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

932

2009-2010 Regular Sessions

I N S E N A T E

January 21, 2009

Introduced by Sen. KRUGER -- 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 access to patient information and the transfer of all patient information to the department of health when a facility is closed by the department

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

Section 1. Paragraph (d) of subdivision 2 of section 18 of the public health law, as amended by chapter 576 of the laws of 1998, is amended and a new paragraph (d-1) is added to read as follows:

(d) Subject to the provisions of subdivision three of this section, upon the written request of any qualified person, a health care provider shall furnish to such person, within [a reasonable time] THIRTY DAYS, a copy of any patient information requested, [and original mammograms requested,] which the person is authorized to inspect pursuant to this subdivision.

(D-1) SUBJECT TO THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION, UPON THE WRITTEN REQUEST OF ANY QUALIFIED PERSON, A HEALTH CARE PROVIDER SHALL FURNISH TO SUCH PERSON, WITHIN FIFTEEN DAYS, A COPY OF ANY CANCER TESTS OR SCREENINGS REQUESTED, AND ORIGINAL MAMMOGRAMS REQUESTED, WHICH THE PERSON IS AUTHORIZED TO INSPECT PURSUANT TO THIS SUBDIVISION.

S 2. Section 18 of the public health law, as added by chapter 497 of the laws of 1986, is amended by adding a new subdivision 2-a to read as follows:

2-A. ANY HEALTH CARE FACILITY OR A PROVIDER'S HEALTH CARE FACILITY THAT HAS BEEN CLOSED BY THE DEPARTMENT FOR ANY REASON, SHALL TRANSFER ALL PATIENT INFORMATION TO THE DEPARTMENT. THE DEPARTMENT SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF SUCH INFORMATION AND SHALL FURNISH PATIENT INFORMATION PURSUANT TO THIS SECTION.

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

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S 3. Subdivision 3 of section 18 of the public health law, as added by chapter 497 of the laws of 1986, is amended by adding a new paragraph (j) to read as follows:

(J) IN THE EVENT THE QUALIFIED PERSON DOES NOT RECEIVE A RESPONSE FROM THE PROVIDER, IT SHALL BE CONSIDERED A DENIAL AND THE QUALIFIED PERSON MAY REQUEST A REVIEW OF THE DENIAL BY THE APPROPRIATE MEDICAL RECORD ACCESS REVIEW COMMITTEE AS PROVIDED FOR IN THIS SUBDIVISION.

S 4. Section 18 of the public health law, as added by chapter 497 of the laws of 1986, is amended by adding a new subdivision 13 to read as follows:

13. A QUALIFIED PERSON MAY BRING A PRIVATE RIGHT OF ACTION FOR DAMAGES AGAINST A PROVIDER OR FACILITY THAT HAS FAILED TO RESPOND TO THE QUALIFIED PERSON'S REQUEST FOR PATIENT INFORMATION WITHIN THE SPECIFIED PERIOD OF TIME PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION. DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, REPEAT TESTS OR SCREENINGS NECESSARY FOR THE CARE OF THE PATIENT BY ANOTHER HEALTH CARE PROVIDER.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.