**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑53‑15 SO AS TO TRANSFER THE POWERS, FUNCTIONS AND DUTIES, OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL RELATING TO THE REGULATION OF POISONS, DRUGS, AND CONTROLLED SUBSTANCES, OTHER THAN LEAD POISONING, TO THE STATE BOARD OF PHARMACY; AND TO AMEND SECTIONS 44‑53‑10, 44‑53‑50, 44‑53‑110, AS AMENDED, 44‑53‑160, 44‑53‑180, 4‑53‑200, 44‑53‑220, 44‑53‑240, 44‑53‑260, 44‑53‑280, SECTIONS 44‑53‑290 THROUGH 44‑53‑350, 44‑53‑360 AND 44‑53‑375, BOTH AS AMENDED, 44‑53‑395, 44‑53‑430, 44‑53‑450, 44‑53‑480, 44‑53‑490, 44‑53‑500, 44‑53‑520, AS AMENDED, ARTICLES 4 AND 5, CHAPTER 53, TITLE 44, AND SECTION 44‑53‑930, ALL RELATING TO THE REGULATION OF POISONS, DRUGS, AND OTHER CONTROLLED SUBSTANCES, SO AS TO CONFORM THESE SECTIONS TO THIS TRANSFER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Section 44‑53‑15. (A) All powers, functions and duties ascribed to the Department of Health and Environmental Control pursuant to this chapter, except pursuant to Article 13, are transferred to and devolved upon the State Board of Pharmacy. All personnel, appropriations, and full‑time equivalent positions associated with the administration of this chapter, excluding Article 13, are transferred to the State Board of Pharmacy.

(B) Regulations of the Department of Health and Environmental Control promulgated pursuant to this chapter, except Article 13, are continued and deemed to be promulgated under the State Board of Pharmacy until such time as the State Board of Pharmacy amend or repeal these regulations.”

SECTION 2. Section 44‑53‑10 of the 1976 Code is amended to read:

“Section 44‑53‑10. The ~~Department of Health and Environmental Control~~ State Board of Pharmacy shall take cognizance of the interest of the public health as it relates to the sale of drugs and the adulteration thereof and shall make all necessary inquiries and investigations relating thereto. For such purpose it may appoint inspectors, analysts and chemists who shall be subject to its supervision and removal. The ~~department~~ board shall adopt such measures as it may deem necessary to facilitate the enforcement of this chapter, excluding Article 13. It shall prepare rules and regulations with regard to the proper method of collecting and examining drugs.”

SECTION 3. Section 44‑53‑50 of the 1976 Code is amended to read:

“Section 44‑53‑50. (A) Except as otherwise provided in this section, a person may not use, sell, manufacture, or distribute for use or sale in this State any cleaning agent that contains more than zero percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding five‑tenths of one percent that is incidental to manufacturing. For the purposes of this section, ‘cleaning agent’ means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

(B) A person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than zero percent phosphorus by weight but does not exceed eight and seven‑tenths percent phosphorus by weight that is:

(1) a detergent used in a dishwashing machine, whether commercial or household; and

(2) a substance excluded from the zero percent phosphorus limitation of this section by regulations adopted by the ~~Department of Health and Environmental Control~~ State Board of Pharmacy which are based on a finding that compliance with this section would:

~~(i)~~(a) create a significant hardship on the user; or

~~(ii)~~(b) be unreasonable because of the lack of an adequate substitute cleaning agent.

(C) This section does not apply to a cleaning agent that is:

(1) used in dairy, beverage, or food processing equipment;

(2) a product used as an industrial sanitizer, brightener, acid cleaner, or metal conditioner, including phosphoric acid products or trisodium phosphate;

(3) used in hospitals, veterinary hospitals, clinics, or health care facilities or in agricultural or dairy production or in the manufacture of health care supplies;

(4) used by a commercial laundry or textile rental service company or any other commercial entity:

(a) to provide laundry service to hospitals, clinics, nursing homes, other health care facilities, or veterinary hospitals or clinics;

(b) to clean textile products owned by a commercial laundry or textile rental service company and supplied to industrial or commercial users of the products on a rental basis; or

(c) to clean military, professional, industrial, or commercial work uniforms;

(5) used by industry for metal, fabric, or fiber cleaning or conditioning;

(6) manufactured, stored, or distributed for use or sale outside of this State;

(7) used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; (8) used for cleaning hard surfaces, including household cleansers for windows, sinks, counters, ovens, tubs, or other food preparation surfaces and plumbing fixtures;

(9) used as a water softening chemical, antiscale chemical, or corrosion inhibitor intended for use in closed systems such as boilers, air conditioners, cooling towers, or hot water heating systems.

(D) The ~~Department of Health and Environmental Control~~ State Board of Pharmacy shall promulgate regulations to administer and enforce the provisions of this section. Any cleaning agent held for sale or distribution in violation of this section may be seized by appropriate administrative or law enforcement personnel. The seized cleaning agents are considered forfeited.

