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

789

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GUNTHER, DESTITO, GOTTFRIED, JACOBS, HOYT, PEOPLES, GORDON, ENGLEBRIGHT, LIFTON, N. RIVERA, ROSENTHAL, JAFFEE, FINCH -- Multi-Sponsored by -- M. of A. HOOPER, JOHN, LUPARDO, McENENY, MILLER, PHEFFER, SAYWARD, SCOZZAFAVA, TOWNS -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to breastfeeding mothers' bill of rights

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 2505-a to read as follows:

S 2505-A. RIGHTS OF BREASTFEEDING MOTHERS. 1. THE PRINCIPLES ENUNCIATED IN SUBDIVISION THREE OF THIS SECTION ARE DECLARED TO BE THE PUBLIC POLICY OF THE STATE AND A COPY OF SUCH STATEMENT OF RIGHTS SHALL BE POSTED CONSPICUOUSLY IN A PUBLIC PLACE IN EACH MATERNAL HEALTH CARE FACILITY. FOR PURPOSES OF THIS SECTION, "MATERNAL HEALTH CARE PROVIDER" MEANS A PHYSICIAN, MIDWIFE, OR OTHER AUTHORIZED PRACTITIONER ATTENDING A PREGNANT WOMAN; AND "MATERNAL HEALTH CARE FACILITY" INCLUDES, BUT IS NOT LIMITED TO, A BIRTHING CENTER, A MATERNITY WARD OR HOSPITAL.

2. THE COMMISSIONER SHALL MAKE AVAILABLE TO EVERY MATERNAL HEALTH CARE PROVIDER, MATERNAL HEALTH CARE FACILITY, PEDIATRICIAN, PEDIATRIC NURSE PRACTITIONER OR TO ANY PERSON UPON REQUEST, A COPY OF THE STATEMENT OF RIGHTS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, AND SHALL ADOPT ANY RULES AND REGULATIONS NECESSARY TO ENSURE THAT SUCH PATIENTS ARE TREATED IN ACCORDANCE WITH THE PROVISIONS OF SUCH STATEMENT.

3. THE STATEMENT OF RIGHTS SHALL CONSIST OF THE FOLLOWING:

"BREASTFEEDING MOTHERS' BILL OF RIGHTS

CHOOSING THE WAY YOU WILL FEED YOUR NEW BABY IS ONE OF THE IMPORTANT DECISIONS YOU WILL MAKE IN PREPARING FOR YOUR INFANT'S ARRIVAL. DOCTORS AGREE THAT FOR MOST WOMEN BREASTFEEDING IS THE SAFEST AND MOST HEALTHY

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

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CHOICE. IT IS YOUR RIGHT TO BE INFORMED ABOUT THE BENEFITS OF BREASTFEEDING AND HAVE YOUR HEALTH CARE PROVIDER ENCOURAGE AND SUPPORT BREASTFEEDING. YOU HAVE THE RIGHT TO MAKE YOUR OWN CHOICE ABOUT BREASTFEEDING. WHETHER YOU CHOOSE TO BREASTFEED OR NOT YOU HAVE THE FOLLOWING BASIC RIGHTS REGARDLESS OF YOUR RACE, CREED, NATIONAL ORIGIN, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION OR SOURCE OF PAYMENT FOR YOUR HEALTHCARE. MATERNAL HEALTH CARE PROVIDERS HAVE A RESPONSIBILITY TO ENSURE THAT YOU UNDERSTAND THESE RIGHTS. THEY MUST PROVIDE THIS INFORMATION CLEARLY FOR YOU AND MUST PROVIDE AN INTERPRETER IF NECESSARY. THESE RIGHTS MAY ONLY BE LIMITED IN CASES WHERE YOUR HEALTH OR THE HEALTH OF YOUR BABY REQUIRES IT. IF ANY OF THE FOLLOWING THINGS ARE NOT MEDICALLY RIGHT FOR YOU OR YOUR BABY, YOU SHOULD BE FULLY INFORMED OF THE FACTS AND BE CONSULTED.

