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

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2011-2012 Regular Sessions

I N S E N A T E

June 13, 2011

Introduced by Sens. LANZA, ADAMS, ALESI, AVELLA, BRESLIN, CARLUCCI, DeFRANCISCO, ESPAILLAT, GIANARIS, GOLDEN, GRIFFO, GRISANTI, KENNEDY, KRUEGER, LARKIN, LAVALLE, LITTLE, MARTINS, McDONALD, MONTGOMERY, O'MARA, OPPENHEIMER, PERALTA, PERKINS, RANZENHOFER, RITCHIE, RIVERA, SAVINO, SQUADRON, STEWART-COUSINS, VALESKY, YOUNG, ZELDIN -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to creating an on-line real time controlled substance reporting system to monitor the prescribing and dispensing of certain controlled substances

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

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. ON-LINE REAL-TIME CONTROLLED SUBSTANCE REPORTING SYSTEM. 1. ESTABLISHMENT OF SYSTEM. THE COMMISSIONER SHALL, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, ESTABLISH AND MAINTAIN AN ON-LINE, REAL-TIME SYSTEM FOR COLLECTING, MONITORING AND REPORTING INFORMATION CONCERNING THE PRESCRIBING AND DISPENSING OF COVERED DRUGS. SUCH REPORTING SYSTEM SHALL ENABLE PRACTITIONERS, PHARMACISTS AND OTHER DISPENSERS TO ACCESS AND REPORT SUCH INFORMATION AT THE TIME A PRESCRIPTION IS ISSUED OR SUCH COVERED DRUG IS DISPENSED, BY ELECTRONIC MEANS, INCLUDING BUT NOT LIMITED TO THE INTERNET, AND SUCH OTHER MEANS DESIGNATED BY THE COMMISSIONER FOLLOWING CONSULTATION WITH THE ADVISORY BOARD. TO THE EXTENT PRACTICABLE, THE REPORTING SYSTEM MAY BE ESTABLISHED IN CONJUNCTION WITH THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE SYSTEM ESTABLISHED PURSUANT

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

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TO SECTION TWENTY-EIGHT HUNDRED SIXTEEN OF THIS CHAPTER. THE COMMISSIONER SHALL, FOLLOWING CONSULTATION WITH THE ADVISORY BOARD: (I) ADOPT PROCEDURES AND SAFEGUARDS TO ENSURE THE PRIVACY AND CONFIDENTIALITY OF PATIENT INFORMATION ON SUCH REPORTING SYSTEM AND THAT ANY INFORMATION COLLECTED OR REPORTED IS NOT UNLAWFULLY ACCESSED OR DISCLOSED; (II) ESTABLISH ACCEPTABLE ERROR TOLERANCE RATES FOR REPORTING SYSTEM DATA; (III) ESTABLISH PROCEDURES AND SAFEGUARDS FOR PRACTITIONERS, PHARMACISTS, AND OTHER DISPENSERS TO FOLLOW IN THE EVENT OF A TECHNOLOGICAL FAILURE; AND (IV) ADOPT PROCEDURES AND SAFEGUARDS TO FACILITATE THE PROPER OPERATION AND USE OF THE REPORTING SYSTEM AND ENSURE THE ACCURACY OF INFORMATION MAINTAINED THEREON.

2. DEFINITIONS. AS USED IN THIS SECTION: (A) THE TERM "COVERED DRUG" SHALL MEAN (I) ALL SCHEDULE II AND SCHEDULE III CONTROLLED SUBSTANCES; AND (II) ANY SCHEDULE IV OR V CONTROLLED SUBSTANCE DETERMINED BY THE COMMISSIONER, FOLLOWING CONSULTATION WITH THE ADVISORY BOARD, TO BE APPROPRIATE FOR INCLUSION IN THE MONITORING AND REPORTING REQUIREMENTS OF THIS SECTION.

(B) THE TERM "ADVISORY BOARD" SHALL MEAN THE ADVISORY BOARD ESTABLISHED BY SECTION THIRTY-THREE HUNDRED FORTY-THREE-B OF THIS ARTICLE.

