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

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:

Section 1. Legislative findings and intent. The legislature finds that prescription drugs, particularly controlled substances, are increasingly subject to criminal diversion and abuse, which can result in addiction, adverse drug events, accidental death due to overdose, violent or self-injurious behavior, family conflicts, and increased costs to businesses and the health care system.

The legislature further finds that such diversion and abuse will be mitigated by: establishing a prescription monitoring program registry containing data about controlled substances dispensed to individuals, 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.

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

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

PART A

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

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

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

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

(I) THE PATIENT'S NAME;

(II) THE PATIENT'S RESIDENTIAL ADDRESS;
(III) THE PATIENT'S DATE OF BIRTH;
(IV) THE PATIENT'S GENDER;
(V) THE DATE ON WHICH THE PRESCRIPTION WAS ISSUED;
(VI) THE DATE ON WHICH THE CONTROLLED SUBSTANCE WAS DISPENSED;
(VII) THE METRIC QUANTITY OF THE CONTROLLED SUBSTANCE DISPENSED;
(VIII) THE NUMBER OF DAYS SUPPLY OF THE CONTROLLED SUBSTANCE DISPENSED;
(IX) THE NAME OF THE PRESCRIBER;
(X) THE PRESCRIBER'S IDENTIFICATION NUMBER, AS ASSIGNED BY THE DRUG ENFORCEMENT ADMINISTRATION;
(XI) THE NAME OR IDENTIFIER OF THE DRUG THAT WAS DISPENSED; AND
(XII) THE PAYMENT METHOD.

(C) THE REGISTRY SHALL BE SECURE, EASILY ACCESSIBLE BY PRACTITIONERS AND PHARMACISTS, AND COMPATIBLE WITH THE ELECTRONIC TRANSMISSION OF PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, AS REQUIRED BY SECTION TWO HUNDRED EIGHTY-ONE OF THIS CHAPTER, AND SECTION SIXTY-EIGHT HUNDRED TEN OF THE EDUCATION LAW, AND ANY REGULATIONS PROMULGATED PURSUANT THERETO. TO THE EXTENT PRACTICABLE, IMPLEMENTATION OF THE ELECTRONIC TRANSMISSION OF PRESCRIPTIONS FOR CONTROLLED SUBSTANCES SHALL SERVE TO STREAMLINE CONSULTATION OF THE REGISTRY BY PRACTITIONERS AND REPORTING OF PRESCRIPTION INFORMATION BY PHARMACISTS. THE REGISTRY SHALL BE INTEROPERABLE WITH OTHER SIMILAR REGISTRIES OPERATED BY FEDERAL OR STATE GOVERNMENTS, TO THE EXTENT DEEMED APPROPRIATE BY THE COMMISSIONER, AND SUBJECT TO THE PROVISIONS OF SECTION THIRTY-THREE HUNDRED SEVENTY-ONE-A OF THIS ARTICLE.

(D) THE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT SUCH PROTOCOLS AS ARE REASONABLY NECESSARY TO ENSURE THAT INFORMATION CONTAINED IN THE REGISTRY IS MAINTAINED IN A SECURE AND CONFIDENTIAL MANNER AND IS ACCESSIBLE ONLY BY PRACTITIONERS, PHARMACISTS OR THEIR DESIGNEES FOR THE PURPOSES ESTABLISHED IN SUBDIVISIONS TWO AND THREE OF THIS SECTION, OR AS OTHERWISE SET FORTH IN SECTIONS THIRTY-THREE HUNDRED SEVENTY-ONE AND THIRTY-THREE HUNDRED SEVENTY-ONE-A OF THIS ARTICLE. SUCH PROTOCOLS SHALL INCLUDE A MECHANISM FOR THE DEPARTMENT TO MONITOR AND RECORD ACCESS TO THE REGISTRY, WHICH SHALL IDENTIFY THE AUTHORIZED INDIVIDUAL ACCESSING AND EACH CONTROLLED SUBSTANCE HISTORY ACCESSED.

