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STATE OF NEW JERSEY

216th LEGISLATURE

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SYNOPSIS

Revises certain provisions of New Jersey Prescription Monitoring Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on March 23, 2015, with amendments.

(Sponsorship Updated As Of: 3/27/2015)

AN ACT concerning [3]**[**the New Jersey Prescription Monitoring Program**]** drug abuse[3], revising various parts of the statutory law, and supplementing P.L.2007, c.244.

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

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

34. Cooperative arrangements. a. The director may cooperate with federal and other State agencies in discharging **[**his**]** the director's responsibilities concerning traffic in dangerous substances and in suppressing the abuse of dangerous substances. To this end, **[**he**]** the director is authorized to:

(1) Except as otherwise provided by law, arrange for the exchange of information between government officials concerning the use and abuse of dangerous substances; provided, however, that in no case shall any officer having knowledge by virtue of **[**his**]** that individual's office of any such prescription, order, or record divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer to which prosecution or proceeding the person to whom the records relate, is a party;

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

(3) Conduct educational programs **[**of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted**]** for: members of the general public; pharmacy permit holders and pharmacists; and health care professionals, mental health practitioners, and practitioners as defined in section 24 of P.L.2007, c.244 (C.45:1-44).

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

(cf: P.L.2007, c.244, s.18)

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 floor amendments adopted December 18, 2014.
[2] Senate floor amendments adopted March 16, 2015.
[3] Assembly ABU committee amendments adopted March 23, 2015.

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).

[1]"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 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 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 American Medical Technologists (AMT), or any other recognized certifying body approved by the Board of Medical Examiners.[1]

"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.

[3]"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.[3]

"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.

[3]"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.[3]

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

(cf: P.L.2007, c.244, s.24)

3. Section 25 of P.L.2007, c.244 (C.45:1-45) is amended to read as follows:

25. Prescription Monitoring Program; requirements.

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

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

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

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

(3) The date that the medication is dispensed;

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

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

(6) The prescribing practitioner's name and Drug Enforcement Administration registration number;

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

(8) The date that the prescription was issued by the practitioner;

(9) The source of payment for the drug dispensed; **[**and**]**

(10) Identifying information for any individual, other than the patient for whom the prescription was written, who picks up a prescription [1], if the pharmacist has a reasonable belief that the person picking up the prescription 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[1] ; and

(11) Such other information, not inconsistent with federal law, regulation, or funding eligibility requirements, as the director determines necessary.

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

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

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

e. The provisions of paragraph (10) of subsection b. of this section shall not take effect until the director determines that the Prescription Monitoring Program has the technical capacity to accept the information required by that paragraph.

(cf: P.L.2007, c.244, s.25)

4. 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 d.**]** subsections h. or i. of this section provide **3[**on-line**]3** 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 **[**of law or regulations, or a breach of the applicable standards of practice,**]** 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. **[**The division may provide prescription monitoring information to the following persons:

(1) a practitioner authorized to prescribe, dispense or administer controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient of the practitioner. 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 practitioner to access or check the prescription monitoring information prior to prescribing, dispensing or administering medications beyond that which may be required as part of the practitioner's professional practice;

(2) a pharmacist authorized to dispense controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient. 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 pharmacist to access or check the prescription monitoring information prior to dispensing medications beyond that which may be required as part of the pharmacist's professional practice;

(3) a designated representative of the State Board of Medical Examiners, New Jersey State Board of Dentistry, New Jersey Board of Nursing, New Jersey State Board of Optometrists, New Jersey 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 he is engaged in a bona fide specific investigation of a designated practitioner whose professional practice was or is regulated by that board;

(4) 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 or patient;

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

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

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

(8) the controlled dangerous substance monitoring program in another state with which the division has established an interoperability agreement.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

e. **[**A person listed in subsection d. of this section, as a condition of obtaining prescription monitoring information pursuant thereto, shall certify, by means of entering an on-line statement in a form and manner prescribed by regulation of the director, the reasons for seeking to obtain that information.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

f. **[**The division shall offer an on-line tutorial for those persons listed in subsection d. of this section, which shall, at a minimum, include: how to access prescription monitoring information; the rights and responsibilities of persons who are the subject of or

access this information and 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.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

g. **[**The director may provide nonidentifying prescription drug monitoring information to public or private entities for statistical, research or educational purposes.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

(2) The division shall provide to a pharmacist who [1]**[**has a current CDS registration**]** is employed by a current pharmacy permit holder[1] 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 [2]or dental[2] residents as are authorized by a faculty member of a medical [2]or dental[2] 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 [2]or dental[2] 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 [2]or dental[2] resident's authorization to access prescription monitoring information, and such other matters as the division may deem appropriate.

