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

11610

I N A S S E M B L Y

June 30, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Wright) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to providing for the creation and dissemination of information pertaining to bone marrow and peripheral blood stem cell donation; to amend the public health law, the election law and the vehicle and traffic law, in relation to bone marrow and peripheral blood stem cell donation registration

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

Section 1. This act shall be known and may be cited as "Jaden's law".

S 2. The public health law is amended by adding a new section 4369 to read as follows:

S 4369. BONE MARROW AND PERIPHERAL BLOOD STEM CELL DONATION INFORMATION. 1. (A) THE COMMISSIONER SHALL PREPARE AN ONLINE BROCHURE FOR DISPLAY ON THE INTERNET WEBSITE OF THE DEPARTMENT, BASED UPON INFORMATION DERIVED FROM THE NATIONAL MARROW DONOR PROGRAM ("NMDP"), WHICH MAY BE DOWNLOADED BY PHYSICIANS FOR THE PURPOSES OF BEING PROVIDED TO PATIENTS, AND SHALL BE DESIGNED TO INFORM PATIENTS OF THE OPTION TO BECOME A BONE MARROW OR PERIPHERAL BLOOD STEM CELL ("PBSC") DONOR BY REGISTERING WITH THE NMDP AND TO ANSWER COMMON QUESTIONS ABOUT BONE MARROW AND PERIPHERAL BLOOD STEM CELL, OR PBSC, DONATION.

(B) THE BROCHURE SHALL DESCRIBE:

(1) THE HEALTH BENEFITS TO THE COMMUNITY FROM MAKING A BONE MARROW OR PBSC DONATION THROUGH THE NMDP;

(2) HOW TO REGISTER WITH THE NMDP;

(3) THE PROCEDURES FOR MAKING A BONE MARROW OR PBSC DONATION THROUGH THE NMDP, INCLUDING NOTICE THAT THERE IS NO CHARGE TO THE DONOR OR THE DONOR'S FAMILY FOR MAKING THE DONATION;

(4) THE CIRCUMSTANCES AND PROCEDURES BY WHICH A PATIENT MAY RECEIVE A TRANSFUSION OF THE PATIENT'S PREVIOUSLY DONATED BLOOD; AND

(5) ANY OTHER ASPECTS OF BONE MARROW OR PBSC DONATION THAT THE COMMISSIONER DEEMS APPROPRIATE FOR THE PURPOSES OF THIS SECTION.

2. (A) A PHYSICIAN, AS EARLY AS PRACTICABLE IN THE PHYSICIAN'S THERAPEUTIC RELATIONSHIP WITH A PATIENT, AND UNLESS THE PHYSICIAN REASONABLY

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

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BELIEVES THAT BONE MARROW OR PBSC DONATION WOULD THREATEN THE HEALTH OF THE PATIENT, SHALL PROVIDE A COPY OF THE BROCHURE PREPARED BY THE COMMISSIONER TO EVERY PATIENT:

(1) WHO IS KNOWN BY THE PHYSICIAN TO BE AT LEAST EIGHTEEN YEARS OF AGE BUT NO OLDER THAN SIXTY YEARS OF AGE; AND

(2) WHO THE PHYSICIAN ANTICIPATES WILL BE ADMITTED TO A HOSPITAL FOR AN ELECTIVE ORTHOPEDIC PROCEDURE OR TREATMENT OR OTHERWISE BELIEVES IS AN APPROPRIATE CANDIDATE FOR BONE MARROW OR PBSC DONATION; OR FOR WHOM THE PHYSICIAN OTHERWISE BELIEVES BONE MARROW OR PBSC DONATION IS APPROPRIATE TO THE PATIENT'S MEDICAL CIRCUMSTANCES OR IS DESIRED BY THE PATIENT.

(B) THE PHYSICIAN SHALL OFFER TO DISCUSS THE INFORMATION CONTAINED IN THE BROCHURE WITH THE PATIENT OR THE PATIENT'S REPRESENTATIVE.

