


TO: Upstate Medical University Employees

FROM: Jeffrey S. Stevens, Vice President & Chief Human Resources Officer 

DATE: July 31, 2024

SUBJECT: Notification regarding Alcohol and Controlled Substances in the Workplace

All Upstate employees and affiliated staff must abide by the Federal Drug Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act of 1986, as amended, and Campus Policy UW D-03 - *Prohibition of Illicit Drugs, Controlled Substances, and Alcohol in the Workplace*.

Upstate employees are prohibited from the unlawful manufacture, distribution, dispensation, possession or use of illicit drugs, synthetic drugs, controlled substances, and/or alcohol in the workplace. Impairment of an employee from illicit drugs, controlled substances, synthetic drugs, alcohol and/or the use of approved medical marijuana in the workplace of Upstate is prohibited. These prohibitions include property owned and leased by Upstate; work sites of Upstate; and all locations where work-related activities of Upstate are being held. Any such acts, even if engaged in off duty, may result in disciplinary action, up to and including termination of employment.

Upstate employees violating these prohibitions may also be subject to a referral for criminal prosecution and a requirement to complete a drug and/or alcohol rehabilitation program. Employees are required to inform the HR - Employee/Labor Relations Office within five (5) days after they are convicted of a violation of a federal or state criminal drug statute if such violation occurred in the workplace.

The Employee Assistance Program (EAP) is a confidential service which provides short-term solution-oriented counseling information and referral sources to employees with drug or alcohol-related problems. For additional information, please visit <http://www.upstate.edu/eap/> or call 315-464-5760. Detailed information regarding the applicable legal sanctions under State and Federal law for the unlawful possession or distribution of illicit drugs and alcohol are attached and available at these links: [alcohol violations.pdf \(upstate.edu\)](#) and [drug penalties.pdf \(upstate.edu\)](#).

Questions regarding this notification should be referred to the Human Resources Office at 315 464-4927.

Supervisors: Please provide a hard copy of this communication to staff that do not have an email account.

cc: Mantosh Dewan, M.D., President	Julie White, PhD, Dean Student Affairs
Eric Smith, Sr. Vice President for Finance & Admin.	David Snyder, PEF Field Rep
Christian Jones, Esq. Senior Campus Counsel	Ali Cottrell, CSEA Local President
Jarrold Bagatell, M.D., Medical Director	Richard Veenstra, UUP Chapter President
Erika Taylor, University Chief of Police	Allysa Kemraj, GSEU, Chief Steward
Annemarie Cristino, Employee Assistance Coordinator	

Appendix A: NYS Alcoholic Beverage Control (ABC) Law: Article 5 – Special Provisions Relating to Liquor

<p align="center"><u>NYS ABC Law</u> Special Provisions Relating to Liquor</p>	<p align="center">Specifics</p>	<p align="center">Sentence</p>
<p>§ 65-a. Procuring alcoholic beverages for persons under the age of 21 years</p>	<p>Any person who misrepresents the age of a person under the age of 21 years for inducing the sale of any alcoholic beverage, as defined in the alcoholic beverage control law, to such person.</p>	<p>A fine of not more than \$200, or imprisonment up to five days, or both.</p>
<p>§ 65-b. Offense for one under age of 21 years to purchase or attempt to purchase an alcoholic beverage through fraudulent means.</p>	<p>No person under the age of 21 years shall present or offer to any licensee, or to the agent or employee of such licensee, any written evidence of age, which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase any alcoholic beverage.</p>	<p>1st violation: a fine of not more than \$100 and/or up to 30 hours of community service. Also may order completion of an alcohol awareness program.</p> <p>2nd violation: a fine of \$50 to \$350 and/or up to 60 hours of community service. Also shall order completion of an alcohol awareness program if not previously completed.</p> <p>3rd and subsequent violations: a fine of \$50 to \$750 and/or up to 90 hours of community service, shall order evaluation by an appropriate agency to determine whether the person suffers from the disease of alcoholism or alcohol abuse. Payment for such evaluation shall be made by such person. If person elects to participate in recommended treatment, the court shall order that payment of such fine and community service be suspended pending the completion of such treatment.</p> <p>In addition to these penalties, the court may suspend such person's license to drive a motor vehicle and the privilege of an unlicensed person of obtaining such license: 1st violation: a three month suspension; 2nd violation: a six month suspension; 3rd or subsequent violation: a one year suspension or until the holder reaches the age of 21, whichever is the greater period.</p>
<p>§ 65-c. Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of 21 years.</p>	<p>No person under the age of 21 years shall possess any alcoholic beverage with the intent to consume such beverage.</p>	<p>A fine up to \$50 and/or completion of an alcohol awareness program and/or up to 30 hours of community service.</p>

