

# STATE OF NEW YORK

6621

2019-2020 Regular Sessions

## IN SENATE

July 3, 2019

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law in relation to establishing the "New York patients' right to know act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York patients' right to know act".

3 § 2. The education law is amended by adding a new section 6533 to read  
4 as follows:

5 § 6533. Patients' right to know. 1. A physician found guilty of any  
6 category of professional misconduct as specified in subdivision two of  
7 this section, under the procedures prescribed in section two hundred  
8 thirty of the public health law, shall provide to all patients a disclo-  
9 sure which includes:

10 (a) the penalties imposed upon such physician pursuant to section two  
11 hundred thirty-a of the public health law, as added by chapter 606 of  
12 the laws of 1991, and the duration of such penalties;

13 (b) the office of professional medical conduct's contact information;  
14 and

15 (c) an explanation of how patients can find further information about  
16 such physician's history of misconduct on the office of professional  
17 medical conduct's internet website.

18 2. A physician found guilty of professional misconduct under any of  
19 the following subdivisions of section sixty-five hundred thirty of this  
20 article shall provide to all patients the disclosure required by subdi-  
21 vision one of this section:

22 (a) professional misconduct under paragraph (a) of subdivision nine  
23 involving a criminal conviction where:

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

LBD13070-01-9

1 (i) such criminal conviction was for any sex offense under article one  
2 hundred thirty of the penal law, and where such sex offense was commit-  
3 ted against a patient of such physician; or

4 (ii) such criminal conviction was for any other act resulting in harm  
5 to a patient;

6 (b) professional misconduct under paragraph (e) of subdivision nine,  
7 where such physician was found to be in violation of article thirty-  
8 three of the public health law; or

9 (c) professional misconduct under subdivision seven or eight involving  
10 impairment or abuse of alcohol or narcotics.

11 3. A physician required to provide a disclosure pursuant to this  
12 section shall obtain from all patients, or such patients' guardian or  
13 health care surrogate, a separate, signed copy of such disclosure.

14 4. Notwithstanding any provision of this section to the contrary, a  
15 physician shall not be required to provide a disclosure under this  
16 section if any of the following applies:

17 (a) the patient is unconscious or otherwise unable to comprehend the  
18 disclosure and sign the copy of such disclosure pursuant to subdivision  
19 three of this section, and a guardian or health care surrogate is  
20 unavailable to comprehend such disclosure and sign a copy;

21 (b) the visit occurs in an emergency room or an urgent care facility  
22 or such visit is unscheduled, including consultations given as a part of  
23 inpatient health care services, as defined by subdivision eleven of  
24 section twenty-five hundred ten of the public health law;

25 (c) such physician is not known to the patient until immediately prior  
26 to the start of the visit; or

27 (d) such physician does not have a direct treatment relationship with  
28 the patient.

29 5. The board of the office of professional medical conduct shall  
30 create the disclosure form required under this section, and shall  
31 provide such disclosure form on its website to be accessible by physi-  
32 cians.

33 6. The office of professional medical conduct shall make all informa-  
34 tion required to be included on disclosures under this section addi-  
35 tionally available on its website.

36 § 3. The education law is amended by adding a new section 6511-a to  
37 read as follows:

38 § 6511-a. Patients' right to know. 1. For the purposes of this  
39 section, the following terms shall have the following meanings:

40 (a) "licensee" means and shall be limited to individuals licensed or  
41 authorized to practice chiropractic under article one hundred thirty-two  
42 of this title, individuals licensed or authorized to practice podiatry  
43 under article one hundred forty-one of this title, and individuals  
44 licensed or authorized to practice acupuncture under article one hundred  
45 sixty of this title.

46 (b) "the board" shall mean the board of regents.

47 2. A licensee found guilty of any category of professional misconduct  
48 as specified in subdivision three of this section, under the procedures  
49 prescribed in section sixty-five hundred ten of this sub article, shall  
50 provide to all clients a disclosure which includes:

51 (a) the penalties imposed upon such licensee pursuant to section  
52 sixty-five hundred eleven of this sub article, and the duration of such  
53 penalties;

54 (b) the board's contact information; and

55 (c) an explanation of how patients can find further information about  
56 such licensee's history of misconduct on the board's internet website.

1 3. A licensee found guilty of professional misconduct under any of the  
2 following subdivisions of section sixty-five hundred nine of this sub  
3 article shall provide to all patients the disclosure required by subdi-  
4 vision two of this section:

5 (a) professional misconduct under paragraph (a) of subdivision five  
6 involving a criminal conviction where:

7 (i) such criminal conviction was for any sex offense under article one  
8 hundred thirty of the penal law, and where such sex offense was commit-  
9 ted against a patient of such licensee; or

10 (ii) such criminal conviction was for any other act resulting in harm  
11 to a patient;

12 (b) professional misconduct under paragraph (c) of subdivision five,  
13 where such licensee was found to be in violation of article thirty-three  
14 of the public health law; or

15 (c) professional misconduct under subdivision three or four involving  
16 impairment or abuse of alcohol or narcotics.

17 4. A licensee required to provide a disclosure pursuant to this  
18 section shall obtain from all patients, or such patients' guardian or  
19 health care surrogate, a separate, signed copy of such disclosure.

20 5. Notwithstanding any provision of this section to the contrary a  
21 licensee shall not be required to provide a disclosure under this  
22 section if any of the following applies:

23 (a) the patient is unconscious or otherwise unable to comprehend the  
24 disclosure and sign the copy of such disclosure pursuant to subdivision  
25 four of this section, and a guardian or health care surrogate is  
26 unavailable to comprehend such disclosure and sign a copy;

27 (b) the visit occurs in an emergency room or an urgent care facility  
28 or such visit is unscheduled, including consultations given as a part of  
29 inpatient health care services, as defined by subdivision eleven of  
30 section twenty-five hundred ten of the public health law;

31 (c) such licensee is not known to the patient until immediately prior  
32 to the start of the visit; or

33 (d) such licensee does not have a direct treatment relationship with  
34 the patient.

35 6. The board shall create the disclosure form required under this  
36 section, and shall provide such disclosure form on its website to be  
37 accessible by licensees.

38 7. The board shall make all information required to be included on  
39 disclosures under this section additionally available on its website.

40 § 4. This act shall take effect July 1, 2020.