STATE OF NEW YORK

6758

2025-2026 Regular Sessions

IN SENATE

March 24, 2025

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to requiring practitioners to discuss certain risks with a patient who is being prescribed a controlled substance or an opioid analgesic

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

Section 1. Subdivision 9 of section 3331 of the public health law, as added by chapter 732 of the laws of 2022, is amended to read as follows:

9. (a) When a patient seeks treatment for any neuromusculoskeletal condition that causes pain, where a practitioner considers [~~an opioid treatment~~] **prescription of a schedule II controlled substance for the treatment of pain or any other opioid drug which is a prescription drug for acute or chronic pain and again prior to issuing the third prescription of the course of treatment**, the practitioner shall consider, discuss with the patient **as set forth in paragraph (b) of this subdivision**, and, as appropriate, refer or prescribe non-opioid treatment alternatives, based on the practitioner's clinical judgment and following generally accepted national professional or treatment guidelines, and consistent with patient preference and consent, before starting a patient on opioid treatment. For the purposes of this subdivision, non-opioid treatment alternatives include, but are not limited to: acupuncture, chiropractic, massage therapy, physical therapy, occupational therapy, cognitive behavioral therapy, non-opioid medications, interventional treatments and non-clinical activities such as exercise. The practitioner shall inform the patient that some treatments may not be covered by the patient's health coverage.

(b) **A practitioner shall discuss with the patient, or the patient's parent or guardian if the patient is under eighteen years of age and is not an emancipated minor, the risks associated with the drugs being prescribed, including but not limited to:**

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

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(i) the risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs with alcohol, benzodiazepines and other central nervous system depressants;

(ii) the reasons why the prescription is necessary;

(iii) alternative treatments that may be available; and

(iv) the risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the controlled substance, and that the risks of taking more opioids than prescribed, or mixing sedatives, benzodiazepines or alcohol with opioids, can result in fatal respiratory depression.

(c) The department shall develop and make available to practitioners guidelines for the discussion required by this subdivision.

(d) The requirements of this subdivision shall not apply for patients being treated under any of the following circumstances: treatment of cancer; hospice or other end-of-life care; post-surgery treatment immediately following a surgical procedure; or in a medical emergency. For purposes of this subdivision, "medical emergency" means an acute injury or illness that poses an immediate risk to a person's life or health.

§ 2. Paragraph (a) of subdivision 3 of section 3309 of the public health law is amended by adding a new subparagraph (vii) to read as follows:

(vii) "Opioid analgesics" means the medicines buprenorphine, butorphanol, codeine, hydrocodone, hydromorphone, levorphanol, meperidine, methadone, morphine, nalbuphine, oxycodone, oxymorphone, pentazocine, propoxyphene as well as their brand names, isomers and combinations.

§ 3. Subdivision 7 of section 3309 of the public health law, as added by chapter 803 of the laws of 2021, is amended to read as follows:

7. [~~With~~] For the first opioid analgesic prescription [~~to a particular patient~~] of [~~an opioid of each~~] a calendar year that is greater than a one week's supply, for use in a setting other than a general hospital or nursing home under article twenty-eight of this chapter or facility under article thirty-one of the mental hygiene law, or when a practitioner is prescribing a controlled substance to a patient under the care of hospice as defined by section four thousand two of this chapter, the prescriber shall counsel the patient on the risks of overdose, and prescribe an opioid antagonist when any of the following risk factors are present: (a) a history of substance use disorder; (b) high dose or cumulative prescriptions that result in ninety morphine milligram equivalents or higher per day; (c) concurrent use of opioids and benzodiazepine or nonbenzodiazepine sedative hypnotics.

§ 4. This act shall take effect immediately.