

7637

I N S E N A T E

June 8, 2012

Introduced by Sens. LANZA, HANNON, GOLDEN, SALAND -- (at request of the Governor) -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed 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
11 permitting pharmacists to access such registry before prescribing or
12 dispensing additional such substances; and requiring that prescriptions
13 be transmitted electronically from practitioners to pharmacists. There-
14 fore, the legislature finds it appropriate and necessary to establish a

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

1 prescription monitoring program registry that is designed to utilize
2 real time data, integrate electronic prescribing, combat overprescribing
3 and doctor-shopping, and curtail abuse and illegal diversion without
4 compromising access to controlled substances for legitimate health care
5 purposes. The legislature further finds that these objectives will be
6 promoted by updating the state's schedules of controlled substances,
7 establishing a program for the safe disposal of controlled substances by
8 consumers, and enhancing opportunities to promote education about
9 controlled substances for the public and practitioners.

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

22 PART A

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

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

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

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

50 (I) THE PATIENT'S NAME;

51 (II) THE PATIENT'S RESIDENTIAL ADDRESS;

52 (III) THE PATIENT'S DATE OF BIRTH;

53 (IV) THE PATIENT'S GENDER;

54 (V) THE DATE ON WHICH THE PRESCRIPTION WAS ISSUED;

- 1 (VI) THE DATE ON WHICH THE CONTROLLED SUBSTANCE WAS DISPENSED;
2 (VII) THE METRIC QUANTITY OF THE CONTROLLED SUBSTANCE DISPENSED;
3 (VIII) THE NUMBER OF DAYS SUPPLY OF THE CONTROLLED SUBSTANCE
4 DISPENSED;
5 (IX) THE NAME OF THE PRESCRIBER;
6 (X) THE PRESCRIBER'S IDENTIFICATION NUMBER, AS ASSIGNED BY THE DRUG
7 ENFORCEMENT ADMINISTRATION;
8 (XI) THE NAME OR IDENTIFIER OF THE DRUG THAT WAS DISPENSED; AND
9 (XII) THE PAYMENT METHOD.

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

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

33 2. DUTY TO CONSULT PRESCRIPTION MONITORING PROGRAM REGISTRY; PRACTI-
34 TIONERS. (A) EVERY PRACTITIONER SHALL CONSULT THE PRESCRIPTION MONITOR-
35 ING PROGRAM REGISTRY PRIOR TO PRESCRIBING OR DISPENSING ANY CONTROLLED
36 SUBSTANCE LISTED ON SCHEDULE II, III OR IV OF SECTION THIRTY-THREE
37 HUNDRED SIX OF THIS ARTICLE, FOR THE PURPOSE OF REVIEWING A PATIENT'S
38 CONTROLLED SUBSTANCE HISTORY AS SET FORTH IN SUCH REGISTRY; PROVIDED,
39 HOWEVER, THAT NOTHING IN THIS SECTION SHALL PRECLUDE AN AUTHORIZED PRAC-
40 TITIONER, OTHER THAN A VETERINARIAN, FROM CONSULTING THE REGISTRY AT HIS
41 OR HER OPTION PRIOR TO PRESCRIBING OR DISPENSING ANY CONTROLLED
42 SUBSTANCE. THE DUTY TO CONSULT THE REGISTRY SHALL NOT APPLY TO:

- 43 (I) VETERINARIANS;
44 (II) A PRACTITIONER DISPENSING PURSUANT TO SUBDIVISION THREE OF
45 SECTION THIRTY-THREE HUNDRED FIFTY-ONE OF THIS ARTICLE;
46 (III) A PRACTITIONER ADMINISTERING A CONTROLLED SUBSTANCE;
47 (IV) A PRACTITIONER PRESCRIBING OR ORDERING A CONTROLLED SUBSTANCE FOR
48 USE ON THE PREMISES OF AN INSTITUTIONAL DISPENSER PURSUANT TO SECTION
49 THIRTY-THREE HUNDRED FORTY-TWO OF THIS TITLE;
50 (V) A PRACTITIONER PRESCRIBING A CONTROLLED SUBSTANCE IN THE EMERGENCY
51 DEPARTMENT OF A GENERAL HOSPITAL, PROVIDED THAT THE QUANTITY OF
52 CONTROLLED SUBSTANCE PRESCRIBED DOES NOT EXCEED A FIVE DAY SUPPLY IF THE
53 CONTROLLED SUBSTANCE WERE USED IN ACCORDANCE WITH THE DIRECTIONS FOR
54 USE;

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

4 (VII) A PRACTITIONER WHEN:

