

[First Reprint]

ASSEMBLY, No. 5667

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 24, 2019

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Assemblyman Thomson and Assemblywoman McKnight

SYNOPSIS

“Charlie’s Law”; requires pharmacy practice sites and hospice programs to furnish patients with information and means to safely dispose of unused prescription drugs and medications.

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Senior Services Committee on December 5, 2019, with amendments.

(Sponsorship Updated As Of: 12/10/2019)

1 AN ACT concerning prescription medications, supplementing Title
 2 45 of the Revised Statutes, and amending P.L.2017, c.135.

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

6
 7 1. (New section) a. A pharmacy practice site that dispenses
 8 prescription drugs, other than a long-term care pharmacy, shall,
 9 when dispensing to an individual located in this State a prescription
 10 drug or medication which is a controlled dangerous substance, and
 11 when dispensing any other prescription drug or medication as may
 12 be designated by the Commissioner of Health by regulation:

13 (1) provide the patient with written informational materials
 14 advising that when unused, unwanted, or expired drugs and
 15 medications are not properly, safely, and promptly disposed of:

16 (a) there is a risk that the drug or medication can be stolen,
 17 diverted, abused, misused, or accidentally ingested, which can pose
 18 a risk to the health and safety of the patient and other members of
 19 the patient's household;

20 (b) children are particularly at risk of accidentally ingesting
 21 unused, unwanted, and expired medications that have not been
 22 properly, safely, and promptly disposed of;

23 (c) when drugs or medications are disposed of in the household
 24 trash or flushed down the drain, the drugs and medications can leak
 25 into the ecosystem, which can have a potentially adverse or harmful
 26 effect on the environment; and

27 (d) when drugs or medications are disposed of in the household
 28 trash without the drug or medication having been rendered
 29 deactivated, inaccessible, or otherwise ¹**[unpalatable]** unusable¹,
 30 the drug or medication may be stolen by individuals seeking to
 31 divert, abuse, or misuse the drug or medication;

32 (2) make available on-site, for purchase or at no cost to the
 33 patient, at least one consumer method for individuals to dispose of
 34 unwanted or expired prescription drugs, including, but not limited
 35 to over-the-counter ¹**[At-Home or Site-of-Use]** at-home or site-of-
 36 use¹ solutions or secured medication collection kiosks or boxes,
 37 subject to the following requirements:

38 (a) as defined by the "EPA household waste exclusion" at 40
 39 C.F.R. 261.4(b)(1) ¹or as defined by a successor regulation¹,
 40 pharmaceuticals are not regulated federally as hazardous wastes and
 41 are handled ¹**[and are handled]**¹ through municipal solid waste
 42 regulations thus are not subject to the federal RCRA hazardous
 43 waste regulations. All ¹**[At-Home or Site-of-Use]** at-home or site-
 44 of-use¹ drug disposal products shall follow the "alternative or

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:

¹Assembly AHE committee amendments adopted December 5, 2019.

1 innovative technology” guidelines set forth in N.J.A.C.7:26-3A1 ¹or
2 set forth in a successor regulation¹, including altering the
3 characteristics of the prescription drug through chemical,
4 biological, or physical means to as to have a beneficial and long-
5 term effect on the environment. In addition, ¹【At-Home or Site-of-
6 Use】 at-home or site-of-use¹ drug disposal products shall ¹【,
7 pursuant to municipal waste regulations,】¹ consist of a non-toxic
8 composition, blend, solution, or formulation that renders the active
9 ingredients in the prescription medication, as defined in 21 C.F.R.
10 210.3(b)(7) ¹or as defined in a successor regulation¹ unavailable
11 and unusable for misuse and abuse;

12 (b) Secured medication collection kiosks or boxes shall follow
13 federal Drug Enforcement Administration (DEA) requirements for
14 collected pharmaceuticals, pursuant to part 1317 of Title 21 of the
15 Code of Federal Regulations¹or pursuant to a successor regulation¹,
16 and shall be marked and identified by prominent signage;

