

10623

I N A S S E M B L Y

June 8, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cusick, Gottfried, Silver, Barrett, Bronson, Zebrowski, Ramos, Gabryszak, Cymbrowitz, Weisenberg, Jaffee, Robinson, Thiele, Weprin, Canestrari, Farrell, Brindisi, Cook, Crespo, Dinowitz, Galef, Gibson, Gunther, Hooper, Jacobs, Lentol, Lupardo, Magee, Perry, Ryan, Schimel, Simanowitz, Simotas, Skartados, Sweeney, Titone) -- (at request of the Governor) -- (at request of the Attorney General) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the internet system for tracking over-prescribing (I-STOP) act and creating a prescription monitoring program registry (Part A); to amend the public health law and the education law, in relation to prescription drug forms, electronic prescribing and language assistance; and to repeal section 21 of the public health law, relating thereto (Part B); to amend the public health law and the penal law, in relation to schedules of controlled substances; and to repeal certain provisions of the public health law relating thereto (Part C); to amend the public health law, in relation to continuing education for practitioners and pharmacists in prescription pain medication awareness and the duties of the prescription pain management awareness workgroup (Part D); and to amend the public health law, in relation to the safe disposal of controlled substances (Part E)

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

1 Section 1. Legislative findings and intent. The legislature finds
2 that prescription drugs, particularly controlled substances, are
3 increasingly subject to criminal diversion and abuse, which can result
4 in addiction, adverse drug events, accidental death due to overdose,
5 violent or self-injurious behavior, family conflicts, and increased
6 costs to businesses and the health care system.
7 The legislature further finds that such diversion and abuse will be
8 mitigated by: establishing a prescription monitoring program registry
9 containing data about controlled substances dispensed to individuals,
10 reported on a real time basis; requiring health care practitioners and

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

1 permitting pharmacists to access such registry before prescribing or
2 dispensing additional such substances; and requiring that prescriptions
3 be transmitted electronically from practitioners to pharmacists. There-
4 fore, the legislature finds it appropriate and necessary to establish a
5 prescription monitoring program registry that is designed to utilize
6 real time data, integrate electronic prescribing, combat overprescribing
7 and doctor-shopping, and curtail abuse and illegal diversion without
8 compromising access to controlled substances for legitimate health care
9 purposes. The legislature further finds that these objectives will be
10 promoted by updating the state's schedules of controlled substances,
11 establishing a program for the safe disposal of controlled substances by
12 consumers, and enhancing opportunities to promote education about
13 controlled substances for the public and practitioners.

14 S 2. This act enacts into law major components of legislation which
15 are necessary to implement fundamental changes to the way controlled
16 substances are prescribed, dispensed and monitored in this state. Each
17 component is wholly contained within a Part identified as Parts A
18 through E. The effective date of each particular provision contained
19 within such Part is set forth in the last section of such Part. Any
20 provision in any section contained within a Part, including the effec-
21 tive date of the Part, which makes reference to a section "of this act",
22 when used in connection with that particular component, shall be deemed
23 to mean and refer to the corresponding section of the Part in which it
24 is found. Section four of this act sets forth the general effective date
25 of this act.

26

PART A

27 Section 1. This act shall be known and may be cited as the "Internet
28 System for Tracking Over-Prescribing (I-STOP) Act".

29 S 2. The public health law is amended by adding a new section 3343-a
30 to read as follows:

31 S 3343-A. PRESCRIPTION MONITORING PROGRAM REGISTRY. 1. ESTABLISHMENT
32 OF SYSTEM. (A) THE COMMISSIONER SHALL, IN ACCORDANCE WITH THE PROVISIONS
33 OF THIS SECTION, ESTABLISH AND MAINTAIN AN ELECTRONIC SYSTEM FOR
34 COLLECTING, MONITORING AND REPORTING INFORMATION CONCERNING THE
35 PRESCRIBING AND DISPENSING OF CONTROLLED SUBSTANCES, TO BE KNOWN AS THE
36 PRESCRIPTION MONITORING PROGRAM REGISTRY. THE REGISTRY SHALL INCLUDE
37 INFORMATION REPORTED BY PHARMACIES ON A REAL TIME BASIS, AS SET FORTH IN
38 SUBDIVISION FOUR OF SECTION THIRTY-THREE HUNDRED THIRTY-THREE OF THIS
39 ARTICLE.

40 (B) THE REGISTRY SHALL INCLUDE, FOR EACH PERSON TO WHOM A PRESCRIPTION
41 FOR CONTROLLED SUBSTANCES HAS BEEN DISPENSED, ALL PATIENT-SPECIFIC
42 INFORMATION COVERING SUCH PERIOD OF TIME AS IS DEEMED APPROPRIATE AND
43 FEASIBLE BY THE COMMISSIONER, BUT NO LESS THAN SIX MONTHS AND NO MORE
44 THAN FIVE YEARS. SUCH PATIENT-SPECIFIC INFORMATION SHALL BE OBTAINED
45 FROM THE PRESCRIPTION INFORMATION REPORTED BY PHARMACIES PURSUANT TO
46 SUBDIVISION FOUR OF SECTION THIRTY-THREE HUNDRED THIRTY-THREE OF THIS
47 ARTICLE AND BY PRACTITIONERS WHO DISPENSE PURSUANT TO SUBDIVISION SIX OF
48 SECTION THIRTY-THREE HUNDRED THIRTY-ONE OF THIS ARTICLE, AND SHALL BE
49 PROCESSED AND INCLUDED IN THE REGISTRY BY THE DEPARTMENT WITHOUT UNDUE
50 DELAY. FOR PURPOSES OF THIS ARTICLE, "PATIENT-SPECIFIC INFORMATION"
51 MEANS INFORMATION PERTAINING TO INDIVIDUAL PATIENTS INCLUDED IN THE
52 REGISTRY, WHICH SHALL INCLUDE THE FOLLOWING INFORMATION AND SUCH OTHER
53 INFORMATION AS IS REQUIRED BY THE DEPARTMENT IN REGULATION:

54 (I) THE PATIENT'S NAME;

1 (II) THE PATIENT'S RESIDENTIAL ADDRESS;
2 (III) THE PATIENT'S DATE OF BIRTH;
3 (IV) THE PATIENT'S GENDER;
4 (V) THE DATE ON WHICH THE PRESCRIPTION WAS ISSUED;
5 (VI) THE DATE ON WHICH THE CONTROLLED SUBSTANCE WAS DISPENSED;
6 (VII) THE METRIC QUANTITY OF THE CONTROLLED SUBSTANCE DISPENSED;
7 (VIII) THE NUMBER OF DAYS SUPPLY OF THE CONTROLLED SUBSTANCE
8 DISPENSED;
9 (IX) THE NAME OF THE PRESCRIBER;
10 (X) THE PRESCRIBER'S IDENTIFICATION NUMBER, AS ASSIGNED BY THE DRUG
11 ENFORCEMENT ADMINISTRATION;
12 (XI) THE NAME OR IDENTIFIER OF THE DRUG THAT WAS DISPENSED; AND
13 (XII) THE PAYMENT METHOD.
14 (C) THE REGISTRY SHALL BE SECURE, EASILY ACCESSIBLE BY PRACTITIONERS
15 AND PHARMACISTS, AND COMPATIBLE WITH THE ELECTRONIC TRANSMISSION OF
16 PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, AS REQUIRED BY SECTION TWO
17 HUNDRED EIGHTY-ONE OF THIS CHAPTER, AND SECTION SIXTY-EIGHT HUNDRED TEN
18 OF THE EDUCATION LAW, AND ANY REGULATIONS PROMULGATED PURSUANT THERETO.
19 TO THE EXTENT PRACTICABLE, IMPLEMENTATION OF THE ELECTRONIC TRANSMISSION
20 OF PRESCRIPTIONS FOR CONTROLLED SUBSTANCES SHALL SERVE TO STREAMLINE
21 CONSULTATION OF THE REGISTRY BY PRACTITIONERS AND REPORTING OF
22 PRESCRIPTION INFORMATION BY PHARMACISTS. THE REGISTRY SHALL BE INTEROP-
23 ERABLE WITH OTHER SIMILAR REGISTRIES OPERATED BY FEDERAL OR STATE
24 GOVERNMENTS, TO THE EXTENT DEEMED APPROPRIATE BY THE COMMISSIONER, AND
25 SUBJECT TO THE PROVISIONS OF SECTION THIRTY-THREE HUNDRED SEVENTY-ONE-A
26 OF THIS ARTICLE.
27 (D) THE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT SUCH PROTOCOLS AS ARE
28 REASONABLY NECESSARY TO ENSURE THAT INFORMATION CONTAINED IN THE REGIS-
29 TRY IS MAINTAINED IN A SECURE AND CONFIDENTIAL MANNER AND IS ACCESSIBLE
30 ONLY BY PRACTITIONERS, PHARMACISTS OR THEIR DESIGNEES FOR THE PURPOSES
31 ESTABLISHED IN SUBDIVISIONS TWO AND THREE OF THIS SECTION, OR AS OTHER-
32 WISE SET FORTH IN SECTIONS THIRTY-THREE HUNDRED SEVENTY-ONE AND THIRTY-
33 THREE HUNDRED SEVENTY-ONE-A OF THIS ARTICLE. SUCH PROTOCOLS SHALL
34 INCLUDE A MECHANISM FOR THE DEPARTMENT TO MONITOR AND RECORD ACCESS TO
35 THE REGISTRY, WHICH SHALL IDENTIFY THE AUTHORIZED INDIVIDUAL ACCESSING
36 AND EACH CONTROLLED SUBSTANCE HISTORY ACCESSED.
37 2. DUTY TO CONSULT PRESCRIPTION MONITORING PROGRAM REGISTRY; PRACTI-
38 TIONERS. (A) EVERY PRACTITIONER SHALL CONSULT THE PRESCRIPTION MONITOR-
39 ING PROGRAM REGISTRY PRIOR TO PRESCRIBING OR DISPENSING ANY CONTROLLED
40 SUBSTANCE LISTED ON SCHEDULE II, III OR IV OF SECTION THIRTY-THREE
41 HUNDRED SIX OF THIS ARTICLE, FOR THE PURPOSE OF REVIEWING A PATIENT'S
42 CONTROLLED SUBSTANCE HISTORY AS SET FORTH IN SUCH REGISTRY; PROVIDED,
43 HOWEVER, THAT NOTHING IN THIS SECTION SHALL PRECLUDE AN AUTHORIZED PRAC-
44 TITIONER, OTHER THAN A VETERINARIAN, FROM CONSULTING THE REGISTRY AT HIS
45 OR HER OPTION PRIOR TO PRESCRIBING OR DISPENSING ANY CONTROLLED
46 SUBSTANCE. THE DUTY TO CONSULT THE REGISTRY SHALL NOT APPLY TO:
47 (I) VETERINARIANS;
48 (II) A PRACTITIONER DISPENSING PURSUANT TO SUBDIVISION THREE OF
49 SECTION THIRTY-THREE HUNDRED FIFTY-ONE OF THIS ARTICLE;
50 (III) A PRACTITIONER ADMINISTERING A CONTROLLED SUBSTANCE;
51 (IV) A PRACTITIONER PRESCRIBING OR ORDERING A CONTROLLED SUBSTANCE FOR
52 USE ON THE PREMISES OF AN INSTITUTIONAL DISPENSER PURSUANT TO SECTION
53 THIRTY-THREE HUNDRED FORTY-TWO OF THIS TITLE;
54 (V) A PRACTITIONER PRESCRIBING A CONTROLLED SUBSTANCE IN THE EMERGENCY
55 DEPARTMENT OF A GENERAL HOSPITAL, PROVIDED THAT THE QUANTITY OF
56 CONTROLLED SUBSTANCE PRESCRIBED DOES NOT EXCEED A FIVE DAY SUPPLY IF THE

