

# STATE OF NEW YORK

5171--B

2017-2018 Regular Sessions

## IN SENATE

March 10, 2017

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to authorizing pharmacists to refill non-controlled substance prescriptions for quantities of drugs not to exceed a ninety day supply, subject to certain conditions

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

1 Section 1. The opening paragraph of paragraph (a) of subdivision 2 of  
2 section 6810 of the education law, as amended by chapter 413 of the laws  
3 of 2014, is amended to read as follows:

4 A prescription may not be refilled unless it bears a contrary instruc-  
5 tion and indicates on its face the number of times it may be refilled. A  
6 prescription may not be refilled more times than allowed on the  
7 prescription. The date of each refilling must be indicated on the  
8 original prescription. Prescriptions for controlled substances shall be  
9 refilled only pursuant to article thirty-three of the public health law.

10 A pharmacist may refill a prescription for a quantity of a drug greater  
11 than the initial quantity of a drug prescribed by the prescribing prac-  
12 titioner provided that:

13 (i) such refill is made after the patient's initial prescription is  
14 dispensed;

15 (ii) such refill does not exceed a ninety day supply of such drug and  
16 does not exceed the total quantity of such drug authorized by the pres-  
17 criber;

18 (iii) the prescriber has not indicated that the initial quantity or  
19 refill quantity of the prescribed drug shall not be changed;

20 (iv) such drug is not a controlled substance;

21 (v) refills for a ninety day supply of such drug shall not exceed more  
22 than five such refills in a calendar year and shall not exceed the total  
23 quantity of such drug authorized by the prescriber;

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

LBD10380-07-7

1 (vi) the pharmacist informs the prescriber of such refill as soon as  
2 is reasonably possible, but no later than forty-eight hours after such  
3 refill is made. The communication shall be conveyed to the prescriber  
4 (i) by using an interoperable electronic medical records system, an  
5 electronic prescribing technology or a pharmacy record; or (ii) by using  
6 facsimile, telephone, electronic transmission, or other prevailing  
7 means; and

8 (vii) the patient's pharmacy benefit health insurance policy or health  
9 benefit plan, if any, will cover the refill quantity dispensed, without  
10 additional co-insurance, deductible or other out-of-pocket expense  
11 whether medicine is dispensed in a pharmacy or through mail order.

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

15 a. Any person, who, in putting up any drug, medicine, or food or prep-  
16 aration used in medical practice, or making up any prescription, or  
17 filling any order for drugs, medicines, food or preparation puts any  
18 untrue label, stamp or other designation of contents upon any box,  
19 bottle or other package containing a drug, medicine, food or preparation  
20 used in medical practice, or substitutes or dispenses a different arti-  
21 cle for or in lieu of any article prescribed, ordered, or demanded,  
22 except where required pursuant to section sixty-eight hundred sixteen-a  
23 of this article, or puts up a greater or lesser quantity of any ingredi-  
24 ent specified in any such prescription, order or demand than that  
25 prescribed, ordered or demanded, except where required pursuant to para-  
26 graph (g) of subdivision two of section three hundred sixty-five-a of  
27 the social services law or when refilling a prescription with a greater  
28 quantity than prescribed pursuant to paragraph (a) of subdivision two of  
29 section six thousand eight hundred ten of this article, or otherwise  
30 deviates from the terms of the prescription, order or demand by substi-  
31 tuting one drug for another, except where required pursuant to section  
32 sixty-eight hundred sixteen-a of this article, is guilty of a misdemea-  
33 nor; provided, however, that except in the case of physicians'   
34 prescriptions, nothing herein contained shall be deemed or construed to  
35 prevent or impair or in any manner affect the right of an apothecary,  
36 druggist, pharmacist or other person to recommend the purchase of an  
37 article other than that ordered, required or demanded, but of a similar  
38 nature, or to sell such other article in place or in lieu of an article  
39 ordered, required or demanded, with the knowledge and consent of the  
40 purchaser. Upon a second conviction for a violation of this section the  
41 offender must be sentenced to the payment of a fine not to exceed one  
42 thousand dollars and may be sentenced to imprisonment for a term not to  
43 exceed one year. The third conviction of a violation of any of the  
44 provisions of this section, in addition to rendering the offender liable  
45 to the penalty prescribed by law for a second conviction, shall forfeit  
46 any right which he may possess under the law of this state at the time  
47 of such conviction, to engage as proprietor, agent, employee or other-  
48 wise, in the business of an apothecary, pharmacist, or druggist, or to  
49 compound, prepare or dispense prescriptions or orders for drugs, medi-  
50 cines or foods or preparations used in medical practice; and the offen-  
51 der shall be by reason of such conviction disqualified from engaging in  
52 any such business as proprietor, agent, employee or otherwise or  
53 compounding, preparing or dispensing medical prescriptions or orders for  
54 drugs, medicines, or foods or preparations used in medical practice.

55 § 3. This act shall take effect immediately.