

ASSEMBLY, No. 31

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1996

By Assemblywoman MURPHY and Assemblyman BLEE

1 AN ACT establishing uniform prescription blanks, amending  
2 R.S.45:14-14 and N.J.S.2C:20-2 and 2C:21-1 and supplementing  
3 chapter 14 of Title 45 of the Revised Statutes.

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

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8 1. (New Section) The Legislature finds and declares that the  
9 welfare of the citizens of this State and the financial integrity of the  
10 governmental reimbursement programs administered for their benefit  
11 are threatened by the growing problem of prescription drug abuse,  
12 particularly the widespread trafficking in forged and altered  
13 prescriptions for oral drugs and items; the submission of these forged  
14 prescriptions for payment by State and federal funds through the  
15 Medicaid, Pharmaceutical Assistance to the Aged and Disabled, and  
16 general assistance programs and by private health insurers drive the  
17 cost of health care up for all citizens of New Jersey; and to reduce the  
18 ease with which such forgeries can be accomplished and to deter drug  
19 abuse requires the implementation of a program by which prescriptions  
20 shall be on a uniform prescription blank, printed on non-reproducible,  
21 non-erasable safety paper, issued in a serialized, bound fashion, subject  
22 to stringent security controls.

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24 2. R.S.45:14-14 is amended to read as follows:

25 45:14-14. The term "prescription" as used in R.S.45:14-13, and  
26 R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines  
27 or combinations or mixtures thereof, written or signed by a duly  
28 licensed physician, dentist, optometrist, veterinarian, other medical  
29 practitioner, a certified nurse midwife, a nurse practitioner/clinical  
30 nurse specialist or a physician assistant, licensed or approved to write  
31 prescriptions intended for the treatment or prevention of disease in  
32 man or animals, and includes orders for drugs or medicines or  
33 combinations or mixtures thereof, on a New Jersey Prescription Blank  
34 obtained from a vendor approved by the Office of Drug Control in the

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 Division of Consumer Affairs, Department of Law and Public Safety,  
2 transmitted to pharmacists through word of mouth, telephone,  
3 telegraph or other means of communication by a duly licensed  
4 physician, dentist, optometrist, veterinarian, other medical practitioner,  
5 a certified nurse midwife, a nurse practitioner/clinical nurse specialist  
6 or a physician assistant, licensed or approved to write prescriptions  
7 intended for the treatment or prevention of disease in man or animals,  
8 and such prescriptions received by word of mouth, telephone,  
9 telegraph or other means of communication shall be recorded in  
10 writing by the pharmacist and the record so made by the pharmacist  
11 shall constitute the original prescription to be filed by the pharmacist  
12 as provided for in R.S.45:14-15, but no prescription, for any narcotic  
13 drug, except as provided in section 15 of P.L.1970, c.226  
14 (C.24:21-15), shall be given or transmitted to pharmacists, in any  
15 other manner, than in writing signed by the physician, dentist,  
16 veterinarian, other medical practitioner, certified nurse midwife, nurse  
17 practitioner/clinical nurse specialist or a physician assistant, giving or  
18 transmitting the same, nor shall such prescription be renewed or  
19 refilled.

20 (cf: P.L.1991, c.385, s.4)

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22 3. N.J.S.2C:20-2 is amended to read as follows:

23 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions  
24 Applicable to Theft Generally. a. Consolidation of Theft Offenses.  
25 Conduct denominated theft in this chapter constitutes a single offense,  
26 but each episode or transaction may be the subject of a separate  
27 prosecution and conviction. A charge of theft may be supported by  
28 evidence that it was committed in any manner that would be theft  
29 under this chapter, notwithstanding the specification of a different  
30 manner in the indictment or accusation, subject only to the power of  
31 the court to ensure fair trial by granting a bill of particulars, discovery,  
32 a continuance, or other appropriate relief where the conduct of the  
33 defense would be prejudiced by lack of fair notice or by surprise.

34 b. Grading of theft offenses.

35 (1) Theft constitutes a crime of the second degree if:

36 (a) The amount involved is \$75,000.00 or more;

37 (b) The property is taken by extortion;

38 (c) The property stolen is a controlled dangerous substance or  
39 controlled substance analog as defined in N.J.S.2C:35-2 and the  
40 quantity is in excess of one kilogram; or

41 (d) The property stolen is a person's benefits under federal or State  
42 law, or from any other source, which the Department of Human  
43 Services or an agency acting on its behalf has budgeted for the  
44 person's health care and the amount involved is \$75,000 or more.

