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

7662

2009-2010 Regular Sessions

I N A S S E M B L Y

April 20, 2009

Introduced by M. of A. ORTIZ, GOTTFRIED -- (at request of the Department of Health) -- read once and referred to the Committee on Health

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 IN ACCORDANCE WITH THIS ARTICLE, 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 IN ACCORDANCE WITH THIS ARTICLE, other than by administering or dispensing.

S 2. Section 3302 of the public health law is amended by adding six new subdivisions 34, 35, 36, 37, 38 and 39 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.

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

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.

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

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37. "ELECTRONIC PRESCRIPTION" MEANS A PRESCRIPTION ISSUED AND TRANSMITTED IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER AND THE COMMISSIONER OF EDUCATION AND CONSISTENT WITH FEDERAL REQUIREMENTS.

38. "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.

39. "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. NO CONTROLLED SUBSTANCE MAY BE SOLD, DELIVERED, OR DISPENSED BY MEANS OF THE INTERNET EXCEPT IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN THIS ARTICLE. AN ONLINE DISPENSER SHALL FILE WITH THE DEPARTMENT BY ELECTRONIC MEANS INFORMATION CONCERNING THE DISPENSING 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[.];

(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[.]; OR

(F) TO A PHARMACY TO INFORM THE PHARMACY THAT A PERSON WHO PRESENTS OR HAS PRESENTED A PRESCRIPTION FOR ONE OR MORE CONTROLLED SUBSTANCES AT THE PHARMACY MAY HAVE ALSO OBTAINED ONE OR MORE 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.

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.

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. 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:

S 3381. Sale and possession of hypodermic syringes and hypodermic needles. 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; 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.

4. The commissioner shall, subject to subdivision five of this section, designate persons, or by regulation, classes of persons who may obtain hypodermic syringes and hypodermic needles without prescription and the manner in which such transactions may take place and the records thereof which shall be maintained.

5. (a) A person eighteen years of age or older may obtain and possess a hypodermic syringe or hypodermic needle pursuant to paragraph (c) of subdivision one of this section.

(b) Subject to regulations of the commissioner, a pharmacy licensed under article one hundred thirty-seven of the education law, a 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, may obtain and possess hypodermic needles or syringes for the purpose of selling or furnishing them pursuant to paragraph (c) of subdivision one of this section or for the purpose of disposing of them, provided that such pharmacy, health care facility or health care practitioner has registered with the department.

(c) Sale or furnishing of hypodermic syringes or hypodermic needles to direct consumers pursuant to this subdivision by a pharmacy, health care facility, or health care practitioner shall be accompanied by a safety insert. Such safety insert shall be developed or approved by the commissioner and shall include, but not be limited to, (i) information on the proper use of hypodermic syringes and hypodermic needles; (ii) the risk of blood borne diseases that may result from the use of hypodermic syringes and hypodermic needles; (iii) methods for preventing the transmission or contraction of blood borne diseases; (iv) proper hypodermic syringe and hypodermic needle disposal practices; (v) information on the dangers of injection drug use, and how to access drug treatment; (vi) a toll-free phone number for information on the human immunodeficiency virus; and (vii) information on the safe disposal of hypodermic syringes and hypodermic needles including the relevant provisions of the environmental conservation law relating to the unlawful release of regulated medical waste. The safety insert shall be attached to or included in the hypodermic syringe and hypodermic needle packaging, or shall be given to the purchaser at the point of sale or furnishing in brochure form.

(d) In addition to the requirements of paragraph (c) of subdivision one of this section, a pharmacy licensed under article one hundred thirty-seven of the education law may sell or furnish hypodermic needles or syringes only if such pharmacy: (i) does not advertise to the public the availability for retail sale or furnishing of hypodermic needles or syringes without a prescription; and (ii) at any location where hypodermic needles or syringes are kept for retail sale or furnishing, stores such needles and syringes in a manner that makes them available only to authorized personnel and not openly available to customers.