1 CONTROLLED SUBSTANCE WERE USED IN ACCORDANCE WITH THE DIRECTIONS FOR
2 USE;

3 (VI) A PRACTITIONER PRESCRIBING A CONTROLLED SUBSTANCE TO A PATIENT
4 UNDER THE CARE OF A HOSPICE, AS DEFINED BY SECTION FOUR THOUSAND TWO OF
5 THIS CHAPTER;

6 (VII) A PRACTITIONER WHEN:

7 (A) IT IS NOT REASONABLY POSSIBLE FOR THE PRACTITIONER TO ACCESS THE
8 REGISTRY IN A TIMELY MANNER;

9 (B) NO OTHER PRACTITIONER OR DESIGNEE AUTHORIZED TO ACCESS THE REGIS-
10 TRY, PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, IS REASONABLY AVAIL-
11 ABLE; AND

12 (C) THE QUANTITY OF CONTROLLED SUBSTANCE PRESCRIBED DOES NOT EXCEED A
13 FIVE DAY SUPPLY IF THE CONTROLLED SUBSTANCE WERE USED IN ACCORDANCE WITH
14 THE DIRECTIONS FOR USE;

15 (VIII) A PRACTITIONER ACTING IN COMPLIANCE WITH REGULATIONS THAT MAY
16 BE PROMULGATED BY THE COMMISSIONER AS TO CIRCUMSTANCES UNDER WHICH
17 CONSULTATION OF THE REGISTRY WOULD RESULT IN A PATIENT'S INABILITY TO
18 OBTAIN A PRESCRIPTION IN A TIMELY MANNER, THEREBY ADVERSELY IMPACTING
19 THE MEDICAL CONDITION OF SUCH PATIENT;

20 (IX) A SITUATION WHERE THE REGISTRY IS NOT OPERATIONAL AS DETERMINED
21 BY THE DEPARTMENT OR WHERE IT CANNOT BE ACCESSED BY THE PRACTITIONER DUE
22 TO A TEMPORARY TECHNOLOGICAL OR ELECTRICAL FAILURE, AS SET FORTH IN
23 REGULATION; OR

24 (X) A PRACTITIONER WHO HAS BEEN GRANTED A WAIVER DUE TO TECHNOLOGICAL
25 LIMITATIONS THAT ARE NOT REASONABLY WITHIN THE CONTROL OF THE PRACTI-
26 TIONER, OR OTHER EXCEPTIONAL CIRCUMSTANCE DEMONSTRATED BY THE PRACTI-
27 TIONER, PURSUANT TO A PROCESS ESTABLISHED IN REGULATION, AND IN THE
28 DISCRETION OF THE COMMISSIONER.

29 (B) FOR PURPOSES OF THIS SECTION, A PRACTITIONER MAY AUTHORIZE A
30 DESIGNEE TO CONSULT THE PRESCRIPTION MONITORING PROGRAM REGISTRY ON HIS
31 OR HER BEHALF, PROVIDED THAT: (I) THE DESIGNEE SO AUTHORIZED IS EMPLOYED
32 BY THE SAME PROFESSIONAL PRACTICE OR IS UNDER CONTRACT WITH SUCH PRACTI-
33 TICE; (II) THE PRACTITIONER TAKES REASONABLE STEPS TO ENSURE THAT SUCH
34 DESIGNEE IS SUFFICIENTLY COMPETENT IN THE USE OF THE REGISTRY; (III) THE
35 PRACTITIONER REMAINS RESPONSIBLE FOR ENSURING THAT ACCESS TO THE REGIS-
36 TRY BY THE DESIGNEE IS LIMITED TO AUTHORIZED PURPOSES AND OCCURS IN A
37 MANNER THAT PROTECTS THE CONFIDENTIALITY OF THE INFORMATION OBTAINED
38 FROM THE REGISTRY, AND REMAINS RESPONSIBLE FOR ANY BREACH OF CONFIDEN-
39 TIALITY; AND (IV) THE ULTIMATE DECISION AS TO WHETHER OR NOT TO
40 PRESCRIBE OR DISPENSE A CONTROLLED SUBSTANCE REMAINS WITH THE PRACTI-
41 TIONER AND IS REASONABLY INFORMED BY THE RELEVANT CONTROLLED SUBSTANCE
42 HISTORY INFORMATION OBTAINED FROM THE REGISTRY. THE COMMISSIONER SHALL
43 ESTABLISH IN REGULATION REASONABLE PARAMETERS WITH REGARD TO A PRACTI-
44 TIONER'S ABILITY TO AUTHORIZE DESIGNEES PURSUANT TO THIS SECTION, WHICH
45 SHALL INCLUDE PROCESSES NECESSARY TO ALLOW THE DEPARTMENT TO: (A) GRANT
46 ACCESS TO THE REGISTRY IN A REASONABLY PROMPT MANNER TO AS MANY DESIG-
47 NEES AS ARE AUTHORIZED BY PRACTITIONERS, UP TO THE NUMBER DEEMED APPRO-
48 PRIATE BY THE COMMISSIONER FOR PARTICULAR PROFESSIONAL PRACTICES OR
49 TYPES OF PRACTICES, TAKING INTO ACCOUNT THE NEED TO MAINTAIN SECURITY OF
50 THE REGISTRY AND THE PATIENT-SPECIFIC INFORMATION MAINTAINED THEREIN,
51 AND THE OBJECTIVE OF MINIMIZING BURDENS TO PRACTITIONERS TO THE EXTENT
52 PRACTICABLE; (B) REQUIRE THAT PRACTITIONERS NOTIFY THE DEPARTMENT UPON
53 TERMINATING THE AUTHORIZATION OF ANY DESIGNEE; AND (C) ESTABLISH A MECH-
54 ANISM TO PREVENT SUCH TERMINATED DESIGNEES FROM ACCESSING THE REGISTRY
55 IN A REASONABLY PROMPT MANNER FOLLOWING SUCH NOTIFICATION.

1 3. AUTHORITY TO CONSULT PRESCRIPTION MONITORING PROGRAM REGISTRY;
2 PHARMACISTS. (A) A PHARMACIST MAY CONSULT THE PRESCRIPTION MONITORING
3 PROGRAM REGISTRY IN ORDER TO REVIEW THE CONTROLLED SUBSTANCE HISTORY OF
4 AN INDIVIDUAL FOR WHOM ONE OR MORE PRESCRIPTIONS FOR CONTROLLED
5 SUBSTANCES IS PRESENTED TO SUCH PHARMACIST.

6 (B) FOR PURPOSES OF THIS SECTION, A PHARMACIST MAY DESIGNATE ANOTHER
7 PHARMACIST, A PHARMACY INTERN, AS DEFINED BY SECTION SIXTY-EIGHT HUNDRED
8 SIX OF THE EDUCATION LAW, OR OTHER INDIVIDUAL AS MAY BE PERMITTED BY THE
9 COMMISSIONER IN REGULATION, TO CONSULT THE PRESCRIPTION MONITORING
10 PROGRAM REGISTRY ON THE PHARMACIST'S BEHALF, PROVIDED THAT SUCH DESIGNEE
11 IS EMPLOYED BY THE SAME PHARMACY OR IS UNDER CONTRACT WITH SUCH PHARMA-
12 CY. THE COMMISSIONER SHALL ESTABLISH IN REGULATION REASONABLE PARAME-
13 TERS WITH REGARD TO A PHARMACIST'S ABILITY TO AUTHORIZE DESIGNEES PURSU-
14 ANT TO THIS SECTION, WHICH SHALL INCLUDE PROCESSES NECESSARY TO ALLOW
15 THE DEPARTMENT TO: (A) GRANT ACCESS TO THE REGISTRY IN A REASONABLY
16 PROMPT MANNER TO AS MANY DESIGNEES AS ARE AUTHORIZED BY PHARMACISTS, UP
17 TO THE NUMBER DEEMED APPROPRIATE BY THE COMMISSIONER FOR PARTICULAR
18 PHARMACIES, TAKING INTO ACCOUNT THE NEED TO MAINTAIN SECURITY OF THE
19 REGISTRY AND THE PATIENT-SPECIFIC INFORMATION MAINTAINED THEREIN, AND
20 THE OBJECTIVE OF MINIMIZING BURDENS TO PHARMACISTS TO THE EXTENT PRACTI-
21 CABLE; (B) REQUIRE THAT PHARMACISTS NOTIFY THE DEPARTMENT UPON TERMINAT-
22 ING THE AUTHORIZATION OF ANY DESIGNEE; AND (C) ESTABLISH A MECHANISM TO
23 PREVENT SUCH TERMINATED DESIGNEES FROM ACCESSING THE REGISTRY IN A
24 REASONABLY PROMPT MANNER FOLLOWING SUCH NOTIFICATION.

