STATE OF NEW YORK

4482

2023-2024 Regular Sessions

IN SENATE

February 9, 2023

Introduced by Sens. GALLIVAN, HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prescribing opioids to a minor

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 3346 to read as follows:

§ 3346. Prescribing opioids to minors. 1. As used in this section, the following terms shall have the following meanings:

(a) "another adult authorized to consent to the minor's medical treatment" means an adult to whom a minor's parent or guardian has given written authorization to consent to the minor's medical treatment;

(b) "medical emergency" means a situation that in a practitioner's good faith medical judgment creates an immediate threat of serious risk to the life or physical health of a minor; and

(c) "minor" means an individual under eighteen years of age who is not emancipated. For purposes of this section, an individual under eighteen years of age is emancipated only if the individual has married, has entered the armed services of the United States, has become employed and self-sustaining, or otherwise has become independent from the care and control of the individual's parent, guardian, or custodian.

2. (a) A practitioner shall not prescribe to a minor more than a seven day supply of any controlled substance containing an opioid.

(b) Except as provided in subdivision three of this section, before issuing for a minor the first prescription in a single course of treatment for a particular compound that is a controlled substance containing an opioid, regardless of whether the dosage is modified during that course of treatment, a practitioner shall:

(i) assess whether the minor has ever suffered, or is currently suffering, from mental health or substance abuse disorders and whether

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

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the minor has taken or is currently taking prescription drugs for treatment of those disorders;

(ii) discuss with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment all of the following:

(A) the risks of addiction and overdose associated with the controlled substance containing an opioid;

(B) the increased risk of addiction to controlled substances of individuals suffering from both mental and substance abuse disorders;

(C) the dangers of taking controlled substances containing an opioid with benzodiazepines, alcohol, or other central nervous system depressants; and

(D) any other information in the patient counseling information section of the labeling for controlled substances containing an opioid required under 21 C.F.R. 201.57(c)(18); and

(iii) obtain written consent for the prescription from the minor's parent, guardian, or, subject to subdivision four of this section, another adult authorized to consent to the minor's medical treatment. The practitioner shall record the consent on a form prescribed by the commissioner. The form shall be separate from any other document the practitioner uses to obtain informed consent for other treatment provided to the minor. The form shall contain all of the following:

(A) the name and quantity of the controlled substance containing an opioid being prescribed and the amount of the initial dose;

(B) a statement indicating that a controlled substance is a drug or other substance that the United States drug enforcement administration has identified as having a potential for abuse;

(C) a statement certifying that the practitioner discussed with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment the matters described in subparagraph (ii) of this paragraph;

(D) the number of refills, if any, authorized by the prescription; and

(E) the signature of the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment and the date of signing.

3. The requirements in subdivision two of this section do not apply if the minor's treatment with a controlled substance containing an opioid meets any of the following criteria:

(a) the treatment is associated with or incident to a medical emergency; or

(b) in the practitioner's professional judgment, fulfilling the requirements of subdivision two of this section with respect to the minor's treatment would be a detriment to the minor's health or safety.

4. If the individual who signs the consent form required by subdivision two of this section is another adult authorized to consent to the minor's medical treatment, the practitioner shall prescribe not more than a single, seventy-two hour supply and indicate on the prescription the quantity that is to be dispensed pursuant to the prescription.

5. A signed consent form obtained under this section shall be maintained in the minor's medical record.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. 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.