

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

7421--B

2009-2010 Regular Sessions

I N A S S E M B L Y

April 6, 2009

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to authorizing the dispensing of therapeutic contact lenses

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

1 Section 1. Subparagraphs 8 and 9 of paragraph a of subdivision 2 of
2 section 6807 of the education law, as amended by chapter 538 of the laws
3 of 2001, are amended and a new subparagraph 10 is added to read as
4 follows:
5 (8) the dispensing of allergenic extracts; [or]
6 (9) the dispensing of drugs pursuant to an oncological or AIDS proto-
7 col; OR
8 (10) THE DISPENSING OF VISION CORRECTIVE OR NON-CORRECTIVE CONTACT
9 LENSES THAT CONTAIN PHARMACEUTICAL AGENTS AND ARE APPROVED BY THE FEDER-
10 AL FOOD AND DRUG ADMINISTRATION, PROVIDED THAT SUCH CONTACT LENSES MAY
11 BE SOLD BY ANY PERSON OR ENTITY AUTHORIZED TO DO SO UNDER THIS TITLE
12 ONLY ON A WRITTEN PRESCRIPTION FROM A LICENSED PHYSICIAN OR OPTOMETRIST
13 AND ONLY IF A LICENSED PHYSICIAN OR OPTOMETRIST IS IN PERSONAL ATTEND-
14 ANCE AT THE PLACE OF SALE; PROVIDED, HOWEVER, SUCH PRODUCTS MAY BE
15 DISPENSED WITHIN A REGISTERED PHARMACY BY A REGISTERED PHARMACIST, WITH-
16 OUT THE PRESENCE OF A LICENSED PHYSICIAN OR OPTOMETRIST IN PERSONAL
17 ATTENDANCE.
18 S 2. Subdivision 1 of section 6810 of the education law, as amended by
19 chapter 905 of the laws of 1985, is amended to read as follows:
20 1. No drug for which a prescription is required by the provisions of
21 the Federal Food, Drug and Cosmetic Act or by the commissioner of health

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

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1 shall be distributed or dispensed to any person except upon a
2 prescription written by a person legally authorized to issue such
3 prescription. Such drug shall be compounded or dispensed by a licensed
4 pharmacist, and no such drug shall be dispensed without affixing to the
5 immediate container in which the drug is sold or dispensed a label bear-
6 ing the name and address of the owner of the establishment in which it
7 was dispensed, the date compounded, the number of the prescription under
8 which it is recorded in the pharmacist's prescription files, the name of
9 the prescriber, the name and address of the patient, and the directions
10 for the use of the drug by the patient as given upon the prescription.
11 The prescribing and dispensing of a drug which is a controlled substance
12 shall be subject to additional requirements provided in article thirty-
13 three of the public health law. The words "drug" and "prescription
14 required drug" within the meaning of this article shall not be construed
15 to include soft or hard contact lenses, eyeglasses, or any other device
16 for the aid or correction of vision; PROVIDED HOWEVER, THAT SUCH WORDS
17 SHALL INCLUDE VISION CORRECTIVE OR NON-CORRECTIVE CONTACT LENSES THAT
18 CONTAIN PHARMACEUTICAL AGENTS AND ARE APPROVED BY THE FEDERAL FOOD AND
19 DRUG ADMINISTRATION. Nothing in this subdivision shall prevent a phar-
20 macy from furnishing a drug to another pharmacy which does not have such
21 drug in stock for the purpose of filling a prescription.

22 S 3. Section 7121 of the education law, as amended by chapter 647 of
23 the laws of 2005, is amended to read as follows:

24 S 7121. Definition of practice of ophthalmic dispensing. The practice
25 of the profession of ophthalmic dispensing is defined as adapting and
26 fitting lenses, for the correction of deficiencies, deformities or anom-
27 alies of the human eyes, or adapting and fitting non-corrective contact
28 lenses, on written prescriptions from a licensed physician or optome-
29 trist. Replacements or duplicates of such lenses may be adapted and
30 dispensed without prescription. Contact lenses may be fitted by an
31 ophthalmic dispenser only under the personal supervision of a licensed
32 physician or optometrist. VISION CORRECTIVE OR NON-CORRECTIVE CONTACT
33 LENSES THAT CONTAIN PHARMACEUTICAL AGENTS AND ARE APPROVED BY THE FEDER-
34 AL FOOD AND DRUG ADMINISTRATION MAY BE ADAPTED AND FITTED BY AN
35 OPHTHALMIC DISPENSER ONLY ON A WRITTEN PRESCRIPTION FROM A LICENSED
36 PHYSICIAN OR OPTOMETRIST AND ONLY IF A LICENSED PHYSICIAN OR OPTOMETRIST
37 IS IN PERSONAL ATTENDANCE AT THE PLACE WHERE THE ADAPTING AND FITTING
38 OCCURS. REPLACEMENT OR DUPLICATION OF SUCH LENSES SHALL ONLY BE ADAPTED
39 AND FITTED WITH A PRESCRIPTION.

40 S 4. This act shall take effect only upon the approval by the federal
41 food and drug administration of a vision corrective or non-corrective
42 contact lens that contains a pharmaceutical agent; provided that the
43 commissioner of health shall notify the legislative bill drafting
44 commission upon the occurrence of the approval of the federal food and
45 drug administration of a vision corrective or non-corrective contact
46 lens that contains a pharmaceutical agent provided for in sections two
47 and three of this act in order that the commission may maintain an accu-
48 rate and timely effective data base of the official text of the laws of
49 the state of New York in furtherance of effectuating the provisions of
50 section 44 of the legislative law and section 70-b of the public offi-
51 cers law.