2. DUTY TO CONSULT PRESCRIPTION MONITORING PROGRAM REGISTRY; PRACTITIONERS. (A) EVERY PRACTITIONER SHALL CONSULT THE PRESCRIPTION MONITORING PROGRAM REGISTRY PRIOR TO PRESCRIBING OR DISPENSING ANY CONTROLLED SUBSTANCE LISTED ON SCHEDULE II, III OR IV OF SECTION THIRTY-THREE HUNDRED SIX OF THIS ARTICLE, FOR THE PURPOSE OF REVIEWING A PATIENT'S CONTROLLED SUBSTANCE HISTORY AS SET FORTH IN SUCH REGISTRY; PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL PRECLUDE AN AUTHORIZED PRACTITIONER, OTHER THAN A VETERINARIAN, FROM CONSULTING THE REGISTRY AT HIS OR HER OPTION PRIOR TO PRESCRIBING OR DISPENSING ANY CONTROLLED SUBSTANCE. THE DUTY TO CONSULT THE REGISTRY SHALL NOT APPLY TO:
(I) VETERINARIANS;
(II) A PRACTITIONER DISPENSING PURSUANT TO SUBDIVISION THREE OF SECTION THIRTY-THREE HUNDRED FIFTY-ONE OF THIS ARTICLE;
(III) A PRACTITIONER ADMINISTERING A CONTROLLED SUBSTANCE;
(IV) A PRACTITIONER PRESCRIBING OR ORDERING A CONTROLLED SUBSTANCE FOR USE ON THE PREMISES OF AN INSTITUTIONAL DISPENSER PURSUANT TO SECTION THIRTY-THREE HUNDRED FORTY-TWO OF THIS TITLE;
(V) A PRACTITIONER PRESCRIBING A CONTROLLED SUBSTANCE IN THE EMERGENCY DEPARTMENT OF A GENERAL HOSPITAL, PROVIDED THAT THE QUANTITY OF CONTROLLED SUBSTANCE PRESCRIBED DOES NOT EXCEED A FIVE DAY SUPPLY IF THE

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

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

(VII) A PRACTITIONER WHEN:

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

(B) NO OTHER PRACTITIONER OR DESIGNEE AUTHORIZED TO ACCESS THE REGISTRY, PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, IS REASONABLY AVAILABLE; AND

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

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

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

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

(B) FOR PURPOSES OF THIS SECTION, A PRACTITIONER MAY AUTHORIZE A DESIGNEE TO CONSULT THE PRESCRIPTION MONITORING PROGRAM REGISTRY ON HIS OR HER BEHALF, PROVIDED THAT: (I) THE DESIGNEE SO AUTHORIZED IS EMPLOYED BY THE SAME PROFESSIONAL PRACTICE OR IS UNDER CONTRACT WITH SUCH PRACTICE; (II) THE PRACTITIONER TAKES REASONABLE STEPS TO ENSURE THAT SUCH DESIGNEE IS SUFFICIENTLY COMPETENT IN THE USE OF THE REGISTRY; (III) THE PRACTITIONER REMAINS RESPONSIBLE FOR ENSURING THAT ACCESS TO THE REGISTRY BY THE DESIGNEE IS LIMITED TO AUTHORIZED PURPOSES AND OCCURS IN A MANNER THAT PROTECTS THE CONFIDENTIALITY OF THE INFORMATION OBTAINED FROM THE REGISTRY, AND REMAINS RESPONSIBLE FOR ANY BREACH OF CONFIDENTIALITY; AND (IV) THE ULTIMATE DECISION AS TO WHETHER OR NOT TO PRESCRIBE OR DISPENSE A CONTROLLED SUBSTANCE REMAINS WITH THE PRACTITIONER AND IS REASONABLY INFORMED BY THE RELEVANT CONTROLLED SUBSTANCE HISTORY INFORMATION OBTAINED FROM THE REGISTRY. THE COMMISSIONER SHALL ESTABLISH IN REGULATION REASONABLE PARAMETERS WITH REGARD TO A PRACTITIONER'S ABILITY TO AUTHORIZE DESIGNEES PURSUANT TO THIS SECTION, WHICH SHALL INCLUDE PROCESSES NECESSARY TO ALLOW THE DEPARTMENT TO: (A) GRANT ACCESS TO THE REGISTRY IN A REASONABLY PROMPT MANNER TO AS MANY DESIGNEES AS ARE AUTHORIZED BY PRACTITIONERS, UP TO THE NUMBER DEEMED APPROPRIATE BY THE COMMISSIONER FOR PARTICULAR PROFESSIONAL PRACTICES OR TYPES OF PRACTICES, TAKING INTO ACCOUNT THE NEED TO MAINTAIN SECURITY OF THE REGISTRY AND THE PATIENT-SPECIFIC INFORMATION MAINTAINED THEREIN, AND THE OBJECTIVE OF MINIMIZING BURDENS TO PRACTITIONERS TO THE EXTENT PRACTICABLE; (B) REQUIRE THAT PRACTITIONERS NOTIFY THE DEPARTMENT UPON TERMINATING THE AUTHORIZATION OF ANY DESIGNEE; AND (C) ESTABLISH A MECHANISM TO PREVENT SUCH TERMINATED DESIGNEES FROM ACCESSING THE REGISTRY IN A REASONABLY PROMPT MANNER FOLLOWING SUCH NOTIFICATION.