25 4. IMMUNITY. NO PRACTITIONER OR PHARMACIST, AND NO PERSON ACTING ON
26 BEHALF OF SUCH PRACTITIONER OR PHARMACIST AS PERMITTED UNDER THIS
27 SECTION, ACTING WITH REASONABLE CARE AND IN GOOD FAITH SHALL BE SUBJECT
28 TO CIVIL LIABILITY ARISING FROM ANY FALSE, INCOMPLETE OR INACCURATE
29 INFORMATION SUBMITTED TO OR REPORTED BY THE REGISTRY OR FOR ANY RESULT-
30 ING FAILURE OF THE SYSTEM TO ACCURATELY OR TIMELY REPORT SUCH INFORMA-
31 TION; PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE
32 DEEMED TO ALTER THE OBLIGATION TO SUBMIT OR REPORT PRESCRIPTION INFORMA-
33 TION TO THE DEPARTMENT AS OTHERWISE SET FORTH IN THIS ARTICLE OR IN
34 REGULATIONS PROMULGATED PURSUANT THERETO.

35 5. GUIDANCE TO PRACTITIONERS AND PHARMACISTS. THE COMMISSIONER SHALL,
36 IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, PROVIDE GUIDANCE TO
37 PRACTITIONERS, PHARMACISTS, AND PHARMACIES REGARDING THE PURPOSES AND
38 USES OF THE REGISTRY ESTABLISHED BY THIS SECTION AND THE MEANS BY WHICH
39 PRACTITIONERS AND PHARMACISTS CAN ACCESS THE REGISTRY. SUCH GUIDANCE
40 SHALL REFERENCE EDUCATIONAL INFORMATION AVAILABLE PURSUANT TO THE
41 PRESCRIPTION PAIN MEDICATION AWARENESS PROGRAM ESTABLISHED PURSUANT TO
42 SECTION THIRTY-THREE HUNDRED NINE-A OF THIS ARTICLE.

43 6. INDIVIDUAL ACCESS TO CONTROLLED SUBSTANCE HISTORIES. THE COMMIS-
44 SIONER SHALL ESTABLISH PROCEDURES BY WHICH AN INDIVIDUAL MAY: (A)
45 REQUEST AND OBTAIN HIS OR HER OWN CONTROLLED SUBSTANCES HISTORY CONSIST-
46 ING OF PATIENT-SPECIFIC INFORMATION OR, IN APPROPRIATE CIRCUMSTANCES,
47 THAT OF A PATIENT WHO LACKS CAPACITY TO MAKE HEALTH CARE DECISIONS AND
48 FOR WHOM THE INDIVIDUAL HAS LEGAL AUTHORITY TO MAKE SUCH DECISIONS AND
49 WOULD HAVE LEGAL ACCESS TO THE PATIENT'S HEALTH CARE RECORDS; OR (B)
50 SEEK REVIEW OF ANY PART OF HIS OR HER CONTROLLED SUBSTANCES HISTORY OR,
51 IN APPROPRIATE CIRCUMSTANCES, THAT OF A PATIENT WHO LACKS CAPACITY TO
52 MAKE HEALTH CARE DECISIONS AND FOR WHOM THE INDIVIDUAL HAS LEGAL AUTHOR-
53 ITY TO MAKE SUCH DECISIONS AND WOULD HAVE LEGAL ACCESS TO THE PATIENT'S
54 HEALTH CARE RECORDS, THAT SUCH INDIVIDUAL DISPUTES. SUCH PROCEDURES
55 SHALL REQUIRE THE DEPARTMENT TO PROMPTLY REVISE ANY INFORMATION ACCESSI-
56 BLE THROUGH THE REGISTRY THAT THE DEPARTMENT DETERMINES TO BE INACCU-

1 RATE. SUCH PROCEDURES SHALL BE DESCRIBED ON THE DEPARTMENT'S WEBSITE AND
2 INCLUDED WITH THE CONTROLLED SUBSTANCES HISTORY PROVIDED TO AN INDIVID-
3 UAL PURSUANT TO A REQUEST MADE UNDER THIS SUBDIVISION OR UNDER SUBPARA-
4 GRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION THIRTY-THREE
5 HUNDRED SEVENTY-ONE OF THIS ARTICLE.

6 7. DEPARTMENT ANALYSIS OF DATA. THE DEPARTMENT SHALL PERIODICALLY
7 ANALYZE DATA CONTAINED IN THE PRESCRIPTION MONITORING PROGRAM REGISTRY
8 TO IDENTIFY INFORMATION THAT INDICATES THAT A VIOLATION OF LAW OR BREACH
9 OF PROFESSIONAL STANDARDS MAY HAVE OCCURRED AND, AS WARRANTED, PROVIDE
10 ANY RELEVANT INFORMATION TO APPROPRIATE ENTITIES AS PERMITTED UNDER
11 SECTION THIRTY-THREE HUNDRED SEVENTY-ONE OF THIS ARTICLE. THE DEPART-
12 MENT SHALL KEEP A RECORD OF THE INFORMATION PROVIDED, INCLUDING, BUT NOT
13 LIMITED TO, THE SPECIFIC INFORMATION PROVIDED AND THE AGENCY TO WHICH
14 SUCH INFORMATION WAS PROVIDED, INCLUDING THE NAME AND TITLE OF THE
15 PERSON TO WHOM SUCH INFORMATION WAS PROVIDED AND AN ATTESTATION FROM
16 SUCH PERSON THAT HE OR SHE HAS AUTHORITY TO RECEIVE SUCH INFORMATION.

17 8. FUNDING THE PRESCRIPTION MONITORING PROGRAM REGISTRY. (A) THE
18 COMMISSIONER SHALL MAKE REASONABLE EFFORTS TO APPLY FOR MONIES AVAILABLE
19 FROM THE FEDERAL GOVERNMENT AND OTHER INSTITUTIONS, TO THE EXTENT DEEMED
20 APPROPRIATE BY THE COMMISSIONER, AND USE ANY MONIES SO OBTAINED TO
21 SUPPLEMENT ANY OTHER MONIES MADE AVAILABLE FOR THE PURPOSES OF THIS
22 TITLE.

23 (B) OPERATION OF THE REGISTRY ESTABLISHED BY THIS SECTION SHALL NOT BE
24 FUNDED, IN WHOLE OR IN PART, BY FEES IMPOSED SPECIFICALLY FOR SUCH
25 PURPOSES UPON PRACTITIONERS, PHARMACISTS, DESIGNEES OR PATIENTS SUBJECT
26 TO THIS SECTION.

27 9. RULES AND REGULATIONS. THE COMMISSIONER SHALL PROMULGATE SUCH RULES
28 AND REGULATIONS AS ARE NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS
29 SECTION, IN CONSULTATION WITH THE WORK GROUP ESTABLISHED PURSUANT TO
30 SUBDIVISION THREE OF SECTION THIRTY-THREE HUNDRED NINE-A OF THIS ARTI-
31 CLE.

32 S 3. Subdivision 4 of section 3333 of the public health law, as
33 amended by chapter 178 of the laws of 2010, is amended to read as
34 follows:

35 4. The endorsed original prescription shall be retained by the propri-
36 etor of the pharmacy for a period of five years. The proprietor of the
37 pharmacy shall file OR CAUSE TO BE FILED such prescription information
38 with the department by electronic means [in such manner and detail] ON A
39 REAL TIME BASIS as the commissioner in consultation with the commission-
40 er of education shall, by regulation, require; PROVIDED, HOWEVER, THAT
41 THE COMMISSIONER MAY, PURSUANT TO A PROCESS ESTABLISHED IN REGULATION,
42 GRANT A WAIVER ALLOWING A PHARMACY TO MAKE SUCH FILINGS WITHIN A LONGER
43 PERIOD OF TIME IF AND TO THE EXTENT THAT THE COMMISSIONER FINDS IT
44 WARRANTED, IN HIS OR HER DISCRETION, DUE TO ECONOMIC HARDSHIP, TECHNO-
45 LOGICAL LIMITATIONS THAT ARE NOT REASONABLY WITHIN THE CONTROL OF THE
46 PHARMACY, OR OTHER EXCEPTIONAL CIRCUMSTANCE DEMONSTRATED BY THE
47 PHARMACY; AND PROVIDED, FURTHER, HOWEVER, THAT SUCH REGULATIONS SHALL
48 SPECIFY THE MANNER IN WHICH SUCH REQUIREMENTS SHALL APPLY TO THE DELIV-
49 ERY OF CONTROLLED SUBSTANCES TO INDIVIDUALS IN THIS STATE BY MEANS OF
50 MAIL OR LICENSED EXPRESS DELIVERY SERVICES.

51 S 4. Paragraphs (d) and (e) of subdivision 1 of section 3371 of the
52 public health law, as amended by chapter 178 of the laws of 2010, are
53 amended and five new paragraphs (f), (g), (h), (i) and (j) are added to
54 read as follows:

1 (d) to [a central] THE PRESCRIPTION MONITORING PROGRAM registry
2 [established pursuant to this article; and] AND TO AUTHORIZED USERS OF
3 SUCH REGISTRY AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION;

4 (e) to a practitioner to inform him or her that a patient may be under
5 treatment with a controlled substance by another practitioner[.] FOR THE
6 PURPOSES OF SUBDIVISION TWO OF THIS SECTION, AND TO FACILITATE THE
7 DEPARTMENT'S REVIEW OF INDIVIDUAL CHALLENGES TO THE ACCURACY OF
8 CONTROLLED SUBSTANCES HISTORIES PURSUANT TO SUBDIVISION SIX OF SECTION
9 THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE;

10 (F) TO A PHARMACIST TO PROVIDE INFORMATION REGARDING PRESCRIPTIONS FOR
11 CONTROLLED SUBSTANCES PRESENTED TO THE PHARMACIST FOR THE PURPOSES OF
12 SUBDIVISION TWO OF THIS SECTION AND TO FACILITATE THE DEPARTMENT'S
13 REVIEW OF INDIVIDUAL CHALLENGES TO THE ACCURACY OF CONTROLLED SUBSTANCES
14 HISTORIES PURSUANT TO SUBDIVISION SIX OF SECTION THIRTY-THREE HUNDRED
15 FORTY-THREE-A OF THIS ARTICLE;

16 (G) TO THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, OR HIS
17 OR HER DESIGNEE, IN FURTHERANCE OF AN INVESTIGATION OF FRAUD, WASTE OR
18 ABUSE OF THE MEDICAID PROGRAM, PURSUANT TO AN AGREEMENT WITH THE DEPART-
19 MENT;

