

STATE OF NEW YORK

10392--A

IN ASSEMBLY

April 18, 2018

Introduced by M. of A. McDONALD, D'URSO, BRAUNSTEIN, JENNE, WILLIAMS, SEAWRIGHT, SEPULVEDA, COOK, CAHILL, RIVERA, ARROYO, CASTORINA, BLANK-ENBUSH, RAIA, RA, LAWRENCE, MORINELLO, GOTTFRIED, ERRIGO -- Multi-Sponsored by -- M. of A. GALEF, SIMON -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the education law, in relation to the dispensing of partially filled prescriptions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 3333 of the public health law is amended by adding a new subdivision 6 to read as follows:

6. At the request of the prescriber or the patient, a prescription for a schedule II, schedule III or schedule IV controlled substance may be partially filled within thirty days from the date of issuance of the prescription. The remaining quantity of the prescription may be dispensed separately within thirty days from the date of issue of the prescription, provided that the controlled substance was used in conformity with directions for use and consistent with applicable federal regulations and regulations of the commissioner.

§ 2. Paragraph a of subdivision 1 of section 6816 of the education law, as amended by chapter 710 of the laws of 1988, is amended to read as follows:

a. Any person, who, in putting up any drug, medicine, or food or preparation used in medical practice, or making up any prescription, or filling any order for drugs, medicines, food or preparation puts any untrue label, stamp or other designation of contents upon any box, bottle or other package containing a drug, medicine, food or preparation used in medical practice, or substitutes or dispenses a different article for or in lieu of any article prescribed, ordered, or demanded, except where required pursuant to section sixty-eight hundred sixteen-a of this article, or puts up a greater or lesser quantity of any ingredient specified in any such prescription, order or demand than that

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

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1 prescribed, ordered or demanded, except where required pursuant to para-
2 graph (g) of subdivision two of section three hundred sixty-five-a of
3 the social services law or allowed pursuant to section thirty-three
4 hundred thirty-three of the public health law, or otherwise deviates
5 from the terms of the prescription, order or demand by substituting one
6 drug for another, except where required pursuant to section sixty-eight
7 hundred sixteen-a of this article, is guilty of a misdemeanor; provided,
8 however, that except in the case of physicians' prescriptions, nothing
9 herein contained shall be deemed or construed to prevent or impair or in
10 any manner affect the right of an apothecary, druggist, pharmacist or
11 other person to recommend the purchase of an article other than that
12 ordered, required or demanded, but of a similar nature, or to sell such
13 other article in place or in lieu of an article ordered, required or
14 demanded, with the knowledge and consent of the purchaser. Upon a second
15 conviction for a violation of this section the offender must be
16 sentenced to the payment of a fine not to exceed one thousand dollars
17 and may be sentenced to imprisonment for a term not to exceed one year.
18 The third conviction of a violation of any of the provisions of this
19 section, in addition to rendering the offender liable to the penalty
20 prescribed by law for a second conviction, shall forfeit any right which
21 he may possess under the law of this state at the time of such
22 conviction, to engage as proprietor, agent, employee or otherwise, in
23 the business of an apothecary, pharmacist, or druggist, or to compound,
24 prepare or dispense prescriptions or orders for drugs, medicines or
25 foods or preparations used in medical practice; and the offender shall
26 be by reason of such conviction disqualified from engaging in any such
27 business as proprietor, agent, employee or otherwise or compounding,
28 preparing or dispensing medical prescriptions or orders for drugs, medi-
29 cines, or foods or preparations used in medical practice.

30 § 3. This act shall take effect on the first of January next succeed-
31 ing the date upon which it shall have become a law. Effective immediate-
32 ly the addition, amendment and/or repeal of any rule or regulation
33 necessary for the implementation of this act on its effective date are
34 authorized to be made on or before such date.