(e) The commissioner shall promulgate rules and regulations necessary to implement the provisions of this subdivision which shall include a requirement that such pharmacies, health care facilities and health care practitioners cooperate in a safe disposal of used hypodermic needles or syringes.

(f) The commissioner may, upon the finding of a violation of this section, suspend for a determinate period of time the sale or furnishing of syringes by a specific entity.

6. The provisions of this section shall not apply to farmers engaged in livestock production or to those persons supplying farmers engaged in livestock production, provided that:

(a) Hypodermic syringes and needles shall be stored in a secure, locked storage container.

(b) At any time the department may request a document outlining:

(i) the number of hypodermic needles and syringes purchased over the past calendar year;

(ii) a record of all hypodermic needles used over the past calendar year; and

(iii) a record of all hypodermic needles and syringes destroyed over the past calendar year.

(c) Hypodermic needles and syringes shall be destroyed in a manner consistent with the provisions set forth in section thirty-three hundred eighty-one-a of this [article] TITLE.

S 13. Section 3381 of the public health law, as added by chapter 878 of the laws of 1972, subdivision 3 as amended by chapter 163 of the laws of 1973, and subdivision 5 as added by chapter 639 of the laws of 1996, is amended to read as follows:

S 3381. Sale and possession of hypodermic syringes and hypodermic needles. 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; or

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

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.

3. Any person selling or furnishing a hypodermic syringe or hypodermic needle pursuant to 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.

4. The commissioner shall designate persons, or by regulation, classes of persons who may obtain hypodermic syringes and hypodermic needles without prescription and the manner in which such transactions may take place and the records thereof which shall be maintained.

5. (a) The commissioner, in consultation with the commissioner of alcoholism and substance abuse services, the commissioner of the department of correctional services, the commissioner of the division of criminal justice services, the commissioner of THE office of general services, the commissioner of the office of mental health, the commissioner of the office of mental retardation and developmental disabilities and the director of the division for youth shall develop a limited number of cooperative pilot projects to test the practicality and effectiveness of the distribution of syringes for human injection which are intended for single use and which are non-reusable. Such pilot projects shall be demonstrated throughout the state in high risk clinical settings of state operated facilities such as prisons, hospitals, youth detention facilities, developmental centers and other state operated

facilities as the commissioner, in consultation with the above listed commissioners and directors determine appropriate.

(b) On or before June thirtieth, nineteen hundred ninety-eight, the commissioner and the commissioners and directors listed in paragraph (a) of this subdivision shall evaluate the pilot projects established pursuant to this subdivision, and shall submit a report of his or her evaluation to the governor, the temporary president of the senate, and the speaker of the assembly.

S 14. 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 15. 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 16. 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 17. 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 18. 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 19. Schedule III of section 3306 of the public health law is amended by adding a new subdivision (h) to read as follows:

(H) GROWTH HORMONE AS SYNTHESIZED GROWTH HORMONE, RECOMBINANT HUMAN GROWTH HORMONE AND/OR NATURALLY OCCURRING HUMAN GROWTH HORMONE. UNLESS SPECIFICALLY EXCEPTED OR UNLESS LISTED IN ANOTHER SCHEDULE ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WHICH CONTAINS ANY AMOUNT OF GROWTH HORMONE AS SYNTHESIZED GROWTH HORMONE, RECOMBINANT HUMAN GROWTH HORMONE AND/OR NATURALLY OCCURRING HUMAN GROWTH HORMONE.

S 20. 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 21. 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 22. This act shall take effect immediately; provided, however that sections one through three and section twenty-one of this act shall take effect on the one hundred eightieth day after it shall have become a law; and that sections fourteen through twenty 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; and provided, further, that the amendments to section 3381 of the public health law made by section twelve of this act shall be subject to the expiration and reversion of such section pursuant to section 5 of part G of chapter 56 of the laws of 2000, as amended, when upon such date the provisions of section thirteen of this act shall take effect.