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

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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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, AN AUTHORIZED PRACTITIONER, WITHIN THE SCOPE OF HIS OR HER PROFESSIONAL OPINION OR DISCRETION, MAY DISPENSE OR PRESCRIBE NO MORE THAN BETWEEN A THREE AND TEN DAY SUPPLY OF ANY SCHEDULE II OR III CONTROLLED SUBSTANCE TO AN ULTIMATE USER UPON THE INITIAL CONSULTATION OR TREATMENT OF SUCH USER FOR ACUTE PAIN. THEREAFTER, THE DISPENSING AND PRESCRIBING OF THE CONTROLLED SUBSTANCE SHALL BE SUBJECT TO THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION.

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

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

(29) NO POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND WHICH PROVIDES FOR COPAYMENTS 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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PRESCRIBED A LIMITED AMOUNT OF A PRESCRIPTION DRUG FOR ACUTE PAIN IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION THIRTY-THREE HUNDRED THIRTY-ONE OF THE PUBLIC HEALTH LAW, AN ADDITIONAL COPAYMENT IF AN AUTHORIZED PRESCRIBER, WITHIN THE SCOPE OF HIS OR HER PROFESSIONAL OPINION, PRESCRIBES AN ADDITIONAL AMOUNT OF A PRESCRIPTION DRUG FOR ACUTE PAIN, AS DEFINED IN SUCH SUBDIVISION. THIS LIMITATION SHALL APPLY ONLY TO THE AMOUNT OF PRESCRIPTION DRUG CONSTITUTING A THIRTY DAY SUPPLY, INCLUDING THE LIMITED SUPPLY PROVIDED PURSUANT TO SUCH PARAGRAPH.

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

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

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

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

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