Note: This information is not to be considered legal advice or guaranteed to be a comprehensive inventory of all state laws regarding alcohol and other drugs. The University will attempt to notify campuses of new or revised legislative reporting or disclosure requirements. It is the user's responsibility to check [New York State laws](#) and with [relevant SUNY offices](#) to determine whether changes, additions or substitutions have been made.

Appendix B: NYS Penal Law: Article 220 - Controlled Substances Offenses; Article 222 - Offenses Involving Cannabis; and Article 178 - Criminal Diversion of Prescription Medications and Prescriptions

<p><u>NYS Penal Law</u> Controlled Substances Offenses</p>	<p>Specifics</p>	<p>Sentence</p>
<p>§ 220.03 Criminal possession of a controlled substance (7th degree).</p> <p>§ 220.06 Criminal possession of a controlled substance (5th degree).</p>	<p>Knowingly and unlawfully possessing a controlled substance (any substance listed in schedule I, II, III, IV or V of §3306 of the NYS Public Health Law other than marijuana)</p> <p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. a controlled substance with intent to sell it; or 2. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (aggregate weight of ½ oz or more); or 3. phencyclidine (50 mg or more); or 4. cocaine (500 mg or more); or 5. ketamine (more than 1,000 mg); or 6. ketamine, and has previously been convicted of possession or the attempt to commit possession of ketamine in any amount; or 7. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 28 g or more). 	<p>Class A misdemeanor: imprisonment up to one year.</p> <p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 220.09 Criminal possession of a controlled substance (4th degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (an aggregate weight of 1/8 oz or more); or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (an aggregate weight of ½ oz or more); or 3. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (an aggregate weight of 2 oz or more); or 4. a stimulant (1 g or more); or 5. lysergic acid diethylamide (1 mg or more); or 6. a hallucinogen (25 mg or more); or 7. a hallucinogenic substance (1 g or more); or 8. a dangerous depressant (10 oz or more); or 9. a depressant (2 lbs or more); or 10. phencyclidine (250 mg or more); or 11. methadone (360 mg or more); or 12. phencyclidine (50 mg or more) with intent to sell it and has previously been convicted of an offense defined in § 220 or the attempt or 	<p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 3 ½ to 9 years.</p>

<p>§ 220.16 Criminal possession of a controlled substance (3rd degree).</p>	<p>conspiracy to commit any such offense); or</p> <p>13. ketamine (4,000 mg or more); or</p> <p>14. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 200 g or more).</p> <p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. a narcotic drug with intent to sell it; or 2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide, with intent to sell it and has previously been convicted of an offense defined in § 220 or the attempt or conspiracy to commit any such offense; or 3. a stimulant (1 g or more) with intent to sell it; or 4. lysergic acid diethylamide (1 mg or more) with intent to sell it; or 5. a hallucinogen (25 mg or more) with intent to sell it; or 6. a hallucinogenic substance (1 g or more) with intent to sell it; or 7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (1/8 oz or more) with intent to sell it; or 8. a stimulant (5 g or more); or 9. lysergic acid diethylamide (5 mg or more); or 10. a hallucinogen (125 mg or more); or 11. a hallucinogenic substance (5 g or more); or 12. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or 13. phencyclidine (1250 mg or more). <p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 4 oz or more); or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of 2 oz or more); or 3. a stimulant (10 g or more); or 4. lysergic acid diethylamide (25 mg or more); or 5. a hallucinogen (625 mg or more); or 6. a hallucinogenic substance (25 g or more); or 7. methadone (2850mg or more). 	<p>Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2nd time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>
<p>§ 220.18 Criminal possession of a controlled substance (2nd degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 8 oz or more); or 2. methadone (5760 mg or more). 	<p>Class A-II felony: imprisonment 3 to 10 years. For a 2nd time offender, imprisonment for 6 to 14 years (may be sentenced to lifetime probation). For a 2nd time offender previously convicted of a violent felony: imprisonment for 8 to 17 years.</p> <p>Class A-I felony: imprisonment for 8 to 20 years. For a 2nd time offender: imprisonment for 12 to 24 years. For a 2nd time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>
<p>§ 220.21 Criminal possession of a controlled substance (1st degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 8 oz or more); or 2. methadone (5760 mg or more). 	<p>Class A-I felony: imprisonment for 8 to 20 years. For a 2nd time offender: imprisonment for 12 to 24 years. For a 2nd time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>

