S T A T E O F N E W Y O R K

3258--A

2009-2010 Regular Sessions

I N S E N A T E

March 13, 2009

Introduced by Sen. DUANE -- (at request of the Department of Health) -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the sale, delivery, dispensing and/or distribution of controlled substances

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 9 and 10 of section 3302 of the public health law, as added by chapter 878 of the laws of 1972 and as renumbered by chapter 537 of the laws of 1998, are amended to read as follows:

9. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by lawful means, INCLUDING BY MEANS OF THE INTERNET, and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

10. "Distribute" means to deliver a controlled substance, INCLUDING BY MEANS OF THE INTERNET, other than by administering or dispensing.

S 2. Section 3302 of the public health law is amended by adding seven new subdivisions 34, 35, 36, 37, 38, 39 and 40 to read as follows:

34. "INTERNET" MEANS COLLECTIVELY COMPUTER AND TELECOMMUNICATIONS FACILITIES WHICH COMPRISE THE WORLDWIDE NETWORK OF NETWORKS THAT EMPLOY A SET OF INDUSTRY STANDARDS AND PROTOCOLS, OR ANY PREDECESSOR OR SUCCESSOR PROTOCOL TO SUCH PROTOCOL, TO EXCHANGE INFORMATION OF ALL KINDS. "INTERNET," AS USED IN THIS ARTICLE, ALSO INCLUDES OTHER NETWORKS, WHETHER PRIVATE OR PUBLIC, USED TO TRANSMIT INFORMATION BY ELECTRONIC MEANS.

35. "BY MEANS OF THE INTERNET" MEANS ANY SALE, DELIVERY, DISTRIBUTION, OR DISPENSING OF A CONTROLLED SUBSTANCE THAT USES THE INTERNET, IS INITIATED BY USE OF THE INTERNET OR CAUSES THE INTERNET TO BE USED.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD05619-07-9

36. "ONLINE DISPENSER" MEANS A PRACTITIONER, PHARMACY, OR PERSON IN THE UNITED STATES THAT SELLS, DELIVERS OR DISPENSES, OR OFFERS TO SELL, DELIVER, OR DISPENSE, A CONTROLLED SUBSTANCE BY MEANS OF THE INTERNET.

37. "ELECTRONIC PRESCRIPTION" MEANS A PRESCRIPTION ISSUED WITH AN ELECTRONIC SIGNATURE AND TRANSMITTED BY ELECTRONIC MEANS IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER AND THE COMMISSIONER OF EDUCATION AND CONSISTENT WITH FEDERAL REQUIREMENTS. A PRESCRIPTION GENERATED ON AN ELECTRONIC SYSTEM THAT IS PRINTED OUT OR TRANSMITTED VIA FACSIMILE IS NOT CONSIDERED AN ELECTRONIC PRESCRIPTION AND MUST BE MANUALLY SIGNED.

38. "ELECTRONIC" MEANS OF OR RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR CAPABILITIES. "ELECTRONIC" SHALL NOT INCLUDE FACSIMILE.

39. "ELECTRONIC RECORD" MEANS A PAPERLESS RECORD THAT IS CREATED, GENERATED, TRANSMITTED, COMMUNICATED, RECEIVED OR STORED BY MEANS OF ELECTRONIC EQUIPMENT AND INCLUDES THE PRESERVATION, RETRIEVAL, USE AND DISPOSITION IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER AND THE COMMISSIONER OF EDUCATION AND IN COMPLIANCE WITH FEDERAL LAW AND REGULATIONS.

40. "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL, OR PROCESS, ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN ELECTRONIC RECORD AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE RECORD, IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER AND THE COMMISSIONER OF EDUCATION.

S 3. The public health law is amended by adding a new section 3335 to read as follows:

S 3335. DISPENSING BY ONLINE DISPENSERS OF CONTROLLED SUBSTANCES. A CONTROLLED SUBSTANCE MAY BE SOLD, DELIVERED, OR DISPENSED BY MEANS OF THE INTERNET BUT ONLY IN ACCORDANCE WITH THIS ARTICLE. AN ONLINE DISPENSER SHALL FILE WITH THE DEPARTMENT BY ELECTRONIC MEANS INFORMATION CONCERNING THE DISPENSING BY MEANS OF THE INTERNET, OF ANY CONTROLLED SUBSTANCES IN SUCH MANNER AS THE COMMISSIONER BY REGULATION SHALL REQUIRE.