(E) A person who knowingly sells, manufactures, or distributes any cleaning agent in violation of the provisions of this section shall receive a written warning from the ~~Department of Health and Environmental Control~~ State Board of Pharmacy for the first violation. For a subsequent violation, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year. Each unlawful sale constitutes a separate violation.”

SECTION 4. The definitions of “Commission”, “Department”, and “Depressant or stimulant drug” in Section 44‑53‑110 of the 1976 Code are amended to read:

“~~Commission’ means the South Carolina Commission on Alcohol and Drug Abuse.~~

~~‘Department’~~ ‘Board’ means the ~~State Department of Health and Environmental Control~~ State Board of Pharmacy under the Department of Labor, Licensing and Regulation.

‘Depressant or stimulant drug’ means:

~~(a)~~(1) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid which has been designated as habit forming by the appropriate federal agency or by the ~~department~~ State Board of Pharmacy;

~~(b)~~(2) a drug which contains any quantity of amphetamine or any of its optical isomers, any salt of amphetamine or any salt of any optical isomer of amphetamine, or any other substance which the appropriate federal agency, or the ~~department~~ State Board of Pharmacy, after investigation, as found to be capable of being, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

~~(c)~~(3) lysergic acid diethylamide or mescaline, or any other substance which the appropriate federal agency or the ~~department~~ State Board of Pharmacy, after investigation, has found to have, and by regulation designates as having a potential for abuse because of its stimulant or depressant effect on the central nervous system or its hallucinogenic effect.”

SECTION 5. The definition of “Immediate Precursor” in Section 44‑53‑110 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“‘Immediate precursor’ means a substance which the appropriate federal agency or the ~~department~~ State Board of Pharmacy has found to be and by regulation has designated as being, or can be proven by expert testimony as being, the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, or is a reagent, solvent, or catalyst used in the manufacture of controlled substances, the control of which is necessary to prevent, curtail, or limit such manufacture.”

SECTION 6. Section 44‑53‑160 of the 1976 Code is amended to read:

“Section 44‑53‑160. ~~(1)~~(A) Annually, within thirty days after the convening of each regular session of the General Assembly, the ~~department~~ State Board of Pharmacy shall recommend to the General Assembly any additions, deletions or revisions in the schedules of substances, enumerated in Sections 44‑53‑190, 44‑53‑210, 44‑53‑230, 44‑53‑250 and 44‑53‑270, which it deems necessary. The ~~department~~ board shall not make any additions, deletions or revisions in such schedules until after notice and an opportunity for a hearing is afforded all interested parties. In making a recommendation to the General Assembly regarding a substance, the ~~department~~ board shall consider the following:

~~(a)~~(1) the actual or relative potential for abuse;

~~(b)~~(2) the scientific evidence of its pharmacological effect, if known;

~~(c)~~(3) state of current scientific knowledge regarding the substance;

~~(d)~~(4) the history and current pattern of abuse;

~~(e)~~(5) the scope, duration, and significance of abuse;

~~(f)~~(6) the risk to the public health;

~~(g)~~(7) the potential of the substance to produce psychic or physiological dependence liability; and

~~(h)~~(8) whether the substance is an immediate precursor of a substance already controlled under this Division.

~~(2)~~(B) After considering the above factors, the ~~department~~ board shall make a recommendation to the General Assembly, specifying to what schedule the substance should be added, deleted or rescheduled, if it finds that the substance has a potential for abuse.

~~(3)~~(C) During the time the General Assembly is not in session, the ~~department~~ board may by rule add, delete or reschedule a substance as a controlled substance after providing for notice and hearing to all interested parties. Upon the adoption of such rule, the ~~department~~ board shall forward copies to the chairmen of the Medical Affairs Committee of the Senate, and the Military, Public and Municipal Affairs Committee of the House of Representatives and to the Clerks of the Senate and House ~~and to the Chairman of the Joint Legislative Committee on Drugs and Narcotics~~.

~~(4)~~(D)(1) If any substance is added, deleted, or rescheduled as a controlled substance under Federal law and notice of the designation is given to the ~~department~~ board, the ~~department~~ board shall recommend that a corresponding change in South Carolina law be made by the next regular session of the General Assembly not less than thirty days after publication in the Federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless the ~~department~~ board objects to the change. In that case, the ~~department~~ board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the ~~department~~ board shall announce its decision and shall notify the General Assembly in writing of the change in Federal law or regulations and of the ~~department’s~~ board’s recommendation that a corresponding change in South Carolina law be made, or not be made, as the case may be.

(2) If the ~~department~~ board does not object to the change of schedule, it shall by rule, at its first regular or special meeting after the final order by the Board or its successor agency is published in the Federal register, reschedule the substance into the appropriate schedule, such rule having force of law unless overturned by the General Assembly; in such case, no hearing need be given unless requested by an interested party. This rule issued by the ~~department~~ board shall be in substance identical with the order published in the Federal register effecting the change in Federal status of the substance.

~~(5)~~(E) The ~~department~~ board shall exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this State, be lawfully sold over the counter without a prescription.”