20 (H) TO A LOCAL HEALTH DEPARTMENT FOR THE PURPOSE OF CONDUCTING PUBLIC
21 HEALTH RESEARCH OR EDUCATION: (I) PURSUANT TO AN AGREEMENT WITH THE
22 COMMISSIONER; (II) WHEN THE RELEASE OF SUCH INFORMATION IS DEEMED APPRO-
23 PRIATE BY THE COMMISSIONER; (III) FOR USE IN ACCORDANCE WITH MEASURES
24 REQUIRED BY THE COMMISSIONER TO ENSURE THAT THE SECURITY AND CONFIDEN-
25 TIALITY OF THE DATA IS PROTECTED; AND (IV) PROVIDED THAT DISCLOSURE IS
26 RESTRICTED TO INDIVIDUALS WITHIN THE LOCAL HEALTH DEPARTMENT WHO ARE
27 ENGAGED IN THE RESEARCH OR EDUCATION;

28 (I) TO A MEDICAL EXAMINER OR CORONER WHO IS AN OFFICER OF OR EMPLOYED
29 BY A STATE OR LOCAL GOVERNMENT, PURSUANT TO HIS OR HER OFFICIAL DUTIES;
30 AND

31 (J) TO AN INDIVIDUAL FOR THE PURPOSE OF PROVIDING SUCH INDIVIDUAL WITH
32 HIS OR HER OWN CONTROLLED SUBSTANCE HISTORY OR, IN APPROPRIATE CIRCUM-
33 STANCES, IN THE CASE OF A PATIENT WHO LACKS CAPACITY TO MAKE HEALTH CARE
34 DECISIONS, A PERSON WHO HAS LEGAL AUTHORITY TO MAKE SUCH DECISIONS FOR
35 THE PATIENT AND WHO WOULD HAVE LEGAL ACCESS TO THE PATIENT'S HEALTH CARE
36 RECORDS, IF REQUESTED FROM THE DEPARTMENT PURSUANT TO SUBDIVISION SIX OF
37 SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE OR FROM A
38 TREATING PRACTITIONER PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF
39 SUBDIVISION TWO OF THIS SECTION.

40 S 5. Subdivision 2 of section 3371 of the public health law is renum-
41 bered subdivision 4 and two new subdivisions 2 and 3 are added to read
42 as follows:

43 2. THE PRESCRIPTION MONITORING PROGRAM REGISTRY MAY BE ACCESSED, UNDER
44 SUCH TERMS AND CONDITIONS AS ARE ESTABLISHED BY THE DEPARTMENT FOR
45 PURPOSES OF MAINTAINING THE SECURITY AND CONFIDENTIALITY OF THE INFORMA-
46 TION CONTAINED IN THE REGISTRY, BY:

47 (A) A PRACTITIONER, OR A DESIGNEE AUTHORIZED BY SUCH PRACTITIONER
48 PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION THIRTY-THREE
49 HUNDRED FORTY-THREE-A OF THIS ARTICLE, FOR THE PURPOSES OF: (I) INFORM-
50 ING THE PRACTITIONER THAT A PATIENT MAY BE UNDER TREATMENT WITH A
51 CONTROLLED SUBSTANCE BY ANOTHER PRACTITIONER; (II) PROVIDING THE PRACTI-
52 TIONER WITH NOTIFICATIONS OF CONTROLLED SUBSTANCE ACTIVITY AS DEEMED
53 RELEVANT BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO A NOTIFICATION
54 MADE AVAILABLE ON A MONTHLY OR OTHER PERIODIC BASIS THROUGH THE REGISTRY
55 OF CONTROLLED SUBSTANCES ACTIVITY PERTAINING TO HIS OR HER PATIENT;
56 (III) ALLOWING THE PRACTITIONER, THROUGH CONSULTATION OF THE

1 PRESCRIPTION MONITORING PROGRAM REGISTRY, TO REVIEW HIS OR HER PATIENT'S
2 CONTROLLED SUBSTANCES HISTORY AS REQUIRED BY SECTION THIRTY-THREE
3 HUNDRED FORTY-THREE-A OF THIS ARTICLE; AND (IV) PROVIDING TO HIS OR HER
4 PATIENT, OR PERSON AUTHORIZED PURSUANT TO PARAGRAPH (J) OF SUBDIVISION
5 ONE OF THIS SECTION, UPON REQUEST, A COPY OF SUCH PATIENT'S CONTROLLED
6 SUBSTANCE HISTORY AS IS AVAILABLE TO THE PRACTITIONER THROUGH THE
7 PRESCRIPTION MONITORING PROGRAM REGISTRY; OR

8 (B) A PHARMACIST, PHARMACY INTERN OR OTHER DESIGNEE AUTHORIZED BY THE
9 PHARMACIST PURSUANT TO PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION
10 THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE, FOR THE PURPOSES OF:
11 (I) CONSULTING THE PRESCRIPTION MONITORING PROGRAM REGISTRY TO REVIEW
12 THE CONTROLLED SUBSTANCES HISTORY OF AN INDIVIDUAL FOR WHOM ONE OR MORE
13 PRESCRIPTIONS FOR CONTROLLED SUBSTANCES IS PRESENTED TO THE PHARMACIST,
14 PURSUANT TO SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE;
15 AND (II) RECEIVING FROM THE DEPARTMENT SUCH NOTIFICATIONS OF CONTROLLED
16 SUBSTANCE ACTIVITY AS ARE MADE AVAILABLE BY THE DEPARTMENT.

17 3. WHERE IT HAS REASON TO BELIEVE THAT A CRIME RELATED TO THE DIVER-
18 SION OF CONTROLLED SUBSTANCES HAS BEEN COMMITTED, THE DEPARTMENT MAY
19 NOTIFY APPROPRIATE LAW ENFORCEMENT AGENCIES AND PROVIDE RELEVANT INFOR-
20 MATION ABOUT THE SUSPECTED CRIMINAL ACTIVITY, INCLUDING CONTROLLED
21 SUBSTANCES PRESCRIBED OR DISPENSED, AS REASONABLY APPEARS TO BE NECES-
22 SARY. THE DEPARTMENT SHALL KEEP A RECORD OF THE INFORMATION PROVIDED,
23 INCLUDING, BUT NOT LIMITED TO: THE SPECIFIC INFORMATION PROVIDED AND THE
24 AGENCY TO WHICH SUCH INFORMATION WAS PROVIDED, INCLUDING THE NAME AND
25 TITLE OF THE PERSON TO WHOM SUCH INFORMATION WAS PROVIDED AND AN ATTES-
26 TATION FROM SUCH PERSON THAT HE OR SHE HAS AUTHORITY TO RECEIVE SUCH
27 INFORMATION.

28 S 6. Section 3302 of the public health law is amended by adding a new
29 subdivision 41 to read as follows:

30 41. "REGISTRY" OR "PRESCRIPTION MONITORING PROGRAM REGISTRY" MEANS THE
31 PRESCRIPTION MONITORING PROGRAM REGISTRY ESTABLISHED PURSUANT TO SECTION
32 THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE.

33 S 7. This act shall take effect one year after it shall have become a
34 law; provided, however, that:

35 (a) the commissioners of health and education are authorized to add,
36 amend or repeal any rule or regulation necessary and take other action
37 necessary for the implementation of such provisions on such effective
38 date;

39 (b) prior to such effective date, to the extent practicable, the
40 department of health shall authorize practitioners, pharmacists and
41 designees to access the prescription monitoring registry as set forth in
42 this act and shall permit such access prior to such effective date, to
43 the extent practicable; and

44 (c) nothing in subdivision (b) of this section shall require a practi-
45 tioner to consult the registry prior to the effective date of this act.

46

PART B

47 Section 1. Sections 270 through 276 and section 277 of article 2-A of
48 the public health law are designated title I and a new title heading is
49 added to read as follows:

50 PREFERRED DRUG AND CLINICAL DRUG REVIEW PROGRAMS

51 S 1-a. Sections 276-a and 276-b of article 2-A of the public health
52 law are renumbered sections 278 and 279, respectively, and such sections
53 and section 280 of such article are designated title II and a new title
54 heading is added to read as follows:

PRESCRIPTION DRUGS; VARIOUS PROVISIONS

S 2. Article 2-A of the public health law is amended by adding a new title III to read as follows:

TITLE III

PRESCRIPTION FORMS, ELECTRONIC PRESCRIBING AND LANGUAGE ASSISTANCE
SECTION 281. OFFICIAL NEW YORK STATE PRESCRIPTION FORMS.

S 281. OFFICIAL NEW YORK STATE PRESCRIPTION FORMS. 1. IN ADDITION TO THE REQUIREMENTS OF SECTION SIXTY-EIGHT HUNDRED TEN OF THE EDUCATION LAW OR ARTICLE THIRTY-THREE OF THIS CHAPTER, ALL PRESCRIPTIONS WRITTEN IN THIS STATE BY A PERSON AUTHORIZED BY THIS STATE TO ISSUE SUCH PRESCRIPTIONS SHALL BE ON SERIALIZED OFFICIAL NEW YORK STATE PRESCRIPTION FORMS PROVIDED BY THE DEPARTMENT. SUCH FORMS SHALL BE FURNISHED TO PRACTITIONERS AUTHORIZED TO WRITE PRESCRIPTIONS AND TO INSTITUTIONAL DISPENSERS, AND SHALL BE NON-REPRODUCIBLE AND NON-TRANSFERABLE. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, MAY PROMULGATE EMERGENCY REGULATIONS FOR THE ELECTRONIC TRANSMISSION OF PRESCRIPTIONS FROM PRESCRIBERS TO PHARMACISTS OR FOR ORDERING AND FILLING REQUIREMENTS OF PRESCRIPTION DRUGS FOR PRESCRIPTIONS WRITTEN FOR RECIPIENTS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, FOR PARTICIPANTS IN THE PROGRAM FOR ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PURSUANT TO TITLE THREE OF ARTICLE TWO OF THE ELDER LAW AND FOR PRESCRIPTIONS WRITTEN PURSUANT TO ARTICLE THIRTY-THREE OF THIS CHAPTER. NOTHING IN THIS SECTION SHALL PROHIBIT THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION FROM PROMULGATING ANY ADDITIONAL EMERGENCY REGULATIONS IN FURTHERANCE OF THIS SUBDIVISION.

2. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, SHALL PROMULGATE REGULATIONS REQUIRING THAT PRESCRIPTION FORMS AND ELECTRONIC PRESCRIPTIONS INCLUDE: (A) A SECTION WHEREIN PRESCRIBERS MAY INDICATE WHETHER AN INDIVIDUAL IS LIMITED ENGLISH PROFICIENT, AS DEFINED IN SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW; AND (B) IF THE PATIENT IS LIMITED ENGLISH PROFICIENT, A LINE WHERE THE PRESCRIBER MAY SPECIFY THE PREFERRED LANGUAGE INDICATED BY THE PATIENT. FAILURE TO INCLUDE SUCH INDICATION ON THE PART OF THE PRESCRIBER SHALL NOT INVALIDATE THE PRESCRIPTION.

3. ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, THE COMMISSIONER SHALL PROMULGATE REGULATIONS, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, ESTABLISHING STANDARDS FOR ELECTRONIC PRESCRIPTIONS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER LAW TO THE CONTRARY, EFFECTIVE TWO YEARS SUBSEQUENT TO THE DATE ON WHICH SUCH REGULATIONS ARE PROMULGATED, NO PERSON SHALL ISSUE ANY PRESCRIPTION IN THIS STATE UNLESS SUCH PRESCRIPTION IS MADE BY ELECTRONIC PRESCRIPTION FROM THE PERSON ISSUING THE PRESCRIPTION TO A PHARMACY IN ACCORDANCE WITH SUCH REGULATORY STANDARDS, EXCEPT FOR PRESCRIPTIONS: (A) ISSUED BY VETERINARIANS; (B) ISSUED IN CIRCUMSTANCES WHERE ELECTRONIC PRESCRIBING IS NOT AVAILABLE DUE TO TEMPORARY TECHNOLOGICAL OR ELECTRICAL FAILURE, AS SET FORTH IN REGULATION; (C) ISSUED BY PRACTITIONERS WHO HAVE RECEIVED A WAIVER OR A RENEWAL THEREOF FOR A SPECIFIED PERIOD DETERMINED BY THE COMMISSIONER, NOT TO EXCEED ONE YEAR, FROM THE REQUIREMENT TO USE ELECTRONIC PRESCRIBING, PURSUANT TO A PROCESS ESTABLISHED IN REGULATION BY THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, DUE TO ECONOMIC HARDSHIP, TECHNOLOGICAL LIMITATIONS THAT ARE NOT REASONABLY WITHIN THE CONTROL OF THE PRACTITIONER, OR OTHER EXCEPTIONAL CIRCUMSTANCE DEMONSTRATED BY THE PRACTITIONER; (D) ISSUED BY A PRACTITIONER UNDER CIRCUMSTANCES WHERE, NOTWITHSTANDING THE PRACTITIONER'S PRESENT ABILITY TO MAKE AN ELECTRONIC

1 PRESCRIPTION AS REQUIRED BY THIS SUBDIVISION, SUCH PRACTITIONER REASON-
2 ABLY DETERMINES THAT IT WOULD BE IMPRACTICAL FOR THE PATIENT TO OBTAIN
3 SUBSTANCES PRESCRIBED BY ELECTRONIC PRESCRIPTION IN A TIMELY MANNER, AND
4 SUCH DELAY WOULD ADVERSELY IMPACT THE PATIENT'S MEDICAL CONDITION,
5 PROVIDED THAT IF SUCH PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE, THE
6 QUANTITY OF CONTROLLED SUBSTANCES DOES NOT EXCEED A FIVE DAY SUPPLY IF
7 THE CONTROLLED SUBSTANCE WERE USED IN ACCORDANCE WITH THE DIRECTIONS FOR
8 USE; OR (E) ISSUED BY A PRACTITIONER TO BE DISPENSED BY A PHARMACY
9 LOCATED OUTSIDE THE STATE, AS SET FORTH IN REGULATION.

10 4. IN THE CASE OF A PRESCRIPTION FOR A CONTROLLED SUBSTANCE ISSUED BY
11 A PRACTITIONER UNDER PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION,
12 THE PRACTITIONER SHALL FILE INFORMATION ABOUT THE ISSUANCE OF SUCH
13 PRESCRIPTION WITH THE DEPARTMENT AS SOON AS PRACTICABLE, AS SET FORTH IN
14 REGULATION.

15 5. IN THE CASE OF A PRESCRIPTION FOR A CONTROLLED SUBSTANCE ISSUED BY
16 A PRACTITIONER UNDER PARAGRAPH (D) OR (E) OF SUBDIVISION THREE OF THIS
17 SECTION, THE PRACTITIONER SHALL, UPON ISSUING SUCH PRESCRIPTION, FILE
18 INFORMATION ABOUT THE ISSUANCE OF SUCH PRESCRIPTION WITH THE DEPARTMENT
19 BY ELECTRONIC MEANS, AS SET FORTH IN REGULATION.

20 6. THE WAIVER PROCESS ESTABLISHED IN REGULATION PURSUANT TO PARAGRAPH
21 (C) OF SUBDIVISION THREE OF THIS SECTION SHALL PROVIDE THAT A PRACTI-
22 TIONER PRESCRIBING UNDER A WAIVER MUST NOTIFY THE DEPARTMENT IN WRITING
23 PROMPTLY UPON GAINING THE CAPABILITY TO USE ELECTRONIC PRESCRIBING, AND
24 THAT A WAIVER SHALL TERMINATE WITHIN A SPECIFIED PERIOD OF TIME AFTER
25 THE PRACTITIONER GAINS SUCH CAPABILITY.

26 S 3. Section 6810 of the education law is amended by adding four new
27 subdivisions 10, 11, 12 and 13 to read as follows:

28 10. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER
29 LAW TO THE CONTRARY, EFFECTIVE TWO YEARS SUBSEQUENT TO THE DATE ON WHICH
30 REGULATIONS ESTABLISHING STANDARDS FOR ELECTRONIC PRESCRIPTIONS ARE
31 PROMULGATED BY THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE
32 COMMISSIONER PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED EIGHT-
33 Y-ONE OF THE PUBLIC HEALTH LAW, NO PRACTITIONER SHALL ISSUE ANY
34 PRESCRIPTION IN THIS STATE, UNLESS SUCH PRESCRIPTION IS MADE BY ELEC-
35 TRONIC PRESCRIPTION FROM THE PRACTITIONER TO A PHARMACY, EXCEPT FOR
36 PRESCRIPTIONS: (A) ISSUED BY VETERINARIANS; (B) ISSUED OR DISPENSED IN
37 CIRCUMSTANCES WHERE ELECTRONIC PRESCRIBING IS NOT AVAILABLE DUE TO
38 TEMPORARY TECHNOLOGICAL OR ELECTRICAL FAILURE, AS SET FORTH IN REGU-
39 LATION; (C) ISSUED BY PRACTITIONERS WHO HAVE RECEIVED A WAIVER OR A
40 RENEWAL THEREOF FOR A SPECIFIED PERIOD DETERMINED BY THE COMMISSIONER OF
41 HEALTH, NOT TO EXCEED ONE YEAR, FROM THE REQUIREMENT TO USE ELECTRONIC
42 PRESCRIBING, PURSUANT TO A PROCESS ESTABLISHED IN REGULATION BY THE
43 COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER DUE TO
44 ECONOMIC HARDSHIP, TECHNOLOGICAL LIMITATIONS THAT ARE NOT REASONABLY
45 WITHIN THE CONTROL OF THE PRACTITIONER, OR OTHER EXCEPTIONAL CIRCUM-
46 STANCE DEMONSTRATED BY THE PRACTITIONER; (D) ISSUED BY A PRACTITIONER
47 UNDER CIRCUMSTANCES WHERE, NOTWITHSTANDING THE PRACTITIONER'S PRESENT
48 ABILITY TO MAKE AN ELECTRONIC PRESCRIPTION AS REQUIRED BY THIS SUBDIVI-
49 SION, SUCH PRACTITIONER REASONABLY DETERMINES THAT IT WOULD BE IMPRACTI-
50 CAL FOR THE PATIENT TO OBTAIN SUBSTANCES PRESCRIBED BY ELECTRONIC
51 PRESCRIPTION IN A TIMELY MANNER, AND SUCH DELAY WOULD ADVERSELY IMPACT
52 THE PATIENT'S MEDICAL CONDITION, PROVIDED THAT IF SUCH PRESCRIPTION IS
53 FOR A CONTROLLED SUBSTANCE, THE QUANTITY THAT DOES NOT EXCEED A FIVE DAY
54 SUPPLY IF THE CONTROLLED SUBSTANCE WAS USED IN ACCORDANCE WITH THE
55 DIRECTIONS FOR USE; OR (E) ISSUED BY A PRACTITIONER TO BE DISPENSED BY A
56 PHARMACY LOCATED OUTSIDE THE STATE, AS SET FORTH IN REGULATION.

1 11. IN THE CASE OF A PRESCRIPTION ISSUED BY A PRACTITIONER UNDER PARA-
2 GRAPH (B) OF SUBDIVISION TEN OF THIS SECTION, THE PRACTITIONER SHALL BE
3 REQUIRED TO FILE INFORMATION ABOUT THE ISSUANCE OF SUCH PRESCRIPTION
4 WITH THE DEPARTMENT OF HEALTH AS SOON AS PRACTICABLE, AS SET FORTH IN
5 REGULATION.

6 12. IN THE CASE OF A PRESCRIPTION ISSUED BY A PRACTITIONER UNDER PARA-
7 GRAPH (D) OR (E) OF SUBDIVISION TEN OF THIS SECTION, THE PRACTITIONER
8 SHALL, UPON ISSUING SUCH PRESCRIPTION, FILE INFORMATION ABOUT THE ISSU-
9 ANCE OF SUCH PRESCRIPTION WITH THE DEPARTMENT OF HEALTH BY ELECTRONIC
10 MEANS, AS SET FORTH IN REGULATION.

11 13. THE WAIVER PROCESS ESTABLISHED IN REGULATION PURSUANT TO PARAGRAPH
12 (C) OF SUBDIVISION TEN OF THIS SECTION SHALL PROVIDE THAT A PRACTITIONER
13 PRESCRIBING UNDER A WAIVER MUST NOTIFY THE DEPARTMENT IN WRITING PROMPT-
14 LY UPON GAINING THE CAPABILITY TO USE ELECTRONIC PRESCRIBING, AND THAT A
15 WAIVER SHALL TERMINATE WITHIN A SPECIFIED PERIOD OF TIME AFTER THE PRAC-
16 TITIONER GAINS SUCH CAPABILITY.

