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

3811

2009-2010 Regular Sessions

I N S E N A T E

April 1, 2009

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT in relation to authorizing and directing the state education department to re-evaluate the use of therapeutic drugs in optometric practice

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

Section 1. Legislative findings. The legislature finds that since 1995, optometrists certified as having met certain standards of training and experience set forth in law have been authorized to use, and in some cases prescribe, topically applied therapeutic pharmaceutical agents for the treatment or prevention of ocular disease. Chapter 517 of the laws of 1995 included language providing for a short-term review of the law to determine whether such authorization was in the public interest, and a report based on that directive was issued in 1997. However, no review of the law has been undertaken since then.

There are a number of concerns regarding the current law permitting certified optometrists to prescribe drugs, and about whether it ensures patient safety. These concerns include optometrists who lack the legally mandated qualifications to write prescriptions; the prescription of controlled substances by optometrists; the prescription of oral medications by optometrists; and the prescription of pharmaceutical agents intended for conditions unrelated to the eye by optometrists. If these concerns are valid, then there may be a need for the state to take steps to address the problems, such as instituting additional safeguards at the pharmacy level to insure that medications are being prescribed in accordance with the practitioners' legal prescribing authority.

In the interest of patient safety and to ensure the quality of care that the residents of New York state receive, the legislature finds that a further evaluation of the use of therapeutic drugs in optometric practice as currently permitted by law is appropriate and necessary.

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

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S 2. (a) The legislature therefore directs the commissioner of education, in conjunction with the commissioner of health, to study and evaluate the use of therapeutic pharmaceutical agents in optometric practice as currently authorized by section 7101-a of the education law. Such inquiry shall include an analysis of prescriptions of pharmaceutical agents by optometrists, and shall specifically consider (1) whether optometrists who have written prescriptions possess the legally required qualifications to prescribe those drugs; (2) whether this authorization has been inappropriately used by optometrists to prescribe controlled substances or medications not within their legally mandated scope of practice; and (3) whether this authorization has been improperly used by optometrists to prescribe pharmaceutical agents intended for conditions unrelated to the eye.

If the commissioner of education finds that any of the foregoing illegal practices are regularly occurring, the commissioner shall make recommendations to ensure that medications are being prescribed in accordance with the practitioner's legal prescribing authority, including, but not limited to, implementing additional safeguards at the pharmacy level.

(b) Nothing in this section shall prohibit the commissioner of education upon learning of a violation of section 7101-a of the education law or any other section of law, to take such actions as are appropriate to remedy such violation including, but not limited to, referring such violation to the proper enforcement authority.

(c) The commissioner of education shall submit a report of findings and recommendations to the governor and the legislature within one year of the effective date of this act.

S 3. This act shall take effect immediately.