

2590

2011-2012 Regular Sessions

I N   S E N A T E

January 26, 2011

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Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to requiring notification of and the informed consent of the prescriber and the patient prior to the substitution of a prescribed anti-epileptic drug

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

1     Section 1. The public health law is amended by adding a new section  
2     3346 to read as follows:  
3     S 3346. ANTI-EPILEPTIC DRUG PRODUCT SELECTION PROHIBITED. 1. AS USED  
4     IN THIS SECTION:  
5       (A) "ANTI-EPILEPTIC DRUG" MEANS (I) ANY DRUG PRESCRIBED FOR THE TREAT-  
6     MENT OF EPILEPSY OR (II) A DRUG USED TO TREAT OR PREVENT SEIZURES.  
7       (B) "EPILEPSY" MEANS A NEUROLOGICAL CONDITION CHARACTERIZED BY RECUR-  
8     RENT SEIZURES.  
9       (C) "SEIZURE" MEANS AN ACUTE CLINICAL CHANGE SECONDARY TO A BRIEF  
10    DISTURBANCE IN THE ELECTRICAL ACTIVITY OF THE BRAIN.  
11       (D) "INTERCHANGE" MEANS THE SUBSTITUTION OF ONE VERSION OF THE SAME  
12    ANTI-EPILEPTIC THERAPEUTIC PRODUCT, INCLUDING A GENERIC VERSION FOR THE  
13    PRESCRIBED BRAND, A BRAND VERSION FOR THE PRESCRIBED GENERIC VERSION, A  
14    GENERIC VERSION BY ONE MANUFACTURER FOR A GENERIC VERSION BY A DIFFERENT  
15    MANUFACTURER, A DIFFERENT FORMULATION OF THE PRESCRIBED ANTI-EPILEPTIC  
16    DRUG OR A DIFFERENT ANTI-EPILEPTIC THERAPEUTIC DRUG PRODUCT FOR THE  
17    ANTI-EPILEPTIC PRODUCT ORIGINALLY PRESCRIBED.  
18    2. NO PHARMACIST SHALL INTERCHANGE AN ANTI-EPILEPTIC DRUG OR FORMU-  
19    LATION OF AN ANTI-EPILEPTIC DRUG, BRAND OR GENERIC, FOR THE TREATMENT OF  
20    EPILEPTIC SEIZURES WITHOUT THE PRIOR NOTIFICATION OF AND THE SIGNED  
21    INFORMED CONSENT OF SUCH INTERCHANGE FROM THE PRESCRIBING PHYSICIAN AND  
22    THE PATIENT, OR THE PATIENT'S PARENT, LEGAL GUARDIAN OR SPOUSE.

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

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1 S 2. The opening paragraph of subdivision 1 of section 6816-a of the  
2 education law, as added by chapter 776 of the laws of 1977, is amended  
3 to read as follows:

4 [A] EXCEPT AS PROVIDED IN SECTION THIRTY-THREE HUNDRED FORTY-SIX OF  
5 THE PUBLIC HEALTH LAW, A pharmacist shall substitute a less expensive  
6 drug product containing the same active ingredients, dosage form and  
7 strength as the drug product prescribed, ordered or demanded, provided  
8 that the following conditions are met:

9 S 3. This act shall take effect immediately.