SECTION 7. Section 44‑53‑180 of the 1976 Code is amended to read:

“Section 44‑53‑180. The ~~department~~ State Board of Pharmacy shall place a substance in Schedule I if it finds that the substance has:

~~(a)~~(1) a high potential for abuse;

~~(b)~~(2) no accepted medical use in treatment in the United States; and

~~(c)~~(3) a lack of accepted safety for use in treatment under medical supervision.”

SECTION 8. Section 44‑53‑200 of the 1976 Code is amended to read:

“Section 44‑53‑200. The ~~department~~ State Board of Pharmacy shall place a substance in Schedule II if it finds that:

~~(a)~~(1) it has a high potential for abuse;

~~(b)~~(2) it has a currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

~~(c)~~(3) abuse may lead to severe psychic or physical dependence.”

SECTION 9. Section 44‑53‑220 of the 1976 Code is amended read:

“Section 44‑53‑220. The ~~department~~ State Board of Pharmacy shall place a substance in Schedule III if it finds that:

~~(a)~~(1) it has a potential for abuse less than the substances listed in Schedules I and II;

~~(b)~~(2) it has a currently accepted medical use in treatment in the United States; and

~~(c)~~(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.”

SECTION 10. Section 44‑53‑240 of the 1976 Code is amended to read:

“Section 44‑53‑240. The ~~department~~ State Board of Pharmacy shall place a substance in Schedule IV if it finds that:

~~(a)~~(1) it has a low potential for abuse relative to the substances in Schedule III;

~~(b)~~(2) it has a currently accepted medical use in treatment in the United States; and

~~(c)~~(3) abuse of the substance may lead to limited physical or psychological dependence relative to substances in Schedule III.”

SECTION 11. Section 44‑53‑260 of the 1976 Code is amended to read:

“Section 44‑53‑260. The ~~department~~ State Board of Pharmacy shall place a substance in Schedule V if it finds that:

~~(a)~~(1) it has a low potential for abuse relative to the substances listed in Schedule IV;

~~(b)~~(2) it has a currently accepted medical use in treatment in the United States; and

~~(c)~~(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule IV.”

SECTION 12. Section 44‑53‑280(A) and (E) of the 1976 Code is amended to read:

“(A) The ~~department~~ State Board of Pharmacy may promulgate regulations and may charge reasonable fees relating to the license and control of the manufacture, distribution, and dispensing of controlled substances.

(E) Refusal by the ~~department~~ State Board of Pharmacy to reinstate a canceled registration after payment of the renewal fee and penalty and presentation of an explanation constitutes a refusal to renew and the procedures under Section 44‑53‑320 apply.”

SECTION 13. Section 44‑53‑290 through 44‑53‑350 are amended to read:

“Section 44‑53‑290. ~~(a)~~(A) Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain a registration issued by the ~~department~~ State Board of Pharmacy in accordance with its rules and regulations.

~~(b)~~(B) Persons registered by the ~~department~~ board under this article to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

~~(c)~~(C) The following persons need not register and may lawfully possess controlled substances under this article:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment; and

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

~~(d)~~(D) The ~~department~~ board may, by regulation, waive the requirement for registration of certain manufacturers, distributors or dispensers if it finds it consistent with the public health and safety.

~~(e)~~(E) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

~~(f)~~(F) The ~~department~~ board is authorized to inspect the establishment of a registrant or an applicant for a registration in accordance with the rules and regulations promulgated by it.

~~(g)~~(G) The ~~department~~ board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

~~(h)~~(H) The ~~department~~ board may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from State prosecution for possession and distribution of controlled substances to the extent of the authorization.

~~(i)~~(I) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The board shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both~~,~~ if:

(1) ~~if~~ the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) ~~if~~ the board determines that the applicant will comply with standards established by the board respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44‑53‑340 and the rules issued by the Board on such drugs; and

(3) ~~if~~ the board determines that the applicant will comply with standards established by the board after consultation with the South Carolina Methadone Council respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

~~(j)~~(J) Pursuant to the procedures set forth in Section 44‑53‑300, the ~~department~~ board may issue a registration in Schedule V to a nurse practitioner certified to prescribe Schedule V controlled substances by the State Board of Nursing for South Carolina and to a physician’s assistant certified to prescribe Schedule V controlled substances by the State Board of Medical Examiners. A nurse practitioner or a physicians’ assistant registered by the ~~department~~ board pursuant to this subsection may not acquire, possess, or dispense, other than by prescription, a controlled substance except as provided by law.

Section 44‑53‑300. ~~(a)~~(A) The ~~department~~ State Board of Pharmacy shall register an applicant to manufacture, distribute, or dispense controlled substances included in Sections 44‑53‑190, 44‑53‑210, 44‑53‑230, 44‑53‑250 and 44‑53‑270 if it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state or federal law;

(3) promotion and technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances and the existence in the establishment of effective controls against diversion;

(6) such other factors as may be relevant to and consistent with the public health and safety; and

(7) licensing by a federal agency.