(C) THE TERM "AGENT" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION THREE OF SECTION THIRTY-THREE HUNDRED TWO OF THIS ARTICLE, AND SHALL ALSO MEAN AN AUTHORIZED PERSON WHO ACTS ON BEHALF OF OR AT THE DIRECTION OF A PRACTITIONER, PHARMACIST, OR OTHER DISPENSER.

(D) THE TERM "REPORTING SYSTEM" SHALL MEAN THE ON-LINE, REAL-TIME REPORTING SYSTEM ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

(E) THE TERM "EMERGENCY MEDICAL SERVICE" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION ONE OF SECTION THREE THOUSAND ONE OF THIS CHAPTER.

3. REPORTING BY PRACTITIONERS. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS SEVEN AND EIGHT OF THIS SECTION, EVERY PRACTITIONER WITHIN THE STATE SHALL, USING THE REPORTING SYSTEM, REPORT TO THE COMMISSIONER THE FOLLOWING INFORMATION UPON ISSUING A PRESCRIPTION FOR A COVERED DRUG: PRACTITIONER PRESCRIPTION NUMBER; PRACTITIONER NATIONAL IDENTIFICATION NUMBER; PATIENT NAME; PATIENT ADDRESS, INCLUDING STREET, CITY, STATE, AND ZIP CODE; PATIENT DATE OF BIRTH; PATIENT'S SEX; DATE PRESCRIPTION ISSUED; METRIC QUANTITY; NUMBER OF DAYS SUPPLY; PRACTITIONER DRUG ENFORCEMENT ADMINISTRATION NUMBER; DATE PRESCRIPTION WRITTEN; SERIAL NUMBER OF OFFICIAL PRESCRIPTION FORM, OR AN IDENTIFIER DESIGNATED BY THE DEPARTMENT; PAYMENT METHOD; AND THE NUMBER OF REFILLS AUTHORIZED.

4. REPORTING BY PHARMACISTS AND OTHER DISPENSERS. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION, EVERY PHARMACIST WITHIN THE STATE AND EVERY OTHER DISPENSER, INCLUDING BUT NOT LIMITED TO AN ONLINE DISPENSER, REQUIRED TO BE REGISTERED WITH THE COMMISSIONER OF EDUCATION, SHALL, USING THE REPORTING SYSTEM, REPORT TO THE COMMISSIONER THE FOLLOWING INFORMATION WHEN DISPENSING A COVERED DRUG: PHARMACY PRESCRIPTION NUMBER; PHARMACY'S NATIONAL IDENTIFICATION NUMBER; PATIENT NAME; PATIENT ADDRESS, INCLUDING STREET, CITY, STATE AND ZIP CODE; PATIENT DATE OF BIRTH; PATIENT'S SEX; DATE PRESCRIPTION FILLED; METRIC QUANTITY; NATIONAL DRUG CODE NUMBER OF THE DRUG; NUMBER OF DAYS SUPPLY; PRACTITIONER DRUG ENFORCEMENT ADMINISTRATION NUMBER; DATE PRESCRIPTION WRITTEN; SERIAL NUMBER OF OFFICIAL PRESCRIPTION FORM, OR AN IDENTIFIER DESIGNATED BY THE COMMISSIONER; PAYMENT METHOD; NUMBER OF REFILLS AUTHORIZED; AND REFILL NUMBER.

5. DUTY TO CONSULT REPORTING SYSTEM; PRACTITIONERS. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION SEVEN OF THIS SECTION, NO PRACTITIONER SHALL PRESCRIBE ANY COVERED DRUG WITHOUT FIRST REVIEWING THE PATIENT'S

CONTROLLED SUBSTANCE PRESCRIPTION HISTORY AS SET FORTH ON THE REPORTING SYSTEM.

