

## ASSEMBLY, No. 1624

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# STATE OF NEW JERSEY

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INTRODUCED MARCH 4, 1996

By Assemblymen IMPREVEDUTO and COHEN

1   **AN ACT** concerning the registration of certain out-of-State mail-order  
2   pharmacies and nonresident pharmacists and supplementing chapter  
3   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. As used in this act:

9     "Nonresident affiliate pharmacist" means a person registered as a  
10   pharmacist in the District of Columbia or any state or territory of the  
11   United States who is employed by a nonresident pharmacy and whose  
12   duties include filling prescriptions received by the nonresident  
13   pharmacy from residents of New Jersey.

14     "Nonresident pharmacy" means a pharmacy located in the United  
15   States whose primary business is mail-order prescription service and  
16   which solicits prescription business in New Jersey or ships, mails or  
17   delivers prescription drugs or devices to residents of New Jersey.

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19     2. A nonresident affiliate pharmacist shall not fill a prescription for  
20   a New Jersey resident whose mailing address is located in New Jersey  
21   unless registered pursuant to the provisions of this act.

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23     3. a. The Board of Pharmacy of the State of New Jersey shall issue  
24   a certificate as a registered nonresident affiliate pharmacist to a  
25   nonresident affiliate pharmacist who submits a written application to  
26   the board on forms provided by it; pays a fee as prescribed by the  
27   board; and successfully completes a board approved examination  
28   testing an applicant's knowledge of the laws and regulations of New  
29   Jersey governing the practice of pharmacy. A certificate as a  
30   registered nonresident affiliate pharmacist shall authorize the holder to  
31   practice pharmacy in this State.

32     b. The board may authorize an applicant to take the examination  
33   required for registration pursuant to subsection a. of this section in the  
34   district, state or territory in which the applicant is employed as a  
35   nonresident affiliate pharmacist under the auspices of the licensing  
36   authority in that jurisdiction. The licensing authority shall return the  
37   completed unmarked examination to the Board of Pharmacy of the

1 State of New Jersey for grading of the examination.

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3       4. A registered nonresident affiliate pharmacist shall, biennially, on  
4 a date that the board prescribes, pay a registration renewal fee. The  
5 board shall fix the biennial registration renewal fee for a registered  
6 nonresident affiliate pharmacist at one-half the biennial registration  
7 renewal fee charged to a pharmacist registered to practice pharmacy  
8 in the State of New Jersey.

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10     5. A renewal certificate of registration shall not be issued by the  
11 board to a registered nonresident affiliate pharmacist until the  
12 applicant submits satisfactory proof to the board that he has completed  
13 the continuing pharmaceutical education requirements specified in  
14 P.L.1972, c.61 (C.45:14-11.2 et seq.).

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16     6. A nonresident pharmacy shall not solicit prescription business or  
17 ship, mail or deliver prescription drugs or devices to a New Jersey  
18 resident whose mailing address is located in New Jersey unless the  
19 pharmacy is registered with the board and the board has issued a  
20 permit to the nonresident pharmacy.

21     The fee for a permit that is established, prescribed or charged  
22 pursuant to this section shall be established, prescribed or charged to  
23 the extent as shall be necessary to defray all proper expenses incurred  
24 by the board in administering the provisions of this section.

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26     7. Upon application made on a form prescribed and furnished by  
27 the board, and upon payment of the required fee, the board shall issue  
28 a permit to a nonresident pharmacy which is deemed qualified. A  
29 permit may be issued and shall remain in effect only during the period  
30 in which the nonresident pharmacy satisfies the following  
31 requirements:

32       a. Is licensed and in good standing in the state, territory or district  
33 in which it is located;

34       b. Designates a resident agent in New Jersey;

35       c. Maintains, in readily retrievable form, records of legend drugs  
36 or devices dispensed to patients whose mailing address is in New  
37 Jersey;

38       d. Supplies, upon request, all information needed by the Board of  
39 Pharmacy of the State of New Jersey to carry out the board's  
40 responsibilities under the statutes and regulations pertaining to  
41 nonresident pharmacies;

42       e. Maintains pharmacy hours that permit the timely dispensing of  
43 drugs to patients in New Jersey and provides reasonable access for  
44 these patients to consult with a pharmacist concerning patients'  
45 medications;