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

(B) FOR PURPOSES OF THIS SECTION, A PHARMACIST MAY DESIGNATE ANOTHER PHARMACIST, A PHARMACY INTERN, AS DEFINED BY SECTION SIXTY-EIGHT HUNDRED SIX OF THE EDUCATION LAW, OR OTHER INDIVIDUAL AS MAY BE PERMITTED BY THE COMMISSIONER IN REGULATION, TO CONSULT THE PRESCRIPTION MONITORING PROGRAM REGISTRY ON THE PHARMACIST'S BEHALF, PROVIDED THAT SUCH DESIGNEE IS EMPLOYED BY THE SAME PHARMACY OR IS UNDER CONTRACT WITH SUCH PHARMACY. THE COMMISSIONER SHALL ESTABLISH IN REGULATION REASONABLE PARAMETERS WITH REGARD TO A PHARMACIST'S ABILITY TO AUTHORIZE DESIGNEES PURSUANT TO THIS SECTION, WHICH SHALL INCLUDE PROCESSES NECESSARY TO ALLOW THE DEPARTMENT TO: (A) GRANT ACCESS TO THE REGISTRY IN A REASONABLY PROMPT MANNER TO AS MANY DESIGNEES AS ARE AUTHORIZED BY PHARMACISTS, UP TO THE NUMBER DEEMED APPROPRIATE BY THE COMMISSIONER FOR PARTICULAR PHARMACIES, TAKING INTO ACCOUNT THE NEED TO MAINTAIN SECURITY OF THE REGISTRY AND THE PATIENT-SPECIFIC INFORMATION MAINTAINED THEREIN, AND THE OBJECTIVE OF MINIMIZING BURDENS TO PHARMACISTS TO THE EXTENT PRACTICABLE; (B) REQUIRE THAT PHARMACISTS NOTIFY THE DEPARTMENT UPON TERMINATING THE AUTHORIZATION OF ANY DESIGNEE; AND (C) ESTABLISH A MECHANISM TO PREVENT SUCH TERMINATED DESIGNEES FROM ACCESSING THE REGISTRY IN A REASONABLY PROMPT MANNER FOLLOWING SUCH NOTIFICATION.