(1) BEFORE YOU DELIVER:

YOU HAVE THE RIGHT TO COMPLETE INFORMATION ABOUT THE BENEFITS OF BREASTFEEDING FOR YOURSELF AND YOUR BABY. THIS WILL HELP YOU MAKE AN INFORMED CHOICE ON HOW TO FEED YOUR BABY.

YOU HAVE THE RIGHT TO RECEIVE INFORMATION THAT IS FREE OF COMMERCIAL INTERESTS AND INCLUDES:

* HOW BREASTFEEDING BENEFITS YOU AND YOUR BABY NUTRITIONALLY, MEDICALLY AND EMOTIONALLY;
* HOW TO PREPARE YOURSELF AND YOUR BABY FOR BREASTFEEDING;
* HOW TO UNDERSTAND SOME OF THE PROBLEMS YOU MAY FACE AND HOW TO SOLVE THEM.

(2) IN THE MATERNAL HEALTH CARE FACILITY:

* YOU HAVE THE RIGHT TO HAVE YOUR BABY STAY WITH YOU RIGHT AFTER BIRTH WHETHER YOU DELIVER VAGINALLY OR BY CESAREAN SECTION. YOU HAVE THE RIGHT TO BEGIN BREASTFEEDING WITHIN ONE HOUR AFTER BIRTH.
* YOU HAVE THE RIGHT TO HAVE SOMEONE WITH SPECIALIZED TRAINING IN BREASTFEEDING GIVE YOU INFORMATION AND HELP YOU WHEN YOU NEED IT.
* YOU HAVE THE RIGHT TO INSIST THAT YOUR BABY NOT RECEIVE ANY BOTTLE FEEDING OR PACIFIERS.
* YOU HAVE THE RIGHT TO KNOW ABOUT AND REFUSE ANY DRUGS THAT MAY DRY UP YOUR MILK.
* YOU HAVE THE RIGHT TO HAVE YOUR BABY WITH YOU 24 HOURS A DAY.
* YOU HAVE THE RIGHT TO BREASTFEED YOUR BABY AT ANY TIME DAY OR NIGHT.
* YOU HAVE THE RIGHT TO KNOW IF YOUR DOCTOR OR YOUR BABY'S PEDIATRICIAN IS ADVISING AGAINST BREASTFEEDING BEFORE ANY FEEDING DECISIONS ARE MADE.
* YOU HAVE THE RIGHT TO HAVE A SIGN ON YOUR BABY'S CRIB CLEARLY STATING THAT YOUR BABY IS BREASTFEEDING AND THAT NO BOTTLE FEEDING OF ANY TYPE IS TO BE OFFERED.
* YOU HAVE THE RIGHT TO RECEIVE FULL INFORMATION ABOUT HOW YOU ARE DOING WITH BREASTFEEDING AND GET HELP ON HOW TO IMPROVE.
* YOU HAVE THE RIGHT TO BREASTFEED YOUR BABY IN THE NEONATAL INTENSIVE CARE UNIT. IF NURSING IS NOT POSSIBLE, YOU HAVE THE RIGHT TO HAVE YOUR BABY RECEIVE YOUR PUMPED OR EXPRESSED MILK.
* IF YOU, OR YOUR BABY, ARE RE-HOSPITALIZED AFTER THE INITIAL DELIVERY STAY, YOU HAVE THE RIGHT TO RECEIVE SUPPORT TO CONTINUE BREASTFEEDING. IN THIS CASE THE HOSPITAL WILL MAKE EVERY EFFORT TO PROVIDE HOSPITAL GRADE ELECTRIC PUMPS AND ROOMING IN FACILITIES. A STAFF MEMBER WITH SPECIALIZED TRAINING IN BREASTFEEDING WILL HELP YOU.
* YOU HAVE THE RIGHT TO HAVE HELP FROM SOMEONE SPECIALLY TRAINED IN BREASTFEEDING SUPPORT AND EXPRESSING BREAST MILK IF YOUR BABY HAS SPECIAL NEEDS.

