

# SENATE, No. 1828

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

**Sponsored by:**

**Senator JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Requires opioid antidote dispensation to be monitored under Prescription Monitoring Program, and authorizes certain entities to submit info regarding opioid antidote administration for inclusion in secondary, linked database; designated as “John Wagner’s Law.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/24/2020)

1 AN ACT concerning the dispensation and administration of opioid  
2 antidotes, supplementing Title 45 of the Revised Statutes, and  
3 amending P.L.2015, c.74 and P.L.2007, c.244.

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

7  
8 1. (New section) a. Any hospital, emergency medical  
9 services provider, or law enforcement agency whose staff members  
10 administer an opioid antidote to a person suffering from an opioid  
11 overdose, in accordance with the provisions of the “Overdose  
12 Prevention Act,” P.L.2013, c.46 (C.24:6J-1 et al.), may furnish to  
13 the Director of the Division of Consumer Affairs in the Department  
14 of Law and Public Safety such information, in such a format and at  
15 such intervals, as the director shall prescribe by regulation, for  
16 inclusion in an electronic system that will be used to monitor the  
17 administration of opioid antidotes in this State. The opioid antidote  
18 administration monitoring system established pursuant to this  
19 subsection shall be cross-referenced with the electronic Prescription  
20 Monitoring Program system, established pursuant to section 25 of  
21 P.L.2007, c.244 (C.45:1-45), and shall be made available to any  
22 practitioner, pharmacist, or other person who accesses prescription  
23 monitoring information pursuant to section 8 of P.L.2015, c.74  
24 (C.45:1-46.1).

25 b. The Director of the Division of Consumer Affairs, pursuant  
26 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
27 1 et seq.), and in consultation with the Commissioner of Health,  
28 shall adopt rules and regulations to effectuate the purposes of  
29 subsection a. of this section.

30 c. Notwithstanding the provision of the “Administrative  
31 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
32 contrary, the Director of the Division of Consumer Affairs shall  
33 adopt, immediately upon filing with the Office of Administrative  
34 Law, and no later than the 90th day after the effective date of this  
35 act, such regulations as the director deems necessary to implement  
36 the provisions of subsection a. of this section. Regulations adopted  
37 pursuant to this subsection shall be effective until the adoption of  
38 rules and regulations pursuant to subsection b. of this section, and  
39 shall be amended, adopted, or readopted by the director in  
40 accordance with the requirements of P.L.1968, c.410 (C.52:14B-  
41 1 et seq.).

42 d. As used in this section, “opioid antidote” means naloxone  
43 hydrochloride, or any other similarly acting drug approved by the  
44 United States Food and Drug Administration for the treatment of an  
45 opioid overdose.

**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.

1       2. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read  
2 as follows:

3       8. a. (1) Except as provided in subsection b. of this section, a  
4 practitioner or other person who is authorized by a practitioner to  
5 access prescription monitoring information pursuant to subsection  
6 h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access  
7 prescription monitoring information, as well as any linked opioid  
8 antidote administration information compiled pursuant to section 1  
9 of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill):

11       (a) the first time the practitioner or other person prescribes a  
12 Schedule II controlled dangerous substance or any opioid to a new  
13 patient for acute or chronic pain;

14       (b) the first time a practitioner or other person prescribes a  
15 benzodiazepine drug that is a Schedule III or Schedule IV  
16 controlled dangerous substance;

17       (c) if the practitioner or other person has a reasonable belief that  
18 the person may be seeking a controlled dangerous substance, in  
19 whole or in part, for any purpose other than the treatment of an  
20 existing medical condition, such as for purposes of misuse, abuse,  
21 or diversion, the first time the practitioner or other person  
22 prescribes a non-opioid drug other than a benzodiazepine drug that  
23 is a Schedule III or IV controlled dangerous substance; and

24       (d) on or after the date that the division first makes prescription  
25 monitoring information available on an electronic system that  
26 collects and displays health information, pursuant to subsection q.  
27 of section 26 of P.L.2007, c.244 (C.45:1-46), any time the  
28 practitioner or other person prescribes a Schedule II controlled  
29 dangerous substance for acute or chronic pain to a patient receiving  
30 care or treatment in the emergency department of a general hospital.

