

MEDICAL SOCIETY
of the
STATE OF NEW YORK

Elizabeth Dears, Esq.
Senior Vice President /
Chief Legislative Counsel

Division of Governmental Affairs
MEMORANDUM IN SUPPORT

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S. 2486 (HANNON)

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A. 4274 (McDONALD)

**AN ACT to amend the public health law and the education law, in
relation to electronic prescriptions**

This bill would amend the public health law to provide a one-year delay to the requirement to e-prescribe controlled and non-controlled substances. The Medical Society of the State of New York strongly supports this measure.

The requirement to e-prescribe controlled and non-controlled substances was part of the ISTOP law. Regulations were promulgated and the e-prescribing requirement will become effective on March 27, 2015. However, in order to process electronic prescriptions for controlled substances, a practitioner must use an electronic prescribing computer application that meets all federal requirements and must register the certified electronic prescribing computer application with the New York State Department of Health (DOH), Bureau of Narcotic Enforcement (BNE). Registration can take place by paper form, but DOH prefers that prescribers now use the ROPES system which is only accessible through the Health Commerce System. The Registration for Official Prescription and E-Prescribing Systems (ROPES) became available to the prescriber community in October 2014. Its purpose is to allow practitioners to update/certify/renew their Official Prescription Program (OPP) registration and to register or modify their certified electronic prescribing software application for controlled substance (EPCS software) at the same time.

The DOH's Bureau of Narcotics Enforcement does not provide EPCS software, nor does it provide recommendations. BNE states that it "BNE does not endorse specific EPCS software for practitioners to use." Unlike the Prescription Monitoring Program (PMP) whereby the state created the system, and operates and has oversight over the program, physicians and other prescribers have had to research different software options available to them. For many prescribers, who don't have any type of EHR or have never purchased e-prescribing software, understanding the software and data requirements have been a daunting task, let alone ensuring that the vendors has received approval by the DEA.

The Medical Society of the State of New York recognizes the important efficiencies and patient safety enhancements which can be achieved through electronic prescribing, however, it is quite concerning that many EHR vendors, including several with significant market share in New York State, are not yet certified for electronic prescribing of controlled substances (EPCS) and will not be certified in most cases until sometime in the first quarter of 2015. This is quite

concerning for all prescribers, particularly large group and institutional prescribers whose systems must be tested and re-tested to remove operational flaws before the installation and implementation of software updates.

There are numerous unanswered questions pertaining to physicians in a nursing home setting. Specifically, many of these providers have a system of medical orders for residents in which nurses' interface with the prescriber (who is often not on-site) and the pharmacy to ensure medications are timely received by residents and properly recorded in their medication administration records. Nurses currently take telephone orders which are acted upon by the pharmacy immediately with a physician co-signature within 72 hours. The new law will disrupt this process, significantly changing the work flow and documentation flow among prescribers, nurses and pharmacies. In addition, at least half of the state's nursing homes have no EHR system – let alone one capable of e-prescribing.

Patients will also need to be aware of the e-prescribing requirement and must be informed that they will need to select a pharmacy by March 27, 2015 for their prescriptions to be sent to. Patients need to be informed as to what will happen should their pharmacy not have on hand the specific controlled substance that has been e-prescribed for them. Currently, if they had a paper prescription and the pharmacy did not have the controlled substance they needed in stock, they would simply take the prescription to another pharmacy in their community. Once the e-script is received by the pharmacy, the pharmacist may not send it on to another pharmacy. Moreover, when medication is in short supply patients often need to shop around for the best price. The e-prescribing law will now prevent them from doing so. MSSNY strongly urges that a patient education campaign be undertaken by DOH.

The Medical Society of the State of New York believes that a one year delay of the e-prescribing requirement will enable vendors to be compliant and allow workflow issues that have arisen to be resolved. More importantly, it will allow the Department of Health to inform the patient community of the change that will be coming by the use of e-prescribing.

For all these reasons, the Medical Society of the State of New York urges passage of this legislation.

Sincerely,

ELIZABETH DEARS, ESQ.

PFC 2/4/15