45 (2) Theft constitutes a crime of the third degree if:

46 (a) The amount involved exceeds \$500.00 but is less than

1 \$75,000.00;

2 (b) The property stolen is a firearm, motor vehicle, vessel, boat,  
3 horse or airplane;

4 (c) The property stolen is a controlled dangerous substance or  
5 controlled substance analog as defined in N.J.S.2C:35-2 and the  
6 amount involved is less than \$75,000.00 or is undetermined and the  
7 quantity is one kilogram or less;

8 (d) It is from the person of the victim;

9 (e) It is in breach of an obligation by a person in his capacity as a  
10 fiduciary;

11 (f) It is by threat not amounting to extortion;

12 (g) It is of a public record, writing or instrument kept, filed or  
13 deposited according to law with or in the keeping of any public office  
14 or public servant;

15 (h) The property stolen is a person's benefits under federal or State  
16 law, or from any other source, which the Department of Human  
17 Services or an agency acting on its behalf has budgeted for the  
18 person's health care and the amount involved is less than \$75,000; [or]

19 (i) The property stolen is any real or personal property related to,  
20 necessary for, or derived from research, regardless of value, including,  
21 but not limited to, any sample, specimens and components thereof,  
22 research subject, including any warm-blooded or cold-blooded animals  
23 being used for research or intended for use in research, supplies,  
24 records, data or test results, prototypes or equipment, as well as any  
25 proprietary information or other type of information related to  
26 research; or

27 (j) The property stolen is a New Jersey Prescription Blank as  
28 referred to in R.S.45:14-14.

29 (3) Theft constitutes a crime of the fourth degree if the amount  
30 involved is at least \$200.00 but does not exceed \$500.00. If the  
31 amount involved was less than \$200.00 the offense constitutes a  
32 disorderly persons offense.

33 (4) The amount involved in a theft shall be determined by the trier  
34 of fact. The amount shall include, but shall not be limited to, the  
35 amount of any State tax avoided, evaded or otherwise unpaid,  
36 improperly retained or disposed of. Amounts involved in thefts  
37 committed pursuant to one scheme or course of conduct, whether  
38 from the same person or several persons, may be aggregated in  
39 determining the grade of the offense.

40 c. Claim of right. It is an affirmative defense to prosecution for  
41 theft that the actor:

42 (1) Was unaware that the property or service was that of another;

43 (2) Acted under an honest claim of right to the property or service  
44 involved or that he had a right to acquire or dispose of it as he did; or

45 (3) Took property exposed for sale, intending to purchase and pay  
46 for it promptly, or reasonably believing that the owner, if present,

1 would have consented.

2 d. Theft from spouse. It is no defense that theft was from the  
3 actor's spouse, except that misappropriation of household and personal  
4 effects, or other property normally accessible to both spouses, is theft  
5 only if it occurs after the parties have ceased living together.

6 (cf: P.L.1995, c.20, s.5)

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8 4. N.J.S.2C:21-1 is amended to read as follows:

9 2C:21-1. a. Forgery. A person is guilty of forgery if, with purpose  
10 to defraud or injure anyone, or with knowledge that he is facilitating  
11 a fraud or injury to be perpetrated by anyone, the actor:

12 (1) Alters or changes any writing of another without his  
13 authorization;

14 (2) Makes, completes, executes, authenticates, issues or transfers  
15 any writing so that it purports to be the act of another who did not  
16 authorize that act or of a fictitious person, or to have been executed  
17 at a time or place or in a numbered sequence other than was in fact  
18 the case, or to be a copy of an original when no such original existed;  
19 or

20 (3) Utters any writing which he knows to be forged in a manner  
21 specified in paragraph (1) or (2).

22 "Writing" includes printing or any other method of recording  
23 information, money, coins, tokens, stamps, seals, credit cards, badges,  
24 trademarks, and other symbols of value, right, privilege, or  
25 identification.

26 b. Grading of forgery. Forgery is a crime of the third degree if the  
27 writing is or purports to be part of an issue of money, securities,  
28 postage or revenue stamps, or other instruments, certificates or  
29 licenses issued by the government, New Jersey Prescription Blanks as  
30 referred to in R.S.45:14-14, or part of an issue of stock, bonds or  
31 other instruments representing interest in or claims against any  
32 property or enterprise.