S 4. Subdivision 1 of section 3371 of the public health law, as added by chapter 878 of the laws of 1972, paragraph (a) as amended by chapter 965 of the laws of 1974, paragraph (d) as added by chapter 163 of the laws of 1973, and paragraph (e) as added by section 15 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

1. No person, who has knowledge by virtue of his OR HER office of the identity of a particular patient or research subject, a manufacturing process, a trade secret or a formula shall disclose such knowledge, or any report or record thereof, except:

(a) to another person employed by the department, for purposes of executing provisions of this article; [or]

(b) pursuant to judicial subpoena or court order in a criminal investigation or proceeding; [or]

(c) to an agency, department of government, or official board authorized to regulate, license or otherwise supervise a person who is authorized by this article to deal in controlled substances, or in the course of any investigation or proceeding by or before such agency, department or board[.];

(d) to a central registry established pursuant to this article[.]; AND

(e) to a practitioner to inform him or her that a [person under his or her treatment with a controlled substance also] PATIENT may be under treatment with a controlled substance by another practitioner.

S 5. The public health law is amended by adding a new section 3371-a to read as follows:

S 3371-A. DISCLOSURE OF CERTAIN RECORDS, REPORTS, AND INFORMATION TO ANOTHER STATE. 1. THE COMMISSIONER IS AUTHORIZED TO DISCLOSE RECORDS, REPORTS AND INFORMATION FILED PURSUANT TO SECTIONS THIRTY-THREE HUNDRED THIRTY-ONE AND THIRTY-THREE HUNDRED THIRTY-THREE OF THIS ARTICLE: (A) TO ANOTHER STATE'S CONTROLLED SUBSTANCE MONITORING PROGRAM OR OTHER AUTHORIZED AGENCY WITH WHICH THE DEPARTMENT HAS ESTABLISHED AN INTEROPERABILITY AGREEMENT, PURSUANT TO JUDICIAL SUBPOENA OR COURT ORDER IN A CRIMINAL INVESTIGATION OR PROCEEDING IN THAT STATE;

(B) TO ANOTHER STATE'S AGENCY, DEPARTMENT, OR BOARD WITH WHICH THE DEPARTMENT HAS ESTABLISHED AN INTEROPERABILITY AGREEMENT AND WHICH IS AUTHORIZED TO REGULATE, LICENSE, REGISTER OR OTHERWISE SUPERVISE A PERSON WHO IS AUTHORIZED BY LAW TO DEAL IN CONTROLLED SUBSTANCES, IN THE COURSE OF ANY INVESTIGATION OR PROCEEDING BY OR BEFORE SUCH AGENCY, DEPARTMENT OR BOARD;

(C) TO ANOTHER STATE'S CONTROLLED SUBSTANCE MONITORING PROGRAM OR OTHER AUTHORIZED AGENCY WITH WHICH THE DEPARTMENT HAS ESTABLISHED AN INTEROPERABILITY AGREEMENT TO INFORM A PRACTITIONER IN ANOTHER STATE THAT A PATIENT MAY BE UNDER TREATMENT WITH A CONTROLLED SUBSTANCE BY ANOTHER PRACTITIONER; OR

(D) TO ANOTHER STATE'S CONTROLLED SUBSTANCE MONITORING PROGRAM OR OTHER AUTHORIZED AGENCY WITH WHICH THE DEPARTMENT HAS ESTABLISHED AN INTEROPERABILITY AGREEMENT TO INFORM A PHARMACY IN ANOTHER STATE THAT A PERSON WHO PRESENTS OR HAS PRESENTED A PRESCRIPTION FOR ONE OR MORE CONTROLLED SUBSTANCES AT THE PHARMACY MAY HAVE ALSO OBTAINED CONTROLLED SUBSTANCES AT ANOTHER PHARMACY WHERE THE CIRCUMSTANCES INDICATE A POSSIBILITY OF DRUG ABUSE OR DIVERSION, POTENTIAL HARM TO THE PERSON, OR SIMILAR GROUNDS UNDER REGULATIONS OF THE COMMISSIONER.

2. RECORDS, REPORTS, AND INFORMATION DISCLOSED UNDER THE PROVISIONS OF THIS SECTION SHALL BE IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE COMMISSIONER AND SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) THE AUTHENTICATION OF THE PERSON REQUESTING SUCH INFORMATION;

(B) AN ATTESTATION FROM THE PERSON REQUESTING THE INFORMATION THAT HE OR SHE HAS AUTHORITY TO REQUEST AND RECEIVE SUCH INFORMATION, AND THAT SUCH INFORMATION WILL ONLY BE USED CONSISTENT WITH THE PURPOSE OF THE REQUEST FOR SUCH INFORMATION;

(C) A STATEMENT OF THE PURPOSE OF THE REQUEST FOR SUCH INFORMATION; AND

(D) ENSURING THAT SUCH INFORMATION IS, OR WILL BE, TRANSMITTED IN A SECURE MANNER.

