

8628

2011-2012 Regular Sessions

I N A S S E M B L Y

September 21, 2011

Introduced by M. of A. LAVINE -- read once and referred to the Committee
on Higher Education

AN ACT to amend the education law, in relation to electronic prescribing
software

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

1 Section 1. Section 6810 of the education law is amended by adding a
2 new subdivision 10 to read as follows:
3 10. ALL ELECTRONIC PRESCRIBING SOFTWARE USED IN THIS STATE INCLUDING,
4 WITHOUT LIMITATION, ELECTRONIC PRESCRIBING SOFTWARE FOR WHICH PRESCRI-
5 BERS AND PHARMACIES RECEIVE PAYMENTS PURSUANT TO SECTION THREE HUNDRED
6 SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW SHALL:
7 (A) TRANSMIT TO A PRESCRIBER ONLY ELECTRONIC COMMUNICATIONS CONSISTENT
8 WITH THE PRODUCT LABEL EXCEPT WHERE SUCH COMMUNICATION RELATES TO A
9 REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFES-
10 SIONAL JOURNAL, SUPPORTED BY SCIENTIFIC EVIDENCE AND THAT MEETS THE
11 FEDERAL FOOD AND DRUG ADMINISTRATION REQUIREMENTS FOR ADVERTISING PHAR-
12 MACEUTICAL PRODUCTS;
13 (B) NOT USE ANY MEANS OR PERMIT ANY OTHER PERSON TO USE ANY MEANS,
14 INCLUDING, BUT NOT LIMITED TO, ADVERTISING, INSTANT MESSAGING, AND POP-
15 UP ADS, TO INFLUENCE OR ATTEMPT TO INFLUENCE, THROUGH ECONOMIC INCEN-
16 TIVES OR OTHERWISE, THE PRESCRIBING DECISION OF A PRESCRIBING PRACTI-
17 TIONER AT THE POINT OF CARE OR ANY SUCH MEANS TRIGGERED OR IN SPECIFIC
18 RESPONSE TO THE INPUT, SELECTION, OR ANY ACT OF A PRESCRIBING PRACTI-
19 TIONER OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR
20 DIRECTING A PATIENT TO A CERTAIN PHARMACY;
21 (C) NOT SHOW INFORMATION REGARDING A PAYOR'S FORMULARY, CO-PAYMENT OR
22 BENEFIT PLAN IN ANY WAY THAT PRECLUDES OR MAKES MORE DIFFICULT THE ACT
23 OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHAR-
24 MACY OR PHARMACEUTICAL; AND

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

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1 (D) MAKE AVAILABLE MEANS TO REQUEST A PRIOR AUTHORIZATION APPROVAL AND
2 RECEIVE PRIOR AUTHORIZATION AND STEP THERAPY CRITERIA AND APPROVAL ELEC-
3 TRONICALLY ON THE DAY THE PRESCRIPTION IS ISSUED AS ESTABLISHED VIA A
4 STANDARDIZED FORMAT TO BE CREATED BY THE BOARD OF PHARMACY.
5 S 2. This act shall take effect immediately.