S T A T E O F N E W Y O R K

8365

I N S E N A T E

June 25, 2010

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

AN ACT to amend the public health law and the education law, in relation to prescription forms and labels, interpretation services and patients with limited English proficiency

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The opening paragraph of section 21 of the public health law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

2. THE COMMISSIONER SHALL PROMULGATE REGULATIONS REQUIRING THAT PRESCRIPTION FORMS AND ELECTRONIC PRESCRIPTIONS INCLUDE: (A) A SECTION WHEREIN PRESCRIBERS MUST INDICATE WHETHER AN INDIVIDUAL IS LIMITED ENGLISH PROFICIENT; AND (B) IF THE PATIENT IS LIMITED ENGLISH PROFICIENT, A LINE WHERE THE PRESCRIBER SHALL SPECIFY THE PREFERRED LANGUAGE INDICATED BY THE PATIENT. FOR THE PURPOSES OF THIS SUBDIVISION, A "LIMITED ENGLISH PROFICIENT INDIVIDUAL" MEANS AN INDIVIDUAL WHO IDENTIFIES AS BEING, OR IS EVIDENTLY, UNABLE TO SPEAK, READ OR WRITE ENGLISH AT A LEVEL THAT PERMITS SUCH INDIVIDUAL TO UNDERSTAND HEALTH-RELATED AND PHARMACEUTICAL INFORMATION COMMUNICATED IN ENGLISH.

S 2. Subdivision 1 of section 6810 of the education law, as amended by chapter 905 of the laws of 1985, is amended to read as follows:

1. No drug for which a prescription is required by the provisions of the Federal Food, Drug and Cosmetic Act or by the commissioner of health shall be distributed or dispensed to any person except upon a prescription written by a person legally authorized to issue such prescription. Such drug shall be compounded or dispensed by a licensed pharmacist, and no such drug shall be dispensed without affixing to the immediate container in which the drug is sold or dispensed a label bearing the name and address of the owner of the establishment in which it was dispensed, the date compounded, the number of the prescription under which it is recorded in the pharmacist's prescription files, the name of the prescriber, the name and address of the patient, and the directions for the use of the drug by the patient as given upon the prescription.

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

LBD17857-01-0

ALL LABELS SHALL CONFORM TO SUCH RULES AND REGULATIONS AS PROMULGATED BY THE STATE BOARD OF PHARMACY PURSUANT TO SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS ARTICLE. The prescribing and dispensing of a drug which is a controlled substance shall be subject to additional requirements provided in article thirty-three of the public health law. The words "drug" and "prescription required drug" within the meaning of this article shall not be construed to include soft or hard contact lenses, eyeglasses, or any other device for the aid or correction of vision. Nothing in this subdivision shall prevent a pharmacy from furnishing a drug to another pharmacy which does not have such drug in stock for the purpose of filling a prescription.

S 3. The education law is amended by adding a new section 6829 to read as follows:

S 6829. IMPROVE PATIENT SAFETY THROUGH INTERPRETATION REQUIREMENTS FOR PRESCRIPTION DRUGS AND STANDARDIZED MEDICATION LABELING. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS: (A) "CHAIN PHARMACY" MEANS ANY PHARMACY THAT IS PART OF A GROUP OF FOUR OR MORE ESTABLISHMENTS THAT (I) CONDUCT BUSINESS UNDER THE SAME BUSINESS NAME OR (II) OPERATE UNDER COMMON OWNERSHIP OR MANAGEMENT OR PURSUANT TO A FRANCHISE AGREEMENT WITH THE SAME FRANCHISOR.

(B) "LIMITED ENGLISH PROFICIENT INDIVIDUAL" OR "LEP INDIVIDUAL" MEANS AN INDIVIDUAL WHO IDENTIFIES AS BEING, OR IS EVIDENTLY, UNABLE TO SPEAK, READ OR WRITE ENGLISH AT A LEVEL THAT PERMITS SUCH INDIVIDUAL TO UNDERSTAND HEALTH-RELATED AND PHARMACEUTICAL INFORMATION COMMUNICATED IN ENGLISH.

(C) "TRANSLATE" SHALL MEAN THE CONVERSION OF A WRITTEN TEXT FROM ONE LANGUAGE INTO AN EQUIVALENT WRITTEN TEXT IN ANOTHER LANGUAGE BY AN INDIVIDUAL COMPETENT TO DO SO AND UTILIZING ALL NECESSARY PHARMACEUTICAL AND HEALTH-RELATED TERMINOLOGY.

(D) "COMPETENT ORAL INTERPRETATION" MEANS ORAL COMMUNICATION IN WHICH (I) A PERSON ACTING AS AN INTERPRETER COMPREHENDS A SPOKEN MESSAGE AND RE-EXPRESSES THAT MESSAGE ACCURATELY IN ANOTHER LANGUAGE, UTILIZING ALL NECESSARY PHARMACEUTICAL AND HEALTH-RELATED TERMINOLOGY; OR (II) A BILINGUAL PHARMACY STAFF MEMBER COMMUNICATES PROFICIENTLY WITH AN LEP INDIVIDUAL IN THE LEP INDIVIDUAL'S PRIMARY LANGUAGE UTILIZING ALL NECESSARY PHARMACEUTICAL AND HEALTH-RELATED TERMINOLOGY.

(E) "PHARMACY PRIMARY LANGUAGES" SHALL MEAN THE TOP SEVEN LANGUAGES SPOKEN BY LEP INDIVIDUALS IN THIS STATE AS DETERMINED BIENNIALLY BY THE STATE BOARD OF PHARMACY BASED ON DATA FROM THE MOST RECENT AMERICAN COMMUNITY SURVEY FROM THE U.S. CENSUS BUREAU AND OTHER RELEVANT DATA SOURCES.

