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

7617

2009-2010 Regular Sessions

I N A S S E M B L Y

April 17, 2009

Introduced by M. of A. GOTTFRIED, MAISEL, BING, PAULIN, GABRYSZAK, CHRISTENSEN, DenDEKKER, ROSENTHAL, JACOBS, DelMONTE, CYMBROWITZ, JAFFEE, MILLMAN, GALEF, TITONE, SCHIMEL, HOOPER, LANCMAN -- Multi-Sponsored by -- M. of A. AMEDORE, DESTITO, FIELDS, JOHN, KOON, LUPARDO, MARKEY, McENENY, MENG, PHEFFER, RUSSELL, SWEENEY, TOWNS, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to a patient's right to palliative care information

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 2997-c to read as follows:

S 2997-C. PALLIATIVE CARE PATIENT INFORMATION. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE:

(A) "APPROPRIATE" MEANS CONSISTENT WITH APPLICABLE LEGAL, HEALTH AND PROFESSIONAL STANDARDS; THE PATIENT'S CLINICAL AND OTHER CIRCUMSTANCES; AND THE PATIENT'S REASONABLY KNOWN WISHES AND BELIEFS.

(B) "ATTENDING HEALTH CARE PRACTITIONER" MEANS A PHYSICIAN OR NURSE PRACTITIONER WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE AND TREATMENT OF THE PATIENT. WHERE MORE THAN ONE PHYSICIAN OR NURSE PRACTITIONER SHARE THAT RESPONSIBILITY, EACH OF THEM HAS RESPONSIBILITY UNDER THIS SECTION, UNLESS THEY AGREE TO ASSIGN THAT RESPONSIBILITY TO ONE OF THEM.

(C) "PALLIATIVE CARE" MEANS HEALTH CARE TREATMENT, INCLUDING INTERDISCIPLINARY END-OF-LIFE CARE, AND CONSULTATION WITH PATIENTS AND FAMILY MEMBERS, TO PREVENT OR RELIEVE PAIN AND SUFFERING AND TO ENHANCE THE PATIENT'S QUALITY OF LIFE, INCLUDING HOSPICE CARE UNDER ARTICLE FORTY OF THIS CHAPTER.

(D) "TERMINAL ILLNESS OR CONDITION" MEANS AN ILLNESS OR CONDITION WHICH CAN REASONABLY BE EXPECTED TO CAUSE DEATH WITHIN SIX MONTHS, WHETHER OR NOT TREATMENT IS PROVIDED.

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

2. IF A PATIENT IS DIAGNOSED WITH A TERMINAL ILLNESS OR CONDITION, THE PATIENT'S ATTENDING HEALTH CARE PRACTITIONER SHALL OFFER TO PROVIDE THE PATIENT WITH INFORMATION AND COUNSELING REGARDING PALLIATIVE CARE AND END-OF-LIFE OPTIONS APPROPRIATE TO THE PATIENT, INCLUDING BUT NOT LIMITED TO: THE RANGE OF OPTIONS APPROPRIATE TO THE PATIENT; THE PROGNOSIS, RISKS AND BENEFITS OF THE VARIOUS OPTIONS; AND THE PATIENT'S LEGAL RIGHTS TO COMPREHENSIVE PAIN AND SYMPTOM MANAGEMENT AT THE END OF LIFE. THE INFORMATION AND COUNSELING MAY BE PROVIDED ORALLY OR IN WRITING. WHERE THE PATIENT LACKS CAPACITY TO REASONABLY UNDERSTAND AND MAKE INFORMED CHOICES RELATING TO PALLIATIVE CARE, THE ATTENDING HEALTH CARE PRACTITIONER SHALL PROVIDE INFORMATION AND COUNSELING UNDER THIS SECTION TO A PERSON WITH AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE PATIENT. THE ATTENDING HEALTH CARE PRACTITIONER MAY ARRANGE FOR INFORMATION AND COUNSELING UNDER THIS SECTION TO BE PROVIDED BY ANOTHER PROFESSIONALLY QUALIFIED INDIVIDUAL.

3. WHERE THE ATTENDING HEALTH CARE PRACTITIONER IS NOT WILLING TO PROVIDE THE PATIENT WITH INFORMATION AND COUNSELING UNDER THIS SECTION, HE OR SHE SHALL ARRANGE FOR ANOTHER PHYSICIAN OR NURSE PRACTITIONER TO DO SO, OR SHALL REFER OR TRANSFER THE PATIENT TO ANOTHER PHYSICIAN OR NURSE PRACTITIONER WILLING TO DO SO.

S 2. Paragraph (f) of subdivision 1 of section 207 of the public health law, as added by chapter 573 of the laws of 2008, is relettered paragraph (g) and a new paragraph (h) is added to read as follows:

(H) PALLIATIVE CARE OPTIONS FOR PATIENTS WITH A TERMINAL ILLNESS OR CONDITION.

S 3. The department of health shall consult with the New York state palliative care education and training council, as established in subdivision 6 of section 2807-n of the public health law, in developing educational documents and rules and regulations related to this act.

S 4. This act shall take effect immediately, provided that section one of this act shall take effect one hundred eighty days after it shall have become a law.