

STATE OF NEW YORK

608

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, JAFFEE, STECK, ORTIZ, WEPRIN,
LUPARDO -- read once and referred to the Committee on Higher Education

AN ACT to amend the public health law and the education law, in relation
to chronic pain management

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Legislative intent: The legislature hereby finds that
2 medical treatment of chronic pain in this state needs to be reexamined
3 to enhance the ability to assess such condition, increase access to
4 appropriate care to treat and mitigate chronic pain, and improve the
5 quality of life for those afflicted with this condition. Currently
6 chronic pain is most often treated by primary care providers who may
7 have little training in the assessment and proper treatment of complex
8 chronic pain conditions. This, in turn, has led, in certain circum-
9 stances, to patients seeing multiple health care providers and experi-
10 encing multiple and repeated diagnostic tests, that lead to inadequate
11 or unproven surgeries, prescription of unneeded or strong pain medica-
12 tions, with its consequential heightened possibility to lead to the long
13 term addiction to such strong pain medications, and the performance of
14 procedures or treatment regimens that are not able to successfully treat
15 or mitigate such chronic pain.

16 Further, the current practice of the repeated utilization of different
17 health practitioners, tests and unnecessary medical procedures to treat
18 such chronic pain is resulting in higher health care costs. These
19 increased costs come from unnecessary visits to health care practition-
20 ers, more and longer hospital stays, performing unnecessary surgeries or
21 other medical procedures, and unnecessary prescription of costly and
22 dangerous drugs. This inefficient use of valuable health care resources
23 is contributing to the rapidly increasing cost of providing health care.
24 With the continuing aging of New York's general population, this trend

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

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1 may only continue to grow. Further, the consequences to patients
2 afflicted with chronic pain will continue to undermine the physical,
3 social, economic and psychological well being of such patients, their
4 families and loved ones.

5 The current health care delivery system both over treats and under-
6 treats those afflicted with chronic pain. Ideally, all patients subject
7 to chronic pain should be able to obtain an appropriate assessment of
8 the underlying conditions that cause such pain, followed by an appropri-
9 ate plan of care that reflects the best practices currently available to
10 prevent the adverse effects of pain. Such care should be provided in a
11 coordinated manner that minimizes such chronic pain and is cost effec-
12 tive for the patient, health care delivery system, and for employers of
13 such persons. In sum, the provision of chronic pain treatments needs a
14 major reassessment to enhance assessment capabilities, increase access
15 to appropriate care, improve the quality of care, and do so in a manner
16 that minimizes the cost of providing such care.

17 § 2. The public health law is amended by adding a new article 28-F to
18 read as follows:

19 ARTICLE 28-F

20 CHRONIC PAIN MANAGEMENT

21 Section 2899-k. Chronic pain management.

22 § 2899-k. Chronic pain management. 1. Definitions. The following words
23 or phrases as used in this article shall have the following meanings:

24 (a) "chronic pain" shall mean consistent and significant physical pain
25 or discomfort that lasts for an extended period of time beyond an acute
26 physical injury or painful stimulus, and persists unabated for a period
27 of time greater than six months. Further such condition impedes the
28 ability of such person from conducting many normal life activities, or
29 impedes or leads to the loss of employment, or curtails the ability to
30 perform a number of previously executed physical employment tasks. Such
31 chronic pain may be associated with cancer pain, pain from chronic or
32 degenerative diseases or conditions, or from an unidentified cause.

33 (b) "chronic pain care certified medical school" shall mean a medical
34 school in the state which is an institution which grants a degree of
35 doctor of medicine or doctor of osteopathic medicine in accordance with
36 regulations promulgated by the commissioner of education pursuant to
37 subdivision two of section sixty-five hundred twenty-four of the educa-
38 tion law, and which meets the standards established pursuant to regu-
39 lations promulgated by the commissioner, after consultation with the
40 council, that are used to determine whether a medical school is eligible
41 for funding pursuant to this section.

42 (c) "chronic pain care certified residency program" shall mean a grad-
43 uate medical education program in the state which has received accredi-
44 tation from a nationally recognized accreditation body for medical or
45 osteopathic residency programs, and which meets the standards estab-
46 lished pursuant to regulations promulgated by the commissioner, after
47 consultation with the council, that are used to determine whether a
48 residency training program is eligible for funding pursuant to this
49 section.

