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Cal. No. 104

I N S E N A T E

January 28, 2014

Introduced by Sens. HANNON, BOYLE, BALL, CARLUCCI, ESPAILLAT, GRISANTI, HASSELL-THOMPSON, HOYLMAN, KRUEGER, LANZA, MARTINS, MONTGOMERY, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to use of opioid antagonists

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

1 Section 1. Section 3309 of the public health law, as added by chapter  
2 413 of the laws of 2005, is amended to read as follows:  
3 S 3309. Opioid overdose prevention. 1. The commissioner is authorized  
4 to establish standards for approval of any opioid overdose prevention  
5 program, AND OPIOID ANTAGONIST PRESCRIBING, DISPENSING, DISTRIBUTION,  
6 POSSESSION AND ADMINISTRATION PURSUANT TO THIS SECTION which may  
7 include, but not be limited to, standards for program directors, appro-  
8 priate clinical oversight, training, record keeping and reporting.  
9 2. Notwithstanding any inconsistent provisions of section sixty-five  
10 hundred twelve of the education law or any other law, the purchase,  
11 acquisition, possession or use of an opioid antagonist pursuant to this  
12 section shall not constitute the unlawful practice of a profession or  
13 other violation under title eight of the education law or this article.  
14 3. (A) AS USED IN THIS SECTION:  
15 (I) "OPIOID ANTAGONIST" MEANS A DRUG APPROVED BY THE FOOD AND DRUG  
16 ADMINISTRATION THAT, WHEN ADMINISTERED, NEGATES OR NEUTRALIZES IN WHOLE  
17 OR IN PART THE PHARMACOLOGICAL EFFECTS OF AN OPIOID IN THE BODY. "OPIOID  
18 ANTAGONIST" SHALL BE LIMITED TO NALOXONE AND OTHER MEDICATIONS APPROVED  
19 BY THE DEPARTMENT FOR SUCH PURPOSE.  
20 (II) "HEALTH CARE PROFESSIONAL" MEANS A PERSON LICENSED, REGISTERED OR  
21 AUTHORIZED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW TO PRESCRIBE  
22 PRESCRIPTION DRUGS.

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

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1 (III) "PHARMACIST" MEANS A PERSON LICENSED OR AUTHORIZED TO PRACTICE  
2 PHARMACY PURSUANT TO ARTICLE ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION  
3 LAW.

4 (IV) "OPIOID ANTAGONIST RECIPIENT" OR "RECIPIENT" MEANS A PERSON AT  
5 RISK OF EXPERIENCING AN OPIOID-RELATED OVERDOSE, OR A FAMILY MEMBER,  
6 FRIEND OR OTHER PERSON IN A POSITION TO ASSIST A PERSON EXPERIENCING OR  
7 AT RISK OF EXPERIENCING AN OPIOID-RELATED OVERDOSE, OR AN ORGANIZATION  
8 REGISTERED AS AN OPIOID OVERDOSE PREVENTION PROGRAM PURSUANT TO THIS  
9 SECTION.

10 (B)(I) A HEALTH CARE PROFESSIONAL MAY PRESCRIBE BY A PATIENT-SPECIFIC  
11 OR NON-PATIENT-SPECIFIC PRESCRIPTION, DISPENSE OR DISTRIBUTE, DIRECTLY  
12 OR INDIRECTLY, AN OPIOID ANTAGONIST TO AN OPIOID ANTAGONIST RECIPIENT.

13 (II) A PHARMACIST MAY DISPENSE AN OPIOID ANTAGONIST, THROUGH A  
14 PATIENT-SPECIFIC OR NON-PATIENT-SPECIFIC PRESCRIPTION PURSUANT TO THIS  
15 PARAGRAPH, TO AN OPIOID ANTAGONIST RECIPIENT.

16 (III) AN OPIOID ANTAGONIST RECIPIENT MAY POSSESS AN OPIOID ANTAGONIST  
17 OBTAINED PURSUANT TO THIS PARAGRAPH, MAY DISTRIBUTE SUCH OPIOID ANTAG-  
18 ONIST TO A RECIPIENT, AND MAY ADMINISTER SUCH OPIOID ANTAGONIST TO A  
19 PERSON THE RECIPIENT REASONABLY BELIEVES IS EXPERIENCING AN OPIOID OVER-  
20 DOSE.

21 (IV) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT BE DEEMED TO REQUIRE A  
22 PRESCRIPTION FOR ANY OPIOID ANTAGONIST THAT DOES NOT OTHERWISE REQUIRE A  
23 PRESCRIPTION; NOR SHALL IT BE DEEMED TO LIMIT THE AUTHORITY OF A HEALTH  
24 CARE PROFESSIONAL TO PRESCRIBE, DISPENSE OR DISTRIBUTE, OR OF A PHARMA-  
25 CIST TO DISPENSE, AN OPIOID ANTAGONIST UNDER ANY OTHER PROVISION OF LAW.

26 4. Use of an opioid antagonist pursuant to this section shall be  
27 considered first aid or emergency treatment for the purpose of any stat-  
28 ute relating to liability.

29 [4.] A RECIPIENT OR OPIOID OVERDOES PREVENTION PROGRAM UNDER THIS  
30 SECTION, ACTING REASONABLY AND IN GOOD FAITH IN COMPLIANCE WITH THIS  
31 SECTION, SHALL NOT BE SUBJECT TO CRIMINAL, CIVIL OR ADMINISTRATIVE  
32 LIABILITY SOLELY BY REASON OF SUCH ACTION.

33 5. The commissioner shall publish findings on statewide opioid over-  
34 dose data that reviews overdose death rates and other information to  
35 ascertain changes in the cause and rates of fatal opioid overdoses. The  
36 report may be part of existing state mortality reports issued by the  
37 department, and shall be submitted annually [for three years and as  
38 deemed necessary by the commissioner thereafter,] to the governor, the  
39 temporary president of the senate [and], the speaker of the assembly,  
40 AND THE CHAIRS OF THE SENATE AND ASSEMBLY HEALTH COMMITTEES. The report  
41 shall include, at a minimum, the following information:

42 (a) information on opioid overdose deaths, including age, gender,  
43 ethnicity, and geographic location;

44 (b) data on emergency room utilization for the treatment of opioid  
45 overdose;

46 (c) data on utilization of pre-hospital services;

47 (d) [suggested improvements in data collection.] DATA ON UTILIZATION  
48 OF OPIOID ANTAGONISTS; AND

49 (E) ANY OTHER INFORMATION NECESSARY TO ASCERTAIN THE SUCCESS OF THE  
50 PROGRAM AND WAYS TO FURTHER REDUCE OVERDOSES.

51 S 2. This act shall take effect immediately.