6. DUTY TO CONSULT REPORTING SYSTEM; PHARMACISTS AND OTHER DISPENSERS. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS SEVEN AND EIGHT OF THIS SECTION, NO PHARMACIST WITHIN THE STATE OR OTHER DISPENSER, INCLUDING BUT NOT LIMITED TO AN ONLINE DISPENSER, REQUIRED TO BE REGISTERED WITH THE COMMISSIONER OF EDUCATION, SHALL DISPENSE A COVERED DRUG WITHOUT FIRST CONSULTING THE REPORTING SYSTEM TO CONFIRM THE EXISTENCE OF A VALID PRESCRIPTION FOR SUCH COVERED DRUG BASED ON INFORMATION ENTERED BY A PRACTITIONER OR HIS OR HER AGENT IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION.

7. EXCEPTIONS. (A) THE REPORTING AND CONSULTING REQUIREMENTS OF SUBDIVISIONS THREE, FIVE AND SIX OF THIS SECTION SHALL NOT APPLY: (I) WHEN A COVERED DRUG IS ADMINISTERED DIRECTLY TO A PATIENT OR DISPENSED PURSUANT TO SECTION THIRTY-THREE HUNDRED THIRTY-FOUR, THIRTY-THREE HUNDRED THIRTY-SEVEN OR THIRTY-THREE HUNDRED FORTY-TWO OF THIS TITLE OR ANY RULE OR REGULATION PROMULGATED UNDER SUCH SECTIONS; OR (II) WHEN A PRESCRIPTION FOR A COVERED DRUG IS ISSUED TO A PATIENT BY A PRACTITIONER PROVIDING EMERGENCY MEDICAL SERVICE TO SUCH PATIENT, PROVIDED THAT THE QUANTITY OF COVERED DRUG SO PRESCRIBED DOES NOT EXCEED A FIVE-DAY SUPPLY IF SUCH COVERED DRUG WERE USED IN ACCORDANCE WITH THE DIRECTIONS FOR USE.

(B) THE REPORTING AND CONSULTING REQUIREMENTS OF SUBDIVISIONS THREE AND SIX OF THIS SECTION SHALL NOT APPLY WHEN A COVERED DRUG IS PRESCRIBED OR DISPENSED BY MEANS OF AN ELECTRONIC PRESCRIPTION.

8. USE OF AGENTS. IN LIEU OF PERSONALLY REPORTING INFORMATION TO THE COMMISSIONER USING THE REPORTING SYSTEM AS REQUIRED BY SUBDIVISIONS THREE AND FOUR OF THIS SECTION, OR PERSONALLY CONSULTING SUCH SYSTEM AS REQUIRED BY SUBDIVISION SIX OF THIS SECTION: (A) A PRACTITIONER, PHARMACIST OR OTHER DISPENSER, AS APPLICABLE, MAY INSTEAD DIRECT HIS OR HER AGENT TO SO REPORT SUCH INFORMATION; PROVIDED HOWEVER, THAT SUCH PRACTITIONER, PHARMACIST OR OTHER DISPENSER SHALL REMAIN SOLELY RESPONSIBLE FOR ENSURING THAT SUCH INFORMATION IS PROPERLY REPORTED TO THE REPORTING SYSTEM BY SUCH AGENT; AND (B) A PHARMACIST OR OTHER DISPENSER, AS APPLICABLE, MAY INSTEAD DIRECT HIS OR HER AGENT TO SO CONSULT SUCH REPORTING SYSTEM; PROVIDED HOWEVER, THAT SUCH PHARMACIST OR OTHER DISPENSER SHALL REMAIN SOLELY RESPONSIBLE FOR ENSURING THAT SUCH AGENT PROPERLY CONSULTS SUCH SYSTEM.

