

CHAPTER 39

STATE BOARD OF PHARMACY

Authority

N.J.S.A. 45:14-1 et seq.

Source and Effective Date

R.1999 d.214, effective June 16, 1999.
See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 39, State Board of Pharmacy, expires on December 13, 2004. See: 36 N.J.R. 3345(a).

Chapter Historical Note

Chapter 39, State Board of Pharmacy, was filed and became effective prior to September 1, 1969.

Chapter 39, State Board of Pharmacy, was repealed and adopted as new rules by R.1989 d.314, effective June 19, 1989. See: 20 N.J.R. 1648(a), 21 N.J.R. 1712(a).

Pursuant to Executive Order No. 66(1978), Chapter 39, State Board of Pharmacy, was readopted as R.1994 d.351, effective June 16, 1994. See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b), 26 N.J.R. 3878(a).

Pursuant to Executive Order No. 66(1978), Chapter 39, State Board of Pharmacy, was readopted as R.1999 d.214, effective June 16, 1999. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:39-1.1 Purpose and scope

(a) This chapter is promulgated by the New Jersey State Board of Pharmacy. The rules contained in this chapter implement the provisions of the Pharmacy Act, N.J.S.A. 45:14-1 et seq. and regulate the practice of pharmacy within the State of New Jersey.

(b) This chapter shall apply to all registered pharmacies, pharmacists, pharmacist applicants, interns, externs, supportive personnel and anyone within the jurisdiction of the Board of Pharmacy.

Amended by R.1994 d.351, effective July 18, 1994.
See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

Case Notes

Violations of N.J.A.C. 13:39-8.14(b)2, 10 and 13 found as controlled substances records were improperly kept, misbranded drugs were in

pharmacy and drugs were improperly stored, respectively; penalties (also cited as N.J.A.C. 13:39-8.12). New Jersey State Bd. of Pharmacy v. Yanuzzi, 4 N.J.A.R. 489 (1981).

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Substituted a reference to licensure for a reference to registration in the first sentence, and changed N.J.A.C. reference at the end.

13:39-3.11 Foreign graduates

(a) Any pharmacist applicant with a degree from a country where the primary language is other than English, prior to being granted initial licensure as a professional pharmacist in this State, shall submit to the Board evidence that he or she has been certified within two years of applying for licensure in the State by the Foreign Pharmacy Graduate Examination Committee (FPGEC) of the National Association of Boards of Pharmacy.

(b) Any pharmacist applicant with a degree from a country other than the United States, where the primary language is English, prior to being granted initial licensure as a professional pharmacist in this State, shall submit to the Board evidence that he or she has successfully completed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE).

(c) A request for waiver of the FPGEC certificate shall delineate good cause for the waiver request. The Board may, after due consideration and within its own discretion, waive the TOEFL examination and the Test of Spoken English (TSE) examination components of the FPGEC certification process.

Amended by R.1994 d.351, effective July 18, 1994.

See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Rewrote the section.

13:39-3.12 Physical and mental competence of reciprocal licensees

(a) An applicant for reciprocal licensure shall be physically and mentally able to perform all duties normally required of a registered pharmacist.

(b) The Board, at its discretion, may require proof of the applicant's physical and mental competence to practice pharmacy in this State.

Amended by R.1994 d.351, effective July 18, 1994.

See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

In (a), substituted a reference to licensure for a reference to registration.

13:39-3.13 Preliminary application

A preliminary application obtained from the Board for reciprocal licensure shall be submitted to the National Association of Boards of Pharmacy.

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Substituted a reference to licensure for a reference to registration.

13:39-3.14 Multistate Jurisprudence Pharmacy Examination: reciprocal licensure

(a) An applicant for reciprocal licensure shall pass the Multistate Jurisprudence Pharmacy Examination. A passing grade of not less than 75 shall be attained. If an applicant fails the examination, he or she will be required to repeat the examination.