2. (A) EVERY CHAIN PHARMACY SHALL PROVIDE FREE, COMPETENT ORAL INTERPRETATION SERVICES TO EACH LEP INDIVIDUAL FILLING A PRESCRIPTION AT SUCH CHAIN PHARMACY IN THE LEP INDIVIDUAL'S PRIMARY LANGUAGE FOR THE PURPOSES OF COUNSELING SUCH INDIVIDUAL ABOUT HIS OR HER PRESCRIPTION MEDICATIONS OR WHEN SOLICITING INFORMATION NECESSARY TO MAINTAIN A PATIENT MEDICATION PROFILE, UNLESS THE LEP INDIVIDUAL IS OFFERED AND REFUSES SUCH SERVICES.

(B) EVERY CHAIN PHARMACY SHALL PROVIDE FREE, COMPETENT ORAL INTERPRETATION OF PRESCRIPTION MEDICATION LABELS, WARNING LABELS AND OTHER WRITTEN MATERIAL TO EACH LEP INDIVIDUAL FILLING A PRESCRIPTION AT SUCH CHAIN PHARMACY, UNLESS THE LEP INDIVIDUAL IS OFFERED AND REFUSES SUCH SERVICES OR THE MEDICATION LABEL, WARNING LABELS AND OTHER WRITTEN MATERIALS HAVE ALREADY BEEN TRANSLATED INTO THE LANGUAGE SPOKEN BY THE LEP INDIVIDUAL.

(C) THE SERVICES REQUIRED BY THIS SECTION MAY BE PROVIDED BY A STAFF MEMBER OF THE PHARMACY OR A THIRD-PARTY CONTRACTOR. SUCH SERVICES MUST

BE PROVIDED ON AN IMMEDIATE BASIS BUT NEED NOT BE PROVIDED IN-PERSON OR FACE-TO-FACE IN ORDER TO MEET THE REQUIREMENTS OF THIS SECTION.

3. EVERY CHAIN PHARMACY SHALL CONSPICUOUSLY POST, AT OR ADJACENT TO EACH COUNTER OVER WHICH PRESCRIPTION DRUGS ARE SOLD, A NOTIFICATION OF THE RIGHT TO FREE LANGUAGE ASSISTANCE SERVICES FOR LIMITED ENGLISH PROFICIENT INDIVIDUALS AS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION. SUCH NOTIFICATIONS SHALL BE PROVIDED IN THE PHARMACY PRIMARY LANGUAGES. THE SIZE, STYLE AND PLACEMENT OF SUCH NOTICE SHALL BE DETERMINED IN ACCORDANCE WITH RULES PROMULGATED BY THE STATE BOARD OF PHARMACY.

4. (A) THE STATE BOARD OF PHARMACY SHALL DEVELOP RULES AND REGULATIONS REQUIRING A STANDARDIZED, PATIENT-CENTERED, PRESCRIPTION DRUG LABEL TO BE USED ON ALL PRESCRIPTION MEDICINE DISPENSED TO PATIENTS IN THIS STATE.

(B) WHEN DEVELOPING THE REQUIREMENTS FOR PRESCRIPTION DRUG LABELS, THE STATE BOARD OF PHARMACY SHALL CONSIDER FACTORS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(I) MEDICAL LITERACY RESEARCH THAT POINTS TO INCREASED UNDERSTANDABILITY OF LABELS;

(II) IMPROVED DIRECTIONS FOR USE;

(III) IMPROVED FONT TYPES AND SIZES;

(IV) PLACEMENT OF INFORMATION THAT IS PATIENT-CENTERED;

(V) THE NEEDS OF SENIOR CITIZENS.

TO ENSURE MAXIMUM PUBLIC COMMENT, THE STATE BOARD OF PHARMACY SHALL HOLD PUBLIC MEETINGS TO SEEK INFORMATION FROM GROUPS REPRESENTING CONSUMERS, SENIORS, PHARMACISTS OR THE PRACTICE OF PHARMACY, OTHER HEALTH CARE PROFESSIONALS, AND OTHER INTERESTED PARTIES.

(C) TWO HUNDRED SEVENTY DAYS AFTER THE STATE BOARD OF PHARMACY HAS ISSUED ITS FINAL RULES AND REGULATIONS REGARDING STANDARDIZED, PATIENT-CENTERED PRESCRIPTION MEDICATION LABELS, CHAIN PHARMACIES SHALL PROVIDE FREE, COMPETENT TRANSLATED MEDICATION LABELS TO EACH LEP INDIVIDUAL FILLING A PRESCRIPTION AT SUCH CHAIN PHARMACY WHO SPEAKS ONE OF THE PHARMACY PRIMARY LANGUAGES. NOTHING IN THIS SECTION SHALL PROHIBIT A CHAIN PHARMACY FROM PROVIDING TRANSLATED MEDICATION LABELS IN LANGUAGES IN ADDITION TO THE PHARMACY PRIMARY LANGUAGES. THE CHAIN PHARMACY SHALL PROVIDE FREE, COMPETENT ORAL INTERPRETATION OF MEDICATION LABELS TO LEP INDIVIDUALS WHO DO NOT SPEAK ONE OF THE PHARMACY PRIMARY LANGUAGES, UNLESS THE LEP INDIVIDUAL IS OFFERED AND REFUSES SUCH SERVICES.

S 4. This act shall take effect one year after it shall become a law; provided, however, that the commissioner of health, the commissioner of education and the state board of pharmacy are immediately authorized and directed to take actions necessary to implement this act when it takes effect.