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:

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, schedule IV or schedule V controlled substance may be partially filled provided that the partial filling is recorded in the same manner as a refill. The remaining quantity of the prescription may be dispensed separately only once in conformity with directions for use.

§ 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 prescribed, ordered or demanded, except where required pursuant to paragraph (g) of subdivision two of section three hundred sixty-five-a of 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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hundred thirty-three of the public health law, or otherwise deviates from the terms of the prescription, order or demand by substituting one drug for another, except where required pursuant to section sixty-eight hundred sixteen-a of this article, is guilty of a misdemeanor; provided, however, that except in the case of physicians' prescriptions, nothing herein contained shall be deemed or construed to prevent or impair or in any manner affect the right of an apothecary, druggist, pharmacist or other person to recommend the purchase of an article other than that ordered, required or demanded, but of a similar nature, or to sell such other article in place or in lieu of an article ordered, required or demanded, with the knowledge and consent of the purchaser. Upon a second conviction for a violation of this section the offender must be sentenced to the payment of a fine not to exceed one thousand dollars and may be sentenced to imprisonment for a term not to exceed one year. The third conviction of a violation of any of the provisions of this section, in addition to rendering the offender liable to the penalty prescribed by law for a second conviction, shall forfeit any right which he may possess under the law of this state at the time of such conviction, to engage as proprietor, agent, employee or otherwise, in the business of an apothecary, pharmacist, or druggist, or to compound, prepare or dispense prescriptions or orders for drugs, medicines or foods or preparations used in medical practice; and the offender shall be by reason of such conviction disqualified from engaging in any such business as proprietor, agent, employee or otherwise or compounding, preparing or dispensing medical prescriptions or orders for drugs, medicines, or foods or preparations used in medical practice.

§ 3. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.