17 S 4. Section 21 of the public health law is REPEALED.

18 S 5. This act shall take effect immediately; provided, however, that
19 the provisions of subdivision 2 of section 281 of the public health law,
20 as added by section two of this act, shall take effect March 30, 2013,
21 except that as of such date, the commissioner of health, the commission-
22 er of education and the state board of pharmacy are immediately author-
23 ized and directed to take actions necessary to implement such provisions
24 as of such date; provided, further, that any rules or regulations that
25 have been adopted or proposed prior to the effective date of this act
26 which are applicable to section 21 of the public health law shall now
27 apply to section 281 of the public health law as added by section two of
28 this act; and provided, further, that any rules or regulations that have
29 been adopted or proposed prior to the effective date of this act which
30 are applicable to sections 276-a and 276-b of the public health law
31 shall now apply to section 278 and 279 of the public health law, respec-
32 tively, renumbered by section one-a of this act.

33 PART C

34 Section 1. Paragraph 1 of subdivision (b) of schedule II of section
35 3306 of the public health law, as amended by chapter 457 of the laws of
36 2006, is amended to read as follows:

37 (1) Opium and opiate, and any salt, compound, derivative, or prepara-
38 tion of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine,
39 nalmeferene, naloxone, and naltrexone, and their respective salts, but
40 including the following:

- 41 1. Raw opium.
- 42 2. Opium extracts.
- 43 3. Opium fluid.
- 44 4. Powdered opium.
- 45 5. Granulated opium.
- 46 6. Tincture of opium.
- 47 7. Codeine.
- 48 8. Ethylmorphine.
- 49 9. Etorphine hydrochloride.
- 50 10. Hydrocodone (ALSO KNOWN AS DIHYDROCODEINONE).
- 51 11. Hydromorphone.
- 52 12. Metopon.
- 53 13. Morphine.
- 54 14. Oxycodone.

- 1 15. Oxymorphone.
- 2 16. Thebaine.
- 3 17. Dihydroetorphine.
- 4 18. ORIPAVINE.

5 S 2. Schedule II of section 3306 of the public health law is amended
6 by adding a new subdivision (b-1) to read as follows:

7 (B-1) UNLESS SPECIFICALLY EXCEPTED OR UNLESS LISTED IN ANOTHER SCHED-
8 ULE, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION CONTAINING ANY OF
9 THE FOLLOWING, OR THEIR SALTS CALCULATED AS THE FREE ANHYDROUS BASE OR
10 ALKALOID, IN LIMITED QUANTITIES AS SET FORTH BELOW:

11 (1) NOT MORE THAN THREE HUNDRED MILLIGRAMS OF DIHYDROCODEINONE (HYDRO-
12 CODONE) PER ONE HUNDRED MILLILITERS OR NOT MORE THAN FIFTEEN MILLIGRAMS
13 PER DOSAGE UNIT, WITH A FOURFOLD OR GREATER QUANTITY OF AN ISOQUINOLINE
14 ALKALOID OF OPIUM.

15 (2) NOT MORE THAN THREE HUNDRED MILLIGRAMS OF DIHYDROCODEINONE (HYDRO-
16 CODONE) PER ONE HUNDRED MILLILITERS OR NOT MORE THAN FIFTEEN MILLIGRAMS
17 PER DOSAGE UNIT, WITH ONE OR MORE ACTIVE NONNARCOTIC INGREDIENTS IN
18 RECOGNIZED THERAPEUTIC AMOUNTS.

19 S 3. Section 3307 of the public health law is amended by adding a new
20 subdivision 5 to read as follows:

21 5. THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS FOR THE STORAGE,
22 REPORTING, ORDERING AND RECORD KEEPING OF CONTROLLED SUBSTANCES SPECI-
23 FIED IN SUBDIVISION (B-1) OF SCHEDULE II OF SECTION THIRTY-THREE HUNDRED
24 SIX OF THIS ARTICLE BY MANUFACTURERS AND DISTRIBUTORS AS IF SUCH
25 SUBSTANCES WERE SET FORTH IN SCHEDULE III OF SECTION THIRTY-THREE
26 HUNDRED SIX OF THIS ARTICLE.

27 S 4. Paragraph 6 of subdivision (b) of schedule II of section 3306 of
28 the public health law is REPEALED.

29 S 5. Subdivision (c) of schedule II of section 3306 of the public
30 health law is amended by adding a new paragraph 28 to read as follows:

31 (28) TAPENTADOL.

32 S 6. Subdivision (d) of schedule II of section 3306 of the public
33 health law, as added by chapter 664 of the laws of 1985, paragraph 5 as
34 added by chapter 178 of the laws of 2010, is amended to read as follows:

35 (d) Stimulants. Unless specifically excepted or unless listed in
36 another schedule, any material, compound, mixture, or preparation which
37 contains any quantity of the following substances having a stimulant
38 effect on the central nervous system, INCLUDING ITS SALTS, ISOMERS, AND
39 SALTS OF ISOMERS:

40 (1) Amphetamine[, its salts, optical isomers, and salts of its optical
41 isomers].

42 (2) Methamphetamine[, its salts, isomers, and salts of its isomers].

43 (3) Phenmetrazine [and its salts].

44 (4) Methylphenidate.

45 (5) Lisdexamfetamine.

46 S 7. Subdivision (g) of schedule II of section 3306 of the public
47 health law is amended by adding a new paragraph 3 to read as follows:

48 (3) IMMEDIATE PRECURSOR TO FENTANYL:

49 (I) 4-ANILINO-N-PHENETHYL-4-PIPERIDINE (ANPP).

50 S 8. Subdivision (h) of schedule II of section 3306 of the public
51 health law, as amended by chapter 178 of the laws of 2010, is amended to
52 read as follows:

53 (h) Anabolic steroids. Unless specifically excepted or unless listed
54 in another schedule, "anabolic steroid" shall mean any drug or hormonal
55 substance, chemically and pharmacologically related to testosterone
56 (other than estrogens, progestins, corticosteroids and dehydroepiandro-

1 terone) [that promotes muscle growth, or any material, compound,
2 mixture, or preparation which contains any amount of the following
3 substances] AND INCLUDES:
4 (1) 3{beta}, 17-dihydroxy-5a-androstane.
5 (2) 3{alpha}, 17{beta}-dihydroxy-5a-androstane.
6 (3) 5{alpha}-androst-3,17-dione.
7 (4) 1-androstenediol (3{beta},17{beta}-dihydroxy-5{alpha}-androst-1-
8 ene).
9 (5) 1-androstenediol (3{alpha},17{beta}-dihydroxy-5{alpha}-androst-1-
10 ene).
11 (6) 4-androstenediol (3{beta}, 17{beta}-dihydroxy-androst-4-ene).
12 (7) 5-androstenediol (3{beta}, 17{beta}-dihydroxy-androst-5-ene).
13 (8) 1-androstenedione ({5{alpha}}-androst-1-en-3,17-dione).
14 (9) 4-androstenedione (androst-4-en-3,17-dione).
15 (10) 5-androstenedione (androst-5-en-3,17-dione).
16 (11) Bolasterone (7{alpha},17{alpha}-dimethyl-17{beta}-hydroxyandrost-
17 4-en-3-one).
18 (12) Boldenone (17{beta}-hydroxyandrost-1, 4,-diene-3-one).
19 (13) BOLDIONE (ANDROSTA-1,4-DIENE-3,17-DIONE).
20 (14) Calusterone (7{beta}, 17{alpha}-dimethyl-17{beta}-hydroxyandrost-
21 4-en-3-one).
22 [(14)] (15) Clostebol (4-chloro-17{beta}-hydroxyandrost-4-en-3-one).
23 [(15)] (16) Dehydrochloromethyltestosterone [(4-chloro-17{beta}-
24 hydroxy-17{alpha}-methyl-androst-1] (4-CHLORO-17{BETA}-HYDROXY-17
25 {ALPHA}-METHYL-ANDROST-1, 4-dien-3-one).
26 [(16)] (17) {Delta} 1-dihydrotestosterone (a.k.a. '1-testosterone')
27 (17 {beta}-hydroxy-5{alpha}-androst-1-en-3-one).
28 [(17)] (18) 4-dihydrotestosterone (17{beta}-hydroxy-androstan-3-one).
29 [(18)] (19) Drostanolone (17{beta}-hydroxy-2{alpha}-methyl-5{alpha}
30 -androstan-3-one).
31 [(19)] (20) Ethylestrenol (17{alpha}-ethyl-17{beta}-hydroxyestr-
32 4-ene).
33 [(20)] (21) Fluoxymesterone (9-fluoro-17{alpha}-methyl-11{beta}, 17
34 {beta}-[dihydroxyandrost]DIHYDROXYANDROST-4-en-3-one).
35 [(21)] (22) Formebolone (2-formyl-17{alpha}-methyl-11{alpha},
36 17{beta}-dihydroxyandrost-1, 4-dien-3-one).
37 [(22)] (23) Furazabol (17{alpha}-methyl-17{beta}-hydroxyandrostano
38 {2, 3-c}-furan).
39 [(23)] 13{beta}-ethyl-17{alpha}-hydroxygon-4-en-3-one]
40 (24) 13{BETA}-ETHYL-17{BETA}-HYROXYGON-4-EN-3-ONE.
41 [(24)] (25) 4-hydroxytestosterone [(4,17 {beta}-dihydroxyandrost-4-
42 en-3-one)] (4, 17{BETA}-DIHYDROXY-ANDROST-4-EN-3-ONE).
43 [(25)] (26) 4-hydroxy-19-nortestosterone
44 (4,17{beta}-dihydroxy-estr-4-en-3-one).
45 [(26)] (27) DESOXYMETHYLTESTOSTERONE
46 (17{ALPHA}-METHYL-5{ALPHA}-ANDROST-2-EN-17{BETA}-OL) (A.K.A., MADOL).
47 (28) Mestanolone (17{alpha}-methyl-17{beta}-hydroxy-
48 5-androstan-3-one).
49 [(27)] (29) Mesterolone (1{alpha}[-]methyl-17{beta}-hydroxy-
50 {5{alpha}}-androstan-3-one).
51 [(28)] (30) Methandienone (17{alpha}-methyl-17{beta}-hydroxyandrost-1,
52 4-dien-3-one).
53 [(29)] (31) Methandriol (17{alpha}-methyl-3{beta},
54 17{beta}-dihydroxyandrost-5-ene).
55 [(30)] (32) Methenolone (1-methyl-17{beta}-hydroxy-5{alpha}-androst-
56 1-en-3-one).

