

**ASSEMBLY, No. 3356**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 25, 2020

**Sponsored by:**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**SYNOPSIS**

Exempts physicians from controlled dangerous substance registration requirements of Division of Consumer Affairs.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning physicians and amending P.L.1970, c.226 and  
2 P.L.2007, c.244.

3

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

6

7 1. Section 10 of P.L.1970, c.226 (C.24:21-10) is amended to  
8 read as follows:

9 10. Registration requirements. a. Every person who  
10 manufactures, distributes, or dispenses any controlled dangerous  
11 substance within this State or who proposes to engage in the  
12 manufacture, distribution, or dispensing of any controlled  
13 dangerous substance within this State, shall obtain a registration  
14 issued by the division in accordance with rules and regulations  
15 promulgated by it.

16 b. Persons registered by the director under this act to  
17 manufacture, distribute, dispense, or conduct research with  
18 controlled dangerous substances may possess, manufacture,  
19 distribute, dispense, or conduct research with those substances to  
20 the extent authorized by their registration and in conformity with  
21 the other provisions of this article.

22 c. The following persons shall not be required to register and  
23 may lawfully have under their control or possess controlled  
24 dangerous substances under the provisions of P.L.1970, c.226  
25 (C.24:21-1 et seq.), as amended and supplemented; provided,  
26 however, that nothing in this section shall be construed as  
27 conferring on a person who is not registered or licensed as a  
28 practitioner or as a pharmacist any authority, right, or privilege that  
29 is not granted him by the laws of this State:

30 (1) An agent, or an employee thereof, of any registered  
31 manufacturer, distributor, or dispenser of any controlled dangerous  
32 substance if such agent is acting in the usual course of his business  
33 or employment;

34 (2) A common carrier or warehouseman, or an employee  
35 thereof, whose possession of any controlled dangerous substance is  
36 in the usual course of his business or employment;

37 (3) An ultimate user or a person in possession of any controlled  
38 dangerous substance pursuant to a lawful order of a practitioner or  
39 in lawful possession of a Schedule V substance;

40 (4) Peace officers or employees in the performance of their  
41 official duties requiring possession or control of controlled  
42 dangerous substances; or to temporary incidental possession by  
43 employees or agents of persons lawfully entitled to possession, or  
44 by persons whose possession is authorized for the purpose of aiding  
45 peace officers in performing their official duties; or

**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     (5) A physician licensed pursuant to Title 45 of the Revised  
2     Statutes.

3     d. The director may, by regulation, waive the requirement for  
4     registration of certain manufacturers, distributors, or dispensers if  
5     he finds it consistent with the public health and safety.

6     e. A separate registration shall be required at each principal  
7     place of business or professional practice where the applicant  
8     manufactures, distributes, or dispenses controlled dangerous  
9     substances.

10    f. The director is authorized to inspect the establishment of a  
11    registrant or applicant for registration in accordance with the rules  
12    and regulations promulgated by him.

13    (cf: P.L.2007, c.244, s.9)

14  
15    2. Section 26 of P.L.2007, c.244 (C.45:1-46) is amended to  
16    read as follows:

17    26. Access to prescription information.

18    a. The division shall maintain procedures to ensure privacy and  
19    confidentiality of patients and that patient information collected,  
20    recorded, transmitted, and maintained is not disclosed, except as  
21    permitted in this section, including, but not limited to, the use of a  
22    password-protected system for maintaining this information and  
23    permitting access thereto as authorized under sections 25 through  
24    30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), and a  
25    requirement that a person as listed in subsection h. or i. of this  
26    section provide affirmation of the person's intent to comply with the  
27    provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45  
28    through C.45:1-50) as a condition of accessing the information.

29    b. The prescription monitoring information submitted to the  
30    division shall be confidential and not be subject to public disclosure  
31    under P.L.1963, c.73 (C.47:1A-1 et seq.) **[,]** or P.L.2001, c.404  
32    (C.47:1A-5 et al.).

