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

789--B

Cal. No. 12

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, PAULIN -- Multi-Sponsored by -- M. of A. HOOPER, JOHN, LUPARDO, McENENY, MILLER, PHEFFER, SAYWARD, SCOZZAFAVA, TOWNS -- read once and referred to the Committee on Health -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the special order of third reading

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 HOSPITALS AND FREESTANDING BIRTHING CENTERS PROVIDING PERINATAL SERVICES IN ACCORDANCE WITH ARTICLE TWENTY-EIGHT OF THIS CHAPTER AND APPLICABLE REGULATIONS.

2. THE COMMISSIONER SHALL MAKE AVAILABLE TO EVERY MATERNAL HEALTH CARE PROVIDER AND MATERNAL HEALTH CARE FACILITY, ON THE HEALTH DEPARTMENT'S WEBSITE FOR THE PURPOSE OF HEALTH CARE FACILITIES TO INCLUDE SUCH RIGHTS IN THE MATERNITY INFORMATION LEAFLET AS DESCRIBED IN SECTION

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

LBD01150-10-9

TWENTY-EIGHT HUNDRED THREE-J OF THIS CHAPTER, A COPY OF THE STATEMENT OF RIGHTS PROVIDED IN SUBDIVISION THREE OF THIS SECTION IN THE TOP SIX LANGUAGES OTHER THAN ENGLISH SPOKEN IN THE STATE ACCORDING TO THE LATEST AVAILABLE DATA FROM THE U.S. BUREAU OF CENSUS, 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 CHOICE. IT IS YOUR RIGHT TO BE INFORMED ABOUT THE BENEFITS OF BREASTFEEDING AND HAVE YOUR HEALTH CARE PROVIDER AND MATERNAL HEALTH CARE FACILITY 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 HEALTH CARE. MATERNAL HEALTH CARE FACILITIES 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, IF YOU ATTEND PRENATAL CHILDBIRTH EDUCATION CLASSES PROVIDED BY THE MATERNAL HEALTH CARE FACILITY AND ALL HOSPITAL CLINICS AND DIAGNOSTIC AND TREATMENT CENTERS PROVIDING PRENATAL SERVICES IN ACCORDANCE WITH ARTICLE 28 OF THE PUBLIC HEALTH LAW YOU MUST RECEIVE THE BREASTFEEDING MOTHERS' BILL OF RIGHTS. EACH MATERNAL HEALTH CARE FACILITY SHALL PROVIDE THE MATERNITY INFORMATION LEAFLET, INCLUDING THE BREASTFEEDING MOTHERS' BILL OF RIGHTS, IN ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED THREE-I OF THIS CHAPTER TO EACH PATIENT OR TO THE APPOINTED PERSONAL REPRESENTATIVE AT THE TIME OF PREBOOKING OR TIME OF ADMISSION TO A MATERNAL HEALTH CARE FACILITY. EACH MATERNAL HEALTH CARE PROVIDER SHALL GIVE A COPY OF THE BREASTFEEDING MOTHERS' BILL OF RIGHTS TO EACH PATIENT AT OR PRIOR TO THE MEDICALLY APPROPRIATE TIME.

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 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 TRAINED TO HELP YOU IN BREASTFEEDING GIVE YOU INFORMATION AND HELP YOU WHEN YOU NEED IT.

* YOU HAVE THE RIGHT TO HAVE 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 IN YOUR ROOM 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, EVERY ATTEMPT WILL BE MADE TO HAVE YOUR BABY RECEIVE YOUR PUMPED OR EXPRESSED MILK.

* IF YOU, OR YOUR BABY, ARE RE-HOSPITALIZED IN A MATERNAL CARE FACILITY AFTER THE INITIAL DELIVERY STAY, THE HOSPITAL WILL MAKE EVERY EFFORT TO CONTINUE TO SUPPORT BREASTFEEDING, TO PROVIDE HOSPITAL GRADE ELECTRIC PUMPS AND ROOMING IN FACILITIES.

* 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 STAFF MEMBER IF YOU REQUEST IT.

(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, UNLESS SPECIFICALLY REQUESTED BY YOU, AND AVAILABLE AT THE FACILITY, TO BE DISCHARGED FROM THE FACILITY WITHOUT DISCHARGE PACKS CONTAINING INFANT FORMULA, OR FORMULA COUPONS UNLESS ORDERED BY YOUR BABY'S HEALTH CARE PROVIDER.

* 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. COMPLAINTS CAN BE DIRECTED TO THE NEW YORK STATE DIVISION OF HUMAN RIGHTS.

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 OR BY CONTACTING THE HOSPITAL COMPLAINT HOTLINE OR VIA EMAIL.

4. THE COMMISSIONER SHALL MAKE REGULATIONS REASONABLY NECESSARY TO IMPLEMENT 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.