

# Drug-Free Schools and Campuses Regulations

**Biennial Review Report**

**Academic Years 2020–2021 and 2021–2022**

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DECEMBER 2022



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# About Excelsior University

## Our Story

Excelsior University is an accredited, not-for-profit distance learning institution founded in 1971 focused on providing educational opportunity to adult learners.

Excelsior initially achieved its mission to provide adult learners with a flexible and affordable pathway to a credential through the assessment of learning and the aggregation of credit earned from inside and outside the classroom. It soon added credit by examination, and students could study independently and take exams to validate their knowledge. Thirty years later, in the 2000s, Excelsior was among the first institutions developing and offering online courses.

## Guiding Principles

### Mission:

Excelsior University provides educational opportunity to adult learners with an emphasis on those historically underrepresented in higher education. Excelsior meets students where they are – academically and geographically, offering quality instruction and the assessment of learning.

### Vision:

Excelsior University provides access to quality higher education through innovative online learning, exceptional student experience, and innovation to be a model for addressing societal and workforce needs.

### Values:

Completion – Excelsior provides support services needed for degree completion.

Accessibility – Excelsior provides programs and services that meet students where they are academically and geographically.

Affordability – Excelsior prudently manages its resources to invest in people and offer high-quality education credentials at an affordable price.

Excellence – Excelsior expects a collaborative effort and full engagement from all to develop and provide programs of exceptional value to students and employers.

Equity and Inclusion – Excelsior practices inclusion by welcoming and valuing all students, staff members, and faculty members in our learning community, and providing them with educational opportunities.

Collaboration – Members of the Excelsior community work together to develop, deliver, and sustain high-quality academic products and services for students.

## **Biennial Review of Excelsior University's Alcohol and Other Drug Programs - 2020–2022**

The Drug-Free Schools and Communities Act (DFSCA) and implementing regulations requires an institution of higher education (IHE) to certify it has adopted and implemented programs to prevent the abuse of alcohol and use or distribution of illicit drugs both by Excelsior University students and employees on its premises and as a part of any of its activities. At a minimum, each institution of higher education must annually distribute the following in writing to all students and employees:

- Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees;
- A list of applicable legal sanctions under federal, state, or local laws for the unlawful possession or distribution of illicit drugs and alcohol;
- A description of the health risks associated with the abuse of alcohol or use of illicit drugs;
- A list of drug and alcohol programs (counseling, treatment, rehabilitation, and reentry) that are available to employees or students; and,
- A clear statement that the institution will impose disciplinary sanctions on students and employees for violations of the standards of conduct and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution.

The law further requires that the institution conduct a biennial review of its program with the following objectives:

- Determining the effectiveness of the policy and implementing changes to the alcohol and other drug programs if they are needed; and,
- To ensure that the sanctions developed are enforced consistently.

The biennial review must also include a determination as to:

- The number of alcohol- and drug-related violations and fatalities occurring on the campus or as part of their activities that are reported to campus officials; and,
- The number and types of sanctions the IHEs impose on students or employees as a result of such violations or fatalities.

The intent of this document is to:

- Reflect the institutions' biennial review; and,
- Review and summarize the programs and activities related to alcohol and drug prevention from 2020–2022.

# Compliance with Drug-Free Schools and Communities Act

Excelsior University has adopted and implemented programs to prevent the abuse of alcohol and use or distribution of illicit drugs both by students and employees on its premises and as a part of any of the University's activities. Excelsior has a Drug-Free Schools and Workplace Policy and distributes this to students through access to the Student Policies online at: <https://www.excelsior.edu/policies/students/> and through various communications throughout the academic year<sup>1</sup>. Additionally, Excelsior distributes the Drug-Free Schools and Workplace Policy to employees through its Employee Handbook and Annual Security Report throughout the academic year. The written materials, distributed on an annual basis to students and employees, contain the following:

- Standards of conduct that prohibit unlawful possession, use or distribution of illicit drugs and alcohol on its property or as a part of its activities;
- A clear statement and description of the disciplinary sanctions the institution will impose on students and employees.
- A description of applicable legal sanctions under federal, state or local law;
- A description of the health risks associated with the use of illicit drugs and abuse of alcohol;
- A description of counseling or treatment programs; and,

Excelsior University is committed to providing students, faculty, staff, and visitors a safe campus and workplace environment. The University recognizes the health risks associated with controlled substance use and alcohol misuse and is committed to supporting students and employees who seek treatment for these conditions. The University also recognizes that controlled substance use and alcohol misuse diminish workplace and campus safety. Compliance with the following is considered a condition of employment and attendance at Excelsior University.

## Drug-Free Schools and Workplace Policy

### Scope

This policy applies to all Excelsior University staff, faculty and students.

### Statement of Policy

In compliance with the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989, Excelsior University has a long-standing commitment to providing a safe, quality-oriented, and productive work environment. Alcohol and drug

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<sup>1</sup> Annual student letter regarding notice of availability of institutional and financial aid information, New Student Initial Checklist, Student Handbook, and the Annual Security Report (<https://www.excelsior.edu/policy/campus-security-report/>).

abuse pose a threat to the health and safety of Excelsior staff, our students and to the security of our facilities. For these reasons, Excelsior University is committed to the elimination of drug and/or alcohol abuse in the workplace and University community. Excelsior University is committed to maintaining an alcohol- and drug-free workplace and University community.

The University is also committed to rigorous enforcement of applicable laws and policies and to support those trying to cope with alcohol- or drug-related problems.

Illegal drug use and alcohol abuse can seriously injure the health of employees, adversely impact the performance of their responsibilities, and endanger the safety and well-being of fellow employees. In addition, illegal drug use and alcohol abuse by our students can lower academic achievement, diminishing student success at Excelsior University.

Individuals who wish to obtain information on drug and alcohol abuse prevention programs may contact the U.S. Department of Health and Human Services, the Substance Abuse & Mental Health Services Administration's (SAMHSA) National Clearinghouse for Alcohol & Drug Information at: <https://www.samhsa.gov/find-help/national-helpline> or 1-800-662-HELP (4357) | TTY: (800) 487-4889, or the Excelsior University Office of Human Resources.

For its employees, Excelsior University has retained the services of ComPsych, an employee assistance provider that provides awareness, counseling and rehabilitation referrals related to the abuse of alcohol and drugs. For more information, contact the Office of Human Resources or visit Excelsior Central, Human Resources (EAP-ComPsych).

In addition to the above, Excelsior University has a student assistance program available with ComPsych. Visit MyExcelsior Resources (Student Assistance Program) for more information about this confidential resource.

