

§23 - C.24:21-54
& Note to
§§24-32
§§24-32 -
C.45:1-44 to
45:1-52
§33 - Repealer
§34 - Note to
§§1-33

P.L. 2007, CHAPTER 244, *approved January 4, 2008*
Senate Committee Substitute (*Third Reprint*) for
Senate, No. 1604

1 AN ACT concerning controlled dangerous substances, amending
2 P.L.1970, c.226, P.L.1971, c.3 and P.L.2003, c.280,
3 supplementing Titles 24 and 45 of the Revised Statutes, and
4 repealing section 41 of P.L.1970, c.226.

5

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

8

9 1. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read
10 as follows:

11 2. Definitions. As used in this act:

12 “Administer” means the direct application of a controlled
13 dangerous substance, whether by injection, inhalation, ingestion, or
14 any other means, to the body of a patient or research subject by: (1)
15 a practitioner (or, in his presence, by his lawfully authorized agent),
16 or (2) the patient or research subject at the lawful direction and in
17 the presence of the practitioner.

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

22 **【“Bureau of Narcotics and Dangerous Drugs” means the Bureau**
23 **of Narcotics and Dangerous Drugs, United States Department of**
24 **Justice.】**

25 “Commissioner” means the **【State】** Commissioner of Health and
26 Senior Services.

27 “Controlled dangerous substance” means a drug, substance, or
28 immediate precursor in Schedules I through V of article 2 of **【this**
29 **act】** P.L.1970, c.226 (C.24:21-1 et seq.), as amended and
30 supplemented. The term shall not include distilled spirits, wine,
31 malt beverages, as those terms are defined or used in R.S.33:1-1 et
32 seq., or tobacco and tobacco products.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted January 29, 2007.

² Senate floor amendments adopted February 22, 2007.

³ Assembly AAP committee amendments adopted June 14, 2007.

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

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

13 “Director” means the Director of the Division of Consumer
14 Affairs in the Department of Law and Public Safety.

15 “Dispense” means to deliver a controlled dangerous substance to
16 an ultimate user or research subject by or pursuant to the lawful
17 order of a practitioner, including the prescribing, administering,
18 packaging, labeling, or compounding necessary to prepare the
19 substance for that delivery. “Dispenser” means a practitioner who
20 dispenses.

21 “Distribute” means to deliver other than by administering or
22 dispensing a controlled dangerous substance. “Distributor” means a
23 person who distributes.

24 “Division” means the Division of Consumer Affairs in the
25 Department of Law and Public Safety.

26 “Drug Enforcement Administration” means the Drug
27 Enforcement Administration in the United States Department of
28 Justice.

29 “Drugs” means (a) substances recognized in the official United
30 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
31 United States, or official National Formulary, or any supplement to
32 any of them; and (b) substances intended for use in the diagnosis,
33 cure, mitigation, treatment, or prevention of disease in man or other
34 animals; and (c) substances (other than food) intended to affect the
35 structure or any function of the body of man or other animals; and
36 (d) substances intended for use as a component of any article
37 specified in subsections (a), (b) and (c) of this section; but does not
38 include devices or their components, parts or accessories.

39 “Drug dependent person” means a person who is using a
40 controlled dangerous substance and who is in a state of psychic or
41 physical dependence, or both, arising from the use of that controlled
42 dangerous substance on a continuous basis. Drug dependence is
43 characterized by behavioral and other responses, including but not
44 limited to a strong compulsion to take the substance on a recurring
45 basis in order to experience its psychic effects, or to avoid the
46 discomfort of its absence. “Hashish” means the resin extracted

1 from any part of the plant Genus Cannabis L. and any compound,
2 manufacture, salt, derivative, mixture, or preparation of such resin.

3 “Marihuana” means all parts of the plant Genus Cannabis L. ,
4 whether growing or not; the seeds thereof; and every compound,
5 manufacture, salt, derivative, mixture, or preparation of such plant
6 or its seeds, except those containing resin extracted from such plant;
7 but shall not include the mature stalks of such plant, fiber produced
8 from such stalks, oil or cake made from the seeds of such plant, any
9 other compound, manufacture, salt, derivative, mixture, or
10 preparation of such mature stalks, fiber, oil, or cake, or the
11 sterilized seed of such plant which is incapable of germination.

12 “Manufacture” means the production, preparation, propagation,
13 compounding, conversion or processing of a controlled dangerous
14 substance, either directly or by extraction from substances of
15 natural origin, or independently by means of chemical synthesis, or
16 by a combination of extraction and chemical synthesis, and includes
17 any packaging or repackaging of the substance or labeling or
18 relabeling of its container, except that this term does not include the
19 preparation or compounding of a controlled dangerous substance by
20 an individual for his own use or the preparation, compounding,
21 packaging, or labeling of a controlled dangerous substance: (1) by a
22 practitioner as an incident to his administering or dispensing of a
23 controlled dangerous substance in the course of his professional
24 practice, or (2) by a practitioner (or under his supervision) for the
25 purpose of, or as an incident to, research, teaching, or chemical
26 analysis and not for sale.

27 “Narcotic drug” means any of the following, whether produced
28 directly or indirectly by extraction from substances of vegetable
29 origin, or independently by means of chemical synthesis, or by a
30 combination of extraction and chemical synthesis:

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

40 “Official written order” means an order written on a form
41 provided for that purpose by the Attorney General of the United
42 States or his delegate, under any laws of the United States making
43 provisions therefor, if such order forms are authorized and required
44 by the federal law, and if no such form is provided, then on an
45 official form provided for that purpose by the [State Department of
46 Health] division. If authorized by the Attorney General of the

1 United States or the division, the term shall also include an order
2 transmitted by electronic means.

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

11 “Opium poppy” means the plant of the species *Papaver*
12 *somniferum* L. , except the seeds thereof.

13 “Person” means any corporation, association, partnership, trust,
14 other institution or entity or one or more individuals. “Pharmacist”
15 means a registered pharmacist of this State.

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

23 “Poppy straw” means all parts, except the seeds, of the opium
24 poppy, after mowing.

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

31 (a) “Physician” means a physician authorized by law to practice
32 medicine in this or any other state and any other person authorized
33 by law to treat sick and injured human beings in this or any other
34 state and

35 (b) “Veterinarian” means a veterinarian authorized by law to
36 practice veterinary medicine in this State.

37 (c) “Dentist” means a dentist authorized by law to practice
38 dentistry in this State.

39 (d) “Hospital” means any federal institution, or any institution
40 for the care and treatment of the sick and injured, operated or
41 approved by the appropriate State department as proper to be
42 entrusted with the custody and professional use of controlled
43 dangerous substances.

44 (e) “Laboratory” means a laboratory to be entrusted with the
45 custody of narcotic drugs and the use of controlled dangerous
46 substances for scientific, experimental and medical purposes and for

1 purposes of instruction approved by the [State] Department of
2 Health and Senior Services.

3 “Production” includes the manufacture, planting, cultivation,
4 growing, or harvesting of a controlled dangerous substance.

5 “Immediate precursor” means a substance which the [State]
6 Department of Health] division has found to be and by regulation
7 designates as being the principal compound commonly used or
8 produced primarily for use, and which is an immediate chemical
9 intermediary used or likely to be used in the manufacture of a
10 controlled dangerous substance, the control of which is necessary to
11 prevent, curtail, or limit such manufacture.

12 “State” means the State of New Jersey.

13 “Ultimate user” means a person who lawfully possesses a
14 controlled dangerous substance for his own use or for the use of a
15 member of his household or for administration to an animal owned
16 by him or by a member of his household.

