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

2552--A

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

(B) NOT USE ANY MEANS OR PERMIT ANY OTHER PERSON TO USE ANY MEANS, 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 RESPONSE TO THE INPUT, SELECTION, OR ANY ACT OF A PRESCRIBING PRACTITIONER OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR DIRECTING A PATIENT TO A CERTAIN PHARMACY;

(C) NOT SHOW INFORMATION REGARDING A PAYOR'S FORMULARY, CO-PAYMENT OR BENEFIT PLAN IN ANY WAY THAT PRECLUDES OR MAKES MORE DIFFICULT THE ACT

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

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OF A PRESCRIBING PRACTITIONER OR PATIENT SELECTING ANY PARTICULAR PHARMACY OR PHARMACEUTICAL; AND

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

S 2. Section 6810 of the education law is amended by adding a new subdivision 14 to read as follows:

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

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

(B) NOT USE ANY MEANS OR PERMIT ANY OTHER PERSON TO USE ANY MEANS, 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 RESPONSE TO THE INPUT, SELECTION, OR ANY ACT OF A PRESCRIBING PRACTITIONER OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR DIRECTING A PATIENT TO A CERTAIN PHARMACY;

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

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

S 3. This act shall take effect immediately.