* YOU HAVE THE RIGHT TO HAVE A FAMILY MEMBER OR FRIEND RECEIVE BREASTFEEDING INFORMATION FROM A SPECIALLY TRAINED STAFF MEMBER.

(3) WHEN YOU LEAVE THE MATERNAL HEALTH CARE FACILITY:

* YOU HAVE THE RIGHT TO PRINTED BREASTFEEDING INFORMATION FREE OF COMMERCIAL MATERIAL.

* YOU HAVE THE RIGHT TO BE DISCHARGED FROM THE FACILITY WITHOUT COUPONS OR FREE SAMPLES INTENDED TO DISCOURAGE BREASTFEEDING, UNLESS SPECIFICALLY REQUESTED BY YOU, AND AVAILABLE AT THE FACILITY.

* YOU HAVE THE RIGHT TO GET INFORMATION ABOUT BREASTFEEDING RESOURCES IN YOUR COMMUNITY INCLUDING INFORMATION ON AVAILABILITY OF BREASTFEEDING CONSULTANTS, SUPPORT GROUPS AND BREAST PUMPS.

* YOU HAVE THE RIGHT TO HAVE THE FACILITY GIVE YOU INFORMATION TO HELP CHOOSE A MEDICAL PROVIDER FOR YOUR BABY AND UNDERSTAND THE IMPORTANCE OF A FOLLOW-UP APPOINTMENT.

* YOU HAVE THE RIGHT TO RECEIVE INFORMATION ABOUT SAFELY COLLECTING AND STORING YOUR BREAST MILK.

* YOU HAVE THE RIGHT TO BREASTFEED YOUR BABY IN ANY LOCATION, PUBLIC OR PRIVATE, WHERE YOU ARE OTHERWISE AUTHORIZED TO BE.

ALL THE ABOVE ARE YOUR RIGHTS. IF THE MATERNAL HEALTH CARE FACILITY DOES NOT HONOR THESE RIGHTS YOU CAN SEEK HELP BY CONTACTING THE NEW YORK STATE DEPARTMENT OF HEALTH AT (INSERT TELEPHONE NUMBER AND EMAIL ADDRESS) OR _____."

4. EACH MATERNAL HEALTH CARE PROVIDER SHALL GIVE A COPY OF THE STATEMENT TO EACH PATIENT AT OR PRIOR TO THE MEDICALLY APPROPRIATE TIME OR TIME OF ADMISSION TO A MATERNAL HEALTH CARE FACILITY, OR TO THE APPOINTED PERSONAL REPRESENTATIVE AT THE TIME OF APPOINTMENT AND TO EACH MEMBER OF THE MEDICAL PROVIDER'S STAFF.

5. EACH MATERNAL HEALTH CARE PROVIDER SHALL HAVE A WRITTEN BREASTFEEDING POLICY THAT IS CLEARLY COMMUNICATED TO AND ADHERED TO BY MATERNITY RELATED STAFF AND SHALL PROVIDE ALL MATERNITY RELATED STAFF WITH EDUCATION AND TRAINING TO IMPLEMENT THE POLICY. EACH MATERNAL HEALTH CARE PROVIDER AND MATERNITY RELATED STAFF SHALL ADHERE TO THE PRINCIPLES OF THE BREASTFEEDING MOTHERS' BILL OF RIGHTS IN THE DELIVERY OF PATIENT CARE.

6. THE COMMISSIONER SHALL MAKE REGULATIONS REASONABLY NECESSARY TO IMPLEMENT THIS SECTION AND SHALL ESTABLISH A TOLL-FREE TELEPHONE NUMBER AND EMAIL ADDRESS FOR RECEIVING COMPLAINTS OF VIOLATIONS OF THIS SECTION.

S 2. This act shall take effect on the first of May next succeeding the date on which it shall have become a law; provided, however, that 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 by the commissioner of health on or before such effective date.