17 (c) any manufacturer of a non-toxic ¹【At-Home or Site-of-Use】
18 at-home or site-of-use¹ composition for consumer drug disposal
19 shall provide a method that renders the active ingredients in the
20 prescription medication, as defined in 21 C.F.R. 210.3(b)(7) ¹or as
21 defined in a successor regulation¹, unusable so that the active
22 ingredients cannot be transformed to a physical or chemical
23 condition or transformed to the state of a controlled substance or
24 controlled substance analog, as per 21 C.F.R. ¹【s.1317】 s.1317.90
25 or a successor regulation¹;

26 (d) the manufacturer of an ¹【At-Home or Site-of-Use】 at-home
27 or site-of-use¹ composition or a secured medicine collection kiosk
28 or box made available by a pharmacy pursuant to this paragraph
29 shall represent to the pharmacy ¹【, upon request by the pharmacy,】¹
30 that none of the components or methods of disposal individually or
31 as a blend or as a solution or as treatment and destruction facility
32 are toxic, and that the composition or medicine collection kiosk or
33 box follows waste regulations outlined by the federal
34 Environmental Protection Agency (EPA) for municipal house hold
35 waste disposal; and

36 (e) the manufacturer, supplier, or servicing agent of a
37 commercial collection program that uses secured medication
38 collection kiosks or boxes shall follow the DEA requirements for
39 collected pharmaceuticals, pursuant to part 1317 of Title 21 the
40 Code of Federal Regulations ¹【, and shall ensure that methods of
41 incineration follow the permitted hazardous waste combustor
42 recommendations outlined by the federal Environmental Protection
43 Agency (EPA) Recourse Conservation and Recovery Act (RCRA)
44 regulations for incineration of hazardous waste】 or pursuant to a
45 successor regulation¹; and

1 (3) provide the patient with written informational materials
2 concerning how to properly, safely, and promptly dispose of
3 unused, unwanted, or expired drugs and medications, which may
4 include, but shall not be limited to, information concerning drug
5 disposal options available pursuant to paragraph (2) of this
6 subsection. The individual dispensing the prescription drug, or an
7 appropriate designee, shall answer any questions the patient may
8 have upon receiving the written informational materials pursuant to
9 this paragraph.

10 b. The requirements of subsection a. of this section shall apply
11 regardless of whether the prescription is an initial prescription or a
12 renewal or refill of an existing prescription, and regardless of
13 whether the patient is a new or returning customer at the pharmacy
14 practice site.

15 c. Any time a pharmacy practice site that dispenses
16 prescription drugs, other than a long-term care pharmacy, sells or
17 dispenses a hypodermic syringe or needle, regardless of whether the
18 hypodermic syringe or needle is sold or dispensed pursuant to a
19 prescription, the pharmacy practice site shall provide the patient
20 with ¹the written ¹informational materials information as
21 incorporated in the drug monograph and¹ prepared by the Division
22 of Consumer Affairs in the Department of Law and Public Safety
23 pursuant to section 3 of this act concerning the safe disposal of used
24 hypodermic syringes and needles so as to prevent against the
25 potential transmission of bloodborne pathogens that can occur when
26 used hypodermic syringes and needles are reused or when they
27 result in accidental injury. The individual selling or dispensing the
28 hypodermic syringe or needle, or an appropriate designee, shall
29 answer any questions the patient may have upon receiving the
30 written informational materials pursuant to this subsection.

31

32 2. Section 1 of P.L.2017, c.135 (C.26:2H-81.1) is amended to
33 read as follows:

34 1. a. As used in this section:

35 "Family member" means a hospice care patient's spouse, parent,
36 adult sibling, adult child, or adult grandchild.

37 "Health care representative" means a person, including a member
38 of the patient's family, who is authorized to make health care
39 decisions on behalf of a hospice care patient.

40 "Hospice care patient" means a person currently receiving
41 hospice care services in a private home or an assisted living facility
42 through a licensed hospice care program.

43 "Third party caregiver" means a person who:

44 (1) is 18 years of age or older;

45 (2) provides care or assistance to a hospice care patient; and

46 (3) is not the patient's health care representative, a family
47 member of the patient, or employed by the patient's hospice care
48 program.

