

STATE OF NEW YORK

2165--A

2025-2026 Regular Sessions

IN SENATE

January 15, 2025

Introduced by Sens. MAY, BROUK, FAHY, FERNANDEZ, GOUNARDES, HARCKHAM, HINCHEY, JACKSON, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to prohibited hospital interference with patient care; and to repeal certain provisions of such law relating to required protocols for fetal demise

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

Section 1. Section 2805-b of the public health law, as amended by chapter 787 of the laws of 1983, subdivision 1 as amended by chapter 121 of the laws of 1987, subdivision 3 as amended by chapter 723 of the laws of 1989, subdivision 5 as amended by section 77 of part PP of chapter 56 of the laws of 2022, is amended to read as follows:

§ 2805-b. Admission of patients and emergency treatment of nonadmitted patients. 1. For purposes of this section, the following terms shall have the following meanings:

(a) (i) "Emergency medical condition" shall mean:

(A) a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(1) serious injury or illness;

(2) placing the health of the individual in serious jeopardy;

(3) serious impairment to bodily functions, including risks to future fertility; or

(4) serious dysfunction of any bodily organ or part; or

(B) with respect to a pregnant person who is in active labor:

(1) that there is inadequate time to effect a safe transfer to another hospital before delivery; or

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

LBD02863-03-5

1 (2) that transfer poses a threat to the health or safety of the preg-
2 nant person or the pregnancy.

3 (ii) "Emergency medical condition" includes, but is not limited to,
4 ectopic pregnancy; complications of or resulting from pregnancy, preg-
5 nancy loss, or attempted termination of pregnancy; risks of infection;
6 risks to future fertility; sepsis; acute blood loss; previable preterm
7 premature rupture of membranes or cervical insufficiency; placenta
8 abnormalities; acute mental illness; acute or emergent hypertensive
9 disorders, such as preeclampsia, or any other condition a health care
10 practitioner licensed, certified, or authorized under title eight of the
11 education law, acting within their lawful scope of practice determines,
12 in the practitioner's reasonable medical judgment, to be an emergency as
13 defined in this paragraph.

14 (b) "Stabilize" shall mean, with respect to an emergency medical
15 condition described in clause (A) of subparagraph (i) of paragraph (a)
16 of this subdivision, to provide such medical treatment of the condition
17 as may be necessary to assure, within reasonable medical probability,
18 that no material deterioration of the condition is likely to result from
19 or occur during the transfer of the individual from a facility, or, with
20 respect to an emergency medical condition described in clause (B) of
21 subparagraph (i) of paragraph (a) of this subdivision, to deliver,
22 including the placenta. "Stabilizing treatment" includes abortion pursu-
23 ant to section twenty-five hundred ninety-nine-bb of this chapter when
24 failure to provide an abortion will, within reasonable probability,
25 result in material deterioration of the patient's condition upon or
26 during transfer of the patient from the facility.

27 (c) "Transfer" shall mean the movement, including the discharge, of an
28 individual outside of a general hospital's facilities at the direction
29 of any person employed by, or affiliated or associated, directly or
30 indirectly, with, the general hospital, but does not include the move-
31 ment of an individual who (i) has been declared dead, or (ii) leaves the
32 facility without the permission of any such person.

33 (d) "Appropriate transfer" shall mean a transfer to a medical facili-
34 ty:

35 (i) in which the transferring general hospital provides the medical
36 treatment within its capacity which minimizes the risks to the individ-
37 ual's health;

38 (ii) in which the receiving facility:

39 (A) has available space and qualified personnel for the treatment of
40 the individual; and

41 (B) has agreed to accept transfer of the individual and to provide
42 appropriate medical treatment;

43 (iii) in which the transferring general hospital sends to the receiv-
44 ing facility all medical records related to the emergency condition for
45 which the individual has presented available at the time of the trans-
46 fer, including records related to the individual's emergency medical
47 condition, observations of signs or symptoms, preliminary diagnosis,
48 treatment provided, results of any tests and the informed written
49 consent or certification or copy thereof provided under subparagraph
50 (iii) of paragraph (d) of subdivision three of this section, unless the
51 patient objects;

