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NEW LAW REGULATES HEALTH CARE FACILITIES'

DISPOSAL OF PRESCRIPTION DRUGS

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On November 19, 2012, Governor Chris Christie signed a law that prevents licensed health care facilities in New Jersey from disposing of certain prescription medications into a public wastewater collection system or a septic system.

The new law requires health care facilities to establish and implement a policy, procedure, plan or practice that prohibits the facility and any employee, staff person, contractor, or other person under the direction or supervision of the facility, from discharging, disposing, flushing, pouring, or emptying unused prescription medications into a public wastewater collection system or a septic system. The law does not limit or prohibit a health care facility from lawfully discharging non-prescription medications or intravenous solutions containing only dextrose, saline, sterile water, or electrolytes, or a combination thereof. The law also allows a facility to lawfully discharge unused prescription medication into a public wastewater collection system or a septic system, if pursuant to the product insert, product label, product packaging, or prescription:

- (1) The dose of prescription medication is to be partially wasted prior to administration of the medication per physician order;
- (2) The prescription medication is a controlled substance as defined by federal law, rule or regulation; or
- (3) The prescription medication is not deemed hazardous by the U.S. Environmental Protection Agency or the National Institute of Occupational Safety and Health.

As part of its periodic inspections of licensed facilities, the New Jersey Department of Health will ensure that facilities have established and are implementing a policy, procedure, plan or practice for the proper disposal of unused prescription medications, in compliance with the new law. The law provides that any facility failing to comply with these requirements shall be liable for a penalty of up to \$1,000 for a first violation, and \$2,500 for each subsequent violation.

The law shall take effect on June 17, 2013, but it authorizes the Department of Health to take anticipatory action in advance of that date. As such, all licensed health care facilities in New Jersey should take action to establish and implement policies and procedures, or review and amend existing policies and procedures, to ensure compliance with this new law. Should you have any questions regarding the new law, or require assistance in complying with it, you may contact one of the health care attorneys at Schenck, Price, Smith & King, LLP.

DISCLAIMER: This Legal Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client. If someone you know would like to receive this Legal Alert, please send a message to Brian M. Foley Esq. at bmf@spsk.com. Mr. Foley is co-chair of Schenck, Price, Smith & King's Health Care Law Practice Group.

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