50 (d) "council" shall mean the state chronic pain management education
51 and training council established by subdivision two of this section.

52 (e) "health care professionals" shall mean and include those health
53 care professionals who regularly treat patients that have chronic pain,
54 and includes, but is not limited to, acupuncturists, chiropractors,
55 dentists, nurse practitioners, registered professional nurses, podia-

1 trists, pharmacists, physicians, physical therapists, physician assist-
2 ants, psychiatrists and occupational therapists.

3 (f) "professional continuing education" or "continuing education"
4 shall mean all professional continuing education programs required
5 either by state law or by professional associations authorized by the
6 education department to monitor the requirements of licensure, and to
7 conduct and approve professional continuing education requirements for a
8 health care profession. Such professions shall include, but not be
9 limited to, acupuncture, chiropractic, dentistry, nursing, podiatry,
10 pharmacy, medicine, physical therapy, physician assistance, psychology
11 and occupational therapy.

12 2. State chronic pain management education and training council. (a)
13 The state chronic pain management education and training council is
14 hereby established in the department to be an expert panel to advise the
15 commissioner and commissioner of education on: (i) advances in the opti-
16 mum treatment, management and best practices related to mitigating or
17 alleviating chronic pain, (ii) to promote better interdisciplinary and
18 coordinated provision of care related to chronic pain management, (iii)
19 to develop new public policies related to advancing the teaching of such
20 new treatments, management regimens, or best practices on chronic pain
21 management and care in chronic pain care certified medical schools and
22 chronic pain care certified residency programs, and (iv) develop guide-
23 lines to assist the education department in establishing materials and
24 curricula to be used in providing professional continuing education
25 programs for those health care professionals regulated by such depart-
26 ment.

27 (b) The council shall be composed of twenty-five members appointed by
28 the commissioner. The commissioner shall seek recommendations for
29 appointments to such council from health care professional, consumer,
30 medical institutional, medical educational leaders and other profes-
31 sional educational leaders from this state. The membership of the coun-
32 cil shall include: nine representatives of medical schools and hospital
33 organizations; two representatives of medical academies; one acupunctu-
34 rist licensed pursuant to section eighty-two hundred fourteen of the
35 education law; individual representatives of organizations broadly
36 representative of physicians, family physicians, primary care physi-
37 cians, internal medicine, rheumatology, nursing, gerontology, hospice,
38 neurology, psychiatry, pediatrics, surgery, acupuncture, chiropractic
39 care, podiatric care, pharmacists or those professionals related to the
40 prescription or manufacture of pain medications, emergency room health
41 care professionals, massage therapists, occupational and physical thera-
42 py, patient advocates and the hospital philanthropic community; health
43 care plan payors or insurers; the executive director or a member of the
44 New York state council on graduate medical education; and a member of
45 the New York state palliative care education and training council.

46 (c) The members of the council shall have expertise in the treatment
47 and management of chronic pain and the care of patients that are
48 afflicted with chronic pain conditions. The term of such members shall
49 be four years and such terms may be renewed. Members shall receive no
50 compensation for their services, but shall be allowed actual and neces-
51 sary expenses in the performance of their duties.

52 (d) A chair and vice-chair of the council shall be elected annually by
53 the council. The council shall meet upon the call of the commissioner or
54 the chair. The council may adopt regulations consistent with this
55 section.

1 (e) The commissioner shall designate such employees and provide for
2 other resources from the department as may be reasonably necessary to
3 provide support and services for the work of the council. The council
4 may employ additional staff and consultants and incur other expenses to
5 carry out its duties, to be paid for from amounts which may be made
6 available to the council for that purpose.

7 (f) The council may provide technical information and guidance to
8 health care professionals on the latest best practices, strategies,
9 therapies and medications to treat or manage chronic pain. Further, to
10 provide technical information and guidance to health care professionals
11 to encourage better coordinated care to treat or mitigate the pain
12 suffered by chronic pain patients.

13 3. Policies to be considered, examined and possibly advanced by the
14 council. The council shall consider and examine the following policies
15 and guidelines in the adoption of any rules and regulations:

16 (a) The treatment and care provided to patients that suffer chronic
17 pain should be centered in the primary care environment and foster coor-
18 ordinated care between the various health care professional disciplines.

