

2215

2013-2014 Regular Sessions

I N S E N A T E

January 14, 2013

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to providing for the creation and dissemination of information pertaining to bone marrow and peripheral blood stem cell donation and bone marrow and peripheral blood stem cell donation registration

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as "Jaden's law".
2 S 2. Subdivision 1 of section 207 of the public health law is amended
3 by adding a new paragraph (i) to read as follows:
4 (I) BONE MARROW AND PERIPHERAL BLOOD STEM CELL DONATION.
5 S 3. The public health law is amended by adding a new section 4369 to
6 read as follows:
7 S 4369. BONE MARROW AND PERIPHERAL BLOOD STEM CELL INFORMATION. 1. A
8 PHYSICIAN, AS EARLY AS PRACTICABLE IN THE PHYSICIAN'S THERAPEUTIC
9 RELATIONSHIP WITH A PATIENT, AND UNLESS THE PHYSICIAN REASONABLY
10 BELIEVES THAT BONE MARROW OR PBSC DONATION WOULD THREATEN THE HEALTH OF
11 THE PATIENT, MAY PROVIDE A COPY OF THE BROCHURE PREPARED BY THE COMMIS-
12 SIONER TO EVERY PATIENT:
13 (A) WHO IS KNOWN BY THE PHYSICIAN TO BE AT LEAST EIGHTEEN YEARS OF AGE
14 BUT NO OLDER THAN SIXTY YEARS OF AGE; AND
15 (B) WHO THE PHYSICIAN ANTICIPATES WILL BE ADMITTED TO A HOSPITAL FOR
16 AN ELECTIVE ORTHOPEDIC PROCEDURE OR TREATMENT OR OTHERWISE BELIEVES IS
17 AN APPROPRIATE CANDIDATE FOR BONE MARROW OR PBSC DONATION; OR FOR WHOM
18 THE PHYSICIAN OTHERWISE BELIEVES BONE MARROW OR PBSC DONATION IS APPRO-
19 PRIATE TO THE PATIENT'S MEDICAL CIRCUMSTANCES OR IS DESIRED BY THE
20 PATIENT.
21 2. THE PHYSICIAN MAY OFFER TO DISCUSS THE INFORMATION CONTAINED IN THE
22 BROCHURE WITH THE PATIENT OR THE PATIENT'S REPRESENTATIVE.

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

S

LBD00729-01-3

1 3. THIS SECTION SHALL NOT BE CONSTRUED TO APPLY TO A PHYSICIAN WHO IS
2 DIRECTLY AFFILIATED WITH A RELIGIOUS DENOMINATION THAT ADHERES TO THE
3 TENET THAT BONE MARROW OR PBSC TRANSFER IS CONTRARY TO THE MORAL PRINCIPLES WHICH THE DENOMINATION CONSIDERS TO BE AN ESSENTIAL PART OF ITS
4 BELIEFS AND PRACTICES.

5
6 S 3-a. Subdivision 2 of section 4310 of the public health law, as
7 amended by chapter 158 of the laws of 2012, is amended to read as
8 follows:

9 2. Such registration of consent to make an anatomical gift OR TO
10 DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS can be made through
11 (a) indication made on the application or renewal form of a license, (b)
12 indication made on a non-driver identification card application or
13 renewal form, (c) enrolling in the registry website maintained by the
14 department, which may include using an electronic signature subject to
15 article three of the state technology law, (d) indication made on a
16 voter registration form pursuant to subdivision five of section 5-210 of
17 the election law, or (e) through any other method identified by the
18 commissioner. The registration shall take effect upon the provision of
19 written or electronic notice of the registration to the person enrolling
20 in the registry.

21 S 4. Section 4310 of the public health law, as amended by chapter 639
22 of the laws of 2006, the section heading as separately amended by chap-
23 ter 640 of the laws of 2006, subdivisions 1 and 3 as amended by chapter
24 158 of the laws of 2012 and subdivision 2 as separately amended by chap-
25 ters 158 and 465 of the laws of 2012, is amended to read as follows:

26 S 4310. New York state donate life registry for organ [and], tissue,
27 BONE MARROW OR PERIPHERAL BLOOD STEM CELL donations. 1. The department
28 shall establish an organ and tissue donor registry, which shall be
29 called and be referred to as the "donate life registry". Such registry
30 shall contain a listing of all donors who have declared their consent to
31 make an anatomical gift OR TO DONATE BONE MARROW OR PERIPHERAL BLOOD
32 STEM CELLS.