17 (cf: P.L.1985, c.134, s.1)

18

19 2. Section 3 of P.L.1970, c.226 (C.24:21-3) is amended to read
20 as follows:

21 3. Authority to control. a. The [commissioner] director shall
22 administer the provisions of [this act and] P.L.1970, c.226
23 (C.24:21-1 et seq.), as amended and supplemented, as provided
24 herein. The director may add substances to or delete or reschedule
25 all substances enumerated in the schedules in sections 5 through
26 [8] 8.1 of [this act] P.L.1970, c.226, as amended and
27 supplemented (C.24:21-5 through 24:21-8.1). In determining
28 whether to control a substance, the [commissioner] director shall
29 consider the following:

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

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

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

1 c. If any substance is designated, rescheduled or deleted as a
2 controlled dangerous substance under Federal law and notice
3 thereof is given to the **【commissioner】** director, the
4 **【commissioner】** director shall similarly control the substance under
5 **【this act】** P.L.1970, c.226, as amended and supplemented, after the
6 expiration of 30 days from publication in the Federal Register of a
7 final order designating a substance as a controlled dangerous
8 substance or rescheduling or deleting a substance, unless within that
9 30-day period, the **【commissioner】** director objects to inclusion,
10 rescheduling, or deletion. In that case, the **【commissioner】** director
11 shall cause to be published in the New Jersey Register and made
12 public the reasons for his objection and shall afford all interested
13 parties an opportunity to be heard. At the conclusion of any such
14 hearing, the **【commissioner】** director shall publish and make public
15 his decision, which shall be final unless the substance is specifically
16 otherwise dealt with by an act of the Legislature. Upon publication
17 of objection to inclusion or rescheduling under **【this act】** P.L.1970,
18 c.226 (C.24:21-1 et seq.) by the **【commissioner】** director, control of
19 such substance under this section shall automatically be stayed until
20 such time as the **【commissioner】** director makes public his final
21 decision.

22 The **【Commissioner of Health】** director may by regulation
23 exclude any nonnarcotic substance from a schedule if such
24 substance may, under the provisions of Federal or State law, be
25 lawfully sold over the counter without a prescription, unless
26 otherwise controlled pursuant to rules and regulations promulgated
27 by the **【department】** division.

28 d. The **【State Department of Health】** director shall update and
29 republish the schedules in sections 5 through **【8】** 8.1 of P.L.1970,
30 c.226, as amended and supplemented (C.24:21-5 through 24:21-8.1)
31 **【on a semiannual basis for 2 years from the effective date of this act**
32 **and thereafter on an annual basis】** periodically.

33 (cf: P.L.1970, c.226, s.3)

34

35 3. Section 5 of P.L.1970, c. 226 (C.24:21-5) is amended to read
36 as follows:

37 5. Schedule I.

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

43 b. The controlled dangerous substances listed in this section are
44 included in Schedule I, subject to any revision and republishing by
45 the **【commissioner】** director pursuant to subsection d. of section

1 **[3d]** 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent
2 provided in any other schedule.

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

- 7 (1) Acetylmethadol
- 8 (2) Allylprodine
- 9 (3) Alphacetylmethadol
- 10 (4) Alphameprodine
- 11 (5) Alphamethadol
- 12 (6) Benzethidine
- 13 (7) Betacetylmethadol
- 14 (8) Betameprodine
- 15 (9) Betamethadol
- 16 (10) Betaprodine
- 17 (11) Clonitazene
- 18 (12) Dextromoramide
- 19 (13) Dextrorphan
- 20 (14) Diampromide
- 21 (15) Diethylthiambutene
- 22 (16) Dimenoxadol
- 23 (17) Dimepheptanol
- 24 (18) Dimethylthiambutene
- 25 (19) Dioxaphetyl butyrate
- 26 (20) Dipipanone
- 27 (21) Ethylmethylthiambutene
- 28 (22) Etonitazene
- 29 (23) Etoxidine
- 30 (24) Furethidine
- 31 (25) Hydroxypethidine
- 32 (26) Ketobemidone
- 33 (27) Levomoramide
- 34 (28) Levophenacymorphan
- 35 (29) Morpheridine
- 36 (30) Noracymethadol
- 37 (31) Norlevorphanol
- 38 (32) Normethadone
- 39 (33) Norpipanone
- 40 (34) Phenadoxone
- 41 (35) Phenampromide
- 42 (36) Phenomorphan
- 43 (37) Phenoperidine
- 44 (38) Piritramide
- 45 (39) Proheptazine
- 46 (40) Properidine
- 47 (41) Racemoramide

- 1 (42) Trimeperidine.
- 2 d. Any of the following narcotic substances, their salts, isomers
3 and salts of isomers, unless specifically excepted, whenever the
4 existence of such salts, isomers and salts of isomers is possible
5 within the specific chemical designation:
- 6 (1) Acetorphine
7 (2) Acetylcodeine
8 (3) Acetyldihydrocodeine
9 (4) Benzylmorphine
10 (5) Codeine methylbromide
11 (6) Codeine-N-Oxide
12 (7) Cyprenorphine
13 (8) Desomorphine
14 (9) Dihydromorphine
15 (10) Etorphine
16 (11) Heroin
17 (12) Hydromorphanol
18 (13) Methyldesorphine
19 (14) Methylhydromorphine
20 (15) Morphine methylbromide
21 (16) Morphine methylsulfonate
22 (17) Morphine-N-Oxide
23 (18) Myrophine
24 (19) Nicocodeine
25 (20) Nicomorphine
26 (21) Normorphine
27 (22) Phocloine
28 (23) Thebacon.
- 29 e. Any material, compound, mixture or preparation which
30 contains any quantity of the following hallucinogenic substances,
31 their salts, isomers and salts of isomers, unless specifically
32 excepted, whenever the existence of such salts, isomers, and salts of
33 isomers is possible within the specific chemical designation:
- 34 (1) 3,4-methylenedioxy amphetamine
35 (2) 5-methoxy-3,4-methylenedioxy amphetamine
36 (3) 3,4,5-trimethoxy amphetamine
37 (4) Bufotenine
38 (5) Diethyltryptamine
39 (6) Dimethyltryptamine
40 (7) 4-methyl-2,5-dimethoxylamphetamine
41 (8) Ibogaine
42 (9) Lysergic acid diethylamide
43 (10) Marihuana
44 (11) Mescaline
45 (12) Peyote
46 (13) N-ethyl-3-piperidyl benzilate
47 (14) N-methyl-3-piperidyl benzilate

- 1 (15) Psilocybin
- 2 (16) Psilocyn
- 3 (17) Tetrahydrocannabinols.
- 4 (cf: P.L.1970, c.226, s.5)

5
6 4. Section 6 of P.L.1970, c.226 (C.24:21-6) is amended to read
7 as follows:

8 6. Schedule II.

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

15 b. The controlled dangerous substances listed in this section are
16 included in Schedule II, subject to any revision and republishing by
17 the ~~commissioner~~ director pursuant subsection d. of section [3d]
18 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided
19 in any other schedule.

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

25 (1) Opium and opiate, and any salt, compound, derivative, or
26 preparation of opium or opiate.

27 (2) Any salt, compound, derivative, or preparation thereof which
28 is chemically equivalent or identical with any of the substances
29 referred to in clause 1, except that these substances shall not include
30 the isoquinoline alkaloids of opium.

31 (3) Opium poppy and poppy straw.

