

5170

2015-2016 Regular Sessions

I N S E N A T E

May 6, 2015

Introduced by Sens. HANNON, AMEDORE, MURPHY, ORTT -- 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 insurance law, in relation to the use of abuse-deterrent technology for opioids as a mechanism for reducing abuse and diversion of opioid drugs

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

1 Section 1. The public health law is amended by adding a new section  
2 3340 to read as follows:

3 S 3340. SUBSTITUTION OF OPIOIDS WITH ABUSE-DETERRENT TECHNOLOGY. 1.  
4 NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTY-EIGHT HUNDRED SIXTEEN-A  
5 OF THE EDUCATION LAW, NO PHARMACIST SHALL INTERCHANGE OR SUBSTITUTE AN  
6 ABUSE-DETERRENT OPIOID ANALGESIC DRUG PRODUCT, BRAND OR GENERIC, WITH AN  
7 OPIOID ANALGESIC DRUG PRODUCT LACKING ABUSE-DETERRENT PROPERTIES WITHOUT  
8 OBTAINING A NEW PRESCRIPTION FOR A NON-ABUSE DETERRENT OPIOID DRUG FROM  
9 THE PRESCRIBER. ANY SUBSTITUTABLE OPIOID DRUG PRODUCT SHALL CONTAIN THE  
10 SAME OPIOID ACTIVE PHARMACEUTICAL INGREDIENT AND THE SAME DRUG RELEASE  
11 CHARACTERISTICS WITH REGARD TO IMMEDIATE RELEASE, OR EXTENDED RELEASE  
12 LONG ACTING PROPERTIES. A DETERMINATION OF INTERCHANGEABILITY BETWEEN  
13 TWO ABUSE-DETERRENT OPIOID ANALGESIC DRUG PRODUCTS SHALL NOT REQUIRE  
14 THAT BOTH PRODUCTS INCORPORATE THE SAME METHODS OF ABUSE-DETERRENCE, BUT  
15 THAT THE OPIOID DRUG PRODUCTS HAVE THE SAME LEVEL OF FDA-APPROVED ABUSE  
16 DETERRENCE LABELING CLAIMS.

17 2. DEFINITIONS. AS USED IN THIS SECTION:

18 (A) "OPIOID ANALGESIC DRUG PRODUCT" MEANS A DRUG IN THE OPIOID ANAL-  
19 GESIC DRUG CLASS PRESCRIBED TO TREAT MODERATE TO SEVERE PAIN OR OTHER  
20 CONDITIONS, WHETHER IN IMMEDIATE RELEASE OR EXTENDED RELEASE LONG ACTING  
21 FORM AND WHETHER OR NOT COMBINED WITH OTHER DRUG SUBSTANCES TO FORM A  
22 SINGLE DRUG PRODUCT OR OTHER DOSAGE FORM.

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

LBD08948-03-5

1 (B) "ABUSE-DETERRENT OPIOID ANALGESIC DRUG PRODUCT" MEANS A BRAND OR  
2 GENERIC OPIOID ANALGESIC DRUG PRODUCT APPROVED BY THE FEDERAL FOOD AND  
3 DRUG ADMINISTRATION WITH ABUSE-DETERRENCE LABELING CLAIMS INDICATING ITS  
4 ABUSE-DETERRENT PROPERTIES ARE EXPECTED TO DETER OR REDUCE ITS ABUSE.

5 (C) "INTERCHANGE OR SUBSTITUTION OF AN OPIOID DRUG" MEANS THE SUBSTI-  
6 TUTION OF ANY ABUSE-DETERRENT OPIOID DRUG PRODUCT, BRAND OR GENERIC,  
7 WITH AN OPIOID ANALGESIC DRUG LACKING ABUSE-DETERRENT PROPERTIES.

