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I N   A S S E M B L Y

April 30, 2014

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Introduced by M. of A. PICHARDO -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the "topical medication safety and efficacy act"

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "topical medication safety and efficacy act."

3     S 2. Legislative findings and intent. The legislature recognizes that  
4     medicine is an important and ever-changing field marked by constant  
5     advances in knowledge and methods. Modern pharmaceutical research has  
6     expanded the ability of physicians to heal their patients, but these new  
7     discoveries require not just new chemical compounds, but also occa-  
8     sionally require new methods of administering treatments and distribut-  
9     ing medicines to patients. For some topically applied medications, the  
10    safety and efficacy of the treatments are enhanced when patients can  
11    obtain their medicines directly from their physicians and immediately  
12    learn correct application techniques under the doctor's supervision.  
13    This is especially true in the case of medications used to treat skin  
14    discoloration affecting people of color. Due to the sensitivity of the  
15    skin and eyes, patients often require additional guidance from physi-  
16    cians in the proper administration of treatments, and this method of  
17    instruction coupled with dispensing by physicians currently helps  
18    millions of patients around the country. Unfortunately, New York State  
19    law has failed to similarly keep pace with medical developments, and New  
20    York is one of only five states in the nation that prohibits the  
21    dispensing of medications by physicians. This has resulted in certain  
22    medications not being as accessible to New York patients as they are in  
23    other states, keeping some patients away from desired treatments, and  
24    driving others out of state to obtain treatment.

25    S 3. Section 6802 of the education law is amended by adding a new  
26    subdivision 27 to read as follows:

27    27. "TOPICAL PHARMACEUTICAL" MEANS:

28    A. BIMATOPROST;

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

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- B. HYDROQUINONE;
- C. METRONIDAZOLE;
- D. TRETINOIN;
- E. IMIQUIMOD;
- F. ACYCLOVIR; OR
- G. A DRUG THAT:

(1) IS NOT A CONTROLLED SUBSTANCE;

(2) REQUIRES A PRESCRIPTION FOR DISPENSATION;

(3) HAS BEEN REGISTERED WITH OR APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION; AND

(4) IS PRESCRIBED FOR THE SKIN, THE TREATMENT OF A SKIN CONDITION, OR THE ENHANCEMENT OF AN INDIVIDUAL'S APPEARANCE.

S 4. Subparagraph 9 of paragraph a of subdivision 2 of section 6807 of the education law, as amended by chapter 538 of the laws of 2001, is amended and a new subparagraph 10 is added to read as follows:

(9) the dispensing of drugs pursuant to an oncological or AIDS protocol; OR

(10) THE DISPENSING OF A TOPICAL PHARMACEUTICAL IN EXCESS OF THE PATIENT'S IMMEDIATE NEEDS WHEN DISPENSED BY A PHYSICIAN, WHERE THE PHYSICIAN:

I. TO THE EXTENT A TOPICAL PHARMACEUTICAL IS AVAILABLE AT A PHARMACY, INFORMS THE PATIENT THAT THE PRESCRIPTION MAY BE FILLED AT A PHARMACY OR DISPENSED IN THE PHYSICIAN'S OFFICE;

II. DISPENSES ONLY TO THE PHYSICIAN'S PATIENTS;

III. BELIEVES THAT DISPENSING WOULD IMPROVE THE SAFETY AND EFFICACY OF THE DRUG OR COMPLIANCE WITH TREATMENT BY THAT PATIENT; AND

IV. COMPLIES WITH ALL STATE AND FEDERAL LABELING AND RECORD KEEPING REQUIREMENTS APPLICABLE TO THE AESTHETIC PHARMACEUTICAL. A RECORD MAINTAINED UNDER THIS SUBPARAGRAPH MUST BE ACCESSIBLE TO THE EXTENT REQUIRED BY STATE AND FEDERAL LAW. A PHYSICIAN MAY CHARGE A FEE FOR DISPENSING AN AESTHETIC PHARMACEUTICAL.

S 5. This act shall take effect immediately.