31       In addition, in any case in which a prescription is issued to a new  
32 patient, either on or after the effective date of P.L.2017, c.341  
33 (C.45:16-9.4c et al.), for a Schedule II controlled dangerous  
34 substance or opioid drug that has been prescribed for acute or  
35 chronic pain, or for a benzodiazepine drug that is a Schedule III or  
36 IV controlled dangerous, the practitioner or other authorized person  
37 shall access prescription monitoring information, as well as any  
38 linked opioid antidote administration information compiled  
39 pursuant to section 1 of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill), on a quarterly basis during the period of  
41 time the patient continues to receive such prescription.

42       (2) (a) A pharmacist shall not dispense a Schedule II controlled  
43 dangerous substance, any opioid, or a benzodiazepine drug that is a  
44 Schedule III or IV controlled dangerous substance to any person  
45 without first accessing the prescription monitoring information, as  
46 authorized pursuant to subsection h. of section 26 of P.L.2007,

1 c.244 (C.45:1-46), and any linked opioid antidote administration  
2 information compiled pursuant to section 1 of P.L. , c. (C. )  
3 (pending before the Legislature as this bill), to determine if the  
4 person has received other prescriptions that indicate misuse, abuse,  
5 or diversion, or has been administered an opioid antidote in  
6 response to an opioid overdose, if the pharmacist has a reasonable  
7 belief that the person may be seeking **[a]** the controlled dangerous  
8 substance, in whole or in part, for any purpose other than the  
9 treatment of an existing medical condition, such as for purposes of  
10 misuse, abuse, or diversion.

11 (b) A pharmacist shall not dispense a prescription to a person  
12 other than the patient for whom the prescription is intended, unless  
13 the person picking up the prescription provides personal  
14 identification to the pharmacist, and the pharmacist, as required by  
15 subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs  
16 that identifying information into the Prescription Monitoring  
17 Program if the pharmacist has a reasonable belief that the person  
18 may be seeking a controlled dangerous substance, in whole or in  
19 part, for any reason other than delivering the substance to the  
20 patient for the treatment of an existing medical condition. The  
21 provisions of this subparagraph shall not take effect until the  
22 director determines that the Prescription Monitoring Program has  
23 the technical capacity to accept such information.

24 b. The provisions of subsection a. of this section shall not  
25 apply to:

26 (1) a veterinarian;

27 (2) a practitioner or the practitioner's agent administering  
28 methadone, or another controlled dangerous substance designated  
29 by the director as appropriate for treatment of a patient with a  
30 substance abuse disorder, as interim treatment for a patient on a  
31 waiting list for admission to an authorized substance abuse  
32 treatment program;

33 (3) a practitioner administering a controlled dangerous  
34 substance directly to a patient;

35 (4) a practitioner prescribing a controlled dangerous substance  
36 to be dispensed by an institutional pharmacy, as defined in  
37 N.J.A.C.13:39-9.2;

38 (5) a practitioner prescribing a controlled dangerous substance  
39 in the emergency department of a general hospital, provided that the  
40 quantity prescribed does not exceed a five-day supply of the  
41 substance; however, the exemption provided by this paragraph shall  
42 have no force or effect on or after the date on which the division  
43 first makes prescription monitoring information available on an  
44 electronic system that collects and displays health information,  
45 pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-  
46 46);