33    c. The division shall review the prescription monitoring  
34    information provided by a pharmacy permit holder pursuant to  
35    sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through  
36    C.45:1-50). The review shall include, but not be limited to:

37    (1) a review to identify whether any person is obtaining a  
38    prescription in a manner that may be indicative of misuse, abuse, or  
39    diversion of a controlled dangerous substance. The director shall  
40    establish guidelines regarding the terms "misuse," "abuse," and  
41    "diversion" for the purposes of this review. When an evaluation of  
42    the information indicates that a person may be obtaining a  
43    prescription for the same or a similar controlled dangerous  
44    substance from multiple practitioners or pharmacists during the  
45    same time period, the division may provide prescription monitoring  
46    information about the person to practitioners and pharmacists; and

47    (2) a review to identify whether a violation of law or regulation  
48    or a breach of the applicable standards of practice by any person

1 may have occurred, including, but not limited to, diversion of a  
2 controlled dangerous substance. If the division determines that  
3 such a violation or breach may have occurred, the division shall  
4 notify the appropriate law enforcement agency or professional  
5 licensing board, and provide the prescription monitoring  
6 information required for an investigation.

7 d. (Deleted by amendment, P.L.2015, c.74)

8 e. (Deleted by amendment, P.L.2015, c.74)

9 f. (Deleted by amendment, P.L.2015, c.74)

10 g. (Deleted by amendment, P.L.2015, c.74)

11 h. (1) A practitioner other than a physician shall register to  
12 access prescription monitoring information upon initial application  
13 for, or renewal of, the practitioner's CDS registration. A physician  
14 shall register to access prescription monitoring information upon  
15 initial application for, or renewal of, the physician's license to  
16 practice medicine or surgery.

17 (2) The division shall provide to a pharmacist who is employed  
18 by a current pharmacy permit holder online access to prescription  
19 monitoring information for the purpose of providing health care to a  
20 current patient or verifying information with respect to a patient or  
21 a prescriber.

22 (3) The division shall provide to a practitioner who has a current  
23 CDS registration and to a licensed physician online access to  
24 prescription monitoring information for the purpose of providing  
25 health care to a current patient or verifying information with respect  
26 to a patient or a prescriber. The division shall also grant online  
27 access to prescription monitoring information to as many licensed  
28 health care professionals as are authorized by a practitioner to  
29 access that information and for whom the practitioner is responsible  
30 for the use or misuse of that information, subject to a limit on the  
31 number of such health care professionals as deemed appropriate by  
32 the division for that particular type and size of professional practice,  
33 in order to minimize the burden to practitioners to the extent  
34 practicable while protecting the confidentiality of the prescription  
35 monitoring information obtained. The director shall establish, by  
36 regulation, the terms and conditions under which a practitioner may  
37 delegate that authorization, including procedures for authorization  
38 and termination of authorization, provisions for maintaining  
39 confidentiality, and such other matters as the division may deem  
40 appropriate.

41 (4) The division shall provide online access to prescription  
42 monitoring information to as many medical or dental residents as  
43 are authorized by a faculty member of a medical or dental teaching  
44 facility to access that information and for whom the practitioner is  
45 responsible for the use or misuse of that information. The director  
46 shall establish, by regulation, the terms and conditions under which  
47 a faculty member of a medical or dental teaching facility may  
48 delegate that authorization, including procedures for authorization

1 and termination of authorization, provisions for maintaining  
2 confidentiality, provisions regarding the duration of a medical or  
3 dental resident's authorization to access prescription monitoring  
4 information, and such other matters as the division may deem  
5 appropriate.

6 (5) (a) The division shall provide online access to prescription  
7 monitoring information to:

8 (i) as many certified medical assistants as are authorized by a  
9 practitioner to access that information and for whom the  
10 practitioner is responsible for the use or misuse of that information;

11 (ii) as many medical scribes working in a hospital's emergency  
12 department as are authorized by a practitioner to access that  
13 information and for whom the practitioner is responsible for the use  
14 or misuse of that information; and

15 (iii) as many licensed athletic trainers working in a clinical  
16 setting as are authorized by a practitioner to access that information  
17 and for whom the practitioner is responsible for the use or misuse of  
18 that information.

19 (b) The director shall establish, by regulation, the terms and  
20 conditions under which a practitioner may delegate authorization  
21 pursuant to subparagraph (a) of this paragraph, including  
22 procedures for authorization and termination of authorization,  
23 provisions for maintaining confidentiality, provisions regarding the  
24 duration of a certified medical assistant's, medical scribe's, or  
25 licensed athletic trainer's authorization to access prescription  
26 monitoring information, and provisions addressing such other  
27 matters as the division may deem appropriate.

