

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 Assem-
bly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 3346 to read as follows:

3 § 3346. Prescribing opioids to minors. 1. As used in this section, the
4 following terms shall have the following meanings:

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

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

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

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

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

24 (i) assess whether the minor has ever suffered, or is currently
25 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.

LBD09085-01-3

1 the minor has taken or is currently taking prescription drugs for treat-
2 ment of those disorders;

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

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

8 (B) the increased risk of addiction to controlled substances of indi-
9 viduals suffering from both mental and substance abuse disorders;

10 (C) the dangers of taking controlled substances containing an opioid
11 with benzodiazepines, alcohol, or other central nervous system depres-
12 sants; and

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

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

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

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

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

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

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

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

39 (a) the treatment is associated with or incident to a medical emergen-
40 cy; or

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

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

49 5. A signed consent form obtained under this section shall be main-
50 tained in the minor's medical record.

51 § 2. This act shall take effect on the ninetieth day after it shall
52 have become a law. Effective immediately, the addition, amendment
53 and/or repeal of any rule or regulation necessary for the implementation
54 of this act on its effective date are authorized to be made and
55 completed on or before such effective date.