Excelsior University will assist and support employees and students who voluntarily seek help for such problems before becoming subject to discipline and/or termination under this or other Excelsior University policies. Such individuals will be allowed to use accrued Paid Time Off, placed on leave of absence, referred to treatment providers, and otherwise accommodated as required by law. Such individuals are required to document that they are successfully following prescribed treatment.

## **Procedures**

### Requirement

Whenever Excelsior University students and employees are present on Excelsior University premises (whether or not Excelsior University students are on the premises) or conducting Excelsior University business, they are prohibited from:

- Using, possessing, buying, selling, manufacturing, or dispensing an illegal drug (including possession of drug paraphernalia).
- Being under the influence of alcohol or an illegal drug.

- Abusing illegal, prescribed, or over-the-counter drugs.

This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees, however, must first consult with their medical providers regarding the effect on their fitness for duty and their ability to work safely, and promptly report any work restrictions to their supervisor.

The University will not take disciplinary action against employees for certified, off-campus medical use of cannabis. In addition, the University will comply with the New York Law in regard to adult recreational use of cannabis. However, like all other employees, employees who are certified patients or who are legally using cannabis for recreational purposes may be subject to disciplinary action if they exhibit articulable symptoms of impairment on the job, on University premises, on University business, or are otherwise in violation of this policy.

Excelsior University reserves the right to inspect all portions of its premises for drugs, alcohol, or other contraband. All employees, visitors and students may be asked to cooperate in inspections of their persons, work areas, and property that might conceal a drug, alcohol, or other contraband. Employees who possess such materials and/or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge. Law enforcement personnel shall be notified, as appropriate, when criminal activity is suspected.

Possession of an illegal substance is a serious crime, resulting in criminal penalties ranging from a Class A misdemeanor to Class A1 felony under New York State law (Article 220 of the Penal Law), and federal penalties ranging from a term of imprisonment of not more than one year, a minimum fine of \$1,000 (21 U.S.C. 844). Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of 21 years is, in New York State, subject to a fine not exceeding \$50 and/or completion of an alcohol awareness program and/or community service not to exceed 30 hours.

Students who violate this policy will face disciplinary action, up to and including, expulsion from Excelsior University. Employees who violate this policy will face disciplinary action, up to and including, termination of employment from Excelsior University. Excelsior University reserves the right to refer any employee or student for criminal prosecution for violations of the standards of conduct described in this policy.

#### Notification Requirements for Students

As an institution receiving federal grant funds, Excelsior University is required to observe certain requirements related to criminal drug convictions:

- As a condition of enrollment in Excelsior University, a student must notify the Executive Director of Student Registration and Financial Services (518-738-8850) if such student is convicted of a criminal drug offense within five calendar days of such conviction.

- In the event of any such conviction, Excelsior University will notify the appropriate federal agency (i.e., Department of Education for Title IV) within 10 days of receiving notice of a conviction.
- Within 30 calendar days of receiving such notice, Excelsior University may:
  - Take action against such student, as appropriate, up to and including administrative withdrawal from the University, consistent with the Rehabilitation Act of 1973, as amended; or
  - Require such student to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

In addition to the foregoing, students convicted of a drug-related offense may lose federal financial aid under Title IV and/or other financial aid.

#### Notification Requirements for Employees

As an institution receiving federal grant funds, Excelsior University is required to observe certain requirements related to criminal drug convictions:

- As a condition of employment, an employee of Excelsior University must notify the Excelsior University Vice President of Human Resources (518-464-8508) if such employee is convicted of a criminal drug offense within five calendar days of such conviction.
- In the event of any such conviction, Excelsior University will notify the appropriate federal agency (i.e., Department of Education for Title IV) within 10 days of receiving notice of a conviction.
- Within 30 calendar days of receiving notice with respect to any employee who is convicted, Excelsior University may:
  - Take personnel action against such an employee, as appropriate, up to and including termination, consistent with the Rehabilitation Act of 1973, as amended; or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
  - Require such employee to make a good faith effort to maintain a drug-free workplace.

This policy and its requirements are promulgated in accordance with the requirements of the Drug-Free Workplace Act of 1988 (48 CFR 52.223-6) and the Drug-Free Schools and Communities Act Amendments of 1989 (P.L. 101-226; 34 CFR 86), both of which were enacted by Congress. Excelsior University will continue its efforts to maintain an alcohol- and drug-free environment by adhering to the above policy.

Excelsior University is committed to maintaining an alcohol- and drug-free workplace and University community. Since Excelsior University is located in New York State, we have provided the applicable New York State laws below for your information:



# **New York State Law and Sanctions Governing Alcohol and Illicit Drugs**

New York State Law and Sanctions Governing Alcohol Include:

1. It is illegal for individuals under the age of 21 to possess alcoholic beverages. Underage drinkers are subject to a \$50 fine.
2. An underage drinker who uses fraudulent identification is guilty of a violation punishable by a fine up to \$100 and community service of 30 hours. If the fraudulent identification is a New York State driver's license, the revocation of the license will be added to the above penalty.
3. No person may sell, deliver, or give any alcoholic beverage to a person under the age of 21 (the law does not apply to the parent of a minor). Individuals violating this law are guilty of a "Class B misdemeanor," and may be subject to a fine not exceeding \$500 and a term of imprisonment not to exceed three months.
4. A person who misrepresents the age of a person under 21 for the purpose of inducing the sale of alcohol to the "underage" person is guilty of an offense and is subject to a fine of not more than \$200 and imprisonment not to exceed five days, or both.
5. Any person who shall be injured in person, property, means of support or otherwise by reason of intoxicated person, or by reason of the intoxication of any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor to such intoxication; and any such person shall have the right to recover actual damages.
6. Any person who shall be injured in person, property, means of support, or otherwise by reason of intoxication or impairment of any person under the age of 21 years old shall have a right of action against any person who knowingly causes such intoxication or impairment by unlawfully furnishing to or assisting in procuring alcohol for such a person with knowledge or cause to believe that such person was under the age of 21 years.
7. Any event or function at which alcoholic beverage(s) are being sold, an admission fee or donation is charged or requested, requires a license from the state.

New York State Law and Sanctions Governing Illicit Drugs:

## Marijuana

Under New York State Law, effective March 31, 2021, it is no longer a crime to smoke or possess limited amounts of cannabis (marihuana or marijuana). Although New York State has modified the manner in which it regulates cannabis, using and possessing cannabis in any form remains a crime under federal law. New York higher education institutions, including Excelsior University, adhere to the federal requirements of the Drug-Free Schools and Communities Act and the Drug-Free Workplace Act, which prohibit the use, possession, and distribution of cannabis for any reason.