<p>§ 220.25 Criminal possession of a controlled substance (presumption).</p>	<p>1. The presence of a controlled substance in an automobile, other than a public omnibus, is presumptive evidence of knowing possession by each and every person in the automobile at the time the substance was found (see §220.25 for exceptions).</p> <p>2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such substance is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance at the time such controlled substance was found (see §220.25 for exceptions).</p>	<p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 220.31 Criminal sale of a controlled substance (5th degree).</p>	<p>Knowingly and unlawfully selling a controlled substance (any substance listed in schedule I, II, III, IV or V of §3306 of the NYS Public Health Law other than marihuana)</p> <p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. a narcotic preparation; or 2. a dangerous depressant (10 oz or more) or a depressant (2 lbs or more); or 3. phencyclidine (50 mg or more); or 4. methadone; or 5. phencyclidine (any amount) and previously convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or 6. ketamine (4,000 mg or more); or 7. a controlled substance in violation of section 220.31, when such sale takes place upon school grounds; or the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or 8. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (28 g or more), as defined in §3306 of the NYS Public Health Law. 	<p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 3 ½ to 9 years.</p>

<p>§ 220.39 Criminal sale of a controlled substance (3rd degree).</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. a narcotic drug; or 2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide (and previously convicted of an offense defined in §220 or the attempt or conspiracy to commit any such offense; or 3. a stimulant (1 g or more); or 4. lysergic acid diethylamide (1 mg or more); or 5. a hallucinogen (25 mg or more); or 6. a hallucinogenic substance (1 g or more); or 7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of 1/8 oz or more); or 8. phencyclidine (250 mg or more); or 9. a narcotic preparation to a person less than 21 years old. 	<p>Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2nd time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>
<p>§ 220.41 Criminal sale of a controlled substance (2nd degree).</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of ½ oz or more); or 3. a stimulant (5 g or more); or 4. lysergic acid diethylamide (5 mg or more); or 5. a hallucinogen (125 mg or more); or 6. a hallucinogenic substance (5 g or more); or 7. methadone (360 mg or more). 	<p>Class A-II felony: imprisonment 3 to 10 years. For a 2nd time offender, imprisonment for 6 to 14 years (may be sentenced to lifetime probation). For a 2nd time offender previously convicted of a violent felony: imprisonment for 8 to 17 years.</p>
<p>§ 220.43 Criminal sale of a controlled substance (1st degree).</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 2 oz or more); or 2. methadone (2880 mg or more). 	<p>Class A-I felony: imprisonment for 8 to 20 years. For a 2nd time offender: imprisonment for 12 to 24 years. For a 2nd time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>
<p>§ 220.44 Criminal sale of a controlled substance in or near school grounds.</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. a controlled substance in violation of any one of subdivisions 1–6-a of §220.34, when such sale takes place upon school grounds or school bus; or 2. a controlled substance in violation of any one of subdivisions 1–8 of §220.39, when such sale takes place upon school grounds or school bus; or 3. a controlled substance in violation of any one of subdivisions 1–6 of §220.34, when such sale takes place upon the grounds of a child day care or an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or 4. a controlled substance in violation of any one of subdivisions 1–8 of 	<p>Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2nd time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>

	<p>§220.39, when such sale takes place upon the grounds of a child day care or an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds.</p>	
<p>§ 220.46 Criminal injection of a narcotic drug.</p>	<p>Knowingly and unlawfully possessing a narcotic drug and intentionally injecting, by means of a hypodermic syringe or hypodermic needle, all or any portion of that drug into the body of another person with the latter's consent.</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>
<p>§ 220.48 Criminal sale of a controlled substance to a child.</p>	<p>Being over the age of 21, knowingly and unlawfully selling a controlled substance in violation of section 22.34 or section 220.39 to person less than 17 years old.</p>	<p>Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2nd time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>
<p>§ 220.50 Criminally using drug paraphernalia (2nd degree).</p>	<p>Knowingly possessing or selling:</p> <ol style="list-style-type: none"> 1. diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding, or otherwise preparing any narcotic drug or stimulant; or 2. gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant; or 3. scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant. 	<p>Class A misdemeanor: imprisonment up to one year.</p>

