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HOUSE . . . . . No. 4479

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act RELATIVE PRESCRIPTION DRUG WASTE..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 111 of the General Laws is hereby amended by striking out section 25I, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 25I. The department, in conjunction with the board of registration in pharmacy and the division of medical assistance, shall establish and implement methods to reduce medication waste in facilities licensed by the departments of public health, mental health and corrections. The department shall establish such methods, based on its review, that are determined to be effective in reducing waste without imposing unreasonable costs on the health care delivery system. Such methods may be based on, but not be limited to, the following: (1) current technology, standards and reimbursement mechanisms for dispensing and distributing medications to facilities; (2) other states' requirements for limiting prescription drug waste and any cost savings realized; (3) the commonwealth's standards for the return and re-dispensing of patient-specific schedule VI prescription drugs; and (4) possible incentive mechanisms to prevent the creation of prescription drug waste.

SECTION 2. The fifth paragraph of section 70E of said chapter 111, as so appearing, is hereby amended by adding the following subsection:-

(p) to obtain from the facility in charge of the patient's care, upon discharge, any bulk medications that were prescribed for the patient during the patient's stay including, but not limited to, aerosol inhalers, topical products such as creams and powders eye drops, insulins and special order items, provided that any such items are patient specific and personal and would not otherwise be used in the treatment of another patient. Upon discharge from the hospital, these bulk items shall be considered the personal property of the patient and at the prescribing physician's discretion may include in discharge orders that the patient be provided with the specific bulk products that were used in the hospital with use directions. The department shall promulgate regulations to implement this section.

SECTION 3. The department of public health, in consultation with the board of registration in pharmacy shall, as part of its program to establish and implement methods to reduce medication waste, in section 1 of this act, provide to the joint committee on public health, on or before July 1, 2010 a report and legislative recommendations relative to issues of implementation of such methods, including, but not limited to: criminal prosecution, liability in tort or other civil action for injury, death, or loss to person or property, or professional disciplinary action for pharmacies, drug manufacturers, health care facilities, or government entities participating in any such program.

SECTION 4. The commissioner of the department of public health, in consultation with the board of pharmacy, shall promulgate rules and regulations to establish and implement programs to eliminate medication waste pursuant to section 25I of chapter 111 of the General

Laws, on or before June 1, 2010. Except for emergency regulations adopted pursuant to section 2 of chapter 30A of the general laws, any regulation, as defined in section 1 of said chapter 30A, or any amendment or repeal of any such regulation adopted by the commissioner pursuant to section 35I of chapter 111 of the general laws, shall, after compliance with all applicable provisions of said chapter 30A, except section 5, be submitted to the general court. Said commissioner shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter 30A, except section 5 have been complied with. The clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the joint committee on public health. Within 30 days after such referral, said committee may hold a public hearing on the regulations and shall issue a report to said commissioner. Said report shall contain any proposed changes to the regulations voted upon by the committee. The commissioner shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairmen of said public health committee its final regulations. If the final regulations do not contain the changes proposed by the committee, the commissioner shall send a letter to the committee accompanying the final regulations stating the reasons why such proposed changes were not adopted. Not earlier than 45 days after the filing of such letter and final regulations with the said committee, said commissioner shall file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect. If no such proposed changes to the regulations are made to the commissioner within 60 days of the initial filing of the proposed regulation or any amendment or a repeal of such regulation with the clerk of the house

of representatives, the commissioner may file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

SECTION 5. Section 1 shall take effect November 1, 2010.