## Controlled Substances

Section 220 of the Penal Law defines those drugs considered "Controlled Substances," including narcotic drugs, narcotic preparation, hallucinogens (LSD, "hallucinogenic mushrooms," etc.), stimulants, depressants, and concentrated forms of cannabis. Individual statutes deal with the criminal possession or sale of these substances and are categorized as misdemeanors or felonies

depending on the specific substance, the amount of the substance in question, or the circumstances surrounding the possession or sale of the substance. Possession or sale (or possession with intent to sell) of even a very small amount of some substances is considered a felonious offense and may result in a lengthy jail sentence. In fact, with the exception of “criminal possession of a controlled substance in the seventh degree,” which is considered a misdemeanor, all other statutes in Section 220 of the Penal Law are felonies. In New York State, felonies are ranked from category A-1, the most serious, to category E, the least serious. First offenders convicted of a category A-1 felony are subject to a minimum sentence from 15–25 years and a maximum of life imprisonment. At the other end of the scale, for the first offender, category E felony convictions carry with them a jail sentence from one to three years, with a maximum of three to four years. First-degree criminal sale or possession of controlled substances is placed in the same category as first-degree arson, first-degree kidnapping, or first- or second-degree murder.

## **Health Risks Associated with Alcohol and Drug Use/Abuse**

### Alcohol

Alcohol consumption causes a number of changes in behavior and physiology. Even low doses significantly impair judgment, coordination, and abstract mental functioning. Statistics show that alcohol use is involved in a majority of violent behaviors on University campuses, including acquaintance rape, vandalism, fights, and incidents of drinking and driving. Continued abuse may lead to dependency, which often causes permanent damage to vital organs and deterioration of a healthy lifestyle.

### Cannabis (Marijuana, Hashish)

The use of marijuana may impair or reduce short-term memory and comprehension, alter sense of time, and reduce coordination and energy level. Users often have a lowered immune system and an increased risk of lung cancer. The active ingredient in marijuana, THC, is stored in the fatty tissues of the brain and reproductive system for a minimum of 28 to 30 days.

### Hallucinogens

Lysergic acid (LSD), mescaline, and psilocybin cause illusions and hallucinations. The user may experience panic, confusion, suspicion, anxiety, and loss of control. Delayed effects, or flashbacks, can occur even when use has ceased. Phencyclidine (PCP) affects the section of the brain that controls the intellect and keeps instincts in check. Because the drug blocks pain receptors, violent PCP episodes may result in self-inflicted injuries.

### Cocaine/Crack

Cocaine users often have a stuffy, runny nose and may have a perforated nasal septum. The immediate effects of cocaine use include dilated pupils and elevated blood pressure, heart rate, respiratory rate, and body temperature followed by depression. Crack, or freebase rock cocaine, is extremely addictive and can cause delirium, hallucinations, blurred vision, severe chest pain, muscle spasms, convulsions, and even death.

### Amphetamines

Amphetamines can cause rapid or irregular heartbeat, tremors, loss of coordination, collapse, and death. Heavy users are prone to irrational acts.

### Heroin

Heroin is an opiate drug that causes the body to have diminished pain reactions. The use of heroin can result in coma or death due to a reduction in heart rate.

## **Alcohol and Drug Resources**

It is recommended that all students and employees seek early help if they feel they have a problem with alcohol and/or other drugs, and to learn how to assist others with substance abuse problems. With early assistance it is less likely that serious consequences will result from an alcohol or other drug problem.

Excelsior University encourages any student or employee who needs information related to alcohol or drug abuse to use directory information, online searches, , or referrals from friends and/or professionals.

At a national level, there also are organizations dedicated to providing information and suggestions on alcohol and drug abuse. A few of these resources are listed below:

- ▶ Alcoholics Anonymous <http://www.aa.org>
- ▶ Al-Anon <http://nycalanon.org>
- ▶ Centers for Disease Control and Prevention <https://www.cdc.gov/alcohol/index.htm>
- ▶ Narcotics Anonymous <http://www.na.org>
- ▶ National Institute on Drug Abuse (NIDA) [www.drugabuse.gov](http://www.drugabuse.gov) | 1-301-443-1124
- ▶ Substance Abuse and Mental Health Services Administration (SAMHSA) [www.samhsa.gov](http://www.samhsa.gov) | 1-800-662-HELP (4357)
- ▶ The National Clearinghouse for Alcohol and Drug Information (NCADI) 1-800-729-6686

In addition to the above alcohol and drug resources, Excelsior University has a student assistance program available with ComPsych®. Visit MyExcelsior Resources (Student Assistance Program) for more information about this confidential resource. An employee assistance program is also available through ComPsych®.

## **Student Assistance Program - ComPsych®**

ComPsych® is Excelsior University's student assistance program vendor as of July 2020.

Once accepted to Excelsior University, students gain access to the [MyExcelsior Student Portal](#). The portal contains resources and services, including Excelsior University's Student

Assistance Program with access to ComPsych's GuidanceResources® that include confidential counseling, help from work-life specialists, legal support, and financial information.

Services include:

#### Confidential Emotional Support

Highly trained clinicians will listen to students' concerns and help them or their family members with any issues, including:

- Anxiety, depression, stress
- Grief, loss and life adjustments
- Relationship/marital conflicts

#### Work-Life Solutions

Specialists provide qualified referrals and resources for just about anything on a student's to-do list, such as:

- Finding child and elder care
- Hiring movers or home repair contractors
- Planning events, locating pet care

#### Legal Guidance

Students can talk to attorneys for practical assistance with their most pressing legal issues, including:

- Divorce, adoption, family law, wills, trusts and more

If a student needs representation, they are eligible for a free 30-minute consultation and a 25 percent reduction in fees.

#### Financial Resources

Financial experts can assist with a wide range of issues, including:

- Retirement planning, taxes
- Relocation, mortgages, insurance
- Budgeting, debt, bankruptcy and more

#### Online Support

GuidanceResources® Online is a 24/7 link to vital information, tools, and support. Log on for:

- Articles, podcasts, videos, slideshows
- On-demand trainings
- "Ask the Expert" personal responses to questions

#### 24/7 Support, Resources and Information

The ComPsych® GuidanceResources® program offers someone to talk to and resources to consult whenever and wherever students need them.

the toll-free number gives direct, 24/7 access to a GuidanceConsultant<sup>SM</sup>, who will answer questions and, if needed, offer a referral to a counselor or other resources.