~~(b)~~(B) A registration granted under subsection ~~(a)~~(A) of this section shall not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

~~(c)~~(C) Within the discretion of the ~~department~~ board, practitioners may be registered to dispense one or more controlled substances in Schedules II through V if they are authorized to dispense drugs under the law of this State. Such practitioners, properly registered with the ~~department~~ board to dispense controlled substances, may also conduct research with non‑narcotic controlled substances in Schedules II through V without additional registration as a researcher, provided that prior to engaging in such research, the practitioner shall notify the ~~department~~ board in writing of the scope of such research and the name of the controlled substances to be utilized. Practitioners desiring to conduct research with Schedule I controlled substances or with narcotic controlled substances in Schedules II through V shall first obtain a separate researcher registration from the ~~department~~ board.

~~(d)~~(D) The ~~department~~ board shall permit persons to apply for registration within sixty days after June 17, 1971, who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substances prior to June 17, 1971, and who are registered by the State.

~~(e)~~(E) Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitles them to be registered under this article.

Section 44‑53‑310. ~~(a)~~(A) An application for a registration or a registration granted pursuant to Section 44‑53‑300 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the board upon a finding that the registrant has:

(1) ~~Has~~ materially falsified any application filed pursuant to this article;

(2) ~~Has~~ been convicted of a felony or misdemeanor under any State or Federal law relating to any controlled substance;

(3) ~~Has~~ had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) ~~Has~~ failed to comply with any standard referred to in Section 44‑53‑290~~(i)~~(I).

~~(b)~~(B) The ~~department~~ State Board of Pharmacy may place a registrant who violates this article on probation or levy a civil fine of not more than two thousand five hundred dollars, or both. Fines generated pursuant to this section must be remitted to the State Treasurer for deposit to the benefit of the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts ~~within the department’s addiction center facilities~~.

~~(c)~~(C) The ~~department~~ board may suspend, deny, or revoke the registration of any registrant or applicant for the conviction of any felony or misdemeanor involving moral turpitude.

~~(d)~~(D) The ~~department~~ board may suspend, deny, or revoke the registration of any registrant or applicant for violation of any of the rules and regulations issued by the ~~department~~ board relating to controlled substances.

~~(e)~~(E) The ~~department~~ board may suspend, deny, or revoke the registration of any registrant or applicant if it finds that the security provided for the storage of controlled substances is inadequate to the extent that repeated diversions by theft have occurred.

~~(f)~~(F) The ~~department~~ board may suspend, deny, or revoke the registration of any registrant or applicant upon a finding by the ~~department~~ board that the registrant or applicant has violated any statutory provision of this article.

Section 44‑53‑320. ~~(a)~~ ~~Order to show cause.‑‑~~ (A) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the ~~department~~ State Board of Pharmacy shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the ~~department~~ board at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

~~(b)~~(B) The ~~department~~ board, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 44‑53‑310, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. A failure to comply with a standard referred to in Section 44‑53‑290~~(i)~~(I) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. The suspension shall continue in effect until withdrawn by the Board or dissolved by a court of competent jurisdiction.

~~(c)~~(C) In the event the ~~department~~ board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the suspension or revocation is withdrawn by the ~~department~~ board or dissolved by a court of competent jurisdiction, unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances shall be forfeited to the State.

~~(d)~~(D) After proper hearing of either a formal or informal nature, the ~~department~~ board, upon its own motion or otherwise, may tender to any respondent in an action brought under subsection ~~(a)~~(A) of this section, an offer of an administrative consent order if it is found that such administrative consent order properly serves the interests of justice. Such order may contain total or partial revocation of a portion or all of the registration to be affected; assessment of a civil fine and a probationary registration period as provided in Section 44‑53‑310; terms of any probationary registration; and any other terms affecting such registration as may be agreed upon and consented to by the parties to the order. Such order shall become effective on the date signed by the administrative hearing officer designated by the ~~department~~ board unless another date is specified within the order. Violation of such order by the respondent thereto at any time subsequent to the effective date of the order and prior to the expiration of the order or the probationary registration period set forth therein shall cause the registration affected by such order to be revoked, after notice of such revocation is mailed to the respondent at his last known address.

Section 44‑53‑330. Upon the conviction of any person of the violation of any provision of this article, a certified copy of the judgment of conviction shall be sent by the clerk of the court to the licensing board by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. Upon final order of the ~~department~~ State Board of Pharmacy suspending, denying, modifying, or revoking the controlled substances registration of any registrant or applicant under this article, or upon the execution and approval of an administrative consent order provided for by Section 44‑53‑320, the ~~department~~ board shall forward a copy thereof to the licensing board by whom the affected registrant or applicant has been licensed or registered to practice his profession or carry on his business, if such licensing board be in existence.

Section 44‑53‑340. Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record‑keeping and inventory requirements of Federal law and with any additional rules the ~~department~~ State Board of Pharmacy issues.

Section 44‑53‑350. ~~(a)~~(A) Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form prescribed by the ~~Department~~ State Board of Pharmacy. Compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this section.

~~(b)~~(B) Nothing contained in subsection ~~(a)~~(A) shall apply to:

(1) ~~To~~ the administering or dispensing of such substances to a patient by a practitioner in the course of his professional practice, however, such practitioner shall comply with the requirements of Section 44‑53‑340;

(2) ~~To~~ the distribution or dispensing of such substances by a pharmacist to an ultimate user pursuant to a written prescription issued by a practitioner authorized to issue such prescription, however, such pharmacist shall comply with the requirements of Section 44‑53‑340.”

