

STATE OF NEW YORK

4050

2023-2024 Regular Sessions

IN SENATE

February 2, 2023

Introduced by Sen. FERNANDEZ -- 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:

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

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

5 § 6533. Patients' right to know. 1. A physician found guilty of any
6 category of professional misconduct as specified in subdivision two of
7 this section, under the procedures prescribed in section two hundred
8 thirty of the public health law, shall provide to all patients a disclo-
9 sure which includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 5. The board of the office of professional medical conduct shall
32 create the disclosure form required under this section, and shall
33 provide such disclosure form on its website to be accessible by physi-
34 cians.

35 6. The office of professional medical conduct shall make all informa-
36 tion required to be included on disclosures under this section addi-
37 tionally available on its website.

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

40 § 6511-a. Patients' right to know. 1. For the purposes of this
41 section, the following terms shall have the following meanings:

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

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

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

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

56 (b) the board's contact information; and

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

3 3. A licensee found guilty of professional misconduct under any of the
4 following subdivisions of section sixty-five hundred nine of this subar-
5 title shall provide to all patients the disclosure required by subdivi-
6 sion two of this section:

7 (a) professional misconduct under paragraph (a) of subdivision five of
8 section six thousand five hundred thirty of this title involving a crim-
9 inal conviction where:

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

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

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

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

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

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

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

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

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

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

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

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

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