32 (4) Coca leaves and any salt, compound, derivative, or
33 preparation of coca leaves, and any salt, compound, derivative, or
34 preparation thereof which is chemically equivalent or identical with
35 any of these substances, except that the substances shall not include
36 decocainized coca leaves or extractions which do not contain
37 cocaine or ecogine.

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

43 (1) Alphaprodine

44 (2) Anileridine

45 (3) Bezitramide

46 (4) Dihydrocodeine

47 (5) Diphenoxylate

- 1 (6) Fentanyl
- 2 (7) Isomethadone
- 3 (8) Levomethorphan
- 4 (9) Levorphanol
- 5 (10) Metazocine
- 6 (11) Methadone
- 7 (12) Methadone--Intermediate, 4-cyano-2-dimethylamino-4, 4-
- 8 diphenyl butane
- 9 (13) Moramide--Intermediate, 2-methyl-3-morpholino-1, 1-
- 10 diphenyl-propane-carboxylic acid
- 11 (14) Pethidine
- 12 (15) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-
- 13 phenylpiperidine
- 14 (16) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-
- 15 carboxylate
- 16 (17) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-
- 17 carboxylic acid
- 18 (18) Phenazocine
- 19 (19) Piminodine
- 20 (20) Racemethorphan
- 21 (21) Racemorphan.
- 22 (cf: P.L.1970, c.226, s.6)

23

24 5. Section 7 of P.L. 1970, c. 226 (C24:21-7) is amended to read
25 as follows:

26 7. Schedule III.

27 a. Tests. The **[commissioner]** director shall place a substance in
28 Schedule III if he finds that the substance: (1) has a potential for
29 abuse less than the substances listed in Schedules I and II; (2) has
30 currently accepted medical use in treatment in the United States;
31 and (3) abuse may lead to moderate or low physical dependence or
32 high psychological dependence.

33 b. The controlled dangerous substances listed in this section are
34 included in Schedule III, subject to any revision and republishing
35 by the **[commissioner]** director pursuant to subsection d. of section
36 **[3d.] 3 of P.L.1970, c.226 (C.24:21-3)**, and except to the extent
37 provided in any other schedule.

38 c. Any material, compound, mixture, or preparation which
39 contains any quantity of the following substances associated with a
40 stimulant effect on the central nervous system:

41 (1) Amphetamine, its salts, optical isomers, and salts of its
42 optical isomers.

43 (2) Phenmetrazine and its salts.

44 (3) Any substance which contains any quantity of
45 methamphetamine, including its salts, isomers, and salts of
46 isomers.

47 (4) Methylphenidate.

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

5 (1) Any substance which contains any quantity of a derivative of
6 barbituric acid, or any salt of a derivative of barbituric acid, except
7 those substances which are specifically listed in other schedules

8 (2) Chlorhexadol

9 (3) Glutethimide

10 (4) Lysergic acid

11 (5) Lysergic acid amide

12 (6) Methyprylon

13 (7) Phencyclidine

14 (8) Sulfondiethylmethane

15 (9) Sulfonethylmethane

16 (10) Sulfonmethane

17 (11) Ketamine hydrochloride.

18 e. Nalorphine.

19 f. Any material, compound, mixture, or preparation containing
20 limited quantities of any of the following narcotic drugs, or any
21 salts thereof:

22 (1) Not more than 1.80 grams of codeine or any of its salts per
23 100 milliliters or not more than 90 milligrams per dosage unit, with
24 an equal or greater quantity of an isoquinoline alkaloid of opium.

25 (2) Not more than 1.80 grams of codeine or any of its salts per
26 100 milliliters or not more than 90 milligrams per dosage unit, with
27 one or more active, nonnarcotic ingredients in recognized
28 therapeutic amounts.

29 (3) Not more than 300 milligrams of dihydrocodeinone or any of
30 its salts per 100 milliliters or not more than 15 milligrams per
31 dosage unit, with a four-fold or greater quantity of an isoquinoline
32 alkaloid of opium.

33 (4) Not more than 300 milligrams of dihydrocodeinone or any of
34 its salts per 100 milliliters or not more than 15 milligrams per
35 dosage unit, with one or more active, nonnarcotic ingredients in
36 recognized therapeutic amounts.

37 (5) Not more than 1.80 grams of dihydrocodeine or any of its
38 salts per 100 milliliters or not more than 90 milligrams per dosage
39 unit, with one or more active, nonnarcotic ingredients in recognized
40 therapeutic amounts.

41 (6) Not more than 300 milligrams of ethylmorphine or any of its
42 salts per 100 milliliters or not more than 15 milligrams per dosage
43 unit, with one or more active, nonnarcotic ingredients in recognized
44 therapeutic amounts.

45 (7) Not more than 500 milligrams of opium or any of its salts per
46 100 milliliters or per 100 grams, or not more than 25 milligrams per

1 dosage unit, with one or more active, nonnarcotic ingredients in
2 recognized therapeutic amounts.

3 (8) Not more than 50 milligrams of morphine or any of its salts
4 per 100 milliliters or per 100 grams with one or more active,
5 nonnarcotic ingredients in recognized therapeutic amounts.

6 g. The **【commissioner】** director may by regulation except any
7 compound, mixture, or preparation containing any stimulant or
8 depressant substance listed in subsections a. and b. of this schedule
9 from the application of all or any part of this act if the compound,
10 mixture, or preparation contains one or more active medicinal
11 ingredients not having a stimulant or depressant effect on the
12 central nervous system; provided, that such admixtures shall be
13 included therein in such combinations, quantity, proportion, or
14 concentration as to vitiate the potential for abuse of the substances
15 which do have a stimulant or depressant effect on the central
16 nervous system.

17 (cf: P.L.1997, c.193, s.1)

18

19 6. Section 8 of P.L.1970, c.226, (C.24:21-8) is amended to read
20 as follows:

21 8. Schedule IV.

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

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

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

- 34 (1) Barbital
- 35 (2) Chloral betaine
- 36 (3) Chloral hydrate
- 37 (4) Ethchlorovynol
- 38 (5) Ethinamate
- 39 (6) Methohexital
- 40 (7) Meprobamate
- 41 (8) Methylphenobarbital
- 42 (9) Paraldehyde
- 43 (10) Petrichloral
- 44 (11) Phenobarbital

45 d. The **【commissioner】** director may except by rule any
46 compound, mixture, or preparation containing any depressant
47 substance listed in subsection c. from the application of all or any

1 part of this act if the compound, mixture or preparation contains one
2 or more active medicinal ingredients not having a depressant effect
3 on the central nervous system, and if the admixtures are included
4 therein in combinations, quantity, proportion or concentration that
5 vitiate the potential for abuse of the substances which have a
6 depressant effect on the central nervous system.

7 (cf: P.L.1971, c.3, s.3)

8

9 7. Section 4 of P.L.1971, c.3 (C.24:21-8.1) is amended to read
10 as follows:

11 4. Schedule V.

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

18 b. The controlled dangerous substances listed in this section are
19 included in Schedule V.

20 c. Any compound, mixture, or preparation containing limited
21 quantities of any of the following narcotic drugs, which also
22 contains one or more nonnarcotic active medicinal ingredients in
23 sufficient proportion to confer upon the compound, mixture, or
24 preparation, valuable medicinal qualities other than those possessed
25 by the narcotic drug alone:

26 (1) Not more than 200 milligrams of codeine or any of its salts
27 per 100 milliliters or per 100 grams;

28 (2) Not more than 100 milligrams of dihydrocodeine or any of its
29 salts per 100 milliliters or per 100 grams;

30 (3) Not more than 50 milligrams of ethylmorphine or any of its
31 salts per 100 milliliters or per 100 grams;

32 (4) Not more than 2.5 milligrams of diphenoxylate and not less
33 than 25 micrograms of atropine sulfate per dosage unit;

34 (5) Not more than 100 milligrams of opium or any of its salts per
35 100 milliliters or per 100 grams.