19 (b) Chronic pain management and care should be coordinated to help
20 minimize the dispensing of prescription drugs, avoid duplicative and
21 costly evaluations and diagnostic tests, and treatments to minimize
22 chronic pain.

23 (c) Development of chronic pain management and care techniques that
24 address discrepancies that may occur in the treatment of patients based
25 on race, ethnicity, gender, income level or age.

26 (d) Develop and promote the use of best practices to mitigate the
27 suffering of chronic pain in patients. The utilization of such best
28 practices can be promoted by: (i) the provision of professional continu-
29 ing education programs to all health care professionals on advances in
30 best practices in chronic pain management and care, and (ii) the devel-
31 opment of advances in best practices based on new research, clinical
32 experience, and the promotion of inter-disciplinary dialog and cooper-
33 ation between the various health care professionals.

34 (e) Encourage the wider use of coordinated health information technol-
35 ogy systems to track pain disorders, treatments, and outcomes as a mech-
36 anism to improve chronic pain care and to better integrate coordinated
37 care among the various treating health care professionals.

38 (f) Consider alterations in Medicaid and private payor reimbursement
39 rates and practices to encourage more optimum provision of quality
40 chronic pain management and care by all health care professionals.

41 (g) Encourage a balanced approach to regulate the distribution, use,
42 and prescription of medications that are used to treat chronic pain
43 conditions. Such balanced approach needs to ensure that patients can
44 obtain the medications that they need, but are not over prescribed such
45 medications, which can lead to patient abuse or long term addiction.
46 Further, the need to monitor multiple daily medication prescription
47 regimens, coupled with psychological, behavioral, and social inter-
48 vention activities of such patients. Further, to reduce the threat of
49 drug abuse, addiction or diversion of such medications to uses not
50 related to proper treatment of chronic pain conditions.

51 4. Grants for undergraduate medical education in chronic pain treat-
52 ment and management. (a) The commissioner is authorized, within amounts
53 from any source appropriated or otherwise provided for such purpose, to
54 make grants to chronic pain care certified medical schools and schools
55 of health care professionals to enhance the study and research of chron-
56 ic pain treatment and management, increase the opportunities for under-

1 graduate medical education in chronic pain care treatment and manage-
2 ment, and encourage the education of physicians in chronic pain care
3 management and treatment.

4 (b) Grant proceeds under this subdivision may be used for faculty
5 development in chronic pain care treatment and management; recruitment
6 of faculty with an expertise in the management and treatment of chronic
7 pain; costs incurred teaching medical students at hospital-based sites,
8 non-hospital based ambulatory care settings, certified home health agen-
9 cies, licensed long term home health care programs, private and public
10 health care clinics, and in private physician practices including, but
11 not limited to personnel, administration and student-related expenses;
12 expansion or development of programs that train physicians in the treat-
13 ment and management of chronic pain; and other innovative programs
14 designed to increase the competency of medical students to provide
15 chronic pain care to patients.

16 (c) Grants under this subdivision shall be awarded by the commissioner
17 through a competitive application process to the council. The council
18 shall make recommendations for funding to the commissioner.

19 5. Grants for graduate health care professional education in chronic
20 pain treatment and management. (a) The commissioner is authorized, with-
21 in amounts from any source appropriated or otherwise provided for such
22 purpose, to make grants to chronic pain care certified residency
23 programs to establish or expand education in chronic pain treatment and
24 management for graduate medical education, and to increase the opportu-
25 nities for trainee education in the treatment and management of chronic
26 pain in the hospital-based and non-hospital-based settings.

27 (b) Grants under this subdivision for graduate health care profes-
28 sional education and education in chronic pain treatment and management
29 may be used for administration, faculty recruitment and development;
30 start-up costs and costs incurred teaching the most advanced strategies,
31 therapies, medications or best practices with regard to the care of
32 patients with chronic pain in either hospital-based or non-hospital
33 based settings including, but not limited to personnel, administration
34 and trainee related expenses; and other expenses deemed reasonable and
35 necessary by the commissioner.

36 (c) Grants under this subdivision shall be awarded by the commissioner
37 through a competitive application process to the council. The council
38 shall make recommendations for funding to the commissioner.