52 (iv) in which the transfer is effected through qualified personnel and
53 transportation equipment, as required, including the use of necessary
54 and medically appropriate life support measures during the transfer; and

55 (v) in which prior to the transfer, the emergency medical technician
56 or paramedic assigned to accompany the patient in the ambulance shall be

1 provided with a completed form which shall include at least the follow-
2 ing information and such additional information as the commissioner may
3 require:

4 (A) the patient's name;

5 (B) the diagnosed condition of the patient;

6 (C) any treatment administered to the patient;

7 (D) any medication given to the patient;

8 (E) the name of the health care practitioner ordering the transfer;

9 (F) the name of the hospital from which the patient is being trans-
10 ferred;

11 (G) the name of the health care practitioner or practitioners who is
12 or are willing and authorized to receive the patient at the new
13 location;

14 (H) the name of the hospital or other facility that is to receive the
15 patient;

16 (I) the date and time of transfer; and

17 (J) the signature of the health care practitioner ordering the trans-
18 fer.

19 The form for this purpose shall be promulgated by the commissioner and
20 distributed to all general hospitals. The completed form shall be given
21 to the receiving facility upon completion of the ambulance trip for use
22 by the receiving health care practitioner.

23 2. Every general hospital as defined in this article shall admit any
24 person who is in need of immediate hospitalization with all convenient
25 speed and shall not before admission question the patient or any member
26 of [his or her] the patient's family concerning insurance, credit or
27 payment of charges, provided, however, that the patient or a member of
28 [his or her] the patient's family shall agree to supply such information
29 promptly after the patient's admission. However, no general hospital
30 shall require any patient or member of [his or her] the patient's family
31 to write or to sign during those times when the religious tenets of such
32 person temporarily prohibit [him or her] such person from performing
33 such acts. No general hospital shall transfer any patient to another
34 hospital or health care facility on the grounds that the patient is
35 unable to pay or guarantee payment for services rendered. Every general
36 hospital which maintains facilities for providing out-patient emergency
37 medical care must provide such care to any person who, in the opinion of
38 a [physician] health care practitioner licensed, certified, or author-
39 ized under title eight of the education law, acting within their lawful
40 scope of practice, requires such care.

41 ~~[2. In cities with a population of one million or more, (a) a general~~
42 ~~hospital shall provide emergency medical care and treatment to all~~
43 ~~persons in need of such care and treatment who arrive at the entrance to~~
44 ~~such hospital therefor. Any general hospital which fails to provide such~~
45 ~~treatment shall be guilty of a misdemeanor. However, the commissioner~~
46 ~~may exempt a general hospital from the provisions of this paragraph if~~
47 ~~he determines such general hospital is structured to provide specialized~~
48 ~~or limited treatment.~~

49 ~~(b) Any licensed medical practitioner who refuses to treat a person~~
50 ~~arriving at a general hospital to receive emergency medical treatment~~
51 ~~who is in need of such treatment; or any person who in any manner~~
52 ~~excludes, obstructs or interferes with the ingress of another person~~
53 ~~into a general hospital who appears there for the purpose of being exam-~~
54 ~~ined or diagnosed or treated; or any person who obstructs or prevents~~
55 ~~such other person from being examined or diagnosed or treated by an~~
56 ~~attending physician thereat shall be guilty of a misdemeanor and subject~~

~~to a term of imprisonment not to exceed one year and a fine not to exceed one thousand dollars. Any emergency medical technician, paramedic or ambulance driver who transports a person to a general hospital where such person is refused entrance by anyone or is refused examination, diagnosis or treatment by an attending physician thereat shall report all such incidents to the state commissioner of health or his designee, on a form which shall be promulgated by such commissioner. After examination, diagnosis and treatment by an attending physician and where, in the opinion of such physician, the patient has been stabilized sufficiently to permit it, subsequent medical care may be provided or procured by the general hospital at a location other than the general hospital if, in the opinion of the attending physician, it is in the best interest of the patient because the general hospital does not have the proper equipment or personnel at hand to deal with the particular medical emergency or because all appropriate beds are filled and none are likely to become available within a reasonable time after the patient has been stabilized.~~

