Section) a. Notwithstanding any other provision of law to the contrary, an advanced practice nurse may dispense narcotic drugs for maintenance treatment or detoxification treatment if the advanced practice nurse has met the training and registration requirements set forth in subsection (g) of 21 U.S.C. s.823. An advanced practice nurse who is authorized to dispense such drugs may do so regardless of whether the advanced practice nurse's collaborating physician has met the training and registration requirements set forth in subsection (g) of 21 U.S.C. s.823, provided that the joint protocol established by the advanced practice nurse and the collaborating physician include the collaborating physician's written approval for the advanced practice nurse to dispense the drugs.

b. Notwithstanding any other provision of law to the contrary, an advanced practice nurse, under the joint protocol established by the advanced practice nurse and the collaborating physician, 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.

[2][15.] 14.[2] [1][The] This[1] act shall take effect [1][on the 90th day after enactment] immediately[1].

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.

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

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

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

(2) the reasons why the prescription is necessary;

(3) alternative treatments that may be available; and

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

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

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

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

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

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

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

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

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

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

g. As used in this section:

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

<u>“Chronic pain” 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.</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

"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.

"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.

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

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

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

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

26. Access to prescription information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

q. (1) The division may provide prescription monitoring information to 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 that notifies practitioners of information pertaining to the treatment of overdoses, provided the division determines that any such electronic 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) any time 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.

In addition, for any prescription of a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance 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) a practitioner or other authorized person shall access prescription monitoring information on a quarterly basis during the period of time the patient continues to receive such prescriptions.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist 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.

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

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

(1) a veterinarian;

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

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

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

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

(6) a practitioner prescribing a controlled dangerous substance 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)

5. 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 the effects of controlled dangerous substances that are subject to abuse; the scope, duration and significance of abuse; what, if any, risk to the public health; and its psychic or physiological

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

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

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

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

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

b. The board shall:

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

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

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

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

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

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

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

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

b. The board shall:

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

(2) Accredit education programs offering credit toward continuing psychology education requirements or recognize national or State organizations that may accredit education programs.

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

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

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

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

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

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

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

10. (New section) The standards and curricula for the homemaker-home health aide education and training programs specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-24), shall 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.

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

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

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

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

b. Notwithstanding any other provision of law to the contrary, a physician assistant under the direct supervision of a licensed physician 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.

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

b. Notwithstanding any other provision of law to the contrary, an advanced practice nurse, under the joint protocol established by the advanced practice nurse and the collaborating physician, 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.

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

STATEMENT

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 also 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 required 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." The bill changes the required minimum clock hours of instruction for certified medical assistants from 600 hours to 330 hours.

The bill provides that the Division of Consumer Affairs may provide prescription monitoring information to 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 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 required to access prescription monitoring information under the bill, as well as other practitioners required to check prescription monitoring information when issuing

certain prescriptions, to perform such checks. 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:

(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) 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

(3) any time 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.

In addition to the current exclusions from this requirement to access the prescription monitoring information, the bill adds an exclusion 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.

sSENATE 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.

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

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

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

(2) the reasons why the prescription is necessary;

(3) alternative treatments that may be available; and

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

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

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

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

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

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

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

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

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

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

g. As used in this section:

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

<u>“Chronic pain” 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.</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

"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.

"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.

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

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

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

3. 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 the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance to a new patient for acute or chronic pain <u>and any time 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</u>. In addition, for any prescription of a Schedule II controlled dangerous substance 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.) a practitioner or other authorized person shall access prescription monitoring information on a quarterly basis during the period of time the patient continues to receive such prescriptions.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist 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.

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

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

(1) a veterinarian;

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

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

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

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

(6) a practitioner prescribing a controlled dangerous substance 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

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

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

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

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

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

b. The board shall:

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

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

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

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

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

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

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

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

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

b. The board shall:

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

(2) Accredit education programs offering credit toward continuing psychology education requirements or recognize national or State organizations that may accredit education programs.

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

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

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

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

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

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

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

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

9. (New section) The standards and curricula for the homemaker-home health aide education and training programs specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-24), shall 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.

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

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

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

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

b. Notwithstanding any other provision of law to the contrary, a physician assistant under the direct supervision of a licensed physician 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.

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

b. Notwithstanding any other provision of law to the contrary, an advanced practice nurse, under the joint protocol established by the advanced practice nurse and the collaborating physician, 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.

14. The act shall take effect on the 90th day after enactment.

STATEMENT

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, instead of upon issuing the third prescription, prior to the commencement of an ongoing course of treatment for chronic pain with a Schedule II controlled dangerous substance or any opioid. 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 also 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. 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 required 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, veterinarians, 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." The bill changes the required minimum clock hours of instruction for certified medical assistants from 600 hours to 330 hours.

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

hospital or a licensed ambulatory care facility, when no more than a 5-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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.

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

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

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

(2) the reasons why the prescription is necessary;

(3) alternative treatments that may be available; and

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

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

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

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

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

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

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

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

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

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

g. As used in this section:

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

"Chronic pain" means pain that persists 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

"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.

"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.

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

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

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

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

26. Access to prescription information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

q. (1) The division may provide prescription monitoring information to 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 that notifies practitioners of information pertaining to the treatment of overdoses, provided the division determines that any such electronic 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) any time 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.

In addition, for any prescription of a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance 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) a practitioner or other authorized person shall access prescription monitoring information on a quarterly basis during the period of time the patient continues to receive such prescriptions.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist 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.

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

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

(1) a veterinarian;

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

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

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

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

(6) a practitioner prescribing a controlled dangerous substance 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)

5. 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 the effects of controlled dangerous substances that are subject to abuse; the scope, duration and significance of abuse; what, if any, risk to the public health; and its psychic or physiological

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

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

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

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

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

b. The board shall:

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

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

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

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

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

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

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

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

b. The board shall:

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

(2) Accredit education programs offering credit toward continuing psychology education requirements or recognize national or State organizations that may accredit education programs.

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

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

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

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

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

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

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

10. (New section) The standards and curricula for the homemaker-home health aide education and training programs specified in subsection d. of section 2 of P.L.1947, c.262 (C.45:11-24), shall 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.

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

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

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

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

b. Notwithstanding any other provision of law to the contrary, a physician assistant under the direct supervision of a licensed physician 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.

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

b. Notwithstanding any other provision of law to the contrary, an advanced practice nurse, under the joint protocol established by the advanced practice nurse and the collaborating physician, 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.

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

STATEMENT

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 also 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 required 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." The bill changes the required minimum clock hours of instruction for certified medical assistants from 600 hours to 330 hours.

The bill provides that the Division of Consumer Affairs may provide prescription monitoring information to 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 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 required to access prescription monitoring information under the bill, as well as other practitioners required to check prescription monitoring information when issuing

certain prescriptions, to perform such checks. 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:

(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) 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

(3) any time 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.

In addition to the current exclusions from this requirement to access the prescription monitoring information, the bill adds an exclusion 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.

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.