3. EVERY AGREEMENT UNDER SUBDIVISION ONE OF THIS SECTION SHALL:

(A) REQUIRE RECIPROCITY WITH THE DEPARTMENT ON THE PART OF EVERY OTHER PARTY TO THE AGREEMENT;

(B) GUARANTEE PROTECTION FOR THE CONFIDENTIALITY OF INFORMATION DISCLOSED AT LEAST AS STRONG AS THE PROTECTIONS THAT WOULD APPLY TO THE INFORMATION WHEN IN THE POSSESSION OF THE DEPARTMENT, INCLUDING REMEDIES FOR BREACHES OF CONFIDENTIALITY; AND

(C) BE SUBJECT TO RENEWAL NOT LESS FREQUENTLY THAN EVERY TWO YEARS.

S 6. Subdivision 6 of section 3331 of the public health law, as amended by section 6 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

6. A practitioner dispensing a controlled substance shall file information pursuant to such dispensing with the department by electronic means in such [a] manner and detail as the commissioner shall, by regulation, require. [Such information shall be filed by not later than the fifteenth day of the next month following the month in which the controlled substance was delivered.] This requirement shall not apply to

the dispensing by a practitioner pursuant to subdivision five of section thirty-three hundred fifty-one of this article.

S 7. Section 3332 of the public health law, as added by chapter 878 of the laws of 1972, subdivisions 1 and 3 as amended by section 7 of part A of chapter 58 of the laws of 2004, subdivisions 2 and 4 as amended by chapter 537 of the laws of 1998, is amended to read as follows:

S 3332. Making of official New York state prescriptions OR ELECTRONIC PRESCRIPTIONS for scheduled substances. 1. No controlled substance may be prescribed by a practitioner except on an official New York state prescription OR ON AN ELECTRONIC PRESCRIPTION, and in good faith and in the course of his or her professional practice only.

2. Such prescription shall be prepared on an official New York state prescription form, written with ink, indelible pencil or, apart from the practitioner's signature, typewriter or electronic printer, OR TO THE EXTENT AUTHORIZED BY FEDERAL REQUIREMENTS, ON AN ELECTRONIC PRESCRIPTION. The original OFFICIAL NEW YORK STATE PRESCRIPTION OR THE ELECTRONIC PRESCRIPTION must contain the following:

(a) the name, address, and age of the ultimate user for whom the substance is intended, or, if the ultimate user is an animal, the species of such animal and the name and address of the owner or person having custody of such animal;

(b) the name, address, Federal registration number, telephone number, and handwritten signature of the prescribing practitioner, EXCEPT THAT AN ELECTRONIC PRESCRIPTION MUST CONTAIN THE ELECTRONIC SIGNATURE OF THE PRESCRIBING PRACTITIONER;

(c) specific directions for use, including but not limited to the dosage and frequency of dosage and the maximum daily dosage;

(d) the date upon which such prescription was actually signed by the prescribing practitioner.

3. No such prescription shall be made for a quantity of controlled substances which would exceed a thirty day supply if the controlled substance were used in accordance with the directions for use specified on the prescription. A practitioner may, however, issue a prescription for up to a three month supply of a controlled substance provided that the controlled substance has been prescribed to treat one of the conditions that have been enumerated by the commissioner pursuant to regulations as warranting the prescribing of greater than a thirty day supply of a controlled substance and that the practitioner specifies the condition on the face of the prescription. No additional prescriptions for a controlled substance may be issued by a practitioner to an ultimate user within thirty days of the date of any prescription previously issued unless and until the ultimate user has exhausted all but a seven day supply of the controlled substance provided by any previously issued prescription. A practitioner may, however, issue a prescription for up to a six month supply of any substance listed in subdivision (h) of Schedule II of section [three thousand three] THIRTY-THREE hundred six of this article provided that such substance has been prescribed to treat one of the conditions that have been enumerated by the commissioner pursuant to regulations as warranting the prescribing of a six month supply and that the practitioner specifies the condition on [the face of] the prescription OR ON THE ELECTRONIC PRESCRIPTION.

4. The practitioner shall deliver the original OFFICIAL NEW YORK STATE PRESCRIPTION to the ultimate user OR SHALL TRANSMIT THE ELECTRONIC PRESCRIPTION TO THE PHARMACY.