~~(c) Whenever a previously stabilized emergency room patient is thereafter transferred for medical care to another location by means of an ambulance, the attending physician authorizing the transfer in the general hospital from which the patient is transferred shall determine that a receiving hospital is available and willing to receive such patient and that an attending physician thereat is available and willing to admit such patient. Just prior to the transfer, the emergency medical technician or paramedic assigned to accompany the patient in the ambulance shall be provided with a completed form which shall include at least the following information and such additional information as the commissioner may require:~~

- ~~(i) the patient's name;~~
- ~~(ii) the diagnosed condition of the patient;~~
- ~~(iii) any treatment administered to the patient;~~
- ~~(iv) any medication given to the patient;~~
- ~~(v) the name of the physician ordering the transfer;~~
- ~~(vi) the name of the hospital from which the patient is being transferred;~~
- ~~(vii) the name of the physician or physicians who is or are willing and authorized to receive the patient at the new location;~~
- ~~(viii) the name of the hospital or other facility that is to receive the patient;~~
- ~~(ix) the date and time of transfer; and~~
- ~~(x) the signature of the physician ordering the transfer.~~

~~The form for this purpose shall be promulgated by the commissioner and distributed to all general hospitals in any such city. The completed form shall be given to the receiving facility upon completion of the ambulance trip for use by the receiving physician.]~~

3. (a) Every general hospital must provide appropriate medical screening examination within the capability of the general hospital's emergency department, including ancillary services routinely available to the emergency department when a request is made by an individual or on the individual's behalf for examination or treatment for a medical condition to determine whether an emergency medical condition exists. With respect to a pregnant person, such medical screening examination must include a determination by a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice as to whether the individual is in active labor. A general hospital may not delay provision of an appropriate

1 medical screening examination or further medical examination, and treat-
2 ment required under paragraph (b) of this subdivision in order to
3 inquire about the individual's method of payment or insurance status.

4 (b) If any individual comes to a general hospital and the general
5 hospital determines that the individual has an emergency medical condi-
6 tion, the general hospital must provide either:

7 (i) within the staff and facilities available at the general hospital,
8 such further medical examination and such treatment as may be required
9 to stabilize the medical condition; or

10 (ii) for transfer of the individual to another medical facility in
11 accordance with paragraph (f) of this subdivision.

12 (c) Admission of an individual experiencing an emergency medical
13 condition does not relieve a general hospital of the obligation to
14 provide any such treatment that, within reasonable probability, will
15 prevent material deterioration of the patient's condition.

16 (d) A general hospital is deemed to meet the requirement of paragraph
17 (b) of this subdivision with respect to an individual if the general
18 hospital offers the individual the further medical examination and
19 treatment described in such subdivision and informs the individual, or a
20 person legally authorized to make health care decisions on behalf of the
21 individual of the risks and benefits to the individual of such examina-
22 tion and treatment, but the individual, or a person legally authorized
23 to make health care decisions on behalf of the individual, refuses to
24 consent to the examination and treatment. The general hospital shall
25 take all reasonable steps to secure the individual's written informed
26 consent, or that of an individual legally authorized to make health care
27 decisions on behalf of the individual, to refuse such examination and
28 treatment.

29 (e) If an individual at a general hospital has an emergency medical
30 condition which has not been stabilized, the general hospital may not
31 transfer the individual unless:

32 (i) the individual, or a person legally authorized to make health care
33 decisions on behalf of the individual, after being informed of the
34 general hospital's obligations under this section and of the risk of
35 transfer, in writing, requests transfer to another medical facility; and

36 (ii) a health care practitioner licensed, certified, or authorized
37 under title eight of the education law, acting within their lawful scope
38 of practice has signed a certification that:

39 (A) based upon the information available at the time of transfer, the
40 medical benefits reasonably expected from the provision of appropriate
41 medical treatment at another medical facility outweigh the increased
42 risks to the individual; and

43 (B) the transfer is an appropriate transfer to that facility.

44 A certification described in subparagraph (ii) of this paragraph shall
45 include a summary of the risks and benefits upon which the certification
46 is based.

47 (f) A general hospital shall not refuse to accept an appropriate
48 transfer of an individual who requires such specialized capabilities or
49 facilities if the general hospital has the capacity to treat the indi-
50 vidual.

