

[Second Reprint]

SENATE, No. 3933

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 13, 2019

Sponsored by:

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District 30 (Monmouth and Ocean)

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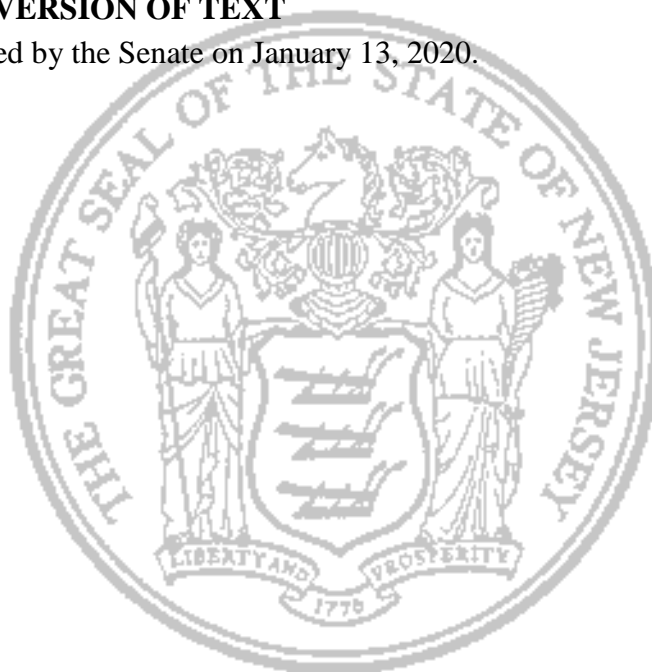
Senators A.R.Bucco and Greenstein

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 amended by the Senate on January 13, 2020.



(Sponsorship Updated As Of: 8/26/2019)

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) ¹**["as defined by the "EPA household waste exclusion" at 40**
39 **C.F.R. 261.4(b)(1), pharmaceuticals are not regulated federally as**
40 **hazardous wastes and are handled and are handled through**
41 **municipal solid waste regulations thus are not subject to the federal**
42 **RCRA hazardous waste regulations. All At-Home or Site-of-Use]**
43 **all at-home or site-of-use¹ drug disposal products shall ²["follow the**
44 **"alternative or innovative technology" guidelines set forth in**

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:

¹Senate SHH committee amendments adopted December 12, 2019.

²Senate floor amendments adopted January 13, 2020.

1 N.J.A.C.7:26-3A1 ¹or set forth in a successor regulation¹, including
2 altering the characteristics of the prescription drug through
3 chemical, biological, or physical means so as to have a beneficial
4 and long-term effect on the environment. In addition, At-Home or
5 Site-of-Use drug disposal products shall, pursuant to municipal
6 waste regulations, consist of a non-toxic composition, blend,
7 solution, or formulation that renders the active ingredients in the
8 prescription medication, as defined in 21 C.F.R. 210.3(b)(7)
9 unavailable and unusable for misuse and abuse] alter the
10 characteristics of the prescription drug through chemical,
11 biological, or physical means so as to have a beneficial effect on the
12 environment¹] alter the characteristics of the prescription drug
13 through chemical, biological, or physical means so as to have a
14 beneficial effect on the environment² ;

15 (b) Secured medication collection kiosks or boxes ¹[shall follow
16 federal Drug Enforcement Administration (DEA) requirements for
17 collected pharmaceuticals, pursuant to part 1317 of Title 21 of the
18 Code of Federal Regulations, and]¹ shall be marked and identified
19 by prominent signage;

20 (c) any manufacturer of a non-toxic ¹[At-Home or Site-of-Use]
21 at-home or site-of-use¹ composition for consumer drug disposal
22 shall provide a method that renders the active ingredients in the
23 prescription medication, as defined in 21 C.F.R. 210.3(b)(7) ¹or as
24 defined in a successor regulation¹, unusable so that the active
25 ingredients cannot be transformed to a physical or chemical
26 condition or transformed to the state of a controlled substance or
27 controlled substance analog, as per 21 C.F.R. ¹[s.1317] s.1317.90
28 or a successor regulation¹; ¹and¹

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

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

1 Conservation and Recovery Act (RCRA) regulations for
2 incineration of hazardous waste¹; and

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

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

17 c. Any time a pharmacy practice site that dispenses
18 prescription drugs, other than a long-term care pharmacy, sells or
19 dispenses a hypodermic syringe or needle, regardless of whether the
20 hypodermic syringe or needle is sold or dispensed pursuant to a
21 prescription, the pharmacy practice site shall provide the patient
22 with ¹the written informational materials ¹prepared by made
23 available through the Internet website of¹ the ¹Division of
24 Consumer Affairs in the ¹Department of ¹Law and Public Safety
25 Health¹ pursuant to section 3 of this act concerning the safe
26 disposal of used hypodermic syringes and needles so as to prevent
27 against the potential transmission of bloodborne pathogens that can
28 occur when used hypodermic syringes and needles are reused or
29 when they result in accidental injury. The individual selling or
30 dispensing the hypodermic syringe or needle, or an appropriate
31 designee, shall answer any questions the patient may have upon
32 receiving the written informational materials pursuant to this
33 subsection.

