

STATE OF NEW YORK

3083

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

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

AN ACT to amend the education law, in relation to requiring the consent of the patient or an authorized individual to consent on the patient's behalf before a prescription is delivered

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

1 Section 1. Subdivision 2 of section 6810 of the education law, as
2 amended by chapter 413 of the laws of 2014, the second undesignated
3 paragraph of paragraph (a) as amended by section 7 of part A of chapter
4 57 of the laws of 2015, is amended to read as follows:

5 2. (a) A prescription may not be refilled unless it bears a contrary
6 instruction and indicates on its face the number of times it may be
7 refilled. A prescription may not be refilled more times than allowed on
8 the prescription. The date of each refilling must be indicated on the
9 original prescription. Prescriptions for controlled substances shall be
10 refilled only pursuant to article thirty-three of the public health law.

11 A pharmacy registered with the department pursuant to section sixty-
12 eight hundred eight or sixty-eight hundred eight-b of this article may
13 not deliver a new or refilled prescription off premises without the
14 express consent of the patient or an individual authorized to consent on
15 the patient's behalf or action taken in lieu of indicating the express
16 consent of the patient to receive the prescription. For the purposes of
17 this section, express consent [~~may be obtained in the same manner and~~
18 ~~process by which consent is deemed acceptable under the federal Medicare~~
19 ~~Part D program~~] shall include at least one of the following:

20 (1) the patient or authorized individual's physical or electronic
21 signature authorizing each prescription delivered;

22 (2) the pharmacy may contact the patient or authorized individual for
23 verbal, electronic or written consent to deliver and must document
24 consent in the patient record; or

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

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1 (3) for pharmacies that administer refill reminder or medication
2 adherence programs and deliver off premises, if an express consent is
3 not received on each prescription, then the refill reminder program or
4 medication adherence program shall be an OPT-IN program that is updated
5 as to patient consent every one hundred eighty days.

6 (b) Pharmacy providers who deliver medication without patient or
7 authorized individual express consent will be required to accept the
8 return of the medication from the patient, provide that patient credit
9 for any charges they may have paid, provide credit to the medical plan
10 for charges paid, and will be required to destroy those medications sent
11 without consent on delivery in accordance with applicable state and
12 federal law. Nothing in this section shall be deemed to interfere with
13 the requirements for refill reminder or medication adherence programs.
14 Nothing in this section is intended to apply to long-term care pharmacy
15 dispensing and delivery.

16 (c) Pharmacy providers who deliver medications shall provide a state-
17 ment of rights upon delivery on an annual basis that outlines the
18 patient's rights regarding consent and prescription delivery options.

19 § 2. This act shall take effect immediately.