

STATE OF NEW YORK

9034

IN ASSEMBLY

January 10, 2020

Introduced by M. of A. McDONALD, D'URSO, BRAUNSTEIN, WILLIAMS, SEAWRIGHT, COOK, CAHILL, RIVERA, ARROYO, BLANKENBUSH, RA, LAWRENCE, MORINELLO, GOTTFRIED, BLAKE, FAHY, OTIS, HAWLEY, TAYLOR, SAYEGH, ASHBY, PICHARDO, SMULLEN, WALCZYK, STIRPE, BYRNE, GRIFFIN -- Multi-Sponsored by -- M. of A. GALEF, GIGLIO, SIMON, TAGUE, THIELE -- read once and referred to the Committee on Higher Education

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:

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

3 6. At the request of the prescriber or the patient, a prescription for
4 a schedule II, schedule III, schedule IV or schedule V controlled
5 substance may be partially filled provided that the partial filling is
6 recorded in the same manner as a refill. The remaining quantity of the
7 prescription may be dispensed separately only once in conformity with
8 directions for use.

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

12 a. Any person, who, in putting up any drug, medicine, or food or prep-
13 aration used in medical practice, or making up any prescription, or
14 filling any order for drugs, medicines, food or preparation puts any
15 untrue label, stamp or other designation of contents upon any box,
16 bottle or other package containing a drug, medicine, food or preparation
17 used in medical practice, or substitutes or dispenses a different arti-
18 cle for or in lieu of any article prescribed, ordered, or demanded,
19 except where required pursuant to section sixty-eight hundred sixteen-a
20 of this article, or puts up a greater or lesser quantity of any ingredi-
21 ent specified in any such prescription, order or demand than that
22 prescribed, ordered or demanded, except where required pursuant to para-
23 graph (g) of subdivision two of section three hundred sixty-five-a of
24 the social services law or allowed pursuant to section thirty-three

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

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

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