

STATE OF NEW YORK

651

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HARCKHAM -- 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 requiring a consultation prior to the discharge of medically fragile young adults

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

1 Section 1. The public health law is amended by adding a new section
2 2828 to read as follows:

3 § 2828. Discharge of medically fragile young adults. 1. For purposes
4 of this section, the following terms shall have the following meanings:

5 (a) "medically fragile young adults" shall have the same meaning as
6 the term "medically fragile children" as set forth in subdivision
7 three-a of section thirty-six hundred fourteen of this chapter and shall
8 include medically fragile young adults who currently reside at a pedia-
9 tric specialized nursing facility and are over twenty-one years of age;

10 (b) "hospital" shall mean any "general hospital" as defined in section
11 twenty-eight hundred one of this article;

12 (c) "discharge" shall mean a patient's exit or release from a hospital
13 to the patient's residence following an admission to a hospital;

14 (d) "patient" shall mean a patient who is a medically fragile young
15 adult; and

16 (e) "residence" shall mean a dwelling that the patient considers to be
17 his or her home. A "residence" for the purposes of this article shall
18 not include any rehabilitation facility, hospital, group home or other
19 residential health care facility as defined in section twenty-eight
20 hundred one of this article or any inpatient facility regulated by the
21 office of mental health.

22 2. Not later than twenty-four hours prior to a patient's discharge
23 from a hospital, the hospital shall consult with the patient and the
24 parent or legal guardian of the patient regarding such parent or legal

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

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1 guardian's capabilities and limitations and issue a discharge plan that
2 describes a patient's after-care needs at his or her residence. At a
3 minimum, such discharge plan shall include:

4 (a) a description of all after-care tasks recommended by the discharg-
5 ing physician, taking into account the capabilities and limitations of
6 the caregiver; and

7 (b) contact information for health care, community resources, and
8 long-term services and support necessary to successfully carry out the
9 patient's discharge plan.

10 3. The hospital issuing the discharge plan shall offer parents and
11 legal guardians instruction in all after-care tasks described in the
12 discharge plan.

13 (a) At minimum, such instruction shall include:

14 (i) a live or recorded demonstration of the tasks performed by a
15 hospital employee authorized to perform the after-care task, provided in
16 a culturally competent manner and in accordance with the hospital's
17 requirements to provide language access services under state and federal
18 law;

19 (ii) an opportunity for the parent or legal guardian and patient to
20 ask questions about the after-care tasks; and

21 (iii) answers to the parent or legal guardian's and patient's ques-
22 tions provided in a culturally competent manner and in accordance with
23 the hospital's requirements to provide language access services under
24 state and federal law.

25 (b) Any instructions required under this article shall be documented
26 in the patient's medical record, including, at minimum, the date, time,
27 and contents of the instruction.

28 4. The department shall promulgate rules and regulations to allow
29 medically fragile young adults who reside in pediatric specialized nurs-
30 ing facilities to remain at such facilities after reaching the age of
31 twenty-one. The reimbursement methodology must remain the same as it was
32 prior to reaching such age and include a daily per diem rate and cover-
33 age for bedholds. Medicaid reimbursement for this population for
34 reserved beds due to hospitalization and for therapeutic and hospice
35 leaves of absence must remain at one hundred percent of the Medicaid
36 rate of medically fragile children. The department may not institute a
37 daily limit at each facility for this population.

38 5. The department is authorized to promulgate rules and regulations to
39 implement the provisions of this section, including but not limited to,
40 regulations to further define the content and scope of any instruction
41 provided to parents, legal guardians and patients under this section.

42 § 2. This act shall take effect on the one hundred twentieth day after
43 it shall have become a law. Effective immediately, the addition, amend-
44 ment and/or repeal of any rule or regulation necessary for the implemen-
45 tation of this act on its effective date are authorized to be made and
46 completed on or before such date.