(b) If the applicant for reciprocal licensure fails the examination three times, the Board may direct the applicant to take remedial courses at an accredited school or college of pharmacy prior to retaking the law examination.

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Rewrote the section.

13:39-3.15 Biennial registration renewal

(a) Every registered pharmacist, on or before April 30 of each odd-numbered year, shall renew his or her license through the payment of a license renewal fee as prescribed by N.J.A.C. 13:39-1.3 and the filing of a renewal application.

(b) The renewal application shall list the name, address of record, original license number, places and hours of employment, number of continuing education credits completed pursuant to the provisions of N.J.A.C. 13:39-3A, and other information as requested by the Board.

(c) The renewal application shall be signed by the applicant.

Amended by R.1994 d.351, effective July 18, 1994.

See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

In (a), substituted a reference to licensure for a reference to certificates of registration, and substituted a reference to license renewal fees for a reference to registration renewal fees; and in (b), substituted a reference to license numbers for a reference to certificate of registration numbers, and deleted "by the Board" at the end.

Amended by R.2003 d.130, effective March 17, 2003.

See: 34 N.J.R. 1089(a), 35 N.J.R. 1433(a).

Rewrote (b).

13:39-3.16 Duplicate renewal license

If a renewal license is lost or destroyed, a duplicate renewal license may be obtained upon payment of a fee as prescribed in N.J.A.C. 13:39-1.3. Proof of the applicant's identity and proof of loss or destruction of the applicant's renewal license originally issued must be submitted.

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Substituted references to licenses for references to certificates of registration throughout.

13:39-3.17 Reinstatement in good standing

(a) If a registered pharmacist permits his or her license to lapse for a period of less than five years through a failure to renew his or her license, the license may be brought into

good standing through payment as per N.J.A.C. 13:39-1.3(a)1iv and vi of the reinstatement fee, the current and lapsed renewal fee(s) and any outstanding penalties and upon submission of proof of identity and the filing of an application to be obtained from the Board. An applicant for reinstatement shall also submit proof of satisfaction of continuing education requirements as provided in N.J.S.A. 45:14-11.11.

(b) If the license has lapsed for a period of five years or longer, the applicant for such reinstatement must pass the Multistate Jurisprudence Pharmacy Examination. The applicant shall also submit payment as per N.J.A.C. 13:39-1.3(a)1iv and vi of the reinstatement fee and the current renewal fee and proof of identity along with an application to be obtained from the Board. An applicant for reinstatement shall also submit proof of satisfaction of continuing education requirements as provided in N.J.S.A. 45:14-11.11.

(c) Every applicant for reinstatement must submit evidence of satisfactory completion of the continuing education requirements which are 15 credits per year up to a maximum of five years or 75 credits.

Amended by R.1999 d.214, effective July 19, 1999.
See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).
Rewrote (a) and (b).

13:39-3.18 Registered pharmacist-in-charge

(a) A registered pharmacist shall not assume the responsibilities of a registered pharmacist-in-charge of more than one pharmacy or pharmacy department simultaneously.

(b) There shall not be more than one registered pharmacist-in-charge of any one pharmacy or pharmacy department.

(c) Whenever there is a change of a registered pharmacist-in-charge of a pharmacy or other Board-licensed establishment, the incoming registered pharmacist-in-charge shall take an inventory of all controlled dangerous substances as defined in N.J.A.C. 8:65-10.1 through 10.5.

(d) Whenever a registered pharmacist assumes the duties of a registered pharmacist-in-charge of a pharmacy or other Board-licensed establishment, he or she shall so advise the Board in writing within 30 days by completing a form provided by the Board.