36 (cf: P.L.1971, c.3, s.4)

37

38 8. Section 9 of P.L.1970, c.226 (C.24:21-9) is amended to read
39 as follows:

40 9. Rules and regulations. The **commissioner** director is
41 authorized to promulgate rules and regulations and to charge
42 reasonable fees relating to the registration and control of the
43 manufacture, distribution, and dispensing of controlled dangerous
44 substances within this State.

45 (cf: P.L.1970, c.226, s.9)

1 9. Section 10 of P.L.1970, c.226 (C.24:21-10) is amended to
2 read as follows:

3 10. Registration requirements. a. Every person who
4 manufactures, distributes, or dispenses any controlled dangerous
5 substance within this State or who proposes to engage in the
6 manufacture, distribution, or dispensing of any controlled
7 dangerous substance within this State, shall obtain **[annually]** a
8 registration issued by the **[State Department of Health]** division in
9 accordance with rules and regulations promulgated by it.

10 b. Persons registered by the **[commissioner]** director under this
11 act to manufacture, distribute, dispense, or conduct research with
12 controlled dangerous substances may possess, manufacture,
13 distribute, dispense, or conduct research with those substances to
14 the extent authorized by their registration and in conformity with
15 the other provisions of this article.

16 c. The following persons shall not be required to register and
17 may lawfully have under their control or possess controlled
18 dangerous substances under the provisions of **[this act]** P.L.1970,
19 c.226 (C.24:21-1 et seq.), as amended and supplemented; provided,
20 however, that nothing in this section shall be construed as
21 conferring on a person who is not registered or licensed as a
22 practitioner or as a pharmacist any authority, right or privilege that
23 is not granted him by the laws of this State:

24 (1) An agent, or an employee thereof, of any registered
25 manufacturer, distributor, or dispenser of any controlled dangerous
26 substance if such agent is acting in the usual course of his business
27 or employment;

28 (2) A common carrier or warehouseman, or an employee
29 thereof, whose possession of any controlled dangerous substance is
30 in the usual course of his business or employment;

31 (3) An ultimate user or a person in possession of any controlled
32 dangerous substance pursuant to a lawful order of a practitioner or
33 in lawful possession of a Schedule V substance;

34 (4) Peace officers or employees in the performance of their
35 official duties requiring possession or control of controlled
36 dangerous substances; or to temporary incidental possession by
37 employees or agents of persons lawfully entitled to possession, or
38 by persons whose possession is authorized for the purpose of aiding
39 peace officers in performing their official duties.

40 d. The **[commissioner]** director may, by regulation, waive the
41 requirement for registration of certain manufacturers, distributors,
42 or dispensers if he finds it consistent with the public health and
43 safety.

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

1 f. The **[commissioner]** director is authorized to inspect the
2 establishment of a registrant or applicant for registration in
3 accordance with the rules and regulations promulgated by him.
4 (cf: P.L.1971, c.3, s.5)
5

6 10. Section 11 of P.L.1970, c.226 (C.24:21-11) is amended to
7 read as follows:

8 11. Registration. a. The **[State Department of Health]** division
9 shall not register an applicant to manufacture or distribute
10 controlled dangerous substances included in Schedules I through IV
11 of article 2 of **[this act]** P.L.1970, c.226 (C.24:21-3 et seq.), as
12 amended and supplemented, unless it determines that the issuance
13 of such registration is consistent with the public interest. In
14 determining the public interest, the following factors shall be
15 considered:

16 (1) Maintenance of effective controls against diversion of
17 particular controlled dangerous substances into other than
18 legitimate medical, scientific, or industrial channels;

19 (2) Compliance with applicable State and local laws;

20 (3) Any convictions of the applicant under any Federal and State
21 laws relating to any controlled dangerous substance;

22 (4) Past experience in the manufacture of controlled dangerous
23 substances, and the existence in the applicant's establishment of
24 effective controls against diversion;

25 (5) Furnishing by the applicant false or fraudulent material in
26 any application filed under this act;

27 (6) Suspension or revocation of the applicant's Federal
28 registration to manufacture, distribute, or dispense controlled
29 dangerous substances as authorized by Federal law; and

30 (7) Such other factors as may be relevant to and consistent with
31 the public health and safety.

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

36 c. Practitioners shall be registered to dispense substances in
37 Schedules II through IV if they are authorized to dispense or
38 conduct research under the law of this State. The **[commissioner]**
39 director need not require separate registration under this article for
40 practitioners engaging in research with nonnarcotic controlled
41 dangerous substances in Schedules II through IV where the
42 registrant is already registered under this article in another capacity.
43 Practitioners registered under Federal law to conduct research in
44 Schedule I substances are permitted to conduct research in Schedule
45 I substances within this State upon furnishing the **[commissioner]**
46 director evidence of that Federal registration.

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

5 e. The **[State Department of Health]** division shall initially
6 permit persons to register who own or operate any establishment
7 engaged in the manufacture, distribution or dispensing of any
8 controlled dangerous substances prior to the effective date of **[this**
9 **act]** P.L.1970, c.226, as amended and supplemented, and who are
10 registered or licensed by the State.

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

25 The **[State Department of Health]** division shall adopt rules and
26 regulations providing for the registration and certification of any
27 individual who, under the direction of the duly authorized and
28 registered agent of an incorporated humane society or licensed
29 animal control facility, uses sodium pentobarbital to euthanize
30 injured, sick, homeless and unwanted domestic pets or domestic or
31 wild animals. The **[State Department of Health]** division may also
32 adopt such other rules and regulations as shall provide for the safe
33 and efficient use of sodium pentobarbital by animal control
34 facilities and humane societies. Nothing herein shall be deemed to
35 waive any other requirement imposed on animal control facilities
36 and humane societies by State and Federal law and regulation.
37 (cf: P.L.1979, c.204, s.1)

38
39 11. Section 12 of P.L.1970, c.226 (C.24:21-12) is amended to
40 read as follows:

41 12. Denial, revocation, or suspension of revocation. a. A
42 registration pursuant to section 11 of P.L.1970, c.226 (C.24:21-11)
43 to manufacture, distribute, or dispense a controlled dangerous
44 substance, may be suspended or revoked by the **[commissioner]**
45 director upon a finding that the registrant:

46 (1) Has materially falsified any application filed pursuant to
47 **[this act]** P.L.1970, c.226 (C.24:21-1 et seq.), as amended and

