Louisiana Revised Statutes of 1950

Title 40 – Public Health and Safety

Chapter 4 – Food and Drugs

Part X. Uniform Controlled Dangerous Substances Law

*[**Editor's Note**: The Uniform Controlled Dangerous Substances Law was created by Act 634 of 1972 Legislature. Subsequent amendments are noted herein.]*

§961. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(1) *Addict* means a drug dependent person who habitually uses any narcotic drugs as to have lost the power of self-control with reference to his use of said drugs.

(2) *Administer* means to deliver under the auspices of a registered practitioner a controlled dangerous substance to the ultimate user or human research subject by injection, or for inhalation, or ingestion, or by any other means except where otherwise provided by law.

(3) *Agent* means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, but does not include a common or contract carrier, public warehouseman, or employee thereof.

(4) *Apothecary* means a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of the store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Part shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him by the pharmacy laws of this state.

(5) *Cannabis* includes all parts of plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination.

(6) *Control* means to add a drug or other substance, or immediate precursor, to a schedule under R.S. 40:964, whether by transfer from another schedule or otherwise.

(7) *Controlled dangerous substance* means any substance defined, enumerated, or included in federal or state statute or regulations, 21 CFR §1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled dangerous substance by amendment or supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.
(Amended by Act 698 of 2004 Legislature)

(8) *Controlled substance analogue* means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II of R.S. 40:964; which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II; or with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II. Such term shall not include any substance for which there is an approved new drug application; with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. §355) to the extent conduct with respect to such substance is pursuant to such exemption; or any substance to the extent not intended for human consumption before an exception takes effect with respect to that substance.
(Amended by Act 761 of 2003 Legislature; further amended by Act 698 of 2004 Legislature)

(9) *Counterfeit controlled dangerous substance* means a controlled dangerous substance which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.
(Amended by Act 698 of 2004 Legislature)

(10) *Deliver* or *delivery* means the transfer of a controlled dangerous substance whether or not there exists

an agency relationship.
(Amended by Act 698 of 2004 Legislature)

(11) *Dentist* means a person licensed and authorized by law to practice dentistry in this state.

(12) *Depressant* means a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or any derivatives of barbituric acid; or any substance listed in Schedule I(d), Schedule II(d), or Schedule III(b) of R.S. 40:964, or which has been designated by the Secretary of the Department of Health and Hospitals as habit forming because of its depressant effect on the central nervous system.

(13) *Dispense* means to deliver a controlled dangerous substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery.
(Amended by Act 698 of 2004 Legislature)

(14) *Distribute* means to deliver a controlled dangerous substance whether by physical delivery, administering, subterfuge, furnishing a prescription, or by filling, packaging, labeling, or compounding the substance pursuant to the lawful order of a practitioner.
(Amended by Act 698 of 2004 Legislature)

(15) *Distributor* means a person who delivers a controlled dangerous substance as herein defined.
(Amended by Act 698 of 2004 Legislature)

(16) *Drug* means (a) articles recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; or (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (c) articles other than food intended to affect the structure of any function of the body of man or other animals; or (d) articles intended for use as a component of any article specified in Subparagraph (a), (b), or (c) of this Paragraph, but does not include devices or their components, parts or accessories.

(17) *Drug Enforcement Administration* means the Drug Enforcement Administration, United States Department of Justice or its successor.

(18) *Drug dependent person* means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

(19) *Hallucinogen* means a drug which contains any quantity of LSD (lysergic acid diethylamide), its isomers, salts, salts of isomers, or any quantity of a substance listed in Schedule I(c) of R.S. 40:964, or any substance which the Secretary of the Department of Health and Hospitals after investigation has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system, or hallucinogenic effect.

(20) *Imitation controlled dangerous substance* means a noncontrolled substance which by appearance or operation, including color, shape, size, markings, or packaging, or by representations made, or by its pharmacological effect, would lead a reasonable person to believe that the substance is a controlled dangerous substance.
(Amended by Act 698 of 2004 Legislature)

(21) *Immediate precursor* means a substance which the Secretary of the Department of Health and Hospitals has found to be, and by regulation designates 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 dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.
(Amended by Act 698 of 2004 Legislature)

(22) *Isomers* refers to optical isomers and/or stereoisomers and mixtures thereof, unless specifically excepted in this Part. Optical isomers or stereoisomers are molecules which differ from each other only in the way the constituent atoms are oriented in space.

(23) *Legend drug* means any drug or drug product bearing on the label of the manufacturer or distributor, as required by the federal Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without prescription."

(24) *Manufacture* means the production, preparation, propagation, compounding, or processing of a controlled dangerous substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.
(Amended by Act 698 of 2004 Legislature)

(25) *Marijuana* means all parts of plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from

such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(26) *Narcotic drug* means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) opium, coca leaves, and opiates; (b) a compound, manufacture, salt, derivatives, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically identical with any of the substances referred to in Subparagraphs (a) and (b) of this Paragraph, except that the words "narcotic drug" as used in this Part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(26.1) *Nitrogen-heterocyclic analog* means a nitrogen-heterocyclic analog of a synthetic cannabinoids which has a single carbon atom in a cyclic structure of a compound replaced by a nitrogen atom.
(Added by Act 8 of 2013 Legislature, effective August 1, 2013)

(27) *Opiate* means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under R.S. 40:963, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
(Amended by Act 698 of 2004 Legislature)

(28) *Opium poppy* means the plant of the species Papaver somniferum, except the seeds thereof.

(29) *Person* includes any institution whether public or private, hospitals or clinics operated by the state or any of its political subdivisions, and any corporation, association, partnership, or one or more individuals.

(29.1) *Physical dependence* means a physiologic state of neuroadaptation which is characterized by the emergence of a withdrawal syndrome if drug use is stopped or decreased abruptly, or if an antagonist is administered. Physical dependence is an expected result of opioid use. Physical dependence, by itself, does not equate with addiction.
(Added by Act 698 of 2004 Legislature)

(30) *Poppy straw* means all parts, except the seeds, of the opium poppy, after mowing.

(31) *Practitioner* means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state.

(32) *Prescribe* means to issue a written request or order for a controlled dangerous substance by a person licensed under this Part for a legitimate medical purpose. The act of prescribing must be in good faith and in the usual course of the licensee's professional practice.
(Amended by Act 698 of 2004 Legislature)

(33) *Prescription* means a written request for a drug or therapeutic aid issued by a licensed physician, dentist, veterinarian, osteopath, or podiatrist for a legitimate medical purpose, for the purpose of correcting a physical, mental, or bodily ailment, and acting in good faith in the usual course of his professional practice.

(34) *Production* means the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.
(Amended by Act 698 of 2004 Legislature)

(35) *Secretary* means the Secretary of the Department of Health and Hospitals, or his successor.

(36) *State* means the State of Louisiana.

(37) *Stimulant* means a drug which contains a quantity of amphetamine or any of its isomers; any salt of amphetamine or any salt of an isomer of amphetamine; or any substance listed in Schedules II(C) or Schedule III(A) of R.S. 40:964, or any substance which the Secretary of the Department of Health and Hospitals after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system.

(38) *Substance abuse* or *addiction* means a compulsive disorder in which an individual becomes preoccupied with obtaining and using a substance, despite adverse social, psychological, or physical consequences, the continued use of which results in a decreased quality of life. The development of controlled dangerous substance tolerance or physical dependence does not equate with substance abuse or addiction.
(Added by Act 698 of 2004 Legislature)

(39) *Tolerance* means the physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Controlled dangerous substance tolerance refers to the need to increase the dose of the drug to achieve the same level of analgesia. Controlled dangerous substance tolerance may or may not be evident during controlled dangerous substance treatment.
(Added by Act 698 of 2004 Legislature)

(40) *Ultimate user* means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or a member of his household.
(Amended by Act 698 of 2004 Legislature)

This entire section has previously been amended by Act 207 of 1973 Legislature; Act 700 of 1975 Legislature; Act 649 of 1977 Legislature; Act 786 of 1978 Legislature; Act 1059 of 1992 Legislature; Act 154 of 1993 Legislature; and Act 34 of 1994 Legislature.

§962. Authority to control

A. All controlled dangerous substances listed in R.S. 40:964 are hereby controlled.

B. The Secretary of the Department of Health and Hospitals shall add a substance as a controlled dangerous substance if it is classified as a controlled dangerous substance by the Drug Enforcement Administration of the United States government.

C. The secretary may by rule add to the schedules provided in Section 964 of this Part any drug or other substance if he finds that such drug or other substance has a high potential for abuse, and after such a finding by the secretary, the drug shall be added in the appropriate schedule under the criteria provided under Section 963 of this Part. In making a finding that a drug or other substance has a high potential for abuse, the Secretary of the Department of Health and Hospitals shall consider the following factors with respect to each drug or other substance proposed to be controlled:

(1) its actual or relative potential for abuse;
(2) scientific evidence of its pharmacological effect, if known;
(3) state of current scientific knowledge regarding the substance;
(4) its history and current pattern of abuse;
(5) its scope, duration, and significance of abuse;
(6) what, if any, risk there is to public health;
(7) its psychic or physiological dependence liability; and
(8) whether the substance is an immediate precursor of a substance already controlled by this Section.

D. In an adjudication the Secretary of the Department of Health and Hospitals may transfer a controlled substance from one schedule to another schedule upon the basis of a finding that the characteristics of the controlled drug or substances are such that under the criteria in Section 963 of this Part the controlled substance should be transferred or that a transfer of any substance listed under Section 964 from one schedule to another schedule should be made in order to conform with the schedule in which the drug is placed by the Drug Enforcement Administration of the United States government.

E. If the Secretary of the Department of Health and Hospitals designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

F. The Secretary of the Department of Health and Hospitals shall exclude any nonnarcotic substance from a schedule if the 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.

G. The reclassification of any controlled dangerous substance or its transfer from one schedule to another by the Secretary of the Department of Health and Hospitals or the state health officer shall not affect the penalties provided by this Part.

H. If the scheduling of a substance in Schedule I is necessary to avoid an imminent peril to the public health, safety, or welfare, the secretary may adopt an emergency rule adding the substance to Schedule I pursuant to R.S. 49:953(B). In determining whether the substances poses an imminent peril to the public health, safety, or welfare, the secretary shall consider the factors set forth in Paragraphs C(4), (5), and (6) of this Section.

(Amended by Act 649 of 1977 Legislature; Act 717 of 1978 Legislature; Act 34 of 1994 Legislature)

§962.1. Ephedrine products

A. Except as provided in Subsection B, any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe prescription drugs.

B. The following products containing ephedrine shall be exempt from the provisions of Subsection A provided that such product may lawfully be sold over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph, and is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse:

(1) Solid oral dosage forms (including soft gelatin caplets) that combine active ingredients in the following ranges for each dosage unit:
   (a) Theophylline (100-130 mg), Ephedrine (12.56-24 mg).
   (b) Theophylline (60-100 mg), Ephedrine (12.5-24 mg), Guaifenesin (200-400 mg).

(c) Ephedrine (12.5-25 mg), Guaifenesin (200-400 mg).
(d) Phenobarbital (not greater than 8 mg) in combination with ingredients of Subparagraph (a) or (b) of this Paragraph.

(2) Liquid oral dosage forms that combine active ingredients in the following ranges for each (5 ml) dose:
(a) Theophylline (not greater than 45 mg), Ephedrine (not greater than 36 mg), Guaifenesin (not greater than 100 mg), Phenobarbital (not greater than 12 mg).
(b) Phenylephrine (not greater than 5 mg), Ephedrine (not greater than 5 mg), chlorpheniramine (not greater than 2 mg), dextromethorphan (not greater than 10 mg), ammonium C1 (not greater than 40 mg), ipecac fluidextract (not greater than 0.005 ml).

(3) Anorectal preparations containing less than five percent ephedrine.
(4) Any liquid compound, mixture, or preparation containing one-half percent or less of ephedrine.

C. The marketing, advertising, or labeling of any nonprescription product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine for the indication of stimulation, mental alertness, weight loss, appetite control, or energy is prohibited. The Department of Health and Hospitals, office of public health is authorized to adopt rules and regulations in accordance with the Administrative Procedure Act to exempt other nonprescription products from the prohibition contained herein. Such rules and regulations shall require a distributor or manufacturer seeking an exemption from the prohibition contained herein to clearly demonstrate that the nonprescription product is intended for use for a valid medicinal purpose and that the marketing of that product does not encourage, promote, or abet the abuse or misuse of ephedrine. In addition, such rules and regulations shall include the following factors for purposes of determining whether or not such an exemption should be granted:
(1) the packaging of the product;
(2) the name and labeling of the product;
(3) the manner of distribution, advertising, and promotion of the product;
(4) verbal representations made concerning the product; and
(5) the duration, scope, and significance of abuse or misuse of the particular product.

D. Whoever violates any provision of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(Added by Act 1253 of 1995 Legislature; effective January 1, 1996)

E. Notwithstanding any provision of law to the contrary, unless listed in another schedule, any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine is a Schedule V controlled dangerous substance and shall be dispensed, sold, or distributed only in accordance with the provisions of R.S. 40:1049.1 *et seq*. Such products shall be exempt from the reporting for Schedule V drugs as provided for in R.S. 40:1001 *et seq*.

(Added by Act 314 of 2009 Legislature)

§962.1.1. Possession of twelve grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers

A. (1) It is unlawful for any person to possess twelve grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers.
(2) It is unlawful for any person to possess ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in powder form unless the weight of the ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers or salts of optical isomers is less than twelve grams and the powder is in the manufacturer's original packaging and may lawfully be sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Act, 21 USC §301 et seq.

B. The provisions of this Section shall not apply to any of the following:
(1) Any person possessing a valid prescription for ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers.
(2) Any licensed manufacturer, wholesaler, or distributor who sells, transfers, or otherwise furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers to any licensed practitioner operating within the course and scope of that profession.
(3) Any licensed pharmacist or other authorized person who sells or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in the course of their professional practice, pursuant to the prescription of any licensed practitioner.
(4) Any licensed practitioner who administers or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in the course of their professional practice.

(5) Any person in possession of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in his residence under circumstances that are consistent with typical medicinal or household use. Factors that the court may consider in determining whether the circumstances of the possession are consistent with typical medicinal or household use, include but are not limited to storage location, purchase date, expiration date, possession of the products in a variety of strengths, brands, types, or purposes and the health conditions of persons in the residence.

(6) Any manufacturer, wholesaler, distributor, or retail business which sells, transfers, or otherwise furnishes products to customers for medicinal purposes, which products contain ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers, while acting within the scope and course of that business.

C. The provisions of this Section shall not apply to any pediatric products primarily intended for administration, according to label instructions, to children under twelve years of age, provided that:

(1) For any solid dosage form, the individual dosage unit, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine.

(2) For any liquid dosage form, the recommended dosage units, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of the liquid product.

(3) For any liquid dosage form intended for administration to children under two years of age, the recommended dosage does not exceed two milliliters and the total package content is not more than one fluid ounce.

D. *(Repealed by Act 314 of 2009 Legislature)*

E. Whoever violates any provision of this Section shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

(Added by Act 1000 of 2003 Legislature; Amended by Act 656 of 2004 Legislature)

F. Notwithstanding any provision of law to the contrary, unless listed in another schedule, any product that contains any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers is a Schedule V controlled dangerous substance and shall be dispensed, sold, or distributed only in accordance with the provisions of R.S. 40:1049.1 *et seq*. Such products shall be exempt from the reporting for Schedule V drugs as provided for in R.S. 40:1001 *et seq*.

(Added by Act 314 of 2009 Legislature)

§962.1.2 Restriction on the sale of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers

(Added by Act 494 of 2005 Legislature; Repealed by Act 314 of 2009 Legislature)

§962.1.2. Restriction on the sale and purchase of nonprescription products containing dextromethorphan, its salts or optical isomers, and salts of optical isomers.

A. (1) It shall be unlawful to sell a nonprescription material, compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers to any person under the age of eighteen.

(2) It shall be unlawful for any person under the age of eighteen to purchase or attempt to purchase a nonprescription material, compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers.

B. (1) A nonprescription material, compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers shall not be sold unless the purchaser submits a valid, current form of photo identification issued by the state of Louisiana, another state, or the government of the United States, including but not limited to a driver's license, military identification card, state identification card, or passport.

(2) Each form of identification shall on its face establish the age of the person as eighteen years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and photograph of the person.

C. The provisions of this Section shall not apply to a compound, mixture, or preparation containing any detectable quantity of dextromethorphan which is dispensed pursuant to a valid prescription from a licensed practitioner with prescriptive authority.

D. (1) A person who violates the provisions of this Section by selling a nonprescription compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or

salts of optical isomers shall be fined not more than fifty dollars for the first violation. The penalties for subsequent violations shall include a fine of not more than one hundred dollars for the second violations and a fine of not more than one hundred fifty dollars for the third and any subsequent violations.

(2) A person who violates the provisions of this Section by purchasing or attempting to purchase a nonprescription compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers shall be fined not more than fifty dollars for a first violations and not more than two hundred dollars for a second or subsequent violation.

E. The legislature hereby recognizes the need for uniformity in the sales of nonprescription compounds, mixtures, or preparations containing any detectable quantity of dextromethorphan, its salts or optical isomers, and salts of optical isomers. Therefore, the provisions of this Section shall supersede and preempt any rule, regulation, code, statute, or ordinance of any political subdivision or other unit of local government that attempts to regulate the sale or purchase of nonprescription compounds, mixtures, or preparations containing any detectable quantity of dextromethorphan, its salts or optical isomers, and salts of optical isomers.

(Added by Act 176 of 2014 Legislature, effective August 1, 2014)

§963. Schedules of controlled dangerous substances

There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in R.S. 40:964. In determining that a substance is to be added to these schedules, the Secretary of the Department of Health and Hospitals shall find the following:

A. As to Schedule I:

(1) The drug or other substance has a high potential for abuse;

(2) The drug or other substance has no currently accepted medical use in treatment in the United States; and

(3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

B. As to Schedule II:

(1) The drug or other substance has a high potential for abuse;

(2) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and

(3) Abuse of the drug or other substance may lead to severe psychological or physical dependence.

C. As to Schedule III:

(1) The drug or other substance has a potential for abuse less than the drugs or other substances listed in Schedules I or II;

(2) The drug or other substance has a currently accepted medical use in treatment in the United States; and

(3) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

D. As to Schedule IV:

(1) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule III;

(2) The drug or other substance has a currently accepted medical use in treatment in the United States; and

(3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances listed in Schedule III.

E. As to Schedule V:

(1) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule IV;

(2) The drug or other substance has a currently accepted medical use in treatment in the United States; and

(3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances listed in Schedule IV.

