

2805

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sen. HANNON -- 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 education law, in relation to electronic prescribing software

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

1 Section 1. Section 281 of the public health law is amended by adding a
2 new subdivision 7 to read as follows:

3 7. THE REGULATIONS PROMULGATED PURSUANT TO SUBDIVISION THREE OF THIS
4 SECTION SHALL PROVIDE THAT ALL ELECTRONIC PRESCRIBING SOFTWARE USED IN
5 THIS STATE INCLUDING, WITHOUT LIMITATION, ELECTRONIC PRESCRIBING SOFTWARE FOR WHICH PRESCRIBERS AND PHARMACIES RECEIVE PAYMENTS PURSUANT TO
6 SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW SHALL:
7 SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW SHALL:

8 (A) TRANSMIT TO A PRESCRIBER ONLY ELECTRONIC COMMUNICATIONS CONSISTENT
9 WITH THE PRODUCT LABEL EXCEPT WHERE SUCH COMMUNICATION RELATES TO A
10 REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL, SUPPORTED BY SCIENTIFIC EVIDENCE AND THAT MEETS THE
11 FEDERAL FOOD AND DRUG ADMINISTRATION REQUIREMENTS FOR ADVERTISING PHARMACEUTICAL PRODUCTS;
12 FEDERAL FOOD AND DRUG ADMINISTRATION REQUIREMENTS FOR ADVERTISING PHARMACEUTICAL PRODUCTS;
13 MACETICAL PRODUCTS;

14 (B) NOT USE ANY MEANS OR PERMIT ANY OTHER PERSON TO USE ANY MEANS,
15 INCLUDING, BUT NOT LIMITED TO, ADVERTISING, INSTANT MESSAGING, AND POP-UP ADS, TO INFLUENCE OR ATTEMPT TO INFLUENCE, THROUGH ECONOMIC INCENTIVES OR OTHERWISE, THE PRESCRIBING DECISION OF A PRESCRIBING PRACTITIONER AT THE POINT OF CARE OR ANY SUCH MEANS TRIGGERED OR IN SPECIFIC
16 RESPONSE TO THE INPUT, SELECTION, OR ANY ACT OF A PRESCRIBING PRACTITIONER OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR
17 DIRECTING A PATIENT TO A CERTAIN PHARMACY;
18 DIRECTING A PATIENT TO A CERTAIN PHARMACY;
19 DIRECTING A PATIENT TO A CERTAIN PHARMACY;

20 (C) NOT SHOW INFORMATION REGARDING A PAYOR'S FORMULARY, CO-PAYMENT OR
21 BENEFIT PLAN IN ANY WAY THAT PRECLUDES OR MAKES MORE DIFFICULT THE ACT
22 OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHARMACY OR PHARMACEUTICAL; AND
23 OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHARMACY OR PHARMACEUTICAL; AND
24 OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHARMACY OR PHARMACEUTICAL; AND
25 OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHARMACY OR PHARMACEUTICAL; AND

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

LBD04350-03-3

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. Section 6810 of the education law is amended by adding a new
6 subdivision 14 to read as follows:

7 14. THE REGULATIONS PROMULGATED PURSUANT TO SUBDIVISION TEN OF THIS
8 SECTION SHALL PROVIDE THAT ALL ELECTRONIC PRESCRIBING SOFTWARE USED IN
9 THIS STATE INCLUDING, WITHOUT LIMITATION, ELECTRONIC PRESCRIBING SOFT-
10 WARE FOR WHICH PRESCRIBERS AND PHARMACIES RECEIVE PAYMENTS PURSUANT TO
11 SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW SHALL:

12 (A) TRANSMIT TO A PRESCRIBER ONLY ELECTRONIC COMMUNICATIONS CONSISTENT
13 WITH THE PRODUCT LABEL EXCEPT WHERE SUCH COMMUNICATION RELATES TO A
14 REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFES-
15 SIONAL JOURNAL, SUPPORTED BY SCIENTIFIC EVIDENCE AND THAT MEETS THE
16 FEDERAL FOOD AND DRUG ADMINISTRATION REQUIREMENTS FOR ADVERTISING PHAR-
17 MACEUTICAL PRODUCTS;

18 (B) NOT USE ANY MEANS OR PERMIT ANY OTHER PERSON TO USE ANY MEANS,
19 INCLUDING, BUT NOT LIMITED TO, ADVERTISING, INSTANT MESSAGING, AND POP-
20 UP ADS, TO INFLUENCE OR ATTEMPT TO INFLUENCE, THROUGH ECONOMIC INCEN-
21 TIVES OR OTHERWISE, THE PRESCRIBING DECISION OF A PRESCRIBING PRACTI-
22 TIONER AT THE POINT OF CARE OR ANY SUCH MEANS TRIGGERED OR IN SPECIFIC
23 RESPONSE TO THE INPUT, SELECTION, OR ANY ACT OF A PRESCRIBING PRACTI-
24 TIONER OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR
25 DIRECTING A PATIENT TO A CERTAIN PHARMACY;

26 (C) NOT SHOW INFORMATION REGARDING A PAYOR'S FORMULARY, CO-PAYMENT OR
27 BENEFIT PLAN IN ANY WAY THAT PRECLUDES OR MAKES MORE DIFFICULT THE ACT
28 OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHAR-
29 MACY OR PHARMACEUTICAL; AND

30 (D) MAKE AVAILABLE MEANS TO REQUEST A PRIOR AUTHORIZATION APPROVAL AND
31 RECEIVE PRIOR AUTHORIZATION AND STEP THERAPY CRITERIA AND APPROVAL ELEC-
32 TRONICALLY ON THE DAY THE PRESCRIPTION IS ISSUED AS ESTABLISHED VIA A
33 STANDARDIZED FORMAT TO BE CREATED BY THE BOARD OF PHARMACY.

34 S 3. This act shall take effect immediately.