- 1 (6) a practitioner prescribing a controlled dangerous substance  
2 to a patient under the care of a hospice;
- 3 (7) a situation in which it is not reasonably possible for the  
4 practitioner or pharmacist to access the Prescription Monitoring  
5 Program in a timely manner, no other individual authorized to  
6 access the Prescription Monitoring Program is reasonably available,  
7 and the quantity of controlled dangerous substance prescribed or  
8 dispensed does not exceed a five-day supply of the substance;
- 9 (8) a practitioner or pharmacist acting in compliance with  
10 regulations promulgated by the director as to circumstances under  
11 which consultation of the Prescription Monitoring Program would  
12 result in a patient's inability to obtain a prescription in a timely  
13 manner, thereby adversely impacting the medical condition of the  
14 patient;
- 15 (9) a situation in which the Prescription Monitoring Program is  
16 not operational as determined by the division or where it cannot be  
17 accessed by the practitioner due to a temporary technological or  
18 electrical failure, as set forth in regulation;
- 19 (10) a practitioner or pharmacist who has been granted a waiver  
20 due to technological limitations that are not reasonably within the  
21 control of the practitioner or pharmacist, or other exceptional  
22 circumstances demonstrated by the practitioner or pharmacist,  
23 pursuant to a process established in regulation, and in the discretion  
24 of the director; or
- 25 (11) a practitioner who is prescribing a controlled dangerous  
26 substance to a patient immediately after the patient has undergone  
27 an operation in a general hospital or a licensed ambulatory care  
28 facility or treatment for acute trauma in a general hospital or a  
29 licensed ambulatory care facility, so long as that operation or  
30 treatment was not part of care or treatment in the emergency  
31 department of a general hospital as provided in subsection a. of this  
32 section, when no more than a five-day supply is prescribed.  
33 (cf: P.L.2017, c.341, s.4)

34  
35 3. Section 27 of P.L.2007, c.244 (C.45:1-47) is amended to  
36 read as follows:

- 37 27. Prescription Monitoring Program; provisions for expansion.
- 38 a. Notwithstanding the provisions of section 25 of P.L.2007,  
39 c.244 (C.45:1-45) to the contrary, the director;
- 40 (1) shall adopt a regulation to expand the Prescription  
41 Monitoring Program to include information about each prescription  
42 that is dispensed for an opioid antidote, as defined in section 1 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill).
- 44 (2) may adopt a regulation [to expand] expanding the program  
45 to require pharmacies to include information about each  
46 prescription dispensed for [a] any other prescription drug that is

1 not a controlled dangerous substance. In determining whether  
2 pharmacies should be required to submit to the program information  
3 about a prescription drug other than a controlled dangerous  
4 substance, the director shall consider: the actual or relative  
5 potential for abuse; scientific evidence of its pharmacological  
6 effect, if known; the state of current scientific knowledge regarding  
7 the drug; its history and current pattern of abuse, including its use to  
8 potentiate or enhance the effects of controlled dangerous substances  
9 that are subject to abuse; the scope, duration and significance of  
10 abuse; what, if any, risk to the public health; and its psychic or  
11 physiological dependence liability.

12 b. **【At the time the】** Whenever a notice to expand the program  
13 pursuant to paragraph (2) of subsection a. of this section is  
14 published in the New Jersey Register, the director shall provide a  
15 copy of the notice of proposed rule making to the chairpersons of  
16 the standing legislative reference committees on health of the  
17 Senate and General Assembly.

18 (cf: P.L.2017, c.341, s.5)

19

20 4. This act shall take effect immediately.

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22

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#### STATEMENT

24

25 This bill would add naloxone hydrochloride, and other opioid  
26 antidotes, to the list of prescription drugs that are to be monitored as  
27 part of the State's Prescription Monitoring Program (PMP).  
28 Although the PMP focuses on monitoring the dispensation of  
29 controlled dangerous substances in the State, and although opioid  
30 antidotes are not considered to be controlled dangerous substances,  
31 information related to the dispensation of opioid antidotes is  
32 nonetheless relevant to determinations regarding the prescription  
33 and dispensation of controlled dangerous substances.

34 The bill would additionally authorize hospitals, emergency  
35 medical services providers, and law enforcement agencies that are  
36 engaged in the administration of opioid antidotes pursuant to the  
37 "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et seq.), to  
38 provide the Director of the Division of Consumer Affairs (DCA) in  
39 the Department of Law and Public Safety with such information as  
40 the director may prescribe by regulation, for inclusion in a  
41 secondary electronic system that would be established by the DCA  
42 to monitor the administration of opioid antidotes in the State. The  
43 opioid antidote administration system established by the bill would  
44 be cross-referenced with the State PMP, and would be made  
45 available to any practitioner, pharmacist, or other person who  
46 accesses prescription monitoring information.