(Amended by Act 649 of 1977 Legislature)

§964. Composition of schedules

Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S. 40:962, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

Schedule I

A. Opiates.

Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, or salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, or salts is possible within the specific chemical designation:

*(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)
*(2) Acetylmethadol
*(3) Allylprodine
*(4) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levomethadyl acetate, or LAAM)
*(5) Alphameprodine
*(6) Alphamethadol
*(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1 -methyl-2-phenylethyl)-4-(N-propanilido) piperidine)
*(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)
*(9) Benzethidine
*(10) Betacetylmethadol
*(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide
*(12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N -phenylpropanamide)
*(13) Betameprodine
*(14) Betamethadol
*(15) Betaprodine
*(16) Clonitazene
*(17) Dextromoramide
*(18) Diampromide
*(19) Diethylthiambutene
*(20) Difenoxin
*(21) Dimenoxadol
*(22) Dimepheptanol
*(23) Dimethylthiambutene
*(24) Dioxaphetyl butyrate
*(25) Dipipanone
*(26) Ethylmethylthiambutene
*(27) Etonitazene
*(28) Etoxeridine
*(29) Furethidine
*(30) Hydroxypethidine
*(31) Ketobemidone
*(32) Levomoramide
*(33) Levophenacylmorphan
*(34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)
*(35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)
*(36) Morpheridine
*(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)
*(38) Noracymethadol
*(39) Norlevorphanol
*(40) Normethadone
*(41) Norpipanone
*(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide)
*(43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperdine)
*(44) Phenadoxone
*(45) Phenampromide
*(46) Phenomorphan
*(47) Phenoperidine
*(48) Piritramide
*(49) Proheptazine
*(50) Properidine

*(51) Propiram
*(52) Racemoramide
*(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl] propanamide)
*(54) Tilidine
*(55) Trimeperidine
(56) (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide) [Acetyl fentanyl]
(Added by Act 43 of 2014 Legislature, effective August 1, 2014)

B. Opium Derivatives.

Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

*(1) Acetorphine
*(2) Acetyldihydrocodeine
*(3) Benzylmorphine
*(4) Codeine methylbromide
*(5) Codeine-N-oxide
*(6) Cyprenorphine
*(7) Desomorphine
*(8) Dihydromorphine
*(9) Drotebanol
*(10) Etorphine, except hydrochloride salt
*(11) Heroin
*(12) Hydromorphinol
*(13) Methyldesorphine
*(14) Methyldihydromorphine
*(15) Morphine methylbromide
*(16) Morphine methylsulfonate
*(17) Morphine-N-oxide
*(18) Myrophine
*(19) Nicocodeine
*(20) Nicomorphine
*(21) Normorphine
*(22) Pholcodine
*(23) Thebacon

C. Hallucinogenic Substances.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, or salts of isomers, whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical designation; for purposes of this Paragraph only, the term “isomer” includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine
(2) 4-bromo-2, 5-dimethoxyamphetamine
(3) 4-bromo-2, 5-dimethoxyphenethylamine
(4) 2, 5-dimethoxyamphetamine
(5) 2, 5-dimethoxy-4-ethylamphetamine
(5.1) 2, 5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)
(Added by Act 153 of 2009 Legislature)
(6) 4-methoxyamphetamine
(7) 5-methoxy-3, 4-methylenedioxyamphetamine
(8) 4-methyl-2, 5-dimethoxyamphetamine
(9) 3, 4-methylenedioxyamphetamine
(10) 3, 4-methylenedioxymethamphetamine (MDMA)
(11) 3, 4-methylenedioxy-N-ethylamphetamine
(12) N-hydroxy-3, 4-methylenedioxyamphetamine
(13) 3, 4, 5-trimethoxy amphetamine
(13.1) Alphamethyltryptamine
(Added by Act 810 of 2010 Legislature)
(14) Bufotenine
(15) Diethyltryptamine

(16) Dimethyltryptamine
(16.1) 5-methoxy-N, N-diisopropyltryptamine
(Added by Act 810 of 2010 Legislature)
(17) Ibogaine
(18) Lysergic acid diethylamide
(19) Marihuana
(20) Mescaline
(21) Parahexyl, also known as Synhexyl
(22) Peyote
(23) N-ethyl-3-piperidyl benzilate
(24) N-methyl-3-piperidyl benzilate
(25) Psilocybin
(26) Psilocyn
(27) Tetrahydrocannabinols, including synthetic equivalents and derivatives
(28) Ethylamine analog of phencyclidine
(29) Pyrrolidine analog of phencyclidine
(30) Thiophene analog of phencyclidine
(31) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine
(32) *(Added by Acts 565 and 866 of 2010 Legislature; repealed by Act 420 of 2011 Legislature)*
(33) N-(2-methoxybenzyl)-2,5-dimethoxy-4-iodophenethylamine (25I-NBOMe)
(34) 2,5-dimethoxy-4-iodophenethylamine (2C-I)
(35) 2,5-dimethoxy-4-chlorophenethylamine (2C-C)
(36) 2,5-dimethoxy-4-ethylphenethylamine (2C-E)
(37) 2,5-dimethoxy-4-methylphenethylamine (2C-D)
(38) 2,5-dimethoxy-4-ethylthiophenethylamine (2C-T-2)
(39) 2,5-dimethoxy-4-methylthiophenethylamine (2C-T)
(40) 2,5-dimethoxy-4-isopropylthiophenethylamine (2C-T-4)
(41) 2,5-dimethoxyphenethylamine (2C-H)
(42) 2,5-dimethoxy-4-nitrophenethylamine (2C-N)
(43) 2,5-dimethoxy-4-(n)-propylphenethylamine (2C-P)
(44) 4-Fluoroamphetamine (4-FA)
(45) 4-Fluoromethamphetamine (4-FMA)
(46) 6-(2-aminopropyl)-2,3-dihydrobenzofuran (6-APDB)
(47) 5-(2-aminopropyl)-2,3-dihydrobenzofuran (5-APDB)
(48) 5-(2-aminopropyl)benzofuran (5-APB)
(49) 6-(2-aminopropyl)benzofuran (6-APB)
(50) 5,6-methylenedioxy-2-aminoindane (MDAI)
(51) 5-iodo-2-aminoindane (5-IAI)
(52) 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DIPT)
(53) 5-methoxy-N,N-dimethyltryptamine (5-MEO-DMT)
(54) 5-methoxy-N-methyl-N-isopropyltryptamine (5-MEO-MIPT)
(55) 5-methoxy-N,N-diallyl-tryptamine (5-MEO-DALT)
(56) Diisopropyltryptamine (DIPT)
(57) 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexanone (Methoxetamine)
(58) N-(2-methoxybenzyl)-2,5-dimethoxy-4-chlorophenethylamine (25C-NBOMe)
(59) N-(2-hydroxybenzyl)-2,5-dimethoxy-4-iodophenethylamine (25I-NBOH)
(Items 33-59 added by Act 7 of 2013 Legislature, effective August 1, 2013)

D. Depressants.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Gamma-hydroxybutyric acid (GHB)
(2) Mecloqualone
(3) Methaqualone
(Added by Act 54 of 2006 Legislature)
(4) Phenazepam
(Added by Act 345 of 2012 Legislature)

E. Stimulants.

Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Federal Food and Drug Administration, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, esters, or ethers and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers and salts of isomers, esters, or ethers is possible within the specific chemical designation:

(1) Aminorex
(2) Cathinone
(3) Fenethylline
(4) Methcathinone
(5) (±) *cis*-4-methylaminorex
(5.1) N-benzylpiperazine (BZP)
(Added by Act 153 of 2009 Legislature)
(6) N-ethylamphetamine
(7) N, N-dimethylamphetamine

(Entire schedule reorganized by Act 67 of 2008 Legislature)

(8) Naphthylpyrovalerone whether or not further substituted in the naphthyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the naphthyl ring by one or more other univalent substituents or whether or not further substituted in the carbon chain at the 3, 4, or 5 position with an alkyl substituent.
(Added by Act 420 of 2011 Legislature)
(9) 2-amino-1-phenyl-1-propanone (cathinone) or variation in any of the following ways:
(i) By substitution in the phenyl ring to any extent with alkyl, hydroxyl alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.
(ii) By substitution at the 3-position with an alkyl substituent.
(iii) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.
(Added by Act 420 of 2011 Legislature; amended by Act 8 of 2013 Legislature)

F. Synthetic Cannabinoids

Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of a synthetic cannabinoids found to be in any of the following chemical groups, or any of those groups which contain any synthetic cannabinoids salts, isomers, salts of isomers, or nitrogen-heterocyclic analogs, whenever the existence of such salts, isomers, salts of isomers, or nitrogen-heterocyclic analogs is possible within the specific chemical groups:

(1) Naphthoylindoles: any compound containing a 3-(1-naphthoyl)indole structure, whether or not substituted in the indole ring to any extent or the naphthyl ring to any extent.
(2) Naphthylmethylindoles: any compound containing a 1-H-indol-3-yl-(1-naphthyl)methane structure, whether or not substituted in the indole ring to any extent or the naphthyl ring to any extent.
(3) Naphthoylpyrroles: any compound containing a 3-(1-naphthoyl)pyrrole structure, whether or not substituted in the pyrrole ring to any extent or the naphthyl ring to any extent.
(4) Naphthylmethylindenes: any compound containing a 1-(1-naphthylmethyl)indene structure, whether or not substituted in the indene ring to any extent or the naphthyl ring to any extent.
(5) Phenylacetylindoles: any compound containing a 3-phenylacetylindole structure, whether or not substituted in the indole ring to any extent or the phenyl ring to any extent.
(6) Cyclohexylphenols: any compound containing a 2-(3-hydroxycyclohexyl)phenol structure, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring to any extent.
(7) [*Previous content repealed by Act 8 of 2013 Legislature*]
Benzoylindoles: any compound containing a 3-(benzoyl)indole structure, whether or not substituted in the indole ring to any extent or the phenyl ring to any extent.

(Added by Act 420 of 2011 Legislature; amended by Act 8 of 2013 Legislature)

(8) [*Previous content added by Act 345 of 2012 Legislature and repealed by Act 8 of 2013 Legislature*]
Tetrahydrodibenzopyrans whether or not substituted in the tricyclic ring system except where contained in cannabis or cannabis resin
(Added by Act 8 of 2013 Legislature, effective August 1, 2013)
(9) [*Previous content added by Act 345 of 2012 Legislature and repealed by Act 8 of 2013 Legislature*]
Hexahydrodibenzopyrans whether or not substituted in the tricyclic ring system except where contained in cannabis or cannabis resin

(Added by Act 8 of 2013 Legislature)

(10) Cyclopropanoylindoles: any compound containing a 3-(cyclopropanoyl)indole structure, whether or not substituted in the indole ring to any extent or the cyclopropyl ring to any extent.

(11) Adamantoylindoles: any compound containing a 3-(1-adamantoyl)indole structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the adamantyl ring to any extent.

(12) Naphthylamidoindoles: any compound containing a N-(naphthyl)-indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the naphthyl ring to any extent.

(13) Quinolinylindolecarboxylates: any compound containing a quinolin-8-yl-1H-indole-3-carboxylate structure, whether or not substituted in the indole ring to any extent or the quinloline ring to any extent.

(14) Adamantylamidoindoles: any compound containing a N-(adamantyl)-indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the adamantly ring to any extent.

(Items 10-14 added by Act 8 of 2013 Legislature, effective August 1, 2013)

(15) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide

(16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide

(17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide

(18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide

(19) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide

(20) (1-(5-fluoropentyl)-1H-benzimidazol-2-yl)(naphthalen-1-yl)methanone

(21) (4-methylpiperazin-1-yl)(1-pentyl-1H-indol-3-yl)methanone

(22) Naphthalen-1-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate

(23) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide

(24) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide

(25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide

(Items 15-25 added by Act 43 of 2014 Legislature, effective August 1, 2014)

Schedule II

A. Substances of vegetable origin or chemical synthesis.

Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, isomer, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(a) Raw opium

(b) Opium extracts

(c) Opium fluid extracts

(d) Powdered opium

(e) Granulated opium

(f) Tincture of opium

(g) *(Repealed by Act 755 of 1999 Legislature)*

(h) Codeine

(i) Dihydroetorphine

(j) Ethylmorphine

(k) Etorphine hydrochloride

(l) Hydrocodone

(m) Hydromorphone

(n) Metopon

(o) Morphine

(p) Oxycodone

(q) Oxymorphone

(r) Thebaine

(s) Oripavine

(Added by Act 810 of 2010 Legislature)

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or

identical with any of the substances referred to in Paragraph (1) above, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves, cocaine, ecgonine and any salt, isomer, salt of an isomer, compound, derivative, or preparation of coca leaves, cocaine, or ecgonine, and any salt, isomer, salt of an isomer, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extraction do not contain cocaine or ecgonine.

(5) *(Repealed by Act 282 of 2001 Legislature)*

(6) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

B. Opiates.

Unless specifically excepted or unless listed in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil
(2) Alphaprodine
(3) Anileridine
(4) Bezitramide
(5) Bulk Dextropropoxyphene (non-dosage forms)
(6) Carfentanil
(7) Dihydrocodeine
(8) Diphenoxylate
(9) Fentanyl
(10) Isomethadone
(11) Levo-alphacetylmethadol
(12) Levomethorphan
(13) Levorphanol
(14) Metazocine
(15) Methadone
(16) Methadone-intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane
(17) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid
(18) Pethidine (meperidine)
(19) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine
(20) Pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
(21) Pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
(22) Phenazocine
(23) Piminodine
(24) Racemethorphan
(25) Racemorphan
(26) Remifentanil
(27) Sufentanil
(28) Tapentadol

(Added by Act 810 of 2010 Legislature)

C. Stimulants.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of optical isomers
(2) Methamphetamine, its salts, isomers, and salts of its isomers
(3) Phenmetrazine and its salts
(4) Methylphenidate
(5) *(Repealed by Act 755 of 1999 Legislature)*
(6) *(Repealed by Act 755 of 1999 Legislature)*
(7) Lisdexamfetamine, its salts, isomers, and salts of its isomers

(Added by Act 810 of 2010 Legislature)

D. Depressants.

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(~~a~~) *(Repealed by Act 54 of 2006 Legislature)*

(a) Amobarbital

(b) Carisoprodol

(Added by Act 397 of 2014 Legislature, effective August 1, 2014)

(c) Glutethimide

(d) Pentobarbital

(e) Phencyclidine

(f) Secobarbital

(2) A wholesale drug distributor licensed by the Louisiana Board of Pharmacy and registered with the United States Drug Enforcement Administration shall be exempt from the storage, reporting, record keeping, and physical security requirements for any material, mixture, compound, or preparation which contains any quantity of carisoprodol.

(Added by Act 397 of 2014 Legislature, effective August 1, 2014)

E. Immediate Precursors.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursors to amphetamine and methamphetamine:

(a) phenylacetone

(2) Immediate precursors to phencyclidine (PCP):

(a) 1-phenylcyclohexylamine

(b) 1-piperidinocyclohexanecarbonitrile (PCC)

(3) Immediate precursor to fentanyl:

(a) 4-anilino-N-phenethyl-4-piperidine (ANPP)

(Added by Act 40 of 2014 Legislature, effective August 1, 2014)

For purposes of this Subsection, possession of immediate precursors sufficient for the manufacture of phenylacetone or cyclohexanone shall be deemed to be possession of such a derivative substance.

F. Hallucinogenic Substances

(1) Nabilone

(Entire schedule reorganized by Act 67 of 2008 Legislature)

Schedule III

A. Stimulants.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Benzphetamine

(2) Chlorphentermine

(3) Clortermine

(4) *(Repealed by Act 92 of 1982 Legislature)*

(5) *(Added by Act 755 of 1999 Legislature; repealed by Act 67 of 2008 Legislature)*

(6) Phendimetrazine

(Added by Act 755 of 1999 Legislature)

B. Depressants.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(a) Amobarbital

(b) Secobarbital

(c) Pentobarbital

or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(a) Amobarbital

(b) Secobarbital

(c) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt thereof, but not including butalbital when in combination with at least three hundred twenty-five milligrams of acetaminophen per dosage unit.

(4) Chlorhexadol

(5) Embutramide

(6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, which have been approved by the federal Food and Drug Administration.

(7) Ketamine, its salts, isomers, and salts of isomers

(Added by Act 582 of 1999 Legislature)

(8) Lysergic acid

(9) Lysergic acid amide

(10) Methyprylon

(11) Sulfondiethylmethane

(12) Sulfonethylmethane

(13) Sulfonmethane

(14) Tiletamine and zolazepam or any salt thereof

(15) Perampanel

(Added by Act 40 of 2014 Legislature, effective August 1, 2014)

C. Nalorphine.

D. Limited Narcotic Drugs.

Unless specifically excepted or unless listed in another schedule:

(1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine per 100 milliliters, or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.8 grams of codeine per 100 milliliters, or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(c) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters, or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(Amended by Act 702 of 2004 Legislature)

(d) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters, or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts such as acetaminophen or ibuprofen.

(Amended by Act 702 of 2004 Legislature)

(e) Not more than 1.8 grams of dihydrocodeine per 100 milliliters, or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than 300 milligrams of ethylmorphine per 100 milliliters, or not more than 15 milligrams per dosage unit, with one more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:

(a) Buprenorphine

(Amended by Act 54 of 2006 Legislature)

E. Anabolic Steroids and Muscle Building Substances.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation. The term “anabolic steroid” means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than

estrogens, progestins, corticosteroids and dehydroepiandrosterone that promote muscle growth and include the following:

(1) 3β, 17-dihydroxy-5a-androstane
(2) 3α, 17β-dihydroxy-5a-androstane
(3) 5α-androstan-3, 17-dione
(4) 3β, 17β-dihydroxy-5α-androst-1-ene
(5) 3α, 17β-dihydroxy-5α-androst-1-ene
(6) 4-androstenediol
(7) 5-androstenediol
(8) 1-androstenedione
(9) 4-androstenedione
(10) 5-androstenedione
(11) Bolasterone
(12) Boldenone
(12.1) Boldione
(Added by Act 810 of 2010 Legislature)
(13) Calusterone
(14) Clostebol
(15) Dehydrochloromethyltestosterone
(15.1) Desoxymethyltestosterone
(Added by Act 810 of 2010 Legislature)
(16) Δ1-dihydrotestosterone
(17) 4-dihydrotestosterone
(18) Drostanolone
(19) Ethylestrenol
(20) Fluoxymesterone
(21) Formebolone
(22) Furazebol
(23) 13β-ethyl-17α-hydroxygon-4-en-3-one
(24) 4-hydroxytestosterone
(25) 4-hydroxy-19-nortestosterone
(26) Mestanolone
(27) Mesterolone
(28) Methandienone
(29) Methandriol
(29.1) Methasterone (2, 17α-dimethyl-5α-androstan-17α-ol-3-one)
(Added by Act 40 of 2014 Legislature, effective August 1, 2014)
(30) Methenolone
(31) 17α-methyl-3β, 17β-dihydroxy-5a-androstane
(32) 17α-methyl-3α, 17β-dihydroxy-5a-androstane
(33) 17α-methyl-3β, 17β-dihydroxyandrost-4-ene
(34) 17α-methyl-4-hydroxynandrolone
(35) Methyldienolone
(36) Methyltrienolone
(37) Methyltestosterone
(38) Mibolerone
(39) 17α-methyl-Δ1-dihydrotestosterone
(40) Nandrolone
(41) 3β, 17β-dihydroxyestr-4-ene
(42) 3α, 17β-dihydroxyestr-4-ene
(43) 3β, 17β-dihydroxyestr-5-ene
(44) 3α, 17β-dihydroxyestr-5-ene
(44.1) 19-nor-4,9(10)-androstadienedione
(Added by Act 810 of 2010 Legislature)
(45) 19-nor-4-androstenedione
(46) 19-nor-5-androstenedione
(47) Norbolethone
(48) Norclostebol
(49) Norethandrolone

(50) Normethandrolone
(51) Oxandrolone
(52) Oxymesterone
(53) Oxymetholone
(53.1) Prostanozol (17α-hydroxy-5α-androstano[3,2-c]pyrazole)
(Added by Act 40 of 2014 Legislature, effective August 1, 2014)
(54) Stanozolol
(55) Stenbolone
(56) Testolactone
(57) Testosterone
(58) Tetrahydrogestrinone
(59) Trenbolone

F. (1) Except as provided in Paragraph (2) of this Subsection, the term "anabolic steroid" does not include a substance listed in Subsection E above but which is expressly intended for administration to livestock or other nonhuman species and which has been approved by the Secretary of the Department of Health and Hospitals for such administration.

(2) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of Subsection E above.

(3) A physician, dentist, or veterinarian shall not prescribe, dispense, deliver, or administer an anabolic steroid for human use or cause an anabolic steroid to be administered under his direction or supervision for human use except for a valid medical purpose and when required by demonstrable generally accepted medical indications. Bodybuilding, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic steroid by a person who is in good health is hereby declared not a valid medical purpose.

G. Substances of Vegetable Origin or Chemical Synthesis.

Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Synthetic dronabinol [delta-9-(trans) tetrahydrocannabinol] in sesame oil and encapsulated in a soft gelatin capsule in a U. S. Food and Drug Administration approved product.

(Added by Act 282 of 2001 Legislature)

(Entire schedule reorganized by Act 67 of 2008 Legislature)

Schedule IV

A. Narcotic Drugs

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts, in limited quantities, as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
(2) Dextropropoxyphene.

B. Depressants

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alfaxalone
(Added by Act 40 of 2014 Legislature, effective August 1, 2014)
(1.5) Alprazolam
(Amended by Act 40 of 2014 Legislature, effective August 1, 2014)
(2) Barbital
(3) Bromazepam
(4) Camazepam
(4.1) *(Added by Act 165 of 2009 Legislature, repealed by Act 397 of 2014 Legislature)*
(5) Chloral betaine
(6) Chloral hydrate
(7) Chlordiazepoxide, but not including chlordiazepoxide hydrochloride in combination with clidinium bromide, or chlordiazepoxide and water-soluble esterified estrogens

(8) Clobazam
(9) Clonazepam
(10) Clorazepate
(11) Clotiazepam
(12) Cloxazolam
(13) Delorazepam
(14) Diazepam
(15) Dichloralphenazone
(16) Estazolam
(17) Ethchorvynol
(18) Ethinamate
(19) Ethyl loflazepate
(20) Fludiazepam
(21) Flunitrazepam
(22) Flurazepam
(22.1) Fospropofol
(Added by Act 810 of 2010 Legislature)
(23) Halazepam
(24) Haloxazolam
(25) Ketazolam
(26) Loprazolam
(27) Lorazepam
(28) Lormetazepam
(29) Mebutamate
(30) Medazepam
(31) Meprobamate
(32) Methohexital
(33) Methylphenobarbital (mephobarbital)
(34) Midazolam
(35) Nimetazepam
(36) Nitrazepam
(37) Nordiazepam
(38) Oxazepam
(39) Oxazolam
(40) Paraldehyde
(41) Petrichloral
(42) Phenobarbital
(43) Pinazepam
(44) Prazepam
(45) Quazepam
(46) Temazepam
(47) Tretrazepam
(48) Triazolam
(49) Zaleplon
(50) Zolpidem
(51) Zopiclone
(52) *(Repealed by Act 810 of 2010 Legislature)*

C. Fenfluramine

Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers, including Fenfluramine, is possible.