(e) A registered pharmacist-in-charge shall be physically present in the pharmacy or pharmacy department for that amount of time necessary to ensure the fulfilling of the following responsibilities:

1. Employment and supervising personnel in a prescription department or pharmacy department;
2. Maintaining accurate records of all prescription medication received and dispensed;

3. Ensuring that medication dispensed conforms with the prescription received;

4. Maintaining the security of the prescription area and its contents, which includes the restriction of persons unauthorized by the pharmacist on duty from being present in the prescription area while the pharmacist is temporarily absent but within the premises;

5. Ensuring that only pharmacists and interns or externs under direct supervision provide professional consultation with patients and physicians;

6. Ensuring that only pharmacists, interns or externs accept telephone prescriptions and renewal authorizations;

7. Ensuring that all dispensed medication is properly labeled;

8. Ensuring the use of prescription labels naming the registered pharmacist-in-charge;

9. Ensuring the posting of the name of the registered pharmacist-in-charge on the entrance to the pharmacy or pharmacy department in such a way as to be visible to the public;

10. Prohibiting the presence of misbranded, deteriorated or outdated drugs in the active stock in the pharmacy;

11. Operating the prescription area in an orderly and sanitary manner;

12. Ensuring the dispensing of all medication generally prescribed to patients in the trading area of the licensed premises or as required by the speciality for which the pharmacy holds a permit;

13. Notifying the Board in writing within 30 days when his or her duties as registered pharmacist-in-charge terminate at a specific location; and

14. Ensuring compliance with all statutes, rules and regulations governing the practice of pharmacy.

Amended by R.1994 d.351, effective July 18, 1994.
See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).
Amended by R.1999 d.214, effective July 19, 1999.
See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

In (c) through (e), substituted references to registered pharmacists-in-charge for references to pharmacists-in-charge.

SUBCHAPTER 3A. CONTINUING EDUCATION

Authority

N.J.S.A. 45:14-11.12 and 45:1-15.1.

Source and Effective Date

R.2003 d.130, effective March 17, 2003.
See: 34 N.J.R. 1089(a), 35 N.J.R. 1433(a).

(f) A pharmacist shall seek verbal verification of a facsimile prescription from the prescribing practitioner whenever the pharmacist has reason to question the authenticity, accuracy or appropriateness of the prescription. A pharmacist may accept verbal verification regarding the authenticity or legibility of a facsimile prescription from a prescribing practitioner's authorized agent. A pharmacist shall not fill a facsimile prescription where there is a question regarding authenticity, accuracy or appropriateness if such verification is not provided.

(g) A pharmacist shall retain a printed copy of a facsimile prescription, or an electronic reproduction of the facsimile prescription that is readily retrievable and printable, for a minimum of five years pursuant to N.J.S.A. 45:14-15. The printed copy shall be of non-fading legibility.

(h) A pharmacist may fill a prescription for a Schedule II controlled substance transmitted by facsimile provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance, except as provided in (h)1, 2 and 3 below.

1. A prescription for a Schedule II narcotic substance prescribed for pain management to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription and shall be maintained pursuant to the requirements of (g) above.

2. A prescription for a Schedule II substance prescribed for pain management for a resident of a long-term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription and shall be maintained pursuant to the requirements of (g) above.

3. A prescription for a Schedule II narcotic substance prescribed for pain management for a patient receiving services from a hospice certified by Medicare under Title XVIII or licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or the practitioner's agent shall note on the facsimile prescription that the patient is a hospice patient. The facsimile shall serve as the original written prescription and shall be maintained pursuant to the requirements of (g) above.

(i) A pharmacist may fill a prescription for a Schedule III, IV or V controlled substance transmitted by facsimile consistent with the requirements of this section. The facsimile prescription shall serve as the original written prescription.

(j) A pharmacist shall not enter into any agreement with a prescribing practitioner that requires that facsimile pre-

scriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted by facsimile to a pharmacy of the patient's choice.

New Rule, R.2003 d.373, effective September 15, 2003.
See: 34 N.J.R. 3064(a), 35 N.J.R. 4290(a).
Administrative correction.
See: 35 N.J.R. 4724(a).