(5) [1]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)[1] [2]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)[2] 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 [3]or alternate means authorized by the director[3] , in a form and manner prescribed by rule or regulation adopted by the director.

i. The division may provide online access to prescription monitoring information [1], or may provide access to prescription monitoring information through any other means deemed appropriate by the director,[1] 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, [1]**[**or**]**[1] a deputy or assistant county medical examiner [1], or a qualified designated assistant thereof,[1] 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 [1]with which the division has established an interoperability agreement, or[1] 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 [3]or pharmacist[3] 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 [3], pharmacist,[3] or patient [3]. A law enforcement agency that obtains prescription monitoring information shall comply with security protocols established by the director by regulation[3] ;

(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 [3], pharmacist,[3] 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 [3]or alternate means authorized by the director[3] , 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. [3]**[**The division shall establish a process by which patients, authorized agents, parents of a minor child, legal guardians, or legal counsel can directly**]** (1) A current patient of a practitioner may[3] request [3]**[**, and obtain access to,**]** from that practitioner that patient's own[3] 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). [3][In establishing this process, the division shall, at a minimum: (1) require a patient, authorized agent, parent of a minor child, legal guardian, or legal counsel to mail to the division a notarized request form and proof of a government-issued photo identification; (2) authorize, but not require, physicians and pharmacists to voluntarily share relevant prescription monitoring information with patients; and (3) authorize a patient to submit a request, through the division, for the correction of prescription monitoring information that the patient believes has been improperly recorded in the patient's prescription profile.] 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.[3]

[2]p. The division shall [3][create a dedicated, secure telephone and email hotline for] take steps to ensure that appropriate channels of communication exist to enable[3] 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 [3][, and who wishes][3] to seek or provide [3][any][3] information to the division related to the provisions of this section.[2]

(cf: P.L.2007, c.244, s.26)

5. Section 28 of P.L.2007, c.244 (C.45:1-48) is amended to read as follows:

28. Immunity from liability.

a. The division shall be immune from civil liability arising from inaccuracy of any of the information submitted to it pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

b. A pharmacy permit holder, pharmacist, mental health practitioner, licensed health care professional, or practitioner shall be immune from civil liability arising from compliance with sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

(cf: P.L.2007, c.244, s.28)

6. Section 29 of P.L.2007, c.244 (C.45:1-49) is amended to read as follows:

29. Penalties.

a. A pharmacy permit holder, or a person designated by a pharmacy permit holder to be responsible for submitting data required by section 25 of P.L.2007, c.244 (C.45:1-45), who knowingly fails to submit data as required, shall be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21) and may be subject to a civil penalty in an amount not to exceed $1,000 for [repeated] failure to comply with sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

b. (1) A pharmacy permit holder, pharmacist, mental health practitioner, licensed health care professional, or practitioner, or any other person or entity who knowingly [3][discloses or uses] obtains or attempts to obtain[3] prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be subject to a civil penalty in an amount not to exceed $10,000.

(2) A pharmacy permit holder, pharmacist, mental health practitioner, licensed health care professional, or practitioner who knowingly discloses or uses prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall also be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

c. [3]In addition to any other penalty provided by law, a person who is authorized to obtain prescription monitoring information from the Prescription Monitoring Program who knowingly discloses such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be guilty of a crime of the fourth degree and shall be subject to a civil penalty in an amount not to exceed $10,000.

d. In addition to any other penalty provided by law, a person who is authorized to obtain prescription monitoring information from the Prescription Monitoring Program who uses this information in the course of committing, attempting to commit, or conspiring to commit any criminal offense shall be guilty of a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction under this subsection shall not merge with a conviction of any other offense, nor shall any other conviction merge with a conviction under this subsection. The court shall impose separate sentences upon a conviction under this subsection and any other criminal offense.

e. In addition to any other penalty provided by law, a person who is not authorized to obtain prescription monitoring information from the Prescription Monitoring Program who knowingly obtains or attempts to obtain such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall be guilty of a crime of the fourth degree.

f.[3] A civil penalty imposed under [3]**[**subsections a., b., or d. of**]**[3] this section shall be collected by the director pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

[3]**[**d. A person not authorized to obtain prescription monitoring information from the Prescription Monitoring Program, who knowingly obtains or attempts to obtain such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall be subject to a civil penalty in an amount not to exceed $10,000.

e. In addition to any other penalty provided by law, a person who is authorized to obtain prescription monitoring information from the Prescription Monitoring Program who knowingly discloses such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall be guilty of a crime of the fourth degree.

f. In addition to any other penalty provided by law, a person who is authorized to obtain prescription monitoring information from the Prescription Monitoring Program who uses this information in the course of committing, attempting to commit, or conspiring to commit any criminal offense shall be guilty of a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction under this subsection shall not merge with a conviction of any other offense, nor shall any other conviction merge with a conviction under this subsection. The court shall impose separate sentences upon a conviction under this subsection and any other criminal offense.