46       f. Provides toll-free telephone consultations between patients in

- 1    New Jersey and a pharmacist at the nonresident pharmacy who has  
2    access to the patients' records, and ensures that the telephone number  
3    of the nonresident pharmacy is placed upon the label affixed to each  
4    legend drug container;
- 5       g. Complies with the statutory and regulatory requirements of the  
6    State of New Jersey for controlled substances;
- 7       h. Complies with the statutory and regulatory requirements of the  
8    State of New Jersey regarding generic substitution;
- 9       i. Complies with the statutory and regulatory labeling requirements  
10   of the State of New Jersey;
- 11      j. Complies with the statutory and regulatory requirements of the  
12   State of New Jersey for dispensing prescriptions in accordance with  
13   the quantities indicated by the prescriber;
- 14      k. Develops and provides the Board of Pharmacy of the State of  
15   New Jersey with a policy and procedure manual that sets forth;
- 16       (1) Normal delivery protocols and times;
- 17       (2) A policy on the procedure to be followed if a patient's  
18   medication is not available at the nonresident pharmacy, or if delivery  
19   will be delayed beyond the normal delivery time;
- 20       (3) A policy on the procedure to be followed upon receipt of a  
21   prescription for an acute illness, which policy shall include a procedure  
22   for delivery of the medication to the patient from the nonresident  
23   pharmacy at the earliest possible time or an alternative that assures  
24   the patient the opportunity to obtain the medication at the earliest  
25   possible time; and
- 26       (4) A policy on the procedure to be followed when advised that  
27   the patient's medication has not been received within the normal  
28   delivery time and the patient is out of medication and requires interim  
29   dosage until mailed legend drugs become available;
- 30       l. Retains a current copy of: chapter 14 of Title 45 of the Revised  
31   Statutes; regulations of the Board of Pharmacy of the State of New  
32   Jersey contained in Title 13 of the New Jersey Administrative Code;  
33   the list of interchangeable drug products prepared by the New Jersey  
34   Drug Utilization Review Council; and the regulations adopted  
35   pursuant to the "New Jersey Controlled Dangerous Substances Act,"  
36   P.L.1970, c.226 (C.24:21-1 et seq.); and
- 37       m. Ensures that prescriptions received from New Jersey patients  
38   whose mailing address is in New Jersey shall be filled by a nonresident  
39   affiliate pharmacist who is registered by the Board of Pharmacy of the  
40   State of New Jersey.
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- 42       8. Except in emergencies that constitute an immediate threat to  
43   public health and require prompt action by the Board of Pharmacy of  
44   the State of New Jersey, the board shall file a complaint against any  
45   nonresident pharmacy or nonresident affiliate pharmacist that violates  
46   any provision of this act with the licensing authority in the district,

1 state or territory in which the pharmacy is located or the pharmacist  
2 is employed. If the licensing authority in that district, state or territory  
3 fails to resolve the violation within 90 days from the date the  
4 complaint is filed, disciplinary proceedings shall be instituted in New  
5 Jersey before the Board of Pharmacy of the State of New Jersey. Any  
6 notice of complaint to the licensing authority shall also be sent to the  
7 nonresident pharmacy and the nonresident affiliate pharmacist and a  
8 copy shall be sent to the resident agent.

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10 9. Nothing in this bill shall be construed to impact on the receipt  
11 of pharmaceutical services by a New Jersey resident who seeks to  
12 have a prescription filled at an out-of-State community pharmacy while  
13 traveling outside of New Jersey.

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15 10. This act shall take effect on the 90th day following enactment.

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18 STATEMENT

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20 Pharmacies that ship, mail, or deliver prescription legend drugs or  
21 devices to a patient in another state are engaged in the practice of  
22 pharmacy in the state where the patient resides, and this practice  
23 impacts on the safety and welfare of the public. Accordingly, there is  
24 a need to regulate this practice to protect public health.

25 This bill requires out-of-State mail-order pharmacies to obtain a  
26 permit and become registered by the Board of Pharmacy of the State  
27 of New Jersey in order to solicit prescription business in this State or  
28 to ship, mail, or deliver prescription drugs or devices to patients  
29 whose mailing address is located in New Jersey. The bill also requires  
30 a nonresident pharmacist working for these out-of-State mail-order  
31 pharmacies, whose duties include filling prescriptions for patients  
32 residing in New Jersey, to pass a board approved examination and to  
33 be registered as nonresident affiliate pharmacists.

34 The bill stipulates that nothing in its provisions shall be construed  
35 to impact on the receipt of pharmaceutical services by a New Jersey  
36 resident who seeks to have a prescription filled at an out-of-State  
37 community pharmacy while traveling for work or pleasure.

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42 Regulates out-of-State mail-order pharmacies and their employed  
43 pharmacists providing services to New Jersey residents.