## **Employee Assistance Program - ComPsych<sup>®</sup>**

ComPsych<sup>®</sup> is Excelsior University's employee assistance program (EAP) vendor as of September 2020.

ComPsych's program called GuidanceResources<sup>®</sup> gives employees and their household family members confidential support, resources and information for personal and work-life issues. These services are provided at no charge.

Services include:

### Employee Assistance Program (EAP) for Confidential Counseling

Life can be stressful. The EAP is designed to provide short-term counseling services for employees and their household family members to help them handle concerns constructively, before they become major issues. Employees and their household members can call anytime about concerns such as marital, relationship and family problems; stress, anxiety and depression; grief and loss, job pressures and substance abuse. Employees and their household members have access to three free sessions per issue, per year.

### Work-Life Solutions

Too much to do, and too little time to get it all done? The work-life specialists at ComPsych can do the research and provide qualified referrals and customized resources for child and elder care, moving, pet care, college planning, home repair, buying a car, planning an event, selling a house and more.

### Legal Support

With ComPsych's GuidanceResources, employees have an attorney "on call" whenever they have questions about legal matters. They can speak with on-staff licensed attorneys about legal concerns such as divorce, custody, adoption, real estate, debt and bankruptcy, landlord/tenant issues, civil and criminal actions and more. If an employee requires representation, they can be referred to a qualified attorney for a free 30-minute consultation and a 25 percent reduction in customary legal fees.

### Financial Information

Everyone has financial questions. With ComPsych, employees can get answers to their questions about budgeting, debt management, tax issues and other money concerns from on-staff CPAs, Certified Financial Planners<sup>®</sup> and other financial experts, simply by calling the toll-free number.

### ComPsych's GuidanceResources<sup>®</sup> Online

Employees can go online to access timely, expert information on thousands of topics, including relationships, work, school, children, wellness, legal, financial and free time. They can search for qualified child and elder care, attorneys and financial planners as well as ask questions, take self-assessments and more.

ComPsych's resources are available 24 hours a day, 7 days a week.

There are two ways for employees to access GuidanceResources benefits:

1. Call ComPsych to speak to a counseling professional who will listen to concerns and can guide employees to the appropriate services they require.
2. Visit GuidanceResources Online at [www.guidanceresources.com](http://www.guidanceresources.com) and enter the company ID.

Please contact Human Resources or visit Excelsior Central for ComPsych's toll-free number and our company ID.

Remember, employees communications with and usage of ComPsych is strictly confidential. To view the ComPsych HIPAA privacy notice, go to [www.guidanceresources.com/privacy](http://www.guidanceresources.com/privacy).

Orientation sessions. There are recorded orientation sessions available in Brainier so employees can learn more about the robust resources that ComPsych has available.

## **Drug and Alcohol-Free Workplace Annual Training**

As part of Excelsior's commitment to a safe and productive working environment, all staff must complete a mandatory Drug and Alcohol-Free workplace training. The training references and supports Excelsior's policies that prohibit the unlawful possession, use, or distribution of alcohol and illicit drugs.

The goal of the training is to:

- Recognize the signs and symptoms of drug and alcohol use;
- Report possible drug and alcohol use through internal reporting;
- Identify resources for getting help for yourself or a coworker; and
- Reduce the financial and personnel cost of injuries and lost workdays due to controllable factors such as illness, use of medication, and drug and alcohol use.

## **Biennial Review Results**

### **Enforcement and Consistency of Disciplinary Sanctions**

Excelsior University is committed to maintaining an alcohol- and drug-free workplace and University community. The University abides by all drug and alcohol related policies, regulations and laws, and imposes consistent disciplinary sanctions against those students

and/or employees who violate the approved Board policies and laws consistent with local, state, or federal law. Due to the low number of offenses recorded in the past two years, there is insufficient data to determine if there are irregularities or inconsistencies applied in the disciplinary action or sanctions.

#### Student Data

The data below represent the number of drug and/or alcohol offenses committed by students in the previous two academic years.

Academic Year	Number of Offenses	Outcomes/Action Taken
2020-2021	0	N/A
2021-2022	0	N/A

#### Employee Data

The data below represent the number of drug and/or alcohol offenses committed by employees in the previous two academic years.

Academic Year	Number of Offenses	Outcomes/Action Taken
2020-2021	0	N/A
2021-2022	0	N/A

### Drug and Alcohol Abuse Prevention Program Strengths and Weaknesses

#### Strengths

- Resources for employees: ComPsych® Employee Assistance Program
- Resources for students: ComPsych® Student Assistance Program
- ComPsych’s GuidanceResources® Quarterly Utilization Reports for employees: Confidential and detailed reports are provided to the University’s Office of Human Resources on a quarterly basis. The reports are helpful with determining the issues/topics employees are facing and resources/wellness programs the University should provide for additional support.
- ComPsych’s GuidanceResources® Quarterly Utilization Reports for students: Confidential and detailed reports are provided to the University’s Office of Accessibility Services on a quarterly basis. The reports are helpful with determining the issues/topics students are facing and resources/wellness programs the University should provide for additional support.
- Training for employees: Drug and Alcohol-Free Workplace Annual Training
- Culture of care and compassion at the University provides a supportive environment for those needing assistance

## Weaknesses

- With the COVID-19 pandemic, in-person services have been limited
- Report numbers are low, however, incidents may still be occurring
- The University's Drug-Free Schools and Workplace Policy is available on our website; however, the webpage does not include additional information about the Drug-Free Schools and Communities Act (DFSCA)

## Recommendations for Program Revision

- Create programs that will have measurable outcomes
- Develop more interactive student programming involving drug and alcohol themes to build awareness. Awareness includes promoting healthy choices and understanding the difference between high-risk drinking and responsible use of alcohol.
- Modify and enhance drug and alcohol information on Excelsior University's website so students and staff will know on-or-off campus resources for dealing with alcohol or drug issues.

## Contact Information for Additional Questions

Questions about this report may be directed to: [compliance@excelsior.edu](mailto:compliance@excelsior.edu).