13:39-5.8B Electronically transmitted prescriptions

(a) A pharmacist may accept for dispensing an electronic prescription, consistent with the requirements of this section. For purposes of this section, "electronic prescription" means a prescription which is transmitted by a computer device in a secure manner, including computer to computer and computer to facsimile transmissions.

(b) A pharmacist shall not fill an electronic prescription transmitted by anyone other than a practitioner authorized to prescribe medications pursuant to N.J.S.A. 45:14-14, or the prescribing practitioner's authorized agent. If the electronic prescription is transmitted by the practitioner's authorized agent, the transmission shall include the full name and title of the agent.

(c) The permitholder shall ensure that the electronic system utilized to receive prescriptions shall have adequate security and system safeguards designed to prevent and detect unauthorized access, modification or manipulation of the prescriptions.

(d) The computer or device used to receive electronically transmitted prescriptions shall be located within the pharmacy prescription area.

(e) An electronic prescription shall contain all information required to be included on a written prescription pursuant to New Jersey State Board of Medical Examiners rule N.J.A.C. 13:35-7.2(d), except that a handwritten original signature and an NJPB shall not be required for the prescription.

(f) A pharmacist shall seek verbal verification of an electronic prescription from the prescribing practitioner whenever the pharmacist has reason to question the authenticity, accuracy or appropriateness of the prescription. A pharmacist may accept verbal verification regarding the authenticity or legibility of an electronic prescription from a prescribing practitioner's authorized agent. A pharmacist shall not fill the electronic prescription where there is a question regarding authenticity, accuracy or appropriateness if such verification is not provided.

(g) A pharmacist shall retain a printed copy of an electronic prescription, or a record of an electronic prescription that is readily retrievable and printable, for a minimum of five years pursuant to N.J.S.A. 45:14-15. The printed copy shall be of non-fading legibility.

(h) A pharmacist may fill a prescription for a Schedule II controlled substance transmitted electronically, provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance. If permitted by Federal law, and in accordance with Federal requirements, an electronic prescription shall serve as the original signed prescription.

(i) A pharmacist may fill a prescription for a Schedule III, IV or V controlled substance transmitted electronically, provided that the pharmacist has obtained the original signed prescription, an oral prescription, or a facsimile prescription from the prescribing practitioner or the prescribing practitioner's authorized agent prior to the dispensing. If permitted by Federal law, and in accordance with Federal requirements, an electronic prescription shall serve as the original signed prescription.

(j) A pharmacist shall not enter into any agreement with a prescribing practitioner that requires that electronic prescriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted electronically to a pharmacy of the patient's choice.

New Rule, R.2003 d.373, effective September 15, 2003.
See: 34 N.J.R. 3064(a), 35 N.J.R. 4290(a).

13:39-5.9 Labeling

(a) The dispensed container for any product shall bear a permanently affixed label with at least the following information:

1. The name of the registered pharmacist-in-charge;
2. The pharmacy name and address;
3. The pharmacy telephone number;
4. The brand name or generic name;
 - i. If generic, the name of the manufacturer;
5. The date upon which prescription medication is dispensed;
6. A CDS cautionary label;
7. The patient name;
8. The initials of dispensing pharmacist;
9. The prescriber's name;
10. The prescription number;
11. Directions for use; and
12. The expiration date, if dispensed in any packaging other than the manufacturer's original packaging.
 - i. For purposes of this paragraph, "expiration date" means the earlier of one year from the date of dispensing or the expiration date on the manufacturer's container.

(b) In addition to the requirements set forth in (a) above, the dispense container for any product shall bear all auxiliary labeling as recommended by the manufacturer and/or as deemed appropriate in the professional judgment of the dispensing pharmacist.

New Rule, R.1999 d.196 effective June 21, 1999.
See: 30 N.J.R. 4113(a), 31 N.J.R. 253(a), 31 N.J.R. 1618(a).

