STATE OF NEW YORK

408

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed 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 Assembly, do enact as follows:

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

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

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

(a) the penalties imposed upon such physician pursuant to section two hundred thirty-a of the public health law, as added by chapter six hundred six of the laws of nineteen ninety-one, and the duration of such penalties;

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

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

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

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

LBD02953-01-1

(a) professional misconduct under paragraph (a) of subdivision nine of section six thousand five hundred thirty of this article involving a criminal conviction where:

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

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

(b) professional misconduct under paragraph (e) of subdivision nine of section six thousand five hundred thirty of this article, where such physician was found to be in violation of article thirty-three of the public health law; or

(c) professional misconduct under subdivision seven or eight of section six thousand five hundred thirty of this article involving impairment or abuse of alcohol or narcotics.

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

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

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

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

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

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

5. The board of the office of professional medical conduct shall create the disclosure form required under this section, and shall provide such disclosure form on its website to be accessible by physicians.

6. The office of professional medical conduct shall make all information required to be included on disclosures under this section additionally available on its website.

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

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

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

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

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

(a) the penalties imposed upon such licensee pursuant to section sixty-five hundred eleven of this subarticle, and the duration of such penalties;

(b) the board's contact information; and

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

3. A licensee found guilty of professional misconduct under any of the following subdivisions of section sixty-five hundred nine of this subarticle shall provide to all patients the disclosure required by subdivision two of this section:

(a) professional misconduct under paragraph (a) of subdivision five of section six thousand five hundred thirty of this title involving a criminal conviction where:

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

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

(b) professional misconduct under paragraph (c) of subdivision five of section six thousand five hundred thirty of this title, where such licensee was found to be in violation of article thirty-three of the public health law; or

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

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

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

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

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

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

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

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

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

§ 4. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.