# Appendix 1

## Federal Trafficking Penalties

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500-4999 grams mixture	<p><b>First Offense:</b> Not less than 5 years, and not more than 40 years. 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.</p> <p><b>Second Offense:</b> Not less than 10 years, 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.</p>	5 kgs or more mixture	<p><b>First Offense:</b> Not less than 10 years, 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.</p> <p><b>Second Offense:</b> Not less than 15 years, 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.</p> <p><b>2 or More Prior Offenses:</b> Not less than 25 years Fine of not more than \$20 million if an individual, \$75 million if not an individual.</p>
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	<p><b>First Offense:</b> Not more than 20 years. If death or serious injury, not less than 20 years, or more than life. Fine \$1 million if an individual, \$5 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 30 years. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.</p>
Flunitrazepam (Schedule IV)	1 gram	
Other Schedule III drugs	Any amount	<p><b>First Offense:</b> Not more than 10 years. If death or serious injury, not more than 15 years. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 20 years. If death or serious injury, not more than 30 years. Fine not more than \$1 million if an individual, \$5 million if not an individual.</p>
All other Schedule IV drugs	Any amount	<p><b>First Offense:</b> Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 10 years. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.</p>
Flunitrazepam (Schedule IV)	Other than 1 gram or more	
All Schedule V drugs	Any amount	<p><b>First Offense:</b> Not more than 1 year. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.</p> <p><b>Second Offense:</b> Not more than 4 years. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.</p>

## Federal Trafficking Penalties—Marijuana

DRUG	QUANTITY	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE *
Marijuana (Schedule I)	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 years or more than life. If death or serious bodily injury, not less than 20 years, or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 15 years 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 years or more than 40 years. If death or serious bodily injury, not less than 20 years, or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 years 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 years. If death or serious bodily injury, not less than 20 years, or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not less than 30 years. 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 years. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 years. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish (Schedule I)	10 kg or less	Not more than 5 years. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 years. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish Oil (Schedule I)	1 kg or less	Not more than 5 years. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 years. 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.

(Source: [https://www.campusdrugprevention.gov/sites/default/files/2022-07/Federal\\_Trafficking\\_Penalties\\_Chart\\_6-23-22.pdf](https://www.campusdrugprevention.gov/sites/default/files/2022-07/Federal_Trafficking_Penalties_Chart_6-23-22.pdf))

## Appendix 2

### NYS Alcoholic Beverage Control (ABC) Law: Article 5 – Special Provisions Relating to Liquor and NYS Vehicle and Traffic (VAT) Law: Article 31 – Alcohol & Drug-related Offenses & Procedures

<a href="#">NYS ABC Law</a> <b>Special Provisions Relating to Liquor</b>	<b>Specifics</b>	<b>Sentence</b>
§ 65-a. Procuring alcoholic beverages for persons under the age of 21 years	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 <a href="#">alcoholic beverage control law</a> , to such person.	A fine of not more than \$200, or imprisonment up to five days, or both.
§ 65-b. Offense for one underage of 21 years to purchase or attempt to purchase an alcoholic beverage through fraudulent means.	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>1<sup>st</sup> 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>2<sup>nd</sup> 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>3<sup>rd</sup> 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: 1<sup>st</sup> violation: a three month suspension; 2<sup>nd</sup> violation: a six month suspension; 3<sup>rd</sup> or subsequent violation: a one year suspension or until the holder reaches the age of 21, whichever is the greater period.</p>
§ 65-c. Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of 21 years.	No person under the age of 21 years shall possess any alcoholic beverage with the intent to consume such beverage.	A fine up to \$50 and/or completion of an alcohol awareness program and/or up to 30 hours of community service.

(Source: NYS Legislature website at: <http://public.leginfo.state.ny.us/lawsrch.cgi?NVLWO:>)

<a href="#">NYS VAT Law</a> <b>Alcohol &amp; Drug-related Offenses</b>	<b>Specifics</b>	<b>Sentence</b>		
§ 1192. Operating a motor vehicle while under the influence of alcohol or drugs.	1. Driving while ability impaired: No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.	<p>A fine of \$300 to \$500 or imprisonment in a penitentiary or county jail for up to 15 days, or both.</p> <p>If convicted of a violation of §1192 within the preceding 5 years: a fine of \$500 to \$750 or imprisonment up to 30 days, or both.</p> <p>If convicted 2 or more times of a violation of §1192 within the preceding 10 years, misdemeanor: a fine of \$750 to \$1,500 or imprisonment of up to 180 days, or both.</p> <p>See also additional penalties and license sanctions.</p>		
	2. Driving while intoxicated; per se: No person shall operate a motor vehicle while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva.	Misdemeanor: a fine of \$500 to \$1,000 imprisonment in a penitentiary or county jail for up to one year, or both.	<p>Installation of an ignition interlock device in any motor vehicle owned or operated by such person during the term of probation or conditional discharge, for a period of no less than 12 months.</p> <p>Class E Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide within the preceding 10 years: a fine of \$1,000 to \$5,000 or a period of imprisonment as provided in the penal law, or both.</p>	
	3. Driving while intoxicated. No person shall operate a motor vehicle while in an intoxicated condition.		<p>Class D Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide twice within the preceding 10 years or three or more times within the preceding 15 years: a fine of \$2,000 to \$10,000 or a period of imprisonment as provided in the penal law, or both.</p>	
	2-a. (a) Aggravated driving while intoxicated; per se: No person shall operate a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva.	Misdemeanor: a fine of \$1,000 to \$2,500 or imprisonment in a penitentiary or county jail for up to one year, or both.	<p>Class D Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide twice within the preceding 10 years or three or more times within the preceding 15 years: a fine of \$2,000 to \$10,000 or a period of imprisonment as provided in the penal law, or both.</p>	
	2-a. (b) Aggravated driving while intoxicated; with a child: No person shall operate a motor vehicle in violation of this section while a child who is fifteen years of age or less is a passenger in such motor vehicle.	Class E Felony: a fine of \$1,000 to \$5,000 or a period of imprisonment as provided in the penal law, or both.	<p>See also additional penalties and license sanctions.</p>	
	4. Driving while ability impaired by drugs: No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter.	Misdemeanor: a fine of \$500 to \$1,000 imprisonment in a penitentiary or county jail for up to one year, or both.	<p>Class E Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide within the preceding 10 years: a fine of \$1,000 to \$5,000 or a period of imprisonment</p>	