- 1 supplemented, or required by **【this act】** P.L.1970, c.226, as
2 amended and supplemented; or
- 3 (2) Has been convicted of an indictable offense under **【this act】**
4 P.L.1970, c.226, as amended and supplemented, or any law of the
5 United States, or of any State, relating to any substance defined
6 herein as a controlled dangerous substance; or
- 7 (3) Has violated or failed to comply with any duly promulgated
8 regulation of the **【commissioner】** director and such violation or
9 failure to comply reflects adversely on the licensee's reliability and
10 integrity with respect to controlled dangerous substances; or
- 11 (4) Has had his Federal registration suspended or revoked by
12 competent Federal authority and is no longer authorized by Federal
13 law to engage in the manufacturing, distribution, or dispensing of
14 controlled dangerous substances; or
- 15 (5) Has had his registration suspended or revoked by competent
16 authority of another state for violation of its laws or regulations
17 comparable to those of this State relating to the manufacture,
18 distribution or dispensing of controlled dangerous substances.
- 19 b. The **【commissioner】** director may limit revocation or
20 suspension of a registration to the particular controlled dangerous
21 substance with respect to which grounds for revocation or
22 suspension exist.
- 23 c. Before taking action pursuant to this section or pursuant to a
24 denial of registration under section 11 of P.L.1970, c.226 (C.24:21-
25 11), the **【commissioner】** director shall serve upon the applicant or
26 registrant an order to show cause why registration should not be
27 denied, revoked, or suspended. The order to show cause shall
28 contain a statement of the basis thereof and shall call upon the
29 applicant or registrant to appear before the **【commissioner】** director
30 at a time and place stated in the order, but in no event less than 30
31 days after the date of receipt of the order unless an earlier date is
32 requested by the applicant or registrant and agreed to by the
33 **【commissioner】** director. Proceedings to deny, revoke, or suspend
34 shall be conducted pursuant to this section in accordance with the
35 provisions of the "Administrative Procedure Act," P.L.1968, c.410
36 (C. 52:14B-1 et seq.). Such proceedings shall be independent of,
37 and not in lieu of, criminal prosecutions or other proceedings under
38 **【this act】** P.L.1970, c.226, as amended and supplemented, or any
39 law of the State.
- 40 d. The **【commissioner】** director may, in his discretion, suspend
41 any registration simultaneously with the institution of proceedings
42 under this section in cases where he finds that there is an imminent
43 danger to the public health or safety. Such suspensions shall
44 continue in effect until the conclusion of such proceedings,
45 including judicial review thereof, unless sooner withdrawn by the

1 **【commissioner】** director or dissolved by a court of competent
2 jurisdiction.

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

15 f. The **【commissioner】** director shall promptly notify the
16 **【Bureau of Narcotics and Dangerous Drugs】** Drug Enforcement
17 Administration of all orders suspending or revoking registration and
18 all forfeitures of controlled dangerous substances.
19 (cf: P.L.1970, c.226, s.12)

20
21 12. Section 13 of P.L.1970, c.226 (C.24:21-13) is amended to
22 read as follows:

23 13. Records of registrants. Persons registered to manufacture,
24 distribute, or dispense controlled dangerous substances under **【this**
25 **act】** P.L.1970, c.226 (C.24:21-1 et seq.), as amended and
26 supplemented, shall keep records and maintain inventories in
27 conformance with the recordkeeping and inventory requirements of
28 Federal law and with such additional rules as may be issued by the
29 **【commissioner】** director.
30 (cf: P.L.1970, c.226, s.13)

31
32 13. Section 14 of P.L.1970, c.226 (C.24:21-14) is amended to
33 read as follows:

34 14. Order forms. a. Controlled dangerous substances in
35 Schedule I and II shall be distributed only by a registrant, pursuant
36 to an official written order form, clearly identifying it as covering
37 or relating to Schedule I and Schedule II, or either thereof,
38 controlled dangerous substances and bearing the registration
39 number of the registrant. **【Except as provided herein, compliance】**
40 Compliance with Federal law respecting order forms shall be
41 deemed compliance with this section.

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

1 c. An official written order for any controlled dangerous
2 substance in Schedule I or Schedule II shall be signed in triplicate
3 by the person giving said order or by his duly authorized agent.
4 The original and triplicate shall be presented to the person who sells
5 or dispenses the controlled dangerous substance or substances
6 named therein. In the event of the acceptance of such order by said
7 person, except as may be otherwise required by rule, regulation, or
8 order of the **[commissioner]** director, each party to the transaction
9 shall preserve his copy of such order for a period of **[2]** two years,
10 in such a way as to be readily accessible for inspection by any
11 public officer or employee engaged in the enforcement of this
12 chapter.

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

15 (cf: P.L.1970, c.226, s.14)

16

17 14. Section 15 of P.L.1970, c.226 (C.24:21-15) is amended to
18 read as follows:

19 15. Prescriptions. a. Except when dispensed directly in good
20 faith by a practitioner, other than a pharmacist, in the course of his
21 professional practice only, to an ultimate user, no controlled
22 dangerous substance included in Schedule II, which is a
23 prescription drug as defined in **[R.S.45:14-14]** section 2 of
24 P.L.2003, c.280 (C.45:14-41), may be dispensed without the written
25 prescription of a practitioner; provided that in emergency
26 situations, as prescribed by the **[State Department of Health]**
27 division by regulation, such drug may be dispensed upon oral
28 prescription reduced promptly to writing and filed by the
29 pharmacist, if such oral prescription is authorized by Federal law.
30 Prescriptions shall be retained in conformity with the requirements
31 of section 13 of **[this act]** P.L.1970, c.226 (C.24:21-13). No
32 prescription for a Schedule II substance may be refilled.

33 b. Except when dispensed directly in good faith by a
34 practitioner, other than a pharmacist, in the course of his
35 professional practice only, to an ultimate user, no controlled
36 dangerous substance included in Schedule III and IV which is a
37 prescription drug as defined in **[R.S.45:14-14]** section 2 of
38 P.L.2003, c.280 (C.45:14-41) may be dispensed without a written or
39 oral prescription. Such prescription may not be filled or refilled
40 more than **[6]** six months after the date thereof or be refilled more
41 than **[5]** five times after the date of the prescription, unless
42 renewed by the practitioner.

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

46 d. A practitioner other than a veterinarian who prescribes a
47 controlled dangerous substance in good faith and in the course of

1 his professional practice may administer the same or cause the same
2 to be administered by a nurse or intern under his direction and
3 supervision.

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

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

14 g. Whenever it appears to the **【State Department of Health】**
15 director that a drug not considered to be a prescription drug under
16 existing State law should be so considered because of its abuse
17 potential, it shall so advise the New Jersey State Board of Pharmacy
18 and furnish to it all available data relevant thereto.

19 (cf: P.L.1971, c.3, s.7)

20

21 15. Section 17 of P.L.1970, c.226 (C.24:21-17) is amended to
22 read as follows:

23 17. Form of label to be used by pharmacists; altering or
24 removing label. Whenever a pharmacist sells or dispenses any
25 controlled dangerous substance on a prescription issued by a
26 practitioner, he shall affix to the container in which such drug is
27 sold or dispensed, a label showing his own name, address, and
28 registry number, or the name, address, and registry number of the
29 pharmacist or pharmacy owner for whom he is lawfully acting; the
30 name of the patient or, if the patient is an animal, the name of the
31 owner of the animal and the species of the animal; the name of the
32 practitioner by whom the prescription was issued; the brand name
33 or generic name of the drug dispensed unless the prescriber states
34 otherwise on the prescription, such directions as may be stated on
35 the prescription and such directions as may be required by rules or
36 regulations promulgated by the **【commissioner】** director.

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

39 (cf: P.L.1986, c.75, s.1)

40

41 16. Section 31 of P.L.1970, c.226 (C.24:21-31) is amended to
42 read as follows:

43 31. Powers of enforcement personnel. a. It is hereby made the
44 duty of the **【State Department of Health】** division, its officers,
45 agents, inspectors and representatives, and of all peace officers
46 within the State, and of the Attorney General and all county
47 prosecutors, to enforce all provisions of **【this act】** P.L.1970, c.226

1 (C.24:21-1 et seq.), as amended and supplemented, except those
2 specifically delegated, and to cooperate with all agencies charged
3 with the enforcement of the laws of the United States, of this State,
4 and of all other states, relating to narcotic drugs or controlled
5 dangerous substances, and it shall be the duty of the New Jersey
6 Board of Pharmacy in the Division of **【Professional Boards】**
7 Consumer Affairs in the Department of Law and Public Safety, its
8 officers, agents, inspectors and representatives also to assist the
9 **【State Department of Health】** division, peace officers and county
10 prosecutors in the enforcement of all provisions of **【this act】**
11 P.L.1970, c.226, as amended and supplemented, relating to the
12 handling of controlled dangerous substances by pharmacy owners
13 and pharmacists.