S 8. Section 3333 of the public health law, as amended by section 8 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

S 3333. Dispensing upon official New York state prescription OR ELECTRONIC PRESCRIPTION. 1. A licensed pharmacist may, in good faith and in the course of his or her professional practice, sell and dispense to an ultimate user controlled substances only upon the delivery of an official New York state prescription OR THE RECEIPT OF AN ELECTRONIC PRESCRIPTION to such pharmacist, within thirty days of the date such prescription was signed by an authorized practitioner; provided, however, a pharmacist may dispense a part or portion of such prescription in accordance with regulations of the commissioner in consultation with the commissioner of education. No pharmacy or pharmacist may sell or dispense greater than a thirty day supply of a controlled substance to an ultimate user unless and until the ultimate user has exhausted all but a seven day supply of the controlled substance provided pursuant to any previously issued prescription, except that a pharmacy or pharmacist may sell or dispense up to a three month supply of a controlled substance if there appears, on [the face of] the official New York state prescription OR ELECTRONIC PRESCRIPTION, a statement that the controlled substance has been prescribed to treat one of the conditions that have been enumerated by the regulations of the commissioner as warranting the prescribing of greater than a thirty day supply of a controlled substance. A pharmacy or pharmacist may sell or dispense up to a six month supply of any substance listed in subdivision (h) of Schedule II of section [three thousand three] THIRTY-THREE hundred six of this article if there appears, on [the face of] the official New York state prescription OR ON AN ELECTRONIC PRESCRIPTION, a statement that the substance has been prescribed to treat one of the conditions that have been enumerated by the regulations of the commissioner as warranting the prescribing of a specified greater supply.

2. No controlled substance may be so dispensed or sold unless it is enclosed within a suitable container, and:

(a) Affixed to such container is a label upon which is indelibly typed, printed, or otherwise legibly written the following:

(i) the name and address of the ultimate user for whom the substance is intended, or if intended for use upon an animal, the species of such animal and the name and address of the owner or person in custody of such animal;

(ii) the name, address, and telephone number of the pharmacy from which such substance is dispensed;

(iii) specific directions for use as stated on the prescription;

(iv) the name of the prescribing practitioner;

(v) the legend, prominently marked or printed in either boldface or upper case lettering: "CONTROLLED SUBSTANCE, DANGEROUS UNLESS USED AS DIRECTED";

(vi) the number of the prescription under which it is recorded in the pharmacist's prescription file;

(vii) such code number assigned by the department for the particular substance pursuant to section thirty-three hundred eighteen of this article, or when requested by the practitioner, the name of such substance;

(b) Such container shall be identified as a controlled substance by either:

(i) an orange label;

(ii) a label of another color over which is superimposed an orange transparent adhesive tape; or

(iii) an auxiliary orange label affixed to the front of such container and bearing the legend, prominently marked or printed "Controlled Substance, Dangerous Unless Used As Directed";

(c) Any label, transparency, or auxiliary label shall be applied in a manner which would inhibit its removal.

3. The pharmacist filling the controlled substance prescription shall endorse upon the original OFFICIAL NEW YORK STATE PRESCRIPTION the date of delivery and his or her signature OR, IF AN ELECTRONIC PRESCRIPTION, HIS OR HER ELECTRONIC SIGNATURE.

4. The endorsed original prescription shall be retained by the proprietor of the pharmacy for a period of five years. The proprietor of the pharmacy shall file such prescription information with the department by electronic means in such manner and detail as the commissioner in consultation with the commissioner of education shall, by regulation, require. [Such prescription information shall be filed by not later than the fifteenth day of the next month following the month in which the substance was delivered.]

5. When filing prescription information electronically pursuant to subdivision four of this section, the proprietor of the pharmacy shall dispose of any electronically recorded prescription information in such manner as the commissioner shall by regulation require.

S 9. Subdivision 3 of section 3370 of the public health law, as added by chapter 965 of the laws of 1974, is renumbered subdivision 4 and a new subdivision 5 is added to read as follows:

5. ELECTRONIC PRESCRIPTION RECORDS SHALL BE MAINTAINED AND PRESERVED IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER.

S 10. Section 3334 of the public health law, as amended by section 9 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

S 3334. Emergency oral prescriptions for schedule II drugs and certain other controlled substances. 1. In an emergency situation, as defined by rule or regulation of the department, a practitioner may orally prescribe and a pharmacist may dispense to an ultimate user controlled substances in schedule II and those schedule III or schedule IV controlled substances as the commissioner may, by regulation, require; provided however the pharmacist shall:

(a) contemporaneously reduce such prescription to writing OR TO THE EXTENT AUTHORIZED BY FEDERAL REQUIREMENTS, TO AN ELECTRONIC RECORD;

(b) dispense the substance in conformity with the labeling requirements applicable to the type of prescription which would be required but for the emergency; and

(c) make a good faith effort to verify the practitioner's identity, if the practitioner is unknown to the pharmacist.

2. No oral prescription shall be filled for a quantity of controlled substances which would exceed a five day supply if the substance were used in accordance with the directions for use.

