

5407

2009-2010 Regular Sessions

I N S E N A T E

April 29, 2009

Introduced by Sen. MONSERRATE -- 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 hospitals to provide language assistance services

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 2803-s to read as follows:
3 S 2803-S. PROVISION OF LANGUAGE ASSISTANCE. 1. EVERY HOSPITAL SHALL
4 PROVIDE LANGUAGE ASSISTANCE SERVICES TO A PATIENT OR PATIENT ASSISTANT
5 SO AS TO ENSURE THAT ALL PATIENTS WHO CANNOT SPEAK, READ, WRITE OR
6 UNDERSTAND THE ENGLISH LANGUAGE WITH THE PROFICIENCY NECESSARY FOR
7 ADEQUATE COMMUNICATION WITH HEALTH CARE PROVIDERS AND OTHER PERSONNEL
8 HAVE EFFECTIVE ACCESS TO THE HOSPITAL'S PROGRAMS AND SERVICES, INCLUDING
9 BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. EVERY
10 HOSPITAL SHALL ENSURE THAT ALL INDIVIDUALS PROVIDING LANGUAGE ASSISTANCE
11 SERVICES TO PATIENTS HAVE SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE
12 RELEVANT LANGUAGE TO COMMUNICATE CLINICAL AND OTHER INFORMATION NECES-
13 SARY FOR THE PATIENT TO ACCESS SERVICES. LANGUAGE ASSISTANCE SERVICES
14 FOR PRIMARY AND NON-PRIMARY LANGUAGES SHALL BE AVAILABLE AT ALL
15 LOCATIONS DURING ALL TIMES THAT PATIENT CARE IS AVAILABLE, AND SHALL, TO
16 THE EXTENT PRACTICABLE, BE PROVIDED IN PERSON. TRANSLATIONS OF ALL
17 FREQUENTLY USED FORMS, AND OTHER WRITTEN MATERIALS THAT ARE ESSENTIAL TO
18 A PATIENT'S CARE AND TREATMENT OR ARE OTHERWISE NECESSARY TO PROVIDE
19 ADEQUATE ACCESS TO THE HOSPITAL'S SERVICES SHALL BE AVAILABLE IN ALL OF
20 THE HOSPITAL'S PRIMARY LANGUAGES. EVERY HOSPITAL SHALL DEVELOP AND
21 IMPLEMENT A COMPREHENSIVE LANGUAGE ASSISTANCE PLAN THAT ESTABLISHES
22 UNIFORM POLICIES AND PROCEDURES FOR PROVIDING LANGUAGE ASSISTANCE
23 SERVICES, INCLUDING PROCEDURES FOR DOCUMENTING THE PROVISION OF, OR
24 REFUSAL OF, LANGUAGE ASSISTANCE SERVICES, AND THAT REQUIRES TRAINING TO
25 ENSURE THAT ALL STAFF WHO HAVE CONTACT WITH PATIENTS COMPLY WITH THE

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

LBD09098-01-9

1 PLAN, AND THAT ALL STAFF MEMBERS WHO PROVIDE MEDICAL INTERPRETATION
2 SERVICES IN PRIMARY LANGUAGES HAVE RECEIVED TRAINING IN MEDICAL INTER-
3 PRETATION. SUCH INDIVIDUAL PROVIDING LANGUAGE ASSISTANCE SERVICES MAY BE
4 A QUALIFIED INTERPRETER, VOLUNTARY WORKER OR OTHER PERSONNEL CURRENTLY
5 EMPLOYED BY SAID HOSPITAL AND MAY PERFORM OTHER DUTIES AS DIRECTED BY
6 THE HOSPITAL.

