

2215

2013-2014 Regular Sessions

I N   S E N A T E

January 14, 2013

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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.

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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.