CHAPTER 388

AN ACT concerning non-prescription diabetes test devices and supplementing Title 45 of the Revised Statutes.

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

C.45:14-83 Definitions.

1. As used in this act:

"Board" means the New Jersey State Board of Pharmacy established pursuant to P.L.2003, c.280 (C.45:14-40 et seq.)

"Non-prescription diabetes test device" means a glucose meter or test strip for use in the treatment of prediabetic or diabetic individuals that may be sold without a prescription and that is labeled for use by the consumer in accordance with applicable State and federal law.

C.45:14-84 Authorized distributors.

2. a. A manufacturer of a non-prescription diabetes test device that is distributed within New Jersey shall make the names of its authorized distributors available on its Internet Web site. A manufacturer of a non-prescription diabetes test device shall, within 30 days of making a change to its authorized distributors, update its Internet Web site to reflect any changes to its authorized distributors.

b. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any retail mercantile establishment to sell or offer to sell to a consumer in New Jersey a non-prescription diabetes test device that was not acquired directly from the manufacturer or from one of the manufacturer's authorized distributors, unless the device is plainly marked by a stamp, tag, label or sign that is either affixed to the device or located at the point of sale disclosing that the device was not acquired directly from the manufacturer or from an authorized distributor of the manufacturer.

c. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any retail mercantile establishment to sell or offer to sell to a consumer in New Jersey a non-prescription diabetes test device that was previously sold and repackaged, unless the device is plainly marked by a stamp, tag, label or sign that is either affixed to the device or located at the point of sale disclosing that the device was previously sold and re-packaged.

d. For the purposes of this section, a "retail mercantile establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the public. This term shall include entities that use the Internet or other electronic means to expose or offer merchandise for sale at retail to consumers in New Jersey.

C.45:14-85 Additional responsibilities of board.

3. In addition to the responsibilities given to the board pursuant to the "New Jersey Pharmacy Practice Act," P.L.2003, c.280 (C.45:14-40 et seq.), the board shall require that a pharmacy that dispenses non-prescription diabetes test devices pursuant to prescriptions shall retain records of its acquisition, inventory, and sale of those non-prescription diabetes test devices. The records shall be maintained in a manner prescribed by the board by regulation, and shall be retained for a period of not less than three years. The board shall have authority to inspect records at all reasonable hours.

C.45:14-86 Disciplinary action.

4. A pharmacist who sells, offers for sale, or otherwise dispenses to the public a non-prescription diabetes test device that the pharmacist knows or reasonably should have known

was not acquired by the pharmacy either directly from the manufacturer or from one of the manufacturer's authorized distributors shall be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

5. The New Jersey State Board of Pharmacy shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as the board deems necessary to carry out the provisions of this act.

6. This act shall take effect on the first day of the seventh month next following the date of enactment.

Approved January 21, 2020.