PART V

21 Section 1. The opening paragraph of section 21 of the public health

22 law is designated subdivision 1 and a new subdivision 2 is added to read

23 as follows:

24 2. **THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCA-**

**25 TION, SHALL PROMULGATE REGULATIONS REQUIRING THAT PRESCRIPTION FORMS AND**

**26 ELECTRONIC PRESCRIPTIONS INCLUDE: (A) A SECTION WHEREIN PRESCRIBERS MAY**

**27 INDICATE WHETHER AN INDIVIDUAL IS LIMITED ENGLISH PROFICIENT, AS DEFINED**

**28 IN SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW; AND (B)**

**29 IF THE PATIENT IS LIMITED ENGLISH PROFICIENT, A LINE WHERE THE PRESCRI-**

**30 BER MAY SPECIFY THE PREFERRED LANGUAGE INDICATED BY THE PATIENT. FAIL-**

**31 URE TO INCLUDE SUCH INDICATION ON THE PART OF THE PRESCRIBER SHALL NOT**

**32 INVALIDATE THE PRESCRIPTION.**

33 S 2. Subdivision 1 of section 6810 of the education law, as amended by

34 chapter 905 of the laws of 1985, is amended to read as follows:

35 1. No drug for which a prescription is required by the provisions of

36 the Federal Food, Drug and Cosmetic Act or by the commissioner of health

37 shall be distributed or dispensed to any person except upon a

38 prescription written by a person legally authorized to issue such

39 prescription. Such drug shall be compounded or dispensed by a licensed

40 pharmacist, and no such drug shall be dispensed without affixing to the

41 immediate container in which the drug is sold or dispensed a label bear-

42 ing the name and address of the owner of the establishment in which it

43 was dispensed, the date compounded, the number of the prescription under

44 which it is recorded in the pharmacist's prescription files, the name of

45 the prescriber, the name and address of the patient, and the directions

46 for the use of the drug by the patient as given upon the prescription.

47 ALL LABELS SHALL CONFORM TO SUCH RULES AND REGULATIONS AS PROMULGATED BY

48 THE COMMISSIONER PURSUANT TO SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF

49 THIS ARTICLE. The prescribing and dispensing of a drug which is a

50 controlled substance shall be subject to additional requirements

51 provided in article thirty-three of the public health law. The words

52 "drug" and "prescription required drug" within the meaning of this arti-

53 cle shall not be construed to include soft or hard contact lenses,

54 eyeglasses, or any other device for the aid or correction of vision.

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1 Nothing in this subdivision shall prevent a pharmacy from furnishing a

2 drug to another pharmacy which does not have such drug in stock for the

3 purpose of filling a prescription.

4 § 3. The education law is amended by adding a new section 6829 to read

5 as follows:

6 **§ 6829. Interpretation and translation requirements for prescription**

7 **drugs and standardized medication labeling. 1. For the purposes of this**

8 **section, the following terms shall have the following meanings: (a)**

9 **"Covered pharmacy" means any pharmacy that is part of a group of eight**

10 **or more pharmacies, located within New York state and owned by the same**

11 **corporate entity. For purposes of this section, "corporate entity"**

12 **shall include related subsidiaries, affiliates, successors, or assignees**

13 **doing business as or operating under a common name or trading symbol.**

14 **(b) "Limited English proficient individual" or "LEP individual" means**

15 **an individual who identifies as being, or is evidently, unable to speak,**

16 **read or write English at a level that permits such individual to under-**

17 **stand health-related and pharmaceutical information communicated in**

18 **English.**

19 **(c) "Translation" shall mean the conversion of a written text from one**

20 **language into an equivalent written text in another language by an indi-**

21 **vidual competent to do so and utilizing all necessary pharmaceutical and**

22 **health-related terminology. Such translation may occur, where appropri-**

23 **ate, in a separate document provided to an LEP individual that accompa-**

24 **nies his or her medication.**

25 **(d) "Competent oral interpretation" means oral communication in which**

26 **a person acting as an interpreter comprehends a message and re-expresses**

27 **that message accurately in another language, utilizing all necessary**

28 **pharmaceutical and health-related terminology, so as to enable an LEP**

29 **individual to receive all necessary information in the LEP individual's**

30 **preferred pharmacy primary language.**

31 **(e) "Pharmacy primary languages" shall mean those languages spoken by**

32 **one percent or more of the population, as determined by the U.S. Census,**

33 **for each region, as established by regulations promulgated pursuant to**

34 **this section, provided, however, that the regulations shall not require**

35 **translation or competent oral interpretation of more than seven**

36 **languages in any region.**

37 **(f) "Mail order pharmacy" shall mean a pharmacy that dispenses most of**

38 **its prescriptions through the United States postal service or other**

39 **delivery system.**

40 **2. (a) Every covered pharmacy shall provide free, competent oral**

41 **interpretation services and translation services to each LEP individual**

42 **requesting such services or filling a prescription that indicates that**

43 **the individual is limited English proficient at such covered pharmacy in**

44 **the LEP individual's preferred pharmacy primary language for the**

45 **purposes of counseling such individual about his or her prescription**

46 **medications or when soliciting information necessary to maintain a**

47 **patient medication profile, unless the LEP individual is offered and**

48 **refuses such services.**

49 **(b) Every covered pharmacy shall provide free, competent oral inter-**

50 **pretation services and translation services of prescription medication**

51 **labels, warning labels and other written material to each LEP individual**

52 **filling a prescription at such covered pharmacy, unless the LEP individ-**

53 **ual is offered and refuses such services or the medication label, warn-**

54 **ing labels and other written materials have already been translated into**

55 **the language spoken by the LEP individual.**

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1 **(c) The services required by this section may be provided by a staff**