D. Stimulants

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers:

(1) Cathine (norpseudoephedrine)
(2) Diethylpropion
(3) Fencamfamin
(4) Fenproporex

(5) Mazindol
(6) Mefenorex
(7) Modafinil
(8) Pemoline (including organometallic complexes and chelates thereof)
(9) Phentermine
(10) Pipradol
(11) Sibutramine
(12) SPA [(-)-1-dimethylamino-1,2-diphenylethane]
(13) Lorcaserin
(Added by Act 40 of 2014 Legislature, effective August 1, 2014)

E. Other Substances

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine
(2) Butorphanol (including its optical isomers)

(Entire schedule reorganized by Act 56 of 2006 Legislature)

Schedule V

A. Narcotic Drugs Containing Nonnarcotic Active Medicinal Ingredients.

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

B. Narcotic Drugs.

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) *(Repealed by Act 54 of 2006 Legislature)*

C. Stimulants.

Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Pyrovalerone

D. Depressants.

Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Pregabalin

(Entire schedule reorganized by Act 67 of 2008 Legislature)

(2) Lacosamide
(Added by Act 810 of 2010 Legislature)
(3) Ezogabine
(Added by Act 315 of 2012 Legislature)

E. (1) Ephedrine, pseudoephedrine, phenylpropanolamine. Unless listed in another schedule, any material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

(2) (a) Nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall not be sold or distributed in a quantity greater than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base to the same purchaser within any thirty day period.

(b) Notwithstanding the prescription requirements for Schedule V controlled dangerous substances as provided for in R.S. 40:978(C), nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine may be dispensed without a prescription.

(3) (a) No person shall purchase, receive, or otherwise acquire more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base within any thirty day period.

(b) This limit shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription written by a licensed health care professional having prescriptive authority.

(4) Wholesale drug distributors licensed by the Louisiana State Board of Wholesale Drug Distributors and registered with the United States Drug Enforcement Administration shall be exempt from the storage, reporting, recordkeeping, and physical security requirements for controlled dangerous substances for nonprescription products containing ephedrine, pseudoephedrine, and phenylpropanolamine which are not listed in another schedule.

(5) Except for sales log requirements and the transmittal of transaction information to the central computer monitoring system authorized by the provisions of Part X-F of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, pharmacies and pharmacists licensed by the Louisiana Board of Pharmacy and registered with the United States Drug Enforcement Administration shall be exempt from the storage, reporting, recordkeeping, and physical security requirements for controlled dangerous substances for nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine which are not listed in another schedule.

(6) The transaction information provided for in R.S. 40:1049.3 for the purchase of a nonprescription product containing ephedrine, pseudoephedrine, or phenylpropanolamine shall constitute an "order from a practitioner" as provided for in R.S. 40:970(C). Possession of a nonprescription product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to a valid transaction as provided for in R.S. 40:1049.3 shall be a defense for a violation of R.S. 40:970(C).

(Paragraph E added by Act 314 of 2009 Legislature)

(Amended by Act 513 of 1991 Legislature; Act 842 of 1991 Legislature, effective July 23, 1991; Act 156 of 1993 Legislature; Act 288 of 1993 Legislature; and Act 616 of 1993 Legislature)

*NOTE: Asterisks in Schedule I(A) and (B) indicate substances for which greater penalties are provided in R.S. 40:966(B) and (C).

§964.1. Treatment of controlled analogues

A controlled substance analogue shall be treated, for the purposes of any state law and to the extent intended for human consumption, as a controlled dangerous substance in either Schedule I or Schedule II of R.S. 40:964.
(Added by Act 34 of 1994 Legislature; Amended by Act 1036 of 2001 Legislature)

§965. Secretary of Department of Health and Hospitals; authority to except

A. The Secretary of the Department of Health and Hospitals may, by regulation, except any material, compound, mixture, or preparation containing any depressant or stimulant substance listed in Subsection A, B, C, or D of Schedule III or in Schedule IV or Schedule V from the application of all or any part of this Part if the material, compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, provided that such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

B. The Secretary of the Department of Health and Hospitals may, by regulation, exempt any compound, mixture, or preparation containing any anabolic steroid substances listed in Schedule III(E) of R.S. 40:964 from the application of all or any part of this Part if, because of its concentration, preparation, mixture, or delivery system, it has no significant potential for abuse.

(Added by Act 513 of 1991 Legislature)

§966. Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; possession of marijuana, possession of synthetic cannabinoids, possession of heroin

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule I; or

(Amended by Act 1036 of 2001 Legislature)

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule I.

B. Penalties for Violation of Subsection A of this Section.

Any person who violates Subsection A of this Section with respect to:

(1) Except as otherwise provided in Paragraph (4) of this Subsection, a substance classified in Schedule I that is a narcotic drug (all substances in Schedule I preceded by an asterisk "*"), upon conviction shall be sentenced to imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.
(Amended by Act 403 of 2001 Legislature, Act 368 of 2014 Legislature)

(2) Except as otherwise provided in Paragraph (3) of this Subsection, any other controlled dangerous substance classified in Schedule I, shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and pay a fine of not more than fifty thousand dollars.
(Amended by Act 403 of 2001 Legislature and Act 45 of 2002 Legislature, First Extraordinary Session)

(3) A substance classified in Schedule I which is marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or synthetic cannabinoids shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five nor more than thirty years, and pay a fine of not more than fifty thousand dollars.
(Added by Act 45 of 2002 Legislature, First Extraordinary Session)

(4) (a) A substance classified in Schedule I that is the narcotic drug heroin or a mixture or substance containing a detectable amount of heroin or of its analogues upon conviction of a first offense shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

(b) A substance classified in Schedule I that is the narcotic drug heroin or a mixture or substance containing a detectable amount of heroin or of its analogues upon conviction of a second or subsequent offense shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than ninety-nine years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.
(Added by Act 368 of 2014 Legislature, effective August 1, 2014)

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule I unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

(1) A substance classified in Schedule I which is a narcotic drug (all substances in Schedule I preceded by an asterisk), shall be imprisoned at hard labor for not less than four years nor more than ten years, and may, in addition, be required to pay a fine of not more than five thousand dollars.
(Amended by Act 403 of 2001 Legislature)

(2) Phencyclidine, shall be sentenced to imprisonment with or without hard labor for not less than five years nor more than twenty years, and may be sentenced to pay a fine of not more than five thousand dollars, or both.

(3) Any other controlled dangerous substance classified in Schedule I, shall be imprisoned at hard labor for not more than ten years, and may, in addition, be required to pay a fine of not more than five thousand dollars.

D. Other penalties for possession.

(1) Except as otherwise authorized in this Part:

(a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of a narcotic drug (all substances in Schedule I preceded by an asterisk "*"), shall be sentenced to serve a term of imprisonment at hard labor of not less than five years nor more than thirty years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred fifty thousand dollars.

(b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than

four hundred grams, of a narcotic drug (all substances in Schedule I preceded by an asterisk "*"), shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars nor more than three hundred fifty thousand dollars.

(c) Any person who knowingly or intentionally possesses four hundred grams or more of a narcotic drug (all substances in Schedule I preceded by an asterisk "*"), shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years nor more than thirty years, and to pay a fine of not less than two hundred fifty thousand dollars nor more than six hundred thousand dollars.

(Added by Act 403 of 2001 Legislature)

E. Possession of marijuana, or synthetic cannabinoids.

(1) Except as provided in Subsections E and F of this Section, on a first conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.

(2) Except as provided in Subsections F or G of this Section, on a second conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be fined not less than two hundred fifty dollars, nor more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both. If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

(Amended by Act 403 of 2001 Legislature, Act 661 of 2010 Legislature)

(3) Except as provided in Subsections F or G of this Section, on a third or subsequent conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be sentenced to imprisonment with or without hard labor for not more than twenty years, and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.

(Amended by Act 403 of 2001 Legislature, Act 19 of 2007 Legislature)

(4) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(C) prohibiting the possession of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(5) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(Added by Act 345 of 2004 Legislature)

(Amended by Acts 565, 810, and 866 of 2010 Legislature)

F. Except as otherwise authorized in this Part:

(1) Any person who knowingly or intentionally possesses sixty pounds or more, but less than two thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred thousand dollars.

(2) Any person who knowingly or intentionally possesses two thousand pounds or more, but less than ten thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years nor more than forty years, and to pay a fine of not less than one hundred thousand dollars nor more than four hundred thousand dollars.

(3) Any person who knowingly or intentionally possesses ten thousand pounds or more of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than twenty-five years, nor more than forty years, and to pay a fine of not less than four hundred thousand dollars nor more than one million dollars.

(Amended by Act 403 of 2001 Legislature, Acts 565, 810, and 866 of 2010 Legislature)

G. With respect to any person to whom the provisions of Subsections D and F are applicable, the adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for probation or parole prior to serving the minimum sentences provided by Subsection D or F.

(Amended by Act 403 of 2001 Legislature)

H. Notwithstanding any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections serving a life sentence for the production, manufacturing, distribution or dispensing, or possessing with intent to produce, manufacture, or distribute heroin shall be eligible for parole consideration upon serving at least fifteen years of imprisonment in actual custody.

(Added by Act 533 of 2009 Legislature)

(Amended by Act 207 of 1973 Legislature; Act 631 of 1977 Legislature; Act 800 of 1981 Legislature, effective August 2, 1981; Act 598 of 1983 Legislature; Act 910 of 1984 Legislature; Act 208 of 1985 Legislature; Act 769 of 1986 Legislature; Act 850 of 1987 Legislature; Act 99 of 1991 Legislature; Act 969 of 1993 Legislature; and Act 77 of 1994 Legislature)

§967. Prohibited acts – Schedule II; penalties

A. Manufacture; Distribution.

Except as authorized by this Part or by Part VII-B of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule II; or

(Amended by Act 1036 of 2001 Legislature)

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule II.

B. Penalties for Violation of Subsection A.

Except as provided in Subsection F, any person who violates Subsection A with respect to:

(1) A substance classified in Schedule II which is an amphetamine or methamphetamine or which is a narcotic drug, except cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 and except oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 and except methadone as provided in Schedule II(B)(11) of R.S. 40:964, shall be sentenced to a term of imprisonment at hard labor for not less than two years nor more than thirty years, and may, in addition, be sentenced to pay a fine of not more than fifty thousand dollars.

(Amended by Act 1284 of 1997 Legislature, Acts 403 and 1036 of 2001 Legislature, Act 337 of 2005 Legislature, Act 68 of 2006 Legislature)

(2) Pentazocine, shall be sentenced to imprisonment at hard labor for not less than two years nor more than ten years, at least two years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

(Amended by Act 403 of 2001 Legislature)

(3) (a) Production or manufacturing of amphetamine or methamphetamine shall be sentenced to imprisonment at hard labor for not less than ten years nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition, may be sentenced to pay a fine of not more than five hundred thousand dollars.

(Amended by Act 403 of 2001 Legislature, Act 1284 of 1997 Legislature)

(c) This Subparagraph shall be cited as the "Child Endangerment Law." When the state proves in addition to the elements of the crime as set forth in Subsection A of this Section that a minor child twelve years of age or younger is present in the home, mobile home or other inhabited dwelling at the time of the commission of the offense, the minimum mandatory sentence shall be fifteen years without benefit of parole, probation, or suspension of sentence.

(Added by Act 477 of 2008 Legislature)

(4) (a) Production or manufacturing of cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 or methadone as provided in Schedule II(B)(11) of R.S. 40:964 shall be sentenced to imprisonment at hard labor for not less than ten nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and may be fined not more than five hundred thousand dollars.

(b) Distribution, dispensing, or possession with intent to produce, manufacture, distribute, or

dispense cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 or methadone as provided in Schedule II(B)(11) of R.S. 40:964 shall be sentenced to a term of imprisonment at hard labor for not less than two years nor more than thirty years, with the first two years of said sentence being without benefit of parole, probation, or suspension of sentence, and in addition, may be sentenced to pay a fine of not more than fifty thousand dollars.

(Amended by Act 1284 of 1997 Legislature, Act 403 of 2001 Legislature, Act 337 of 2005 Legislature, Act 68 of 2006 Legislature)

(5) Any other controlled dangerous substance classified in Schedule II except pentazocine, amphetamine, methamphetamine, cocaine, oxycodone, or methadone shall be sentenced to a term of imprisonment at hard labor for not more than ten years, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

(Added by Act 1284 of 1997 Legislature; amended by Act 337 of 2005 Legislature, Act 68 of 2006 Legislature)

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978 while acting in the course of his professional practice, or except as otherwise authorized by this Part.

(1) Any person who violates this Subsection with respect to pentazocine shall be imprisoned with or without hard labor for not less than two years and for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.

(2) Any person who violates this Subsection as to any other controlled dangerous substance shall be imprisoned with or without hard labor for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.

D. *(Repealed by Act 800 of 1981 Legislature, effective August 2, 1981)*

E. *(Repealed by Act 800 of 1981 Legislature, effective August 2, 1981)*

F. Other Penalties for Possession.

(1) Except as otherwise authorized in this Part:

(a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of cocaine or of a mixture or substance containing a detectable amount of cocaine or of its analogues as provided in Schedule II (A)(4) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.

(b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of cocaine or of a mixture or substance containing a detectable amount of cocaine or of its analogues as provided in Schedule II (A)(4) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.

(c) Any person who knowingly or intentionally possesses four hundred grams or more of cocaine or of a mixture or substance containing a detectable amount of cocaine or of its analogues as provided in Schedule II (A)(4) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.

(2) Except as otherwise authorized in this Part:

(a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of amphetamine or methamphetamine or of a mixture or substance containing a detectable amount of amphetamine or methamphetamine or any of their analogues as provided in Schedule II(C) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.

(b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of amphetamine or methamphetamine or of a mixture or substance containing a detectable amount of amphetamine or methamphetamine or any of their analogues as provided in Schedule II(C) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at

hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.

(c) Any person who knowingly or intentionally possesses four hundred grams or more of amphetamine or methamphetamine or of a mixture or substance containing a detectable amount of amphetamine or methamphetamine or any of its analogues as provided in Schedule II(C) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.

(3) Except as otherwise authorized in this Part:

(a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of gamma hydroxybutyric acid or of a mixture or substance containing a detectable amount of gamma hydroxybutyric acid or of its analogues shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.

(b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of gamma hydroxybutyric acid or of a mixture or substance containing a detectable amount of gamma hydroxybutyric acid or of its analogues shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.

(c) Any person who knowingly or intentionally possesses four hundred grams or more of gamma hydroxybutyric acid or of a mixture or substance containing a detectable amount of gamma hydroxybutyric acid or of its analogues shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.

(Added by Act 1194 of 1999 Legislature; amended by Act 13 of 2000 Legislature, Act 403 of 2001 Legislature, Act 45 of 2002 Legislature, First Extraordinary Session, and Act 761 of 2003 Legislature)

G. With respect to any person to whom the provisions of Subsection F are applicable, the adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for probation or parole prior to serving the minimum sentences provided by Subsection F.

(Amended by Act 2 of 1991 Legislature; Act 100 of 1991 Legislature; Act 513 of 1991 Legislature; Act 969 of 1993 Legislature; and Act 77 of 1994 Legislature)

§968. Prohibited acts – Schedule III; penalties

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule III; or

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule III.

B. Penalties for Violation of Subsection A.

Any person who violates Subsection A with respect to any controlled dangerous substance classified in Schedule III shall be sentenced to a term of imprisonment at hard labor for not more than ten years, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule III unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978 or R.S. 40:1239, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection shall be imprisoned with or without hard labor for not more than five years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(Amended by Act 207 of 1973 Legislature, and Act 513 of 1991 Legislature)

§969. Prohibited acts – Schedule IV; penalties

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule IV; or

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule IV.

B. Penalties for Violation of Subsection A.

Any person who violates Subsection A with respect to:

(1) Flunitrazepam shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years, and pay a fine of not more than fifty thousand dollars.

(2) Any other controlled dangerous substance classified in Schedule IV, except flunitrazepam, shall be sentenced to a term of imprisonment at hard labor for not more than ten years, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

(Amended by Act 1191 of 1997 Legislature)

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule IV unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

(1) Flunitrazepam shall be imprisoned at hard labor for not more than ten years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(2) Any other controlled dangerous substance shall be imprisoned with or without hard labor for not more than five years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(Amended by Act 1191 of 1997 Legislature, Act 14 of 2005 Legislature)

D. Whoever, with the intent to commit a crime of violence as defined in R.S. 14:2(13)(j) against an individual, violates Subsection A of this Section by administering a controlled dangerous substance to a person who is unaware that the controlled dangerous substance has been or is being administered to him, shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than forty years, and in addition, may be fined not more than one hundred thousand dollars.

(Added by Act 1191 of 1997 Legislature)

(Amended by Act 207 of 1973 Legislature)

§970. Prohibited acts – Schedule V; penalties

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule V; or

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule V.

B. Penalties for Violation of Subsection A.

Any person who violates Subsection A with respect to any controlled dangerous substance classified in Schedule V shall be sentenced to a term of imprisonment at hard labor for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.

C. Possession.

It is unlawful for any person unknowingly or intentionally to possess a controlled dangerous substance classified in Schedule V unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Section shall be imprisoned with or without hard labor for not more than five years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(Amended by Act 207 of 1973 Legislature)

§971. Prohibited acts – all schedules

A. (1) It shall be unlawful for any person:

(a) Who is subject to the requirements of this Part to distribute or dispense a controlled dangerous substance in violation of this Part; or

(b) Who is a licensee to manufacture, distribute, or dispense a controlled dangerous substance to another licensee or other authorized person not authorized by his license; or

(c) To omit, remove, alter, or obliterate a symbol required by the Uniform Controlled Dangerous Substances Law; or

(d) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this Part; or

(e) To refuse entry into any premise for inspection as authorized by this Part; or

(f) To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is frequented by persons using controlled dangerous substances in violation of this Part for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this Part.

(2) Any person who violates this subsection shall be fined not more than fifteen thousand dollars. Such proceeding shall be independent, and not in lieu of, other proceedings under this part or any other law of this state. If the violation is prosecuted by a bill of information or an indictment which alleges that the violation was committed knowingly or intentionally, such person, upon conviction, shall be imprisoned for not more than six months; and, in addition, may be sentenced to pay a fine of not more than five hundred dollars.

B. (1) It shall be unlawful for any person knowingly or intentionally:

(a) To use in the course of the manufacture or distribution of a controlled dangerous substance a license number which is fictitious, revoked, suspended, or issued to another person; or

(b) To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception, or subterfuge; or

(c) To furnish false or fraudulent material, information in any application, report, or other document required to be kept by this Part; or

(d) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another of any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance; or

(e) To alter any controlled dangerous substance obtained by prescription without prior approval of the department; or

(f) To alter any prescription for a controlled dangerous substance, provided that this shall not apply to the person issuing the original prescription or the pharmacist pursuant to instructions from the physician; or

(g) To obtain or attempt to obtain a prescription or prescription blank form from a doctor, dentist, or veterinarian for a controlled dangerous substance and/or legend drug by fraud, theft, misrepresentation, deception, or subterfuge; or

(h) To possess a prescription for a controlled dangerous substance and/or legend drug without the express consent of the party for whom such prescription was written. For the purposes hereof, a legend drug is any drug or drug product bearing on the label of the manufacturer or distributor as required by the federal Food and Drug Administration the statement "Caution: Federal law prohibits dispensing without prescription."

(i) To obtain or seek to obtain any controlled dangerous substance or a prescription for a controlled dangerous substance from a health care practitioner, while being supplied with any controlled dangerous substance or a prescription for any controlled dangerous substance by another health care practitioner, without disclosing the fact of the existing prescription to the practitioner from whom the subsequent prescription for a controlled dangerous substance is sought. Failure of a practitioner to request the disclosure is not a violation of this Subsection by the practitioner. The disclosure shall include the name of the controlled dangerous substance, the date of the prescription, the amount of the controlled substance prescribed, and the number of refills if any. The disclosure shall be made in writing by the person obtaining or seeking to obtain the controlled dangerous substance and shall be made a part of the person's medical record by the health care practitioner. As used in this Section, the term "existing" shall mean the period of time within which the prescription was prescribed to be taken.

(Added by Act 287 of 2007 Legislature)

(2) Any person who violates this Subsection shall be imprisoned, with or without hard labor, for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.

C. (1) It shall be unlawful for a person, including a physician, dentist, podiatrist, or veterinarian, to prescribe, dispense, or administer legally controlled substances beyond his respective prescribing authority or for a purpose other than accepted medical treatment of a disease, condition, or illness.

(2) It shall be unlawful for a pharmacist to dispense legally controlled substances beyond his dispensing authority.

(3) Any person who violates this Subsection shall be subject to the penalties as established for the controlled dangerous substance and the particular criminal act committed in R.S. 40:966 through 967.

D. Every practitioner, as defined in R.S. 40:961(31), may, if he has a good faith belief that a crime has been

committed on the premises, notify local law enforcement authorities when it is believed that an individual has obtained a fraudulent prescription for any controlled dangerous substance or any person has attempted to obtain a fraudulent prescription for any controlled dangerous substance.

(Added by Act 600 of 2006 Legislature)

E. Every pharmacy in which a controlled dangerous substance is physically obtained by a patient or a patient's agent shall require every person purchasing, receiving, or otherwise acquiring any controlled dangerous substance to produce a photo identification card, unless the patient or the patient's agent is known to the pharmacist. The person purchasing, receiving, or otherwise acquiring the controlled dangerous substance does not have to be the specific patient to whom the prescription is issued.