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

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

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

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

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

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

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

54 3. AUTHORITY TO CONSULT PRESCRIPTION MONITORING PROGRAM REGISTRY;
55 PHARMACISTS. (A) A PHARMACIST MAY CONSULT THE PRESCRIPTION MONITORING
56 PROGRAM REGISTRY IN ORDER TO REVIEW THE CONTROLLED SUBSTANCE HISTORY OF

1 AN INDIVIDUAL FOR WHOM ONE OR MORE PRESCRIPTIONS FOR CONTROLLED
2 SUBSTANCES IS PRESENTED TO SUCH PHARMACIST.

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

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

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

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

1 GRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION THIRTY-THREE
2 HUNDRED SEVENTY-ONE OF THIS ARTICLE.

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

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

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

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

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

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

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

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

55 (e) to a practitioner to inform him or her that a patient may be under
56 treatment with a controlled substance by another practitioner[.] FOR THE

1 PURPOSES OF SUBDIVISION TWO OF THIS SECTION, AND TO FACILITATE THE
2 DEPARTMENT'S REVIEW OF INDIVIDUAL CHALLENGES TO THE ACCURACY OF
3 CONTROLLED SUBSTANCES HISTORIES PURSUANT TO SUBDIVISION SIX OF SECTION
4 THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE;

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

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

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

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

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

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

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

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

1 SUBSTANCE HISTORY AS IS AVAILABLE TO THE PRACTITIONER THROUGH THE
2 PRESCRIPTION MONITORING PROGRAM REGISTRY; OR

3 (B) A PHARMACIST, PHARMACY INTERN OR OTHER DESIGNEE AUTHORIZED BY THE
4 PHARMACIST PURSUANT TO PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION
5 THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE, FOR THE PURPOSES OF:

6 (I) CONSULTING THE PRESCRIPTION MONITORING PROGRAM REGISTRY TO REVIEW
7 THE CONTROLLED SUBSTANCES HISTORY OF AN INDIVIDUAL FOR WHOM ONE OR MORE
8 PRESCRIPTIONS FOR CONTROLLED SUBSTANCES IS PRESENTED TO THE PHARMACIST,
9 PURSUANT TO SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE;
10 AND (II) RECEIVING FROM THE DEPARTMENT SUCH NOTIFICATIONS OF CONTROLLED
11 SUBSTANCE ACTIVITY AS ARE MADE AVAILABLE BY THE DEPARTMENT.

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

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

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

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

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

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

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

41 PART B

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

45 PREFERRED DRUG AND CLINICAL DRUG REVIEW PROGRAMS

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

50 PRESCRIPTION DRUGS; VARIOUS PROVISIONS

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

53 TITLE III

54 PRESCRIPTION FORMS, ELECTRONIC PRESCRIBING AND LANGUAGE ASSISTANCE

1 SECTION 281. OFFICIAL NEW YORK STATE PRESCRIPTION FORMS.

2 S 281. OFFICIAL NEW YORK STATE PRESCRIPTION FORMS. 1. IN ADDITION TO
3 THE REQUIREMENTS OF SECTION SIXTY-EIGHT HUNDRED TEN OF THE EDUCATION LAW
4 OR ARTICLE THIRTY-THREE OF THIS CHAPTER, ALL PRESCRIPTIONS WRITTEN IN
5 THIS STATE BY A PERSON AUTHORIZED BY THIS STATE TO ISSUE SUCH
6 PRESCRIPTIONS SHALL BE ON SERIALIZED OFFICIAL NEW YORK STATE
7 PRESCRIPTION FORMS PROVIDED BY THE DEPARTMENT. SUCH FORMS SHALL BE
8 FURNISHED TO PRACTITIONERS AUTHORIZED TO WRITE PRESCRIPTIONS AND TO
9 INSTITUTIONAL DISPENSERS, AND SHALL BE NON-REPRODUCIBLE AND NON-TRANS-
10 FERABLE. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF
11 EDUCATION, MAY PROMULGATE EMERGENCY REGULATIONS FOR THE ELECTRONIC TRAN-
12 SMISSION OF PRESCRIPTIONS FROM PRESCRIBERS TO PHARMACISTS OR FOR ORDER-
13 ING AND FILLING REQUIREMENTS OF PRESCRIPTION DRUGS FOR PRESCRIPTIONS
14 WRITTEN FOR RECIPIENTS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE
15 ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, FOR PARTICIPANTS IN
16 THE PROGRAM FOR ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PURSUANT TO
17 TITLE THREE OF ARTICLE TWO OF THE ELDER LAW AND FOR PRESCRIPTIONS WRIT-
18 TEN PURSUANT TO ARTICLE THIRTY-THREE OF THIS CHAPTER. NOTHING IN THIS
19 SECTION SHALL PROHIBIT THE COMMISSIONER IN CONSULTATION WITH THE COMMIS-
20 SIONER OF EDUCATION FROM PROMULGATING ANY ADDITIONAL EMERGENCY REGU-
21 LATIONS IN FURTHERANCE OF THIS SUBDIVISION.