33 2. Such registration of consent to make an anatomical gift OR TO
34 DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS can be made through
35 (a) indication made on the application or renewal form of a license, (b)
36 indication made on a non-driver identification card application or
37 renewal form, (c) enrolling in the registry website maintained by the
38 department, which may include using an electronic signature subject to
39 article three of the state technology law, (d) indication made on a
40 voter registration form pursuant to subdivision five of section 5-210 of
41 the election law, or (e) through any other method identified by the
42 commissioner. Where required by law for consent forms described in para-
43 graphs (a) and (b) of this subdivision, the commissioner shall ensure
44 that space is provided on any consent form so that the applicant shall
45 register or decline registration in the donate life registry for organ
46 and tissue donations under this section and that the following is stated
47 on the form in clear and conspicuous type:

48 "You must fill out the following section: Would you like to be added
49 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
50 tion'."

51 The commissioner shall not maintain records of any person who checks
52 "skip this question". Failure to check a box shall not impair the valid-
53 ity of an application, and failure to check "yes" or checking "skip this
54 question" shall not be construed to imply a wish not to donate. In the
55 case of an applicant under eighteen years of age, checking "yes" shall
56 not constitute consent to make an anatomical gift or registration in the

1 donate life registry. Where an applicant has previously consented to
2 make an anatomical gift or registered in the donate life registry,
3 checking "skip this question" or failing to check a box shall not impair
4 that consent or registration. The registration shall take effect upon
5 the provision of written or electronic notice of the registration to the
6 person enrolling in the registry.

7 3. (a) Information contained in the registry shall be accessible to
8 (i) federally designated organ procurement organizations, FEDERALLY
9 REGULATED BONE MARROW OR PERIPHERAL BLOOD STEM CELL PROCUREMENT ORGAN-
10 IZATIONS, IN APPROPRIATE CASES, (ii) eye and tissue banks licensed by
11 the department pursuant to article forty-three-B of this chapter, and
12 (iii) any other entity formally approved by the commissioner.

13 (b) The information contained in the registry shall not be released to
14 any person except as expressly authorized by this section solely for the
15 purpose:

16 (I) of identifying potential organ and tissue donors at or near the
17 time of death; OR

18 (II) IDENTIFYING POTENTIAL BONE MARROW OR PERIPHERAL BLOOD STEM CELL
19 DONORS.

20 4. If the department had an established registry prior to the effec-
21 tive date of this section, it shall be deemed to meet the requirements
22 of this section.

23 5. The registry shall provide persons enrolled the opportunity to
24 specify which organs and tissues they want to donate, INCLUDING WHETHER
25 THEY WANT TO DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS, and if
26 the donation can be used for transplantation, research, or both.

27 6. A person registered in the organ and tissue registry before the
28 effective date of this subdivision shall be deemed to have expressed
29 intent to donate ORGANS AND TISSUES OTHER THAN BONE MARROW OR PERIPHERAL
30 BLOOD STEM CELLS, until and unless he or she files an amendment to his
31 or her registration or a new registration expressing consent to donate.

32 7. The commissioner shall contact each person registered before the
33 effective date of this subdivision in the organ and tissue registry in
34 writing to inform him or her that at the time he or she registered, the
35 registry was that of intent and that the registry is now one of consent,
36 to explain in clear and understandable terms the difference between
37 intent and consent, and to provide opportunity for the person to change
38 his or her registration to provide consent by amending his or her
39 current registration or executing a new registration.

40 8. THE REGISTRATION OF BONE MARROW OR PERIPHERAL BLOOD STEM CELL
41 DONORS SHALL BE FOR THE PURPOSE OF IDENTIFYING THE DONORS AND TRANS-
42 FERRING THEIR REGISTRATION INFORMATION TO A FEDERALLY REGULATED BONE
43 MARROW OR PERIPHERAL BLOOD STEM CELL PROCUREMENT AGENCY.

44 9. The commissioner is authorized to promulgate rules and regulations
45 necessary to implement the provisions of this section.

46 S 5. Subdivision 2 of section 4310 of the public health law, as
47 amended by chapter 158 of the laws of 2012, is amended to read as
48 follows:

49 2. Such registration of consent to make an anatomical gift OR TO
50 DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS can be made through
51 (a) indication made on the application or renewal form of a license, (b)
52 indication made on a non-driver identification card application or
53 renewal form, (c) enrolling in the registry website maintained by the
54 department, which may include using an electronic signature subject to
55 article three of the state technology law, (d) indication made on a
56 voter registration form pursuant to subdivision five of section 5-210 of

1 the election law, or (e) through any other method identified by the
2 commissioner. The registration shall take effect upon the provision of
3 written or electronic notice of the registration to the person enrolling
4 in the registry.

5 S 6. This act shall take effect on the ninetieth day after it shall
6 have become a law; provided that the amendments to subdivision 2 of
7 section 4310 of the public health law made by section four of this act
8 shall take effect on the same date and same manner as section 2 of chap-
9 ter 465 of the laws of 2012, takes effect; provided further, that the
10 amendment made to subdivision 2 of section 4310 of the public health law
11 by section four of this act shall be subject to the expiration of such
12 subdivision pursuant to section 6 of chapter 465 of the laws of 2012, as
13 amended, when upon such date the provisions of section five of this act
14 shall take effect.