

# STATE OF NEW YORK

4757

2023-2024 Regular Sessions

## IN SENATE

February 14, 2023

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 misuse and reducing diversion of addiction medicines

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

1 Section 1. The public health law is amended by adding a new section  
2 3309-c to read as follows:

3 § 3309-c. Promoting recovery from opioid misuse and reducing diversion  
4 of addiction medicines. 1. The commissioner shall, in consultation with  
5 the office of addiction services and supports, promulgate rules and  
6 regulations pertaining to individual physicians and group practices  
7 including, but not limited to, physician's office-based opioid treat-  
8 ment, opioid treatment programs and any other treatment practices serv-  
9 ing more than fifty patients at a time who have a primary or secondary  
10 diagnosis of opiate misuse or addiction. Such rules and regulations  
11 shall at a minimum include the following provisions:

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

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

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

5 (c) The medical provider shall utilize the level of care for alcohol  
6 and drug treatment referral web application provided by the office of  
7 addiction services and supports or another patient assessment instrument  
8 approved by the office of addiction services and supports to help deter-  
9 mine an appropriate level of patient care;

10 (d) In the event that the patient using opiates declines to engage in  
11 treatment the medical provider shall provide such patient with informa-  
12 tion about accessible harm reduction services;

13 (e) Treatment counseling shall be provided to all individuals for whom  
14 an addiction medication is prescribed or dispensed. Such treatment coun-  
15 seling may be provided by a qualified addiction professional, as deter-  
16 mined by the office of addiction services and supports, employed by the  
17 medical practice or through a contract with an office of addiction  
18 services and supports certified treatment program;

19 (f) The medical provider shall develop a treatment plan for each  
20 patient and such plan shall be reviewed, at a minimum, every six months.  
21 The standards for developing individual treatment plans shall be deter-  
22 mined by the office of addiction services and supports and shall be  
23 consistent with the standards used in other office of addiction services  
24 and supports licensed outpatient treatment programs;

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

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

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

35 (ii) minimum toxicology screening standards.

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

40 3. The commissioner shall establish appropriate penalties for medical  
41 practitioners who fail to comply with such rules and regulations promul-  
42 gated under subdivision one of this section.

43 § 2. This act shall take effect January 1, 2024. Effective immediate-  
44 ly, the addition, amendment and/or repeal of any rule or regulation  
45 necessary for the implementation of this act on its effective date are  
46 authorized to be made and completed on or before such effective date.