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

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

6. INDIVIDUAL ACCESS TO CONTROLLED SUBSTANCE HISTORIES. THE COMMISSIONER SHALL ESTABLISH PROCEDURES BY WHICH AN INDIVIDUAL MAY: (A) REQUEST AND OBTAIN HIS OR HER OWN CONTROLLED SUBSTANCES HISTORY CONSISTING OF PATIENT-SPECIFIC INFORMATION OR, IN APPROPRIATE CIRCUMSTANCES, THAT OF A PATIENT WHO LACKS CAPACITY TO MAKE HEALTH CARE DECISIONS AND FOR WHOM THE INDIVIDUAL HAS LEGAL AUTHORITY TO MAKE SUCH DECISIONS AND WOULD HAVE LEGAL ACCESS TO THE PATIENT'S HEALTH CARE RECORDS; OR (B) SEEK REVIEW OF ANY PART OF HIS OR HER CONTROLLED SUBSTANCES HISTORY OR, IN APPROPRIATE CIRCUMSTANCES, THAT OF A PATIENT WHO LACKS CAPACITY TO MAKE HEALTH CARE DECISIONS AND FOR WHOM THE INDIVIDUAL HAS LEGAL AUTHORITY TO MAKE SUCH DECISIONS AND WOULD HAVE LEGAL ACCESS TO THE PATIENT'S HEALTH CARE RECORDS, THAT SUCH INDIVIDUAL DISPUTES. SUCH PROCEDURES SHALL REQUIRE THE DEPARTMENT TO PROMPTLY REVISE ANY INFORMATION ACCESSIBLE THROUGH THE REGISTRY THAT THE DEPARTMENT DETERMINES TO BE INACCU-

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

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

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

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

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

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

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 OR CAUSE TO BE FILED such prescription information with the department by electronic means [in such manner and detail] ON A REAL TIME BASIS as the commissioner in consultation with the commissioner of education shall, by regulation, require; PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY, PURSUANT TO A PROCESS ESTABLISHED IN REGULATION, GRANT A WAIVER ALLOWING A PHARMACY TO MAKE SUCH FILINGS WITHIN A LONGER PERIOD OF TIME IF AND TO THE EXTENT THAT THE COMMISSIONER FINDS IT WARRANTED, IN HIS OR HER DISCRETION, DUE TO ECONOMIC HARDSHIP, TECHNOLOGICAL LIMITATIONS THAT ARE NOT REASONABLY WITHIN THE CONTROL OF THE PHARMACY, OR OTHER EXCEPTIONAL CIRCUMSTANCE DEMONSTRATED BY THE PHARMACY; AND PROVIDED, FURTHER, HOWEVER, THAT SUCH REGULATIONS SHALL SPECIFY THE MANNER IN WHICH SUCH REQUIREMENTS SHALL APPLY TO THE DELIVERY OF CONTROLLED SUBSTANCES TO INDIVIDUALS IN THIS STATE BY MEANS OF MAIL OR LICENSED EXPRESS DELIVERY SERVICES.

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

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

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

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

(G) TO THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, OR HIS OR HER DESIGNEE, IN FURTHERANCE OF AN INVESTIGATION OF FRAUD, WASTE OR ABUSE OF THE MEDICAID PROGRAM, PURSUANT TO AN AGREEMENT WITH THE DEPARTMENT;

(H) TO A LOCAL HEALTH DEPARTMENT FOR THE PURPOSE OF CONDUCTING PUBLIC HEALTH RESEARCH OR EDUCATION: (I) PURSUANT TO AN AGREEMENT WITH THE COMMISSIONER; (II) WHEN THE RELEASE OF SUCH INFORMATION IS DEEMED APPROPRIATE BY THE COMMISSIONER; (III) FOR USE IN ACCORDANCE WITH MEASURES REQUIRED BY THE COMMISSIONER TO ENSURE THAT THE SECURITY AND CONFIDENTIALITY OF THE DATA IS PROTECTED; AND (IV) PROVIDED THAT DISCLOSURE IS RESTRICTED TO INDIVIDUALS WITHIN THE LOCAL HEALTH DEPARTMENT WHO ARE ENGAGED IN THE RESEARCH OR EDUCATION;

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

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

S 5. Subdivision 2 of section 3371 of the public health law is renumbered subdivision 4 and two new subdivisions 2 and 3 are added to read as follows:

2. THE PRESCRIPTION MONITORING PROGRAM REGISTRY MAY BE ACCESSED, UNDER SUCH TERMS AND CONDITIONS AS ARE ESTABLISHED BY THE DEPARTMENT FOR PURPOSES OF MAINTAINING THE SECURITY AND CONFIDENTIALITY OF THE INFORMATION CONTAINED IN THE REGISTRY, BY:

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

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

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

3. WHERE IT HAS REASON TO BELIEVE THAT A CRIME RELATED TO THE DIVERSION OF CONTROLLED SUBSTANCES HAS BEEN COMMITTED, THE DEPARTMENT MAY NOTIFY APPROPRIATE LAW ENFORCEMENT AGENCIES AND PROVIDE RELEVANT INFORMATION ABOUT THE SUSPECTED CRIMINAL ACTIVITY, INCLUDING CONTROLLED SUBSTANCES PRESCRIBED OR DISPENSED, AS REASONABLY APPEARS TO BE NECESSARY. THE DEPARTMENT SHALL KEEP A RECORD OF THE INFORMATION PROVIDED, INCLUDING, BUT NOT LIMITED TO: THE SPECIFIC INFORMATION PROVIDED AND THE AGENCY TO WHICH SUCH INFORMATION WAS PROVIDED, INCLUDING THE NAME AND TITLE OF THE PERSON TO WHOM SUCH INFORMATION WAS PROVIDED AND AN ATTESTATION FROM SUCH PERSON THAT HE OR SHE HAS AUTHORITY TO RECEIVE SUCH INFORMATION.

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

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

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

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

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

(c) nothing in subdivision (b) of this section shall require a practitioner to consult the registry prior to the effective date of this act.

PART B

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

PREFERRED DRUG AND CLINICAL DRUG REVIEW PROGRAMS

S 1-a. Sections 276-a and 276-b of article 2-A of the public health law are renumbered sections 278 and 279, respectively, and such sections and section 280 of such article are designated title II and a new title 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

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

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

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

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

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

10. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER LAW TO THE CONTRARY, EFFECTIVE TWO YEARS SUBSEQUENT TO THE DATE ON WHICH REGULATIONS ESTABLISHING STANDARDS FOR ELECTRONIC PRESCRIPTIONS ARE PROMULGATED BY THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW, NO PRACTITIONER SHALL ISSUE ANY PRESCRIPTION IN THIS STATE, UNLESS SUCH PRESCRIPTION IS MADE BY ELECTRONIC PRESCRIPTION FROM THE PRACTITIONER TO A PHARMACY, EXCEPT FOR PRESCRIPTIONS: (A) ISSUED BY VETERINARIANS; (B) ISSUED OR DISPENSED 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 OF HEALTH, NOT TO EXCEED ONE YEAR, FROM THE REQUIREMENT TO USE ELECTRONIC PRESCRIBING, PURSUANT TO A PROCESS ESTABLISHED IN REGULATION BY THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER 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 PRESCRIPTION AS REQUIRED BY THIS SUBDIVISION, SUCH PRACTITIONER REASONABLY DETERMINES THAT IT WOULD BE IMPRACTICAL FOR THE PATIENT TO OBTAIN SUBSTANCES PRESCRIBED BY ELECTRONIC PRESCRIPTION IN A TIMELY MANNER, AND SUCH DELAY WOULD ADVERSELY IMPACT THE PATIENT'S MEDICAL CONDITION, PROVIDED THAT IF SUCH PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE, THE QUANTITY THAT DOES NOT EXCEED A FIVE DAY SUPPLY IF THE CONTROLLED SUBSTANCE WAS USED IN ACCORDANCE WITH THE DIRECTIONS FOR USE; OR (E) ISSUED BY A PRACTITIONER TO BE DISPENSED BY A PHARMACY LOCATED OUTSIDE THE STATE, AS SET FORTH IN REGULATION.