	<p>4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs.</p>	<p>as provided in the penal law, or both.</p> <p>Class D Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide twice within the preceding 10 years or three or more times within the preceding 15 years: a fine of \$2,000 to \$10,000 or a period of imprisonment as provided in the penal law, or both.</p> <p>See also additional penalties and license sanctions.</p>
<p>§ 1192-a. Operating a motor vehicle after having consumed alcohol; under the age of 21; per se.</p>	<p>No person under the age of 21 shall operate a motor vehicle after having consumed alcohol (if such person has .02 to .07 of one per centum by weight of alcohol in his/her blood, as shown by chemical analysis of his/her blood, breath, urine or saliva).</p>	<p>See license sanctions.</p>
<p>For a violation of §1192, the court may require the defendant to attend a single session conducted by a victims impact program.</p>		
<p>Additional penalties.</p>	<ol style="list-style-type: none"> <li>1. A violation of subdivision 2 or 3 after having been convicted of a violation of subdivision 2 or 3 of such §1192 within the preceding 5 years: in addition to any other penalties, imprisonment of 5 days or be required to perform 30 days of service for a public or not-for-profit corporation, association, institution or agency, except when sentenced to a term of imprisonment of 5 days or more.</li> <li>2. A violation of subdivision 2 or 3 after having been convicted of a violation of subdivision 2 or 3 of such §1192 on two or more occasions within the preceding 5 years: in addition to any other penalties, imprisonment of 10 days or be required to perform 60 days of service for a public or not-for-profit corporation, association, institution or agency, except when sentenced to a term of imprisonment of 10 days or more.</li> <li>3. A court sentencing a person pursuant to (1) or (2) above shall (a) order the installation of an ignition interlock device... during any period of license revocation and (b) order that such person receive an assessment of the degree of their alcohol or substance abuse. Where such assessment indicates the need treatment, the court is authorized to impose treatment as a condition of such sentence.</li> </ol>	
<p>License sanctions.</p>	<p><b>Suspensions:</b></p> <ol style="list-style-type: none"> <li>1. Driving while ability impaired: Ninety days, where the holder is convicted of a violation of subdivision one of §1192;</li> <li>2. Persons under the age of 21; driving after having consumed alcohol: Six months, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of § 1192-a of an article where such person was under the age of 21 at the time of commission of such violation.</li> </ol> <p><b>Revocations:</b></p> <p>A license shall be revoked and a registration may be revoked for the following minimum periods:</p> <ol style="list-style-type: none"> <li>1. Driving while ability impaired; prior offense: 6 months, where the holder is convicted of a violation of subdivision one of § 1192 committed within 5 years of a conviction for a violation of any subdivision of §1192.</li> </ol>	

	<ol style="list-style-type: none"> <li>2. Driving while ability impaired; misdemeanor offense: 6 months, where the holder is convicted of a violation of subdivision one of §1192 committed within 10 years of two previous convictions for a violation of any subdivision of §1192.</li> <li>3. Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated: 6 months, where the holder is convicted of a violation of subdivision two, three, four or four-a of §1192. One year where the holder is convicted of a violation of subdivision two-a of §1192.</li> <li>4. Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; prior offense: One year, where the holder is convicted of a violation of subdivision two, three, four or four-a of §1192 committed within 10 years of a conviction for a violation of subdivision two, three, four or four-a of §1192. 18 months, where the holder is convicted of a violation of subdivision two-a of §1192 committed within ten years of a conviction for a violation of subdivision two, two-a, three, four or four-a of §1192; or where the holder is convicted of a violation of subdivision two, three, four or four-a of §1192 committed within ten years of a conviction for a violation of subdivision two-a of §1192.</li> <li>5. Persons under the age of 21: One year, where the holder is convicted of or adjudicated a youthful offender for a violation of any subdivision of §1192, or is convicted of or receives a youthful offender or other juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, and the person was under the age of 21 at the time of commission of such violation.</li> <li>6. Persons under the age of 21; prior offense or finding: One year or until the holder reaches the age of 21, whichever is the greater period of time, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of §1192-a, or is convicted of, or adjudicated a youthful offender for, a violation of any subdivision of §1192, or is convicted of or receives a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, when the person was under the age of 21 at the time of commission of such violation and has previously been found to have operated a motor vehicle after having consumed alcohol in violation of §1192-a, or has previously been convicted of, or adjudicated a youthful offender for, any violation of §1192 not arising out of the same incident, or has previously been convicted of or received a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor when the conviction, or youthful offender or other juvenile adjudication was had outside this state and not arising out of the same.</li> <li>7. Out-of-state offenses: except as provided in (5) or (6) above, (1) 90 days, where the holder is convicted of an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction was had outside this state and (2) 6 months, where the holder is convicted of, or receives a youthful offender or other juvenile adjudication, which would have been a misdemeanor or felony if committed by an adult, in connection with, an offense consisting of operating a motor vehicle under the influence of or while impaired by the use of drugs where the conviction or youthful offender or other juvenile adjudication was had outside this state.</li> </ol>
<p>Notice of charges to parent or guardian.</p>	<p>Upon the first scheduled appearance of any person under eighteen years of age who resides within the household of his or her parent or guardian upon a charge of a violation of subdivision one, two and/or three of §1192, the local criminal court shall forthwith transmit notice of such appearance or failure to make such appearance to the parent or guardian of such minor person...</p>

(Source: NYS Legislature website at: <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>)

## Appendix 3

NYS Penal Law: Article 220 - Controlled Substances Offenses; Article 221 - Offenses Involving Marihuana and Article 178 - Criminal Diversion of Prescription Medications and Prescriptions

<a href="#">NYS Penal Law</a> <b>Controlled Substances Offenses</b>	<b>Specifics</b>	<b>Sentence</b>
§ 220.03 Criminal possession of a controlled substance (7 <sup>th</sup> degree).	Knowingly and unlawfully possessing a controlled substance (any substance listed in §3306 of the <a href="#">NYS Public Health Law</a> other than marihuana, but including concentrated cannabis as defined in §3302 of <a href="#">NYS Penal Law Article 220</a> ).	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 220.06 Criminal possession of a controlled substance (5th degree).	Knowingly and unlawfully possessing: <ol style="list-style-type: none"> <li>1. a controlled substance with intent to sell it; or</li> <li>2. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (aggregate weight of ½ oz or more); or</li> <li>3. phencyclidine (50 mg or more); or</li> <li>4. one or more preparations, compounds, mixtures or substances containing concentrated cannabis (aggregate weight of ¼ oz ounce or more); or</li> <li>5. cocaine (500 mg or more); or</li> <li>6. ketamine (more than 1,000 mg); or</li> <li>7. ketamine, and has previously been convicted of possession or the attempt to commit possession of ketamine in any amount; or</li> <li>8. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 28 g or more).</li> </ol>	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 220.09 Criminal possession of a controlled substance (4th degree).	Knowingly and unlawfully possessing: <ol style="list-style-type: none"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (an aggregate weight of 1/8 oz or more); or</li> <li>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</li> <li>3. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (an aggregate weight of 2 oz or more); or</li> <li>4. a stimulant (1 g or more); or</li> <li>5. lysergic acid diethylamide (1 mg or more); or</li> <li>6. a hallucinogen (25 mg or more); or</li> <li>7. a hallucinogenic substance (1 g or more); or</li> <li>8. a dangerous depressant (10 oz or more); or</li> <li>9. a depressant (2 lbs or more); or</li> <li>10. one or more preparations, compounds, mixtures or substances containing</li> </ol>	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.