51 (g) A general hospital may not delay provision of an appropriate
52 medical screening examination required under paragraph (a) of this
53 subdivision or further medical examination and treatment required under
54 paragraph (b) of this subdivision in order to inquire about the individ-
55 ual's method of payment or insurance status.

(h) A general hospital may not penalize, retaliate, discriminate or otherwise take an adverse action against a health care practitioner, because the practitioner refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or because the practitioner provides treatment necessary to stabilize a patient who is, in the practitioner's reasonable medical judgment, experiencing an emergency medical condition. A general hospital may not penalize, retaliate, discriminate or otherwise take an adverse action against any individual because the individual reports a violation of a requirement of this subdivision.

4. General hospitals shall adopt, implement, and periodically update standard protocols for the management of emergency medical conditions, including diagnosis, stabilization, treatment, or transfer to another medical unit or facility.

5. A general hospital within a city with a population of one million or more may request the emergency medical service of such city's health and hospitals corporation or any person, firm, organization or corporation providing ambulance service to divert ambulances to another hospital only under the following circumstances:

A request for diversion of emergency patients with life threatening conditions shall only be made by a hospital when acceptance of an additional critical patient may endanger the life of that patient or the life of another patient. A request for the diversion of other emergency patients shall only be made when all appropriate beds are filled and shall be withdrawn as soon as a bed is available. Notwithstanding the foregoing, all requests for diversion must be renewed at the beginning of each tour of duty as designated by the emergency medical service of such city's health and hospitals corporation.

Diversion of patients with certain medical conditions which, in the best interest of the patients, require their transport directly to specialty referral centers shall be permitted following the designation of such specialty referral centers. Diversion of patients with psychiatric conditions to comprehensive psychiatric emergency programs, as such term is defined in section 1.03 of the mental hygiene law, and subject to the provisions of section 31.27 of such law, shall only be permitted following the designation of the programs by the commissioners of health and mental health to receive such patients.

~~[4-] 6. Nothing in this section shall be construed to deny to [the attending physician] a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice the right to evaluate the medical needs of persons arriving at the hospital for emergency treatment and to delay or deny medical treatment where, in the opinion of the [attending physician] health care practitioner, no [actual medical] emergency medical condition exists. [However, no person actually in need of emergency treatment, as determined by the attending physician, shall be denied such treatment by a general hospital in cities with a population of one million or more for any reason whatsoever.]~~

~~5-] 7.~~ The staff of a general hospital shall: (a) inquire whether or not the person admitted has served in the United States armed forces. Such information shall be listed on the admissions form; (b) notify any admittee who is a veteran of the possible availability of services at a hospital operated by the United States veterans health administration, and, upon request by the admittee, such staff shall make arrangements for the individual's transfer to a United States veterans health administration hospital, provided, however, that transfers shall be author-

1 ized only after it has been determined, according to accepted clinical
2 and medical standards, that the patient's condition has stabilized and
3 transfer can be accomplished safely and without complication; and (c)
4 provide any admittee who has served in the United States armed forces
5 with a copy of the "Information for Veterans concerning Health Care
6 Options" fact sheet, maintained by the department of veterans' services
7 pursuant to subdivision twenty-nine of section four of the veterans'
8 services law prior to discharging or transferring the patient. The
9 commissioner shall promulgate rules and regulations for notifying such
10 admittees of possible available services and for arranging a requested
11 transfer.

12 8. (a) Whenever it appears to the attorney general, either upon
13 complaint or otherwise, that any person or persons engage in acts or
14 practices stated to be unlawful under this section, the attorney general
15 may bring an action or special proceeding in the name and on behalf of
16 the people of the state of New York to enjoin any violation of this
17 section and to obtain civil penalties of not more than fifty thousand
18 dollars per violation and to obtain any such other and further relief as
19 the court may deem proper, including preliminary relief.

20 (b) The remedies provided by this section shall be in addition to any
21 other lawful remedies available.

22 (c) Any action or special proceeding brought by the attorney general
23 pursuant to this subdivision must be commenced within six years of the
24 date on which the attorney general became aware of the violation.

