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I N   S E N A T E

January 11, 2012

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

AN ACT to amend the public health law and the mental hygiene law, in relation to requiring disclosure of addiction risks for certain prescription drugs

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

1     Section 1. This act shall be known and may be cited as the "Michael  
2     David Israel patient information act".

3     S 2. The public health law is amended by adding a new section 3317 to  
4     read as follows:

5     S 3317. REQUIRED DISCLOSURES. 1. DEFINITIONS. FOR PURPOSES OF THIS  
6     SECTION:

7     (A) "OPIATE ANALGESICS" SHALL MEAN THE MEDICINES BUPRENORPHINE, BUTOR-  
8     PHANOL, CODEINE, HYDROCODONE, HYDROMORPHONE, LEVORPHANOL, MEPERIDINE,  
9     METHADONE, MORPHINE, NALBUPHINE, OXYCODONE, OXYMORPHONE, PENTAZOCINE AND  
10    PROPOXYPHENE AS WELL AS THEIR BRAND NAMES, ISOMERS AND COMBINATIONS.

11    (B) "PSYCHOTROPIC DRUGS SHALL MEAN ANY DRUG OR MEDICINE THAT AFFECTS  
12    MENTAL ACTIVITY, BEHAVIOR OR PERCEPTION INCLUDING ANTI-PSYCHOTICS, ANTI-  
13    DEPRESSANTS, ANTI-ANXIETY DRUGS OR ANXIOLYTICS AND HYPNOTICS.

14    2. DISCLOSURES. WHENEVER A PRACTITIONER, PHARMACIST, REGISTERED NURSE  
15    OR ANY OTHER PERSON WHO IS AUTHORIZED TO DISTRIBUTE SUBSTANCES REGULATED  
16    BY THIS ARTICLE, DISPENSES OPIATE ANALGESICS OR PSYCHOTROPIC DRUGS SUCH  
17    PRESCRIBING PHYSICIAN, NURSE OR PHARMACIST SHALL:

18    (A) DESCRIBE THE RISKS OF ADDICTION TO THE PATIENT;

19    (B) AFTER CONSULTING THE PATIENT'S MEDICAL HISTORY, INFORM THE PATIENT  
20    OF HIS OR HER CHANCE OF ADDICTION;

21    (C) PROVIDE THE PATIENT WITH INFORMATION ABOUT COPING WITH OPIATE  
22    ANALGESIC OR PSYCHOTROPIC DRUG ADDICTION AND AVAILABLE LOCAL RESOURCES  
23    INCLUDING DETOXIFICATION CENTERS, COUNSELING SERVICES AND HOTLINES; AND

24    (D) HAVE THE PATIENT SIGN A FORM APPROVED BY THE DEPARTMENT ACKNOWLEDGING  
25    THAT HE OR SHE HAS BEEN INFORMED OF THE PREVENTION, MITIGATION  
26    AND TREATMENT OF SUCH ADDICTION.

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

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3. ENFORCEMENT BY DEPARTMENT. (A) THE DEPARTMENT SHALL BE RESPONSIBLE FOR PUBLISHING INFORMATIONAL PAMPHLETS REGARDING THE DANGERS OF OPIATE ANALGESICS AND PSYCHOTROPIC DRUGS AND DISTRIBUTION. SUCH PAMPHLETS SHALL TAKE THE FORM PRESCRIBED BY THE COMMISSIONER. THE DEPARTMENT SHALL ALSO PROVIDE THE FORM REQUIRED IN PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION.

(B) THE DEPARTMENT SHALL BE RESPONSIBLE FOR THE RECEIPT, INVESTIGATION AND SUBSTANTIATION OF ANY COMPLAINTS OR TIPS ABOUT PHYSICIANS, NURSES OR PHARMACISTS WHO FAIL TO PROVIDE THE INFORMATION MANDATED IN THIS SECTION. FAILURE TO PROVIDE SUCH INFORMATION SHALL BE PUNISHABLE AS FOLLOWS:

(I) FIRST OFFENSE; FINE OF UP TO ONE THOUSAND DOLLARS;  
(II) SECOND OFFENSE: FINE OF UP TO FIVE THOUSAND DOLLARS;  
(III) THIRD OFFENSE: SUSPENSION OF LICENSE UP TO SIX MONTHS;  
(IV) FOURTH OFFENSE: SUSPENSION OF LICENSE UP TO ONE YEAR;  
(V) FIFTH OFFENSE: PERMANENT SUSPENSION OR REVOCATION OF LICENSE AND REFERRED TO THE RESPECTIVE LICENSING BOARDS UNDER THIS ARTICLE.

A SIGNED PATIENT FORM SHALL BE PRIMA FACIE PROOF THAT THE PERSON PRESCRIBING SUCH MEDICATIONS HAS COMPLIED WITH THE PROVISIONS OF THIS SECTION.