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

12. IN THE CASE OF A PRESCRIPTION ISSUED BY A PRACTITIONER UNDER PARAGRAPH (D) OR (E) OF SUBDIVISION TEN OF THIS SECTION, THE PRACTITIONER SHALL, UPON ISSUING SUCH PRESCRIPTION, FILE INFORMATION ABOUT THE ISSUANCE OF SUCH PRESCRIPTION WITH THE DEPARTMENT OF HEALTH BY ELECTRONIC MEANS, AS SET FORTH IN REGULATION.

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

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

S 5. This act shall take effect immediately; provided, however, that the provisions of subdivision 2 of section 281 of the public health law, as added by section two of this act, shall take effect March 30, 2013, except that as of such date, the commissioner of health, the commissioner of education and the state board of pharmacy are immediately authorized and directed to take actions necessary to implement such provisions as of such date; provided, further, that any rules or regulations that have been adopted or proposed prior to the effective date of this act which are applicable to section 21 of the public health law shall now apply to section 281 of the public health law as added by section two of this act; and provided, further, that any rules or regulations that have been adopted or proposed prior to the effective date of this act which are applicable to sections 276-a and 276-b of the public health law shall now apply to section 278 and 279 of the public health law, respectively, renumbered by section one-a of this act.

PART C

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

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

1. Raw opium.
2. Opium extracts.
3. Opium fluid.
4. Powdered opium.
5. Granulated opium.
6. Tincture of opium.
7. Codeine.
8. Ethylmorphine.
9. Etorphine hydrochloride.
10. Hydrocodone (ALSO KNOWN AS DIHYDROCODEINONE).
11. Hydromorphone.
12. Metopon.
13. Morphine.
14. Oxycodone.

15. Oxymorphone.
16. Thebaine.
17. Dihydroetorphine.
18. ORIPAVINE.

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

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

(1) NOT MORE THAN THREE HUNDRED MILLIGRAMS OF DIHYDROCODEINONE (HYDROCODONE) PER ONE HUNDRED MILLILITERS OR NOT MORE THAN FIFTEEN MILLIGRAMS PER DOSAGE UNIT, WITH A FOURFOLD OR GREATER QUANTITY OF AN ISOQUINOLINE ALKALOID OF OPIUM.

(2) NOT MORE THAN THREE HUNDRED MILLIGRAMS OF DIHYDROCODEINONE (HYDROCODONE) PER ONE HUNDRED MILLILITERS OR NOT MORE THAN FIFTEEN MILLIGRAMS PER DOSAGE UNIT, WITH ONE OR MORE ACTIVE NONNARCOTIC INGREDIENTS IN RECOGNIZED THERAPEUTIC AMOUNTS.

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

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

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

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

(28) TAPENTADOL.

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

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

(1) Amphetamine[, its salts, optical isomers, and salts of its optical isomers].
(2) Methamphetamine[, its salts, isomers, and salts of its isomers].
(3) Phenmetrazine [and its salts].
(4) Methylphenidate.
(5) Lisdexamfetamine.

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

(3) IMMEDIATE PRECURSOR TO FENTANYL:
(I) 4-ANILINO-N-PHENETHYL-4-PIPERIDINE (ANPP).

S 8. Subdivision (h) of schedule II of section 3306 of the public health law, as amended by chapter 178 of the laws of 2010, 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, corticosteroids and dehydroepiandros-