	<p>concentrated cannabis (an aggregate weight of 1 oz or more); or</p> <ol style="list-style-type: none"> <li>11. phencyclidine (250 mg or more); or</li> <li>12. methadone 360 mg or more); or</li> <li>13. 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 conspiracy to commit any such offense); or</li> <li>14. ketamine (4,000 mg or more); or</li> <li>15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 200 g or more).</li> </ol>	
<p>§ 220.16 Criminal possession of a controlled substance (3rd degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. a narcotic drug with intent to sell it; or</li> <li>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</li> <li>3. a stimulant (1 g or more) with intent to sell it; or</li> <li>4. lysergic acid diethylamide (1 mg or more) with intent to sell it; or</li> <li>5. a hallucinogen (25 mg or more) with intent to sell it; or</li> <li>6. a hallucinogenic substance (1 g or more) with intent to sell it; or</li> <li>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</li> <li>8. a stimulant (5 g or more); or</li> <li>9. lysergic acid diethylamide (5 mg or more); or</li> <li>10. a hallucinogen (125 mg or more); or</li> <li>11. a hallucinogenic substance (5 g or more); or</li> <li>12. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or</li> <li>13. phencyclidine (1250 mg or more).</li> </ol>	<p><b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2<sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> 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"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 4 oz or more); or</li> <li>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</li> <li>3. a stimulant (10 g or more); or</li> <li>4. lysergic acid diethylamide (25 mg or more); or</li> <li>5. a hallucinogen (625 mg or more); or</li> <li>6. a hallucinogenic substance (25 g or more); or</li> <li>7. methadone (2850mg or more).</li> </ol>	<p><b>Class A-II felony:</b> imprisonment 3 to 10 years. For a 2<sup>nd</sup> time: offender, imprisonment for 6 to 14 years (may be sentenced to lifetime probation). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 8 to 17 years.</p>

§ 220.21 Criminal possession of a controlled substance (1st degree).	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 8 oz or more); or</li> <li>2. methadone (5760 mg or more).</li> </ol>	<p><b>Class A-I felony:</b> imprisonment for 8 to 20 years. For a 2<sup>nd</sup> time offender: imprisonment for 12 to 24 years. For a 2<sup>nd</sup> time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>
§ 220.25 Criminal possession of a controlled substance (presumption).	<ol style="list-style-type: none"> <li>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 <a href="#">§220.25</a> for exceptions).</li> <li>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 <a href="#">§220.25</a> for exceptions).</li> </ol>	
§ 220.31 Criminal sale of a controlled substance (5th degree).	<p>Knowingly and unlawfully selling a controlled substance (any substance listed in schedule I, II, III, IV or V of §3306 of the <a href="#">NYS Public Health Law</a> other than marihuana, but including concentrated cannabis as defined in paragraph (a) of subdivision four of §3302 of <a href="#">NYS Penal Law Article 220</a>).</p>	<p><b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
§ 220.34 Criminal sale of a controlled substance (4 <sup>th</sup> degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>1. a narcotic preparation; or</li> <li>2. a dangerous depressant (10 oz or more) or a depressant (2 lbs or more); or</li> <li>3. concentrated cannabis as defined in §3302 of the <a href="#">NYS Public Health Law</a>; or</li> <li>4. phencyclidine (50 mg or more); or</li> <li>5. methadone; or</li> <li>6. phencyclidine (any amount) and previously convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or</li> <li>7. ketamine (4,000 mg or more); or</li> <li>8. 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</li> <li>9. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (28 g or more), as defined in §3306 of the <a href="#">NYS Public Health Law</a>.</li> </ol>	<p><b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>
§ 220.39 Criminal sale of a controlled substance (3rd degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>1. a narcotic drug; or</li> <li>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</li> <li>3. a stimulant (1 g or more); or</li> <li>4. lysergic acid diethylamide (1 mg or more); or</li> <li>5. a hallucinogen (25 mg or more); or</li> <li>6. a hallucinogenic substance (1 g or more); or</li> </ol>	<p><b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2<sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>

	<p>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</p> <p>8. phencyclidine (250 mg or more); or</p> <p>9. a narcotic preparation to a person less than 21 years old.</p>	
§ 220.41 Criminal sale of a controlled substance (2 <sup>nd</sup> degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or</li> <li>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</li> <li>a stimulant (5 g or more); or</li> <li>lysergic acid diethylamide (5 mg or more); or</li> <li>a hallucinogen (125 mg or more); or</li> <li>a hallucinogenic substance (5 g or more); or</li> <li>methadone (360 mg or more).</li> </ol>	<p><b>Class A-I felony:</b> imprisonment for 8 to 20 years. For a 2<sup>nd</sup> time offender: imprisonment for 12 to 24 years. For a 2<sup>nd</sup> time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>
§ 220.43 Criminal sale of a controlled substance (1 <sup>st</sup> degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 2 oz or more); or</li> <li>methadone (2880 mg or more).</li> </ol>	<p><b>Class A-II felony:</b> imprisonment 3 to 10 years. For a 2<sup>nd</sup> time offender, imprisonment for 6 to 14 years (may be sentenced to lifetime probation). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 8 to 17 years.</p>
§ 220.44 Criminal sale of a controlled substance in or near school grounds.	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>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</li> <li>a controlled substance in violation of any one of subdivisions 1– 8 of §220.39, when such sale takes place upon school grounds; or</li> <li>a controlled substance in violation of any one of subdivisions 1– 6 of §220.34, when such sale takes place upon the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or</li> <li>a controlled substance in violation of any one of subdivisions 1–8 of §220.39, when such sale takes place upon the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds.</li> </ol>	<p><b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2<sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>
§ 220.45 Criminally possessing a hypodermic instrument.	Knowingly and unlawfully possessing or selling a hypodermic syringe or hypodermic needle.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 220.46 Criminal injection of a narcotic drug.	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.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.50 Criminally using drug	Knowingly possessing or selling:	<b>Class A misdemeanor:</b> imprisonment up to one