SECTION 14. Section 44‑53‑360 of the 1976 Code, as last amended by Act 71 of 2007, is further amended to read:

“Section 44‑53‑360. ~~(a)~~(A) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the ~~Department~~ State Board of Pharmacy by regulation, no controlled substance included in Schedule II may be dispensed without the written prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 44‑53‑340. No prescription for a controlled substance in Schedule II may be refilled.

~~(b)~~(B) A pharmacist may dispense a controlled substance included in Schedule III, IV, or V pursuant to either a written prescription signed by a practitioner, or a facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner’s agent to the pharmacy, or pursuant to an oral prescription, reduced promptly to writing and filed by the pharmacist. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

~~(c)~~(C) No controlled substances included in any schedule may be distributed or dispensed for other than a medical purpose. No practitioner may dispense a Schedule II narcotic controlled substance for the purpose of maintaining the addiction of a narcotic dependent person outside of a facility or program approved by the ~~Department of Health and Environmental Control~~ board. No practitioner may dispense a controlled substance outside of a bona fide practitioner‑patient relationship.

~~(d)~~(D) Unless specifically indicated in writing on the face of the prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of ‘PRN’ or ‘ad lib’ or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur. Preprinted refill instructions on the face of a prescription shall be disregarded by the dispenser unless an affirmative marking or other indication is made by the prescriber.

~~(e)~~(E) Prescriptions for controlled substances in Schedule II with the exception of transdermal patches, must not exceed a thirty‑one day supply. Prescriptions for Schedule II substances must be dispensed within ninety days of the date of issue, after which time they are void. Prescriptions for controlled substances in Schedules III through V, inclusive, must not exceed a ninety‑day supply.

~~(f)~~(F) Preprinted prescriptions for controlled substances in any schedule are prohibited.

~~(g)~~(G) The board shall, by rules and regulations, specify the manner by which prescriptions are filed.

~~(h)~~(H) A prescription, in order to be effective in legalizing the possession of a controlled substance and eliminating the need for registration of the recipient, must be issued for legitimate medical purposes. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding liability rests with the pharmacist who fills and ultimately dispenses the prescription. An order purporting to be a prescription issued to a drug dependent person, not in the course of generally accepted medical treatment, but for the purpose of providing the user with controlled substances sufficient to maintain his dependence upon the substance, or to provide him with quantities of controlled substances in great excess of normal dosage ranges as recommended by the manufacturer of the substance, is not a prescription within the meaning and intent of this article; and the person filling or dispensing such an order, as well as the person issuing it, shall be deemed in violation of this section.

~~(i)~~(I) Excepting a mail order prescription dispensed in compliance with Chapter 43 ~~of~~, Title 40 for which the dispenser requires proper identification of the recipient, a prescription for a controlled substance in Schedules II through V may not be filled unless the dispenser knows the recipient or requires the recipient to produce a government issued photo identification, and the dispenser notes the identification source and number on the prescription, or in a readily retrievable log including:

(1) prescription number;

(2) date prescription filled;

(3) number and type of identification;

(4) initials of person obtaining and recording information.”

SECTION 15. Section 44‑53‑375(E)(2)(c) of the 1976 Code, as added by Act 127 of 2005, is amended to read:

“(c) products that the Drug Enforcement Administration and the ~~Department of Health and Environmental Control~~ State Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances.”

SECTION 16. Section 44‑53‑395(A)(2) of the 1976 Code is amended to read:

“(2) for any person other than a practitioner registered with the ~~department~~ State Board of Pharmacy under this article to possess a blank prescription not completed and signed by the practitioner whose name appears printed thereon;”

SECTION 17. Section 44‑53‑430 of the 1976 Code is amended to read:

“Section 44‑53‑430. Any person may appeal from any order of the ~~department~~ State Board of Pharmacy within thirty days after the filing of the order, to the court of common pleas of the county in which the aggrieved party resides or in which his place of business is located. The ~~department~~ board shall thereupon certify to the court the record in the hearing. The court shall review the record and the regularity and the justification for the order, on the merits, and render judgment thereon as in ordinary appeals in equity. The court may order or permit further testimony on the merits of the case, in its discretion such testimony to be given either before the judge or referee by him appointed. From such judgment of the court an appeal may be taken as in other civil actions.”

SECTION 18. Section 44‑53‑450 of the 1976 Code is amended to read:

“Section 44‑53‑450. ~~(a)~~(A) Whenever any person who has not previously been convicted of any offense under this article or any offense under any State or Federal statute relating to marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44‑53‑370 (c) and (d), except narcotic drugs classified in Schedule I (b) and (c) and narcotic drugs classified in Schedule II, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a state‑supported facility or a facility approved by the ~~Commission~~ State Board of Pharmacy, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

~~(b)~~(B) Upon the dismissal of such person and discharge of the proceedings against him under subsection ~~(a)~~(A) of this section, such person if he was not over twenty‑five years of age at the time of the offense, and if the offense did not involve a controlled substance classified in Schedule I which is a narcotic drug and Schedule II which is a narcotic drug, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection ~~(a)~~(A) of this section) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty‑five years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.”