25 (d) In connection with any proposed action or special proceeding under
26 this subdivision, the attorney general is authorized to take proof and
27 make a determination of the relevant facts, and to issue subpoenas in
28 accordance with the civil practice law and rules. The attorney general
29 may also require such other data and information as they may deem rele-
30 vant and may require written responses to questions under oath. Such
31 power of subpoena and examination shall not abate or terminate by reason
32 of any action or special proceeding brought by the attorney general
33 under this subdivision.

34 (e) This section shall apply to all acts declared to be unlawful in
35 this section, whether or not subject to any other law of this state, and
36 shall not supersede, amend or repeal any other law of this state.

37 (f) The attorney general may assess civil penalties under this subdi-
38 vision only if there are no fines assessed for the violation by the
39 federal government.

40 9. The commissioner shall revise and repeal conflicting regulations as
41 may be necessary and proper to carry out the provisions of this section
42 effectively.

43 § 2. Subdivision 3 of section 2805-b the public health law, as added
44 by chapter 787 of the laws of 1983, is amended to read as follows:

45 ~~[3.]~~ 5. A general hospital within a city with a population of one
46 million or more may request the emergency medical service of such city's
47 health and hospitals corporation or any person, firm, organization or
48 corporation providing ambulance service to divert ambulances to another
49 hospital only under the following circumstances:

50 A request for diversion of emergency patients with life threatening
51 conditions shall only be made by a hospital when acceptance of an addi-
52 tional critical patient may endanger the life of that patient or the
53 life of another patient. A request for the diversion of other emergency
54 patients shall only be made when all appropriate beds are filled and
55 shall be withdrawn as soon as a bed is available. Notwithstanding the
56 foregoing, all requests for diversion must be renewed at the beginning

1 of each tour of duty as designated by the emergency medical service of
2 such city's health and hospitals corporation.

3 Diversion of patients with certain medical conditions which, in the
4 best interest of the patients, require their transport directly to
5 specialty referral centers shall be permitted following the designation
6 of such specialty referral centers.

7 § 3. Section 2803-o-1 of the public health law is REPEALED.

8 § 4. The public health law is amended by adding a new section 2832 to
9 read as follows:

10 § 2832. Interference with care; prohibited. 1. If a health care prac-
11 titioner licensed pursuant to title eight of the education law is acting
12 in good faith, within the practitioner's scope of practice, and within
13 the relevant standard of care, a hospital may not limit the health care
14 practitioner's provision of medically accurate and comprehensive infor-
15 mation and resources to a patient regarding the patient's health status
16 including, but not limited to, diagnosis, prognosis, recommended treat-
17 ment, treatment alternatives, information about available services and
18 where and how to obtain them, and any potential risks to the patient's
19 health or life.

20 2. A health care entity shall not penalize, retaliate, discriminate or
21 otherwise take adverse action against a health care practitioner engag-
22 ing in communications consistent with this section.

23 3. The department shall design, prepare, and make available online
24 written materials to clearly inform health care practitioners and staff
25 of the provisions of this section.

26 § 5. Conflict of laws. To the extent that any laws in the state of New
27 York conflict with this act, this act shall govern. If any part of this
28 act is found to be in conflict with federal requirements that are a
29 prescribed condition to the allocation of federal funds to this state,
30 the conflicting part of this act is inoperative solely to the extent of
31 the conflict and with respect to the agencies directly affected, and
32 this finding does not affect the operation of the remainder of this act
33 in its application to the agencies concerned. Rules adopted under this
34 act must meet federal requirements that are a necessary condition to the
35 receipt of federal funds by this state.

36 § 6. Severability. If any clause, sentence, paragraph, section or part
37 of this act be adjudged by any court of competent jurisdiction to be
38 invalid, such judgment shall not affect, impair or invalidate the
39 remainder hereof but shall be applied in its operation to the clause,
40 sentence, paragraph, section or part hereof directly involved in the
41 controversy in which such judgment shall have been rendered.

42 § 7. This act shall take effect immediately; provided that the amend-
43 ments to subdivision 3 of section 2805-b of the public health law made
44 by section one of this act shall be subject to the expiration and rever-
45 sion of such subdivision pursuant to section 21 of chapter 723 of the
46 laws of 1989, as amended, when upon such date the provisions of section
47 two of this act shall take effect.