<p>§ 220.55 Criminally using drug paraphernalia (1st degree).</p>	<p>Committing the crime of criminally using drug paraphernalia in the second degree and having previously been convicted of criminally using drug paraphernalia in the 2nd degree.</p>	<p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 220.60 Criminal possession of precursors</p>	<p>Possessing and at the same time intending to manufacture a controlled substance unlawfully:</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and</p>

<p>of controlled substances.</p>	<ol style="list-style-type: none"> 1. carbamide (urea) and propanedioc and malonic acid or its derivatives; or 2. ergot or an ergot derivative and diethylamine or dimethyl-formamide or diethylamide; or 3. phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitroethane or methylamine; or 4. pentazocine and methyl iodide; or 5. phenylacetone and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; or 6. diethylacetone and dimethylaminoisopropyl chloride; or 7. piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or 8. 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent. 	<p>2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>
<p>§ 220.65 Criminal sale of a prescription for a controlled substance.</p>	<p>When, being a practitioner, as that term is defined in §3302 of the NYS Public Health Law, knowingly and unlawfully selling a prescription for a controlled substance; or</p> <p>When, being a practitioner or pharmacist, as those terms are defined in section thirty-three hundred two of the public health law, he or she, acting other than in good faith, while purporting to act within the scope of the power, authority and privileges of his or her license, as that term is defined in section thirty-three hundred two of the public health law, knowingly and unlawfully sells a controlled substance.</p>	<p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>
<p>§ 220.70 Criminal possession of methamphetamine manufacturing material (2nd degree).</p>	<p>Possessing a precursor, a chemical reagent or a solvent with the intent to use or knowing another intends to use such precursor, chemical reagent, or solvent to unlawfully produce, prepare or manufacture methamphetamine.</p>	<p>Class A misdemeanor: imprisonment up to one year.</p>
<p>§ 220.71 Criminal possession of methamphetamine manufacturing material (1st degree).</p>	<p>Committing the offense of criminal possession of methamphetamine manufacturing material in the second degree, as defined in § 220.70, and has previously been convicted within the preceding 5 years of criminal possession of methamphetamine manufacturing material in the 2nd degree or a violation of this section.</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>
<p>§ 220.72 Criminal possession of precursors of methamphetamine.</p>	<p>Possessing at the same time a precursor and a solvent or chemical reagent, with intent to use or knowing that another intends to use each such precursor, solvent or chemical reagent to unlawfully manufacture methamphetamine.</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>

	<p>Possessing at the same time and location, with intent to use, or knowing that another intends to use each such product to unlawfully manufacture, prepare or produce methamphetamine:</p> <ol style="list-style-type: none"> 1. two or more items of laboratory equipment and two or more precursors, chemical reagents or solvents in any combination; or 2. one item of laboratory equipment and three or more precursors, chemical reagents or solvents in any combination; or 3. a precursor: (a) mixed together with a chemical reagent or solvent; or (b) with two or more chemical reagents and/or solvents mixed together. <p>A person is guilty of operating as a major trafficker when:</p> <ol style="list-style-type: none"> 1. Such person acts as a director of a controlled substance organization during any period of twelve months or less, during which period such controlled substance organization sells one or more controlled substances, and the proceeds collected or due from such sale or sales have a total aggregate value of seventy-five thousand dollars or more; or 2. As a profiteer, such person knowingly and unlawfully sells, on one or more occasions within six months or less, a narcotic drug, and the proceeds collected or due from such sale or sales have a total aggregate value of seventy-five thousand dollars or more. 3. As a profiteer, such person knowingly and unlawfully possesses, on one or more occasions within six months or less, a narcotic drug with intent to sell the same, and such narcotic drugs have a total aggregate value of seventy-five thousand dollars or more. 	<p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p> <p>Class A-I felony: imprisonment for 8 to 20 years. For a 2nd time offender: imprisonment for 12 to 24 years. For a 2nd time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>
<p>§ 220.73 Unlawful manufacture of methamphetamine (3rd degree).</p> <p>§ 220.77 Operating as a major trafficker</p>		