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

31 3. ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, THE
32 COMMISSIONER SHALL PROMULGATE REGULATIONS, IN CONSULTATION WITH THE
33 COMMISSIONER OF EDUCATION, ESTABLISHING STANDARDS FOR ELECTRONIC
34 PRESCRIPTIONS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR
35 ANY OTHER LAW TO THE CONTRARY, EFFECTIVE TWO YEARS SUBSEQUENT TO THE
36 DATE ON WHICH SUCH REGULATIONS ARE PROMULGATED, NO PERSON SHALL ISSUE
37 ANY PRESCRIPTION IN THIS STATE UNLESS SUCH PRESCRIPTION IS MADE BY ELEC-
38 TRONIC PRESCRIPTION FROM THE PERSON ISSUING THE PRESCRIPTION TO A PHAR-
39 MACY IN ACCORDANCE WITH SUCH REGULATORY STANDARDS, EXCEPT FOR
40 PRESCRIPTIONS: (A) ISSUED BY VETERINARIANS; (B) ISSUED IN CIRCUMSTANCES
41 WHERE ELECTRONIC PRESCRIBING IS NOT AVAILABLE DUE TO TEMPORARY TECHNO-
42 LOGICAL OR ELECTRICAL FAILURE, AS SET FORTH IN REGULATION; (C) ISSUED BY
43 PRACTITIONERS WHO HAVE RECEIVED A WAIVER OR A RENEWAL THEREOF FOR A
44 SPECIFIED PERIOD DETERMINED BY THE COMMISSIONER, NOT TO EXCEED ONE YEAR,
45 FROM THE REQUIREMENT TO USE ELECTRONIC PRESCRIBING, PURSUANT TO A PROC-
46 ESS ESTABLISHED IN REGULATION BY THE COMMISSIONER, IN CONSULTATION WITH
47 THE COMMISSIONER OF EDUCATION, DUE TO ECONOMIC HARDSHIP, TECHNOLOGICAL
48 LIMITATIONS THAT ARE NOT REASONABLY WITHIN THE CONTROL OF THE PRACTI-
49 TIONER, OR OTHER EXCEPTIONAL CIRCUMSTANCE DEMONSTRATED BY THE PRACTI-
50 TIONER; (D) ISSUED BY A PRACTITIONER UNDER CIRCUMSTANCES WHERE, NOTWITH-
51 STANDING THE PRACTITIONER'S PRESENT ABILITY TO MAKE AN ELECTRONIC
52 PRESCRIPTION AS REQUIRED BY THIS SUBDIVISION, SUCH PRACTITIONER REASON-
53 ABLY DETERMINES THAT IT WOULD BE IMPRACTICAL FOR THE PATIENT TO OBTAIN
54 SUBSTANCES PRESCRIBED BY ELECTRONIC PRESCRIPTION IN A TIMELY MANNER, AND
55 SUCH DELAY WOULD ADVERSELY IMPACT THE PATIENT'S MEDICAL CONDITION,
56 PROVIDED THAT IF SUCH PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE, THE

1 QUANTITY OF CONTROLLED SUBSTANCES DOES NOT EXCEED A FIVE DAY SUPPLY IF
2 THE CONTROLLED SUBSTANCE WERE USED IN ACCORDANCE WITH THE DIRECTIONS FOR
3 USE; OR (E) ISSUED BY A PRACTITIONER TO BE DISPENSED BY A PHARMACY
4 LOCATED OUTSIDE THE STATE, AS SET FORTH IN REGULATION.

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

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

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

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

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

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

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

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

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

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

28 PART C

29 Section 1. Paragraph 1 of subdivision (b) of schedule II of section
30 3306 of the public health law, as amended by chapter 457 of the laws of
31 2006, is amended to read as follows:

32 (1) Opium and opiate, and any salt, compound, derivative, or prepara-
33 tion of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine,
34 nalmeffene, naloxone, and naltrexone, and their respective salts, but
35 including the following:

- 36 1. Raw opium.
- 37 2. Opium extracts.
- 38 3. Opium fluid.
- 39 4. Powdered opium.
- 40 5. Granulated opium.
- 41 6. Tincture of opium.
- 42 7. Codeine.
- 43 8. Ethylmorphine.
- 44 9. Etorphine hydrochloride.
- 45 10. Hydrocodone (ALSO KNOWN AS DIHYDROCODEINONE).
- 46 11. Hydromorphone.
- 47 12. Metopon.
- 48 13. Morphine.
- 49 14. Oxycodone.
- 50 15. Oxymorphone.
- 51 16. Thebaine.
- 52 17. Dihydroetorphine.
- 53 18. ORIPAVINE.