(Added by Act 600 of 2006 Legislature)

(Amended by Act 207 of 1973 Legislature; Acts 613 and 700 of 1975 Legislature; Act 786 of 1978 Legislature; Act 984 of 1988 Legislature)

§971.1. Prohibited acts; false representation

A. It shall be unlawful for any person to produce, manufacture, distribute, dispense, transport, deliver, or possess with intent to distribute or dispense any substance which is represented to be a controlled dangerous substance and which is an imitation controlled dangerous substance, or any controlled dangerous substance which is a counterfeit controlled dangerous substance.

(Amended by Act 530 of 2010 Legislature, Act 100 of 2011 Legislature)

B. The provisions of this Section shall not apply to a law enforcement officer acting in the course and scope of his employment or to a medical practitioner, pharmacist, or other person authorized to dispense or administer controlled dangerous substances pursuant to Part X of Chapter 4 of Title 40 of the Revised Statutes of 1950.

C. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

(Added by Act 914 of 1981 Legislature; amended by Act 154 of 1993 Legislature; Act 34 of 1994 Legislature)

§971.2 Unlawfully prescribing, distributing, dispensing, or assisting in illegally obtaining controlled dangerous substances

A. This Section shall be known as and may be cited as the "Pain Management Clinic Drug Abuse and Overdose Prevention Act."

B. It shall be unlawful for a physician, other licensed health care practitioner as defined in R.S. 40:961(31), or any other person to knowingly or intentionally commit any of the following acts:

(1) Assist a patient or any other person in obtaining a controlled dangerous substance through misrepresentation, fraud, forgery, deception, or subterfuge.

(2) Write a prescription for a controlled dangerous substance for a fictitious person.

(3) Distribute or dispense a controlled dangerous substance to a fictitious person.

(4) Operate any type of business or establishment where the primary purpose of the business or establishment is the sale, exchange, barter, or trade of a controlled dangerous substance for anything of value through misrepresentation, fraud, forgery, deception, or subterfuge.

C. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, and in addition may be sentenced to pay a fine of not more than fifty thousand dollars.

(Amended by Act 51 of 2006 Legislature)

(Added by Act 25 of 2005 Legislature)

§972. Rules and regulations and fees

A. The Board of Pharmacy is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled dangerous substances within this state.

B. The fees collected by the Board of Pharmacy for registration and licensing shall not exceed the following schedule:

		Minimum
(1)	Manufacturer	$100.00
(2)	Ambulatory surgical centers	$ 50.00
(3)	Emergency medical centers	$ 50.00
(4)	Hospital	$ 50.00
(5)	Methadone clinic	$ 50.00

(6)	Wholesaler / distributor	$ 50.00
(7)	Practitioner	$ 20.00
(8)	Intern / resident	$ 20.00
(9)	Drug detection / canine	$ 30.00
(10)	Researcher	$ 30.00
(11)	Sales representative (or medical service representative or detail person)	$ 20.00
(12)	Other (schools, laboratories, crime laboratories, coroners, ambulance services, analytical laboratories, etc.)	$ 20.00
(13)	Duplicate / Replacement fee	$ 5.00
(14)	Delinquent fee (30 days after expiration / assessed per year)	$ 10.00

C. All said fees collected in accordance with the provisions of this Chapter shall be deposited in a separate fund and used for the administration and enforcement of this Part, and for education and research as provided by R.S. 40:992, together with any supplemental funds appropriated by the legislature or federal funds or grants received.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§973. Licensing requirements

A. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this state, shall obtain a license issued by the Board of Pharmacy in accordance with the rules and regulations promulgated by it.

B. The following persons shall not be required to obtain a license and may lawfully possess controlled dangerous substances under the provisions of this Part:

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

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

C. The Board of Pharmacy may, by regulation, waive the requirement for licensing of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

D. A separate license shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

E. The Board of Pharmacy is authorized to inspect the establishment of a licensee or applicant for licensing in accordance with the rules and regulations promulgated by it.

F. (1) Any person licensed by the Board of Pharmacy to manufacture, distribute, or dispense controlled dangerous substances shall submit to the Board of Pharmacy data on transactions involving the disbursement of Schedule II controlled dangerous substances to licensed Louisiana registrants except as provided in R.S. 40:972 and 988(B).

(2) The Board of Pharmacy is authorized to promulgate rules and regulations necessary to implement the provisions of this Subsection including but not limited to the scope of such data, the form in which it is to be submitted, and the time requirements for such submission.

G. (1) The Board of Pharmacy shall disseminate its findings concerning possible violations to the respective boards for action in correcting violations on the part of licensed Louisiana registrants.

(2) (a) Such supervisory board shall receive the findings of the Board of Pharmacy concerning possible violations and shall disseminate such findings to the respective boards for action in correcting violations on the part of licensed Louisiana registrants.

(b) All expenses for the operation of the supervisory board shall be borne by the licensing boards which make up said supervisory boards.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; Act 702 of 1984 Legislature; Act 662 of 1989 Legislature, effective July 7, 1989; and Act 834 of 2006 Legislature)

§974. Licensing

A. The Board of Pharmacy shall license an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through V of R.S. 40:964 at such fees as it shall determine to be reasonable, unless it determines that the issuance of such license is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled dangerous substances and

any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Prior conviction record of applicant under federal or state laws relating to the manufacture, distribution, or dispensing of such substances;

(4) Past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

B. Licenses granted under Subsection A of this Section shall not entitle a licensee to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the license.

C. A license application by a practitioner who wishes to conduct research with a controlled substance shall be referred to the Board of Pharmacy. Licensing by the Board of Pharmacy for the purpose of bona fide research with a controlled dangerous substance by a practitioner deemed qualified by the Board of Pharmacy may be denied only on a ground specified in R.S. 40:975(A) or on the ground that the applicant's past practice or proposed procedures furnish grounds for the belief that the applicant will abuse or unlawfully transfer such substances from legitimate medical or scientific use.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§975. Denial, revocation, suspension, or termination of license

A. A license pursuant to R.S. 40:974 to manufacture, distribute, or dispense a controlled dangerous substance may be suspended or revoked by the Board of Pharmacy upon a finding that the applicant or licensee:

(1) Has materially falsified any application filed pursuant to this Part or required by this Part; or

(2) Has been convicted of a felony under this Part or any law of the United States, or of any state, relating to any substances defined herein as a controlled dangerous substance, or any felony under any other law of the United States or of any state within five years of the date of the issuance of the license; or

(3) Has had his federal license suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances; or

(4) Has manufactured, distributed or dispensed controlled dangerous substances in violation of any provision of this Part or any other state or federal laws pertaining to the manufacture, distribution or dispensing of controlled dangerous substances; or

(5) Has repeatedly failed to submit to the Board of Pharmacy data on transactions involving the disbursement of Schedule II controlled dangerous substances to licensed Louisiana registrants as required by R.S. 40:973(F) and by rules promulgated pursuant thereto.

B. The Board of Pharmacy may limit revocation or suspension of a license to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

C. Before taking action pursuant to this Section or pursuant to a denial of license under R.S. 40:974, the Board of Pharmacy shall serve upon the applicant or licensee an order to show cause why the license should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or licensee to appear before the Board of Pharmacy at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this Section in accordance with R.S. 49:951 et seq. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this Part or any law of the state.

D. The Board of Pharmacy may, in its discretion, suspend any license simultaneously with the institution of proceedings under this Section in cases where it finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Board of Pharmacy or dissolved by a court of competent jurisdiction.

E. In the event the Board of Pharmacy suspends or revokes a license granted under R.S. 40:974, all controlled dangerous substances owned or possessed by the licensee pursuant to such license at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Board of Pharmacy, be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, 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 dangerous substances shall be forfeited to the state.

F. The Bureau of Narcotics and Dangerous Drugs shall promptly be notified of all orders suspending or revoking license and all forfeitures of controlled dangerous substances.

G. (1) A license pursuant to R.S. 40:974 to manufacture, distribute, or dispense a controlled dangerous substance shall be terminated by the Board of Pharmacy if the licensee has failed to timely renew the license and submit the applicable fee, including the fee for the prescription monitoring program authorized pursuant to R.S. 40:1013, and thirty days have elapsed since the date of expiration.

(2) Any appeal from the provisions of this Subsection shall be governed by the Administrative Procedure Act.

(3) The Board of Pharmacy shall promulgate rules, regulations, and standards to implement the provisions of this Subsection. The rules, regulations, and standards shall be promulgated in accordance with the Administrative Procedure Act.

(Amended by Act 608 of 1978 Legislature; Act 786 of 1978 Legislature, effective July 17, 1978; Act 702 of 1984 Legislature; Act 62 of 1997 Legislature; Act 676 of 2006 Legislature, effective July 1, 2006; and Act 834 of 2006 Legislature)

§976. Records of licensees

Each licensee manufacturing, distributing or dispensing controlled dangerous substances in Schedule I, II, III, IV or V shall make a complete and accurate record of all stocks of such dangerous substances on hand. Thereafter, complete and accurate records of all such dangerous substances shall be maintained until the next inventory is made for the next two-year period as required by this Section. At each two-year period after July 29, 1970, at the time of his regular physical inventory, each licensee manufacturing, distributing, or dispensing controlled dangerous substances shall prepare an inventory of each dangerous substance in his possession. Records and inventories shall contain such information as shall be provided by rules and regulations promulgated by the Board of Pharmacy. This Section shall not apply to practitioners who lawfully prescribe or administer, but do not otherwise dispense, controlled dangerous substances listed in Schedule II, III, IV or V of this Part.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§976.1. Chemical precursor, recordkeeping requirements

A. A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following precursor substances shall make an accurate and legible record of the transaction and maintain the record for a period of at least five years after the date of the transaction:

(1) Methylamine
(2) Ethylamine
(3) D-lysergic acid
(4) Ergotamine tartrate
(5) Diethyl malonate
(6) Malonic acid
(7) Ethyl malonate
(8) Barbituric acid
(9) Piperidine
(10) N-acetylanthranilic acid
(11) Pyrrolidine
(12) Phenylacetic acid
(13) Anthranilic acid
(14) Morpholine
(15) Ephedrine
(16) Pseudoephedrine or norpseudoephedrine
(17) Phenylpropanolamine
(18) Acetic anhydride
(19) Anthranilic acid, its esters and its salts
(20) Benzaldehyde
(21) Benzyl chloride
(22) Benzyl cyanide
(23) Ergonovine and its salts
(24) Hydriodic acid
(25) Isosafrole
(26) 3,4-methylenedioxyphenyl-2-propanone
(27) N-ethylephedrine, its salts, optical isomers, and salts of optical isomers
(28) N-ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers

(29) N-methylephedrine, its salts, optical isomers, and salts of optical isomers
(30) N-methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
(31) Nitroethane
(32) 1-phenyl-1-chloro-2-methylaminopropanone (chlorephedrine, chloropseudoephedrine), their salts, optical isomers, and salts of optical isomers
(33) Phenyl-2-propanone
(34) Piperonal
(35) Propionic anhydride
(36) Safrole
(37) Thionylchloride

B. (1) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance designated in Subsection A of this Section, a manufacturer, wholesaler, retailer, or other person shall obtain from the buyer or recipient not representing a business the following information:
(a) The recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than post office box number. This information shall be obtained from a driver's license or other personal identification card issued by the Department of Public Safety and Corrections that contains a photograph of the recipient;
(b) The year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;
(c) A complete description of how the substance is to be used; and
(d) The recipient's signature.
(2) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance designated in Subsection A of this Section, a manufacturer, wholesaler, retailer, or other person shall obtain from the buyer or recipient representing a business the following information:
(a) A letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the substance is to be used; and
(b) The signature of the recipient.
(3) For any recipient, the seller, manufacturer, or retailer shall sign as a witness to the signature and identification of the recipient.

C. Except as provided by Subsection E of this Section, a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state a precursor substance designated in Subsection A of this Section shall, at least twenty-one days before the delivery of the substance, submit a report of the transaction on a form obtained from the deputy secretary that includes the information required by Subsection B of this Section.

D. The deputy secretary shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a precursor substance subject to Subsection A of this Section a form for the submission of:
(1) The report required by Subsection C of this Section;
(2) The name and measured amount of the precursor substance delivered; and
(3) Any other information required by the deputy secretary.

E. The deputy secretary shall require a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection C of this Section if the deputy secretary determines either of the following:
(1) That there is a pattern of regular supply and purchase of the substance between the furnisher and the recipient; or
(2) That the recipient has established a record of utilization of the substance solely for a lawful purpose.

F. A manufacturer, wholesaler, retailer, or other person who received from a source outside this state a substance designated in Subsection A of this Section or who discovers a loss or theft of a substance designated in Subsection A of this Section shall submit a report of the transaction to the deputy secretary in accordance with rules adopted pursuant to administrative procedure, and shall include in the report any difference between the amount of the substance actually received and the amount of the substance shipped according to the shipping statement or invoice or the amount of the loss or theft.

G. A report required under Subsection F of this Section shall:
(1) Be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft.
(2) If the discrepancy, loss, or theft occurred during a shipment of the substance, include the name of the common carrier or person who transported the substance and the date that the substance was shipped.

H. The provisions of this Section shall not apply to the sale or transfer of a nonnarcotic product that includes a precursor substance listed in Subsection A, if the product may otherwise be sold lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301, et seq.) or a rule adopted thereunder.

I. Any person who violates the provisions of this Section shall be imprisoned with or without hard labor for not more than one year, and in addition may be fined not more than one thousand dollars.

(Added by Act 374 of 1989 Legislature; amended by Act 994 of 1993 Legislature)

§977. Order forms

Controlled dangerous substances in Schedules I and II shall be distributed only pursuant to an order form.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§978. Prescriptions

A. Except when dispensed or administered directly by a medical practitioner or administered by a person authorized to administer by such practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under the Louisiana Revised Statutes, of 1950, may be dispensed or administered without either the written prescription of a practitioner, or an electronic prescription order as provided by federal law or regulation, except that in emergency situations, as prescribed by the department by regulation, such drug may be dispensed or administered upon oral prescription reduced promptly to writing and filed by the pharmacist. Prescriptions shall be retained in conformity with the requirements of R.S. 40:976. No prescription for a Schedule II substance may be refilled nor may such prescription be filled more than ninety days after the date of the prescription.

(Amended by Act 155 of 2011 Legislature, Act 865 of 2014 Legislature, effective August 1, 2014)

B. Except when dispensed or administered directly by a practitioner or administered by a person authorized to administer by such practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III and IV which is a prescription drug as determined under the Louisiana Revised Statutes may be dispensed or administered without either a written prescription, an oral prescription, or an electronic prescription order as provided by federal law or regulation. Such prescription may not be filled or refilled more than six months after the date thereof or refilled more than five times after the date of the prescription, unless renewed by the practitioner.

(Amended by Act 155 of 2011 Legislature)

C. No controlled dangerous substance included in Schedule V may be distributed, administered or dispensed other than for a medical purpose by prescription of a licensed practitioner or as otherwise permitted by the provisions of this Part. However, nothing contained in this Subsection shall prohibit a practitioner from delegating the authority to administer controlled dangerous substances in Schedule V to a person authorized by such practitioner.

(Amended by Act 667 of 1975 Legislature; and Act 786 of 1978 Legislature, effective July 17, 1978)

D. Notwithstanding the requirements of this Section, a prescription for a controlled substance listed in Schedule II, III, IV, or V may be generated, signed, transmitted, and received in electronic form, but only in conformance with the federal rules established by the United States Drug Enforcement Administration at 21 CFR 1311.

(Added by Act 155 of 2011 Legislature)

E. (1) The pharmacist shall not dispense more than a ten-day supply at a dosage not to exceed the United States Food and Drug Administration's approved labeling for the medication if the prescriber for such medication is not licensed by the state of Louisiana, and the medication is an opioid derivative Schedule II or an opioid derivative Schedule III controlled dangerous substance. The dispensing pharmacist shall notify the prescriber of the supply dispensed and the cancellation of the remainder of the prescription.

(2) Within sixty days of the dispensing of a medication pursuant to Paragraph (1) of this Subsection, such a medication shall not be dispensed again for the individual by a prescriber not licensed by the state of Louisiana.

F. A prescriber shall access the Prescription Monitoring Program prior to initially prescribing any Schedule II controlled dangerous substance to a patient for the treatment of non-cancer related chronic or intractable pain.

(Paragraphs E and F added by Act 865 of 2014 Legislature, effective August 1, 2014)

§978.1. Naloxone; first responder; prescription; administration to third party; limitation of liability

A. For the purposes of this Section, the following definitions apply:
   (1) "First responder" means any of the following:
      (a) A peace officer as defined in R.S. 40:2402.
      (b) A firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana.
      (c) An EMS practitioner as defined in R.S. 40:1231.
   (2) "Law enforcement agency" means an agency of a federally recognized Indian tribe or band or a state or political subdivision of a state, whose purpose is the detection and prevention of crime and enforcement of laws or ordinances.
   (3) "Opioid-related drug overdose" means a condition including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

B. A first responder may receive a prescription for naloxone or another opioid antagonist, maintain the naloxone or other opioid antagonist in the first responder's possession, and administer the naloxone or other opioid antagonist to any individual who is undergoing or who is believed to be undergoing an opioid-related drug overdose.

C. (1) Before receiving a prescription for naloxone or another opioid antagonist pursuant to this Section, a first responder shall complete the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. The training, at a minimum, shall cover all of the following:
      (a) Techniques on how to recognize symptoms of an opioid-related overdose.
      (b) Standards and procedures for the storage and administration of naloxone or another opioid antagonist.
      (c) Emergency follow-up procedures.
   (2) A first responder shall keep a record of each instance in which the first responder administers naloxone or another opioid antagonist to an individual who is undergoing or who is believed to be undergoing an opioid-related drug overdose.

D. A law enforcement agency or fire department may enter into a written agreement to affiliate with an ambulance service provider or a physician for all of the following purposes:
   (1) Obtaining a supply of naloxone or another opioid antagonist.
   (2) Allowing law enforcement officers and firefighters to obtain the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

E. A first responder who, reasonably believing another person to be undergoing an opioid-related drug overdose, administers naloxone or another opioid antagonist to that person shall be immune from civil liability, criminal prosecution, or disciplinary or other adverse action under any professional licensing statute for any outcomes resulting from the administration of the naloxone or another opioid antagonist to that person, unless personal injury results from the gross negligence or willful or wanton misconduct of the first responder administering the drug.

F. The deputy secretary of public safety services of the Department of Public Safety and Corrections shall develop and promulgate, in accordance with the Administrative Procedure Act, a set of best practices for use by a fire department or law enforcement agency in the administration and enforcement of this Section including but not limited to the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose, the standards and procedures for the storage and administration of naloxone or another opioid antagonist, and emergency follow-up procedures.

(Added by Act 253 of 2014 Legislature, effective August 1, 2014)

§979. Attempt and conspiracy

A. Except as otherwise provided herein, any person who attempts or conspires to commit any offense denounced and or made unlawful by the provisions of this Part shall, upon conviction, be fined or imprisoned in the same manner as for the offense planned or attempted, but such fine or imprisonment shall not exceed one-half of the longest term of imprisonment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.
(Amended by Act 403 of 2001 Legislature)

B. Any person who attempts or conspires to distribute or possess with intent to distribute any substance classified in Schedule I, as provided for in R.S. 40:963 and R.S. 40:964, which is a narcotic drug (all substances in Schedule I preceded by an asterisk "*") shall, upon conviction, be imprisoned at hard labor for not less than eight nor more than fifty years without benefit of parole, probation or suspension of sentence and may, in addition, be required to pay a fine of not more than ten thousand dollars.

(Amended by Act 632 of 1977 Legislature)

§980. Additional penalties

Any penalty imposed for violation of this Part shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

§981. Distribution to persons under age eighteen

A. Persons over twenty-five to persons under eighteen. Any person who is at least twenty-five years of age, or more, who violates R.S. 40:966 or R.S. 40:967 by distributing a substance, listed in Schedules I or II, which is a narcotic drug, to a person under eighteen years of age, shall, upon conviction, be punished by imprisonment at hard labor for not less than ten nor more than thirty years.

B. Any person who is at least eighteen years of age who violates R.S. 40:966 or R.S. 40:967 by distributing a substance listed in Schedules I or II which is a narcotic drug to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment of not less than five years nor more than thirty years.

C. Any person who is at least eighteen years of age who violates R.S. 40:966 through R.S. 40:970 by distributing any other controlled dangerous substance listed in Schedules I, II, III, IV and V to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment up to one and one-half times the longest term of imprisonment authorized by R.S. 40:966 through R.S. 40:970 or by payment of not more than twice the fine authorized by R.S. 40:966 through R.S. 40:970, or both.

(Amended Act 207 of 1973 Legislature, Act 403 of 2001 Legislature)

§981.1. Distribution to a student

Any person who violates any provision of R.S. 40:966 through R.S. 40:970 by distributing any controlled dangerous substance listed in Schedules I, II, III, IV, and V to any student enrolled in any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution in Louisiana shall, upon conviction, be punished by a term of imprisonment of not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through R.S. 40:970 or by payment of not more than twice the fine authorized by the applicable provisions of R.S. 40:966 through R.S. 40:970, or both.

