

SENATE, No. 1400

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Senator EWING

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
20 prescriptions shall be on a uniform prescription blank, printed on non-
21 reproducible, non-erasable safety paper, issued in a serialized, bound
22 fashion, subject 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
42 State 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
10 a 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
16 State 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
44 service involved or that he had a right to acquire or dispose of it as he
45 did; or
- 46 (3) Took property exposed for sale, intending to purchase and

1 pay for it promptly, or reasonably believing that the owner, if present,
2 would have consented.

3 d. Theft from spouse. It is no defense that theft was from the
4 actor's spouse, except that misappropriation of household and personal
5 effects, or other property normally accessible to both spouses, is theft
6 only if it occurs after the parties have ceased living together.
7 (cf:P.L. 1995,c.20,s.5)

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

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

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

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

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

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

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

34 Otherwise forgery is a crime of the fourth degree.

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

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

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

1 Control in the Division of Consumer Affairs, Department of Law and
2 Public Safety, whenever issuing prescriptions for controlled dangerous
3 substances, prescription legend drugs or other prescription items.

4 b. Each duly licensed prescriber shall maintain a record of receipt
5 of New Jersey Prescription Blanks and shall notify the Office of Drug
6 Control as soon as possible but no later than 72 hours of being made
7 aware that any New Jersey Prescription Blank in the prescriber's
8 possession has been stolen.

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

20 b. Each health care facility shall maintain a record of receipt of
21 New Jersey Prescription Blanks and shall notify the Office of Drug
22 Control as soon as possible but no later than 72 hours of being made
23 aware that any New Jersey Prescription Blank in the facility's
24 possession has been stolen.

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

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32 8. (New Section) Nothing herein shall preclude a duly licensed
33 prescriber from telephoning or electronically transmitting to a
34 pharmacy, drug store or drug department a prescription, as otherwise
35 authorized by law, if that prescriber provides the prescriber's Drug
36 Enforcement Administration registration number or prescriber's license
37 number, as appropriate, to the pharmacist at the time the prescriber
38 issues the prescription and subsequently provides a written
39 memorialization of that prescription. The pharmacist shall be
40 required to request a written memorialization of the prescription at the
41 time the prescriber issues the prescription; however, the prescriber
42 shall be responsible for providing the written memorialization to the
43 pharmacist.

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

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STATEMENT

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This bill requires that within 180 days of the date of enactment of the bill, all prescriptions written in the State by licensed prescribers and licensed health care facilities be issued on a uniform prescription blank, known as a "New Jersey Prescription Blank." The uniform prescription blanks shall be printed on non-reproducible, non-erasable safety paper, issued in a serialized, bound fashion and subject to stringent security controls. To insure uniformity, the new prescription blanks must be obtained from a vendor approved by the Office of Drug Control in the Division of Consumer Affairs, Department of Law and Public Safety.

The bill provides that theft or forgery of a "New Jersey Prescription Blank" is a crime of the third degree. The bill also requires all prescribers and health care facilities to maintain a record of their prescription blanks and to report stolen blanks to the Office of Drug Control within 72 hours of being made aware of the theft.

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

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