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§21–1113.

(a) (1) In this section the following terms have the meanings indicated.

(2) "Authorized prescriber" means a licensed dentist, licensed physician, licensed podiatrist, licensed veterinarian, certified nurse midwife to the extent permitted under § 8-601 of the Health Occupations Article, certified nurse practitioner to the extent permitted under § 8-508 of the Health Occupations Article, or other individual authorized by law to prescribe prescription or nonprescription drugs or devices.

(3) "Board" means a health occupation licensing board authorized to issue a permit, license, or certificate under the Health Occupations Article.

(4) (i) "Controlled dangerous substance" means a drug, substance, or immediate precursor listed in Schedule I through Schedule V in Title 5 of the Criminal Law Article.

(ii) "Controlled dangerous substance" does not include tobacco or a distilled spirit, wine, or malt beverage.

(5) "Drug" means a prescription or nonprescription drug.

(6) "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for consumer use in accordance with the requirements of the laws and regulations of this State and the federal government.

(7) "Permit holder" means a holder of, or applicant for:

(i) A pharmacy permit, manufacturer's permit, or distributor's permit issued by the State Board of Pharmacy under Title 12 of the Health Occupations Article; or

(ii) A dispensing permit issued by a board under the authority of § 12-102(c)(2) of the Health Occupations Article.

(8) "Prescription drug" means a drug that under § 21-220 of this title may be dispensed only on the prescription of a health practitioner who is authorized by law to prescribe the drug.

(b) (1) The Department may issue an order of impoundment and immediately impound drugs or prescription records of a permit holder or an authorized prescriber if:

(i) A permit holder's permit or authorized prescriber's license has expired or has been revoked or suspended;

(ii) An application for a permit or license has been denied;

(iii) A board has:

1. Determined that the permit holder or authorized prescriber failed to comply with a board order, letter of surrender, or law regarding the disposition of drugs or prescription records; and

2. Requested that the Department impound the drugs or prescription records;

(iv) The drugs pose an imminent threat to the public health, safety, or welfare; or

(v) The confidentiality of the prescription records is in imminent danger of being compromised.

(2) The Department may not impound the drugs or prescription records of a permit holder or authorized prescriber who is in compliance with a board order or law specifically providing for the manner of the disposition of drugs or prescription records.

(c) (1) Except as otherwise provided in paragraph (2) of this subsection, the Department shall:

(i) Attempt to serve written notice of an impoundment on the permit holder or authorized prescriber;

(ii) Provide the permit holder or authorized prescriber with an opportunity to avoid impoundment by allowing the permit holder or authorized prescriber to dispose of the drugs or prescription records in a manner acceptable to the Department;

(iii) Provide the permit holder or authorized prescriber with an opportunity prior to impoundment to review the nature, type, and amount of information upon which the Department issued the impoundment order; and

(iv) Provide the permit holder or authorized prescriber with an opportunity to avoid impoundment by providing the Department with information upon which the Department could reasonably conclude that the impoundment is not warranted.

(2) If drugs pose an imminent threat to the public health, safety, or welfare, or if the confidentiality of prescription records is in imminent danger of being compromised, the Department may:

(i) Issue an impoundment order; and

(ii) Immediately impound drugs or prescription records without prior

notice to the permit holder or authorized prescriber.

(d) An order of impoundment constitutes a final order subject to judicial review under the State Administrative Procedure Act.

(e) The Department shall provide the permit holder or authorized prescriber with a list of all drugs and prescription records impounded.

(f) The Department may charge reasonable fees to recover the costs of the collection, storage, and disposition of drugs or prescription records.

(g) The Department shall adopt regulations governing the disposition of impounded drugs and prescription records.

(h) Prior to issuing an order of impoundment, the Department, with the approval of the Board of Pharmacy, shall develop regulations concerning:

(1) The nature, type, and amount of information upon which the Department may rely to issue an order of impoundment;

(2) The level of investigation the Department must pursue to verify the information upon which the order of impoundment was based under subsection (b)(1)(iv) or (v) or (c)(2) of this section; and

(3) The measures the Department must pursue to attempt service on the permit holder or authorized prescriber prior to impoundment under subsection (c) of this section.

(i) Prior to destroying or transferring impounded drugs or prescription records, the Department shall publish a notice for 2 consecutive weeks in a daily newspaper that is circulated locally:

(1) Stating the date that the drugs or prescription records will be destroyed or transferred; and

(2) Designating a date, time, and location where the drugs or prescription records may be retrieved by the permit holder or authorized prescriber if certain conditions are met.

(j) A board shall immediately notify the Division of Drug Control of the surrender, suspension, or revocation of a permit holder's permit or an authorized prescriber's license.

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