

# MEDICAL SOCIETY of the STATE OF NEW YORK

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**MEMORANDUM IN OPPOSITION**

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**A.355 (ROSENTHAL)**

**AN ACT to amend the public health law, in relation to the prescription pain medication awareness program and providing for the repeal of such provisions upon expiration thereof**

The measure would require health care professionals authorized to prescribe controlled substances to complete medical education on pain management, palliative care and addiction. **The Medical Society of the State of New York opposes this measure and urges its defeat.**

This bill would require that the commissioner of health, working in consultation with the commissioner of education, establish standards and requirements for the performance of continuing medical education on pain management, palliative care and addiction for every health care profession licensed under Title 8 of the Education Law, and who are also registered under the federal controlled substance act and in possession of a registration number from the drug enforcement administration (DEA). Under this bill, health care professionals would be required to take a three hour course every two years. Under the bill's provisions, the course work would include each of the following topics: ISTOP and drug enforcement administration requirements for prescribing controlled substances; pain management; appropriate prescribing; managing acute pain; palliative medicine; prevention, screening and signs of addiction; responses to abuse and addiction and end of life care.

To be clear, physicians are not opposed to continuing medical education. Indeed, most physicians currently take fifty hours or more of continuing medical education related to their specific practice. Physicians now are required to take a one-time two hour course on child abuse and identification and reporting and an infection control and barrier precaution course every four years - the typical course runs three or four hours. This measure would add a requirement for physicians to take a three hour course every two years on pain management, addiction prevention and end of life care. There is no course requirement now in statute that requires a physician to take a course every two years.

In addition to statutorily mandated course work, physician specialty boards require that as part of their board certification and re-certification, physicians must take course work required by such boards. MSSNY is appreciative that this measure recognizes this fact and intends that the three hour course on pain management be used toward these board certification requirements. However, these boards are incorporated in other states and may argue that they cannot be mandated by the State of New York to accept these credits.

On August 27, 2013, the ISTOP law was fully enacted and this requires physicians and other prescribers of Controlled Substances II, III, IV to check New York State's Prescription Monitoring Program (PMP) prior to writing a controlled substance prescription for a patient. There has been strong physician compliance with the law and in many respects, it has been successful in achieving its goals. According to the New York State Department of Health and the policy paper

by Brandeis University: *Mandating PDMP Participation by Medical Providers: Current Status and Experience in Selected States*-- since the implementation of ISTOP drug diversion in New York State has been reduced by 75%!

Brandeis also reports that “between August 27, 2013 and February 17, 2014, physicians and prescribers requested over 7.3 million reports on over 3.5 million unique patients which average to well over 42,300 reports a day. Most importantly, in comparing data from the fourth quarter of 2012 against the fourth quarter of 2013 (the first full quarter of the mandate being in effect) the number of prescriptions for all opioids decreased by 9.53% and the number of individuals with a prescription for opioids decreased by 9.51%. There was a 20.4% decrease in hydrocodone prescriptions, a 33.2% decrease in codeine 5 and a 13.2% decrease in prescriptions for codeine 3. There was a 14.8% increase in new buprenorphine prescriptions and patients being prescribed this drug overall increased by 12.8%. Buprenorphine is used to treat addicted patients.

There are currently 18 states that require prescribers to utilize the PMP in some form (Virginia’s statute becomes effective on July 1, 2015) and 12 states that require some type of pain management or prescription/opioid use continuing medical education course work for physicians. According to IMS Health, Inc., all states that require certain practitioners/dispensers to access the PMP prior to issuing controlled substances appear to have seen a decrease in utilization and growth in controlled substances. However, there is no evidence to suggest that requiring mandatory CME on opioid use or pain management has resulted in a decrease in the use of controlled substances.

New York State has seen a 1.5% reduction in filled oxycodone prescriptions from 2012 to 2013. New York State’s oxycodone utilization rank in 2013 was 27 compared to eight states that had a continuing medical education requirement, but who were ranked with a higher utilization rate than New York State.