9. LIMITATIONS ON USE; CONFIDENTIALITY OF INFORMATION. (A) EXCEPT AS PROVIDED BY THIS SUBDIVISION OR OTHERWISE SPECIFICALLY SO AUTHORIZED BY LAW, THE COMMISSIONER MAY NOT DISCLOSE INFORMATION COLLECTED FOR THE REPORTING SYSTEM. IN ADDITION TO DISCLOSING SUCH INFORMATION TO PRACTITIONERS, PHARMACISTS AND OTHER DISPENSERS OR THEIR DESIGNATED AGENTS IN ACCORDANCE WITH SUBDIVISIONS FIVE AND SIX OF THIS SECTION, THE COMMISSIONER SHALL BE AUTHORIZED TO DISCLOSE SUCH INFORMATION WITHOUT NECESSITY OF SUBPOENA, TO: (I) THE DIRECTORS OF THE OFFICE OF THE PROFESSIONS OF THE DEPARTMENT OF EDUCATION AND THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT OF THE DEPARTMENT OF HEALTH OR THEIR DESIGNEES WHO ARE RESPONSIBLE FOR THE LICENSURE, REGULATION, OR DISCIPLINE OF PRACTITIONERS OR PHARMACISTS; (II) THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL OR HIS OR HER DESIGNEE; (III) THE MEDICAID INSPECTOR GENERAL OR HIS OR HER DESIGNEE; (IV) THE COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR HIS OR HER DESIGNEE; (V) A PRACTITIONER OR PHARMACIST, OR HIS OR HER DESIGNATED AGENT, WHO REQUESTS INFORMATION AND CERTIFIES THAT THE REQUESTED INFORMATION IS FOR THE PURPOSE OF PROVIDING MEDICAL OR PHARMACEUTICAL TREATMENT TO A CURRENT PATIENT WHO IS THE SUBJECT OF SUCH INFORMATION; OR (VI) A PRACTITIONER OR PHARMACIST WHO

REQUESTS INFORMATION, IS THE SUBJECT OF A DISCIPLINARY ACTION OR PROCEEDING COMMENCED BY THE OFFICE OF THE PROFESSIONS OF THE DEPARTMENT OF EDUCATION OR THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT OF THE DEPARTMENT OF HEALTH, AS APPLICABLE, AND CERTIFIES THAT SUCH REQUESTED INFORMATION IS NEEDED TO ASSIST HIM OR HER IN THE DEFENSE OF ONE OR MORE CHARGES IN SUCH ACTION OR PROCEEDING.

(B) (I) ANY PERSON OR ENTITY TO WHOM THE COMMISSIONER DISCLOSES INFORMATION PURSUANT TO SUBPARAGRAPH (I), (II), (III), (IV), (V) OR (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT PROVIDE SUCH INFORMATION TO ANY OTHER PERSON OR ENTITY EXCEPT BY COURT ORDER, WHICH SHALL BE GRANTED ONLY UPON APPLICATION BY SUCH PERSON AND ONLY UPON A SHOWING THAT SUCH AN ORDER IS NECESSARY FOR SUCH PERSON TO CARRY OUT HIS OR HER DUTIES AS A PUBLIC OFFICER OR AS A PRACTITIONER OR PHARMACIST; PROVIDED THAT THE COMMISSIONER OF THE DEPARTMENT OF EDUCATION, THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, OR ANY PARTY MAY SUBMIT SUCH INFORMATION AS EVIDENCE IN ANY ADMINISTRATIVE HEARING OR RELATED JUDICIAL PROCEEDING AS AUTHORIZED BY LAW. (II) NO PRACTITIONER, PHARMACIST OR OTHER DISPENSER OR HIS OR HER DESIGNATED AGENT WHO OBTAINS INFORMATION FROM THE REPORTING SYSTEM PURSUANT TO SUBDIVISION FIVE, SIX OR EIGHT OF THIS SECTION SHALL DISCLOSE OR BE REQUIRED TO DISCLOSE ANY SUCH INFORMATION UNLESS SO REQUIRED BY A PROVISION OF LAW SPECIFICALLY RELATING TO THE TREATMENT OF A PATIENT OR RELATING TO THE MANDATORY REPORTING OF A COVERED DRUG PURSUANT TO THIS SECTION. DISCLOSURE BY A PRACTITIONER, PHARMACIST OR OTHER DISPENSER OR HIS OR HER DESIGNATED AGENT TO ANY OTHER PERSON OR ENTITY, INCLUDING DISCLOSURE IN THE CONTEXT OF A CIVIL ACTION WHERE THE DISCLOSURE IS SOUGHT EITHER FOR THE PURPOSE OF DISCOVERY OR FOR EVIDENCE, IS PROHIBITED.