SECTION 19. Section 44‑53‑480 of the 1976 Code is amended to read:

“Section 44‑53‑480. ~~(a)~~(A) The South Carolina Law Enforcement Division shall establish within its division a Department of Narcotics and Dangerous Drugs, which shall be administered by a director and shall be primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances. The Department of Narcotics and Dangerous Drugs, in discharging its responsibilities concerning illicit traffic in narcotics and dangerous substances and in suppressing the abuse of controlled substances, shall enforce the State plan formulated in cooperation with the Narcotics and Controlled Substance Section as such plan relates to illicit traffic in controlled and counterfeit substances. As part of its duties the Department of Narcotics and Dangerous Drugs shall:

(1) Assist the ~~Commission on Alcohol and Drug Abuse~~ State Board of Pharmacy in the exchange of information between itself and governmental and local law‑enforcement officials concerning illicit traffic in and use and abuse of controlled substances.

(2) Assist the ~~Commission~~ board in planning and coordinating training programs on law enforcement for controlled substances at the local and State level.

(3) Establish a centralized unit which shall accept, catalogue, file and collect statistics and make such information available for Federal, State and local law‑enforcement purposes.

(4) Have the authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses.

~~(b)~~(B) The ~~Department of Health and Environmental Control~~ State Board of Pharmacy shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, health care facilities and other practitioners as well as in the possession of any individuals or institutions authorized to have possession of such substances and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the ~~Department of Health and Environmental Control~~ board by the General Assembly. Drug inspectors and special agents of the ~~Department of Health and Environmental Control~~ board as provided for in Section 44‑53‑490, while in the performance of their duties as prescribed herein, shall have:

(1) statewide police powers;

(2) authority to carry firearms;

(3) authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses;

(4) authority to make investigations to determine whether there has been unlawful dispensing of controlled substances or the removal of such substances from regulated establishments or practitioners into illicit traffic;

(5) authority to seize property; and

(6) authority to make arrests without warrants for offenses committed in their presence.

~~(c)~~ ~~The Department of Health and Environmental Control may contract with the Board of Pharmaceutical Examiners for the Chief Drug Inspector of the Board of Pharmacy and his assistants, to enforce the provisions of this article with respect to inspections and audits which apply to pharmacists or pharmacies whether located in drugstores, hospitals or other health care facilities.~~”

SECTION 20. Section 44‑53‑490 of the 1976 Code is amended to read:

“Section 44‑53‑490. The ~~Department of Health and Environmental Control~~ State Board of Pharmacy shall designate persons holding a degree in pharmacy to serve as drug inspectors. Such inspectors shall, from time to time, but no less than once every three years, inspect all practitioners and registrants who manufacture, dispense, or distribute controlled substances, including those persons exempt from registration but who are otherwise permitted to keep controlled substances for specific purposes. The drug inspector shall submit an annual report by the first day of each year to the ~~department and a copy to the Commission on Alcohol and Drug Abuse Services~~ board specifying the name of the practitioner or the registrant or such exempt persons inspected, the date of inspection and any other violations of this article. The ~~department~~ board may employ other persons as agents and assistant inspectors to aid in the enforcement of those duties delegated to the ~~department~~ board by this article.”

SECTION 21. Section 44‑53‑500 of the 1976 Code is amended to read:

“Section 44‑53‑500. ~~(a)~~(A) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge or magistrate of a court having jurisdiction where the inspection or seizure is to be conducted, may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this article or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, ‘probable cause’ means a valid public interest in the effective enforcement of this article or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by Section 44‑53‑480~~(b)~~(B) to execute it. The warrant shall state the grounds for issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

~~(b)~~(B) The ~~Department of Health and Environmental Control~~ State Board of Pharmacy is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this article only, ‘controlled premises’ means:

(a) places where persons registered or exempted from registration requirements under this article are required to keep records~~,~~; and

(b) places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to this section an officer or employee designated by the ~~Commission on Alcohol and Drug Abuse~~ board upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the ~~Department~~ board may:

(a) inspect and copy records required by this article to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection ~~(b)~~(B)(5) of this section, all other things therein including records, files, papers, processes, controls, and facilities bearing on violation of this article; and

(c) inventory any stock of any controlled substance therein and obtain samples of any such substance.

(4) This section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant:

(a) with the consent of the owner, operator or agent in charge of the controlled premises;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(e) in all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:

(a) financial data;

(b) sales data other than shipment data;

(c) pricing data;

(d) personnel data; or

(e) research data.”

