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

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I N A S S E M B L Y

March 21, 2016

Introduced by M. of A. GIGLIO, GRAF -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prescribing controlled substances

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

Section 1. The public health law is amended by adding a new section 3306-a to read as follows:

S 3306-A. CONTROLLED SUBSTANCE PRESCRIBING GUIDELINES. 1. (A) THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS GOVERNING THE USAGE OF THE CONTROLLED SUBSTANCES LISTED IN SUBDIVISIONS (B) AND (C) OF SCHEDULE II OF SECTION THREE THOUSAND THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING LIMITATIONS ON THE AMOUNT OF THESE SUBSTANCES THAT CAN BE PRESCRIBED AS PART OF THE SPECIFIC COURSE OF TREATMENT FOLLOWING CERTAIN MEDICAL PROCEDURES.

(B) ANY PRESCRIBER WHO OVERPRESCRIBES IN VIOLATION OF THE GUIDELINES ESTABLISHED IN PARAGRAPH (A) OF THIS SUBDIVISION MUST SEND DOCUMENTATION TO THE DEPARTMENT EXPLAINING THE REASONS FOR OVERPRESCRIBING BASED ON MEDICAL NECESSITY. SUCH DOCUMENTATION MAY BE SENT TO THE DEPARTMENT ELECTRONICALLY.

(C) THE DEPARTMENT SHALL DEVELOP A POLICY TO REVIEW EXPLANATIONS OF OVERPRESCRIBING AND SHALL ACCEPT SUCH EXPLANATION IF IT IS DEEMED TO BE JUSTIFIED BY MEDICAL NECESSITY.

(D) IF, DURING THE COURSE OF THEIR REVIEW, THE DEPARTMENT DETERMINES SUCH OVERPRESCRIBING IS NOT JUSTIFIED BY MEDICAL NECESSITY, THE DEPARTMENT MAY REQUIRE CORRECTIVE ACTIONS BY PRESCRIBERS FOR ACTIONS IN VIOLATION OF MEDICAL GUIDELINES ESTABLISHED IN PARAGRAPH (A) OF THIS SUBDIVISION.

(E) PRESCRIBERS WHO FAIL TO COMPLY WITH THE CORRECTIVE ACTIONS OF THE DEPARTMENT SHALL BE SUBJECT TO PENALTIES AS PROVIDED FOR IN SECTION TWO HUNDRED THIRTY-A OF THIS CHAPTER, AS ADDED BY CHAPTER SIX HUNDRED SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-ONE.

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

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2. THE DEPARTMENT SHALL REPORT PRESCRIBERS WHO FAIL TO COMPLY WITH THE CORRECTIVE ACTION OF THE DEPARTMENT TO THE STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT AND RECOMMEND PENALTIES FOR SUCH VIOLATIONS.

S 2. This act shall take effect one year after it shall have become a law.