(C) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT BE CONSTRUED TO APPLY TO A PHYSICIAN WHO IS DIRECTLY AFFILIATED WITH A RELIGIOUS DENOMINATION THAT ADHERES TO THE TENET THAT BONE MARROW OR PBSC TRANSFER IS CONTRARY TO THE MORAL PRINCIPLES WHICH THE DENOMINATION CONSIDERS TO BE AN ESSENTIAL PART OF ITS BELIEFS AND PRACTICES.

S 3. Section 4310 of the public health law, as amended by chapter 639 of the laws of 2006, the section heading and subdivision 1 as separately amended by chapter 640 of the laws of 2006 and subdivision 2 as amended by chapter 362 of the laws of 2008, is amended to read as follows:

S 4310. New York state donate life registry for organ [and], tissue, BONE MARROW OR PERIPHERAL BLOOD STEM CELL donations. 1. The department shall establish an organ and tissue donor registry, which shall be called and be referred to as the "donate life registry", which shall contain a listing of all donors who have declared their consent to make an anatomical gift OR TO DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS.

2. Such registration of consent to make an anatomical gift OR TO DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS can be made through (a) indication made on the application or renewal form of a license, (b) indication made on a non-driver identification card application or renewal form, (c) enrolling in the registry website maintained by the department, (d) indication made on a voter registration form pursuant to subdivision five of section 5-210 of the election law, or (e) through any other method identified by the commissioner. The registration shall take effect upon the department sending written notice of the registration to the person enrolling in the registry.

3. (a) Information contained in the registry shall be accessible to (i) federally regulated organ, BONE MARROW OR PERIPHERAL BLOOD STEM CELL procurement agencies, (ii) eye and tissue banks licensed by the department pursuant to article forty-three-B of this chapter, (iii) any other entity formally approved by the commissioner.

(b) The information contained in the registry shall not be released to any person except as expressly authorized by this section solely for the purpose of:

(I) identifying potential organ and tissue donors at or near the time of death; OR

(II) IDENTIFYING POTENTIAL BONE MARROW OR PERIPHERAL BLOOD STEM CELL DONORS.

4. If the department had an established registry prior to the effective date of this section, it shall be deemed to meet the requirements of this section.

5. The registry shall provide persons enrolled the opportunity to specify which organs and tissues they want to donate, INCLUDING WHETHER

THEY WANT TO DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS, and if the donation can be used for transplantation, research, or both.

6. A person registered in the organ and tissue registry before the effective date of this subdivision shall be deemed to have expressed intent to donate ORGANS AND TISSUES OTHER THAN BONE MARROW OR PERIPHERAL BLOOD STEM CELLS, until and unless he or she files an amendment to his or her registration or a new registration expressing consent to donate.

7. The commissioner shall contact each person registered before the effective date of this subdivision in the organ and tissue registry in writing to inform him or her that at the time he or she registered, the registry was that of intent and that the registry is now one of consent, to explain in clear and understandable terms the difference between intent and consent, and to provide opportunity for the person to change his or her registration to provide consent by amending his or her current registration or executing a new registration.

8. The commissioner is authorized to promulgate rules and regulations necessary to implement the provisions of this section.

S 4. Subparagraph (xii) of paragraph (k) of subdivision 5 of section 5-210 of the election law, as added by chapter 362 of the laws of 2008, is amended to read as follows:

(xii) A space for the applicant to register in the New York state donate life registry for organ [and], tissue, BONE MARROW OR PERIPHERAL BLOOD STEM CELL donations established pursuant to section forty-three hundred ten of the public health law.

S 5. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 639 of the laws of 2006, is amended to read as follows:

1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide his or her social security number and provide space on the application so that the applicant may register in the New York state organ [and], tissue, BONE MARROW OR PERIPHERAL BLOOD STEM CELL donor registry under section forty-three hundred ten of the public health law. In addition, an applicant for a commercial driver's license who will operate a commercial motor vehicle in interstate commerce shall certify that such applicant meets the requirements to operate a commercial motor vehicle, as set forth in public law 99-570, title XII, and title 49 of the code of federal regulations, and all regulations promulgated by the United States secretary of transportation under the hazardous materials transportation act. Upon a determination that the holder of a commercial driver's license has made any false statement, with respect to the application for such license, the commissioner shall revoke such license.

S 6. This act shall take effect on the ninetieth day after it shall have become a law.