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

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I N A S S E M B L Y

March 22, 2011

Introduced by M. of A. AUBRY, MOLINARO, ROSENTHAL, BENEDETTO, CLARK, SCHIMEL, SPANO, PHEFFER, MILLMAN, JAFFEE, BARRON -- Multi-Sponsored by -- M. of A. AMEDORE, BOYLAND, BRENNAN, COLTON, DUPREY, JORDAN, LATIMER, P. LOPEZ, MAISEL, MARKEY, McENENY, J. MILLER, REILLY, J. RIVERA, SAYWARD, SCARBOROUGH, TEDISCO, THIELE, TOWNS, WEISENBERG -- read once and referred to the Committee on Higher Education

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

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

Section 1. The public health law is amended by adding a new section 3346 to read as follows:

S 3346. ANTI-EPILEPTIC DRUG PRODUCT SELECTION PROHIBITED. 1. AS USED IN THIS SECTION:

(A) "ANTI-EPILEPTIC DRUG" MEANS (I) ANY DRUG PRESCRIBED FOR THE TREATMENT OF EPILEPSY OR (II) A DRUG USED TO TREAT OR PREVENT SEIZURES.

(B) "EPILEPSY" MEANS A NEUROLOGICAL CONDITION CHARACTERIZED BY RECURRENT SEIZURES.

(C) "SEIZURE" MEANS AN ACUTE CLINICAL CHANGE SECONDARY TO A BRIEF DISTURBANCE IN THE ELECTRICAL ACTIVITY OF THE BRAIN.

(D) "INTERCHANGE" MEANS THE SUBSTITUTION OF ONE VERSION OF THE SAME ANTI-EPILEPTIC THERAPEUTIC PRODUCT, INCLUDING A GENERIC VERSION FOR THE PRESCRIBED BRAND, A BRAND VERSION FOR THE PRESCRIBED GENERIC VERSION, A GENERIC VERSION BY ONE MANUFACTURER FOR A GENERIC VERSION BY A DIFFERENT MANUFACTURER, A DIFFERENT FORMULATION OF THE PRESCRIBED ANTI-EPILEPTIC DRUG OR A DIFFERENT ANTI-EPILEPTIC THERAPEUTIC DRUG PRODUCT FOR THE ANTI-EPILEPTIC PRODUCT ORIGINALLY PRESCRIBED.

2. NO PHARMACIST SHALL INTERCHANGE AN ANTI-EPILEPTIC DRUG OR FORMULATION OF AN ANTI-EPILEPTIC DRUG, BRAND OR GENERIC, FOR THE TREATMENT OF

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

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EPILEPTIC SEIZURES WITHOUT THE PRIOR NOTIFICATION OF AND THE SIGNED INFORMED CONSENT OF SUCH INTERCHANGE FROM THE PRESCRIBING PHYSICIAN AND THE PATIENT, OR THE PATIENT'S PARENT, LEGAL GUARDIAN OR SPOUSE.

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

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

S 3. This act shall take effect immediately.