(C) THE COMMISSIONER SHALL PROVIDE SUCH INFORMATION UPON RECEIPT OF A JUDICIAL SUBPOENA ISSUED ON BEHALF OF A DEFENDANT IN A PENDING CRIMINAL ACTION OR PROCEEDING, A POLICE OFFICER, DISTRICT ATTORNEY, GRAND JURY, OR ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY.

(D) THE COMMISSIONER MAY USE SUCH INFORMATION FOR ANY LAWFUL PURPOSE IN ACCORDANCE WITH HIS OR HER POWERS AND DUTIES PURSUANT TO THIS CHAPTER.

(E) NOTHING IN THIS SUBDIVISION SHALL BE INTERPRETED TO ALLOW A DISCLOSURE OF INFORMATION OTHERWISE PROHIBITED BY FEDERAL LAW.

10. IMMUNITY. NO PUBLIC OFFICER NOR THE STATE OF NEW YORK NOR ANY DEPARTMENT, BUREAU, BOARD OR POLITICAL SUBDIVISION THEREOF ACTING REASONABLY AND IN GOOD FAITH IN THE DISCHARGE OF HIS OR HER OFFICIAL DUTIES SHALL BE SUBJECT TO CIVIL LIABILITY ARISING FROM ANY RESULTING FALSE, INCOMPLETE OR INACCURATE INFORMATION SUBMITTED TO OR REPORTED BY THE REPORTING SYSTEM; OR FOR ANY RESULTING FAILURE OF THE SYSTEM TO ACCURATELY OR TIMELY REPORT SUCH INFORMATION; OR FOR THE RESULTING DISCLOSURE OF ANY INFORMATION MAINTAINED BY THE SYSTEM.

11. VIOLATIONS, PENALTIES. (A) (I) A PRACTITIONER, PHARMACIST OR OTHER DISPENSER WHO KNOWINGLY FAILS TO COMPLY WITH THE REPORTING, CONSULTATION OR REVIEW REQUIREMENTS OF SUBDIVISION THREE, FOUR, FIVE OR SIX OF THIS SECTION, AS APPLICABLE, OR, HAVING DIRECTED HIS OR HER AGENT TO SO COMPLY IN ACCORDANCE WITH SUBDIVISION EIGHT OF THIS SECTION, KNOWINGLY FAILS TO TAKE REASONABLE MEASURES TO ENSURE THAT SUCH AGENT HAS PROPERLY COMPLIED WITH SUCH REQUIREMENTS, SHALL, FOR EACH SUCH FAILURE, BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED FIFTY NOR MORE THAN FIVE HUNDRED DOLLARS. (II) A PRACTITIONER, PHARMACIST OR OTHER DISPENSER WHO VIOLATES SUBPARAGRAPH (I) OF THIS PARAGRAPH, AFTER HAVING BEEN PREVIOUSLY PENALIZED UNDER THIS PARAGRAPH WITHIN THE PRECEDING THREE YEARS, SHALL FOR EACH SUCH SUBSEQUENT

VIOLATION BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY OF NOT LESS THAN THREE HUNDRED NOR MORE THAN ONE THOUSAND DOLLARS. (III) A PRACTITIONER, PHARMACIST OR OTHER DISPENSER WHO VIOLATES SUBPARAGRAPH (I) OF THIS PARAGRAPH AFTER HAVING BEEN PREVIOUSLY PENALIZED UNDER THIS PARAGRAPH TWO OR MORE TIMES WITHIN THE PRECEDING THREE YEARS, SHALL, FOR EACH SUCH SUBSEQUENT VIOLATION, BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND NOR MORE THAN FIVE THOUSAND DOLLARS.