8 (D) "PHARMACIST" INCLUDES ANY PHARMACIST DISPENSING DRUGS UNDER THE  
9 JURISDICTION OF THE STATE BOARD OF PHARMACY, INCLUDING BUT NOT LIMITED  
10 TO, COMMUNITY PHARMACISTS, PHARMACISTS IN HOSPITAL-BASED PHARMACIES WHEN  
11 FILLING PRESCRIPTIONS FOR INPATIENT OR OUTPATIENT CARE, AND PHARMACISTS  
12 IN MAIL ORDER PHARMACIES LICENSED BY THE STATE TO DISTRIBUTE IN THE  
13 STATE.

14 S 2. The insurance law is amended by adding a new section 3216-a to  
15 read as follows:

16 S 3216-A. ACCESS TO ABUSE-DETERRENT OPIOID MEDICATIONS. (A) AN INSUR-  
17 ANCE CARRIER OR HEALTH PLAN SHALL PROVIDE COVERAGE FOR ALL ABUSE-DETER-  
18 RENT OPIOID ANALGESIC DRUG PRODUCTS AS PREFERRED DRUGS ON THEIR FORMU-  
19 LARY, PREFERRED DRUG LIST OR OTHER LISTS OF SIMILAR CONSTRUCT.

20 (1) COST-SHARING FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUG PRODUCTS  
21 SHALL NOT EXCEED THE LOWEST COST-SHARING LEVEL APPLIED TO PRESCRIPTION  
22 DRUGS.

23 (2) AN INCREASE IN PATIENT COST-SHARING OR DISINCENTIVES FOR PRESCRI-  
24 BERS OR DISPENSERS SHALL NOT BE ALLOWED TO ACHIEVE COMPLIANCE WITH THIS  
25 SECTION.

26 (B) ANY PRIOR-AUTHORIZATION REQUIREMENTS OR OTHER UTILIZATION REVIEW  
27 MEASURES FOR OPIOID ANALGESICS, AND ANY SERVICE DENIALS MADE PURSUANT  
28 THERETO, SHALL NOT REQUIRE USE OF OPIOID ANALGESIC DRUG PRODUCTS WITHOUT  
29 ABUSE-DETERRENT PROPERTIES IN ORDER TO ACCESS ABUSE-DETERRENT OPIOID  
30 ANALGESIC DRUG PRODUCTS.

31 (C) THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT AN INSURER OR  
32 HEALTH PLAN FROM APPLYING PRIOR-AUTHORIZATION REQUIREMENTS TO ABUSE-DET-  
33 ERRENT OPIOID ANALGESIC DRUG PRODUCTS, PROVIDED THAT SUCH REQUIREMENTS  
34 ARE APPLIED TO NON-ABUSE-DETERRENT VERSIONS OF THAT OPIOID.

35 (D) DEFINITIONS. AS USED IN THIS SECTION:

36 (1) "OPIOID ANALGESIC DRUG PRODUCT" MEANS A DRUG IN THE OPIOID ANAL-  
37 GESIC DRUG CLASS PRESCRIBED TO TREAT MODERATE TO SEVERE PAIN OR OTHER  
38 CONDITIONS, WHETHER IN IMMEDIATE RELEASE OR EXTENDED LONG ACTING RELEASE  
39 FORM AND WHETHER OR NOT COMBINED WITH OTHER DRUG SUBSTANCES TO FORM A  
40 SINGLE DRUG PRODUCT OR OTHER DOSAGE FORM.

41 (2) "ABUSE DETERRENT OPIOID ANALGESIC DRUG PRODUCT" MEANS A BRAND OR  
42 GENERIC OPIOID ANALGESIC DRUG PRODUCT APPROVED BY THE FEDERAL FOOD AND  
43 DRUG ADMINISTRATION WITH ABUSE-DETERRENCE LABELING CLAIMS INDICATING ITS  
44 ABUSE-DETERRENT PROPERTIES ARE EXPECTED TO DETER OR REDUCE ITS ABUSE.

45 (3) "COST-SHARING" MEANS ANY COVERAGE LIMIT, COPAYMENT, COINSURANCE,  
46 DEDUCTIBLE OR OTHER OUT-OF-POCKET PATIENT EXPENSE REQUIREMENTS.

47 S 3. This act shall take effect immediately, and shall apply to all  
48 policies and contracts issued, renewed, modified, altered or amended on  
49 or after such date.