39 6. Chronic pain health care professional practitioner resource
40 centers. The commissioner, in consultation with the council, may desig-
41 nate a chronic pain treatment and management practitioner resource
42 center or centers. Such resource center may be statewide or regional,
43 and shall act as a source of technical support, information and guidance
44 for practitioners on the latest strategies, therapies, medications or
45 best practices with regard to the optimum treatment and management of
46 chronic pain. The department, in consultation with the council, may
47 contract with not-for-profit organizations or associations to establish
48 and manage such resource centers. Such resource centers may charge a fee
49 to help offset the cost of providing such services.

50 7. Continuing education requirements for health care professionals.
51 The council, in consultation with the department, the education depart-
52 ment and health care professional organizations, shall develop, compile
53 and publish information and course materials on the advanced treatment
54 and mitigation of chronic pain suffered by patients. In addition within
55 two years of the effective date of this article, the council shall make
56 recommendations to the education department for the course work, train-

ing and curriculum to be included in the continuing education on the best practices, strategies, therapies and approaches for the mitigation and treatment of chronic pain required to be completed by the various health care professions pursuant to paragraph d of subdivision three of section sixty-five hundred seven of the education law. Such recommendations shall include components which address the increasing and necessary interdisciplinary cooperation between health care professionals for the coordinated reduction of chronic pain in patients and the reduction of health care costs.

8. Report. On or before March first of each odd numbered year, the council shall submit to the governor, the commissioner, the commissioner of education, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly committees on health a report on its activities and accomplishments relating to the treatment and mitigation of chronic pain. Such report may also include such legislative proposals as it deems necessary to more effectively implement the provisions of this article.

§ 3. Paragraphs b and c of subdivision 3 of section 6507 of the education law, as added by chapter 987 of the laws of 1971, are amended and a new paragraph d is added to read as follows:

b. Review qualifications in connection with licensing requirements; [and]

c. Provide for licensing examinations and reexaminations[]; and

d. (i) Establish standards for preprofessional and professional education for health care professionals, as defined in paragraph (e) of subdivision one of section twenty-eight hundred ninety-nine-k of the public health law, relating to the mitigation and treatment of chronic pain. In the promulgation of such standards, the department and the appropriate board of each such profession shall consider and, to the extent practicable, implement the recommendations of the state chronic pain management education and training council. Furthermore, such standards shall provide for such training and coursework on the advanced treatment and mitigation of chronic pain as shall be appropriate for the health care profession, and shall address the increasing and necessary interdisciplinary cooperation between health care professionals for the coordinated reduction of chronic pain in patients and the reduction of health care costs.

(ii) The commissioner shall establish standards requiring that all health care professionals applying, on or after January first, two thousand twenty-two, initially or for a renewal of a license, registration or certificate pursuant to this title, shall, in addition to all other licensure, registration or certification requirements, have completed such coursework and training in the treatment and mitigation of chronic pain as shall be required pursuant to subparagraph (i) of this paragraph. The coursework and training shall be obtained from an institution or provider that has been approved by the department to provide such coursework and training. Each applicant shall provide the department with documentation showing he or she has completed the required training.

(iii) The department shall provide an exemption from the requirements of subparagraphs (i) and (ii) of this paragraph to any health care professional who requests such an exemption and who demonstrates to the department's satisfaction that:

(A) there would be no need for him or her to complete such coursework and training because of the nature of his or her practice; or

1 (B) he or she has completed coursework and training deemed by the
2 department to be equivalent to the standards for coursework and training
3 approved by the department under this paragraph.

4 § 4. Subdivision 7 of section 2807-s of the public health law is
5 amended by adding a new paragraph (d) to read as follows:

6 (d) notwithstanding any inconsistent provision of this section, prior
7 to the allocation of funds for distribution in accordance with section
8 twenty-eight hundred seven-j of this article pursuant to paragraphs (b)
9 and (c) of this subdivision, the commissioner on an annualized basis up
10 to two million five hundred thousand dollars for grants for undergradu-
11 ate health care professional education in chronic pain treatment and
12 management pursuant to subdivision four of section twenty-eight hundred
13 ninety-nine-k of this chapter; and up to two million five hundred thou-
14 sand dollars for grants for graduate health care professional education
15 in chronic pain treatment and management pursuant to subdivision five of
16 section twenty-eight hundred ninety-nine-k of this chapter.

17 § 5. This act shall take effect immediately provided that the amend-
18 ments to subdivision 7 of section 2807-s of the public health law made
19 by section four of this act shall not affect the expiration of such
20 section and shall expire therewith.