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

4937

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. GIGLIO, FINCH -- Multi-Sponsored by -- M. of A. McDONOUGH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to drug counseling for hospital patients

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

Section 1. The public health law is amended by adding a new section 2503-a to read as follows:

S 2503-A. DRUG COUNSELING FOR HOSPITAL PATIENTS. 1. PRIOR TO THE INITIAL ADMINISTERING OF A DRUG BY AN ATTENDING PHYSICIAN OR NURSE PROVIDING HOSPITAL SERVICE, AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER, TO A PATIENT, THE ATTENDING PHYSICIAN OR NURSE SHALL PERSONALLY OFFER TO COUNSEL EACH PATIENT OR PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT, IN PERSON IN A FACE-TO-FACE MEETING WHENEVER PRACTICABLE, OR BY TELEPHONE IN THE INSTANCE WHERE A PERSON IS AUTHORIZED TO ACT ON BEHALF OF THE PATIENT, MATTERS WHICH IN THE EXERCISE OF THE ATTENDING PHYSICIAN'S OR NURSE'S PROFESSIONAL JUDGMENT, THE ATTENDING PHYSICIAN OR NURSE DEEMS APPROPRIATE, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) THE NAME AND DESCRIPTION OF THE MEDICATION;

(B) DOSAGE FORM, DOSAGE, ROUTE OF ADMINISTRATION AND DURATION OF DRUG THERAPY; AND

(C) COMMON SEVERE SIDE OR ADVERSE PHYSICAL OR MENTAL HEALTH EFFECTS THAT MAY BE ENCOUNTERED.

2. THE OFFER TO COUNSEL THE PATIENT OR PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT SHALL BE PROVIDED PERSONALLY BY THE ATTENDING PHYSICIAN OR NURSE AND SHALL NOT BE DELEGATED TO ANY OTHER INDIVIDUAL.

3. IF THE OFFERING OF COUNSELING IS ACCEPTED, THE ATTENDING PHYSICIAN OR NURSE SHALL COUNSEL THE PATIENT OR PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT ON THE INFORMATION PURSUANT TO SUBDIVISION ONE OF THIS

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

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SECTION AND TO ANY ADDITIONAL EXTENT THE ATTENDING PHYSICIAN OR NURSE DEEMS APPROPRIATE IN HIS OR HER PROFESSIONAL JUDGMENT.

4. IN THE EVENT A PATIENT OR PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT CHOOSES NOT TO ACCEPT COUNSELING, AN ATTENDING PHYSICIAN OR NURSE MAY ADMINISTER THE DRUG WITHOUT HAVING VIOLATED THE REQUIREMENTS OF THIS SECTION.

5. THE ATTENDING PHYSICIAN OR NURSE SHALL NOTE ON THE PATIENT'S RECORD:

(A) THE TIME AND DATE THE OFFER OF COUNSELING WAS MADE;

(B) THE DECISION TO ACCEPT OR REJECT THE COUNSELING MADE BY THE PATIENT OR PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT; AND

(C) ON A SEPARATE FORM ESTABLISHED BY THE COMMISSIONER TO BE KEPT IN THE PATIENT'S RECORD, AN ACKNOWLEDGMENT MADE BY THE PATIENT OR PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT OF HIS OR HER DECISION. IF THE OFFER OF COUNSELING IS MADE BY TELEPHONE IN THE INSTANCE WHERE A PERSON IS AUTHORIZED TO ACT ON BEHALF OF THE PATIENT, NO ACKNOWLEDGMENT IS NECESSARY AND THE ATTENDING PHYSICIAN OR NURSE SHALL NOTE ON THE PATIENT'S RECORD THE TIME AND DATE THE OFFER OF COUNSELING WAS MADE AND THE DECISION TO ACCEPT OR REJECT THE COUNSELING MADE BY THE PERSON AUTHORIZED TO ACT ON BEHALF OF THE PATIENT.

6. THIS SECTION SHALL NOT APPLY IN CASES INVOLVING EMERGENCY MEDICAL TREATMENT, OUT-PATIENT CARE AND POST DISCHARGE CARE.

7. THIS SECTION SHALL NOT BE CONSTRUED AS CREATING A NEW CAUSE OF ACTION OR AS IMPOSING AFFIRMATIVE LIABILITY SEPARATE AND APART FROM ANY STATUTORY OR CASE LAW IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.