

STATE OF NEW YORK

8940

IN ASSEMBLY

January 2, 2020

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

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 Assem-
bly, 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:

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

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

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

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

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

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

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

12 (a) the patient is unconscious or otherwise unable to comprehend the
13 disclosure and sign the copy of such disclosure pursuant to subdivision
14 three of this section, and a guardian or health care surrogate is
15 unavailable to comprehend such disclosure and sign a copy;

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

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

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

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

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

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

33 § 6511-a. Patients' right to know. 1. For the purposes of this
34 section, the following terms shall have the following meanings:

35 (a) "licensee" means and shall be limited to individuals licensed or
36 authorized to practice chiropractic under article one hundred thirty-two
37 of this title, individuals licensed or authorized to practice podiatry
38 under article one hundred forty-one of this title, and individuals
39 licensed or authorized to practice acupuncture under article one hundred
40 sixty of this title.

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

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

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

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

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

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

1 (a) professional misconduct under paragraph (a) of subdivision five
2 involving a criminal conviction where:

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

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

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

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

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

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

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

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

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

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

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

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

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