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

7409

2009-2010 Regular Sessions

I N A S S E M B L Y

April 6, 2009

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to the transfer of patient medical records in certain circumstances

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

Section 1. Subdivision 40 of section 6530 of the education law, as added by chapter 606 of the laws of 1991, is amended to read as follows:

40. Failing to provide access by qualified persons to patient information in accordance with the standards set forth in [section] SECTIONS SEVENTEEN AND eighteen of the public health law, SUCH SECTION EIGHTEEN as added by chapter [497] FOUR HUNDRED NINETY-SEVEN of the laws of [1986] NINETEEN HUNDRED EIGHTY-SIX;

S 2. The public health law is amended by adding a new section 18-b to read as follows:

S 18-B. REQUIREMENT FOR TRANSFER OF INFORMATION. 1. A HEALTH CARE PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE PRACTITIONER, AS SUCH TERMS ARE DEFINED IN SECTION EIGHTEEN OF THIS ARTICLE, WHICH HAS IN ITS POSSESSION PATIENT INFORMATION AS SUCH TERM IS DEFINED IN SUCH SECTION, AND WHICH HAS DETERMINED TO CEASE TO DO BUSINESS OR WHICH IS TRANSFERRING ITS OWNERSHIP OR OTHERWISE INTERRUPTING ITS SERVICES FOR A PERMANENT OR EXTENDED PERIOD SHALL, AT LEAST SIXTY DAYS PRIOR TO SUCH ACTION, NOTIFY THE COMMISSIONER OF ITS INTENT AND SHALL PROVIDE A COPY OF ITS PLAN FOR TRANSFER OF PATIENT RECORDS TO ANOTHER PROVIDER, FACILITY, PRACTITIONER OR PATIENT, AS REQUESTED OR REQUIRED PURSUANT TO LAW. THE COMMISSIONER SHALL PRESCRIBE THE FORM OF SUCH PLAN, THE REQUIREMENTS FOR TRANSFER, AND THE MANNER OF REQUIRED NOTIFICATION.

2. IF THE COMMISSIONER OF HEALTH SHALL DETERMINE THAT THE FAILURE OF ANY SUCH HEALTH CARE PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE PRACTITIONER TO TIMELY RELEASE MEDICAL RECORDS PURSUANT TO SECTIONS SEVENTEEN OR EIGHTEEN OF THIS ARTICLE, SUCH SECTION EIGHTEEN AS ADDED BY

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

LBD07828-03-9

CHAPTER FOUR HUNDRED NINETY-SEVEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX, SHALL HAVE CAUSED OR MAY CAUSE A THREAT TO THE HEALTH OF THE INDIVIDUALS WHO ARE THE SUBJECT OF SUCH RECORDS, BECAUSE MORE THAN SIX MONTHS HAS ELAPSED SINCE A PRIOR SCREENING OR TEST, THE COMMISSIONER MAY ORDER NEW TESTS TO BE PERFORMED BY A PRACTITIONER CHOSEN OR APPROVED BY THE COMMISSIONER. IN ORDER TO EXPEDITE SUCH TESTS, THE COMMISSIONER MAY ORDER PAYMENT FOR SUCH TESTS FROM ANY ACCOUNT UNDER THE CONTROL OF THE DEPARTMENT, AND SHALL ASSESS ANY SUCH HEALTH CARE PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE PRACTITIONER WHO FAILED TO TIMELY RELEASE MEDICAL RECORDS FOR THE EXPENSES. NO ASSESSMENT SHALL BE MADE AGAINST A HEALTH CARE PROVIDER, HEALTH CARE FACILITY, OR HEALTH CARE PRACTITIONER IN ANY CASE WHERE SUCH PERSON OR ENTITY CAN DEMONSTRATE TO THE COMMISSIONER THAT A GOOD FAITH EFFORT TO CONTACT THE PATIENT WITH SCREENING OR TEST RESULTS WAS MADE PRIOR TO THE ELAPSE OF SUCH SIX MONTH PERIOD.

S 3. This act shall take effect immediately.