14 b. Authority is hereby granted to the **【Commissioner of Health】**
15 director:

16 (1) To promulgate all necessary rules and regulations for the
17 efficient enforcement of **【this act】** P.L.1970, c.226, as amended and
18 supplemented;

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

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

26 (a) An order of the **【commissioner】** director shall take effect
27 immediately, but it shall expire **【120】** 270 days after promulgation
28 thereof. Rules and regulations pursuant to such order may be
29 adopted and promulgated by the **【commissioner】** director but they
30 shall not take effect until he has given due notice of his intention to
31 take such action and has held a public hearing.

32 (b) Any person who denies that a drug or pharmaceutical
33 preparation is properly subject to an order by the **【commissioner】**
34 director which applies the provisions of **【this act】** P.L.1970, c.226,
35 as amended and supplemented, to such drug or pharmaceutical
36 preparation, may apply to the **【commissioner】** director for a hearing
37 which must be afforded, except where a drug or pharmaceutical
38 preparation has been the subject of a prior hearing or determination
39 by the **【commissioner】** director, in which case a hearing shall be
40 discretionary with the **【commissioner】** director. In such case a
41 decision must be rendered by the **【commissioner】** director or his
42 designee within 48 hours of the request for a hearing. If the
43 petitioning party is aggrieved by the decision, he shall have the
44 right to apply for injunctive relief against the order. Jurisdiction for
45 such injunctive relief shall be in the Superior Court of New Jersey
46 by way of summary proceedings.

1 c. In addition to the powers set forth in subsection a., of this
2 section, any officer or employee of the [State Department of
3 Health] division designated by the [commissioner] director may:

4 (1) Execute search warrants, arrest warrants, administrative
5 inspection warrants, subpoenas, and summonses issued under the
6 authority of this State;

7 (2) Make seizures of property pursuant to the provisions of this
8 act; and

9 (3) Perform such other law enforcement duties as may
10 bedesignated by the [commissioner] director with the approval of
11 the Attorney General.

12 (cf: P.L.1970, c.226, s.31)

13

14 17. Section 32 of P.L.1970, c.226 (C.24:21-32) is amended to
15 read as follows:

16 32. Administrative inspections and warrants. a. Issuance and
17 execution of administrative inspection warrants shall be as follows:

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

30 (2) A warrant shall issue only upon an affidavit of an officer or
31 employee duly designated and having knowledge of the facts
32 alleged, sworn to before the judge and establishing the grounds for
33 issuing the warrant. If the judge is satisfied that grounds for the
34 application exist or that there is probable cause to believe they
35 exist, he shall issue a warrant identifying the area, premises,
36 building, or conveyance to be inspected, the purpose of such
37 inspection, and, where appropriate, the type of property to be
38 inspected, if any. The warrant shall identify the item or types of
39 property to be seized, if any. The warrant shall be directed to a
40 person authorized by [section 3] section 31 of P.L.1970, c.226
41 (C.24:21-31) to execute it. The warrant shall state the grounds for
42 its issuance and the name of the person or persons whose affidavit
43 has been taken in support thereof. It shall command the person to
44 whom it is directed to inspect the area, premises, building, or
45 conveyance identified for the purpose specified, and where
46 appropriate, shall direct the seizure of the property specified. The

1 warrant shall direct that it be served during normal business hours.
2 It shall designate the judge to whom it shall be returned;

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

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

23 b. The **[commissioner]** director is authorized to make
24 administrative inspections of controlled premises in accordance
25 with the following provisions:

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

28 (a) Places where persons registered or exempted from
29 registration requirements under **[this act]** P.L.1970, c.226, as
30 amended and supplemented, are required to keep records, and

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

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

44 (3) When so authorized by an administrative inspection warrant,
45 an officer or employee designated by the **[commissioner]** director
46 shall have the right:

- 1 (a) To inspect and copy records required by **[this act]** P.L.1970,
2 c.226, as amended and supplemented, to be kept;
- 3 (b) To inspect, within reasonable limits and in a reasonable
4 manner, controlled premises and all pertinent equipment, finished
5 and unfinished material, containers and labeling found therein, and,
6 except as provided in paragraph (5) of subsection b.**[(5)]** of this
7 section, all other things therein including records, files, papers,
8 processes, controls, and facilities bearing on violation of **[this act]**
9 P.L.1970, c.226, as amended and supplemented; and
- 10 (c) To inventory any stock of any controlled dangerous
11 substance therein and obtain samples of any such substance.
- 12 (4) This section shall not be construed to prevent entries and
13 administrative inspections (including seizures of property) without
14 a warrant:
- 15 (a) With the consent of the owner, operator or agent in charge of
16 the controlled premises;
- 17 (b) In situations presenting imminent danger to health or safety;
- 18 (c) In situations involving inspection of conveyances where
19 there is reasonable cause to believe that the mobility of the
20 conveyance makes it impracticable to obtain a warrant;
- 21 (d) In any other exceptional or emergency circumstance where
22 time or opportunity to apply for a warrant is lacking; and,
- 23 (e) In all other situations where a warrant is not constitutionally
24 required.
- 25 (5) Except when the owner, operator, or agent in charge of the
26 controlled premises so consents in writing, no inspection authorized
27 by this section shall extend to:
- 28 (a) Financial data;
- 29 (b) Sales data other than shipment data;
- 30 (c) Pricing data;
- 31 (d) Personnel data; or
- 32 (e) Research data.
- 33 (cf: P.L.1970, c.226, s.32)
- 34

35 18. Section 34 of P.L.1970, c.226 (C.24:21-34) is amended to
36 read as follows:

37 34. Cooperative arrangements. a. The **[commissioner]** director
38 may cooperate with Federal and other State agencies in discharging
39 his responsibilities concerning traffic in dangerous substances and
40 in suppressing the abuse of dangerous substances. To this end, he is
41 authorized to:

- 42 (1) Except as otherwise provided by law, arrange for the
43 exchange of information between government officials concerning
44 the use and abuse of dangerous substances; provided, however, that
45 in no case shall any officer having knowledge by virtue of his office
46 of any such prescription, order or record divulge such knowledge,
47 except in connection with a prosecution or proceeding in court or

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

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

5 (3) Conduct programs of eradication aimed at destroying wild or
6 illicit growth of plant species from which controlled dangerous
7 substances may be extracted.

8 b. Results, information, and evidence received from the [Bureau
9 of Narcotics and Dangerous Drugs] Drug Enforcement
10 Administration relating to the regulatory functions of [this act]
11 P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented,
12 including results of inspections conducted by that agency, may be
13 relied upon and acted upon by the [commissioner] director in
14 conformance with his regulatory functions under [this act]
15 P.L.1970, c.226, as amended and supplemented.

16 (cf: P.L.1970, c.226, s.34)

17

18 19. Section 36 of P.L.1970, c.226 (C.24:21-36) is amended to
19 read as follows:

20 36. Reports of convictions of manufacturers and practitioners.
21 Whenever a manufacturer or practitioner is convicted of violating
22 any provision of [this act] P.L.1970, c.226 (C.24:21-1 et seq.), as
23 amended and supplemented, or of a rule or regulation issued
24 thereunder or of any offense defined in chapters 35 or 36 of Title
25 2C of the New Jersey Statutes, the court shall cause a copy of the
26 judgment and sentence and opinion of the court, if any, to be sent to
27 the [State Department] division or professional board, as the case
28 may be, by which the defendant was registered or licensed.

