

50 N.J.R. 1500(a)

VOLUME 50, ISSUE 13, JULY 2, 2018

RULE ADOPTIONS

Reporter

50 N.J.R. 1500(a)

*NJ - New Jersey Register > 2018 > JULY > JULY 2, 2018 > RULE
ADOPTIONS > LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > OFFICE OF THE
DIRECTOR

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:45A-35.1, 35.2, 35.6, 35.10, and 35.11

Text

Prescription Monitoring Program

**Purpose and Scope; Definitions; Access to Prescription Monitoring
Information; Retention of Information; Recordkeeping; Professional
Misconduct**

Proposed: March 5, 2018, at 50 N.J.R. 934(a).

Adopted: May 21, 2018, by Kevin Jespersen, Acting Director, Division of
Consumer Affairs.

Filed: May 30, 2018, as R.2018 d.128, **without change**.

Authority: N.J.S.A. 45:1-45 et seq. (P.L. 2007, c. 244, as amended by
P.L. 2015, c. 74).

Effective Date: July 2, 2018.

Expiration Date: December 14, 2018.

Summary of Public Comment and Agency Response:

The official comment period ended May 4, 2018. **No comments were received.**

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are governed by N.J.S.A. 45:1-45 et seq. (P.L. 2007, c. 244, as amended by P.L. 2015, c. 74). However, in accordance with existing N.J.A.C. 13:45A-35.5(h), all persons authorized to access PMP prescription drug information, including licensed mental health practitioners, must comply with the Federal Health Insurance Portability and Accountability Act of 1996, and the Federal health privacy rule set forth at 45 CFR Parts 160 and 164.

Regulations

Full text of the adoption follows:

SUBCHAPTER 35. PRESCRIPTION MONITORING PROGRAM

13:45A-35.1 Purpose and scope

(a) (No change.)

(b) The rules in this subchapter shall apply to the following:

1.-8. (No change.)

9. A certified medical assistant authorized by a practitioner to access the prescription monitoring information, subject to the limitations and requirements of this subchapter;

10. A registered dental assistant authorized by a licensed dentist to access the prescription monitoring information, subject to the limitations and requirements of this subchapter; and

11. A licensed mental health practitioner providing treatment for substance abuse to patients at a residential or outpatient substance abuse treatment center licensed by the Department of Health, subject to the limitations and requirements of this subchapter.

(c) - (d) (No change.)

13:45A-35.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

. . .

"Mental health practitioner" means a clinical social worker, marriage and family therapist, clinical alcohol and drug

counselor, professional counselor, psychologist, or psychoanalyst licensed or otherwise authorized to practice pursuant to Title 45 of the Revised Statutes.

. . .

13:45A-35.6 Access to prescription monitoring information; retention of information

(a) The Division shall provide online access to prescription monitoring information submitted to the PMP to the following:

1.-7. (No change.)

8. The State Medical Examiner, a county medical examiner, a deputy or assistant county medical examiner, or a qualified designated assistant thereof, who certifies that the request is for the purpose of investigating a death pursuant to P.L. 1967, c. 234 (N.J.S.A. 52:17B-78 et seq.);

9. A licensed mental health practitioner providing treatment for substance abuse to patients at a residential or outpatient substance abuse treatment center licensed by the Department of Health provided that the licensed mental health practitioner:

i. Certifies that the request is for the purpose of providing health care to a current patient at a residential or outpatient substance abuse treatment center licensed by the Department of Health, or verifying information with respect to a patient or practitioner; and

ii. Provides the Division with the written consent of the patient for the mental health practitioner to obtain prescription monitoring information about the patient.

(1) Patient consent shall be valid for the period of treatment by the mental health practitioner at the residential or outpatient substance abuse treatment center or for one year, whichever is less. After one year, the mental health practitioner shall re-obtain, and re-submit to the Division, the written consent of the patient; and

10. Authorized personnel, as determined by the Director of the Division, responsible for administration of the provisions of P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.).

(b) - (f) (No change.)

(g) Notwithstanding the provisions of this subchapter, the Division may obtain unsolicited automated reports from the PMP or disseminate such reports to pharmacists, practitioners,

mental health practitioners, and other licensed health care professionals.

(h) (No change.)

(i) The Division shall review the prescription monitoring information provided by a pharmacy permit holder pursuant to N.J.S.A. 45:1-45 et seq., and the rules of this subchapter. The review shall include, but not be limited to, a review to identify whether:

1. Any person is obtaining a prescription in a manner that may be indicative of misuse, abuse, or diversion of a controlled dangerous substance. When an evaluation of the information indicates that a person may be obtaining a prescription for the same or a similar controlled dangerous substance from multiple practitioners or pharmacies during the same period, the Division may provide prescription monitoring information about the person to practitioners and pharmacies; and

2. A violation of law or regulation or breach of the applicable standards of practice by any person may have occurred, including, but not limited to, diversion of a controlled dangerous substance. If the Division determines that such a violation or breach may have occurred, the Division shall notify the appropriate law enforcement agency or professional licensing board, and provide the prescription monitoring information required for an investigation.

(j) (No change in text.)

13:45A-35.10 Recordkeeping

(a) - (c) (No change.)

(d) Each mental health practitioner shall retain in the patient record a copy of the patient consent, and any PMP information accessed for the patient.

(e) (No change in text.)

13:45A-35.11 Professional misconduct

(a) Noncompliance with the rules in this subchapter may be deemed professional misconduct and may subject the pharmacy permit holder, an out-of-State pharmacy that is subject to this subchapter, pharmacist, practitioner, licensed health care professional, registered dental assistant, or mental health practitioner to disciplinary action pursuant to the provisions

of N.J.S.A. 45:1-21 and to the penalties set forth in N.J.S.A. 45:1-49.

(b) - (g) (No change.)

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