SECTION 22. Section 44‑53‑520 of the 1976 Code, as last amended by Act 267 of 2002, is further amended to read:

“Section 44‑53‑520. ~~(a)~~(A) The following are subject to forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this article;

(2) all raw materials, products, and equipment of any kind which are used, or which have been positioned for use, in manufacturing, producing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this article;

(3) all property which is used, or which has been positioned for use, as a container for property described in items (1) or (2);

(4) all property, both real and personal, which in any manner is knowingly used to facilitate production, manufacturing, distribution, sale, importation, exportation, or trafficking in various controlled substances as defined in this article;

(5) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of this article;

(6) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels which are used or intended for use unlawfully to conceal, contain, or transport or facilitate the unlawful concealment, possession, containment, manufacture, or transportation of controlled substances and their compounds, except as otherwise provided, must be forfeited to the State. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of Section 44‑53‑370(a), involving at least one pound or more of marijuana, one pound or more of hashish, more than four grains of opium, more than two grains of heroin, more than four grains of morphine, more than ten grains of cocaine, more than fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, more than ten grains of crack, or more than one gram of ice or crank, as defined in Section 44‑53‑110, or unless it is used, intended for use, or in any manner facilitates a violation of Section 44‑53‑370(e) or fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4‑methylenedioxymethamphetamine (MDMA);

(7) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange;

(8) all monies seized in close proximity to forfeitable controlled substances, drug manufacturing, or distributing paraphernalia, or in close proximity to forfeitable records of the importation, manufacturing, or distribution of controlled substances and all monies seized at the time of arrest or search involving violation of this article. If the person from whom the monies were taken can establish to the satisfaction of a court of competent jurisdiction that the monies seized are not products of illegal acts, the monies must be returned pursuant to court order.

~~(b)~~(B) Any property subject to forfeiture under this article may be seized by the ~~department~~ State Board of Pharmacy having authority upon warrant issued by any court having jurisdiction over the property. Seizure without process may be made if the:

(1) ~~the~~ seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) ~~the~~ property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this article;

(3) ~~the department~~ board has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) ~~the department~~ board has probable cause to believe that the property was used or is intended to be used in violation of this article.

~~(c)~~(C) In the event of seizure pursuant to subsection ~~(b)~~(B), proceedings under Section 44‑53‑530 regarding forfeiture and disposition must be instituted within a reasonable time.

~~(d)~~(D) Any property taken or detained under this section is not subject to replevin but is considered to be in the custody of the department making the seizure subject only to the orders of the court having jurisdiction over the forfeiture proceedings. Property described in Section 44‑53‑520~~(a)~~(A) is forfeited and transferred to the government at the moment of illegal use. Seizure and forfeiture proceedings confirm the transfer.

~~(e)~~(E) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this article are contraband and must be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and must be summarily forfeited to the State.

~~(f)~~(F) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this article, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.

~~(g)~~(G) The failure, upon demand by the ~~department~~ board having authority to make the demand, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

~~(h)~~(H) For the purposes of this section, whenever the seizure of any property subject to seizure is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

~~(i)~~(I) Law enforcement agencies seizing property under this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Any monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for security in another manner.

~~(j)~~(J)(1) When property and monies of any value as defined in this section or anything else of any value is seized, the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecution agency.

~~(1)~~(2) The report shall provide the following information with respect to the property seized:

(a) description;

(b) circumstances of seizure;

(c) present custodian and where the property is being stored or its location;

(d) name of owner;

(e) name of lienholder, if any;

(f) seizing agency; and

(g) the type and quantity of the controlled substance involved.

~~(2)~~(3) If the property is a conveyance, the report shall include the:

(a) make, model, serial number, and year of the conveyance;

(b) person in whose name the conveyance is registered; and

(c) name of any lienholders.

~~(3)~~(4) In addition to the report provided for in items ~~(1)~~ (2) and ~~(2)~~ (3), the law enforcement agency shall prepare for dissemination to the public upon request a report providing the following information:

(a) a description of the quantity and nature of the property and money seized;

(b) the seizing agency;

(c) the type and quantity of the controlled substance involved;

(d) the make, model, and year of a conveyance; and

(e) the law enforcement agency responsible for the property or conveyance seized.

~~(k)~~(K) Property or conveyances seized by a law enforcement agency or ~~department~~ board must not be used by officers for personal purposes.”

SECTION 23. Articles 4 and 5 of Chapter 53, Title 44 of the 1976 Code are amended to read:

“Article 4

Controlled Substances Therapeutic Research

Section 44‑53‑610. This article may be cited as the ‘South Carolina Controlled Substances Therapeutic Research Act of 1980’.

Section 44‑53‑620. As used in this article unless the context clearly indicates otherwise:

~~(a)~~(1) ‘Director’ means the Director of the ~~Department of Health and Environmental Control~~ State Board of Pharmacy;

~~(b)~~(2) ‘Marijuana’ means marijuana, all tetrahydrocannabinols or a chemical derivative of any tetrahydrocannabinol;

~~(c)~~(3) ‘Practitioner’ means a physician licensed to practice medicine in this State and licensed to prescribe and administer drugs which are subject to regulation under the provisions of Article 3, Chapter 53 ~~of~~, Title 44 of the 1976 Code.