	<p>1. Commits violation of § 220.73 in the presence of another person under the age of 16, provided, however, that the actor is at least 5 years older than such other person under the age of 16; or</p> <p>2. Commits violation of § 220.73 and has previously been convicted within the preceding 5 years of the offense of criminal possession of precursors of methamphetamine; criminal possession of methamphetamine manufacturing material in the 1st degree; unlawful disposal of methamphetamine laboratory material; or unlawful manufacture of methamphetamine in the 3rd degree, the 2nd degree, or the 1st degree.</p>	<p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>
<p>§ 220.74 Unlawful manufacture of methamphetamine (2nd degree).</p>	<p>Commits the crime of unlawful manufacture of methamphetamine in the 2nd degree after having previously been convicted within the preceding 5 years of unlawful manufacture of methamphetamine in the 3rd degree or unlawful manufacture of methamphetamine in the 2nd degree or unlawful manufacture of methamphetamine in the 1st degree.</p>	<p>Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2nd time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>
<p>§ 220.76 Unlawful disposal of methamphetamine laboratory material.</p>	<p>Knowing that such actions are in furtherance of methamphetamine operations, knowingly disposing of, or possessing with intent to dispose of, hazardous or dangerous material under circumstances that create a substantial risk to human health or safety or a substantial danger to the environment.</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>

<p><u>NYS Penal Law</u> Offenses Involving Cannabis</p>	<p>Specifics</p>	<p>Sentence</p>
<p>§ 222.10 Restrictions on Cannabis Use</p>	<p>The smoking or vaping of cannabis is prohibited in a location where smoking or vaping cannabis is prohibited pursuant to Article 13-E of the Public Health Law. Smoking, vaping, or ingesting cannabis or concentrated cannabis is prohibited in or upon the grounds of a school or in or on a school bus.</p>	<p>Violation with a fine up to \$25 or up to 20 hours of community service.</p>
<p>§ 222.25 Unlawful possession of cannabis.</p>	<p>Knowingly and unlawfully possessing more than 3 ounces of cannabis or more than 24 grams of concentrated cannabis.</p>	<p>Violation with a fine of up to \$125.</p>
<p>§ 222.30 Criminal possession of cannabis (3rd degree).</p>	<p>Knowingly and unlawfully possessing more than 16 ounces of cannabis or more than 5 ounces of concentrated cannabis.</p>	<p>Class A misdemeanor: imprisonment up to one year.</p>

<p>§ 222.35 Criminal possession of cannabis (2nd degree).</p>	<p>Knowingly and unlawfully possessing more than 5 pounds of cannabis or more than 2 pounds of concentrated cannabis.</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment of 2 to 2 ½ years.</p>
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<p>§ 222.40 Criminal possession of cannabis (1st degree).</p>	<p>Knowingly and unlawfully possessing more than 10 pounds of cannabis or more than 4 pounds of concentrated cannabis.</p>	<p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p> <p>Violation with a fine of up to \$250.</p>
<p>§ 222.45 Unlawful sale of cannabis</p>	<p>Knowingly and unlawfully selling any amount of cannabis or concentrated cannabis</p>	<p>Class A misdemeanor: imprisonment up to one year.</p>
<p>§ 222.50 Criminal sale of cannabis (3rd degree).</p>	<p>Knowingly and unlawfully selling more than 3 ounces of cannabis or more than 24 grams of concentrated cannabis; or giving or selling cannabis to anyone under the age of 21, unless the defendant was less than 3 years older than the person under the age of 21 at the time of the offense. Does not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with Article three of the Cannabis Law.</p>	<p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>
<p>§ 222.55 Criminal sale of cannabis (2nd degree)</p>	<p>Knowingly and unlawfully selling more than 16 ounces of cannabis or 5 ounces of concentrated cannabis; or giving or selling more than 3 ounces of cannabis or more than 24 grams of concentrated cannabis to anyone under the age of 18. Does not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with Article three of the Cannabis Law.</p>	<p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 222.60 Criminal sale of cannabis (1st degree)</p>	<p>Knowingly and unlawfully selling more than 5 pounds of cannabis or more than 2 pounds of concentrated cannabis.</p>	<p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 3 ½ to 9 years.</p>
<p>§ 222.65 Aggravated criminal sale of cannabis</p>	<p>Knowingly and unlawfully selling more than 100 pounds of cannabis or concentrated cannabis.</p>	<p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 3 ½ to 9 years.</p>

NYS Penal Law
Criminal Diversion of
Prescriptions &
Medications

Specifics

Sentence

See [§ 178.00](#) for definitions and [§ 178.05](#) for limitation of criminal diversion of prescription medications and prescriptions.

