

7409

2009-2010 Regular Sessions

I N A S S E M B L Y

April 6, 2009

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the
Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation
to the transfer of patient medical records in certain circumstances

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

1 Section 1. Subdivision 40 of section 6530 of the education law, as
2 added by chapter 606 of the laws of 1991, is amended to read as follows:
3 40. Failing to provide access by qualified persons to patient informa-
4 tion in accordance with the standards set forth in [section] SECTIONS
5 SEVENTEEN AND eighteen of the public health law, SUCH SECTION EIGHTEEN
6 as added by chapter [497] FOUR HUNDRED NINETY-SEVEN of the laws of
7 [1986] NINETEEN HUNDRED EIGHTY-SIX;
8 S 2. The public health law is amended by adding a new section 18-b to
9 read as follows:
10 S 18-B. REQUIREMENT FOR TRANSFER OF INFORMATION. 1. A HEALTH CARE
11 PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE PRACTITIONER, AS SUCH
12 TERMS ARE DEFINED IN SECTION EIGHTEEN OF THIS ARTICLE, WHICH HAS IN ITS
13 POSSESSION PATIENT INFORMATION AS SUCH TERM IS DEFINED IN SUCH SECTION,
14 AND WHICH HAS DETERMINED TO CEASE TO DO BUSINESS OR WHICH IS TRANS-
15 FERRING ITS OWNERSHIP OR OTHERWISE INTERRUPTING ITS SERVICES FOR A
16 PERMANENT OR EXTENDED PERIOD SHALL, AT LEAST SIXTY DAYS PRIOR TO SUCH
17 ACTION, NOTIFY THE COMMISSIONER OF ITS INTENT AND SHALL PROVIDE A COPY
18 OF ITS PLAN FOR TRANSFER OF PATIENT RECORDS TO ANOTHER PROVIDER, FACILI-
19 TY, PRACTITIONER OR PATIENT, AS REQUESTED OR REQUIRED PURSUANT TO LAW.
20 THE COMMISSIONER SHALL PRESCRIBE THE FORM OF SUCH PLAN, THE REQUIREMENTS
21 FOR TRANSFER, AND THE MANNER OF REQUIRED NOTIFICATION.
22 2. IF THE COMMISSIONER OF HEALTH SHALL DETERMINE THAT THE FAILURE OF
23 ANY SUCH HEALTH CARE PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE
24 PRACTITIONER TO TIMELY RELEASE MEDICAL RECORDS PURSUANT TO SECTIONS
25 SEVENTEEN OR EIGHTEEN OF THIS ARTICLE, SUCH SECTION EIGHTEEN AS ADDED BY

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

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1 CHAPTER FOUR HUNDRED NINETY-SEVEN OF THE LAWS OF NINETEEN HUNDRED EIGHT-
2 Y-SIX, SHALL HAVE CAUSED OR MAY CAUSE A THREAT TO THE HEALTH OF THE
3 INDIVIDUALS WHO ARE THE SUBJECT OF SUCH RECORDS, BECAUSE MORE THAN SIX
4 MONTHS HAS ELAPSED SINCE A PRIOR SCREENING OR TEST, THE COMMISSIONER MAY
5 ORDER NEW TESTS TO BE PERFORMED BY A PRACTITIONER CHOSEN OR APPROVED BY
6 THE COMMISSIONER. IN ORDER TO EXPEDITE SUCH TESTS, THE COMMISSIONER MAY
7 ORDER PAYMENT FOR SUCH TESTS FROM ANY ACCOUNT UNDER THE CONTROL OF THE
8 DEPARTMENT, AND SHALL ASSESS ANY SUCH HEALTH CARE PROVIDER, HEALTH CARE
9 FACILITY, OR HEALTH CARE PRACTITIONER WHO FAILED TO TIMELY RELEASE
10 MEDICAL RECORDS FOR THE EXPENSES. NO ASSESSMENT SHALL BE MADE AGAINST A
11 HEALTH CARE PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE PRACTITIONER
12 IN ANY CASE WHERE SUCH PERSON OR ENTITY CAN DEMONSTRATE TO THE COMMIS-
13 SIONER THAT A GOOD FAITH EFFORT TO CONTACT THE PATIENT WITH SCREENING OR
14 TEST RESULTS WAS MADE PRIOR TO THE ELAPSE OF SUCH SIX MONTH PERIOD.
15 S 3. This act shall take effect immediately.