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I N S E N A T E

March 16, 2012

Introduced by Sens. HANNON, GOLDEN, LARKIN, MARTINS, MAZIARZ, McDONALD
-- 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 limiting the
initial prescription of a controlled substance for the alleviation of
acute pain to between a three to ten day supply; and to amend the
insurance law, in relation to coverage of such prescriptions

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

1 Section 1. Subdivision 5 of section 3331 of the public health law, as
2 amended by chapter 965 of the laws of 1974, is amended to read as
3 follows:

4 5. (A) No more than a thirty day supply or, pursuant to regulations of
5 the commissioner enumerating conditions warranting specified greater
6 supplies, no more than a three month supply of a schedule II, III or IV
7 substance, as determined by the directed dosage and frequency of dosage,
8 may be dispensed by an authorized practitioner at one time.

9 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
10 SION, AN AUTHORIZED PRACTITIONER, WITHIN THE SCOPE OF HIS OR HER PROFES-
11 SIONAL OPINION OR DISCRETION, MAY DISPENSE OR PRESCRIBE NO MORE THAN
12 BETWEEN A THREE AND TEN DAY SUPPLY OF ANY SCHEDULE II OR III CONTROLLED
13 SUBSTANCE TO AN ULTIMATE USER UPON THE INITIAL CONSULTATION OR TREATMENT
14 OF SUCH USER FOR ACUTE PAIN. THEREAFTER, THE DISPENSING AND PRESCRIBING
15 OF THE CONTROLLED SUBSTANCE SHALL BE SUBJECT TO THE PROVISIONS OF PARA-
16 GRAPH (A) OF THIS SUBDIVISION.

17 (C) FOR THE PURPOSES OF THIS SUBDIVISION, "ACUTE PAIN" MEANS PAIN,
18 WHETHER ACCIDENTAL OR INTENTIONAL, THAT LASTS ONLY A SHORT OR FINITE
19 PERIOD OF TIME. SUCH TERM SHALL NOT INCLUDE CHRONIC PAIN, CANCER PAIN OR
20 PALLIATIVE CARE PRACTICES.

21 S 2. Subsection (i) of section 3216 of the insurance law is amended by
22 adding a new paragraph 29 to read as follows:

23 (29) NO POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH
24 PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND WHICH PROVIDES FOR COPAY-
25 MENTS BY COVERED PERSONS, SHALL IMPOSE UPON ANY COVERED PERSON, WHO IS

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

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1 PRESCRIBED A LIMITED AMOUNT OF A PRESCRIPTION DRUG FOR ACUTE PAIN IN
2 ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION
3 THIRTY-THREE HUNDRED THIRTY-ONE OF THE PUBLIC HEALTH LAW, AN ADDITIONAL
4 COPAYMENT IF AN AUTHORIZED PRESCRIBER, WITHIN THE SCOPE OF HIS OR HER
5 PROFESSIONAL OPINION, PRESCRIBES AN ADDITIONAL AMOUNT OF A PRESCRIPTION
6 DRUG FOR ACUTE PAIN, AS DEFINED IN SUCH SUBDIVISION. THIS LIMITATION
7 SHALL APPLY ONLY TO THE AMOUNT OF PRESCRIPTION DRUG CONSTITUTING A THIR-
8 TY DAY SUPPLY, INCLUDING THE LIMITED SUPPLY PROVIDED PURSUANT TO SUCH
9 PARAGRAPH.

10 S 3. Subsection (k) of section 3221 of the insurance law is amended by
11 adding a new paragraph 18 to read as follows:

12 (18) NO GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN
13 THE STATE WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND WHICH
14 PROVIDES FOR COPAYMENTS BY COVERED PERSONS, SHALL IMPOSE UPON ANY
15 COVERED PERSON, WHO IS PRESCRIBED A LIMITED AMOUNT OF A PRESCRIPTION
16 DRUG FOR ACUTE PAIN IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION FIVE
17 OF SECTION THIRTY-THREE HUNDRED THIRTY-ONE OF THE PUBLIC HEALTH LAW, AN
18 ADDITIONAL COPAYMENT IF AN AUTHORIZED PRESCRIBER, WITHIN THE SCOPE OF
19 HIS OR HER PROFESSIONAL OPINION, PRESCRIBES AN ADDITIONAL AMOUNT OF A
20 PRESCRIPTION DRUG FOR ACUTE PAIN, AS DEFINED IN SUCH SUBDIVISION. THIS
21 LIMITATION SHALL APPLY ONLY TO THE AMOUNT OF PRESCRIPTION DRUG CONSTI-
22 TUTING A THIRTY DAY SUPPLY, INCLUDING THE LIMITED SUPPLY PROVIDED PURSU-
23 ANT TO SUCH PARAGRAPH.

24 S 4. Section 4303 of the insurance law is amended by adding a new
25 subsection (ii) to read as follows:

26 (II) NO MEDICAL EXPENSE INDEMNITY CORPORATION, HOSPITAL SERVICE CORPO-
27 RATION OR HEALTH SERVICE CORPORATION WHICH PROVIDES COVERAGE FOR
28 PRESCRIPTION DRUGS AND WHICH PROVIDES FOR COPAYMENTS BY COVERED PERSONS,
29 SHALL IMPOSE UPON ANY COVERED PERSON, WHO IS PRESCRIBED A LIMITED AMOUNT
30 OF A PRESCRIPTION DRUG FOR ACUTE PAIN IN ACCORDANCE WITH PARAGRAPH (B)
31 OF SUBDIVISION FIVE OF SECTION THIRTY-THREE HUNDRED THIRTY-ONE OF THE
32 PUBLIC HEALTH LAW, AN ADDITIONAL COPAYMENT IF AN AUTHORIZED PRESCRIBER,
33 WITHIN THE SCOPE OF HIS OR HER PROFESSIONAL OPINION, PRESCRIBES AN ADDI-
34 TIONAL AMOUNT OF A PRESCRIPTION DRUG FOR ACUTE PAIN, AS DEFINED IN SUCH
35 SUBDIVISION. THIS LIMITATION SHALL APPLY ONLY TO THE AMOUNT OF
36 PRESCRIPTION DRUG CONSTITUTING A THIRTY DAY SUPPLY, INCLUDING THE LIMIT-
37 ED SUPPLY PROVIDED PURSUANT TO SUCH PARAGRAPH.

38 S 5. This act shall take effect on the sixtieth day after it shall
39 have become a law.