(Added by Act 1051 of 1986 Legislature, amended by Act 403 of 2001 Legislature)

§981.2. Soliciting minors to produce, manufacture, distribute, or dispense controlled dangerous substances

A. No person eighteen years of age or older shall solicit, procure, or counsel any person under eighteen years of age to produce, manufacture, distribute, or dispense or possess with the intent to produce, manufacture, distribute, or dispense in violation of any provision of R.S. 40:966 through R.S. 40:970, any controlled dangerous substance listed in Schedules I, II, III, IV, or V, or to distribute or attempt to distribute, in violation of R.S. 40:989, a chemical substance commonly known as "rush".
(Amended by Act 616 of 2012 Legislature)

B. Except as provided in Subsection C of this Section, any person who violates the provisions of this Section shall upon conviction be punished by a term of imprisonment of not more than one and one-half times the longest term of imprisonment authorized by the applicable provision of R.S. 40:966 through R.S. 40:970, or by a fine of not more than twice that authorized by such applicable provision, or both.
(Amended by Act 403 of 2001 Legislature)

C. Any person eighteen years of age or older who violates the provisions of this Section by soliciting, procuring, or counseling a person under eighteen years of age to distribute or to attempt to distribute cocaine, oxycodone, heroin, methamphetamine, or methadone in violation of R.S. 40:967(A) or (B) shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence.
(Amended by Act 403 of 2001 Legislature, Act 337 of 2005 Legislature, Act 68 of 2006 Legislature, Act 616 of 2012 Legislature)

(Added by Act 885 of 1988 Legislature; amended by Act 372 of 1989 Legislature; Act 837 of 1991 Legislature)

§981.3. Violation of Uniform Controlled Dangerous Substances Law; drug free zone

A. (1) Any person who violates a provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law while on any property used for school purposes by any school, within two thousand feet of any such property, or while on a school bus, shall, upon conviction, be punished in accordance with Subsection E of this Section.
(Amended by Act 168 of 2006 Legislature, Act 506 of 2010 Legislature)

(2) Any person who violates a provision of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) while on property used as a drug treatment facility or within two thousand feet of any such property, when included within an area marked as a drug free zone pursuant to R.S. 40:1058.10 shall, upon conviction, be punished in accordance with Subsection E of this Section.
(Amended by Act 168 of 2006 Legislature, Act 506 of 2010 Legislature)

(3) (a) Any person who violates a provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law while on any religious building property, public housing authority property, child day care center property, or within two thousand feet of any such property, if the area is posted as a drug free zone, shall, upon conviction, be punished in accordance with Subsection E of this Section.
(Amended by Act 253 of 1999 Legislature, Acts 142 and 168 of 2006 Legislature, Act 506 of 2010 Legislature)

(b) In order for the provisions of this Section to apply to religious buildings, public housing authority property, or child day care property, the building must be posted as a drug free zone as provided herein. The design and posting of the signs shall be at the discretion of the entity that owns or has authority over the religious building, public housing authority property, or child day care center property. In order to post the area as a drug free zone, the signs shall be located in a visible manner on or near each religious building, public housing authority property, or child day care center property indicating that such area is a drug free zone, that such zone extends for a distance of two thousand feet, and that a violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law.
(Amended by Act 253 of 1999 Legislature, Acts 142 and 168 of 2006 Legislature, Act 506 of 2010 Legislature)

(Added by Act 355 of 1997 Legislature)

B. Lack of knowledge that the prohibited act occurred on or within two thousand feet of school or drug treatment facility property shall not be a defense.
(Amended by Act 506 of 2010 Legislature)

C. For purposes of this Section:

(1) *School* means any public or private elementary, secondary, vocational-technical school, or any public or private college or university in Louisiana.

(2) *School property* means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility and all parks and recreational areas administered by the office of state parks.

(3) *Drug treatment facility* means all property used for diagnostic, treatment, and rehabilitative services to patients and their families with problems related to alcohol, drug, or substance abuse.

(4) *Religious building property* means property on which is located any church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose.
(Added by Act 355 of 1997 Legislature)

(5) *Public housing authority property* means all property owned or operated by a public housing authority or agency created by state law or by any ordinance enacted by a local governing authority.
(Added by Act 253 of 1999 Legislature)

(6) *Child day care center property* means property on which is located a facility licensed as a day care center under the provisions of the Child Care Facility and Child-Placing Agency Licensing Act (R.S. 46:1401 et seq.) or licensed as a group child day care home under the provisions of the Child Care Registration Law (R.S. 46:1441 et seq.).
(Added by Act 142 of 2006 Legislature)

D. *[Previous content amended by Act 355 of 1997 Legislature, Act 253 of 1999 Legislature, Act 142 of 2006 Legislature, Act 506 of 2010 Legislature, then repealed by Act 265 of 2014 Legislature.]*

(1) Whoever violates a provision of this Section shall be punished by the imposition of the maximum

fine and be imprisoned for not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through 970.
(Amended by Act 403 of 2001 Legislature)

(2) A sentence imposed for a violation of the provisions of this Section shall not be subject to parole, probation, or suspension of sentence to the extent that the minimum sentence for a violation of a felony provision of R.S. 40:966 through 970 is not subject to parole, probation, or suspension of sentence.
(Added by Act 820 of 2004 Legislature)

E. *(Repealed by Act 289 of 2014 Legislature)*

(Added by Act 171 of 1989 Legislature; amended by Act 293 of 1990 Legislature, effective July 5, 1990; Act 1027 of 1990 Legislature, effective July 26, 1990; Act 46 of 1994 Legislature)

§981.4. Drug-traffic loitering

(Added by Act 1067 of 1995 Legislature; repealed by Act 512 of 2014 Legislature, effective August 1, 2014)

§982. Second or subsequent offenses

A. Any person convicted of any offense under this part, if the offense is a second or subsequent offense, shall be sentenced to a term of imprisonment that is twice that otherwise authorized or to payment of a fine that is twice that otherwise authorized, or both. If the conviction is for an offense punishable under R.S. 40:966(B), R.S. 40:967(B), R.S. 40:968(B) or R.S. 40:969(B), and if it is the offender's second or subsequent offense, the court may impose in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

B. For purposes of this Section, an offense shall be considered a second or subsequent offense, if, prior to the commission of such offense, the offender had at any time been convicted of any violation of this state, the United States, any other state of or any foreign country, relating to the unlawful use, possession, production, manufacturing, distribution, or dispensation of any narcotic drug, marijuana, depressant, stimulant, or hallucinogenic drugs.

(Amended by Act 207 of 1973 Legislature)

§983. Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance; definition; penalties.

A. Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance is any of the following:

(1) The purchase, sale, distribution, or possession of any material, compound, mixture, preparation, supplies, equipment, or structure with the intent that it be used for the unlawful manufacture of a controlled dangerous substance.

(2) The transportation or arranging for the transportation of any material, compound, mixture, preparation, supplies, or equipment with the intent that such material, compound, mixture, preparation, supplies, or equipment be used for the unlawful manufacture of a controlled dangerous substance.

(3) The distribution of any material, compound, mixture, preparation, equipment, supplies, or products, which material, compound, mixture, preparation, equipment, supplies, or products have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.

(4) The disposal of any material, compound, mixture, preparation, equipment, supplies, products, or byproducts, which material, compound, mixture, preparation, equipment, supplies, products, or byproducts have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.

B. It shall be unlawful for any person to knowingly or intentionally create or operate a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance.

C. Whoever commits the crime of creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance shall be sentenced to imprisonment at hard labor for not less than five years nor more than fifteen years; and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars.

D. In addition to the penalty provided in Subsection C of this Section, a person convicted under the provisions of this Section may be ordered to make restitution for the actual governmental cost incurred in the cleanup of any hazardous waste resulting from the operation of a laboratory for the unlawful manufacture of a controlled dangerous substance. The court may order that such amount be paid directly to the governmental agency or agencies that actually incurred the cleanup expense.

(Added by Act 1051 of 2003 Legislature)

§983.1 Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance on or within one thousand feet of school property.

A. Any person who creates or operates a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance in violation of the provisions of R.S. 40:983 while on any property used for school purposes by any school or within one thousand feet of any such property shall, upon conviction, be punished in accordance with Subsection D of this Section.

B. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

C. For purposes of this Section:

(1) *School* means any public or private elementary, secondary, vocational-technical school, or any public or private college or university in Louisiana.

(2) *School property* means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility and all parks and recreational areas administered by the office of state parks.

D. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than five nor more than fifteen years; and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars. At least three years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

E. The sentence imposed pursuant to the provisions of this Section shall be served consecutively with the sentence imposed pursuant to the provisions of R.S. 40:983.

(Added by Act 875 of 2004 Legislature)

§984. Powers of enforcement personnel

Board of Pharmacy's authorized employees may:

(1) Carry firearms;

(2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;

(3) Make arrests without warrant for any offense under this Part on the same basis as provided in Code of Criminal Procedure Article 213; and

(4) Make seizures of property pursuant to the authority granted under the provisions of this Part.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§985. Search warrants

A search warrant relating to offenses involving controlled dangerous substances may be authorized to be served at any time of the day or night if the judge or magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant.

§986. Administrative inspections and warrants

A. Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of a state court of record, or any state magistrate of any court of record may, within his jurisdiction, and upon proper oath or affirmation after being satisfied there is probable cause to believe that legal grounds exist for the issuance of such warrant, issue warrants for the purpose of conducting administrative inspections authorized by this part or regulations thereunder, and may authorize seizure of property related to such inspections.

(2) A warrant shall issue only upon an affidavit of any law enforcement officer or employee designated in R.S. 40:984 having knowledge of the facts alleged, sworn to before a judge or magistrate of any court of record and establishing the grounds for issuing the warrant. If the judge or magistrate of any court of record 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 also identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by R.S. 40:984 to execute it. The warrant shall state the grounds for its 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 purposes specified, and, where appropriate, shall also 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 of any court of record to whom it shall be returned.

(3) A search 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. 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. The judge or magistrate of any court of record, 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.

(4) The judge or magistrate of any court of record 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 file them with the clerk of the state court for the judicial district in which the inspection was made.

B. The Board of Pharmacy is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this Section only, "controlled premises" means:

(a) Places where persons licensed or exempted from licensing requirements under this Part are required to keep records; and

(b) Places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements under this part are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to Subsection A of this Section a law enforcement officer or an employee as designated in R.S. 40:984 hereof, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting such an administrative inspection.

(3) When so authorized by an administrative inspection warrant, a law enforcement officer or an employee as designated in R.S. 40:984 hereof shall have the right:

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

(b) To inspect, within reasonable limits and in a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and except as provided in Paragraph (B)(5) of this Section, all other things therein including records, files, papers, processes, controls, and facilities subject to regulation and control by the provisions of this Part or by regulations promulgated by the Board of Pharmacy; and

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

(4) This Section shall not be construed to prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with R.S. 40:986 nor shall this Section be construed to prevent entries and administrative inspections including seizures of property without a warrant:

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

(b) In situations involving inspection of conveyances where there is probable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.

(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; or

(c) Pricing data.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§987. Injunctions

Any district court of this state shall have jurisdiction in proceedings in accordance with the rules of such courts to enjoin violations of this Part and in accordance with the Code of Civil Procedure and other laws of this state.

§988. Cooperative arrangements; inspections

A. The Board of Pharmacy may cooperate with federal and other state agencies in discharging its responsibilities concerning dangerous substances. To this end, it is authorized to:

(1) Arrange for the exchange of information between governmental officials concerning the use and

abuse of dangerous substances.

(2) Coordinate and cooperate in training programs on dangerous substance law enforcement at the local and state levels.

(3) Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit which will receive, catalogue, file, and collect statistics, including records of drug dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes.

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

B. (1) Anything contained in any other provision of Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 to the contrary notwithstanding, the inspections authorized or required by said law, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy only are concerned, shall be conducted by the Louisiana Board of Pharmacy, through its duly authorized officers, members, inspectors, agents and representatives, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy are concerned; and compliance with requirements involving security measures, inventories, records and reports required by said law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the Louisiana Board of Pharmacy, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy only are concerned.

(2) Anything contained in any other provision of Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 to the contrary notwithstanding, the inspections authorized or required by said law, insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners only are concerned, shall be conducted by the Louisiana State Board of Medical Examiners, through its duly authorized officers, members, inspectors, agents, and representatives, insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners are concerned. Compliance with requirements involving security measures, inventories, records, and reports required by said law or the regulations promulgated in connection therewith, or both, shall be administratively determined by the Louisiana State Board of Medical Examiners insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners only are concerned.

C. Anything contained in any other provision of Part X of Chapter 4 of this Title to the contrary notwithstanding, the inspections authorized or required by said law, insofar as persons licensed by the Department of Health and Hospitals including dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state, shall be conducted and furnished exclusively by the Department of Health and Hospitals, through its duly authorized officers, members, inspectors, agents and representatives, insofar as dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state registered and licensed under the Department of Health and Hospitals are concerned; and compliance with requirements involving security measures, inventories, records and reports required by said law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the Department of Health and Hospitals.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§989. Dangerous chemical substances; butyl nitrite, nitrous oxide, and amyl nitrite; use and transference; penalties

A. (1) It shall be unlawful for any person to inhale, ingest, use, or possess any compound, liquid, or chemical which contains butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl nitrite, or tertiary butyl nitrite.

(2) It shall be unlawful for any person to inhale, ingest, use, or possess any compound, liquid, or chemical which contains nitrous oxide, commonly known as "laughing gas" and any amyl nitrite, commonly known as "poppers" or "snappers".

(3) The provisions hereof do not apply to the possession and use of these substances prescribed as part of the care or treatment of a disease, condition, or injury by a licensed medical or dental practitioner or to the use as part of a manufacturing process or industrial operation.

(4) The provisions of this Section do not apply to the possession, use, or sale of nitrous oxide as a propellant in food preparation for restaurant, food service, or houseware products.

B. It shall be unlawful for any person to possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section for the purpose of inducing or aiding any other person to inhale or ingest such substance or otherwise violate the provisions of Subsection A.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

D. Any person who violates any of the provisions of this Section may, in the discretion of the trial judge, be required to participate in an approved drug rehabilitation program, as a condition of probation.

(Added by Act 777 of 1988 Legislature, effective July 18, 1988; amended by Act 933 of 1992 Legislature, effective July 9, 1992, and Act 500 of 1993 Legislature)

§989.1 Unlawful production, manufacture, distribution, or possession of hallucinogenic plants

A. (1) It shall be unlawful for any person knowingly or intentionally to produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not less than two years nor more than ten years and may, in addition, be sentenced to pay a fine of not more than twenty thousand dollars.

B. (1) It shall be unlawful for any person knowingly or intentionally to possess a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) Any person who violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not more than five years and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.

C. For the purposes of this Section:

(1) *Distribute* means to sell, lease, rent, barter, trade, furnish, supply, or otherwise transfer in exchange for anything of value a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) *Hallucinogenic plant* means any part or portion of any of the following:

(a) Brugmansia arborea.
(b) Amanita muscaria.
(c) Conocybe spp.
(d) Panaeolus spp.
(e) Psilocybe spp.
(f) Stropharia spp.
(g) Vinca rosea.
(h) Ipomoea violacea.
(i) Datura spp.
(j) Pancreatium trianthum.
(k) Kaempferia galangal.
(l) Olmedioperebea sclerophylla.
(m) Mesembryanthemum spp.
(n) Virola spp.
(o) Anadenanthera peregrina.
(p) Anadenanthera colubrine.
(q) Erythina spp.
(r) Genista canariensis.
(s) Mimosa hostilis.
(t) Rhynchosia spp.
(u) Sophora secundiflora.
(v) Peganum harmala.
(w) Banisteriopsis spp.
(x) Tetrapteris methystica.
(y) Heimia salicfolia.
(z) Tabernanthe iboga.
(aa) Prestonia amazonica.
(bb) Lagoehilus inebrians.
(cc) Rivea corymbosa.
(dd) Salvia divinorum.
(ee) Atropa belladonna.
(ff) Hyoscyamus niger.

(gg) Mandragora officinarum.
(hh) Brunfelsia spp.
(ii) Methysticodendron anesianum.
(jj) Latua pubiflora.
(kk) Calea Zacatechichi.
(ll) Physalis subglabrata.
(mm) Solanum carolinense.

(3) *Homeopathic drug* means any drug labeled as being homeopathic which is listed in the Homeopathic Pharmacopeia of the United States, an addendum to it, or its supplements. The potencies of homeopathic drugs are specified in terms of dilution. Homeopathic drug products must contain diluents commonly used in homeopathic pharmaceutics. Drug products containing homeopathic ingredients in combination with non-homeopathic active ingredients are not homeopathic drug products.

(4) *Manufacture* means the production, preparation, propagation, compounding, or processing of a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container holding a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(5) *Production* includes the manufacture, planting, cultivation, growing, or harvesting of a hallucinogenic plant.

D. The provisions of this Section shall not apply to the possession, planting, cultivation, growing, or harvesting of a hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.

E. The provisions of this Section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the Federal Food and Drug Administration as a homeopathic drug.

(Added by Act 159 of 2005 Legislature)

§989.2 Unlawful production, manufacturing, distribution, or possession of prohibited plant products

A. (1) It shall be unlawful for any person knowingly or intentionally to produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation which contains a prohibited plant and which meets any of the following criteria:

(a) It is intended to be placed in the oral or nasal cavity.

(b) It is prepared in such a manner as to be suitable for smoking in a pipe or cigarette, or other device.

(c) It is to be burned and inhaled or exhaled in any manner or in any form.

(2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not more than five years and may, in addition, be sentenced to pay a fine of not more than ten thousand dollars.

B. (1) It shall be unlawful for any person knowingly or intentionally to possess material, compound, mixture, or preparation which contains a prohibited plant and which is intended to be placed in the oral or nasal cavity, is prepared in such a manner as to be suitable for smoking in a pipe or cigarette, or is to be burned and inhaled or exhaled in any manner or in any form.

(2) Any person who violates the provisions of this Subsection shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. For the purposes of this Section:

(1) "Distribute" means to sell, barter, trade, furnish, supply, or otherwise transfer in exchange for anything of value a material, compound, mixture, or preparation which contains a prohibited plant.

(2) "Homeopathic drug" means any drug labeled as being homeopathic which is listed in the Homeopathic Pharmacopoeia of the United States, an addendum to it, or its supplements. The potencies of homeopathic drugs are specified in terms of dilution. Homeopathic drug products must contain diluents commonly used in homeopathic pharmaceutics. Drug products containing homeopathic ingredients in combination with non-homeopathic active ingredients are not homeopathic drug products.

(3) "Manufacture" means the production, preparation, propagation, compounding, or processing of a material, compound, mixture, or preparation which contains a prohibited plant either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical

synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container holding a material, compound, mixture, or preparation which contains a prohibited plant.

(4) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a prohibited plant.

(5) "Prohibited plant" means any combination of any of the parts, leaves, stems, stalks, seeds, materials, compounds, salts, derivatives, mixtures, preparations, or any resin extracted from any part of the following plants:

(a) Artemisia vulgaris (Mugwort).
(b) Canavalia rosea (Bay bean).
(c) Leonotis leonurus (Lion's tail).
(d) Leonotis nepetifolia (Lion's ear).
(e) Leonurus sibiricus (Honeyweed).
(f) Nelumbo nucifera (Sacred Lotus).
(g) Nymphaea caerulea (Blue Lotus, Egyptian Lotus).
(h) Pedicularis densiflora (Indian warrior).
(i) Salvia divinorum.
(j) Scutellaria nana (Dwarf skullcap).
(k) Turnera diffusa (Damiana).
(l) Zornia latifolia.

D. The provisions of this Section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the United States Food and Drug Administration as a homeopathic drug.

E. The provisions of this Section shall not apply to the possession, planting, cultivation, growing, or harvesting of a prohibited plant strictly for aesthetic landscaping, or decorative purposes.

(Added by Act 565 of 2010 Legislature)

§989.3 Unlawful distribution of products containing Mitragyna speciosa to minors; penalties

A. It shall be unlawful for any person to distribute any product containing Mitragyna speciosa to a minor.

B. Whoever violates the provisions of this Subsection shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(Added by Act 355 of 2012 Legislature, effective May 31, 2012)

§990. Burden of proof; liabilities

A. It shall not be necessary for the state to negate any exemption or exception set forth in this Part in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this part, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

B. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this part, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

C. No liability shall be imposed by virtue of this Part upon any duly authorized law enforcement officer, the Board of Pharmacy or its employees as provided in R.S. 40:984 engaged in the enforcement of any law, regulation, or municipal ordinance relating to controlled dangerous substances.
(Amended by Act 834 of 2006 Legislature)

§991. *(Repealed by Act 616 of 1981 Legislature)*

§991. Prescription for controlled dangerous substances; proof of valid prescription; time period for raising defense; notice to prosecution

A. An individual who claims possession of a valid prescription for any controlled dangerous substance as a defense to a violation of the provisions of the Uniform Controlled Dangerous Substances Law shall have the obligation to produce sufficient proof of a valid prescription to the appropriate prosecuting office. Production of the original prescription bottle with the defendant's name, the pharmacist's name, and prescription number shall be sufficient proof of a valid prescription as provided for in this Section.

B. As used in this Section, "controlled dangerous substance" shall have the meaning as provided in R.S. 40:961(7) and "prescription" shall have the same meaning as provided in R.S. 40:961(33).

C. Any individual who claims the defense of a valid prescription for any controlled dangerous substance shall raise the defense before commencement of the trial through a motion to quash.

(Added by Act 265 of 2009 Legislature)

§992. Education and research

A. The Board of Pharmacy is authorized to carry out educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances. In connection with such programs it is authorized to:

(1) Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations.

