

4498

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. DUANE -- read twice and ordered printed, and when
printed to be committed 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:

1 Section 1. The public health law is amended by adding a new section
2 2997-c to read as follows:

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

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

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

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

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

22 2. IF A PATIENT IS DIAGNOSED WITH A TERMINAL ILLNESS OR CONDITION, THE
23 PATIENT'S ATTENDING HEALTH CARE PRACTITIONER SHALL OFFER TO PROVIDE THE
24 PATIENT WITH INFORMATION AND COUNSELING REGARDING PALLIATIVE CARE AND
25 END-OF-LIFE OPTIONS APPROPRIATE TO THE PATIENT, INCLUDING BUT NOT LIMIT-

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

LBD11098-02-9

1 ED TO: THE RANGE OF OPTIONS APPROPRIATE TO THE PATIENT; THE PROGNOSIS,
2 RISKS AND BENEFITS OF THE VARIOUS OPTIONS; AND THE PATIENT'S LEGAL
3 RIGHTS TO COMPREHENSIVE PAIN AND SYMPTOM MANAGEMENT AT THE END OF LIFE.
4 THE INFORMATION AND COUNSELING MAY BE PROVIDED ORALLY OR IN WRITING.
5 WHERE THE PATIENT LACKS CAPACITY TO REASONABLY UNDERSTAND AND MAKE
6 INFORMED CHOICES RELATING TO PALLIATIVE CARE, THE ATTENDING HEALTH CARE
7 PRACTITIONER SHALL PROVIDE INFORMATION AND COUNSELING UNDER THIS SECTION
8 TO A PERSON WITH AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE
9 PATIENT. THE ATTENDING HEALTH CARE PRACTITIONER MAY ARRANGE FOR INFOR-
10 MATION AND COUNSELING UNDER THIS SECTION TO BE PROVIDED BY ANOTHER
11 PROFESSIONALLY QUALIFIED INDIVIDUAL.

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

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

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

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

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