28 (6) The division shall provide online access to prescription  
29 monitoring information to as many registered dental assistants as  
30 are authorized by a licensed dentist to access that information and  
31 for whom the licensed dentist is responsible for the use or misuse of  
32 that information. The director shall establish, by regulation, the  
33 terms and conditions under which a licensed dentist may delegate  
34 that authorization, including procedures for authorization and  
35 termination of authorization, provisions for maintaining  
36 confidentiality, provisions regarding the duration of a registered  
37 dental assistant's authorization to access prescription monitoring  
38 information, and such other matters as the division may deem  
39 appropriate.

40 (7) A person listed in this subsection, as a condition of  
41 accessing prescription monitoring information pursuant thereto,  
42 shall certify that the request is for the purpose of providing health  
43 care to a current patient or verifying information with respect to a  
44 patient or practitioner. Such certification shall be furnished through  
45 means of an online statement or alternate means authorized by the  
46 director, in a form and manner prescribed by rule or regulation  
47 adopted by the director. If the information is being accessed by an  
48 authorized person using an electronic system authorized pursuant to

1 subsection q. of this section, the certification may be furnished  
2 through the electronic system.

3 i. The division may provide online access to prescription  
4 monitoring information, or may provide access to prescription  
5 monitoring information through any other means deemed  
6 appropriate by the director, to the following persons:

7 (1) authorized personnel of the division or a vendor or  
8 contractor responsible for maintaining the Prescription Monitoring  
9 Program;

10 (2) authorized personnel of the division responsible for  
11 administration of the provisions of P.L.1970, c.226 (C.24:21-1 et  
12 seq.);

13 (3) the State Medical Examiner, a county medical examiner, a  
14 deputy or assistant county medical examiner, or a qualified  
15 designated assistant thereof, who certifies that the request is for the  
16 purpose of investigating a death pursuant to P.L.1967, c.234  
17 (C.52:17B-78 et seq.);

18 (4) a controlled dangerous substance monitoring program in  
19 another state with which the division has established an  
20 interoperability agreement, or which participates with the division  
21 in a system that facilitates the secure sharing of information  
22 between states;

23 (5) a designated representative of the State Board of Medical  
24 Examiners, New Jersey State Board of Dentistry, State Board of  
25 Nursing, New Jersey State Board of Optometrists, State Board of  
26 Pharmacy, State Board of Veterinary Medical Examiners, or any  
27 other board in this State or another state that regulates the practice  
28 of persons who are authorized to prescribe or dispense controlled  
29 dangerous substances, as applicable, who certifies that the  
30 representative is engaged in a bona fide specific investigation of a  
31 designated practitioner or pharmacist whose professional practice  
32 was or is regulated by that board;

33 (6) a State, federal, or municipal law enforcement officer who is  
34 acting pursuant to a court order and certifies that the officer is  
35 engaged in a bona fide specific investigation of a designated  
36 practitioner, pharmacist, or patient. A law enforcement agency that  
37 obtains prescription monitoring information shall comply with  
38 security protocols established by the director by regulation;

39 (7) a designated representative of a state Medicaid or other  
40 program who certifies that the representative is engaged in a bona  
41 fide investigation of a designated practitioner, pharmacist, or  
42 patient;

43 (8) a properly convened grand jury pursuant to a subpoena  
44 properly issued for the records; and

45 (9) a licensed mental health practitioner providing treatment for  
46 substance abuse to patients at a residential or outpatient substance  
47 abuse treatment center licensed by the Division of Mental Health  
48 and Addiction Services in the Department of Human Services, who

1 certifies that the request is for the purpose of providing health care  
2 to a current patient or verifying information with respect to a patient  
3 or practitioner, and who furnishes the division with the written  
4 consent of the patient for the mental health practitioner to obtain  
5 prescription monitoring information about the patient. The director  
6 shall establish, by regulation, the terms and conditions under which  
7 a mental health practitioner may request and receive prescription  
8 monitoring information. Nothing in sections 25 through 30 of  
9 P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed  
10 to require or obligate a mental health practitioner to access or check  
11 the prescription monitoring information in the course of treatment  
12 beyond that which may be required as part of the mental health  
13 practitioner's professional practice.

14 j. A person listed in subsection i. of this section, as a condition  
15 of obtaining prescription monitoring information pursuant thereto,  
16 shall certify the reasons for seeking to obtain that information.  
17 Such certification shall be furnished through means of an online  
18 statement or alternate means authorized by the director, in a form  
19 and manner prescribed by rule or regulation adopted by the director.