29 (cf: P.L.1987, c.106, s.22)

30

31 20. Section 38 of P.L.1970, c.226 (C.24:21-38) is amended to
32 read as follows:

33 38. Judicial review. All final determinations, findings and
34 conclusions of the [commissioner] director under [this act]
35 P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented,
36 shall be final and conclusive decisions of the matters involved,
37 subject to the provisions for judicial review provided by the Rules
38 of Court.

39 (cf: P.L.1970, c.226, s.38)

40

41 21. Section 39 of P.L.1970, c.226 (C.24:21-39) is amended to
42 read as follows:

43 39. Reports by practitioners of drug dependent persons. Every
44 practitioner, within 24 hours after determining that a person is a
45 drug dependent person by reason of the use of a controlled
46 dangerous substance for purposes other than the treatment of
47 sickness or injury prescribed and administered as authorized by law,

1 shall report such determination verbally or by mail to the
2 **【Commissioner of the State Department of Health】** director. Such
3 a report by a physician shall be confidential and shall not be
4 admissible in any criminal proceeding. The **【commissioner】**
5 director, in his discretion, may also treat any other reports
6 submitted under this section as confidential if he determines that it
7 is in the best interest of the drug dependent person and the public
8 health and welfare. A practitioner who fails to make a report
9 required by this section is a disorderly person.
10 (cf: P.L.1970, c.226, s.39)

11
12 22. Section 20 of P.L.2003, c.280 (C.45:14-59) is amended to
13 read as follows:

14 20. The Division of Consumer Affairs in the Department of Law
15 and Public Safety shall establish the format for uniform, non-
16 reproducible, non-erasable safety paper prescription blanks, to be
17 known as New Jersey Prescription Blanks, which format shall
18 include an identifiable logo or symbol that will appear on all
19 prescription blanks. The prescription blanks for each prescriber or
20 health care facility shall be numbered consecutively and if the
21 prescriber or health care facility has a National Provider Identifier,
22 the prescription blank shall include the National Provider Identifier.
23 The division shall approve a sufficient number of vendors to ensure
24 production of an adequate supply of New Jersey Prescription
25 Blanks for practitioners and health care facilities statewide.
26 (cf: P.L.2003, c.280, s.20)

27
28 23. (New section) a. There is established in the Department of
29 the Treasury a special, dedicated nonlapsing fund to be known as
30 the “Controlled Dangerous Substances Administration and
31 Enforcement Fund.” The fund shall be the depository for fees, cost
32 recoveries and penalties collected in connection with the “New
33 Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226
34 (C.24:21-1 et seq.), as amended and supplemented, and the
35 Prescription Monitoring Program established pursuant to
36 P.L. , c. (C.)(Pending before the Legislature as this bill).
37 Monies deposited in the fund and the interest earned thereon shall
38 be used for the collection of information, administration and
39 enforcement of laws relating to controlled dangerous substances.

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

1 24. (New section) ¹Definitions.¹ As used in sections 25
2 through ²[29] ³⁰² of P.L. , c. (C.)(pending before the
3 Legislature as this bill):

4 ¹[Definitions.]¹

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

13 “Director” means the Director of the Division of Consumer
14 Affairs in the Department of Law and Public Safety.

15 “Division” means the Division of Consumer Affairs in the
16 Department of Law and Public Safety.

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

20 “Ultimate user” means a person who has obtained from a
21 dispenser and possesses for his own use, or for the use of a member
22 of his household or an animal owned by him or by a member of his
23 household, a controlled dangerous substance.

24

25 25. (New section) Prescription Monitoring Program;
26 requirements.

27 a. There is established the Prescription Monitoring Program in
28 the Division of Consumer Affairs in the Department of Law and
29 Public Safety. The program shall consist of an electronic system
30 for monitoring controlled dangerous substances that are dispensed
31 in or into the State by a pharmacist in an outpatient setting.

32 b. Each pharmacy permit holder shall submit, or cause to be
33 submitted, to the division, by electronic means in a format and at
34 such intervals as are specified by the director, information about
35 each prescription for a controlled dangerous substance dispensed by
36 the pharmacy that includes:

37 (1) The surname, first name, and date of birth of the patient for
38 whom the medication is intended;

39 (2) The street address and telephone number of the patient;

40 (3) The date that the medication is dispensed;

41 (4) The number or designation identifying the prescription and
42 the National Drug Code of the drug dispensed;

43 (5) The pharmacy permit number of the dispensing pharmacy;

44 (6) The prescribing practitioner’s name and Drug Enforcement
45 Administration registration number;

1 (7) The name, strength and quantity of the drug dispensed, the
2 number of refills ordered, and whether the drug was dispensed as a
3 refill or a new prescription;

4 (8) the date that the prescription was issued by the practitioner;
5 **'[and]'**

6 (9) 'the source of payment for the drug dispensed; and

7 (10)' such other information, not inconsistent with federal law,
8 regulation or funding eligibility requirements, as the director
9 determines necessary.

10 The pharmacy permit holder shall submit the information to the
11 division with respect to the prescriptions dispensed during the
12 reporting period not less frequently than every 30 days, or
13 according to a schedule to be determined by the director if federal
14 law, regulation or funding eligibility otherwise requires.

15 c. The division may grant a waiver of electronic submission to
16 any pharmacy permit holder for good cause, including financial
17 hardship, as determined by the director. The waiver shall state the
18 format in which the pharmacy permit holder shall submit the
19 required information.

20 d. The requirements of this act shall not apply to: the direct
21 administration of a controlled dangerous substance to the body of
22 an ultimate user; or the administration or dispensing of a controlled
23 dangerous substance that is otherwise exempted as determined by
24 the Secretary of Health and Human Services pursuant to the
25 "National All Schedules Prescription Electronic Reporting Act of
26 2005," Pub.L.109-60.

27
28 26. (New section) Access to prescription information.

29 a. The division shall maintain procedures to ensure privacy and
30 confidentiality of patients and that patient information collected,
31 recorded, transmitted and maintained is not disclosed, except as
32 permitted in this section¹, including, but not limited to, the use of a
33 password-protected system for maintaining this information and
34 permitting access thereto as authorized under sections 25 through
35 ²[29] ³⁰ of P.L. , c. (C.)(pending before the Legislature as this
36 bill), and a requirement that a person as listed in subsection d. of
37 this section provide on-line affirmation of the person's intent to
38 comply with the provisions of sections 25 through ²[29]² ³⁰ of
39 P.L. , c. (C.)(pending before the Legislature as this bill) as a
40 condition of accessing the information¹.

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

45 c. The division shall review the prescription monitoring
46 information provided by a pharmacy permit holder pursuant to
47 sections 25 through ²[29] ³⁰ of P.L. , c. (C.)(pending before

1 the Legislature as this bill). If the division determines that a
2 violation of law or regulations, or a breach of the applicable
3 standards of practice, may have occurred, the division shall notify
4 the appropriate law enforcement agency or professional licensing
5 board, and provide the prescription monitoring information required
6 for an investigation.