SUBCHAPTER 6. DISPENSING AND ADVERTISING DRUGS

13:39-6.1 Professional judgment in dispensing drugs

(a) The pharmacist shall have the right to refuse to fill a prescription if, in his or her professional judgment, the prescription is outside the scope of practice of the prescriber; or if the pharmacist has sufficient reason to question the validity of the prescription; or to protect the health and welfare of the patient.

(b) A pharmacist may dispense an emergency supply (no more than a 72-hour quantity) of a chronic maintenance drug (except controlled dangerous substances) or device in the absence of a current valid prescription, if, in his or her professional judgment, refusal would endanger the health or welfare of the patient.

1. The pharmacist must first ascertain to the best of his or her ability, by direct communication with the patient, that such a medication or device was prescribed for that patient by order of a licensed practitioner.

2. The pharmacist shall document the communication and require the patient to provide suitable identification and sign a statement attesting to the need before dispensing.

3. A patient's signature is not required for emergency refilling of a previously valid prescription.

13:39-6.2 Prescription prepared, compounded or dispensed by pharmacy externs or interns

A pharmacy intern or extern may prepare, compound or dispense prescriptions only under the direct supervision of a registered pharmacist of this State.

13:39-6.3 Identification tag

Each licensee shall wear an identification tag which shall include at least the pharmacist's first name, the first initial of his or her last name, and the designation "Pharmacist."

Repealed by R.1994 d.351, effective July 18, 1994.
See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

Section was "Sale of controlled dangerous substances and prescription legend drugs by other than a registered pharmacist in a Board-licensed establishment".

New Rule, R.1998 d.166, effective April 6, 1998.
See: 29 N.J.R. 5051(a), 30 N.J.R. 1297(b).

13:39-6.4 Direct supervision of dispensing and compounding

The registered pharmacist supervising the activities of supportive personnel shall be physically present in the compounding/dispensing area and shall be personally responsible for the accuracy of the filled prescription.

13:39-6.5 Restriction on display of prescription legend drugs and controlled dangerous substances

Prescription legend drugs, devices and controlled dangerous substances shall not be displayed in the licensed establishment in such a manner that they can be accessible to the public.

13:39-6.6 Foreign prescriptions

Only those prescriptions written or signed by an authorized prescriber licensed to write prescriptions in the United States, District of Columbia, or any territory of the United States shall be considered valid prescription orders.

Amended by R.1994 d.351, effective July 18, 1994.
See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

13:39-6.7 Supportive personnel

(a) Supportive personnel may assist the registered pharmacist in a clerical manner such as the retrieving of prescription files, profile cards, and other such records, the typing of labels and the completing of prescription receipts and other such forms.

(b) Supportive personnel shall not interpret a prescription order or consult with a patient or prescriber or the agent of the prescriber. Supportive personnel may, however, count, weigh, measure, or pour prescription medication under the direct supervision of the registered pharmacist as long as the contents and finished-product are verified by a registered pharmacist.

(c) There shall be no more than two supportive personnel, not including cashier, stocking and clerical help, being supervised by one pharmacist at any given time. Those personnel who do computer processing of prescriptions are to be included in the 2 to 1 ratio.

(d) Supportive personnel shall wear an identification tag, which shall include at least their first name, the first initial of their last name, and title.

(e) On yearly pharmacy permit renewal applications, the pharmacy shall list the name and address of all supportive personnel which it currently employs.

(f) When supportive personnel are engaged in any activity permitted by (b) above, the supervising registered pharmacist shall be responsible for all the activities of the supportive personnel.

Amended by R.1994 d.351, effective July 18, 1994.

See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).
 Amended by R.1997 d.502, effective December 1, 1997.
 See: 28 N.J.R. 5048(a), 29 N.J.R. 5072(a).
 Added (d) through (f).
 Amended by R.1999 d.214, effective July 19, 1999.
 See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

In (f), substituted a reference to supervising registered pharmacists for a reference to registered pharmacists-in-charge.

