

2161

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Health

AN ACT to amend the public health law, in relation to return and redistri-  
bution of unused medication

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

1 Section 1. Section 2803-e of the public health law, as added by chap-  
2 ter 902 of the laws of 1977 and renumbered by chapter 340 of the laws of  
3 1980, is amended to read as follows:

4 S 2803-e. Residential health care facilities; return and redistrib-  
5 ution of unused medication. 1. Notwithstanding any inconsistent  
6 provision of law, rule or regulation to the contrary, the commissioner  
7 is hereby authorized and directed to permit either a resident or  
8 consultant pharmacist OR HIS DESIGNEE in a residential health care  
9 facility to return to the pharmacy from which it was purchased any  
10 unused medication provided that such medication is sealed in THE  
11 MANUFACTURER'S ORIGINAL unopened[,] TAMPER EVIDENT PACKAGING AND EITHER  
12 individually packaged [units] OR PACKAGED IN UNIT-DOSE PACKAGING and  
13 within the recommended period of shelf life, AND, IF ORAL OR PARENTERAL  
14 MEDICATIONS, SEALED IN SINGLE-DOSE CONTAINERS APPROVED BY THE FEDERAL  
15 FOOD AND DRUG ADMINISTRATION, AND, IF A TOPICAL OR INHALANT DRUG, IS  
16 SEALED IN UNITS-OF-USE CONTAINERS APPROVED BY THE FEDERAL FOOD AND DRUG  
17 ADMINISTRATION and provided that such medication is not a controlled  
18 substance as defined in section thirty-three hundred six of [the public  
19 health law] THIS CHAPTER.

20 2. The pharmacy to which such medication as described in subdivision  
21 one of this section is returned shall be permitted to receive, restock  
22 and redistribute that medication. THE COMMISSIONER, IN CONSULTATION  
23 WITH THE ADVISORY COMMITTEE ESTABLISHED BY SUBDIVISION SIX OF THIS  
24 SECTION, SHALL ESTABLISH A REASONABLE FEE OF REIMBURSEMENT OF COSTS

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

LBD05477-01-9

1 RELATED TO THE RECEIPT, RESTOCKING AND REDISTRIBUTION OF SUCH MEDICATION  
2 PAYABLE TO THE PHARMACY TO WHICH SUCH MEDICATION IS RETURNED.

3 3. The pharmacy to which such medication as described in subdivision  
4 one of this section is returned shall be required to reimburse or credit  
5 the purchaser of that medication for the unused medication that is  
6 restocked and redistributed. No pharmacy shall be required to accept any  
7 medication returned under subdivision one of this section.

8 4. Neither an individual patient or the state, if a patient is a  
9 recipient of a state funded program, shall be charged for unused medica-  
10 tion which according to the provisions of this law is returned for  
11 reimbursement or credit.

12 5. THE COMMISSIONER SHALL ESTABLISH PROCEDURES TO ASSURE THAT ANY  
13 RETURN OF MEDICATIONS AUTHORIZED BY THIS SECTION, AND ANY RECEIPT,  
14 RESTOCKING OR REDISTRIBUTION OF MEDICATION SO RETURNED SHALL COMPLY WITH  
15 THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)  
16 OF 1996, AS AMENDED.

17 6. THE DEPARTMENT SHALL CONVENE AN ADVISORY COMMITTEE TO ASSIST THE  
18 COMMISSIONER IN DEVELOPING A REASONABLE FEE OF REIMBURSEMENT PURSUANT TO  
19 THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION. THE ADVISORY COMMIT-  
20 TEE SHALL BE COMPRISED OF LICENSED PHARMACISTS CURRENTLY ENGAGED IN THE  
21 PROVISION OF LONG TERM CARE PHARMACY SERVICES. MEMBERS OF THE COMMITTEE  
22 SHALL BE APPOINTED BY THE GOVERNOR: TWO MEMBERS OF THE COMMITTEE SHALL  
23 BE APPOINTED ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE  
24 SENATE AND THE SPEAKER OF THE ASSEMBLY; AND TWO MEMBERS SHALL BE  
25 APPOINTED ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY  
26 AND THE MINORITY LEADER OF THE SENATE.

27 S 2. This act shall take effect on the one hundred twentieth day after  
28 it shall have become a law; provided, however, that the commissioner of  
29 health shall promulgate rules and regulations prior to such effective  
30 date.