1 b. A hospice care program licensed pursuant to P.L.1997, c.78
2 (C.26:2H-79 et seq.) may choose, but shall not be required, to
3 accept for disposal, at such time as a hospice care patient ceases to
4 use the drug or medication or ceases to receive hospice care
5 services through the program, the hospice care patient's unused
6 prescription drugs and medications. A hospice care program that
7 chooses to accept unused prescription drugs and medications for
8 disposal pursuant to this section shall:

9 (1) Establish a written policy setting forth procedures for
10 accepting and disposing of unused prescription drugs and
11 medications;

12 (2) Furnish a copy of the written policy to each patient, and to
13 the patient's health care representative, at the time the patient is
14 enrolled in the hospice care program, and designate a program
15 representative who shall discuss the procedures and requirements
16 for surrendering unused prescription drugs and medications with the
17 patient and the patient's health care representative;

18 (3) Accept drugs and medications prescribed and dispensed to
19 the patient pursuant to the patient's hospice care plan, as well as any
20 other prescription drugs and medications that the patient, or the
21 patient's health care representative, chooses to surrender to the
22 program;

23 (4) Not accept any drug or medication for surrender except at
24 such time as the patient ceases to use the drug or medication or
25 ceases to receive hospice care services through the program; **[and]**

26 (5) Obtain any certifications, authorizations, or waivers as may
27 be required under State or federal law in order to accept and dispose
28 of unused prescription drugs and medications pursuant to this
29 section; and

30 (6) (a) at the time the patient is enrolled in the hospice care
31 program, at such time as any change is made to the patient's course
32 of treatment that results in a change in the drugs or medications
33 prescribed for the patient, or in the patient discontinuing the use of
34 a prescription drug or medication, and at such time as the patient
35 ceases to receive hospice care services through the program,
36 provide the patient or the patient's health care representative with
37 oral instructions and written informational materials advising that
38 when unused, unwanted, or expired drugs and medications are not
39 properly, safely, and promptly disposed of:

40 (i) there is a risk that the drug or medication can be stolen,
41 diverted, abused, misused, or accidentally ingested, which can pose
42 a risk to the health and safety of the patient and other members of
43 the patient's household;

44 (ii) children are particularly at risk of accidentally ingesting
45 unused, unwanted, and expired medications that have not been
46 properly, safely, and promptly disposed of;

47 (iii) when drugs or medications are disposed of in the household
48 trash or flushed down the drain, the drugs and medications can leak

- 1 into the ecosystem, which can have a potentially adverse or harmful
2 effect on the environment; and
- 3 (iv) when drugs or medications are disposed of in the household
4 trash without the drug or medication having been rendered
5 deactivated, inaccessible, or otherwise '【unpalatable】 unusable' ,
6 the drug or medication may be stolen by individuals seeking to
7 divert, abuse, or misuse the drug or medication;
- 8 (b) (2) make available '【for purchase or at no cost an over-
9 the-counter At-Home or Site-of-Use solution that meets the
10 requirements of paragraph (2) of subsection a. of section 1 of
11 P.L. , c. (C.) (pending before the Legislature as this bill)】
12 on-site, for purchase or at no cost to the patient, at least one
13 consumer method for individuals to dispose of unwanted or expired
14 prescription drugs, including, but not limited to over-the-counter at-
15 home or site-of-use solutions or secured medication collection
16 kiosks or boxes' ; and
- 17 (c) provide the patient with oral and written instructions on how
18 to properly, safely, and promptly dispose of unused, unwanted, or
19 expired drugs and medications, which may include, but shall not be
20 limited to, providing instructions concerning the use of an over-the-
21 counter '【At-Home or Site-of-Use】 at-home or site-of-use' solution
22 furnished to the patient pursuant to subparagraph (b) of this
23 paragraph, and advising the patient of the availability of secure
24 prescription medication drop-off receptacles and prescription
25 medication take back programs.
- 26 c. At the time a hospice care patient ceases to receive hospice
27 care services, a program representative shall provide a written
28 request for surrender of unused **【medication】 drugs and**
29 medications to the patient or the patient's health care representative,
30 which shall:
- 31 (1) request that the patient or the patient's health care
32 representative surrender any unused prescription drugs or
33 medications that were prescribed and dispensed to the patient
34 pursuant to the patient's hospice care plan;
- 35 (2) offer to accept and dispose of any other prescription drug or
36 medication which the patient will not use; and
- 37 (3) urge that the patient or the patient's health care
38 representative dispose of any unused prescription drug or
39 medication that is not surrendered to the program in a safe and legal
40 manner, so as to avoid the risk of theft, diversion, or accidental
41 ingestion.
- 42 d. No hospice care program may accept and dispose of an
43 unused prescription drug or medication pursuant to this section
44 unless the patient or the patient's health care representative
45 authorizes, in writing, the surrender of the unused prescription drug
46 or medication to the program; except that, if the patient is unable to
47 provide written authorization and the patient does not have a health

