

# STATE OF NEW YORK

687

2017-2018 Regular Sessions

## IN SENATE

January 4, 2017

Introduced by Sens. KENNEDY, AVELLA, KRUEGER -- 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 mental hygiene law, in relation to requiring disclosure of addiction risks for certain prescription drugs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Michael  
2 David Israel patient information act".

3 § 2. The public health law is amended by adding a new section 3317 to  
4 read as follows:

5 § 3317. Required disclosures. 1. Definitions. For purposes of this  
6 section:

7 (a) "opiate analgesics" shall mean the medicines buprenorphine, butor-  
8 phanol, codeine, hydrocodone, hydromorphone, levorphanol, meperidine,  
9 methadone, morphine, nalbuphine, oxycodone, oxymorphone, pentazocine and  
10 propoxyphene as well as their brand names, isomers and combinations.

11 (b) "psychotropic drugs" shall mean any drug or medicine that affects  
12 mental activity, behavior or perception including anti-psychotics, anti-  
13 depressants, anti-anxiety drugs or anxiolytics and hypnotics.

14 2. Disclosures. Whenever a practitioner, pharmacist, registered nurse  
15 or any other person who is authorized to distribute substances regulated  
16 by this article, dispenses opiate analgesics or psychotropic drugs such  
17 prescribing physician, nurse or pharmacist shall:

18 (a) describe the risks of addiction to the patient;

19 (b) after consulting the patient's medical history, inform the patient  
20 of his or her chance of addiction;

21 (c) provide the patient with information about coping with opiate  
22 analgesic or psychotropic drug addiction and available local resources  
23 including detoxification centers, counseling services and hotlines; and

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

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1 (d) have the patient sign a form approved by the department acknowl-  
2 edging that he or she has been informed of the prevention, mitigation  
3 and treatment of such addiction.

4 3. Enforcement by department. (a) The department shall be responsible  
5 for publishing informational pamphlets regarding the dangers of opiate  
6 analgesics and psychotropic drugs and distribution. Such pamphlets shall  
7 take the form prescribed by the commissioner. The department shall also  
8 provide the form required in paragraph (d) of subdivision two of this  
9 section.

10 (b) The department shall be responsible for the receipt, investigation  
11 and substantiation of any complaints or tips about physicians, nurses or  
12 pharmacists who fail to provide the information mandated in this  
13 section. Failure to provide such information shall be punishable as  
14 follows:

15 (i) First offense; fine of up to one thousand dollars;  
16 (ii) Second offense; fine of up to five thousand dollars;  
17 (iii) Third offense; suspension of license up to six months;  
18 (iv) Fourth offense; suspension of license up to one year;  
19 (v) Fifth offense; permanent suspension or revocation of license and  
20 referred to the respective licensing boards under this article.

21 A signed patient form shall be prima facie proof that the person  
22 prescribing such medications has complied with the provisions of this  
23 section.

24 § 3. The mental hygiene law is amended by adding a new section 19.18-b  
25 to read as follows:

26 § 19.18-b Required disclosures.

27 (a) Definitions. For purposes of this section:

28 (1) "department" shall mean the department of health.

29 (2) "opiate analgesics" shall mean the medicines buprenorphine, butor-  
30 phanol, codeine, hydrocodone, hydromorphone, levorphanol, meperidine,  
31 methadone, morphine, nalbuphine, oxycodone, oxymorphone, pentazocine and  
32 propoxyphene as well as their brand names, isomers and combinations.

33 (3) "psychotropic drugs" shall mean any drug or medicine that affects  
34 mental activity, behavior or perception including anti-psychotics, anti-  
35 depressants, anti-anxiety drugs or anxiolytics and hypnotics.

36 (b) Disclosures. Whenever a practitioner, pharmacist, registered nurse  
37 or any other person who is authorized to distribute substances regulated  
38 by this article or those regulated under article thirty-three of the  
39 public health law, dispenses opiate analgesics or psychotropic drugs,  
40 such prescribing physician, nurse or pharmacist shall:

41 (1) describe the risks of addiction to the patient;

42 (2) after consulting the patient's mental history, inform the patient  
43 of his or her chance of addiction;

44 (3) provide the patient with information about coping with opiate  
45 analgesic or psychotropic drug addiction and available local resources  
46 including detoxification centers, counseling services and hotlines; and

47 (4) have the patient sign a form approved by the department acknowl-  
48 edging that he or she has been informed of the prevention, mitigation  
49 and treatment of such addiction.

50 (c) Enforcement by department. (1) The department shall be responsible  
51 for publishing informational pamphlets regarding the dangers of opiate  
52 analgesics and psychotropic drugs for distribution. Such pamphlets shall  
53 take the form prescribed by the commissioner of health. The department  
54 shall also provide the form required in paragraph four of subdivision  
55 (b) of this section.

1     (2) The department shall be responsible for the receipt, investigation  
2 and substantiation of any complaints or tips about physicians, nurses or  
3 pharmacists who fail to provide the information mandated in this  
4 section. Failure to provide such information shall be punishable as  
5 follows:

6     (i) First offense: fine of up to one thousand dollars;

7     (ii) Second offense: fine of up to five thousand dollars;

8     (iii) Third offense: suspension of license up to six months;

9     (iv) Fourth offense: suspension of license up to one year;

10    (v) Fifth offense: permanent suspension or revocation of license and  
11 referred to the respective licensing boards under article thirty-three  
12 of the public health law.

13    A signed patient form shall be prima facie proof that the person  
14 prescribing such medications has complied with the provisions of this  
15 section.

16    § 4. This act shall take effect immediately.