1 [(31)] (33) 17{alpha}-methyl-3{beta},17{beta}-dihydroxy-5a-androstane.
2 [(32)] (34) 17{alpha}-methyl-3{alpha}, 17{beta}-dihydroxy- 5a-andros-
3 tane.
4 [(33)] (35) 17{alpha}-methyl-3{beta}, 17{beta}-dihydroxyandrost-4-ene.
5 [(34)] (36) 17{alpha}-methyl-4-hydroxynandrolone (17{alpha}-methyl-4-
6 hydroxy-17{beta}-hydroxyestr-4-en-3-one).
7 [(35)] (37) Methyldienolone (17{alpha}-methyl-17{beta}-hydroxyestra-
8 4,9(10)-dien-3-one).
9 [(36)] (38) Methyltrienolone
10 (17{alpha}-methyl-17{beta}-hydroxyestra-4, 9-11-trien-3-one).
11 [(37)] (39) Methyltestosterone
12 (17{alpha}-methyl-17{beta}-hydroxyandrost- 4-en-3-one).
13 [(38)] (40) Mibolerone
14 (7{alpha},17{alpha}-dimethyl-17{beta}-hydroxyestr- 4-en-3-one).
15 [(39)] (41) 17{alpha}-methyl- Δ 1-dihydrotestosterone
16 (17b{beta}-hydroxy-17{alpha}-methyl-5{alpha}-androst-1-en-3-one)
17 (a.k.a. '17- α -methyl-1-testosterone').
18 [(40)] (42) Nandrolone(17{beta}-hydroxyestr-4-en-3-one).
19 [(41)] (43) 19-nor-4-androstenediol (3{beta},17{beta}-dihydroxyestr
20 -4-ene).
21 [(42)] (44) 19-nor-4-androstenediol (3{alpha},17{beta}-dihydroxyestr-
22 4-ene).
23 [(43)] (45) 19-nor-5-androstenediol (3{beta},17{beta}-dihydroxyestr
24 -5-ene).
25 [(44)] (46) 19-nor-5-androstenediol (3{alpha},17{beta}-dihydroxyestr-
26 5-ene).
27 [(45)] (47) 19-NOR-4,9(10)-ANDROSTADIENEDIONE
28 (ESTRA-4,9(10)-DIENE-3,17-DIONE).
29 (48) 19-nor-4-androstenedione (estr-4-en-3,17-dione).
30 [(46)] (49) 19-nor-5-androstenedione (estr-5-en-3,17-dione).
31 [(47)] (50) Norbolethone (13{beta}, 17{alpha}-diethyl-17{beta}
32 -hydroxygon-4-en-3-one).
33 [(48)] (51) Norclostebol (4-chloro-17{beta}-hydroxyestr-4-en-3-one).
34 [(49)] (52) Norethandrolone (17{alpha}-ethyl-17{beta}-hydroxyestr-
35 4-en-3-one).
36 [(50)] (53) Normethandrolone (17{alpha}-methyl-17{beta}
37 -hydroxyestr-4-en-3-one).
38 [(51)] (54) Oxandrolone (17{alpha}-methyl-17{beta}-hydroxy-2-oxa-
39 {5{alpha}}-androstan-3-one).
40 [(52)] (55) Oxymesterone (17{alpha}-methyl-4, 17{beta}-dihydroxy[-]
41 androst-4-en-3-one).
42 [(53)] (56) Oxymetholone (17 {alpha}-methyl-2-hydroxymethylene-17
43 {beta}-hydroxy-{5{alpha}}- androstan-3-one).
44 [(54)] (57) Stanozolol (17{alpha}-methyl-17{beta}-hydroxy-{5{alpha}}-
45 androst-2-eno{3, 2-c}-pyrazole).
46 [(55)] (58) Stenbolone (17{beta}-hydroxy-2-methyl-{5{alpha}}-androst-
47 1-en-3-one).
48 [(56)] (59) Testolactone (13-hydroxy-3-oxo-13, 17-secoandrosta-1,
49 4-dien-17-oic acid lactone).
50 [(57)] (60) Testosterone (17{beta}-hydroxyandrost-4-en-3-one).
51 [(58)] (61) Tetrahydrogestrinone (13{beta}, 17{alpha}-diethyl
52 -17{beta}-hydroxygon-4, 9, 11-trien-3-one).
53 [(59)] (62) Trenbolone (17{beta}-hydroxyestr-4, 9, 11-trien-3-one).
54 [(60)] (63) Any salt, ester or ether of a drug or substance described
55 or listed in this subdivision.

1 S 9. The opening paragraph of subdivision (c) of schedule III of
2 section 3306 of the public health law, as added by chapter 664 of the
3 laws of 1985, is amended to read as follows:

4 Unless specifically excepted or unless listed in another schedule, any
5 material, compound, mixture, or preparation which contains any quantity
6 of the following substances having a depressant effect on the central
7 nervous system, INCLUDING ITS SALTS, ISOMERS, AND SALTS OF ISOMERS:

8 S 10. Subdivision (e) of schedule III of section 3306 of the public
9 health law, as added by chapter 664 of the laws of 1985, paragraphs 3
10 and 4 as amended by chapter 589 of the laws of 1996 and paragraph 9 as
11 added by chapter 457 of the laws of 2006, is amended to read as follows:

12 (e) Narcotic drugs. Unless specifically excepted or unless listed in
13 another schedule, any material, compound, mixture, or preparation
14 containing any of the following narcotic drugs, or their salts calcu-
15 lated as the free anhydrous base or alkaloid, in limited quantities as
16 set forth below:

17 (1) Not more than 1.8 grams of codeine per one hundred milliliters or
18 not more than ninety milligrams per dosage unit, with an equal or great-
19 er quantity of an isoquinoline alkaloid of opium.

20 (2) Not more than 1.8 grams of codeine per one hundred milliliters or
21 not more than ninety milligrams per dosage unit, with one or more
22 active, nonnarcotic ingredients in recognized therapeutic amounts.

23 (3) [Not more than three hundred milligrams of dihydrocodeinone
24 (hydrocodone) per one hundred milliliters or not more than fifteen
25 milligrams per dosage unit, with a fourfold or greater quantity of an
26 isoquinoline alkaloid of opium.

27 (4) Not more than three hundred milligrams of dihydrocodeinone (hydro-
28 codone) per one hundred milliliters or not more than fifteen milligrams
29 per dosage unit, with one or more active nonnarcotic ingredients in
30 recognized therapeutic amounts.

31 (5)] Not more than 1.8 grams of dihydrocodeine per one hundred milli-
32 liters or not more than ninety milligrams per dosage unit, with one or
33 more active nonnarcotic ingredients in recognized therapeutic amounts.

34 [(6)] (4) Not more than three hundred milligrams of ethylmorphine per
35 one hundred milliliters or not more than fifteen milligrams per dosage
36 unit, with one or more active, nonnarcotic ingredients in recognized
37 therapeutic amounts.

38 [(7)] (5) Not more than five hundred milligrams of opium per one
39 hundred milliliters or per one hundred grams or not more than twenty-
40 five milligrams per dosage unit, with one or more active, nonnarcotic
41 ingredients in recognized therapeutic amounts.

42 [(8)] (6) Not more than fifty milligrams of morphine per one hundred
43 milliliters or per one hundred grams, with one or more active, nonnar-
44 cotic ingredients in recognized therapeutic amounts.

45 [(9)] (7) Buprenorphine in any quantities.

46 S 11. Subdivision (f) of schedule III of section 3306 of the public
47 health law, as amended by chapter 178 of the laws of 2010, is amended to
48 read as follows:

49 (f) [(i)] Dronabinol (SYNTHETIC) in sesame oil and encapsulated in a
50 soft gelatin capsule in a [drug product approved for marketing by the]
51 U.S. Food and Drug Administration [(FDA)] APPROVED PRODUCT.

52 [(ii)] Any drug product in tablet or capsule form containing natural
53 dronabinol derived from the cannabis (plant) or synthetic dronabinol
54 (produced from synthetic materials) for which an abbreviated new drug
55 application (ANDA) has been approved by the FDA under section 505(j) of
56 the Federal Food, Drug, and Cosmetic Act which references as its listed

1 drug the drug product referred to in paragraph (i) of this subdivision.]
2 Some other names for dronabinol include: (6aR-trans)-6a, 7, 8, 10a-tet-
3 rahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo{b,d} pyran-1-ol, or
4 (-)-delta-9-(trans) - tetrahydrocannabinol.

5 S 12. Subdivision (c) of schedule IV of section 3306 of the public
6 health law is amended by adding two new paragraphs 52 and 53 to read as
7 follows:

8 (52) FOSPROPOFOL.

9 (53) CARISOPRODOL.

10 S 13. Paragraph 11 of subdivision (e) of schedule IV of section 3306
11 of the public health law, as added by chapter 457 of the laws of 2006,
12 is amended to read as follows:

13 (11) [Modafanil] MODAFINIL.

14 S 14. Subdivision (f) of schedule IV of section 3306 of the public
15 health law is amended by adding a new paragraph 3 to read as follows:

16 (3) TRAMADOL IN ANY QUANTITIES.

17 S 15. Subdivision (b) of schedule V of section 3306 of the public
18 health law, as added by chapter 664 of the laws of 1985, is amended to
19 read as follows:

20 (b) Narcotic drugs containing nonnarcotic active medicinal ingredi-
21 ents. Any compound, mixture, or preparation containing any of the
22 following narcotic drugs, or their salts calculated as the free anhyd-
23 rous base or alkaloid, in limited quantities as set forth below, which
24 shall include one or more nonnarcotic active medicinal ingredients in
25 sufficient proportion to confer upon the compound, mixture, or prepara-
26 tion valuable medicinal [qualitites] QUALITIES other than those
27 possessed by narcotic drugs alone:

28 (1) Not more than two hundred milligrams of codeine per one hundred
29 milliliters or per one hundred grams.

30 (2) Not more than one hundred milligrams of dihydrocodeine per one
31 hundred milliliters or per one hundred grams.

32 (3) Not more than one hundred milligrams of ethylmorphine per one
33 hundred milliliters or per one hundred grams.

34 (4) Not more than 2.5 milligrams of diphenoxylate and not less than
35 twenty-five micrograms of atropine sulfate per dosage unit.

36 (5) Not more than one hundred milligrams of opium per one hundred
37 milliliters or per one hundred grams.

38 (6) Not more than 0.5 milligram of difenoxin and not less than twen-
39 ty-five micrograms of atropine sulfate per dosage unit.