7 d. The division may provide prescription monitoring
8 information to the following persons:

9 (1) a practitioner authorized to prescribe, dispense or administer
10 controlled dangerous substances who certifies that the request is for
11 the purpose of providing health care to a current patient of the
12 practitioner. Nothing in sections 25 through ²[29] ²30² of P.L. , c.
13 (C.)(pending before the Legislature as this bill) shall be construed
14 to require or obligate a practitioner to access or check the
15 prescription monitoring information prior to prescribing, dispensing
16 or administering medications beyond that which may be required as
17 part of the practitioner's professional practice;

18 (2) a pharmacist authorized to dispense controlled dangerous
19 substances who certifies that the request is for the purpose of
20 providing health care to a current patient. Nothing in sections 25
21 through ²[29] ²30² of P.L. , c. (C.)(pending before the
22 Legislature as this bill) shall be construed to require or obligate a
23 pharmacist to access or check the prescription monitoring
24 information prior to dispensing medications beyond that which may
25 be required as part of the pharmacist's professional practice;

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

36 (4) a State, federal or municipal law enforcement officer who is
37 acting pursuant to a court order and certifies that the officer is
38 engaged in a bona fide specific investigation of a designated
39 practitioner or patient;

40 (5) a designated representative of a state Medicaid or other
41 program who certifies that he is engaged in a bona fide
42 investigation of a designated practitioner or patient;

43 (6) a properly convened grand jury pursuant to a subpoena
44 properly issued for the records;

45 (7) authorized personnel of the division or vendor or contractor
46 responsible for establishing and maintaining the program; and

1 (8) the controlled dangerous substance monitoring program in
2 another state with which the division has established an
3 interoperability agreement.

4 e. ¹A person listed in subsection d. of this section, as a condition
5 of obtaining prescription monitoring information pursuant thereto,
6 shall certify, by means of entering an on-line statement in a form
7 and manner prescribed by regulation of the director, the reasons for
8 seeking to obtain that information.

9 f. The division shall offer an on-line tutorial for those persons
10 listed in subsection d. of this section, which shall, at a minimum,
11 include: how to access prescription monitoring information; the
12 rights and responsibilities of persons who are the subject of or
13 access this information and the other provisions of sections 25
14 through ²[29] 30² of P.L. , c. (C.)(pending before the
15 Legislature as this bill) and the regulations adopted pursuant
16 thereto, regarding the permitted uses of that information and
17 penalties for violations thereof; and a summary of the requirements
18 of the federal health privacy rule set forth at 45 CFR Parts 160 and
19 164 and a hypertext link to the federal Department of Health and
20 Human Services website for further information about the specific
21 provisions of the privacy rule.

22 g.¹ The director may provide nonidentifying prescription drug
23 monitoring information to public or private entities for statistical,
24 research or educational purposes.

25
26 ²27. (New section) Prescription Monitoring Program;
27 provisions for expansion.

28 a. Notwithstanding the provisions of section 25 of P.L. ,
29 c. (C.)(pending before the Legislature as this bill) to the contrary,
30 the director may adopt a regulation to expand the program to
31 include information about each prescription dispensed for a
32 prescription drug that is not a controlled dangerous substance. In
33 determining whether a prescription drug other than a controlled
34 dangerous substance should be monitored, the director shall
35 consider: the actual or relative potential for abuse; scientific
36 evidence of its pharmacological effect, if known; the state of
37 current scientific knowledge regarding the drug; its history and
38 current pattern of abuse; the scope, duration and significance of
39 abuse; what, if any, risk to the public health; and its psychic or
40 physiological dependence liability. The regulation shall provide
41 that the prescription drug shall be monitored for a period of time.
42 At the conclusion of the monitoring period, the director shall
43 publish and make public the decision of whether inclusion of the
44 prescription drug in the program shall be permanent.

45 b. At the time the notice to expand the program pursuant to
46 subsection a. is published in the New Jersey Register, the director
47 shall provide a copy of the notice of proposed rule making to the

1 chairpersons of the standing legislative reference committees on
2 health of the Senate and General Assembly.²

3
4 ²[27.] 28.² (New section) Immunity from liability.

5 a. The division shall be immune from civil liability arising from
6 inaccuracy of any of the information submitted to it pursuant to
7 sections 25 through ²[29] 30² of P.L. , c. (C.)(pending before
8 the Legislature as this bill).

9 b. A pharmacy permit holder, pharmacist or practitioner shall be
10 immune from civil liability arising from compliance with sections
11 25 through ²[29] 30² of P.L. , c. (C.)(pending before the
12 Legislature as this bill).

13
14 ²[28.] 29.² (New section) Penalties.

15 a. A pharmacy permit holder, or a person designated by a
16 pharmacy permit holder to be responsible for submitting data
17 required by section 25 of P.L. , c. (C.) (pending before the
18 Legislature as this bill), who knowingly fails to submit data as
19 required, shall be subject to disciplinary action pursuant to section 8
20 of P.L.1978, c.73 (C.45:1-21) and may be subject to a civil penalty
21 in an amount not to exceed \$1,000 for repeated failure to comply
22 with sections 25 through ²[29] 30² of P.L. , c. (C.)(pending
23 before the Legislature as this bill).

24 b. (1) A pharmacy permit holder, pharmacist or practitioner, or
25 any other person or entity who knowingly discloses ¹or uses¹
26 prescription monitoring information in violation of the provisions of
27 sections 25 through ²[29] 30² of P.L. , c. (C.)(pending before
28 the Legislature as this bill) shall be subject to a civil penalty in an
29 amount not to exceed \$10,000.

30 (2) A pharmacy permit holder, pharmacist, or practitioner who
31 knowingly discloses ¹or uses¹ prescription monitoring information
32 in violation of the provisions of sections 25 through ²[29] 30²
33 of P.L. , c. (C.) (pending before the Legislature as this bill), shall
34 also be subject to disciplinary action pursuant to section 8 of
35 P.L.1978, c.73 (C.45:1-21).

36 c. A penalty imposed under this section shall be collected by the
37 director pursuant to the “Penalty Enforcement Law of 1999,”
38 P.L.1999, c.274 (C.2A:58-10 et seq.).

39
40 ²[29.] 30.² (New section) Authority to contract. The division
41 may contract with one or more vendors to establish and maintain
42 the Prescription Monitoring Program pursuant to guidelines
43 established by the director.

44
45 ²[30.] 31.² Pursuant to the “Administrative Procedure Act,”
46 P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division

1 of Consumer Affairs shall adopt rules and regulations necessary to
2 effectuate the purposes of sections 24 through ²[29] 30² of P.L. ,
3 c. (C.)(pending before the Legislature as this bill).

4
5 ²[31.] 32.² (New section) Continuation of regulations. Orders,
6 rules and regulations concerning implementation of P.L.1970, c.226
7 (C.24:21-1 et seq.), as amended and supplemented, issued or
8 promulgated by the Department of Health and Senior Services prior
9 to the effective date of P.L. , c. (C.)(pending before the
10 Legislature as this bill), shall continue with full force and effect
11 until amended or repealed by the Division of Consumer Affairs
12 pursuant to law.

13
14 ²[32.] 33.² The following section is repealed:

15 Section 41 of P.L.1970, c. 226 (C.24:21-41).

16
17 ²[33.] 34.² Sections 1 through 23 and ²[30] 31² through ²[32]
18 ³[33²] 34³ of this act shall take effect upon enactment, ³provided
19 however that section 22 shall remain inoperative until May 23,
20 2008,³ and sections 24 through ²[29] 30² shall take effect on the
21 first day of the 19th month after the date of enactment. The
22 Director of the Division of Consumer Affairs may take such
23 anticipatory administrative action in advance thereof as shall be
24 necessary for the implementation of this act.

25

26

27

28

29 Establishes Prescription Monitoring Program in Division of
30 Consumer Affairs and provides division with authority over
31 registration and control of controlled dangerous substances.