34
35 2. Section 1 of P.L.2017, c.135 (C.26:2H-81.1) is amended to
36 read as follows:

37 1. a. As used in this section:

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

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

43 "Hospice care patient" means a person currently receiving hospice
44 care services in a private home or an assisted living facility through a
45 licensed hospice care program.

46 "Third party caregiver" means a person who:

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

1 (2) provides care or assistance to a hospice care patient; and
2 (3) is not the patient's health care representative, a family member
3 of the patient, or employed by the patient's hospice care program.

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

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

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

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

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

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

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

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

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

1 (iii) when drugs or medications are disposed of in the household
2 trash or flushed down the drain, the drugs and medications can leak
3 into the ecosystem, which can have a potentially adverse or harmful
4 effect on the environment; and

5 (iv) when drugs or medications are disposed of in the household
6 trash without the drug or medication having been rendered deactivated,
7 inaccessible, or otherwise ¹["unpalatable"] unusable¹ , the drug or
8 medication may be stolen by individuals seeking to divert, abuse, or
9 misuse the drug or medication;

10 (b) (2) make available ¹["for purchase or at no cost an over-the-
11 counter At-Home or Site-of-Use solution that meets the requirements
12 of paragraph (2) of subsection a. of section 1 of P.L. , c. (C.)
13 (pending before the Legislature as this bill)] on-site, for purchase or at
14 no cost to the patient, at least one consumer method for individuals
15 to dispose of unwanted or expired prescription drugs, including, but
16 not limited to over-the-counter at-home or site-of-use solutions or
17 secured medication collection kiosks or boxes¹ ; and

18 (c) provide the patient with oral and written instructions on how to
19 properly, safely, and promptly dispose of unused, unwanted, or
20 expired drugs and medications, which may include, but shall not be
21 limited to, providing instructions concerning the use of an over-the-
22 counter ¹["At-Home or Site-of-Use"] at-home or site-of-use¹ solution
23 furnished to the patient pursuant to subparagraph (b) of this paragraph,
24 and advising the patient of the availability of secure prescription
25 medication drop-off receptacles and prescription medication take back
26 programs.

27 c. At the time a hospice care patient ceases to receive hospice
28 care services, a program representative shall provide a written request
29 for surrender of unused **["medication"]** drugs and medications to the
30 patient or the patient's health care representative, which shall:

31 (1) request that the patient or the patient's health care
32 representative surrender any unused prescription drugs or medications
33 that were prescribed and dispensed to the patient pursuant to the
34 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 representative
38 dispose of any unused prescription drug or medication that is not
39 surrendered to the program in a safe and legal manner, so as to avoid
40 the risk of theft, diversion, or accidental ingestion.

41 d. No hospice care program may accept and dispose of an unused
42 prescription drug or medication pursuant to this section unless the
43 patient or the patient's health care representative authorizes, in writing,
44 the surrender of the unused prescription drug or medication to the
45 program; except that, if the patient is unable to provide written
46 authorization and the patient does not have a health care
47 representative, a third party caregiver may provide written

1 authorization for the surrender. A hospice care program shall not
2 accept an unused prescription drug or medication unless the drug or
3 medication is identified for inclusion in the authorization for surrender.

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

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

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

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

20 (b) the name of the person authorizing the surrender, and the
21 relationship of the person to the patient;

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

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

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

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

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

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

41
42 3. (New section) The ¹【Division of Consumer Affairs in the】¹
43 Department of ¹【Law and Public Safety】 Health¹ shall ¹【prepare
44 written informational materials】 make available through its Internet
45 website¹ for distribution to patients by hospice care programs and
46 pharmacy practice sites ¹【informational materials】¹ concerning the safe
47 disposal of used hypodermic syringes and needles so as to prevent

1 against the potential transmission of bloodborne pathogens that can
2 occur when used hypodermic syringes and needles are reused or when
3 they result in accidental injury. ¹【The written informational materials
4 shall be made available through the division’s Internet website and
5 shall be distributed to hospice care programs and pharmacy practice
6 sites upon request.】¹

7

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