7 2. THE STATEMENT REGARDING PATIENT RIGHTS AND RESPONSIBILITIES
8 REQUIRED PURSUANT TO PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION TWEN-
9 TY-EIGHT HUNDRED THREE OF THIS ARTICLE SHALL INCLUDE A PROVISION NOTIFY-
10 ING PATIENTS OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES,
11 INCLUDING ORAL INTERPRETATION AND TRANSLATIONS OF FORMS AND OTHER MATE-
12 RIALS. NOTICE OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES SHALL
13 ALSO BE POSTED IN CONSPICUOUS LOCATIONS THROUGHOUT THE HOSPITAL AND IN
14 OUTPATIENT CLINICS, IN ALL PRIMARY LANGUAGES.

15 3. (A) EVERY HOSPITAL SHALL SUBMIT TO THE COMMISSIONER AN ANNUAL
16 REPORT ASSESSING ITS COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.
17 THE REPORT SHALL IDENTIFY THE PRIMARY LANGUAGES USED BY ITS PATIENTS,
18 AND THE PERCENTAGE OF THE HOSPITAL'S PATIENTS WHO SPEAK EACH SUCH PRIMA-
19 RY LANGUAGE.

20 (B) THE HOSPITAL SHALL MAINTAIN A RECORD OF THE FOREIGN LANGUAGE
21 PRIMARILY SPOKEN BY ANY PATIENT SEEKING OR RECEIVING LANGUAGE ASSISTANCE
22 SERVICES AT THE HOSPITAL. SUCH INFORMATION SHALL BE RECORDED WHETHER OR
23 NOT SUCH PATIENT ACTUALLY OBTAINS SUCH SERVICES.

24 4. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS
25 MAY BE NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION,
26 WHICH SHALL INCLUDE THE METHODOLOGY TO BE USED BY HOSPITALS IN DETERMIN-
27 ING PRIMARY LANGUAGES.

28 5. FOR PURPOSES OF THIS SECTION:

29 (A) "PRIMARY LANGUAGE" MEANS A LANGUAGE OTHER THAN ENGLISH THAT IS
30 EITHER (I) USED TO COMMUNICATE, DURING AT LEAST FIVE PERCENT OF PATIENT
31 VISITS IN A YEAR, BY PATIENTS WHO CANNOT SPEAK, READ, WRITE OR UNDER-
32 STAND THE ENGLISH LANGUAGE AT THE LEVEL OF PROFICIENCY NECESSARY FOR
33 EFFECTIVE COMMUNICATION WITH HEALTH CARE PROVIDERS; OR (II) SPOKEN BY
34 NON-ENGLISH SPEAKING INDIVIDUALS COMPRISING MORE THAN FIVE PERCENT OF
35 THE PRIMARY HOSPITAL SERVICE AREA POPULATION, AS CALCULATED BY USING
36 DEMOGRAPHIC INFORMATION AVAILABLE FROM THE UNITED STATES BUREAU OF THE
37 CENSUS, SUPPLEMENTED BY DATA FROM SCHOOL SYSTEMS;

38 (B) "PATIENT VISITS" SHALL INCLUDE ALL VISITS BY PATIENTS TO EMERGENCY
39 ROOMS AND OUTPATIENT CLINICS, AS WELL AS INPATIENT ADMISSIONS OF THE
40 HOSPITAL;

41 (C) "PATIENT ASSISTANT" SHALL MEAN AN INDIVIDUAL WHO COMMUNICATES ON
42 BEHALF OF ANOTHER WHO, BY REASON OF AGE OR INCAPACITY, CANNOT COMMUNI-
43 CATE FOR HIMSELF OR HERSELF; AND

44 (D) "HOSPITAL" SHALL MEAN A GENERAL HOSPITAL AS DEFINED IN SUBDIVISION
45 TEN OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE.

46 6. NOTHING IN THIS SECTION SHALL PRECLUDE MEDICAL FACILITIES FROM
47 PROVIDING LANGUAGE ASSISTANCE SERVICES IN ADDITION TO THOSE REQUIRED
48 UNDER THIS SECTION.

49 S 2. This act shall take effect on the one hundred eightieth day after
50 it shall have become a law.