2 **member of the pharmacy or a third-party contractor. Such services must**

3 **be provided on an immediate basis but need not be provided in-person or**

4 **face-to-face in order to meet the requirements of this section.**

5 **3. Every covered pharmacy shall conspicuously post, at or adjacent to**

6 **each counter over which prescription drugs are sold, a notification of**

7 **the right to free, competent oral interpretation services and trans-**

8 **lation services for limited English proficient individuals as provided**

9 **for in subdivision two of this section. Such notifications shall be**

10 **provided in the pharmacy primary languages. The size, style and place-**

11 **ment of such notice shall be determined in accordance with rules promul-**

12 **gated pursuant to this section.**

13 **4. The commissioner, in consultation with the commissioner of health,**

14 **shall promulgate regulations requiring that mail order pharmacies**

15 **conducting business in the state provide free, competent oral interpre-**

16 **tation services and translation services to persons filling a**

17 **prescription through such mail order pharmacies whom are identified as**

18 **LEP individuals. Such regulations shall take effect one year after the**

19 **effective date of this section; provided, however, that they shall be**

20 **promulgated pursuant to the requirements of the state administrative**

21 **procedure act, address the concerns of affected stakeholders, and**

22 **reflect the findings of a thorough analysis of issues including:**

23 **(a) how persons shall be identified as an LEP individual, in light of**

24 **the manner by which prescriptions are currently received by such mail**

25 **order pharmacies;**

26 **(b) which languages shall be considered;**

27 **(c) the manner and circumstances in which competent oral interpreta-**

28 **tion services and translation services shall be provided;**

29 **(d) the information for which competent oral interpretation services**

30 **and translation services shall be provided;**

31 **(e) anticipated utilization, available resources, and cost consider-**

32 **ations; and**

33 **(f) standards for monitoring compliance with regulations and ensuring**

34 **the delivery of quality competent oral interpretation services and**

35 **translation services.**

36 **The commissioner, in consultation with the commissioner of health,**

37 **shall provide a report on implementation, utilization, unanticipated**

38 **problems, and corrective actions undertaken and planned to the temporary**

39 **president of the senate and the speaker of the assembly no later than**

40 **two years after the effective date of this section.**

41 **5. Covered pharmacies shall not be liable for injuries resulting from**

42 **the actions of third-party contractors taken pursuant to and within the**

43 **scope of the contract with the covered pharmacy as long as the covered**

44 **pharmacy entered into such contract reasonably and in good faith to**

45 **comply with this section, and was not negligent with regard to the**

46 **alleged misconduct of the third-party contractor.**

47 **6. The regulations promulgated pursuant to this section shall estab-**

48 **lish a process by which covered pharmacies may apply and receive a waiv-**

49 **er from compliance with subdivisions two and three of this section upon**

50 **a showing that implementation would be unnecessarily burdensome when**

51 **compared to the need for such services.**

52 **7. The commissioner shall promulgate regulations in consultation with**

53 **the commissioner of health to effectuate the requirements of this**

54 **section.**

55 § 4. The education law is amended by adding a new section 6830 to read

56 as follows:

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1 **§ 6830. Standardized patient-centered data elements. 1. The commis-**

2 **sioner shall develop rules and regulations requiring standardized**

3 **patient-centered data elements consistent with existing technology and**

4 **equipment to be used on all prescription medicine dispensed to patients**

5 **in this state.**

6 **2. When developing the requirements for patient-centered data elements**

7 **on prescription drug labels, the commissioner shall consider:**

8 **(a) medical literacy research that identifies factors that improve**

9 **understandability of labels and promotes increased compliance with a**

10 **drug's intended use;**

11 **(b) factors that improve the clarity of directions for use;**

12 **(c) font types and sizes;**

13 **(d) inclusion of only patient-centered information; and**

14 **(e) the needs of special populations.**

15 **To ensure public input, the commissioner shall solicit input from the**

16 **state board of pharmacy and the state board of medicine, consumer**

17 **groups, advocates for special populations, pharmacists, physicians,**

18 **other health care professionals authorized to prescribe, and other**

19 **interested parties.**

20 § 5. The regulations adopted pursuant to this act shall preempt any

21 contrary local law or ordinance; provided, however, that cities with a

22 population of 100,000 or more may retain or promulgate such local laws

23 or ordinances imposing additional or stricter requirements relating to

24 interpretation services or translation services in pharmacies. This act,

25 and regulations adopted pursuant to this act, shall not diminish or

26 impair any requirement that any pharmacy or pharmacist provide any

27 language assistance, interpretation, or translation under any applicable

28 federal or state law, local law or ordinance (unless preempted by this

29 section), consent decree or judicial settlement, judgment or order.

30 § 6. This act shall take effect one year after it shall have become a

31 law. Effective immediately, the commissioner of health, the commission-

32 er of education and the state board of pharmacy are immediately author-

33 ized and directed to take actions necessary to implement this act when

34 it takes effect.