33 Otherwise forgery is a crime of the fourth degree.

34 c. Possession of forgery devices. A person is guilty of possession  
35 of forgery devices, a crime of the third degree, when with purpose to  
36 use, or to aid or permit another to use the same for purposes of  
37 forging written instruments, he makes or possesses any device,  
38 apparatus, equipment or article specially designed or adapted to such  
39 use.

40 (cf: P.L.1981, c.290, s.20)

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42 5. (New Section) a. Beginning on the effective date of this act,  
43 each duly licensed prescriber shall use serialized, non-reproducible,  
44 non-erasable New Jersey Prescription Blanks bearing that prescriber's  
45 license number, secured from a vendor approved by the Office of Drug  
46 Control in the Division of Consumer Affairs, Department of Law and

1 Public Safety, whenever issuing prescriptions for controlled dangerous  
2 substances, prescription legend drugs or other prescription items.

3 b. Each duly licensed prescriber shall maintain a record of receipt  
4 of New Jersey Prescription Blanks and shall notify the Office of Drug  
5 Control within one week of being made aware that any New Jersey  
6 Prescription Blank in the prescriber's possession has been stolen.

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8 6. (New Section) a. Beginning on the effective date of this act,  
9 prescriptions issued by a health care facility licensed pursuant to  
10 P.L.1971, c.136 (C.26:2H-1 et seq.) shall be written on serialized,  
11 non-reproducible, non-erasable New Jersey Prescription Blanks  
12 secured from a vendor approved by the Office of Drug Control in the  
13 Division of Consumer Affairs, Department of Law and Public Safety.  
14 The New Jersey Prescription Blanks shall bear the unique provider  
15 number assigned to that health care facility for the issuing of  
16 prescriptions for controlled dangerous substances, prescription legend  
17 drugs or other prescription items.

18 b. Each health care facility shall maintain a record of receipt of  
19 New Jersey Prescription Blanks and shall notify the Office of Drug  
20 Control within one week of being made aware that any New Jersey  
21 Prescription Blank in the facility's possession has been stolen.

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23 7. (New Section) Beginning on the effective date of this act, no  
24 prescription issued by a licensed New Jersey prescriber shall be filled  
25 by a pharmacist, drug store or drug department unless issued on a  
26 New Jersey Prescription Blank bearing the prescriber's license number  
27 or the unique provider number assigned to a health care facility.

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29 8. (New Section) Nothing herein shall preclude a duly licensed  
30 prescriber from telephoning or electronically transmitting to a  
31 pharmacy, drug store or drug department a prescription, as otherwise  
32 authorized by law, if that prescriber provides verification to the  
33 pharmacist at the time of issuance and subsequently provides a written  
34 memorialization of that prescription.

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36 9. This act shall take effect 180 days after enactment.

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#### STATEMENT

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41 This bill requires that within 180 days of the date of enactment of  
42 the bill, all prescriptions written in the State by licensed prescribers  
43 and licensed health care facilities be issued on a uniform prescription  
44 blank, known as a "New Jersey Prescription Blank." The uniform  
45 prescription blanks shall be printed on non-reproducible, non-erasable  
46 safety paper, issued in a serialized, bound fashion and subject to

1 stringent security controls. To insure uniformity, the new prescription  
2 blanks must be obtained from a vendor approved by the Office of Drug  
3 Control in the Division of Consumer Affairs, Department of Law and  
4 Public Safety.

5 The bill provides that theft or forgery of a "New Jersey Prescription  
6 Blank" is a crime of the third degree. The bill also requires all  
7 prescribers and health care facilities to maintain a record of their  
8 prescription blanks and to report stolen blanks to the Office of Drug  
9 Control within one week of the theft.

10 The purpose of the "New Jersey Prescription Blank" is to reduce  
11 the ease with which prescription drug forgery is accomplished and to  
12 deter drug abuse. Use of the "New Jersey Prescription Blank" should  
13 result in savings to the State as well as to commercial insurers who  
14 provide prescription drug benefits. The Department of the Treasury  
15 estimates that this bill will save the State approximately \$1.5 million  
16 annually by reducing fraud in the Medicaid, Pharmaceutical Assistance  
17 to the Aged and Disabled and general public assistance programs.

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22 Requires use of uniform "New Jersey Prescription Blanks" for all  
23 prescriptions written in State.