(2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances.

(3) Consult with interested groups and organizations to aid them in solving administrative and organizational problems.

(4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances.

(5) Disseminate to the industry and the general public the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them.

(6) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances.

B. The Board of Pharmacy is authorized to encourage research on misuse and abuse of controlled dangerous substances. In connection with such research and in furtherance of the enforcement of this Part, it is authorized to:

(1) Establish methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse.

(2) Make studies and undertake programs of research to:

(a) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this Part.

(b) Determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof.

(c) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled dangerous substances.

(3) Enter into contracts with public agencies or institutions of higher education, for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled dangerous substances.

C. The Board of Pharmacy may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization shall not be compelled, in any civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which authorization was obtained.

D. The Board of Pharmacy may authorize the possession and distribution of controlled dangerous substances by persons engaged in research in accordance with rules promulgated by the department. Persons who obtained this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Board of Pharmacy.

E. The Board of Pharmacy, with the concurrence and under the supervision and control of the chief law enforcement officer of the jurisdiction wherein the program is conducted, may authorize the possession and exhibition for educational purposes only of controlled dangerous substances by persons employed by local and state law enforcement agencies engaged in educational programs in accordance with rules promulgated by the Board of Pharmacy. Persons acting pursuant to this authorization shall be exempt from state and local prosecution for the possession and distribution of dangerous substances to the extent authorized by the Board of Pharmacy. The Board of Pharmacy shall coordinate and evaluate the training programs of the various law enforcement agencies to ensure compliance with the rules promulgated regulating the possession and exhibition of controlled dangerous substances for educational purposes.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; Act 218 of 1984 Legislature; Act 834 of 2006 Legislature)

§993. Pending proceedings

A. Prosecutions for any violation of law occurring prior to July 26, 1972 shall not be affected by this Part or abated by reason thereof.

B. Civil seizures, forfeitures, and injunctive proceedings commenced prior to July 26, 1972 shall not be affected by this Part or abated by reason thereof.

C. All administrative proceedings pending before the department on July 26, 1972 shall be continued and brought to final determination in accordance with laws and regulations in effect prior to July 26, 1972. Such drugs placed under control prior to enactment of this Part, which are not listed within Schedules I through V, shall automatically be controlled and listed in the appropriate schedule.

D. The provisions of this Part shall be applicable to violations of law, seizures, and forfeiture, injunctive proceedings, administrative proceedings, and investigations which occur following July 26, 1972.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978)

§994. Continuation of regulations

Any orders, rules, and regulations which have been promulgated under any law affected by this Part, and which are in effect on the day preceding enactment of this Section, shall continue in effect until modified, superseded or repealed.

(Amended by Act 649 of 1997 Legislature; Act 834 of 2006 Legislature)

§995. Short title

This Part may be cited as the Uniform Controlled Dangerous Substances Law.

§996.1 Legislative findings

A. For more than sixty years, the Louisiana Legislature enacted laws to protect the public from the detrimental effects of misusing substances which are susceptible to abuse or which lead to addiction.

B. Act No. 634 of the 1972 Regular Session incorporated protections regarding controlled dangerous substances into the Louisiana Uniform Controlled Dangerous Substances Law.

C. In 2009 and 2010, Louisiana began experiencing increased incidents of individuals consuming synthetic cannabinoids as alternatives to marijuana, as well as increased incidents of individuals consuming substances which mimic the effects of amphetamines and cocaine and which are marketed as bath salts, fertilizer, and insect repellant.

D. These substances, which have been sold throughout Louisiana in retail establishments, have produced symptoms such as high blood pressure, severe hallucinations, anxiety, vomiting, seizures, delusions, and suicidal thoughts.

E. The chemical compositions of these substances make them relatively easy to alter by chemists resulting in the rapid production of new substances which circumvent statutes outlawing the production, manufacture, possession, and distribution of controlled dangerous substances having similar abuse potential and pharmacological effects.

F. These substances have not been approved by the United States Food and Drug Administration as being safe for human consumption, are not subject to any quality control measures in their preparation, and do not have established dosages, making them extremely dangerous and potentially lethal.

G. These substances have a high potential for abuse and no acceptable medical use in treatment in the United States. There is a lack of accepted safety for use of the substances under medical supervision making these substances highly addictive and potentially lethal.

H. Article II, Section 1 of the Louisiana Constitution provides that the powers of government are divided into a legislative, executive, and judicial branch. Article II, Section 2 of the Louisiana Constitution provides that not one of these branches shall exercise power belonging to either of the other branches.

I. The Louisiana Legislature recognizes that the Louisiana Supreme Court, in *State v. All Pro Paint & Body Shop, Inc., 639 So. 2d 707 (La. 1994)*, outlined a three-prong test to evaluate the constitutionality of a statutory delegation of legislative authority. The test provided that a statute delegating authority to an administrative agency is constitutionally valid if the enabling statute contains a clear expression of legislative policy, prescribes sufficient standards to guide the agency in the execution of that policy, and has adequate procedural safeguards to protect against abuse of discretion by that agency.

J. The Louisiana Legislature has a compelling interest in protecting the health, safety, and welfare of its citizens against the detrimental and deadly effects of these substances.

K. The options for the legislature to address the imminent hazard to the health, safety, and welfare for the people of the state of Louisiana are limited by the provisions of Article III, Section 2 of the Louisiana Constitution, which mandates an annual legislative session and provides mechanisms for the convening of an extraordinary or emergency session.

L. The Louisiana Legislature seeks to provide for a limited delegation of legislative authority within the parameters which have been defined by the Louisiana Supreme Court for the express purpose of protecting the health, safety, and welfare of the citizens of the state from imminent harm.

M. Louisiana law authorizes the secretary of the Department of Health and Hospitals to add a substance to the schedules of controlled dangerous substances based upon certain criteria. The provisions of R.S. 40:996.1 through 996.6 are intended to provide additional options for the secretary of the Department of Health and Hospitals to address imminent hazards to the public health, safety, and welfare caused by dangerous substances.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.2 Definitions

For the purposes of R.S. 40:996.1 through 996.7, the following terms shall have the following meanings:

(1) "Dangerous substance" means a substance which is not otherwise listed as a controlled dangerous substance and has been determined to be an imminent hazard to the public health, safety, and welfare by the secretary using the criteria and standards prescribed in R.S. 40:996.3.

(2) "Dangerous substance stop order" is a rule adopted by the Louisiana Department of Health and Hospitals pursuant to the provisions of R.S. 40:996.3 and 996.4, declaring that a substance is a dangerous substance which shall not be sold, distributed, manufactured, or dispensed.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.3 Declaration of a dangerous substance by the Louisiana Department of Health and Hospitals

A. The secretary may by rule declare that a substance is a dangerous substance. In making a finding that a substance is a dangerous substance, the secretary shall consider the following factors with respect to each substance:

(1) Its actual or relative potential for abuse.
(2) Scientific evidence of its pharmacological effect, if known.
(3) State of current scientific knowledge regarding the substance.
(4) Its history and current pattern of abuse.
(5) Its scope, duration, and level of abuse.
(6) The level of risk to public health.
(7) The likelihood of psychic or physiological dependence.
(8) Whether the substance is an immediate precursor of a substance already controlled by the Uniform Controlled Substances Law.
(9) Whether the substance is an analogue of a substance already controlled by the Uniform Controlled Dangerous Substances Law.
(10) Whether there have been any reported fatalities associated with the substance.
(11) Whether there have been any cases involving the substance reported to the state poison center.
(12) Any other factors or considerations deemed relevant by the secretary.

B. Prior to the adoption of a rule declaring that a substance is a dangerous substance, the secretary shall make all of the following findings and determinations:

(1) The substance has a high potential for abuse.
(2) The substance has no current medical use in treatment in the United States.
(3) There is a lack of accepted safety for use of the substance under medical supervision.
(4) There is an imminent hazard to the health, safety, and welfare of the citizens of Louisiana requiring the substance to be declared a dangerous substance and the issuance of a dangerous substance stop order as authorized by the provisions of this Section.

C. If the secretary has considered the factors provided for in Subsection A of this Section and has made the determinations required by the provisions of Subsection B of this Section, a rule pursuant to the provisions of R.S. 40:996.5 may be adopted declaring the substance a dangerous substance.

D. If the secretary determines that a substance shall be classified as a dangerous substance the rule shall also include a dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.4 Dangerous substance stop order; effects; seizure of dangerous substances; duration of order; validity

A. A dangerous substance stop order issued by the secretary pursuant to the provisions of R.S. 40:996.3 shall remain in effect upon adoption of the rule and shall extend through the sixtieth day after final adjournment of the succeeding legislative session. Upon the sixtieth day after final adjournment of the succeeding regular legislative session, the dangerous substance stop order shall be null, void, and of no effect.
B. Upon the adoption of the rule declaring a substance a dangerous substance and the issuance of the dangerous substance stop order, any law enforcement officer may seize any products containing the dangerous substance that are in plain view.
C. Whenever a law enforcement officer, or an agent of the Department of Health and Hospitals, has probable cause to believe that any dangerous substance is located within the territorial jurisdiction of such officer, the officer may make application pursuant to Louisiana Code of Criminal Procedure Article 162 to a court of competent jurisdiction for a search warrant. The warrant shall be executed pursuant to the provisions of Louisiana Code of Criminal Procedure Articles 163, 164, and 165. In lieu of a return on the warrant, the executing officer shall attach to the search warrant a copy of the receipt required to be provided to the person from whom any such property is seized pursuant to this Section.
D. Any product containing any quantity of the dangerous substance shall be deemed contraband drugs, which are subject to forfeiture pursuant to the provisions of Article I, Section (4)(D) of the Louisiana Constitution.
E. The law enforcement officer seizing any dangerous substance pursuant to Subsections B or C of this Section shall appraise the value of the property seized according to his best judgment at its usual and ordinary retail price and shall deliver to the person found in possession thereof, if any, a receipt showing the fact of seizure, the date of the seizure, the name of the person from whom the property is seized, the location of the seizure, the description of the property seized, and the appraised value of such property.
F. Property seized under this Section shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement agency making the seizure, subject only to the order of the court. The seized property shall be immediately returned to the owner upon the expiration of the dangerous substance stop order unless the legislature has enacted a provision to designate the dangerous substance as a controlled dangerous substance. In the event the legislature provides for the dangerous substance to be designated as a controlled dangerous substance, the property seized shall be considered contraband and destroyed immediately by the seizing law enforcement agency unless the seizing law enforcement agency determines that the property will be needed as evidence in a civil or criminal proceeding. If the property is needed as evidence, the law enforcement agency shall place the seized property in a secure facility designated by the holding of evidence, pending further orders of the court.
G. The validity of a rule declaring a substance to be a dangerous substance and issuing a dangerous substance stop order may be determined in an action for declaratory judgment in the Nineteenth Judicial District Court. The Department of Health and Hospitals shall be made a party to the action. An action for a declaratory judgment under this Subsection may be brought only by a person to whom such rule is applicable or who would be adversely affected by such rule and only on the grounds that the rule does not meet the criteria for adoption of a dangerous substance stop order as provided for in R.S. 40:996.3. The court shall declare the rule invalid if it finds that there is not sufficient evidence for the adoption of the dangerous substance stop order. Notwithstanding any other provision of law to the contrary, the dangerous substance stop order shall remain in effect until such declaratory judgment is rendered or until it expires as provided for in this Section. The provisions of R.S. 49:963 shall not apply to any action brought pursuant to this Subsection. The provisions of this Subsection are in addition to R.S. 49:963 and shall not limit any action pursuant to R.S. 49:963.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.5 Rulemaking; special provisions; procedural safeguards

A. Notwithstanding any other provisions of law to the contrary, if the secretary believes that there is an imminent hazard to the public health, safety, and welfare and the adoption of a rule declaring a substance a dangerous substance and the issuance of a dangerous substance stop order is necessary, a rule may be adopted pursuant to the provisions of this Section.
B. The secretary shall publish a notice of intention to adopt a rule declaring a substance to be a dangerous substance and to issue a dangerous substance stop order regarding the sale, distribution, manufacture, or dispensing of the dangerous substance in the official state journal at least twice within a fifteen day period prior to the adoption of the rule.
C. The notice shall provide for all of the following:
   (1) An explanation of the basis and rationale for the intended action, a summary of the information, and data supporting the intended action.
   (2) The time, the location, and the manner in which interested persons may present their views thereon.

(3) A statement that the intended action complies with the provisions of R.S. 40:996.1 through 996.7.
(4) The text of the proposed rule.

D. The secretary shall afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. The opportunity for oral presentation or argument shall be granted if requested within five days after the initial publication of the notice as provided for in this Section.

E. The rule shall provide for all of the following:
(1) A recitation of the determinations and findings required by the provisions of R.S. 40:996.3(B) and the reasons for those determinations and findings.
(2) A specific list of the substances declared to be dangerous substances.
(3) A dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.

F. (1) The secretary shall transmit and deliver within seven days after the initial publication of the notice in the official journal of the state as provided for in Subsection B of this Section, a copy of any proposed rules to the speaker of the House of Representatives, the president of the Senate, the chairman of the House of Representatives Committee on Health and Welfare and the chairman of the Senate Committee on Health and Welfare for review. The chairmen of such committees shall review the proposed rules to determine whether to conduct legislative oversight hearings.
(2) Legislative oversight shall be in accordance with the provisions of R.S. 49:968, except as provided in this Section.
(3) Any legislative oversight committee hearing approving or finding unacceptable any proposed rules shall be held within fourteen days of receipt of the proposed rules by the presiding officers of each house of the legislature and any action by the governor to disapprove the action of the committee shall be taken within four days of receipt of the report of the committee by the governor.

G. The rule shall become effective thirty days following the initial publication in the official state journal unless an oversight hearing is conducted and the rule is found unacceptable by the oversight committee and the governor does not disapprove of the action taken by the oversight committee. The rule shall remain in effect through the sixtieth day after final adjournment of the succeeding regular legislative session.

H. Except as specifically provided for in this Section, the rule shall be adopted pursuant to the provisions of the Administrative Procedure Act.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.6 Violations

A. It is unlawful for any person to sell, distribute, manufacture, or dispense a dangerous substance following the adoption of a dangerous substance stop order.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or may be imprisoned for not more than two years in the parish jail, or both.

C. Each day of continued violation shall constitute a separate offense.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.7 Pesticide law not affected

The provisions of R.S. 40:996.1 *et seq.* shall not be construed to apply to any substance regulated by the provisions of the Louisiana Pesticide Law.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§1002. *(Added by Act 1051 of 2003 Legislature; repealed by Act 875 of 2004 Legislature)*

(end of Part X of Chapter 4)

Part X-A. Prescription Monitoring Program

*[**Editor's Note**: The Prescription Monitoring Program was created by Act 676 of 2006 Legislature. Subsequent amendments are noted herein.]*

§1001. Short title

This Section shall be known and may be cited as the "Prescription Monitoring Program Act."

§1002. Purpose

The purpose of this Part is to authorize the development, implementation, operation, and evaluation of an electronic system for the monitoring of controlled substances and other drugs of concern that are dispensed in the state or dispensed to an address within the state. The goal of the program is to improve the state's ability to identify and inhibit the diversion of controlled substances and drugs in an efficient and cost-effective manner and in a manner that shall not impede the appropriate utilization of these drugs for legitimate medical purposes.

§1003. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise:

(1) "Administer" or "administration" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(2) "Advisory council" means the entity established in R.S. 40:1005.

(3) "Board" means the Louisiana Board of Pharmacy.

(4) "Controlled substance" means any substance or drug defined, enumerated, or included in federal or state statute or rules, 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute. "Controlled substance" shall not include distilled spirits, wine, malt beverages, or tobacco.

(5) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

(6) "Dispenser" means a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:

(a) A pharmacy permitted by the board as a hospital pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient health care.

(b) A practitioner who dispenses or distributes no more than a single forty-eight hour supply of such controlled substance or drug to a patient prior to, or subsequent to, performing an actual procedure on that patient.

(c) A practitioner or other authorized person who administers such controlled substance or drug upon the lawful order of a practitioner.

(d) A wholesale distributor of such controlled substance or drug that is credentialed by the Louisiana State Board of Wholesale Drug Distributors.

(e) *(Added by Act 144 of 2010 Legislature; repealed by Act 27 of 2013 Legislature).*

(7) "Distribute" or "distribution" means the delivery of a drug or device other than by administering or dispensing.

(8) "Drug" means any of the following:

(a) Any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals.

(b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(c) Any substance other than food intended to affect the structure or any function of the body of humans or other animals.

(9) "Drugs of concern" means drugs other than controlled substances as defined by rule which demonstrate a potential for abuse.

(10) "Patient" means the person or animal who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

(11) "Prescriber" means a licensed health care professional with prescriptive authority.

(12) "Prescription monitoring information" means data submitted to and maintained by the prescription monitoring program.
(13) "Prescription Monitoring Program" or "PMP" means the program established in R.S. 40:1004.
(14) "Procedure" means any dental or medical practice or process described in the current year's version of the American Dental Association's *Current Dental Terminology* or the American Medical Association's *Code of Procedural Terminology*.

§1004. Establishment of prescription monitoring program

A. The board shall establish and maintain, in consultation with and upon the recommendation of the advisory council, an electronic system for the monitoring of controlled substances and drugs of concern dispensed in the state or dispensed to an address in the state.
B. In conformity with the Louisiana Public Bid Law, R.S. 38:2211 et seq., the board may contract with a vendor to establish and maintain the electronic monitoring system pursuant to rules promulgated by the board.
C. This Part shall not apply to any person licensed pursuant to R.S. 37:1511 *et seq*.
(Added by Act 27 of 2013 Legislature, effective May 23, 2013)

§1005. Advisory council

A. The advisory council shall consist of the following members, each of whom may appoint a designee:
(1) The president of the Louisiana State Board of Medical Examiners.
(2) The president of the Louisiana State Board of Dentistry.
(3) The president of the Louisiana State Board of Nursing.
(4) The president of the Louisiana State Board of Optometry Examiners.
(5) *(Added by Act 144 of 2010 Legislature, repealed by Act 27 of 2013 Legislature).*
(6) The president of the Louisiana Academy of Physicians Assistants.
(7) The president of the Louisiana Board of Pharmacy.
(8) The superintendent of the Louisiana State Police.
(9) The administrator of the United States Drug Enforcement Administration.
(10) The speaker of the Louisiana House of Representatives.
(11) The president of the Louisiana Senate.
(12) The chairman of the House Committee on Health and Welfare.
(13) The chairman of the Senate Committee on Health and Welfare.
(14) The secretary of the Department of Health and Hospitals.
(15) The president of the Louisiana State Medical Society.
(16) The president of the Louisiana Dental Association.
(17) The president of the Louisiana Association of Nurse Practitioners.
(18) The president of the Optometry Association of Louisiana.
(19) The president of the Louisiana Pharmacists Association.
(20) The president of the Louisiana Independent Pharmacies Association.
(21) The president of the National Association of Chain Drug Stores.
(22) The president of the Louisiana Sheriffs' Association.
(23) The president of the Louisiana District Attorneys Association.
(24) The president of the Pharmaceutical Research and Manufacturers of America.
(25) The president of the Louisiana Academy of Medical Psychologists.
(26) *(Added by Act 144 of 2010 Legislature, repealed by Act 27 of 2013 Legislature).*
B. The members of the advisory council shall serve at the pleasure of their respective appointing authorities, eleven of whom shall constitute a quorum for the transaction of all business. The members shall elect a chairman and vice chairman whose duties shall be established by the advisory council. The board shall fix a time and place for regular meetings of the advisory council, which shall meet at least quarterly. The advisory council shall establish policies and procedures necessary to carry out its duties.
C. The board shall seek, and the advisory council shall provide, information and advice regarding the development and operation of the electronic monitoring system, including but not limited to the following:
(1) Which controlled substances should be monitored.
(2) Which drugs of concerns demonstrate a potential for abuse and should be monitored.
(3) Design and implementation of educational courses identified in R.S. 40:1008.
(4) The methodology to be used for analysis and interpretation of prescription monitoring information.
(5) Design and implementation of a program evaluation component.
(6) Identification of potential additional members to the advisory council.

(Amended by Act 144 of 2010 Legislature.)

§1006. Reporting of prescription monitoring information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance or drug monitored by the program. The information submitted for each prescription shall include, at a minimum, data relative to the identification of the following elements of the transaction:
   (1) Prescriber information.
   (2) Patient information.
   (3) Prescription information.
   (4) Controlled substance or drug information.
   (5) Dispenser information.

B. Each dispenser shall submit the required information in accordance with transmission methods and frequency established by the board. Each eligible prescription transaction shall be reported no later than the next business day after the date of dispensing.
(Amended by Act 488 of 2010 Legislature, effective June 22, 2010; Act 472 of 2014 Legislature, effective August 1, 2014.)

C. The board may issue a waiver to a dispenser who is unable to submit prescription information by electronic means. The waiver shall state the format and frequency with which the dispenser shall submit the required information. The board may issue an exemption from the reporting requirement to a dispenser whose practice activities are inconsistent with the intent of the program. The board may rescind any previously issued exemption without the need for an informal or formal hearing.
(Amended by Act 129 of 2009 Legislature.)

