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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN, MILLMAN, CLARK, ROBINSON, POWELL, BENEDETTO -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, DelMONTE, HOOPER, MAYERSOHN, McENENY, PERRY, PHEFFER, REILLY, N. RIVERA, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to office-based surgery disclosures

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

Section 1. The public health law is amended by adding a new section 230-e to read as follows:

S 230-E. DISCLOSURES; OFFICE-BASED SURGERY. 1. ANY PHYSICIAN WHO CONDUCTS OFFICE-BASED SURGERY SHALL PROVIDE FULL DISCLOSURE TO HIS OR HER PATIENTS OF THE FOLLOWING:

A. TYPES AND FREQUENCY OF SURGICAL PROCEDURES CONDUCTED IN THE OFFICE IN THE PREVIOUS THREE YEARS.

B. MEDICAL AND SURGICAL TRAINING CREDENTIALS, INCLUDING DATES OF CERTIFICATION, ASSOCIATED WITH ALL SURGICAL STAFF INVOLVED IN CONDUCTING THE SURGICAL PROCEDURE REQUESTED BY THE PATIENT.

C. THE PHYSICIAN'S EXPERIENCE WITH ADVERSE PATIENT EVENTS INCLUDING, BUT NOT LIMITED TO, RATES OF INFECTION, SURGICAL ANOMALIES, COMPLICATIONS AND DEATHS.

D. PROCEDURES IN PLACE IN CASE OF EMERGENCY DURING OFFICE-BASED SURGICAL PROCEDURES INCLUDING, BUT NOT LIMITED TO, EMERGENCY RESPONSE SKILLS OF SURGICAL STAFF MEMBERS, EMERGENCY 911 RESPONSE TIME, AND EMERGENCY HOSPITAL AFFILIATION.

E. MALPRACTICE CLAIMS PENDING AND MALPRACTICE RECORD.

2. ANY PHYSICIAN WHO CONDUCTS OFFICE-BASED SURGERY SHALL PROVIDE TO THE DEPARTMENT, IN A FORM AND AT A RATE OF FREQUENCY AS REQUIRED BY SUCH DEPARTMENT, THE DATA REQUIRED IN PARAGRAPHS A THROUGH D OF SUBDIVISION ONE OF THIS SECTION AND ANY ADDITIONAL INFORMATION DEEMED NECESSARY BY

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

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THE DEPARTMENT IN ORDER TO PROMULGATE REGULATIONS NECESSARY TO AVOID ADVERSE PATIENT EVENTS IN OFFICE-BASED SURGERY.

3. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS ARE DEFINED AS:

A. "FULL DISCLOSURE" MEANS PROVIDING THE INFORMATION IN WRITING AND ORALLY DURING IN-OFFICE CONSULTATION NOT LESS THAN THIRTY DAYS PRIOR TO THE SCHEDULED NON-EMERGENCY SURGERY, AND BY POSTING THE INFORMATION CONTAINED IN PARAGRAPHS A AND C OF SUBDIVISION ONE OF THIS SECTION IN A CONSPICUOUS LOCATION IN THE WAITING AREA OF THE OFFICE.

B. "OFFICE-BASED SURGERY" MEANS ANY INVASIVE PROCEDURE, OF A NON-EMERGENCY NATURE, CONDUCTED WITH OR WITHOUT GENERAL ANESTHESIA IN A FACILITY, OFFICE OR ROOM THAT IS NOT WHOLLY CONTAINED WITHIN OR ADJACENT TO A HOSPITAL, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER.

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