g. In addition to any other penalty provided by law, a person who is not authorized to obtain prescription monitoring information from the Prescription Monitoring Program who knowingly obtains

or attempts to obtain such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall be guilty of a crime of the third degree.]³
(cf: P.L.2007, c.244, s.29)

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

20. The Division of Consumer Affairs in the Department of Law and Public Safety shall establish the format for uniform, non-reproducible, non-erasable safety paper prescription blanks, to be known as New Jersey Prescription Blanks, which format shall include an identifiable logo or symbol that will appear on all prescription blanks and additional security features to prevent erasure or duplication of prescription blanks that can be accomplished with widely available computer technology. The prescription blanks for each prescriber or health care facility shall be numbered consecutively and, if the prescriber or health care facility has a National Provider Identifier, the prescription blank shall include the National Provider Identifier. The division shall approve a sufficient number of vendors to ensure production of an adequate supply of New Jersey Prescription Blanks for practitioners and health care facilities Statewide, but shall limit the number of vendors as necessary to ensure that vendors may be appropriately monitored to ensure that prescription blanks are delivered only to intended prescribers and health care facilities.³
(cf: P.L.2007, c.244, s.22)

³[7.] 8.³ (New section) 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 ²Schedule II² controlled dangerous substance to a ²new² patient ²[, and not less than quarterly thereafter if the] for acute or chronic pain. In addition, ³[such] 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. , c. (C.)(pending before the Legislature as this bill)³ a practitioner or other authorized person shall access prescription monitoring information on ³[at least]³ a quarterly basis during the period of time ³[that follows a patient's initial receipt of a prescription for a Schedule II controlled dangerous substance, if]³ the² patient continues to receive ³such³ prescriptions ³[for ²Schedule II² controlled dangerous substances ²for acute or chronic pain during such period²]³. ²[In addition, a practitioner or other

person who is authorized by the 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 when the practitioner or other person has a reasonable belief that the patient may be seeking the controlled dangerous substance, in whole or in part, for any reason other than the treatment of an existing medical condition.]2

(2) (a) A pharmacist shall not dispense a 2Schedule II2 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 2[reason] purpose2 other than the treatment of an existing medical condition 2, such as for purposes of misuse, abuse, or diversion2.

(b) A pharmacist shall not dispense a prescription to a person other than the patient for whom the prescription is intended 1,1 unless the person 1[receiving] picking up1 the prescription provides personal identification 1[, which the] to the1 pharmacist 1[shall input] , and the pharmacist, as required by subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs that identifying information1 into the Prescription Monitoring Program 1[as required pursuant to subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45)] 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 condition1. 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;

(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 [1]**[**registry**]** Prescription Monitoring Program[1] in a timely manner, no other individual authorized to access the [1]**[**registry**]** Prescription Monitoring Program[1] 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 [1]**[**registry**]** Prescription Monitoring Program[1] 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 [1]**[**registry**]** Prescription Monitoring Program[1] 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; [2]**[**or**]**[2]

(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 [2]; or[2]

[2](11) a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation, procedure, or treatment for acute trauma, when less than a 30-day supply is prescribed[2].

[3]**[**8.(New section) a. The division shall establish and operate a pilot program to test the practicality and effectiveness of integrating the Prescription Monitoring Program with Electronic Medical Records. Participants in the pilot program shall include one or more vendors and one or more practitioners selected by the division, following application thereto.

b. The pilot program shall be established, and vendors and practitioners selected for participation therein, within 180 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The pilot program shall operate for a period of one year. Not later than one year after the date the pilot program is

established and becomes operative, the director shall submit a report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The report shall contain the number and names of practitioners who participated in the pilot program, and shall provide the director's recommendation on the feasibility of implementing the pilot program on a Statewide basis.

d. As used in this section, "vendor" means a person or entity that has contracted with a practitioner to provide Electronic Medical Records data.**]**[3]

[1]9. (New section) The division shall annually submit a report to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), which provides information on the nature and extent of registration with, and utilization of, the Prescription Monitoring Program, as well as recommendations for program improvement.[1]

[1]**[**9.**]** 10.[1] (New section) The division shall complete an assessment regarding the design, implementation requirements, and costs associated with a real time prescription monitoring system, and shall report its assessment and any recommendations to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within 18 months after the enactment of this P.L. , c. (C.) (pending before the Legislature as this bill).

[1]**[**10.**]** 11.[1] Section 39 of P.L.1970, c.226 (C.24:21-39) is repealed.

[1]**[**11.**]** 12.[1] This act shall take effect on the first day of the fourth month next following the date of enactment [3]**[**, [2]**[**but the**]** except that section 7 shall not take effect until the pilot program required by section 8 of this act is completed**]**[3] . The[2] Director of the Division of Consumer Affairs may take such anticipatory administrative action in advance [2]**[**thereof**]** [3]**[**of these effective dates,[2]**]** thereof[3] as shall be necessary for the implementation of this act.