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

6538

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. ORTIZ, LANCMAN -- Multi-Sponsored by -- M. of A. BOYLAND, GALEF, MAYERSOHN, PERRY, REILLY, ROBINSON -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to full and good faith participation in peer review activities

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

Section 1. Subdivisions 1 and 2 of section 2805-m of the public health law, as amended by chapter 808 of the laws of 1987, are amended to read as follows:

1. The information required to be collected and maintained pursuant to [sections twenty-eight hundred five-j and] SECTION twenty-eight hundred five-k of this article, reports required to be submitted pursuant to section twenty-eight hundred five-l of this article and any incident reporting requirements imposed upon diagnostic and treatment centers pursuant to the provisions of this chapter shall be kept confidential and shall not be released except to the department or pursuant to subdivision four of section twenty-eight hundred five-k of this article.

2. Notwithstanding any other provisions of law, none of the records, documentation or committee actions or records required pursuant to [sections twenty-eight hundred five-j and] SECTION twenty-eight hundred five-k of this article, the reports required pursuant to section twenty-eight hundred five-l of this article nor any incident reporting requirements imposed upon diagnostic and treatment centers pursuant to the provisions of this chapter shall be subject to disclosure under article six of the public officers law or article thirty-one of the civil practice law and rules, except as hereinafter provided or as provided by any other provision of law. No person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibition relating to discovery of testimony shall not apply to the statements made by any person in attendance at

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

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such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting.

S 2. Section 6530 of the education law is amended by adding a new subdivision 50 to read as follows:

50. FAILURE TO FULLY COOPERATE AND PARTICIPATE, REASONABLY AND IN GOOD FAITH, IN THE QUALITY ASSURANCE AND PEER REVIEW PROGRAMS ACTIVITIES, REQUIREMENTS AND PROCEDURES COVERED BY SECTION TWENTY-EIGHT HUNDRED FIVE-J OF THE PUBLIC HEALTH LAW.

S 3. Subdivision 1 of section 2805-k of the public health law, as amended by chapter 485 of the laws of 1986, paragraph (f) as amended by chapter 477 of the laws of 2008 and paragraph (g) as relettered by chapter 786 of the laws of 1992, is amended to read as follows:

1. Prior to granting or renewing professional privileges or association of any physician, dentist or podiatrist or hiring a physician, dentist or podiatrist, a hospital or facility approved pursuant to this article shall request from the physician, dentist or podiatrist and the physician, dentist or podiatrist shall be required to provide the following information:

(a) The name of any hospital or facility with or at which the physician, dentist or podiatrist had or has any association, employment, privileges or practice;

(b) Where such association, employment, privilege or practice was discontinued, the reasons for its discontinuation;

(c) Any pending professional medical, dental or podiatric misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in such proceedings or actions, and any additional information concerning such proceedings or actions as the physician, dentist or podiatrist may deem appropriate;

(d) The substance of the findings in such actions or proceedings and any additional information concerning such actions or proceedings as the physician, dentist or podiatrist may deem appropriate;

(e) A waiver by the physician, dentist or podiatrist of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subdivision; [and]

(f) Documentation that the physician, dentist or podiatrist has completed the course work or training as mandated by section two hundred thirty-nine of this chapter or section six thousand five hundred five-b of the education law. A hospital or facility shall not grant or renew professional privileges or association to a physician, dentist, or podiatrist who has not completed such course work or training[.];

(g) DOCUMENTATION THAT THE PHYSICIAN, DENTIST OR PODIATRIST AGREES TO FULL, GOOD FAITH COOPERATION AND PARTICIPATION IN ANY PEER REVIEW PROCESS, AND TERMINATION OF ALL PRIVILEGES, INCLUDING EMPLOYMENT, IF SUCH PHYSICIAN, DENTIST OR PODIATRIST FAILS TO FULLY COOPERATE AND PARTICIPATE; AND

(H) A verification by the physician, dentist or podiatrist that the information provided by the physician, dentist or podiatrist is true and accurate.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.