paraphernalia (2 <sup>nd</sup> degree).	<ol style="list-style-type: none"> <li>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</li> <li>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</li> <li>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.</li> </ol>	year.
§ 220.55 Criminally using drug paraphernalia (1st degree).	Committing the crime of criminally using drug paraphernalia in the second degree and having previously been convicted of criminally using drug paraphernalia in the 2 <sup>nd</sup> degree.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 220.60 Criminal possession of precursors of controlled substances.	Possessing and at the same time intending to unlawfully manufacture: <ol style="list-style-type: none"> <li>1. a controlled substance; or</li> <li>2. carbamide (urea) and propanedioc and malonic acid or its derivatives; or</li> <li>3. ergot or an ergot derivative and diethylamine or dimethyl-formamide or diethylamide; or</li> <li>4. phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitroethane or methylamine; or</li> <li>5. pentazocine and methyl iodide; or</li> <li>6. phenylacetone nitrile and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; or</li> <li>7. diethylphenylacetone nitrile and dimethylaminoisopropyl chloride; or</li> <li>8. piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or</li> <li>9. 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.</li> </ol>	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.65 Criminal sale of a prescription for a controlled	When, being a practitioner, as that term is defined in §3302 of the <a href="#">NYS Public Health Law</a> , knowingly	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time

substance.	and unlawfully selling a prescription for a controlled substance.	offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.
§ 220.70 Criminal possession of methamphetamine manufacturing material (2nd degree).	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.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 220.71 Criminal possession of methamphetamine manufacturing material (1st degree).	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 2 <sup>nd</sup> degree or a violation of this section.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.72 Criminal possession of precursors of methamphetamine.	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.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.73 Unlawful manufacture of methamphetamine (3rd degree).	Possessing, with intent to use, or knowing that another intends to use each such product to unlawfully manufacture, prepare or produce methamphetamine two or more items of laboratory equipment and two or more precursors, chemical reagents or solvents in any combination; or one item of laboratory equipment and three or more precursors, chemical reagents or solvents in any combination; or a precursor: (a) mixed together with a chemical reagent or solvent; or (b) with two or more chemical reagents and/or solvents mixed together.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 220.74 Unlawful manufacture of methamphetamine (2nd degree).	<ol style="list-style-type: none"> <li>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</li> <li>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 1<sup>st</sup> degree, unlawful disposal of methamphetamine laboratory material, unlawful manufacture of methamphetamine in the 3<sup>rd</sup> degree, the 2<sup>nd</sup> degree, or the 1<sup>st</sup> degree.</li> </ol>	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.
§ 220.75 Unlawful manufacture of methamphetamine (1st degree).	Commits the crime of unlawful manufacture of methamphetamine in the 2 <sup>nd</sup> degree after having previously been convicted within the preceding 5 years of unlawful manufacture of methamphetamine in the 3 <sup>rd</sup> degree unlawful manufacture of methamphetamine in the 2 <sup>nd</sup> degree or unlawful manufacture of	<b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2 <sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.

	methamphetamine in the 1 <sup>st</sup> degree.	
§ 220.76 Unlawful disposal of methamphetamine laboratory material.	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.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.

(Source: NYS Legislature website at: <http://public.leginfo.state.ny.us/lawsrch.cgi?NVLWO:>)

<a href="#">NYS Penal Law</a> Offenses Involving Marihuana	Specifics	Sentence
§ 221.05 Unlawful possession of marihuana.	Knowingly and unlawfully possessing marihuana is a violation.	A fine of up to \$100.  A fine of up to \$200 if previously convicted of an offense defined in § 220 or § 221, committed within the 3 years immediately preceding such violation.  A fine of up to \$250 or imprisonment up to 15 days or both if previously convicted of two such offenses committed during such period.
§ 221.10 Criminal possession of marihuana (5th degree).	Knowingly and unlawfully possessing marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning or open to public view; or one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 25 g).	<b>Class B misdemeanor:</b> imprisonment up to three months.
§ 221.15 Criminal possession of marihuana (4th degree).	Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 2 oz).	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 221.20 Criminal possession of marihuana (3rd degree).	Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 8 oz).	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 221.25 Criminal possession of marihuana (2nd degree).	Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 16 oz).	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 221.30 Criminal possession of marihuana (1st degree).	Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 10 lbs).	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 3 ½ to 9 years.

§ 221.35 Criminal sale of marihuana (5th degree).	Knowingly and unlawfully selling, without consideration, one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of 2 g or less); or one cigarette containing marihuana.	<b>Class B misdemeanor:</b> imprisonment up to three months.
§ 221.40 Criminal sale of marihuana (4th degree).	Knowingly and unlawfully selling marihuana, except as provided in §221.35.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 221.45 Criminal sale of marihuana (3rd degree).	Knowingly and unlawfully selling one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 25 g ).	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 221.50 Criminal sale of marihuana (2nd degree).	Knowingly and unlawfully selling one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 4 oz, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than 18 years of age.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 221.55 Criminal sale of marihuana (1st degree).	Knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing (aggregate weight of more than 16 oz).	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.

(Source: NYS Legislature website at: <http://public.leginfo.state.ny.us/lawsrch.cgi?NVLWO:>)

<a href="#">NYS Penal Law</a> Criminal Diversion of Prescriptions & Medications	Specifics	Sentence
See <a href="#">§ 178.00</a> for definitions and <a href="#">§ 178.05</a> for limitation of criminal diversion of prescription medications and prescriptions.		
§ 178.10 Criminal diversion of prescription medications and prescriptions (4th degree).	A person is guilty of criminal diversion of prescription medications and prescriptions in the 4 <sup>th</sup> degree when he or she commits a criminal diversion act.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 178.15 Criminal diversion of prescription medications and prescriptions (3rd degree).	A person is guilty of criminal diversion of prescription medications and prescriptions in the 3rd degree when he or she: <ol style="list-style-type: none"> <li>1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$1000; or</li> <li>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 4<sup>th</sup> degree.</li> </ol>	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 178.20 Criminal diversion of prescription medications and prescriptions (2nd degree).	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.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony:

		imprisonment for 2 ½ to 4 ½ years.
§ 178.25 Criminal diversion of prescription medications and prescriptions in the first degree.	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.	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.
<b>Alternative sentence:</b> 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.		

(Source: NYS Legislature website at: <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>)

Note: The above information is not to be considered legal advice or guaranteed to be a comprehensive inventory of all state laws regarding alcohol and other drugs. It is the user's responsibility to check New York State laws to determine whether changes, additions or substitutions have been made.