

§ 90-108. Prohibited acts; penalties.

- (a) It shall be unlawful for any person:
- (1) Other than practitioners licensed under Articles 1, 2, 4, 6, 11, 12A of this Chapter to represent to any registrant or practitioner who manufactures, distributes, or dispenses a controlled substance under the provision of this Article that he or she is a licensed practitioner in order to secure or attempt to secure any controlled substance as defined in this Article or to in any way impersonate a practitioner for the purpose of securing or attempting to secure any drug requiring a prescription from a practitioner as listed above and who is licensed by this State.
 - (2) Who is subject to the requirements of G.S. 90-101 or a practitioner to distribute or dispense a controlled substance in violation of G.S. 90-105 or G.S. 90-106.
 - (3) Who is a registrant to manufacture, distribute, or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person.
 - (4) To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or its successor.
 - (5) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice or information required under this Article.
 - (6) To refuse any entry into any premises or inspection authorized by this Article.
 - (7) To knowingly keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of this Article for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this Article.
 - (8) Who is a registrant or a practitioner to distribute a controlled substance included in Schedule I or II of this Article in the course of his or her legitimate business, except pursuant to an order form as required by G.S. 90-105.
 - (9) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person.
 - (10) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.
 - (11) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this Article, or any record required to be kept by this Article.
 - (12) To do either of the following:
 - a. To possess, manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to create a counterfeit controlled substance, knowing, intending, or having reasonable cause to believe that it will be used to create a counterfeit controlled substance.
 - b. 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 or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled substance,

knowing, intending, or having reasonable cause to believe that it will be used to create a counterfeit controlled substance.

- (12a) To possess, manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance. This subdivision shall not apply to a pharmacy, a pharmacist, a pharmacy technician, or a pharmacy intern licensed or permitted under Article 4A of Chapter 90 of the General Statutes possessing any item included in this subdivision utilized in the compounding, dispensing, delivering, or administering of a controlled substance pursuant to a prescription.
- (13) To obtain controlled substances through the use of legal prescriptions which have been obtained by the knowing and willful misrepresentation to or by the intentional withholding of information from one or more practitioners.
- (14) Who is a registrant or practitioner or an employee of a registrant or practitioner and who is authorized to possess controlled substances or has access to controlled substances by virtue of employment, to embezzle or fraudulently or knowingly and willfully misapply or divert to his or her own use or other unauthorized or illegal use or to take, make away with or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or divert to his or her own use or other unauthorized or illegal use any controlled substance which shall have come into his or her possession or under his or her care.
- (15) Who is not a registrant or practitioner nor an employee of a registrant or practitioner and who, by virtue of his or her occupation or profession, administers or provides medical care, aid, emergency treatment, or any combination of these to a person who is prescribed a controlled substance, to embezzle or fraudulently or knowingly and willfully misapply or divert to his or her own use or other unauthorized or illegal use or to take, make away with, or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or divert to his or her own use or other unauthorized or illegal use any controlled substance that is prescribed to another.

(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor. Provided, that if the criminal pleading alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a Class I felony unless one of the following applies:

- (1) A person who violates subdivision (7) of subsection (a) of this section and also fortifies the structure, with the intent to impede law enforcement entry, (by barricading windows and doors) shall be punished as a Class I felon.
- (1a) A person who violates subdivision (12a) of subsection (a) of this section shall be punished as a Class E felon.
- (2) A person who violates subdivision (14) or (15) of subsection (a) of this section shall be punished as a Class G felon.
- (3) A person who violates subdivision (14) or (15) of subsection (a) of this section and intentionally diverts any controlled substance by means of dilution or substitution or both shall be punished as a Class E felon. As used in this subdivision, the following terms have the following meanings:

- a. Dilution. – The act of diluting or the state of being diluted; the act of reducing the concentration of a mixture or solution.
- b. Substitution. – To take the place of or replace. (1971, c. 919, s. 1; 1973, c. 1358, s. 11; 1979, c. 760, ss. 5, 6; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 294, s. 7; c. 773; 1991 (Reg. Sess., 1992), c. 1041, s. 1; 1993, c. 539, s. 622; 1994, Ex. Sess., c. 24, s. 14(c); 2013-90, s. 1; 2018-44, s. 9; 2023-15, s. 1(a).)