13:39-6.8 Advertising and sale of prescription drugs

(a) "Advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services or goods from a Board licensee.

(b) Price quotations for prescription drugs appearing in any advertisement shall stipulate the strength and quantity required to be purchased for the offered cost. Price quotations shall include the usual and customary prescription cost. All services including, but not limited to, delivery charges rendered by the pharmacy which will add additional costs to the price quoted, must be set forth in the advertisement.

(c) Any reference in any form of advertisement to the quality of a drug or its beneficial use is prohibited.

(d) Price quotations for drugs appearing in any advertisement shall stipulate the effective period of price quotation.

(e) Upon request by any consumer, the pharmacist shall be required to give price information over the telephone and shall stipulate the effective period of the price quotation.

(f) All advertisements shall be predominantly informational and shall not be misleading, confusing or false. Any advertisement demeaning the quality of professional services rendered by another licensee or permittee shall be prohibited. No advertisement shall rely in any way on techniques to obtain attention that demonstrate a clear and intentional lack of relevance to the selection of professional services.

Case Notes

Prohibition against certain premiums or rebates was unconstitutional. Matter of CVS Pharmacy, Wayne, 224 N.J.Super. 631, 541 A.2d 242 (A.D.1988) reversed 116 N.J. 490, 561 A.2d 1160, certiorari denied 110 S.Ct. 841, 493 U.S. 1045, 107 L.Ed.2d 836.

13:39-6.9 Restriction on sale of Schedule V over-the-counter controlled substances

(a) It shall be considered unprofessional conduct for a pharmacist to dispense a Schedule V over-the-counter controlled substance when:

1. The pharmacist, in his or her professional judgment, knows or reasonably should know that the requested substance will be used for unauthorized or illicit consumption or distribution; or

2. The pharmacist, in his or her professional judgment, knows or reasonably should know that the person requesting the substance previously used it for unauthorized or illicit consumption or distribution.

(b) The standard of professional judgment and care that attends the sale of a Schedule V over-the-counter controlled substance shall conform to the following:

1. All pharmacists shall comply with N.J.A.C. 8:65-7.19, which requires that the sale of specified controlled substances be limited in quantity during any 48-hour period, that the purchaser be at least 18 years of age, and that the pharmacist obtain suitable identification (including proof of age where appropriate) from every purchaser not known to the pharmacist.

2. In all instances, any doubts regarding the propriety of a sale of a Schedule V substance shall be resolved against making the sale.

3. The pharmacist shall enter every sale of a Schedule V substance in the Over-the-Counter Schedule V Record Book pursuant to N.J.A.C. 8:65-7.19. The information to be recorded shall include the purchaser's first and last name, street address, city and state, the name and quantity of the Schedule V substance sold, the date of each sale, and the name or initials of the pharmacist making the sale.

4. Upon an individual's second request for a Schedule V substance within a short period of time (two to four days), the pharmacist shall determine, through direct communication with the purchaser, whether the substance is being used correctly. In that regard, the pharmacist shall ascertain how many people are using the substance and whether the condition which the substance is being used to treat is improving.

5. Upon an individual's third request for a Schedule V substance within a short period of time relative to the number of persons using it (two to four days subsequent to the second purchase), the pharmacist shall advise the purchaser of the substance's abuse potential and shall caution the purchaser to consult a physician if the condition for which the substance is being used does not improve.

6. Upon an individual's fourth request for a Schedule V substance within a short period of time (two to four days subsequent to the third purchase), the pharmacist shall determine, through direct communication with the purchaser, how many people are using the substance, whether continued use will be therapeutic, whether the purchaser is treating a condition which requires a physician's consultation, whether the purchaser is exhibiting signs of drug abuse and whether the purchaser is making similar requests of other local pharmacies.