<p>§ 178.10 Criminal diversion of prescription medications and prescriptions (4th degree).</p> <p>§ 178.15 Criminal diversion of prescription medications and prescriptions (3rd degree).</p>	<p>A person is guilty of criminal diversion of prescription medications and prescriptions in the 4th degree when he or she commits a criminal diversion act.</p> <p>A person is guilty of criminal diversion of prescription medications and prescriptions in the 3rd degree when he or she:</p> <ol style="list-style-type: none"> 1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$1000; or 2. commits the crime of criminal diversion of prescription medications and prescriptions in the 4th degree, and has previously been convicted of the crime of criminal diversion of prescription medications and prescriptions in the 4th degree. 	<p>Class A misdemeanor: imprisonment up to one year.</p> <p>Class E felony: imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>
<p>§ 178.20 Criminal diversion of prescription medications and prescriptions (2nd degree).</p> <p>§ 178.25 Criminal diversion of prescription medications and prescriptions in the first degree.</p>	<p>A person is guilty of criminal diversion of prescription medications and prescriptions in the second degree when he or she commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$3,000.</p> <p>A person is guilty of criminal diversion of prescription medications and prescriptions in the first degree when he or she commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$50,000.</p>	<p>Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p> <p>Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 3 ½ to 9 years.</p>
<p>Alternative sentence: the court may impose imprisonment of one year or less for a person convicted of a class C, class D or class E felony offense.</p>		

Note: This information is not to be considered legal advice or guaranteed to be a comprehensive inventory of all state laws regarding alcohol and other drugs. The University will attempt to notify campuses of new or revised legislative reporting or disclosure requirements. It is the user's responsibility to check [New York State laws](#) and with [relevant SUNY offices](#) to determine whether changes, additions or substitutions have been made.

Federal Trafficking Penalties

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500–4999 grams mixture	First Offense: Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual. Second Offense: Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.	5 kgs or more mixture	First Offense: Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual. Second Offense: Not less than 15 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual. 2 or More Prior Offenses: Not less than 25 years Fine of not more than \$20 million if an individual, \$75 million if not an individual.
Cocaine Base (Schedule II)	28–279 grams mixture		280 grams or more mixture	
Fentanyl (Schedule II)	40–399 grams mixture		400 grams or more mixture	
Fentanyl Analogue (Schedule I)	10–99 grams mixture		100 grams or more mixture	
Heroin (Schedule I)	100–999 grams mixture		1 kg or more mixture	
LSD (Schedule I)	1–9 grams mixture		10 grams or more mixture	
Methamphetamine (Schedule II)	5–49 grams pure or 50–499 grams mixture		50 grams or more pure or 500 grams or more mixture	
PCP (Schedule II)	10–99 grams pure or 100–999 grams mixture		100 gm or more pure or 1 kg or more mixture	

PENALTIES		
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	First Offense: Not more than 20 yrs. If death or serious injury, not less than 20 yrs, or more than life. Fine \$1 million if an individual, \$5 million if not an individual. Second Offense: Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.
Flunitrazepam (Schedule IV)	1 gram	
Other Schedule III drugs	Any amount	First Offense: Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual. Second Offense: Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.
All other Schedule IV drugs	Any amount	First Offense: Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual.
Flunitrazepam (Schedule IV)	Other than 1 gram or more	

		Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.
All Schedule V drugs	Any amount	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual. Second Offense: Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

Federal Trafficking Penalties—Marijuana

DRUG	QUANTITY	1st OFFENSE	2nd OFFENSE *
Marijuana (Schedule I)	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 15yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana (Schedule I)	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50 million if other than an individual.
Marijuana (Schedule I)	More than 10 kg hashish; 50 to 99 kg marijuana mixture More than 1 kg of hashish oil; 50 to 99 marijuana plants	Not less than 20 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not less than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Marijuana (Schedule I)	Less than 50 kg marijuana (except 50 or more marijuana plants regardless of weight); 1 to 49 marijuana plants	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish (Schedule I)	10 kg or less	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish Oil (Schedule I)	1 kg or less	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual

*The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is a not less than 25 years imprisonment and a fine up to \$20 million if an individual and \$75 million if other than an individual.