

"forged" prescriptions for consistency within this article.

In subsection (d)(4)(i) of this section, the former reference to obtaining a prescription drug by "subterfuge" is deleted as included in the reference to obtaining such a drug by "deceit".

In subsection (e) of this section, the former reference to a person who "refuses, neglects or fails to comply with the provisions and requirements ... [of this section], or who obtains or possesses a prescription drug in violation of this section" is deleted as included in the reference to a person "who violates this section".

Former Art. 27, § 300(e)(2), which prohibited a person from advertising through any media other than a professional or trade publication any controlled dangerous substance or prescription drug by either its "trade name" or by its generic or formulary name, is deleted as unconstitutional and unenforceable as a violation of the First Amendment rights of consumers to receive factual information concerning the sale of drugs. See 61 Op. Att'y Gen. 12 (1976), which concluded that the provision was unconstitutional in light of the U.S. Supreme Court holding in *Virginia State Board of Pharmacy v. Virginia Citizens Consumers Council*, 96 S. Ct. 1817 (1976).

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that this revision assumes that this section applies to the sale of prescription drugs to certain persons, and also applies to a provider's assistant. The Committee notes that this section could be read to apply to the sale of prescription drugs to certain persons and to specifically identified unlicensed assistants.

The Criminal Law Article Review Committee also notes, for the consideration of the General Assembly that subsection (b) of this section generally overlaps HG § 21-220. The General Assembly may wish to merge and harmonize these provisions.

Defined terms: "Administer" § 5-101

"Authorized provider" § 5-101

"Counterfeit" § 1-101

"Department" § 5-101

"Dispense" § 5-101

"Distribute" § 5-101

"Drug" § 5-101

"Manufacture" § 5-101

"Person" § 1-101

"Possess" § 5-101

"Prescription drug" § 5-101

5-702. SALE OF DRUG DIFFERENT FROM THAT ORDERED.

(A) PROHIBITED.