Section 44‑53‑630.(A) There is established in the ~~Department of Health and Environmental Control~~ State Board of Pharmacy a controlled substances therapeutic research program. The program shall be administered by the director. The program shall distribute to cancer chemotherapy and radiology patients and to glaucoma patients who are certified pursuant to this article marijuana under the terms and conditions of this article for the purpose of alleviating the patient’s discomfort, nausea and other painful side effects of their disease or chemotherapy treatments. The ~~department~~ board shall promulgate regulations necessary for the proper administration of this article and in such promulgation, the ~~department~~ board shall take into consideration those pertinent regulations promulgated by the Drug Enforcement Agency, U. S. Department of Justice; Food and Drug Administration; the National Institute on Drug Abuse, and the National Institutes of Health.

(B) Except as provided in subsection ~~(c)~~(C) of Section 44‑53‑640, the controlled substances therapeutic research program shall be limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the patient qualification review advisory board by a practitioner as being involved in a life‑threatening or sense‑threatening situation and who are not responding to conventional controlled substances or where the conventional controlled substances administered have proven to be effective but where the patient has incurred severe side effects.

Section 44‑53‑640. ~~(a)~~(A) The director shall appoint a Patient Qualification Review Advisory Board to serve at his pleasure. The Patient Qualification Review Advisory Board shall be comprised of a:

(1) ~~a~~ physician licensed to practice medicine in South Carolina and certified by the American Board of Ophthalmology;

(2) ~~a~~ physician licensed to practice medicine in South Carolina and certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology;

(3) ~~a~~ physician licensed to practice medicine in South Carolina and certified by the American Board of Psychiatry; and

(4) ~~a~~ pharmacologist holding a Doctoral degree or its equivalent. Members of the board shall be paid the usual per diem, mileage and subsistence as provided by law for members of boards, commissions and committees.

~~(b)~~(B) The ~~department~~ State Board of Pharmacy shall review all applicants for the controlled substances therapeutic research program and their licensed practitioners and certify their participation in the program.

~~(c)~~(C) The ~~department~~ board, in its discretion, may include other disease groups for participation in the controlled substances therapeutic research program after pertinent medical data have been presented by a practitioner to both the director and the ~~department~~ board and after necessary approval is received by the appropriate federal agencies.

Section 44‑53‑650. ~~(a)~~(A) The director shall obtain marijuana through whatever means he deems most appropriate consistent with federal law.

~~(b)~~(B) The director shall cause such analyzed marijuana to be transferred to various locations throughout the State that provide adequate security as set forth in federal and state regulations for the purpose of distributing such marijuana to the certified patient in such manner as is consistent with federal law. The patient shall not be required to pay for such marijuana but the director may charge for ancillary medical services provided by the ~~department~~ State Board of Pharmacy to compensate the ~~department~~ board for the cost, if any, of securing such marijuana, and providing it to the patient.

Section 44‑53‑660. The director shall annually report to the General Assembly his opinion as to the effectiveness of this program and his recommendations for any changes thereto.

Article 5

Methadone

Section 44‑53‑710. The ~~South Carolina Department of Health and Environmental Control~~ State Board of Pharmacy has exclusive control over the controlled substance methadone.

Section 44‑53‑720. Methadone and its salts are restricted to: (1) use in treatment, maintenance, or detoxification programs as approved by the ~~Department of Health and Environmental Control~~ State Board of Pharmacy.

(2) dispensing by a hospital for analgesia, pertussis, and detoxification treatment as approved by the ~~Department of Health and Environmental Control~~ board.

(3) dispensing by a retail pharmacy for analgesia as provided for by R. 61‑4, Section 507.5.

Section 44‑53‑730. No supplier, distributor, or manufacturer may sell or distribute methadone or its salts to an entity for use, except as provided for in Section 44‑53‑720.

Section 44‑53‑740. The ~~Board of the Department of Health and Environmental Control~~ State Board of Pharmacy shall promulgate regulations necessary to carry out the provisions of this article.

Section 44‑53‑750. An autopsy shall be performed on any person on a methadone program who dies while enrolled in such program. A report concerning the autopsy shall be filed with the ~~Department of Health and Environmental Control~~ State Board of Pharmacy. Each person enrolling in such program shall be notified of the autopsy provision as a part of such person’s consent which is required prior to admission to such program.

Section 44‑53‑760. Parental consent shall be obtained for all persons under eighteen years of age prior to admission to a methadone maintenance program; provided, that if any court of competent jurisdiction declares a person under eighteen years of age an emancipated minor, then such person may be admitted to the program without parental consent.”

SECTION 24. Section 44‑53‑930 of the 1976 Code is amended to read:

“Section 44‑53‑930. Sales at retail of hypodermic needles or syringes shall be made only by a registered pharmacist or registered assistant pharmacist through a permitted pharmacy ~~as authorized by Section 40‑43‑370~~, except that syringes and hypodermic needles may be sold by persons lawfully selling veterinary medicines as authorized by item (8) of Section ~~40‑69‑220~~ 40‑69‑270 if they register annually with the ~~Department of Health and Environmental Control~~ State Board of Pharmacy and pay such registration fee as may be required by the ~~department~~ board and ~~they shall be subject to the provisions of Section 44‑53‑920~~ maintain such records as may be required by the board.”

SECTION 25. This act takes effect July 1, 2010.

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