S T A T E O F N E W Y O R K

S. 4052 A. 5695

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

March 6, 2013

IN SENATE -- Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. BRINDISI -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to community based air ambulance subscription services; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative intent. The legislature finds New York's non-profit community based air ambulance service providers provide rapid emergency response and medical transport services saving dozens of lives annually, particularly in remote areas of the state. Not-for-profit community based ambulance service providers rely on philanthropic charitable donations for the financial means to provide such vital services to the people of the state. In doing so, not-for-profit air ambulance providers relieve the taxpayers of the burden of this critical and costly yet vital community service.

Therefore, the legislature finds it is in the state's interest to support an air ambulance subscription program that assists the philanthropic mission of not-for-profit community based air ambulance providers. Currently, New York state's communities already benefit from less expensive non-profit air ambulance services because profit margins need not be built into their overall operating costs. By supporting not-for-profit community based providers, this legislation intends to ensure air ambulance subscription member dues are reinvested into servicing the community, not into dividends for profit-seeking shareholders.

S 2. Subsection (k) of section 1108 of the insurance law, as added by chapter 246 of the laws of 2012, is renumbered subsection (l) and a new subsection (m) is added to read as follows:

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

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(M) A COMMUNITY BASED AIR AMBULANCE SERVICE THAT HOLDS A VALID AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW AND THAT COMPLIES WITH SECTION ELEVEN HUNDRED TWENTY-SIX OF THIS ARTICLE.

S 3. Section 1124 of the insurance law, as added by chapter 246 of the laws of 2012, is renumbered section 1125 and a new section 1126 is added to read as follows:

S 1126. COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE. (A) A COMMUNITY BASED AIR AMBULANCE SERVICE THAT HOLDS A VALID AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW AND A VALID AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE ISSUED BY THE SUPERINTENDENT PURSUANT TO SUBSECTION (B) OF THIS SECTION MAY ENTER INTO A SUBSCRIPTION AGREEMENT WITH A PERSON OR OTHER ENTITY IN THIS STATE UNDER WHICH THE COMMUNITY BASED AIR AMBULANCE SERVICE AGREES TO DISCOUNT OR WAIVE ANY PART OF ITS FEES FOR SERVICE IN THE EVENT THAT THE COMMUNITY BASED AIR AMBULANCE SERVICE TRANSPORTS A PERSON BY AIRCRAFT TO, FROM OR BETWEEN GENERAL HOSPITALS OR OTHER HEALTH CARE FACILITIES.

(B) THE SUPERINTENDENT MAY ISSUE A COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE TO ANY ENTITY THAT IS TRUSTWORTHY TO ACT IN SUCH CAPACITY AND THAT HAS COMPLIED WITH THE PREREQUISITES HEREIN PRESCRIBED. THE COMMUNITY BASED AIR AMBULANCE SERVICE MUST HOLD A VALID AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW THAT AUTHORIZES THE AMBULANCE SERVICE TO PROVIDE SERVICES BY AIRCRAFT. THE COMMUNITY BASED AIR AMBULANCE SERVICE MUST BE A REGISTERED NOT-FOR-PROFIT CORPORATION PROVIDING SERVICES IN NEW YORK STATE. THE COMMUNITY BASED AIR AMBULANCE SERVICE MUST ALSO OBTAIN, AND MAINTAIN THROUGHOUT THE TERM OF ITS COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE, A SURETY BOND ISSUED BY AN AUTHORIZED INSURER AND PAYABLE TO COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIBERS TO REFUND UNEARNED SUBSCRIPTION FEES PAID TO THE COMMUNITY BASED AIR AMBULANCE SERVICE.

(C) THE APPLICATION FOR A COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE SHALL BE IN SUCH FORM OR FORMS, AND SHALL CONTAIN SUCH INFORMATION AS THE SUPERINTENDENT SHALL PRESCRIBE. THE COMMUNITY BASED AIR AMBULANCE SERVICE SHALL WITH THE SUBMISSION OF THE APPLICATION ALSO SUBMIT PROOF THAT IT HAS OBTAINED THE SURETY BOND REQUIRED IN SUBSECTION (B) OF THIS SECTION AND A COPY OF ITS AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW.

(D) AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE SHALL BE VALID FOR A TERM OF TWO YEARS TO RUN CONCURRENTLY WITH, AND TERMINATE ON THE SAME DATE AS, THE TERM OF THE AIR AMBULANCE SERVICE'S OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW. AT THE TIME OF APPLICATION FOR EVERY SUCH CERTIFICATE, AND FOR EVERY RENEWAL THEREOF, AN APPLICANT SHALL PAY TO THE SUPERINTENDENT THE SUM OF ONE THOUSAND DOLLARS.

(E) IF AN APPLICANT FILES AN APPLICATION FOR A RENEWAL CERTIFICATE WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH CERTIFICATE, THEN THE CERTIFICATE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL CERTIFICATE APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL CERTIFICATE AS PROVIDED IN THIS SECTION.