terone) [that promotes muscle growth, or any material, compound, mixture, or preparation which contains any amount of the following substances] AND INCLUDES:
(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) BOLDIONE (ANDROSTA-1,4-DIENE-3,17-DIONE).
(14) Calusterone (7{beta}, 17{alpha}-dimethyl-17{beta}-hydroxyandrost-4-en-3-one).
[(14)] (15) Clostebol (4-chloro-17{beta}-hydroxyandrost-4-en-3-one).
[(15)] (16) Dehydrochloromethyltestosterone [(4-chloro-17{beta}-hydroxy-17{alpha}-methyl-androst-1] (4-CHLORO-17{BETA}-HYDROXY-17{ALPHA}-METHYL-ANDROST-1, 4-dien-3-one).
[(16)] (17) {Delta} 1-dihydrotestosterone (a.k.a. '1-testosterone') (17 {beta}-hydroxy-5{alpha}-androst-1-en-3-one).
[(17)] (18) 4-dihydrotestosterone (17{beta}-hydroxy-androstan-3-one).
[(18)] (19) Drostanolone (17{beta}-hydroxy-2{alpha}-methyl-5{alpha}-androstan-3-one).
[(19)] (20) Ethylestrenol (17{alpha}-ethyl-17{beta}-hydroxyestr-4-ene).
[(20)] (21) Fluoxymesterone (9-fluoro-17{alpha}-methyl-11{beta}, 17{beta}-[dihydroxandrost]DIHYDROXYANDROST-4-en-3-one).
[(21)] (22) Formebolone (2-formyl-17{alpha}-methyl-11{alpha}, 17{beta}-dihydroxyandrost-1, 4-dien-3-one).
[(22)] (23) Furazabol (17{alpha}-methyl-17{beta}-hydroxyandrostano{2, 3-c}-furazan).
[(23) 13{beta}-ethyl-17{alpha}-hydroxygon-4-en-3-one]
(24) 13{BETA}-ETHYL-17{BETA}-HYROXYGON-4-EN-3-ONE.
[(24)] (25) 4-hydroxytestosterone [(4,17 {beta}-dihydroxyandrost-4-en-3-one)] (4, 17{BETA}-DIHYDROXY-ANDROST-4-EN-3-ONE).
[(25)] (26) 4-hydroxy-19-nortestosterone (4,17{beta}-dihydroxy-estr-4-en-3-one).
[(26)] (27) DESOXYMETHYLTESTOSTERONE (17{ALPHA}-METHYL-5{ALPHA}-ANDROST-2-EN-17{BETA}-OL) (A.K.A., MADOL).
(28) Mestanolone (17{alpha}-methyl-17{beta}-hydroxy-5-androstan-3-one).
[(27)] (29) Mesterolone (1{alpha}[-]methyl-17{beta}-hydroxy-{5{alpha}}-androstan-3-one).
[(28)] (30) Methandienone (17{alpha}-methyl-17{beta}-hydroxyandrost-1, 4-dien-3-one).
[(29)] (31) Methandriol (17{alpha}-methyl-3{beta}, 17{beta}-dihydroxyandrost-5-ene).
[(30)] (32) Methenolone (1-methyl-17{beta}-hydroxy-5{alpha}-androst-1-en-3-one).

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

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

Unless specifically excepted 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, ISOMERS, AND SALTS OF ISOMERS:

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

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

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

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

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

(4) Not more than three hundred milligrams of dihydrocodeinone (hydrocodone) per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

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

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

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

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

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

S 11. Subdivision (f) of schedule III of section 3306 of the public health law, as amended by chapter 178 of the laws of 2010, 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 [(FDA)] APPROVED PRODUCT.

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

(52) FOSPROPOFOL.

(53) CARISOPRODOL.

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

(11) [Modafanil] MODAFINIL.

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

(3) TRAMADOL IN ANY QUANTITIES.

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

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal [qualitites] QUALITIES other than those possessed by narcotic drugs alone:

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

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

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

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

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

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

S 16. Subdivision (d) of schedule V of section 3306 of the public health law, as added by chapter 178 of the laws of 2010, is amended 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, ISOMERS, AND SALTS OF ISOMERS:

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

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

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

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

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

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

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

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

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

PART D

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

(i) Report to the commissioner regarding the development of recommendations and model courses for continuing medical education, refresher courses and other training materials for licensed health care professionals on appropriate use of prescription pain medication. Such recommendations, model courses and other training materials shall be submitted to the commissioner, who shall make such information available for the use in medical education, residency programs, fellowship programs, and for use in continuing medication education programs no later than January first, two thousand thirteen. SUCH RECOMMENDATIONS ALSO SHALL INCLUDE RECOMMENDATIONS ON: (A) EDUCATIONAL AND CONTINUING MEDICAL EDUCATION REQUIREMENTS FOR PRACTITIONERS APPROPRIATE TO ADDRESS PRESCRIPTION PAIN MEDICATION AWARENESS AMONG HEALTH CARE PROFESSIONALS; (B) CONTINUING EDUCATION REQUIREMENTS FOR PHARMACISTS RELATED TO PRESCRIPTION PAIN MEDICATION AWARENESS; AND (C) CONTINUING EDUCATION IN PALLIATIVE CARE AS IT RELATES TO PAIN MANAGEMENT, FOR WHICH PURPOSE THE WORK GROUP SHALL CONSULT THE NEW YORK STATE PALLIATIVE CARE EDUCATION AND TRAINING COUNCIL;

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

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

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

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

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

4. The commissioner shall report to the governor, the temporary president of the senate and the speaker of the assembly no later than March first, two thousand thirteen, and annually thereafter, on the work group's findings. The report shall include information on opioid overdose deaths, emergency room utilization for the treatment of opioid overdose, the utilization of pre-hospital addiction services and recommendations to reduce opioid addiction and the consequences thereof. THE REPORT SHALL ALSO INCLUDE A RECOMMENDATION AS TO WHETHER SUBDIVISION TWO OF SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE SHOULD BE AMENDED TO REQUIRE PRACTITIONERS PRESCRIBING OR DISPENSING CERTAIN IDENTIFIED SCHEDULE V CONTROLLED SUBSTANCES TO COMPLY WITH THE CONSULTATION REQUIREMENTS OF SUCH SUBDIVISION.

S 3. This act shall take effect immediately.

PART E

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

S 3343-B. SAFE DISPOSAL OF UNUSED CONTROLLED SUBSTANCES. THE DEPARTMENT SHALL ESTABLISH A PROGRAM FOR THE SAFE DISPOSAL OF UNUSED CONTROLLED SUBSTANCES BY CONSUMERS IN ACCORDANCE WITH FEDERAL LAW. THE PROGRAM SHALL PERMIT INDIVIDUAL MEMBERS OF THE PUBLIC TO VOLUNTARILY SURRENDER CONTROLLED SUBSTANCES LISTED ON SCHEDULE II, III, IV OR V OF SECTION THIRTY-THREE HUNDRED SIX OF THIS ARTICLE IN A SECURE MANNER, WITHOUT IDENTIFYING THEMSELVES, AND SHALL BE PUBLICIZED CONSISTENT WITH THE PRESCRIPTION PAIN MEDICATION AWARENESS PROGRAM ESTABLISHED PURSUANT TO SECTION THIRTY-THREE HUNDRED NINE-A OF THIS ARTICLE. THE SURRENDER OF A CONTROLLED SUBSTANCE PURSUANT TO THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL NOT CONSTITUTE THE POSSESSION, TRANSFER OR SALE OF SUCH CONTROLLED SUBSTANCE FOR PURPOSES OF THIS ARTICLE OR THE PENAL LAW. IN DEVELOPING SUCH PROGRAM, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING: APPROPRIATE SITES FOR DISPOSAL THROUGHOUT THE STATE; THE ROLE OF LAW ENFORCEMENT AND FEDERAL AUTHORITIES, AS APPROPRIATE; AND THE MANNER IN WHICH POTENTIAL COSTS TO LOCALITIES OR TO THE STATE WILL BE ADDRESSED. DISPOSAL SITES SHALL BE OPERATED BY LAW ENFORCEMENT AGENCIES ON A VOLUNTARY BASIS IN COLLABORATION WITH THE DEPARTMENT. NOTHING IN THIS SECTION SHALL REQUIRE ANY POLITICAL SUBDIVISION OF THE STATE TO PARTICIPATE IN THE PROGRAM ESTABLISHED IN THIS SECTION.

S 2. This act shall take effect immediately.

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

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

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