3. Within seventy-two hours after authorizing an emergency oral prescription, the prescribing practitioner shall cause to be delivered to the pharmacist the original of an official New York state prescription OR AN ELECTRONIC PRESCRIPTION. Such prescription shall, in addition to the information otherwise required, also have [written or typed upon its face] UPON THE OFFICIAL NEW YORK STATE PRESCRIPTION OR UPON THE ELECTRONIC PRESCRIPTION the words: "Authorization for emergency dispensing." If the pharmacist fails to receive such prescription he or she shall notify the department in writing OR ELECTRONICALLY within seven days from the date of dispensing the substance.

4. Such official New York state prescription OR ELECTRONIC PRESCRIPTION shall be endorsed, AND retained and filed in the same manner as is otherwise required for such prescriptions.

S 11. Section 3337 of the public health law, as amended by section 11 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

S 3337. Oral prescriptions schedule III, IV and V substances. 1. Except as provided in section thirty-three hundred thirty-four of this [article] TITLE, a practitioner may orally prescribe and a pharmacist may dispense to an ultimate user controlled substances in schedules III, IV or V provided however the pharmacist shall:

(a) contemporaneously reduce such prescription to writing OR, TO THE EXTENT AUTHORIZED BY FEDERAL REQUIREMENTS, AN ELECTRONIC RECORD;

(b) dispense the substance in conformity with the labeling requirements applicable to a prescription; and

(c) make a good faith effort to verify the practitioner's identity, if the practitioner is unknown to the pharmacist.

2. No oral prescription shall be filled for a quantity of controlled substances which would exceed a five day supply if the controlled substance were used in accordance with the directions for use, except that with respect to a schedule IV substance such prescription shall not exceed a thirty-day supply or one hundred dosage units, whichever is less; provided, however, that this provision shall not apply to any schedule IV controlled substance limited to a five day supply by section thirty-three hundred thirty-four of this [article] TITLE.

3. Within seventy-two hours after authorizing such an oral prescription, the prescribing practitioner shall cause to be delivered to the pharmacist an official New York state prescription OR AN ELECTRONIC PRESCRIPTION. If the pharmacist fails to receive such prescription he OR SHE shall make a record of such fact in such manner and detail as the commissioner in consultation with the commissioner of education, by regulation, shall require.

4. Such official New York state prescription OR ELECTRONIC PRESCRIPTION shall be endorsed, retained and filed in the same manner as is otherwise required for such prescriptions.

S 12. Subdivisions 1, 2 and 3 of section 3381 of the public health law, as amended by section 9-a of part B of chapter 58 of the laws of 2007, is amended to read as follows:

1. It shall be unlawful for any person to sell or furnish to another person or persons, a hypodermic syringe or hypodermic needle except:

(a) pursuant to a [written] prescription of a practitioner, WHICH FOR THE PURPOSES OF THIS SECTION SHALL INCLUDE A PATIENT SPECIFIC PRESCRIPTION FORM AS PROVIDED FOR IN THE EDUCATION LAW; or

(b) to persons who have been authorized by the commissioner to obtain and possess such instruments; or

(c) by a pharmacy licensed under article one hundred thirty-seven of the education law, health care facility licensed under article twenty-eight of this chapter or a health care practitioner who is otherwise authorized to prescribe the use of hypodermic needles or syringes within his or her scope of practice; provided, however, that such sale or furnishing: (i) shall only be to a person eighteen years of age or older; (ii) shall be limited to a quantity of ten or less hypodermic needles or syringes; and (iii) shall be in accordance with subdivision five of this section.

2. It shall be unlawful for any person to obtain or possess a hypodermic syringe or hypodermic needle unless such possession has been

authorized by the commissioner or is pursuant to a [written] prescription, or is pursuant to subdivision five of this section.

3. Any person selling or furnishing a hypodermic syringe or hypodermic needle pursuant to a prescription shall record upon the [face of the] prescription, [over] his OR HER signature OR ELECTRONIC SIGNATURE, AND the date of the sale or furnishing of the hypodermic syringe or hypodermic needle. Such prescription shall be retained on file for a period of five years and be readily accessible for inspection by any public officer or employee engaged in the enforcement of this section. Such prescription may be refilled not more than the number of times specifically authorized by the prescriber upon the prescription, provided however no such authorization shall be effective for a period greater than two years from the date the prescription is signed.

S 13. Subdivision (b) of schedule II of section 3306 of the public health law is amended by adding a new paragraph 6 to read as follows:

(6) ORIPAVINE.

S 14. Subdivision (d) of schedule II of section 3306 of the public health law is amended by adding a new paragraph 5 to read as follows:

(5) LISDEXAMFETAMINE.

