

MEDICAL SOCIETY of the STATE OF NEW YORK

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Division of Governmental Affairs
MEMORANDUM IN OPPOSITION

**In Assembly Ways and Means
Committee**

A. 5603B (BRAUNSTEIN)

Passed Senate

S. 5150B (HARCKHAM)

AN ACT to amend the public health law, in relation to prescribing an opioid antagonist with a patient's first opioid prescription in a given year

This measure would require that prescribers, who prescribe opioids for the first time, also co-prescribe an opioid antagonist with the prescription. **The Medical Society of the State of New York opposes this measure.**

It should be noted that many physicians are already co-prescribing an opioid antagonist to certain patients based upon the physician's clinical judgment of the risks the patient may face. However, we are very concerned with an across the board mandate, which we believe could be counterproductive for patient needs. Physicians and prescribers are already required to use the *CDC Guideline for Prescribing Opioids for Chronic Pain* when assessing patients for opioid use which require, in part, that prescribers discuss benefits and risks and the availability of non-opioid therapies with the patient and ensure that patients are started on the lowest dosage possible. That dosage is usually 50 MME (morphine milligram equivalents). As a practical matter, this legislation would essentially require an opioid antagonist prescription with nearly every initial opioid prescription, not just limited circumstances. Of concern is that this could potentially create fear within patients that they would be stigmatized as drug addicts. This fear may very well carry over to the patient's use of opioids in general – leading those patients to suffer intense pain because of the fear of “addiction”. This measure does a disservice to ALL patients who are suffering pain.

Since April 1, 2006, New York State laws have been passed that allows non-medical persons to administer naloxone to another individual to prevent an opioid/heroin overdose from becoming fatal. Pharmacies have also been authorized to use a non-patient specific script for naloxone. Most importantly, physicians and other prescribers can already provide patients with either a non-patient specific script or a patient specific script for naloxone. Both a non-patient specific or patient specific script is intended for family members—and it is important to note that a family member or friend must be with the patient in the event of an overdose in order for the opioid antagonist to be administered and to be effective.

New York State is one of the four states that currently require electronic prescribing for controlled substances and has had this requirement since 2016. This means that the co-prescription of the opioid antagonist automatically will automatically go to the pharmacy and the patient will be charged a co-pay (if their insurance covers the prescription) or the full price this medication. The price for the most common version of generic Naloxone is around \$36.00—its usual retail price is over \$80.00. Certainly, such a mandate will result in a windfall for those manufacturers of the drug.

On October 23, 2018, the Food and Drug Administration's Commissioner Scott Gottlieb, issued a statement on co-prescribing that said, in part: *"There is the potential for significant costs and burdens that may be associated with naloxone co-prescribing. These include the direct economic costs to consumers and health systems. They also include practical considerations such as the need for manufacturing volume growth for naloxone, and the risk of drug shortages of this product that could come from a sudden spike in prescribing"*.

According to IQVIA, a healthcare data company based in Danbury CT, opioid prescribing in New York State is down by 37.5% since 2013 and down 11.2% since 2017. Certainly, that is the result of comprehensive efforts by many, including the physician community, to better ensure that prescribing of pain medications are appropriate to the patient's needs. Of course, continued efforts are needed, but the progress has been significant. Concurrently, the New York State Legislature has enacted numerous measures to more strongly regulate opioid prescribing, including 2012 legislation to require consultation with the I-STOP database prior to a controlled substance prescription; 2016 legislation to require all DEA-registered prescribers to take Continuing Medical Education coursework on pain management and limiting initial acute pain medication prescriptions to seven days; and 2018 legislation to require all prescriptions for treating patient chronic pain to be consistent with the CDC chronic pain guidelines.

Physicians and prescribers are using the CDC guidelines, speaking with their patients and checking the New York State's Prescription Monitoring Program (PMP) to ensure that patients are receiving appropriate medications. Prescribers are already issuing non-patient specific scripts to family and friends of patients and support the availability of this life saving drug over the counter through the pharmacy setting.

To summarize, while co-prescribing of an opioid antagonist can be beneficial for many patients, it could be counterproductive if mandated across the board.

For all the reasons above, the Medical Society of the State of New York urges that this measure is not adopted.

Respectfully submitted,

MSSNY Division of Governmental Affairs

Pfc-oppose
7/15/20