20 k. The division shall offer an online tutorial for those persons  
21 listed in subsections h. and i. of this section, which shall, at a  
22 minimum, include: how to access prescription monitoring  
23 information; the rights of persons who are the subject of this  
24 information; the responsibilities of persons who access this  
25 information; a summary of the other provisions of sections 25  
26 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) and  
27 the regulations adopted pursuant thereto, regarding the permitted  
28 uses of that information and penalties for violations thereof; and a  
29 summary of the requirements of the federal health privacy rule set  
30 forth at 45 CFR Parts 160 and 164 and a hypertext link to the  
31 federal Department of Health and Human Services website for  
32 further information about the specific provisions of the privacy rule.

33 l. The division may request and receive prescription  
34 monitoring information from prescription monitoring programs in  
35 other states and may use that information for the purposes of  
36 sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through  
37 C.45:1-50). When sharing data with programs in another state, the  
38 division shall not be required to obtain a memorandum of  
39 understanding unless required by the other state.

40 m. The director may provide nonidentifying prescription drug  
41 monitoring information to public or private entities for statistical,  
42 research, or educational purposes, in accordance with the provisions  
43 of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through  
44 C.45:1-50).

45 n. Nothing shall be construed to prohibit the division from  
46 obtaining unsolicited automated reports from the program or  
47 disseminating such reports to pharmacists, practitioners, mental

1 health care practitioners, and other licensed health care  
2 professionals.

3 o. (1) A current patient of a practitioner may request from that  
4 practitioner that patient's own prescription monitoring information  
5 that has been submitted to the division pursuant to sections 25  
6 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). A  
7 parent or legal guardian of a child who is a current patient of a  
8 practitioner may request from that practitioner the child's  
9 prescription monitoring information that has been submitted to the  
10 division pursuant to sections 25 through 30 of P.L.2007, c.244  
11 (C.45:1-45 through C.45:1-50).

12 (2) Upon receipt of a request pursuant to paragraph (1) of this  
13 subsection, a practitioner or health care professional authorized by  
14 that practitioner may provide the current patient or parent or legal  
15 guardian, as the case may be, with access to or a copy of the  
16 prescription monitoring information pertaining to that patient or  
17 child.

18 (3) The division shall establish a process by which a patient, or  
19 the parent or legal guardian of a child who is a patient, may request  
20 a pharmacy permit holder that submitted prescription monitoring  
21 information concerning a prescription for a controlled dangerous  
22 **【substances】** substance for that patient or child to the division  
23 pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45  
24 through C.45:1-50) to correct information that the person believes  
25 to have been inaccurately entered into that patient's or child's  
26 prescription profile. Upon confirmation of the inaccuracy of any  
27 such entry into a patient's or child's prescription profile, the  
28 pharmacy permit holder shall be authorized to correct any such  
29 inaccuracies by submitting corrected information to the division  
30 pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45  
31 through C.45:1-50). The process shall provide for review by the  
32 Board of Pharmacy of any disputed request for correction, which  
33 determination shall be appealable to the director.

34 p. The division shall take steps to ensure that appropriate  
35 channels of communication exist to enable any licensed health care  
36 professional, licensed pharmacist, mental health practitioner,  
37 pharmacy permit holder, or other practitioner who has online access  
38 to the Prescription Monitoring Program pursuant to this section to  
39 seek or provide information to the division related to the provisions  
40 of this section.

41 q. (1) The division may make prescription monitoring  
42 information available on electronic systems that collect and display  
43 health information, such as an electronic system that connects  
44 hospital emergency departments for the purpose of transmitting and  
45 obtaining patient health data from multiple sources, or an electronic  
46 system that notifies practitioners of information pertaining to the  
47 treatment of overdoses; provided that the division determines that

1 any such electronic system has appropriate security protections in  
2 place.

3 (2) Practitioners who are required to access prescription  
4 monitoring information pursuant to section 8 of P.L.2015, c.74  
5 (C.45:1-46.1) may discharge that responsibility by accessing one or  
6 more authorized electronic systems into which the prescription  
7 monitoring information maintained by the division has been  
8 integrated.

9 (cf: P.L.2017, c.341, s.3)

10

11 3. This act shall take effect immediately.

12

13

14 STATEMENT

15

16 This bill eliminates the requirement that physicians register with  
17 the Division of Consumer Affairs in the Department of Law and  
18 Public Safety as a condition of possessing and dispensing controlled  
19 dangerous substances in New Jersey. Nothing in the bill will affect  
20 the requirement for physicians to register with the federal Drug  
21 Enforcement Administration as a condition of prescribing,  
22 dispensing, conducting research with, or engaging in other  
23 authorized activities involving controlled dangerous substances.