Additionally, New York State’s utilization of Controlled Substances II was ranked at 41 with nine states that had a CME requirement with a higher level of utilization than New York State. For Controlled Substances III, New York State was ranked 51 with an overall growth reduction of -12.3% and New York was ranked 50<sup>th</sup> in Controlled Substances III utilization with a 0.29 increase in prescriptions. In both instances, all states that had a CME requirement were ranked higher in growth and utilization for Controlled Substances III.

MSSNY believes that the implementation of the I-STOP law and the statutory requirement for all prescribers to check the PMP prior to issuing a Controlled Substances II, III, IV prescription has already changed prescribing practices within New York State in a relatively short period of time. It would appear from the data noted above the PMP has changed behavior more significantly than would continuing medical education coursework and training in the area of pain management and opioid use as noted by the data by the IMS Health, Inc. MSSNY also believes that the implementation of the E-prescribing requirement for controlled substances and non-controlled substances in New York State, will again change prescriber’s behavior.

Most physicians do not need training on I-STOP and this is clearly borne out by the Brandeis University study and the IMS Health data. The law is very clear that prescribers need to check the database when they write a prescription for a controlled substance. To that end, physicians received a good deal of education through MSSNY before the law was implemented. We have not seen any data which shows that physicians are not complying with I-STOP. Quite to the contrary, the Department has been promoting prescribers’ strong compliance with it, and IMS Health data shows New York now being below many other states regarding controlled substance prescribing. As such, universal training on I-STOP is unnecessary. It would appear from the data noted above the PMP has changed behavior more significantly than would continuing medical education coursework and training in the area of pain management and opioid use as noted by the data by the IMS Health, Inc. The IMS Health, Inc. data and Brandeis University have clearly shown that having an educational requirement may not resolve the issue of opioid use and abuse.

Additionally, there are a number of courses already available to the physician community on a voluntary basis. For instance, the Food and Drug Administration (FDA) now requires that pharmaceutical companies offer Risk Evaluation and Mitigation Strategy (REMS) coursework and strongly encourages opioid prescribers to take such coursework. REMS is a strategy to manage known or potential serious risks associated with a drug product and is required by the FDA to

ensure that the benefits of a drug outweigh its risks. In April 2011, the FDA announced the elements of the REMS to ensure that the benefits of extended-release and long-acting (ER/LA) opioid analgesics outweigh the risks. The REMS supports national efforts to address the prescription drug abuse epidemic. As part of the REMS, all ER/LA opioid analgesic companies must provide: (1) education for prescribers of these medications, which will be provided through accredited continuing education (CE) activities supported by independent educational grants from ER/LA opioid analgesic companies and (2) information that prescribers can use when counseling patients about the risks and benefits of ER/LA opioid analgesic use. Educational components of REMS courses include the following: (a) Assessing Patients for Treatment with ER/LA Opioid Analgesic Therapy; (b) Initiating Therapy, Modifying Dosing, and Discontinuing Use of ER/LA Opioid Analgesics; (c) Managing Therapy with ER/LA Opioid Analgesics; (d) Counseling Patients and Caregivers about the Safe Use of ER/LA Opioid Analgesics; (e) General Drug Information for ER/LA Opioid Analgesic Products and (f) Specific Drug Information for ER/LA Opioid Analgesic Products.

There is also course work offered by the Providers' Clinical Support System for Opioid Therapies (PCSS-O). The PCSS-O is a three year grant funded effort by the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT). It is a collaborative project led by American Academy of Addiction Psychiatry with: American Dental Association, American Medical Association, American Osteopathic Academy of Addiction Medicine, American Psychiatric Association, and American Society for Pain Management Nursing, and International Nurses Society on Addictions. This coursework focuses on the appropriate use and dosage of opioids for different populations and clinical conditions. Specifying a range of topics which could be the subject of this coursework, so that it can be better tailored to the physicians' practice, rather than an omnibus course such as this bill envisions is preferred.

Given the success of New York's ISTOP law and the wide variety of educational tools that prescribers are already using to educate themselves regarding the risks and benefits of various controlled medications, this legislation is unnecessary. **For all the reasons cited above, the Medical Society of the State of New York opposes this bill and urges that it not be enacted.**

Respectfully submitted,

**ELIZABETH DEARS, ESQ.**

2/6/15- OPPOSE  
PFC