S 15. Subdivision (h) of schedule II of section 3306 of the public health law, as amended by chapter 473 of the laws of 1993, paragraphs 24, 25, 26, 27, and 28 as added by chapter 457 of the laws of 2006, is amended to read as follows:

(h) Anabolic steroids. Unless specifically excepted or unless listed in another schedule, "anabolic steroid" shall mean any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins [and], corticosteroids AND DEHYDROEPIANDROSTERONE) that promotes muscle growth, [any drug or hormonal substance that stimulates the endogenous production of steroids in the human body which acts in the same manner, or any material, compound, mixture, or preparation which contains any amount of the following substances] OR ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WHICH CONTAINS ANY AMOUNT OF THE FOLLOWING SUBSTANCES:

(1) 3{BETA}, 17-DIHYDROXY-5A-ANDROSTANE.

(2) 3{ALPHA}, 17{BETA}-DIHYDROXY-5A-ANDROSTANE.

(3) 5{ALPHA}-ANDROSTAN-3,17-DIONE.

(4) 1-ANDROSTENEDIOL (3{BETA},17{BETA}-DIHYDROXY-5{ALPHA}-ANDROST-1-ENE).

(5) 1-ANDROSTENEDIOL (3{ALPHA},17{BETA}-DIHYDROXY-5{ALPHA}-ANDROST-1-ENE).

(6) 4-ANDROSTENEDIOL (3{BETA}, 17{BETA}-DIHYDROXY-ANDROST-4-ENE).

(7) 5-ANDROSTENEDIOL (3{BETA}, 17{BETA}-DIHYDROXY-ANDROST-5-ENE).

(8) 1-ANDROSTENEDIONE ({5{ALPHA}}-ANDROST-1-EN-3,17-DIONE).

(9) 4-ANDROSTENEDIONE (ANDROST-4-EN-3,17-DIONE).

(10) 5-ANDROSTENEDIONE (ANDROST-5-EN-3,17-DIONE).

(11) BOLASTERONE (7{ALPHA},17{ALPHA}-DIMETHYL-17{BETA}-HYDROXYANDROST-4-EN-3-ONE).

(12) Boldenone (17{BETA}-HYDROXYANDROST-1, 4,-DIENE-3-ONE).

(13) CALUSTERONE (7{BETA}, 17{ALPHA}-DIMETHYL-17{BETA}-HYDROXYANDROST-4-EN-3-ONE).

[(2)] (14) Clostebol (4-CHLORO-17{BETA}-HYDROXYANDROST-4-EN-3-ONE).

[(3)] (15) Dehydrochloromethyltestosterone (4-CHLORO-17{BETA}-HYDROXY-17{ALPHA}-METHYL-ANDROST-1, 4-DIEN-3-ONE).

(16) {DELTA} 1-DIHYDROTESTOSTERONE (A.K.A. '1-TESTOSTERONE') (17{BETA}-HYDROXY-5{ALPHA}-ANDROST-1-EN-3-ONE).

(17) 4-DIHYDROTESTOSTERONE (17{BETA}-HYDROXY-ANDROSTAN-3-ONE).

