

# MEDICAL SOCIETY of the STATE OF NEW YORK

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**MEMORANDUM IN OPPOSITION**

**In Senate Health Committee**

**S. 6815-A (LANZA)**

**In Assembly Alcoholism and Drug  
Abuse Committee**

**A. 8566-A (CUSICK)**

**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 Abuse And Reducing Diversion  
Of Addiction Medicines**

This measure directs the commissioner of the department of health to promulgate rules and regulations promoting recovery from opioid abuse and reducing diversion of addiction medicines and would impose regulations on office-based physicians prescribing medication as part of treatment for opioid use disorder. **The Medical Society of the State of New York opposes this legislation.**

The Comprehensive Addiction Recovery Act (CARA) enacted by Congress in 2016 included a provision that permits individual and group medical practices to increase the number of patients they can treat with Buprenorphine products from a current 30 patient limit to 100 patients. CARA also expands prescribing privileges to nurse practitioners (NPs) and physician assistants (PAs) for five years (until October 1, 2021). The act also gives the HHS Secretary the authority to exclude from the patient limit those patients to whom medications are directly administered and directs the secretary to review the provision of opioid addiction treatment services in the U.S. and submit a report to Congress, including an assessment of whether there is need to change the patient limit, every three years. MSSNY and the American Medical Association had supported these changes. Physicians who seek to prescribe Buprenorphine are required to complete an eight-hour training to qualify for a waiver to prescribe and dispense buprenorphine. The training course work must be approved by the Substance Abuse and Mental Health Administration (SAMHSA).

While the federal CARA law seeks to enhance the number of practitioners available to patients to help treat opioid, this bill would have the effect of reducing the number of practitioners who could provide this needed care. The proposed measure would impose stringent regulations upon the office based physicians similar to licensed clinic by New York State's Office of Alcoholism and Substance Abuse Services (OASAS). It requires formal documentation of education of the patient about the medication and requires affirmative consent. This consent implies a risk associated with medications for opioid use disorder – which is unsupported in any of the scientific or medical literature. Buprenorphine treatment reduces the risk of overdose and few deaths have been associated with this medication. The end result would be that many physicians and other practitioners would no longer participate because of these potentially burdensome requirements.

The Medical Society for the State of New York believes that it is vital, given the present public health crisis related to opioids, that access to treatment with these types of medication be expanded throughout New York State. Allowing physicians to increase their patient caseload, under the CARA legislation, was the first step in this process. The bill also allows the commissioner of health to monitor the physicians practice and to establish appropriate penalties for non-compliance. The Drug Enforcement Agency (DEA) already inspects offices that prescribe buprenorphine to ensure that federal laws are being following and SAMHSA also has reporting requirements.

The 2013 implementation of I-STOP and the “duty to consult” requirement has significantly changed physicians prescribing patterns and there has been a 13% decrease in opioid prescribing in New York State. Additionally, according to the NYS Department of Health, diversion of controlled substances is down by 90%! And, in 2016, physicians and other prescribers check the Prescription Monitoring Program (PMP) over 18 million times! Prior to prescribing buprenorphine, physicians would check the PMP to ascertain their patients prescribing history. There has not been any report that physicians are not complying with the requirements of ISTOP. The New York State Department of Health has reported that there has been an increase of almost 14% in prescriptions for Buprenorphine. According to an AMA Task Force on Opioid, of which the Medical Society is a member, there are now **37,637** physicians – a **27 percent increase** in the past 12 months – certified to provide office-based medication-assisted treatment for opioid use disorders across all 50 states!

The Medical Society of the State of New York believes that should this bill passed, it would have a chilling effect on access to life saving Medicated Assisted Treatment (MAT) throughout the state. MSSNY believes that physician will decide that the proposed requirements under this legislation would be financially too difficult for them to undertake within an office practice setting; and therefore, make a determination not to prescribe MAT. This would mean that few individuals would have access to life-saving treatments.

New York State has created and passed various laws over the last five years that have increased use of the PMP, decreased opioid prescriptions, enhanced naloxone access and increased access to Medicated Assistant Treatment. This legislation would, however, reduce that access to this life saving medication. **For all the reasons above, the Medical Society of the State of New York opposes this measure and urges its defeat.**

**Respectfully submitted,**

**Division of Governmental Affairs**

PFC  
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