(B) (I) ANY PERSON WHO KNOWINGLY DISCLOSES INFORMATION IN VIOLATION OF SUBDIVISION NINE OF THIS SECTION SHALL, FOR EACH SUCH DISCLOSURE, BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED FIFTY NOR MORE THAN FIVE HUNDRED DOLLARS. (II) ANY PERSON WHO KNOWINGLY DISCLOSES INFORMATION IN VIOLATION OF SUBDIVISION NINE OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY PENALIZED UNDER THIS PARAGRAPH FOR ANY SUCH DISCLOSURE WITHIN THE PRECEDING THREE YEARS, SHALL, FOR EACH SUCH SUBSEQUENT DISCLOSURE, BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY OF NOT LESS THAN THREE HUNDRED NOR MORE THAN ONE THOUSAND DOLLARS. (III) ANY PERSON WHO KNOWINGLY DISCLOSES INFORMATION IN VIOLATION OF SUBDIVISION NINE OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY PENALIZED UNDER THIS PARAGRAPH FOR ANY SUCH DISCLOSURE TWO OR MORE TIMES WITHIN THE PRECEDING THREE YEARS, SHALL, FOR EACH SUCH SUBSEQUENT DISCLOSURE, BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND NOR MORE THAN FIVE THOUSAND DOLLARS.

(C) ANY PERSON WHO, EXCEPT AS EXPRESSLY AUTHORIZED BY THIS SECTION OR BY OTHER APPLICABLE STATE OR FEDERAL LAW, RULE OR REGULATION, KNOWINGLY AND INTENTIONALLY ACCESSES THE REPORTING SYSTEM ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

12. EDUCATION AND OUTREACH. THE COMMISSIONER SHALL WORK WITH THE STATE EDUCATION DEPARTMENT AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES TO DEVELOP CONTINUING EDUCATION PROGRAMS FOR PRACTITIONERS, PHARMACISTS AND OTHER PERSONS WHO ARE AUTHORIZED TO PRESCRIBE, ADMINISTER, DISPENSE OR PROVIDE TREATMENT FOR ADDICTION TO OR ABUSE OF CONTROLLED SUBSTANCES, REGARDING (A) THE LAWFUL USES OF THE REPORTING SYSTEM; AND (B) BEST PRACTICES FOR THE PRESCRIBING, IDENTIFICATION, TREATMENT AND REFERRAL OF PATIENTS ADDICTED TO OR ABUSING SUBSTANCES MONITORED BY SUCH REPORTING SYSTEM, INCLUDING, BUT NOT LIMITED TO, SCREENING, BRIEF INTERVENTION AND REFERRAL TO TREATMENT CERTIFICATION.

13. RULES AND REGULATIONS. THE COMMISSIONER SHALL, CONSISTENT WITH THE PROVISIONS OF THIS SECTION AND SECTIONS THIRTY-THREE HUNDRED EIGHT AND THIRTY-THREE HUNDRED FORTY-THREE-B OF THIS ARTICLE, PROMULGATE RULES AND REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS SECTION; PROVIDED HOWEVER, THE COMMISSIONER SHALL NOT PROMULGATE ANY RULE OR REGULATION THAT REQUIRES ANY PRACTITIONER OR PHARMACIST TO PAY A FEE OR TAX SPECIFICALLY DEDICATED TO THE OPERATION OF THE SYSTEM.

S 3. The public health law is amended by adding a new section 3343-b to read as follows:

S 3343-B. ADVISORY BOARD. 1. THERE IS HEREBY ESTABLISHED AN ADVISORY BOARD TO ASSIST THE COMMISSIONER IN CARRYING OUT THE DUTIES OF SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS TITLE. THE ADVISORY BOARD SHALL CONSIST OF FIFTEEN MEMBERS, TO BE APPOINTED AS FOLLOWS:

(A) EIGHT MEMBERS BY THE COMMISSIONER, ONE OF WHICH SHALL BE FROM AMONG NOMINATIONS SUBMITTED BY THE MEDICAL SOCIETY OF THE STATE OF NEW YORK, ONE OF WHICH SHALL BE FROM AMONG NOMINATIONS SUBMITTED BY THE NEW YORK ACADEMY OF MEDICINE, ONE OF WHICH SHALL BE FROM AMONG NOMINATIONS

SUBMITTED BY THE NEW YORK SOCIETY OF ADDICTION MEDICINE, ONE OF WHICH SHALL BE FROM AMONG NOMINATIONS SUBMITTED BY THE PHARMACIST SOCIETY OF THE STATE OF NEW YORK, AND ONE OF WHICH SHALL BE FROM AMONG NOMINATIONS SUBMITTED BY THE CHAIN PHARMACY ASSOCIATION OF THE STATE OF NEW YORK;

(B) ONE MEMBER BY THE STATE BOARD OF MEDICINE;

(C) ONE MEMBER BY THE STATE BOARD OF PHARMACY;

(D) ONE MEMBER BY THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES;

(E) ONE MEMBER BY THE STATE BOARD OF NURSING;

(F) ONE MEMBER BY THE ATTORNEY GENERAL;

(G) ONE MEMBER BY THE SPEAKER OF THE ASSEMBLY; AND

(H) ONE MEMBER BY THE TEMPORARY PRESIDENT OF THE SENATE.

2. THE COMMISSIONER SHALL SEEK AND THE BOARD SHALL PROVIDE INPUT AND ADVICE REGARDING THE DEVELOPMENT AND OPERATION OF THE REPORTING SYSTEM ESTABLISHED PURSUANT TO SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS TITLE, INCLUDING BUT NOT LIMITED TO:

(A) WHICH COVERED DRUGS, AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS TITLE, SHOULD BE REPORTED AND MONITORED;

(B) THE DESIGN AND IMPLEMENTATION OF CONTINUING EDUCATION PROGRAMS ESTABLISHED PURSUANT TO SUBDIVISION TWELVE OF SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS TITLE;

(C) PROCEDURES FOR PRACTITIONERS, PHARMACISTS AND OTHER DISPENSERS TO FOLLOW IN THE EVENT OF A TECHNOLOGICAL FAILURE; AND

(D) PROCEDURES AND SAFEGUARDS TO FACILITATE THE PROPER OPERATION AND USE OF THE REPORTING SYSTEM, ENSURE THE ACCURACY OF INFORMATION MAINTAINED THEREON, AND PREVENT UNAUTHORIZED ACCESS TO OR DISCLOSURE OF SUCH INFORMATION.

3. ALL MEMBERS OF THE BOARD SHALL BE APPOINTED FOR TERMS OF THREE YEARS. ANY MEMBER CHOSEN TO FILL A VACANCY CREATED OTHERWISE THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. VACANCIES CAUSED BY EXPIRATION OF A TERM OR OTHERWISE SHALL BE FILLED PROMPTLY AND IN THE SAME MANNER AS ORIGINAL APPOINTMENTS. ANY MEMBER MAY BE REAPPOINTED FOR ADDITIONAL TERMS. A MEMBER OF THE BOARD SHALL CONTINUE IN SUCH POSITION UPON THE EXPIRATION OF HIS OR HER TERM UNTIL SUCH TIME AS HE OR SHE IS REAPPOINTED OR HIS OR HER SUCCESSOR IS APPOINTED, AS THE CASE MAY BE.

4. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FROM THE STATE FOR THEIR SERVICES AS MEMBERS, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

5. NO MEMBER OF THE BOARD SHALL BE DISQUALIFIED FROM HOLDING ANY PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT, BY REASON OF HIS OR HER APPOINTMENT PURSUANT TO THIS SECTION, NOTWITHSTANDING THE PROVISIONS OF ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE OR CITY CHARTER.

S 4. This act shall take effect immediately; provided, however, that subdivisions 3, 4, 5, 6, 7, 8, 9, 10 and 11 of section 3343-a of the public health law, as added by section two of this act, shall take effect one year after such date.