S 3. The mental hygiene law is amended by adding a new section 19.18 to read as follows:

S 19.18 REQUIRED DISCLOSURES.

(A) DEFINITIONS. FOR PURPOSES OF THIS SECTION:

(1) "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF HEALTH.  
(2) "OPIATE ANALGESICS" SHALL MEAN THE MEDICINES BUPRENORPHINE, BUTORPHANOL, CODEINE, HYDROCODONE, HYDROMORPHONE, LEVORPHANOL, MEPERIDINE, METHADONE, MORPHINE, NALBUPHINE, OXYCODONE, OXYMORPHONE, PENTAZOCINE AND PROPOXYPHENE AS WELL AS THEIR BRAND NAMES, ISOMERS AND COMBINATIONS.  
(3) "PSYCHOTROPIC DRUGS" SHALL MEAN ANY DRUG OR MEDICINE THAT AFFECTS MENTAL ACTIVITY, BEHAVIOR OR PERCEPTION INCLUDING ANTI-PSYCHOTICS, ANTI-DEPRESSANTS, ANTI-ANXIETY DRUGS OR ANXIOLYTICS AND HYPNOTICS.

(B) DISCLOSURES. WHENEVER A PRACTITIONER, PHARMACIST, REGISTERED NURSE OR ANY OTHER PERSON WHO IS AUTHORIZED TO DISTRIBUTE SUBSTANCES REGULATED BY THIS ARTICLE OR THOSE REGULATED UNDER ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, DISPENSES OPIATE ANALGESICS OR PSYCHOTROPIC DRUGS, SUCH PRESCRIBING PHYSICIAN, NURSE OR PHARMACIST SHALL:

(1) DESCRIBE THE RISKS OF ADDICTION TO THE PATIENT;  
(2) AFTER CONSULTING THE PATIENT'S MENTAL HISTORY, INFORM THE PATIENT OF HIS OR HER CHANCE OF ADDICTION;  
(3) PROVIDE THE PATIENT WITH INFORMATION ABOUT COPING WITH OPIATE ANALGESIC OR PSYCHOTROPIC DRUG ADDICTION AND AVAILABLE LOCAL RESOURCES INCLUDING DETOXIFICATION CENTERS, COUNSELING SERVICES AND HOTLINES; AND  
(4) HAVE THE PATIENT SIGN A FORM APPROVED BY THE DEPARTMENT ACKNOWLEDGING THAT HE OR SHE HAS BEEN INFORMED OF THE PREVENTION, MITIGATION AND TREATMENT OF SUCH ADDICTION.

(C) ENFORCEMENT BY DEPARTMENT. (1) THE DEPARTMENT SHALL BE RESPONSIBLE FOR PUBLISHING INFORMATIONAL PAMPHLETS REGARDING THE DANGERS OF OPIATE ANALGESICS AND PSYCHOTROPIC DRUGS FOR DISTRIBUTION. SUCH PAMPHLETS SHALL TAKE THE FORM PRESCRIBED BY THE COMMISSIONER OF HEALTH. THE DEPARTMENT SHALL ALSO PROVIDE THE FORM REQUIRED IN PARAGRAPH FOUR OF SUBDIVISION (B) OF THIS SECTION.

(2) THE DEPARTMENT SHALL BE RESPONSIBLE FOR THE RECEIPT, INVESTIGATION AND SUBSTANTIATION OF ANY COMPLAINTS OR TIPS ABOUT PHYSICIANS, NURSES OR PHARMACISTS WHO FAIL TO PROVIDE THE INFORMATION MANDATED IN THIS

1 SECTION. FAILURE TO PROVIDE SUCH INFORMATION SHALL BE PUNISHABLE AS  
2 FOLLOWS:

3 (I) FIRST OFFENSE: FINE OF UP TO ONE THOUSAND DOLLARS;

4 (II) SECOND OFFENSE: FINE OF UP TO FIVE THOUSAND DOLLARS;

5 (III) THIRD OFFENSE: SUSPENSION OF LICENSE UP TO SIX MONTHS;

6 (IV) FOURTH OFFENSE: SUSPENSION OF LICENSE UP TO ONE YEAR;

7 (V) FIFTH OFFENSE: PERMANENT SUSPENSION OR REVOCATION OF LICENSE AND  
8 REFERRED TO THE RESPECTIVE LICENSING BOARDS UNDER ARTICLE THIRTY-THREE  
9 OF THE PUBLIC HEALTH LAW.

10 A SIGNED PATIENT FORM SHALL BE PRIMA FACIE PROOF THAT THE PERSON  
11 PRESCRIBING SUCH MEDICATIONS HAS COMPLIED WITH THE PROVISIONS OF THIS  
12 SECTION.

13 S 4. This act shall take effect immediately.