[(4)] (18) Drostanolone (17{BETA}-HYDROXY-2{ALPHA}-METHYL-5{ALPHA}-ANDROSTAN-3-ONE).
[(5)] (19) Ethylestrenol (17{ALPHA}-ETHYL-17{BETA}-HYDROXYESTR-4-ENE).
[(6)] (20) Fluoxymesterone (9-FLUORO-17{ALPHA}-METHYL-11{BETA}, 17{BETA}-DIHYDROXANDROST-4-EN-3-ONE).
[(7) Formebulone (formebolone).
(8) Mesterolene.]
(21) FORMEBOLONE (2-FORMYL-17{ALPHA}- METHYL-11{ALPHA}, 17{BETA}-DIHYDROXYANDROST-1, 4-DIEN-3-ONE).
(22) FURAZABOL (17{ALPHA}-METHYL-17{BETA}-HYDROXYANDROSTANO{2, 3-C}-FURAZAN).
(23) 13{BETA}-ETHYL-17{ALPHA}-HYDROXYGON-4-EN-3-ONE.
(24) 4-HYDROXYTESTOSTERONE (4,17{BETA}-DIHYDROXYANDROST-4-EN-3-ONE).
(25) 4-HYDROXY-19-NORTESTOSTERONE (4,17{BETA}-DIHYDROXY-ESTR-4-EN-3-ONE).
(26) MESTANOLONE (17{ALPHA}-METHYL-17{BETA}-HYDROXY-5-ANDROSTAN-3-ONE).
(27) MESTEROLONE (1{ALPHA}-METHYL-17{BETA}-HYDROXY-{5{ALPHA}}-ANDROSTAN-3-ONE).
(28) METHANDIENONE (17{ALPHA}-METHYL-17{BETA}-HYDROXYANDROST-1,4-DIEN-3-ONE).
[(9)] (29) Methandriol (17{ALPHA}-METHYL-3{BETA}, 17{BETA}-DIHYDROXYANDROST-5-ENE).
[(10) Methandrostenolone.
(11)] (30) Methenolone (1-METHYL-17{BETA}-HYDROXY-5{ALPHA}-ANDROST-1-EN-3-ONE).
(31) 17{ALPHA}-METHYL-3{BETA}, 17{BETA}-DIHYDROXY-5A-ANDROSTANE.
(32) 17{ALPHA}-METHYL-3{ALPHA}, 17{BETA}-DIHYDROXY-5A-ANDROSTANE.
(33) 17{ALPHA}-METHYL-3{BETA}, 17{BETA}-DIHYDROXYANDROST-4-ENE.
(34) 17{ALPHA}-METHYL-4-HYDROXYNANDROLONE (17{ALPHA}-METHYL-4-HYDROXY-17{BETA}-HYDROXYESTR-4-EN-3-ONE).
(35) METHYLDIENOLONE (17{ALPHA}-METHYL-17{BETA}-HYDROXYESTRA-4,9(10)-DIEN-3-ONE).
(36) METHYLTRIENOLONE (17{ALPHA}-METHYL-17{BETA}-HYDROXYESTRA-4,9-11-TRIEN-3-ONE).
[(12)] (37) Methyltestosterone (17{ALPHA}-METHYL-17{BETA}-HYDROXYANDROST-4-EN-3-ONE).
[(13)] (38) Mibolerone (7{ALPHA},17{ALPHA}-DIMETHYL-17{BETA}-HYDROXYESTR-4-EN-3-ONE).
(39) 17{ALPHA}-METHYL-{DELTA} 1-DIHYDROTESTOSTERONE (17B{BETA}-HYDROXY-17{ALPHA}-METHYL-5{ALPHA}-ANDROST-1-EN-3-ONE)(A.K.A. '17-{ALPHA}-METHYL-1-TESTOSTERONE').
[(14)] (40) Nandrolone (17{BETA}-HYDROXYESTR-4-EN-3-ONE).
(41) 19-NOR-4-ANDROSTENEDIOL (3{BETA},17{BETA}-DIHYDROXYESTR-4-ENE).
(42) 19-NOR-4-ANDROSTENEDIOL (3{ALPHA},17{BETA}-DIHYDROXYESTR-4-ENE).
(43) 19-NOR-5-ANDROSTENEDIOL (3{BETA},17{BETA}-DIHYDROXYESTR-5-ENE).
(44) 19-NOR-5-ANDROSTENEDIOL (3{ALPHA},17{BETA}-DIHYDROXYESTR-5-ENE).
(45) 19-NOR-4-ANDROSTENEDIONE (ESTR-4-EN-3,17-DIONE).
(46) 19-NOR-5-ANDROSTENEDIONE (ESTR-5-EN-3,17-DIONE).
(47) NORBOLETHONE (13{BETA}, 17{ALPHA}-DIETHYL-17{BETA}-HYDROXYGON-4-EN-3-ONE).
(48) NORCLOSTEBOL (4-CHLORO-17{BETA}-HYDROXYESTR-4-EN-3-ONE).
[(15)] (49) Norethandrolone (17{ALPHA}-ETHYL-17{BETA}-HYDROXYESTR-4-EN-3-ONE).
(50) NORMETHANDROLONE (17{ALPHA}-METHYL-17{BETA}-HYDROXYESTR-4-EN-3-ONE).

[(16)] (51) Oxandrolone (17{ALPHA}-METHYL-17{BETA}-HYDROXY-2-OXA-{5{ALPHA}}-ANDROSTAN-3-ONE).

[(17)] (52) Oxymesterone (17{ALPHA}-METHYL-4, 17{BETA}-DIHYDROXY-ANDROST-4-EN-3-ONE).

[(18)] (53) Oxymetholone (17 {ALPHA}-METHYL-2-HYDROXYMETHYLENE-17 {BETA}-HYDROXY-{5{ALPHA}}- ANDROSTAN-3-ONE).

[(19) Stanolone.

(20)] (54) Stanozolol (17{ALPHA}-METHYL-17{BETA}-HYDROXY-{5{ALPHA}}-ANDROST-2-ENO{3, 2-C}-PYRAZOLE).

(55) STENBOLONE (17{BETA}-HYDROXY-2-METHYL-{5{ALPHA}}-ANDROST-1-EN-3-ONE).

