

CHAPTER 309

AN ACT concerning forged and fraudulent prescriptions and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.), P.L.1975, c.194 (C.30:4D-20 et seq.), P.L.2001, c.96 (C.30:4D-43 et seq.), and P.L.2005, c.156 (C.30:4J-8 et al.).

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

C.30:4D-7.9 Payment to pharmacy for certain forged, fraudulent prescriptions under State Medicaid program.

1. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, “has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud” means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription. c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter’s authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided.

A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the State Medicaid program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The Office of the Medicaid Inspector General shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a Medicaid eligibility identification card, the card shall be subject to a pharmacy restriction process under which the Medicaid recipient is permitted to use the card only at a single pharmacy of the recipient’s choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the Office of the Medicaid Inspector General in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the Division of Medical Assistance and Health Services in the Department of Human Services in regard to such prescriptions.

C.30:4D-22.3 Payment to pharmacy for certain forged, fraudulent prescriptions, program's responsibilities.

2. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, "has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud" means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription.

c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter's authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided.

A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The program shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a "Pharmaceutical Assistance to the Aged and Disabled" program eligibility identification card, the card shall be subject to a pharmacy restriction process under which the program recipient is permitted to use the card only at a single pharmacy of the recipient's choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the program, or any entity acting on its behalf, in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the program in regard to such prescriptions.

C.30:4D-45.2 Payment to pharmacy for certain forged, fraudulent prescriptions under State Medicaid program.

3. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), unless the pharmacist or an

employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, “has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud” means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription.

c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter’s authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided. A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The program shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a Senior Gold eligibility identification card, the card shall be subject to a pharmacy restriction process under which the program recipient is permitted to use the card only at a single pharmacy of the recipient’s choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the program, or any entity acting on its behalf, in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the program in regard to such prescriptions.

C.30:4J-20 Payment to pharmacy for certain forged, fraudulent prescriptions under NJ FamilyCare Program.

4. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, “has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud” means that a person:

(1) knowingly and willfully made or caused to be made any false statement or

representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription.

c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter's authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided.

A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the NJ FamilyCare Program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The Office of the Medicaid Inspector General shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a NJ FamilyCare Program eligibility identification card, the card shall be subject to a pharmacy restriction process under which the program recipient is permitted to use the card only at a single pharmacy of the recipient's choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the Office of the Medicaid Inspector General in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the Division of Medical Assistance and Health Services in the Department of Human Services in regard to such prescriptions.

5. This act shall take effect immediately.

Approved January 18, 2010.