

1165

2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

Introduced by M. of A. LAVINE -- read once and referred to the Committee
on Higher Education

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
6 FOR WHICH PRESCRIBERS AND PHARMACIES RECEIVE PAYMENTS PURSUANT TO
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
11 JOURNAL, SUPPORTED BY SCIENTIFIC EVIDENCE AND THAT MEETS THE
12 FEDERAL FOOD AND DRUG ADMINISTRATION REQUIREMENTS FOR ADVERTISING PHARMACEUTICAL
13 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-
16 UP ADS, TO INFLUENCE OR ATTEMPT TO INFLUENCE, THROUGH ECONOMIC INCENTIVES
17 OR OTHERWISE, THE PRESCRIBING DECISION OF A PRESCRIBING PRACTITIONER
18 AT THE POINT OF CARE OR ANY SUCH MEANS TRIGGERED OR IN SPECIFIC
19 RESPONSE TO THE INPUT, SELECTION, OR ANY ACT OF A PRESCRIBING PRACTITIONER
20 OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR
21 DIRECTING A PATIENT TO A CERTAIN PHARMACY;

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

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

LBD02865-01-5

(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 15 to read as follows:

15. 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.