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

6739

I N S E N A T E

February 2, 2010

Introduced by Sens. HANNON, BONACIC, DeFRANCISCO, FARLEY, O. JOHNSON, LARKIN, MORAHAN, VOLKER -- 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 establishing within the department of health a health care proxy registry

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

Section 1. Section 2980 of the public health law is amended by adding a new subdivision 16 to read as follows:

16. "HEALTH CARE PROXY REGISTRY" OR "REGISTRY" MEANS THE HEALTH CARE PROXY REGISTRY ESTABLISHED BY SECTION TWENTY-NINE HUNDRED NINETY-FOUR-A OF THIS ARTICLE.

S 2. Subdivision 1 of section 2984 of the public health law, as added by chapter 752 of the laws of 1990, is amended to read as follows:

1. (A) A health care provider who is provided with a health care proxy shall arrange for the proxy or a copy thereof to be inserted in the principal's medical record if the health care proxy has not been included in such record.

(B) WHERE THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION HAVE NOT BEEN MET AND THE REQUIREMENTS OF SECTION TWENTY-NINE HUNDRED EIGHTY-THREE OF THIS ARTICLE HAVE BEEN SATISFIED, AN ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER SHALL CONTACT THE REGISTRY TO DETERMINE WHETHER THE INDIVIDUAL HAS TRANSMITTED A HEALTH CARE PROXY TO THE REGISTRY. IN THE EVENT SUCH INDIVIDUAL HAS TRANSMITTED HIS OR HER HEALTH CARE PROXY TO THE REGISTRY, SUCH HEALTH CARE PROXY OR A COPY THEREOF SHALL BE INSERTED IN THE PRINCIPAL'S MEDICAL RECORD.

S 3. The public health law is amended by adding a new section 2994-a to read as follows:

S 2994-A. HEALTH CARE PROXY REGISTRY. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, "HEALTH CARE PROXY" OR "HEALTH CARE PROXIES" SHALL MEAN A HEALTH CARE PROXY OR HEALTH CARE PROXIES PROPERLY EXECUTED PURSUANT TO THIS ARTICLE.

2. HEALTH CARE PROXY REGISTRY; ESTABLISHMENT. THE DEPARTMENT SHALL ESTABLISH A HEALTH CARE PROXY REGISTRY, WHICH SHALL MAINTAIN HEALTH CARE

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

LBD04018-01-9

PROXIES SUBMITTED TO SUCH REGISTRY PURSUANT TO THIS SECTION AND PROVIDE ACCESS TO SUCH REGISTRY BY ATTENDING PHYSICIANS AND HEALTH CARE PROVIDERS.

3. TRANSMISSION OF HEALTH CARE PROXY TO THE REGISTRY. AN INDIVIDUAL, REGARDLESS OF HIS OR HER RESIDENCY, MAY TRANSMIT HIS OR HER HEALTH CARE PROXY TO THE DEPARTMENT FOR PLACEMENT IN THE REGISTRY. SUCH TRANSMISSION MAY BE VIA FIRST CLASS MAIL OR IN ANY OTHER MANNER PRESCRIBED BY THE DEPARTMENT IN REGULATION.

4. ACCESS TO THE REGISTRY. THE DEPARTMENT SHALL ESTABLISH A STRAIGHTFORWARD, EASILY ACCESSIBLE MECHANISM TO PROVIDE HEALTH CARE PROVIDERS ACCESS TO THE REGISTRY. SUCH ACCESS MAY BE THROUGH A WEBSITE-BASED SYSTEM OR A TOLL-FREE CALLING SYSTEM. SUCH REGISTRY SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS RELATED TO MAINTAINING THE PRIVACY AND CONFIDENTIALITY OF RECORDS CONTAINED WITHIN THE REGISTRY.

5. REVOCATION OR MODIFICATION OF A HEALTH CARE PROXY. WHEN AN INDIVIDUAL HAS REVOKED OR MODIFIED HIS OR HER HEALTH CARE PROXY, IT SHALL BE SUCH INDIVIDUAL'S RESPONSIBILITY TO NOTIFY THE REGISTRY OF SUCH REVOCATION, OR TO TRANSMIT TO THE REGISTRY SUCH MODIFIED REGISTRY.

6. LIABILITY. NEITHER THE DEPARTMENT, NOR THE REGISTRY, SHALL BE CIVILLY OR CRIMINALLY LIABLE FOR PROVIDING, UPON REQUEST, A HEALTH CARE PROXY TO AN ATTENDING HEALTH CARE PROVIDER, IF SUCH HEALTH CARE PROXY BEING PROVIDED PURSUANT TO THIS SECTION HAS BEEN REVOKED OR MODIFIED PURSUANT TO THIS ARTICLE BY THE INDIVIDUAL FOR WHOM THE HEALTH CARE PROXY HAS BEEN CREATED AND SUCH INDIVIDUAL HAS FAILED TO TRANSMIT TO THE REGISTRY PURSUANT TO THIS SECTION NOTIFICATION OF SUCH REVOCATION OR, AS THE CASE MAY BE, FAILED TO TRANSMIT PURSUANT TO THIS SECTION SUCH MODIFIED HEALTH CARE PROXY.

S 4. The department of health shall promulgate regulations to implement the provisions of this act, which shall include, at a minimum, provisions affording attending health care providers reasonable opportunity to contact the health care proxy registry, at no cost to the health care provider.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such effective date.