D. Any person or entity required to report information concerning prescriptions to the board or to its designated agent pursuant to the requirements of this Part shall not be liable to any person or entity for any claim of damages as a result of the act of reporting the information and no lawsuit may be predicated thereon. Any person or entity who submits report information in good faith containing prescription information that is not the subject of the PMP shall not be liable to any person or entity for any claim of damages and no lawsuit may be predicated thereon.

E. The Prescription Monitoring Program's agents, a dispenser, or a prescriber may report suspected violations of this Section or violations of any law to any local, state, out-of-state, or federal law enforcement agency, or the appropriate prosecutorial agency for further investigation or prosecution.
(Amended by Act 488 of 2010 Legislature, effective June 22, 2010.)

F. No agent, dispenser, or prescriber who in good faith reports suspected violations as provided for in Subsection E of this Section shall be liable to any person or entity for any claim of damages as a result of the act of reporting the information, and no lawsuit may be predicated thereon.

(Subsections E and F added by Act 314 of 2009 Legislature)

§1007. Access to prescription monitoring information

A. Except as provided in Subsections C, D, E, F, G, H, and I of this Section, prescription monitoring information submitted to the board shall be protected health information, not subject to public or open records law, including but not limited to R.S. 44:1 et seq., and not subject to disclosure. Prescription monitoring information shall not be available for civil subpoena nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Notwithstanding this provision, law enforcement and professional licensing, certification, and regulatory agencies may utilize prescription monitoring information in the course of any investigation and subsequent criminal and administrative proceedings, but only in accordance with federal and state law and the requirements of this Part.
(Amended by Act 352 of 2012 Legislature, effective August 1, 2012)

B. The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons or entities except as in Subsections C, D, E, F, G, H, and I of this Section.
(Amended by Act 352 of 2012 Legislature, effective August 1, 2012)

C. The board shall review the prescription monitoring information. If there is reasonable suspicion to believe a breach of professional or occupational standards may have occurred, the board shall notify the appropriate professional licensing agency with jurisdiction over prescribers or dispensers and shall provide prescription monitoring information required for an investigation.

D. The board shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing

information that identifies or could be reasonably be used to identify prescribers, dispensers, and individual patients or persons who received prescriptions from prescribers.
(Amended by Act 488 of 2010 Legislature, effective June 22, 2010.)

E. The following persons, after successful completion of the educational courses identified in R.S. 40:1008, may access prescription monitoring information at no cost and in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:
   (1) Persons authorized to prescribe or dispense controlled substances or drugs of concern, or their delegates as defined by rule, for the purpose of providing medical or pharmaceutical care for their patients, or for verifying their prescriptions records.
   (Amended by Act 488 of 2010 Legislature, effective June 22, 2010; further amended by Act 110 of 2013 Legislature, effective August 1, 2013.)
   (2) Designated representatives from the professional licensing, certification, or regulatory agencies of this state or another state charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern.
   (Amended by Act 488 of 2010 Legislature, effective June 22, 2010.)
   (3) Designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients.
   (4) Designated representatives of the board and any vendor or contractor establishing or maintaining the prescription monitoring program.

F. The board may provide a report containing prescription monitoring information upon application of local, state, out-of-state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances or other drugs of concern in compliance with and as limited by the relevant requirements of any of the following:
   (1) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer.
   (2) A grand jury subpoena.
   (3) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:
      (a) The information sought is relevant and material to a legitimate law enforcement inquiry.
      (b) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.
      (c) De-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

(Amended by Act 488 of 2010 Legislature, effective June 22, 2010.)

G. The board may provide prescription monitoring information in response to queries from prescription monitoring programs located in other states, through its participation in a secure interstate data exchange system. However, the board shall not provide prescription monitoring information to prescription monitoring programs located in other states unless the laws of the state receiving the information provide at a minimum both of the following:
   (1) That the prescription monitoring information is protected health information, not subject to the Public Records Law, and not subject to disclosure.
   (2) That the prescription monitoring information shall not be subject to civil subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.

(Added by Act 352 of 2012 Legislature, effective August 1, 2012)

H. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third party conduit that has been approved by the board.

(Added by Act 352 of 2012 Legislature, effective August 1, 2012)

I. The board may provide prescription monitoring information to an individual who requests his personal prescription monitoring information in accordance with procedures established by board regulation.

J. The board and advisory council shall be immune from civil liability arising from inaccuracy of any of the information submitted to the board pursuant to this Part.

§1008. Education and treatment

A. The board shall, in consultation with and upon recommendation of the advisory council, implement the following education courses:

(1) An orientation course during the implementation phase of the prescription monitoring program.
(2) A course for persons who are authorized to access the prescription monitoring information, but who did not participate in the orientation course.
(3) A course for persons who are authorized to access the prescription monitoring information, but who have violated the laws or breached occupational standards involving the prescribing, dispensing, or use of any controlled substances or drugs monitored by the prescription monitoring program.
(4) A continuing education course for health care providers or professionals on prescribing practices, pharmacology, and the identification, treatment, and referral of a patient addicted to or abusing controlled substances or drugs monitored by the prescription monitoring program.

B. The board shall, in consultation with and upon recommendation of the advisory council, implement an educational program to inform the public about the use, diversion and abuse of, addiction to, and treatment for the addiction to controlled substances or drugs monitored by the prescription monitoring program.

C. The board shall, upon reasonable suspicion, refer potential or alleged impaired prescribers and dispensers to the appropriate professional licensing or certification agency to ensure intervention, treatment, and ongoing monitoring and follow-up.

§1009. Unlawful acts and penalties

A. A dispenser who fails to submit prescription monitoring information to the board as required by this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

B. A person or entity authorized to possess prescription monitoring information pursuant to this Part who knowingly discloses such information in violation of this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

C. A person or entity authorized to possess prescription monitoring information pursuant to this Part who uses such information in a manner or for a purpose in violation of this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

§1010. Evaluation; data analysis; reporting

A. The board shall, in consultation with and upon recommendation of the advisory council, design and implement an evaluation component to identify cost benefits of the prescription monitoring program and other information relevant to policy, research, and education involving controlled substances and drugs monitored by the prescription monitoring program.

B. The board shall report to the appropriate legislative oversight committees on a periodic basis, but in no case less than annually, the cost benefits and other information contained in Subsection A of this Section.

§1011. Rules and regulations

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the board shall promulgate rules and regulations necessary to implement the provisions of this Part.

§1012. Authority to contract

In accordance with the Public Bid Law, R.S. 38:2211 et seq., the board shall have the authority to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with provisions regarding confidentiality of prescription information in R.S. 40:1007, and further, shall be subject to the penalties specified in R.S. 40:1009 for unlawful acts.

§1013. Funding authority

A. The board shall have the authority to make application for, receive, and administer grant funding from public or private sources for the development, implementation, or enhancement of the prescription monitoring program.

B. In the event the legislature provides full funding for the prescription monitoring program, no fees shall be levied as provided in this Section.

C. The board shall have the authority to levy and collect an annual fee from each of the following practitioners in possession of authority to prescribe or dispense controlled dangerous substances:

physicians, podiatrists, dentists, optometrists, advanced practice registered nurses, physician assistants, medical psychologists, or any other person subsequently authorized by law to prescribe controlled dangerous substances. The board shall also have the authority to levy and collect an annual fee from each pharmacy licensed by the board. The annual fee levied and collected from each person enumerated in this Subsection and each pharmacy shall not exceed twenty-five dollars.
(Amended by Act 144 of 2010 Legislature; further amended by Act 27 of 2013 Legislature, effective May 23, 2013)

D. The board shall not be required to fund any aspect of the prescription monitoring program.

§1014. Severability

If any provision of this Act or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

(end of Part X-A of Chapter 4)

Part X-B. Therapeutic Use of Marijuana

*[**Editor's Note**: A prior Part X-A, Therapeutic Use of Marijuana, consisting of R.S. 40:1021 to 40:1026, was repealed by Act 662 of 1989 Legislature, effective July 7, 1989. Act 676 of 2006 Legislature re-designated this Part as Part X-B. Subsequent amendments are noted herein.]*

§1021. Prescription of marijuana for therapeutic use; rules and regulations; secretary of health and hospitals

A. Notwithstanding any other provision of this Part, a physician licensed to practice medicine in this state and who is also registered to prescribe Schedule I substances with the Drug Enforcement Administration may prescribe marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as suffering from glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia in accordance with rules and regulations promulgated by the secretary of health and hospitals and in accordance with FDA and DEA administrative guidelines for procurement of the controlled substance from the National Institute on Drug Abuse.

B. The Secretary of the Department of Health and Hospitals, by January 1, 1992, shall promulgate rules and regulations authorizing physicians licensed to practice in this state to prescribe marijuana for therapeutic use by patients as described in Subsection A of this Section.

(Added by Act 874 of 1991 Legislature, effective September 6, 1991)

(end of Part X-B of Chapter 4)

Part X-C. Transactions in Drug-Related Objects Prohibited

*[**Editor's Note**: A new Part X-B, consisting of R.S. 40:1031 through 1036, also known as the Drug Paraphernalia Law, was created by Act 669 of 1980 Legislature. Subsequent amendments are noted. Act 676 of 2006 Legislature re-designated this Part as Part X-C.]*

§1031. Definitions

A. As used in this Part, unless the context clearly otherwise indicates, the term "drug paraphernalia" shall mean and include, but not be limited to:

(1) All equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Dangerous Substances Law, as scheduled in R.S. 40:964.

(2) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(3) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(4) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(5) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(b) Water pipes.

(c) Carburetion tubes and devices.

(d) Smoking and carburetion masks.

(e) Roach clips, meaning objects used to hold burning material, such as marijuana cigarette, that has become too small or too short to be held in the hand.

(f) Miniature cocaine spoons, and cocaine vials.

(g) Chamber pipes.

(h) Carburetor pipes.

(i) Electric pipes.

(j) Air-driven pipes.

(k) Chillums.

(l) Bongs.

(m) Ice pipes or chillers.

§1032. Determination of drug paraphernalia

In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Dangerous Substances Law.
(3) The proximity of the object to controlled substances.
(4) The existence of any residue of controlled substances on the object.
(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows or should reasonably know intend to use the object to facilitate a violation of the Uniform Controlled Dangerous Substances Law; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Dangerous Substances Law shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
(6) Instructions, oral or written, provided with the object concerning its use.
(7) Descriptive materials accompanying the object which explain or depict its use.
(8) National and local advertising concerning its use.
(9) The manner in which the object is displayed for sale.
(10) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
(11) The existence and scope of legitimate use for the object in the community.
(12) Expert testimony concerning its use.

§1033. Prohibited acts

A. It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug paraphernalia.
B. It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to display for sale or possess with the intent to distribute, any drug paraphernalia.
C. It is unlawful for any person to use, or to possess with intent to use, any drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Part.
D. *(Repealed by Act 517 of 1990 Legislature, effective July 18, 1990)*

§1033.1. Prohibited acts; unmarried persons under seventeen years of age

A. It is unlawful for any person, corporation, or association to sell, lend, rent, lease, give, exchange, exhibit, display, or distribute to any unmarried person under the age of seventeen any drug paraphernalia.
B. The unlawful sale, loan, rent, lease, gift, exchange, exhibition, display, or distribution of drug paraphernalia to any unmarried person under the age of seventeen is the intentional sale, loan, rent, lease, gift, exchange, exhibition, display, or distribution of drug paraphernalia to any unmarried person under the age of seventeen years, at any newsstand, record store, tape store or any other commercial establishment which is open to persons under the age of seventeen years.
C. It shall be unlawful to invite or permit any unmarried person under the age of seventeen to be in any commercial establishment that exhibits or displays any item, material, work, or object of any kind that is defined as drug paraphernalia pursuant to this Part.
D. Lack of knowledge of age or marital status shall not constitute a defense, unless the defendant shows that he had reasonable cause to believe that the minor involved was either married or seventeen years of age or more and that the minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that such person was either married or seventeen years of age or more.

§1034. Exceptions; defenses

A. Any provision of law to the contrary herein notwithstanding, the provisions of this Part shall not apply to the manufacture, sale, distribution, or advertisement of any product or object designed and sold primarily for scientific research, industrial, veterinary, or agricultural purposes, or for bona fide medical or clinical use.
B. It shall be an affirmative defense that the person to whom the drug related object or advertisement or notice was distributed had a prescription from a licensed medical practitioner or psychiatrist for marijuana or the controlled substance for which the object is primarily intended to be used. It is also an affirmative defense that the drug related object was designed or marketed as useful primarily for veterinary or agricultural purposes.

§1035. Penalties

A. The first violation of or failure to comply with any provision of this Part shall subject the offender to a fine not in excess of five hundred dollars, or imprisonment of not more than six months, or both.

B. On second conviction, the offender shall be fined not more than one thousand dollars, or imprisoned for not more than one year, or both.

C. On third conviction, the offender shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than five years.

D. If the second or subsequent conviction is by any person licensed under the occupational license tax law, as provided in R.S. 47:341, et seq., or by such person's manager, agent, servant, or employee, then such person shall forfeit the right to any permit issued thereunder and such permit may be suspended or revoked.

§1036. Contraband; condemnation proceedings

All instruments, devices, and objects which are seized after the effective date of this Section, on condemnation as being distributed or possessed in violation of this Part, may be destroyed by the authorities making the seizure, but only after compliance with the following procedure. Within ninety days after any seizure is made after the effective date of this Section, the district attorney shall institute condemnation proceedings in district court by petition, a copy of which shall be served upon the owner of the seized items, if known. If the owner is unknown, notice of the proceedings shall be published once a week for two weeks in the official journal of the parish. The petition shall allege that the seized items were distributed or possessed in violation of this Part. Fifteen days after the filing of the petition, judgment by default shall be entered by the court, and the court shall order the seized items to be destroyed. Otherwise, the case shall proceed as other civil cases in said court. If the prosecution proves, by a preponderance of the evidence, that the seized items were distributed or possessed in violation of the law, the court shall order the seized items to be destroyed.

(end of Part X-C of Chapter 4)

Part X-D. Animal Euthanasia with Sodium Pentobarbital

***[Editor's Note:** A new Part X-C, consisting of R.S. 40:1041 through 1046, also known as the Animal Euthanasia Act, was created by Act 225 of 1987 Legislature. Act 676 of 2006 Legislature re-designated this Part as Part X-D. Subsequent amendments are noted herein.]*

§1041. Purpose

It is the purpose of this Part to establish a permit system to allow animal control facilities to acquire and administer sodium pentobarbital for the humane euthanasia of sick, homeless, and abandoned animals.

§1042. Permit

No animal control agency or facility shall purchase, possess, or administer sodium pentobarbital to sick, homeless, injured, or unwanted pets or other domestic or wild animals for their humane euthanasia without the permit required by this Part.

§1043. Permit application

Any duly incorporated humane society contracted to perform animal control services by a parish or municipality or any parish or municipal animal control agency may apply to the Secretary of the Department of Health and Hospitals for a permit to purchase, possess, and administer sodium pentobarbital for the humane euthanasia of animals.

§1044. Permit issuance and conditions

A. The secretary shall not issue a permit to purchase, possess, or administer sodium pentobarbital for the humane euthanasia of animals unless the following criteria have been met:
   (1) The animal control agency or facility is a duly incorporated humane society contracted to perform animal control services by a parish or municipality or a parish or municipal animal control agency.
   (2) The animal control agency has on staff a certified euthanasia technician, as provided in R.S. 37:1551 et seq.
   (3) Any other criteria which may be established by the department pursuant to R.S. 40:1046.

B. The permit shall designate a sole responsible person for the duration of the permit to oversee the purchase, possession, and administration of sodium pentobarbital, which such person shall be a certified euthanasia technician.

§1045. Permit revocation or suspension; inspections

A. The secretary may revoke or suspend any permit issued hereunder if it is determined that sodium pentobarbital is being used for any purpose other than humane animal euthanasia or that the permitted facility has failed to abide by the regulations promulgated by the secretary for the safe and efficient purchase, possession, or administration of sodium pentobarbital.

B. The department shall inspect any permitted animal control facility to determine compliance with this Part or any rules or regulations promulgated pursuant thereto.

§1046. Rules and regulations

The department may promulgate any rules and regulations necessary to effectuate the purposes of this Part.

(end of Part X-D of Chapter 4)

Part X-E. Transactions Involving Proceeds From Controlled Dangerous Substances Activity

*[**Editor's Note**: A new Part X-D, consisting of R.S. 40:1049, also known as the Seizure and Controlled Dangerous Substances Property Forfeiture Act, was created by Act 370 of 1989 Legislature. Act 676 of 2006 Legislature re-designated this Part as Part X-E. Subsequent amendments are noted herein.]*

§1049. Transactions involving proceeds from drug offenses

A. It is unlawful for any person knowingly or intentionally to conduct a financial transaction involving proceeds known to be derived from a violation of R.S. 40:966 et seq. when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of the proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law.

B. It is unlawful for any person knowingly or intentionally to give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering the commission of any violation of R.S. 40:966 et seq.

C. It is unlawful for any person knowingly or intentionally to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of R.S. 40:966 et seq.

D. It is unlawful for any person to knowingly or intentionally receive or acquire proceeds derived from any violation of R.S. 40:966 et seq., or to knowingly or intentionally engage in any transaction involving proceeds from any such violations. The provisions of this Section shall not include any transaction between an individual and his attorney, that is necessary to preserve that individual's right to representation by counsel, as guaranteed by the Sixth Amendment of the United States Constitution, and Article I Section 13 of the Constitution of Louisiana. However, this shall not affect the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of R.S. 40:966 et seq., as provided by R.S. 40:2601 through 2622.

E. Any person who is convicted of violating this Section shall be imprisoned for not more than ten years, or fined not more than ten thousand dollars, or both.

(end of Part X-E of Chapter 4)

Part X-F. Ephedrine, Pseudoephedrine, and Phenylpropanolamine Monitoring Act

*[**Editor's Note**: This new part was created by Act 314 of the 2009 Legislature. Subsequent amendments are noted herein.]*

§1049.1. Short title

This Part may be referred to and may be cited as the "Ephedrine, Pseudoephedrine, and Phenylpropanolamine Monitoring Act".

§1049.2. Legislative findings

A. The Louisiana Legislature recognizes the devastating effect methamphetamine production has had on its citizens.

B. Methamphetamine is unique in that it is a synthetic drug which can be produced by someone who does not possess specialized skill or training, is highly addictive, and can be made from inexpensive readily accessible ingredients.

C. Methamphetamine has been reported as one of the most addictive and deadly drug threats in the United States. The use of methamphetamine can result in fatal kidney and lung disorders, brain damage, liver damage, chronic depression, psychosis, hallucinations, and many other devastating physical and mental effects.

D. Louisiana has experienced a drop in methamphetamine production as restrictions on the sale of ephedrine, pseudoephedrine, and phenylpropanolamine have been implemented.

E. Methamphetamine is not only deadly because of the devastating effects of drug addiction, but the production of methamphetamine has resulted in several laboratory explosions and the exposure of our citizens to death, injury, or toxic substances.

F. While the production of methamphetamine has resulted in devastating effects on Louisiana citizens, the drugs used in making methamphetamine: ephedrine, pseudoephedrine, and phenylpropanolamine have legitimate medical uses.

G. The Legislature of Louisiana hereby finds and declares that a pharmacist is in the unique position of dispensing nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine and interacting with the patient at the point of purchase of these products. This relationship with the consumer and the pharmacists' specialized knowledge about the pharmaceutical qualities of products containing ephedrine, pseudoephedrine, and phenylpropanolamine make the pharmacy the best location for the sale of those products to ensure the health and safety of Louisiana's citizens.

H. The Louisiana Legislature, in enacting the provisions of this Part, seeks to provide for the legitimate medical needs of our citizens while at the same time protecting our citizens against the devastating effects of methamphetamines and methamphetamine production.

I. In order to assist law enforcement and prosecutorial agencies in addressing the growing problems associated with methamphetamine production, a real time electronic database is needed to record purchases of products containing ephedrine, pseudoephedrine, and phenylpropanolamine at a pharmacy.

J. Technology is available to record all purchases of products containing ephedrine, pseudoephedrine, and phenylpropanolamine at the point of sale and to transmit that information to a centralized location to be monitored and maintained in a central computer monitoring system operated by the Louisiana State Police.

§1049.3. Restriction on the sale of nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers

A. A nonprescription material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a licensed pharmacist, certified pharmacy technician, or pharmacy employee permitted by the Louisiana Board of Pharmacy.

B. A nonprescription material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall not be dispensed, sold, or distributed by a pharmacist, certified pharmacy technician, or pharmacy employee to any person unless the following occur:

(1) The purchaser produces a federal or state issued photo identification, or a document that, with respect to identification, is considered acceptable for purposes of Sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of Title 8, Code of Federal Regulations (as in effect on or after March 9, 2006).

(2) The purchaser signs a written or electronic log or receipt showing the date of the transaction, the name of the purchaser, and the amount of the material, compound, mixture, or preparation sold.
(3) The transaction information is recorded by the pharmacy and transmitted to the central computer monitoring system as provided for in this Part.

C. (1) A pharmacist, certified pharmacy technician, or pharmacy employee may sell or distribute nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine; however, those drugs shall not be distributed in a quantity greater than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base, to the same purchaser within any thirty-day period.
(2) A pharmacist, certified pharmacy technician, or pharmacy employee selling or distributing nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall be exempt from the rules relative to the record keeping requirements for the dispensing of those nonprescription controlled dangerous substances; however, the pharmacist, certified pharmacy technician, or pharmacy employee shall record the transaction information and transmit it to the central computer monitoring system as provided for in this Part.