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

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

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

11 (2) 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 ONE OR MORE ACTIVE NONNARCOTIC INGREDIENTS IN
14 RECOGNIZED THERAPEUTIC AMOUNTS.

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

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

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

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

27 (28) TAPENTADOL.

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

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

36 (1) Amphetamine[, its salts, optical isomers, and salts of its optical
37 isomers].

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

39 (3) Phenmetrazine [and its salts].

40 (4) Methylphenidate.

41 (5) Lisdexamfetamine.

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

44 (3) IMMEDIATE PRECURSOR TO FENTANYL:

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

46 S 8. Subdivision (h) of schedule II 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 (h) Anabolic steroids. Unless specifically excepted or unless listed
50 in another schedule, "anabolic steroid" shall mean any drug or hormonal
51 substance, chemically and pharmacologically related to testosterone
52 (other than estrogens, progestins, corticosteroids and dehydroepiandrosterone)
53 [that promotes muscle growth, or any material, compound,
54 mixture, or preparation which contains any amount of the following
55 substances] AND INCLUDES:

56 (1) 3{beta}, 17-dihydroxy-5a-androstane.

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

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

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

55 Unless specifically excepted or unless listed in another schedule, any
56 material, compound, mixture, or preparation which contains any quantity

1 of the following substances having a depressant effect on the central
2 nervous system, INCLUDING ITS SALTS, ISOMERS, AND SALTS OF ISOMERS:

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

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

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

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

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

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

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

29 [(6)] (4) Not more than three hundred milligrams of ethylmorphine per
30 one hundred milliliters or not more than fifteen milligrams per dosage
31 unit, with one or more active, nonnarcotic ingredients in recognized
32 therapeutic amounts.

33 [(7)] (5) Not more than five hundred milligrams of opium per one
34 hundred milliliters or per one hundred grams or not more than twenty-
35 five milligrams per dosage unit, with one or more active, nonnarcotic
36 ingredients in recognized therapeutic amounts.

37 [(8)] (6) Not more than fifty milligrams of morphine per one hundred
38 milliliters or per one hundred grams, with one or more active, nonnar-
39 cotic ingredients in recognized therapeutic amounts.

40 [(9)] (7) Buprenorphine in any quantities.

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

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

47 [(ii) Any drug product in tablet or capsule form containing natural
48 dronabinol derived from the cannabis (plant) or synthetic dronabinol
49 (produced from synthetic materials) for which an abbreviated new drug
50 application (ANDA) has been approved by the FDA under section 505(j) of
51 the Federal Food, Drug, and Cosmetic Act which references as its listed
52 drug the drug product referred to in paragraph (i) of this subdivision.]
53 Some other names for dronabinol include: (6aR-trans)-6a, 7, 8, 10a-tet-
54 rahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo{b,d} pyran-1-ol, or
55 (-)-delta-9-(trans) - tetrahydrocannabinol.

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

4 (52) FOSPROPOFOL.

5 (53) CARISOPRODOL.

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

9 (11) [Modafanil] MODAFINIL.

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

12 (3) TRAMADOL IN ANY QUANTITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 7. A practitioner may not administer, prescribe or dispense any
52 substance referred to in subdivision (h) [or subdivision (j)] of Sched-
53 ular II, AND SUBDIVISION (G) OF SCHEDULE III, of section three thousand
54 three hundred six of this article for other than therapeutic purposes. A
55 practitioner may not administer, prescribe or dispense any such
56 substance to any individual without first obtaining the informed consent

1 of such individual, or where the individual lacks capacity to give such
2 consent, a person legally authorized to consent on his or her behalf.

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

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

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

12 PART D

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

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

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

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

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

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

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

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

24 S 3. This act shall take effect immediately.

25

PART E

26 Section 1. The public health law is amended by adding a new section
27 3343-b to read as follows:

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

48 S 2. This act shall take effect immediately.

49 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
50 sion, section or part of this act shall be adjudged by any court of
51 competent jurisdiction to be invalid, such judgment shall not affect,
52 impair or invalidate the remainder thereof, but shall be confined in its
53 operation to the clause, sentence, paragraph, subdivision, section or
54 part thereof directly involved in the controversy in which such judgment

1 shall have been rendered. It is hereby declared to be the intent of the
2 legislature that this act would have been enacted even if such invalid
3 provisions had not been included herein.

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