(56) TESTOLACTONE (13-HYDROXY-3-OXO-13, 17-SECOANDROSTA-1, 4-DIEN-17-OIC ACID LACTONE).

[(21)] (57) Testosterone (17{BETA}-HYDROXYANDROST-4-EN-3-ONE).

(58) TETRAHYDROGESTRINONE (13{BETA}, 17{ALPHA}-DIETHYL-17{BETA}-HYDROXYGON-4, 9, 11-TRIEN-3-ONE).

[(22)] (59) Trenbolone (17{BETA}-HYDROXYESTR-4, 9, 11-TRIEN-3-ONE).

[(23)] (60) Any salt, ester or [isomer] ETHER of a drug or substance described or listed in this subdivision[, if such salt, ester or isomer promotes muscle growth].

[(24) Chlorotestosterone (4-chlorotestosterone).

(25) Dihydrotestosterone (4-dihydrotestosterone).

(26) Methandienone.

(27) Methandranone.

(28) Testolactone.]

S 16. Subdivision (c) of schedule III of section 3306 of the public health law is amended by adding a new paragraph 14 to read as follows:

(14) EMBUTRAMIDE.

S 17. Subdivision (f) of schedule III of section 3306 of the public health law, as added by chapter 575 of the laws of 2001, is amended to read as follows:

(f) (I) Dronabinol [(synthetic)] in sesame oil and encapsulated in a soft gelatin capsule in a DRUG PRODUCT APPROVED FOR MARKETING BY THE U.S. Food and Drug Administration [approved drug product] (FDA).

(II) ANY DRUG PRODUCT IN TABLET OR CAPSULE FORM CONTAINING NATURAL DRONABINOL DERIVED FROM THE CANNABIS (PLANT) OR SYNTHETIC DRONABINOL (PRODUCED FROM SYNTHETIC MATERIALS) FOR WHICH AN ABBREVIATED NEW DRUG APPLICATION (ANDA) HAS BEEN APPROVED BY THE FDA UNDER SECTION 505(J) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT WHICH REFERENCES AS ITS LISTED DRUG THE DRUG PRODUCT REFERRED TO IN PARAGRAPH (I) OF THIS SUBDIVISION. Some other names for dronabinol INCLUDE: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo{b,d} pyran-1-o1, or (-) delta-9-(trans) - tetrahydrocannabinol.

S 18. Schedule V of section 3306 of the public health law is amended by adding a new subdivision (d) to read as follows:

(D) DEPRESSANTS. UNLESS SPECIFICALLY EXEMPTED OR EXCLUDED OR UNLESS LISTED IN ANOTHER SCHEDULE, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WHICH CONTAINS ANY QUANTITY OF THE FOLLOWING SUBSTANCES HAVING A DEPRESSANT EFFECT ON THE CENTRAL NERVOUS SYSTEM, INCLUDING ITS SALTS:

(1) PREGABALIN ((S)-3-(AMINOMETHYL)-5-METHYLHEXANOIC ACID).

S 19. Section 3352 of the public health law, as added by chapter 433 of the laws of 1986 and subdivision 1 as amended by chapter 558 of the laws of 1999, is amended to read as follows:

S 3352. Reports and records. [1.] Persons certified pursuant to article [twenty-three or] thirty-two of the mental hygiene law to

operate methadone maintenance treatment programs shall keep records showing the receipt, administration, dispensing, or destruction of all controlled substances AND DOCUMENTING EACH INCIDENT OR ALLEGED INCIDENT INVOLVING THE THEFT, LOSS OR POSSIBLE DIVERSION OF CONTROLLED SUBSTANCES and SHALL maintain the records in such manner and detail as the commissioner, by regulation, shall require.

[2. By the tenth day of each month, a] A person certified to conduct a maintenance program shall IMMEDIATELY file A REPORT with the department [a report summarizing its activity in the preceding month. Such report shall include:

(a) an inventory of the quantity of controlled substance on hand at the commencement and at the conclusion of such month's activity;

(b) the total quantity of controlled substance received, the distributor from whom each order was received, and the form or dosage unit in which such substance was received;

(c) the total quantity of controlled substance prescribed, dispensed, and administered during such month;

(d)] OF each incident or alleged incident involving the theft, loss or possible diversion of controlled substances.

S 20. This act shall take effect immediately; provided, however that sections three and nineteen of this act shall take effect on the one hundred eightieth day after it shall have become a law; and that sections thirteen through eighteen of this act shall take effect on the ninetieth day after it shall have become a law; provided further, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed by the commissioner of health on or before such effective date. Notwithstanding the foregoing, any provisions providing for or addressing the provision of electronic prescriptions shall not take effect unless and until such electronic prescriptions for controlled substances are specifically permitted by the federal government.