1 care representative, a third party caregiver may provide written
2 authorization for the surrender. A hospice care program shall not
3 accept an unused prescription drug or medication unless the drug or
4 medication is identified for inclusion in the authorization for
5 surrender.

6 e. (1) Unused prescription drugs and medications surrendered
7 to a hospice care program pursuant to this section shall be
8 surrendered to a registered professional nurse or a licensed practical
9 nurse employed by the program.

10 (2) A nurse accepting the surrender of unused prescription
11 **【medication】** drugs or medications pursuant to this section shall
12 dispose of the drugs or medications at the site where hospice care
13 was provided; in no case shall the nurse transport the unused
14 prescription medications off-site for disposal or for any other
15 purpose. The nurse may dispose of the unused drugs or medications
16 using an over-the-counter ¹【At-Home or Site-of-Use】 at-home or
17 site-of-use¹ solution that meets the requirements of paragraph (2) of
18 subsection a. of section 1 of P.L. , c. (C.) (pending before
19 the Legislature as this bill).

20 (3) A nurse who accepts and disposes of an unused prescription
21 drug or medication pursuant to this section shall document:

22 (a) the name and quantity of each drug or medication
23 surrendered;

24 (b) the name of the person authorizing the surrender, and the
25 relationship of the person to the patient;

26 (c) the date and method of disposal; and

27 (d) the quantity and type of any unused prescription drug or
28 medication, of which the nurse is aware, that was prescribed and
29 dispensed to the patient pursuant to the patient's hospice care plan,
30 but was not surrendered to the program or otherwise disposed of by
31 another person in the nurse's presence.

32 (4) The person authorizing the surrender of a drug or medication
33 shall be provided with the opportunity to review, verify, and sign
34 the documentation required under paragraph (3) of this subsection.

35 f. Nothing in this section shall prohibit any person from
36 disposing of an unused prescription drug or medication by any
37 means authorized by law, including, but not limited to, disposing of
38 the drug or medication pursuant to subparagraph (b) of paragraph
39 (6) of subsection b. of this section or surrendering the medication at
40 a secure prescription medication drop-off receptacle.

41 g. No person shall be subject to civil or criminal liability or
42 professional disciplinary action for any act or omission undertaken
43 in good faith consistent with the requirements of this section.

44 (cf: P.L.2017, c.135, s.1)

45
46 3. (New section) The Division of Consumer Affairs in the
47 Department of Law and Public Safety shall ¹【prepare written

1 informational materials】 amend the drug monograph to include
2 information¹ for distribution to patients by hospice care programs
3 and pharmacy practice sites concerning the safe disposal of used
4 hypodermic syringes and needles so as to prevent against the
5 potential transmission of bloodborne pathogens that can occur when
6 used hypodermic syringes and needles are reused or when they
7 result in accidental injury. ¹【The written informational materials
8 shall be made available through the division’s Internet website and
9 shall be distributed to hospice care programs and pharmacy practice
10 sites upon request.】¹

11

12 4. This act shall take effect 90 days after the date of enactment.