[First Reprint]

SENATE, No. 834

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Assemblywoman PATRICIA EGAN JONES
District 5 (Camden and Gloucester)
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex)

SYNOPSIS

Prohibits resale of non-prescription diabetes test devices by pharmacists.

CURRENT VERSION OF TEXT

As amended on January 9, 2020 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 6/21/2019)

AN ACT concerning non-prescription diabetes test devices and supplementing Title 45 of the Revised Statutes.

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

1. As used in this act:

"Board" means the New Jersey State Board of Pharmacy established pursuant to P.L.2003, c.280 (C.45:14-40 et seq.)

"Non-prescription diabetes test device" means a glucose meter or test strip for use in the treatment of prediabetic or diabetic individuals that may be sold without a prescription and that is labeled for use by the consumer in accordance with applicable State and federal law.

2. [1]a.[1] A manufacturer of a non-prescription diabetes test device that is distributed within New Jersey shall make the names of its authorized distributors available on its Internet Web site [1][and shall provide the board with the names of its authorized distributors. Within 30 days of receiving that information from a manufacturer of a non-prescription diabetes test device, the board shall post the names of authorized distributors of non-prescription diabetes test devices on the board's Internet Web site]1 . A manufacturer of a non-prescription diabetes test device shall, within 30 days of making a change to its authorized distributors, update its Internet Web site [1][and inform the board of] to reflect any[1] changes to its authorized distributors. [1][Within 30 days of receiving notice of any change from a manufacturer of a non-prescription diabetes test device, the board shall post the updated list of the manufacturer's authorized distributors on its Internet Web site]

b. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any retail mercantile establishment to sell or offer to sell to a consumer in New Jersey a non-prescription diabetes test device that was not acquired directly from the manufacturer or from one of the manufacturer's authorized distributors, unless the device is plainly marked by a stamp, tag, label or sign that is either affixed to the device or located at the point of sale disclosing that the device was not acquired directly from the manufacturer or from an authorized distributor of the manufacturer.

c. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any retail mercantile establishment to sell

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 amendments adopted in accordance with Governor's recommendations January 9, 2020.

or offer to sell to a consumer in New Jersey a non-prescription diabetes test device that was previously sold and repackaged, unless the device is plainly marked by a stamp, tag, label or sign that is either affixed to the device or located at the point of sale disclosing that the device was previously sold and re-packaged.

d. For the purposes of this section, a "retail mercantile establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the public. This term shall include entities that use the Internet or other electronic means to expose or offer merchandise for sale at retail to consumers in New Jersey[1] .

3. In addition to the responsibilities given to the board pursuant to the "New Jersey Pharmacy Practice Act," P.L.2003, c.280 (C.45:14-40 et seq.), the board shall require that a pharmacy that dispenses non-prescription diabetes test devices pursuant to prescriptions shall retain records of its acquisition, inventory, and sale of those non-prescription diabetes test devices. The records shall be maintained in a manner prescribed by the board by regulation, and shall be retained for a period of not less than three years. The board shall have authority to inspect records at all reasonable hours.

[1][4. The board may embargo any non-prescription diabetes test device that a board inspector finds or has probable cause to believe was not purchased either directly from the manufacturer or from the non-prescription diabetes test device manufacturer's authorized distributors as identified in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). Procedures for embargoing of such devices shall be established by the board by regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), consistent with the requirements of subsection c. of section 9 of P.L.2003, c.280 (C.45:14-48).][1]

[1][5.] 4.[1] A pharmacist who [1][submits a reimbursement claim for] sells, offers for sale, or otherwise dispenses to the public[1] a non-prescription diabetes test device [1][to a health insurance carrier, pharmacy benefit manager, government agency, or other third-party payer when] that[1] the pharmacist [1][knew] knows[1] or reasonably should have known [1][that the pharmacy did not purchase the diabetes test device] was not acquired by the pharmacy[1] either directly from the manufacturer or from one of the manufacturer's authorized distributors [1][identified pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill)][1] shall be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

¹[6.] 5.¹ The New Jersey State Board of Pharmacy shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as the board deems necessary to carry out the provisions of this act.

¹[7.] 6.¹ This act shall take effect on the first day of the seventh month next following the date of enactment.