40 S 16. Subdivision (d) of schedule V of section 3306 of the public
41 health law, as added by chapter 178 of the laws of 2010, is amended to
42 read as follows:

43 (d) Depressants. Unless specifically exempted or excluded or unless
44 listed in another schedule, any material, compound, mixture, or prepara-
45 tion which contains any quantity of the following substances having a
46 depressant effect on the central nervous system, including its salts,
47 ISOMERS, AND SALTS OF ISOMERS:

48 (1) EZOGABINE {N-{2-AMINO-4-(4-FLUOROBENZYLAMINO)-PHENYL}-CARBAMIC
49 ACID ETHYL ESTER}.

50 (2) LACOSAMIDE {(R)-2-ACETOAMIDO-N-BENZYL-3-METHOXY-PROPIONAMIDE}.

51 (3) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

52 S 17. Subdivision 7 of section 3331 of the public health law, as
53 amended by chapter 640 of the laws of 1990, is amended to read as
54 follows:

55 7. A practitioner may not administer, prescribe or dispense any
56 substance referred to in subdivision (h) [or subdivision (j)] of Sched-

1 rule II, AND SUBDIVISION (G) OF SCHEDULE III, of section three thousand
2 three hundred six of this article for other than therapeutic purposes. A
3 practitioner may not administer, prescribe or dispense any such
4 substance to any individual without first obtaining the informed consent
5 of such individual, or where the individual lacks capacity to give such
6 consent, a person legally authorized to consent on his or her behalf.

7 S 18. Subdivision 8 of section 220.00 of the penal law, as amended by
8 chapter 664 of the laws of 1985, is amended to read as follows:

9 8. "Narcotic preparation" means any controlled substance listed in
10 schedule II(B-1), III(d) or III(e).

11 S 19. This act shall take effect on the ninetieth day after it shall
12 have become a law; provided that sections two, three, ten, fourteen and
13 eighteen shall take effect on the one hundred eightieth day after it
14 shall have become a law; and provided that sections fifteen and seven-
15 teen of this act shall take effect immediately.

16 PART D

17 Section 1. Subparagraphs (i), (ii) and (iii) of paragraph (b) of
18 subdivision 2 of section 3309-a of the public health law, as added by
19 section 52 of part D of chapter 56 of the laws of 2012, are amended and
20 a new subparagraph (iv) is added to read as follows:

21 (i) Report to the commissioner regarding the development of recommen-
22 dations and model courses for continuing medical education, refresher
23 courses and other training materials for licensed health care profes-
24 sionals on appropriate use of prescription pain medication. Such recom-
25 mendations, model courses and other training materials shall be submit-
26 ted to the commissioner, who shall make such information available for
27 the use in medical education, residency programs, fellowship programs,
28 and for use in continuing medication education programs no later than
29 January first, two thousand thirteen. SUCH RECOMMENDATIONS ALSO SHALL
30 INCLUDE RECOMMENDATIONS ON: (A) EDUCATIONAL AND CONTINUING MEDICAL
31 EDUCATION REQUIREMENTS FOR PRACTITIONERS APPROPRIATE TO ADDRESS
32 PRESCRIPTION PAIN MEDICATION AWARENESS AMONG HEALTH CARE PROFESSIONALS;
33 (B) CONTINUING EDUCATION REQUIREMENTS FOR PHARMACISTS RELATED TO
34 PRESCRIPTION PAIN MEDICATION AWARENESS; AND (C) CONTINUING EDUCATION IN
35 PALLIATIVE CARE AS IT RELATES TO PAIN MANAGEMENT, FOR WHICH PURPOSE THE
36 WORK GROUP SHALL CONSULT THE NEW YORK STATE PALLIATIVE CARE EDUCATION
37 AND TRAINING COUNCIL;

38 (ii) No later than January first, two thousand thirteen, provide
39 outreach and assistance to health care professional organizations to
40 encourage and facilitate continuing medical education training programs
41 for their members regarding appropriate prescribing practices FOR THE
42 BEST PATIENT CARE and the risks associated with [prescription] OVERPRES-
43 CRIBING AND UNDERPRESCRIBING pain medication; [and]

44 (iii) Provide information to the commissioner for use in the develop-
45 ment and continued update of the public awareness campaign, including
46 information, resources, and active web links that should be included on
47 the website[.]; AND

48 (IV) CONSIDER OTHER ISSUES DEEMED RELEVANT BY THE COMMISSIONER,
49 INCLUDING HOW TO PROTECT AND PROMOTE THE ACCESS OF PATIENTS WITH A
50 LEGITIMATE NEED FOR CONTROLLED SUBSTANCES, PARTICULARLY MEDICATIONS
51 NEEDED FOR PAIN MANAGEMENT BY ONCOLOGY PATIENTS, AND WHETHER AND HOW TO
52 ENCOURAGE OR REQUIRE THE USE OR SUBSTITUTION OF OPIOID DRUGS THAT EMPLOY
53 TAMPER-RESISTANCE TECHNOLOGY AS A MECHANISM FOR REDUCING ABUSE AND
54 DIVERSION OF OPIOID DRUGS.

1 S 2. Subdivision 3 of section 3309-a of the public health law, as
2 added by section 52 of part D of chapter 56 of the laws of 2012, is
3 amended to read as follows:

4 3. ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND TWELVE, THE COMMISSION-
5 ER, IN CONSULTATION WITH THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM
6 AND SUBSTANCE ABUSE SERVICES, THE COMMISSIONER OF EDUCATION, AND THE
7 EXECUTIVE SECRETARY OF THE STATE BOARD OF PHARMACY, SHALL ADD TO THE
8 WORKGROUP SUCH ADDITIONAL MEMBERS AS APPROPRIATE SO THAT THE WORKGROUP
9 MAY PROVIDE GUIDANCE IN FURTHERANCE OF THE IMPLEMENTATION OF THE I-STOP
10 ACT. FOR SUCH PURPOSES, THE WORKGROUP SHALL INCLUDE BUT NOT BE LIMITED
11 TO CONSUMER ADVISORY ORGANIZATIONS, HEALTH CARE PRACTITIONERS AND
12 PROVIDERS, ONCOLOGISTS, ADDICTION TREATMENT PROVIDERS, PRACTITIONERS
13 WITH EXPERIENCE IN PAIN MANAGEMENT, PHARMACISTS AND PHARMACIES, AND
14 REPRESENTATIVES OF LAW ENFORCEMENT AGENCIES.

15 4. The commissioner shall report to the governor, the temporary presi-
16 dent of the senate and the speaker of the assembly no later than March
17 first, two thousand thirteen, and annually thereafter, on the work
18 group's findings. The report shall include information on opioid over-
19 dose deaths, emergency room utilization for the treatment of opioid
20 overdose, the utilization of pre-hospital addiction services and recom-
21 mendations to reduce opioid addiction and the consequences thereof. THE
22 REPORT SHALL ALSO INCLUDE A RECOMMENDATION AS TO WHETHER SUBDIVISION TWO
23 OF SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE SHOULD BE
24 AMENDED TO REQUIRE PRACTITIONERS PRESCRIBING OR DISPENSING CERTAIN IDEN-
25 TIFIED SCHEDULE V CONTROLLED SUBSTANCES TO COMPLY WITH THE CONSULTATION
26 REQUIREMENTS OF SUCH SUBDIVISION.

27 S 3. This act shall take effect immediately.

28 PART E

29 Section 1. The public health law is amended by adding a new section
30 3343-b to read as follows:

31 S 3343-B. SAFE DISPOSAL OF UNUSED CONTROLLED SUBSTANCES. THE DEPART-
32 MENT SHALL ESTABLISH A PROGRAM FOR THE SAFE DISPOSAL OF UNUSED
33 CONTROLLED SUBSTANCES BY CONSUMERS IN ACCORDANCE WITH FEDERAL LAW. THE
34 PROGRAM SHALL PERMIT INDIVIDUAL MEMBERS OF THE PUBLIC TO VOLUNTARILY
35 SURRENDER CONTROLLED SUBSTANCES LISTED ON SCHEDULE II, III, IV OR V OF
36 SECTION THIRTY-THREE HUNDRED SIX OF THIS ARTICLE IN A SECURE MANNER,
37 WITHOUT IDENTIFYING THEMSELVES, AND SHALL BE PUBLICIZED CONSISTENT WITH
38 THE PRESCRIPTION PAIN MEDICATION AWARENESS PROGRAM ESTABLISHED PURSUANT
39 TO SECTION THIRTY-THREE HUNDRED NINE-A OF THIS ARTICLE. THE SURRENDER OF
40 A CONTROLLED SUBSTANCE PURSUANT TO THE PROGRAM ESTABLISHED PURSUANT TO
41 THIS SECTION SHALL NOT CONSTITUTE THE POSSESSION, TRANSFER OR SALE OF
42 SUCH CONTROLLED SUBSTANCE FOR PURPOSES OF THIS ARTICLE OR THE PENAL LAW.
43 IN DEVELOPING SUCH PROGRAM, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING:
44 APPROPRIATE SITES FOR DISPOSAL THROUGHOUT THE STATE; THE ROLE OF LAW
45 ENFORCEMENT AND FEDERAL AUTHORITIES, AS APPROPRIATE; AND THE MANNER IN
46 WHICH POTENTIAL COSTS TO LOCALITIES OR TO THE STATE WILL BE ADDRESSED.
47 DISPOSAL SITES SHALL BE OPERATED BY LAW ENFORCEMENT AGENCIES ON A VOLUN-
48 TARY BASIS IN COLLABORATION WITH THE DEPARTMENT. NOTHING IN THIS
49 SECTION SHALL REQUIRE ANY POLITICAL SUBDIVISION OF THE STATE TO PARTIC-
50 IPATE IN THE PROGRAM ESTABLISHED IN THIS SECTION.

51 S 2. This act shall take effect immediately.

52 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
53 sion, section or part of this act shall be adjudged by any court of
54 competent jurisdiction to be invalid, such judgment shall not affect,

1 impair or invalidate the remainder thereof, but shall be confined in its
2 operation to the clause, sentence, paragraph, subdivision, section or
3 part thereof directly involved in the controversy in which such judgment
4 shall have been rendered. It is hereby declared to be the intent of the
5 legislature that this act would have been enacted even if such invalid
6 provisions had not been included herein.

7 S 4. This act shall take effect immediately; provided, however, that
8 the applicable effective date of Parts A through E of this act shall be
9 as specifically set forth in the last section of such Parts.