D. (1) No person shall purchase, receive, or otherwise acquire more than nine grams of any product, mixture, or preparation described in Subsection A of this Section within any thirty-day period.
(2) The requirements of this Section shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription from a licensed practitioner with prescriptive authority.

E. A law enforcement officer may, pursuant to R.S. 40:986(B), obtain an administrative search warrant to inspect the written logs or receipts maintained at a pharmacy pursuant to the provisions of this Section.

F. A parish or municipal government authority may regulate the selling, delivering, or providing of packages or grams of pseudoephedrine, ephedrine, or phenylpropanolamine only in a manner that is not more or less restrictive than regulation by the state under this Section.

§1049.4. Central computer monitoring system; system requirements

A. In order to facilitate the monitoring of sales of nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine the pharmacist, certified pharmacy technician, or other pharmacy employee shall record all of the following information at the point of sale regarding the transaction:
(1) The date of the transaction.
(2) The name and address of the purchaser verified through photo identification of the purchaser as provided for in R.S. 40:1049.3(B)(1)(a).
(3) The name, quantity of packages, and total gram weight of the product or products purchased, received, or otherwise acquired.

B. Upon recordation of the transaction information, the pharmacy shall transmit the information immediately to a central computer system for purposes of monitoring the sales of these products as provided for in this Section.

C. The central computer system authorized by the provisions of this Section shall be designed and operated to allow the monitoring and reading of sales information regarding products containing ephedrine, pseudoephedrine, and phenylpropanolamine at the point of sale instantly and on a real-time basis.

D. The central computer system authorized by the provisions of this Section shall be located within and administered by the Department of Public Safety and Corrections, office of state police.

E. The central computer monitoring system shall provide for the monitoring of sales of compounds containing ephedrine, pseudoephedrine, and phenylpropanolamine and shall be capable of providing an online computer alert, to ensure direct scrutiny of conditions which would violate the provisions of this Part by law enforcement.

F. The provisions of this Part shall not be construed to require that any pharmacy maintain the transaction records required under the provisions of this Part separate from the log book that is required under 21 USC 830(e). Use of the central computer monitoring system as required by this Part shall be deemed to satisfy both of these purposes.

§1049.5. Funding sources; no fees on pharmacists or pharmacies

A. Funding for the acquisition, implementation, and operation of the central computer monitoring system shall be funded through appropriation, gifts, grants, donations, or any other funding sources not otherwise prohibited by law.

B. Thereafter, the maintenance of the central computer monitoring system shall be funded through appropriation, gifts, grants, donations, or any other funding sources not otherwise prohibited by law.

C. The Department of Public Safety and Corrections, office of state police, and the Louisiana Sheriffs' Association may actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the central computer monitoring system, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.
D. No fee shall be charged to any pharmacist or pharmacy to defray the costs of acquiring, implementing, or maintaining the central computer monitoring system as authorized by the provisions of this Part, nor shall any fee be charged to any pharmacist or pharmacy for the transmission of information to the central computer monitoring system.

§1049.6. Shared information; state police; sheriffs

A. The Department of Public Safety and Corrections, office of state police, shall share the information regarding the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine as authorized by the provisions of this Part and provide instant access to the Louisiana Sheriffs' Association.
B. The Department of Public Safety and Corrections, office of state police, is authorized to enter into a cooperative endeavor, memorandum of understanding, contract, or any other agreement with the Louisiana Sheriffs' Association, or any other law enforcement agency in order to share the information regarding the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine as authorized by the provisions of this Part and to provide instant access to all appropriate law enforcement agencies.

§1049.7. Board of Pharmacy access to information

The Department of Public Safety and Corrections, office of state police, shall provide access to the information regarding the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine as authorized by the provisions of this Part to the Louisiana Board of Pharmacy.

§1049.8. Pharmacists, certified pharmacy technician, or pharmacy employee not required to stop sale; may report

A. (1) The provisions of this Part shall not be construed to require a pharmacist, certified pharmacy technician, or pharmacy employee to prohibit or complete a sale of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine even if the pharmacist, certified pharmacy technician, or other pharmacy employee observes a warning or signal from the central computer monitoring program which indicates that the purchaser has purchased those products in amounts which exceeds the amount which can be purchased by law.
(2) The provisions of this Part shall not be construed to limit a pharmacist's professional judgment as otherwise provided for by law or rules adopted by the Louisiana Board of Pharmacy.
B. A pharmacist, certified pharmacy technician, or pharmacy employee may report suspected violations of this Section or any other law to any local, state, or federal law enforcement agency, or the appropriate prosecutorial agency for further investigation or prosecution.
C. No pharmacist, certified pharmacy technician, or pharmacy employee who in good faith reports suspected violations as provided for in this Part shall be liable to any person or entity for any claim of damages as a result of the act of reporting the information, and no lawsuit may be predicated thereon.

§1049.9. Licensed practitioner with prescriptive authority exempted

A health care practitioner with prescriptive authority who is licensed in the state of Louisiana shall be exempt from the requirements of the provisions of this Part in dispensing any product containing ephedrine, pseudoephedrine, or phenylpropanolamine to his patient.

§1049.10. Transmission of information contingent on functionality of central computer monitoring system

A. The transmittal of transaction information of products containing ephedrine, pseudoephedrine, and phenylpropanolamine as authorized by the provisions of this Part is contingent upon the acquisition, implementation, and operation of the central computer system.
B. No licensed pharmacist, certified pharmacy technician, or pharmacy employee at a pharmacy located in Louisiana and permitted by the Louisiana Board of Pharmacy shall be required to transmit data to the central computer monitoring system until the funding for the acquisition and implementation of the central computer monitoring system has been secured through appropriation, gifts, grants, donations, or any other funding sources not otherwise prohibited by law.
C. No pharmacy, licensed pharmacist, certified pharmacy technician, or pharmacy employee at a pharmacy located in Louisiana and permitted by the Louisiana Board of Pharmacy shall be held responsible for

failure to transmit transaction information as required by this Part if at any time the central computer monitoring system is rendered inoperable due to natural disaster, tampering, or any other reason.

§1049.11. Limitation of liability

A. The owner or operator of a retail pharmacy, who has submitted to the United States Attorney General a self-certification in accordance with the requirements of 21 USC 830(e) regarding training of employees engaged in the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall not be liable for violations of this Act by the retail pharmacy's employees.

B. No licensed pharmacist, certified pharmacy technician, or pharmacy employee at a pharmacy located in Louisiana and permitted by the Louisiana Board of Pharmacy shall be personally liable for any act or omission resulting in damage, injury, or loss arising out of the dispensing of a compound containing ephedrine, pseudoephedrine, or phenylpropanolamine and the transmittal of that transaction to the central computer monitoring program as authorized by the provisions of this Part; however, this limitation of liability shall not be applicable if the damage, injury, or loss was caused by the gross negligence or willful or wanton misconduct of the pharmacist, certified pharmacy technician, or pharmacy employee.

(end of Part X-F of Chapter 4)

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Louisiana Revised Statutes of 1950

Title 40 – Public Health and Safety

Chapter 5 – Miscellaneous Health Provisions

Part I. Venereal Diseases

§1064.1 Expedited partner therapy

A. The purpose of this Section is to allow for the provision of medications or prescriptions by any physician licensed to practice medicine in this state or any advanced practice registered nurse who is licensed to practice nursing in this state, or any physician assistant who is licensed to practice in this state, provided such physician or nurse or physician assistant has the authority to write prescriptions in this state, to individuals who may have been exposed to gonorrhea or chlamydia. Expedited partner therapy is hereby authorized absent a doctor-patient relationship and absent clinical assessment.

B. Notwithstanding any other provisions of law to the contrary, any physician or any advanced practice registered nurse who diagnoses or does a nurse clinical assessment or any physician assistant who performs an examination of a case of chlamydia or gonorrhea in an individual patient may prescribe, furnish, or otherwise provide prescription antibiotic drugs to that patient's sexual partner or partners absent a doctor-patient relationship or absent an advanced practice registered nurse-patient relationship and without examination or nurse clinical assessment or physician assistant examination of that patient's sexual partner or partners.

C. If expedited partner therapy is chosen as an alternative, the patient with a case of chlamydia or gonorrhea will be given a written document that he agrees to give to his sexual contact. The document will contain, but will not be limited to, the following information:

(1) The sexual contact should be examined and treated by a physician, advanced practice registered nurse or physician assistant, if at all possible.

(2) The medicine or prescription for medicine given to the sexual contact by the patient should not be taken by the contact if the contact has a history of allergy to the antibiotic or to the pharmaceutical class of antibiotic in which case the sexual contact should be examined and treated by a physician, advanced practice registered nurse or physician assistant and offered another type of antibiotic treatment.

(3) The medicine or prescription for medicine given to the sexual contact by the patient should not be taken by the contact if the contact is pregnant, in which case the sexual contact should be examined by the prenatal health care provider.

D. Any pharmacist licensed to practice pharmacy in this state may recognize a prescription authorized by this Section as valid notwithstanding any other provision of law or administrative rule to the contrary.

E. The provisions of this Section which relate to expedited partner therapy shall be implemented according to rules promulgated by the secretary of the Department of Health and Hospitals in accordance with the Administrative Procedure Act.

(Added by Act 449 of 2008 Legislature, effective June 25, 2008)

*[**Editor's Note**: The administrative rule required by Subsection E was promulgated by the Department of Health and Hospitals at LAC 51:II.117.H, effective February 20, 2009.]*

(end of Part I of Chapter 5)

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Title 40 – Public Health and Safety

Chapter 5 – Miscellaneous Health Provisions

Part VII-A. Legend Drugs

*[**Editor's Note**: The Legend Drug Code Imprint Law was created by Act 872 of 1982 Legislature, and was effective January 1, 1984. Subsequent amendments are noted herein.]*

§1237. Definitions

For the purpose of this Part:

(1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer, distributor, or both. The National Drug Code may be used as a code imprint.

(2) "Distributor" means any corporation, person, or entity not engaged in the manufacture of a legend drug product, who distributes for resale and distribution a legend drug product under the label of such corporation, person, or entity.

(3) "Legend drug" means any drug or drug product bearing on the label of the manufacturer or distributor, as required by the Federal Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without prescription."

(4) "Solid dosage forms" means capsules or tablets intended for oral administration.

§1238. Legend drug imprint

A. No legend drug in solid dosage form may be manufactured or distributed for sale in this state unless there is clearly marked or imprinted on the dosage form a code imprint identifying the drug and the manufacturer or distributor of the drug. The Louisiana Department of Health and Hospitals, upon application by a manufacturer or distributor, may exempt a particular drug product from the requirement to be imprinted on the grounds that imprinting is not feasible because of said product's size, texture, or other unique characteristics.

B. On or before January 1, 1984, manufacturers or distributors of legend drugs shall provide to the Department of Health and Hospitals a list of their legend drugs and the description of the code imprint each bears. The department shall provide for the distribution of the information required to be submitted under this Part to all poison control centers in the state. The department shall provide to any licensed health care provider, upon request, lists of legend drugs and code imprints provided to the department under this Section, but may charge a reasonable fee to cover copying and postage costs. Manufacturers and distributors shall provide updated lists to the department annually or as changes or revisions occur.

C. A legend drug that does not meet the above requirements shall be deemed misbranded.

D. Whoever manufactures or distributes for sale or otherwise provides to any other person for dispensing any legend drug in solid dosage form that fails to comply with this Section shall be fined twenty-five thousand dollars, or imprisoned for five years, or both.

E. The provisions of Subsections A, B, C, and D of this Section shall not apply to any of the following:

(1) Drugs purchased by a pharmacy, pharmacist, or licensed wholesaler prior to January 1, 1984, and held in stock for resale.

(2) Drugs which are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and which are to be used solely by the patient for whom prescribed.

§1238.1 Sale, distribution, or possession of legend drug without prescription or order prohibited; exceptions; penalties

A. It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician or licensed health care practitioner as defined in R.S. 40:961(31). This Section shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment.

B. *(Added by Act 287 of 2007 Legislature; Repealed by Act 360 of 2010 Legislature)*

C. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

(Added by Act 565 of 2006 Legislature)

§1238.2 Prescription requirements; penalties

A. A prescription, in order to be effective in legalizing the possession of legend drugs, shall be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. An order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this Section. Any person who knows or should know that he or she is filling such a prescription or order to a drug abuser or habitual user of legend drugs, as well as the person issuing the prescription, may be charged with a violation of this Section. A legitimate medical purpose shall include use of the drug in the course of a bona fide research program in conjunction with a hospital or university.

B. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

(Added by Act 565 of 2006 Legislature)

§1238.3 Obtaining legend drugs by misrepresentation or fraud; penalties

A. It shall be unlawful for any person knowingly or intentionally to acquire or obtain possession of a legend drug by misrepresentation, fraud, forgery, deception, or subterfuge.

B. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

(Added by Act 565 of 2006 Legislature)

§1238.4 Prescriptions; electronic questionnaires

A. As used in this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Electronic questionnaire" means a computer-assisted system for collecting a person's health care data.

(2) "Valid physician-patient relationship" means a medical relationship that exists when the practitioner has conducted at least one medical evaluation with a person in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners.

B. A prescription issued solely upon the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, shall be considered issued outside the context of a valid physician-patient relationship and shall not be a valid prescription.

C. If a pharmacist knowingly dispenses a prescription authorized solely on the result of an electronic questionnaire, he shall be in violation of this Section.

D. A pharmacist who knows that a prescription has been authorized in the absence of a valid physician-patient relationship, or otherwise in violation of the prescriber's standard of practice, shall not fill such prescription.

E. A pharmacist who dispenses prescription drugs in violation of this Section is not acting in the best interest of the patient and is dispensing outside the course of the professional practice of pharmacy.

F. A pharmacist who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

(Added by Act 318 of 2007 Legislature)

(end of Part VII-A of Chapter 5)

(end of Chapter 5)

Louisiana Revised Statutes of 1950

Title 40 – Public Health and Safety

Chapter 5 – Miscellaneous Health Provisions

Part LXXV. Louisiana Telehealth Access Act

*[**Editor's Note**: The Louisiana Telehealth Access Act was created by Act 442 of the 2014 Legislature, and was effective August 1, 2014. Subsequent amendments are noted herein.]*

§1300.381. Short title

This Part shall be known and may be cited as the "Louisiana Telehealth Access Act."

§1300.382. Legislative findings

The legislature hereby finds and declares the following:

(1) As an innovative form of health care, telehealth is extremely valuable because it enhances access to care, particularly in rural locations and other medically underserved areas; makes delivery of care more cost-effective; and distributes limited provider resources more efficiently.

(2) Many patients with limited access to traditional health care can be diagnosed and treated sooner through telehealth than they would be otherwise, resulting in improved outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services could potentially address a great unmet need for health care by persons who have limited access to both traditional healthcare settings and to telemedicine as currently defined in Louisiana law.

(4) If this state is to achieve much needed improvement in health outcomes, a prudent and responsible policy for doing so would be to balance patient safety and access to care through expanding access to telehealth services for the people of Louisiana.

§1300.383. Definitions

(1) "Asynchronous store and forward transfer" means the transmission of a patient's medical information from an originating site to the provider at the distant site without the patient being present.

(2) "Distant site" means the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunications system.

(3) "Healthcare provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide health care or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, or licensed clinical laboratory scientist.

(4) "Originating site" means the location of the patient at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

(5) "Synchronous interaction" means communication through interactive technology that enables a healthcare provider and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.

(6) "Telehealth" means a mode of delivering healthcare services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

§1300.384. Telehealth; rulemaking required

A. Each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider, as defined in this Part, may promulgate, in accordance with the

Administrative Procedure Act, any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity,

B. The rules shall, at a minimum, provide for all of the following:
   (1) Application of all laws regarding the confidentiality of healthcare information and the patient's rights to the patient's medical information created during telehealth interactions.
   (2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.
   (3) (a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in Louisiana. The rules shall ensure that any such healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in Louisiana as determined by the respective Louisiana licensing agency, board, or commission.
   (b) Each state agency and professional or occupational licensing board or commission is authorized to provide by rule for a reasonable fee for the license or registration provided for in this Subsection.
   (4) Exemption from the telehealth license or registration required by this Subsection for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.

C. Nothing in this Part shall be construed to authorize a state agency or professional or occupational licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

(end of Part LXXV of Chapter 5)

(end of Chapter 5)

Louisiana Revised Statutes of 1950

Title 40 – Public Health and Safety

Chapter 11 – State Department of Hospitals

Part XII-A. Pain Management Clinics

*[**Editor's Note**: The Pain Management Clinic Licensure Law was created by Act 488 of 2005 Legislature, effective July 11, 2005. Subsequent amendments are noted herein.]*

§2198.11. Definitions

As used in this Part, the following definitions shall apply unless the context clearly states otherwise:

(1) "Board" means the Louisiana State Board of Medical Examiners.

(2) "Department" means the Department of Health and Hospitals.

(3) "Pain management clinic" means a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

(4) "Physician" means an individual who possesses a current, unrestricted license to practice medicine in Louisiana, who during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance and who has not, during the course of his practice, had board action taken against his medical license as a result of dependency on drugs or alcohol.

(Amended by Act 665 of 2006 Legislature)

§2198.12. Licensure of pain management clinics; rules and regulations

A. Except as provided in Subsection D of this Section, all pain management clinics shall be owned and operated by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties. All pain management clinics shall be licensed by the department.

B. (1) The department shall prescribe and publish minimum standards, rules, and regulations as necessary to effectuate the provisions of this Section. Such rules and regulations shall include but not be limited to all of the following:

(a) Operational and personnel requirements.

(b) Practice standards to assure quality of care, including the requirement that prescriptions may be written for the medication to last a period of no longer than thirty days without any refills. A refill may be authorized only if the individual is personally examined by the pain specialist.

(c) Licensure application procedures and requirements.

(d) Initial and annual renewal of license investigations.

(e) Complaint investigations.

(f) Reimbursement policies, procedures, and requirements.

(g) Denial, revocation, and nonrenewal of licenses and the appeals thereof.

(2) The board shall prescribe and publish minimum standards with respect to pain management clinics and the physicians who may practice in such clinics.

C. A license issued under the provisions of this Part is not transferable or assignable between persons, pain management clinics, or both.

D. (1) The following shall apply to pain management clinics operating on or before June 15, 2005, pursuant to an occupational license or certificate of operation which has not been suspended or revoked:

(a) The pain management clinic shall not be owned, either in whole or in part, by or have any contractual relationship, whether through employment or by independent contract, with a physician who during the course of his practice has been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance and who has, during the course of his practice, had board action taken against his medical license as a result of dependency on drugs or alcohol.

(b) The pain management clinic shall be operated by a medical director who shall be a physician.

(c) The pain management clinic shall not be owned in whole or in part by a person who has been convicted of or who has pled guilty or *nolo contendere* to an offense that constitutes a felony.

(d) The pain management clinic shall not be owned in whole or in part by a person who has been

convicted of or who has pled guilty or *nolo contendere* to an offense that constitutes a misdemeanor, the facts of which relate to the distribution or illegal prescription of any narcotic.

(e) The pain management clinic shall operate as an urgent care facility, offering primary or acute health services in addition to caring for those with chronic pain and shall have held itself out to the public as such.

(f) The pain management clinic shall implement policies and procedures that are consistent with all pain management regulations issued by the State Board of Medical Examiners.

(g) A pain management clinic which is exempted from the requirement of being owned and operated by a physician certified in the subspecialty of pain management may relocate and continue to be exempted from the requirement of being owned and operated by a physician certified in the subspecialty of pain management if the new location is in the same parish in which the original clinic was located.

(h) All pain management clinics shall submit to the department all relevant documentation proving valid operation before June 15, 2005, including but not limited to occupational licenses or certificates of operation issued by local authorities.

(2) A pain management clinic that is not licensed by or has not made an application to the department for licensure under this Part on or before August 1, 2014 shall not be licensed under the exemption to Subsection A of this Section as provided for in this Subsection.

(Amended by Act 714 of 2014 Legislature, effective June 18, 2014)

E. The provisions of this Part shall not apply to any of the following:

(1) A medical or dental school or outpatient clinic associated with a medical or dental school.

(2) A hospital, including any outpatient facility or clinic of the hospital that is separated physically from the hospital, or any other medical or dental facility that is licensed and regulated by the department.

(3) A hospice established pursuant to R.S. 40:2181 et seq.

(4) A facility maintained or operated by the state of Louisiana or a governmental entity of this state.

(5) A clinic maintained or operated by the United States or by any of its departments, offices, or agencies.

(Amended by Act 665 of 2006 Legislature)

§2198.13. Annual fee; use of proceeds

There shall be an annual license fee to be set by the department not to exceed one thousand dollars for any license issued in accordance with the provisions of this Part. Monies collected for annual fees shall be used for the investigation and enforcement of the provisions of this Part.

*[**Editor's Note**: The administrative rule required by §2198.12(B) was promulgated by the Department of Health and Hospitals at LAC 48:I.Chapter 78, effective January 20, 2008.]*

(end of Part XII-A of Chapter 11)

(end of Title 40)