STATE OF NEW YORK

3317

2019-2020 Regular Sessions

IN SENATE

February 5, 2019

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Abuse

AN ACT to amend the public health law, in relation to directing the commissioner of the department of health to promulgate rules and regulations promoting recovery from opioid abuse and reducing diversion of addiction medicines

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 3309-b to read as follows:

§ 3309-b. Promoting recovery from opioid abuse and reducing diversion of addiction medicines. 1. The commissioner shall, in consultation with the office of alcoholism and substance abuse services, promulgate rules and regulations pertaining to individual physicians and group practices including, but not limited to, physician's office-based opioid treatment, opioid treatment programs and any other treatment practices serving more than fifty patients at a time who have a primary or secondary diagnosis of opiate misuse or addiction. Such rules and regulations shall at a minimum include the following provisions:

(a) All patients seeking treatment for opiate use disorder shall be given an orientation including factual information and an easily understood explanation of each addiction medication option approved by the United States food and drug administration. Such education must be documented in the patient record along with documentation regarding the patient's choice of one of the medication options or none of them. Such documentation shall be signed by the patient, or the commissioner may specify some other form of documentation showing that the medical provider made a good faith effort to obtain such informed consent from the patient;

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

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(b) If a patient chooses an addiction medication not available through the medical practitioner, such practitioner must make a referral to a treatment setting where the patient can access his or her preferred medication option;

(c) The medical provider shall utilize the level of care for alcohol and drug treatment referral web application provided by the office of alcoholism and substance abuse services or another patient assessment instrument approved by the office of alcoholism and substance abuse services to help determine an appropriate level of patient care;

(d) In the event that the patient using opiates declines to engage in treatment the medical provider shall provide such patient with information about accessible harm reduction services;

(e) Treatment counseling shall be provided to all individuals for whom an addiction medication is prescribed or dispensed. Such treatment counseling may be provided by a qualified addiction professional, as determined by the office of alcoholism and substance abuse services, employed by the medical practice or through a contract with an office of alcoholism and substance abuse services certified treatment program;

(f) The medical provider shall develop a treatment plan for each patient and such plan shall be reviewed, at a minimum, every six months. The standards for developing individual treatment plans shall be determined by the office of alcoholism and substance abuse services and shall be consistent with the standards used in other office of alcoholism and substance abuse services licensed outpatient treatment programs;

(g) The medical provider shall inform patients about available peer recovery support services; and

(h) When an addiction medication is not taken under direct clinical supervision, the medical provider shall utilize diversion control practices to ensure such medication is taken as prescribed and not diverted. Such practices shall be determined by the commissioner and shall include:

(i) limits on the amount of medication prescribed and the number of refills given to a patient until such patient has established a pattern of reliability; and

(ii) minimum toxicology screening standards.

2. For all medical providers subject to these rules and regulations, the commissioner shall ensure that providers are monitored for compliance. Such monitoring shall be done directly by the department or by an independent organization specified by the commissioner.

3. The commissioner shall establish appropriate penalties for medical practitioners who fail to comply with such rules and regulations promulgated under subdivision one of this section.

§ 2. This act shall take effect January 1, 2020. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.