(F) THE SUPERINTENDENT MAY REFUSE TO RENEW, REVOKE, OR SUSPEND A COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE FOR A

PERIOD THE SUPERINTENDENT DETERMINES, IF AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT AN APPLICANT OR CERTIFICATE HOLDER HAS:

(1) NOT OBTAINED OR MAINTAINED THE SURETY BOND REQUIRED BY SUBSECTION (B) OF THIS SECTION; OR

(2) DEMONSTRATED UNTRUSTWORTHINESS, INCLUDING HAVING VIOLATED THIS SECTION.

(G) THE COMMISSIONER OF HEALTH SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT WHEN SUCH COMMISSIONER HAS REVOKED, SUSPENDED, LIMITED, OR ANNULLED AN AIR AMBULANCE SERVICE OPERATING CERTIFICATE. A COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE ISSUED PURSUANT TO THIS SECTION SHALL TERMINATE BY OPERATION OF LAW UPON THE EFFECTIVE DATE OF THE REVOCATION, SUSPENSION, OR ANNULMENT OF THE COMMUNITY BASED AIR AMBULANCE SERVICE'S OPERATING CERTIFICATE BY THE COMMISSIONER OF HEALTH.

(H) A COMMUNITY BASED AIR AMBULANCE SERVICE SHALL FILE ITS SUBSCRIPTION AGREEMENT FORMS WITH THE SUPERINTENDENT IN CONNECTION WITH ITS APPLICATION OR ANY RENEWAL APPLICATION FOR A COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE. A COMMUNITY BASED AIR AMBULANCE SERVICE THAT AMENDS ITS SUBSCRIPTION AGREEMENT FORMS SHALL FILE THE REVISED FORMS WITH THE SUPERINTENDENT PRIOR TO USING THE FORMS IN THIS STATE, PROVIDED THAT WHERE THE AMENDMENTS TO THE FORMS ARE ONLY TECHNICAL OR NON-SUBSTANTIATIVE, THE AIR AMBULANCE SERVICE MAY FILE THE REVISED FORMS AT OR BEFORE THE TIME IT RENEWS ITS COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE.

(I) THE SUBSCRIPTION AGREEMENT FORMS SHALL:

(1) EXPRESSLY STATE THAT THE SUBSCRIPTION IS NOT A GUARANTEE FOR THE PROVISION OF MEDICAL TREATMENT OR TRANSPORT;

(2) LIST THE CONDITIONS UNDER WHICH THE AIR AMBULANCE SERVICE MAY NOT PROVIDE MEDICAL TREATMENT OR TRANSPORT; AND

(3) STATE THAT A SUBSCRIBER MAY FILE A COMPLAINT WITH THE DEPARTMENT, AND INCLUDE THE DEPARTMENT'S WEBSITE AND MAILING ADDRESS.

(J) A COMMUNITY BASED AIR AMBULANCE SUBSCRIPTION AGREEMENT MAY:

(1) CONDITION A DISCOUNT OR WAIVER OF ANY PART OF THE FEES UPON THE AIR AMBULANCE SERVICE RECEIVING AN ASSIGNMENT OF INSURANCE PAYMENTS, OR OTHER RIGHT TO REIMBURSEMENT OR RECOVERY, FOR THE AIR AMBULANCE SERVICES;

(2) PROVIDE FOR A DISCOUNT OR WAIVER OF ANY PART OF THE FEES FOR AIR AMBULANCE SERVICE PROVIDED BY AN ENTITY AFFILIATED WITH THE COMMUNITY BASED AIR AMBULANCE SERVICE THAT IS DULY AUTHORIZED TO PROVIDE THE AMBULANCE SERVICES IN THE JURISDICTION IN WHICH THE SERVICES ARE RENDERED; AND

(3) COVER TWO OR MORE PERSONS, SUCH AS FAMILY MEMBERS, EMPLOYEES, OCCUPANTS OF A SPECIFIED PREMISES, OR ANOTHER GROUP OF PERSONS WITH A COMMON RELATIONSHIP WITH ONE ANOTHER.

FOR PURPOSES OF THIS SECTION, AN ENTITY IS AFFILIATED WITH A COMMUNITY BASED AIR AMBULANCE SERVICE WHERE THE ENTITY AND THE COMMUNITY BASED AIR AMBULANCE SERVICE HAVE ENTERED INTO AN AGREEMENT TO PROVIDE RECIPROCAL AIR AMBULANCE SERVICES TO EACH OTHER'S SUBSCRIBERS.

(K) A SUBSCRIBER'S INSURER, WITH RESPECT TO A HEALTH INSURANCE POLICY OR CONTRACT DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE, SHALL NOT TAKE INTO CONSIDERATION ANY DISCOUNT OR FEE WAIVER GIVEN TO THE SUBSCRIBER BY THE AIR AMBULANCE SERVICE WHEN DETERMINING THE BENEFIT PAYABLE UNDER THE HEALTH INSURANCE POLICY OR CONTRACT FOR COMMUNITY BASED AIR AMBULANCE SERVICES.

(L) THE SUPERINTENDENT SHALL NOTIFY THE COMMISSIONER OF HEALTH WHENEVER THE SUPERINTENDENT ISSUES, RENEWS, REFUSES TO RENEW, REVOKES OR

SUSPENDS A COMMUNITY BASED AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE.

(M) THE SUPERINTENDENT MAY PROMULGATE REGULATIONS IMPLEMENTING THIS SECTION.

S 4. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed July 1, 2018.