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

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2009-2010 Regular Sessions

I N S E N A T E

April 29, 2009

Introduced by Sen. MONSERRATE -- 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 requiring hospitals to provide language assistance services

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 2803-s to read as follows:

S 2803-S. PROVISION OF LANGUAGE ASSISTANCE. 1. EVERY HOSPITAL SHALL PROVIDE LANGUAGE ASSISTANCE SERVICES TO A PATIENT OR PATIENT ASSISTANT SO AS TO ENSURE THAT ALL PATIENTS WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE WITH THE PROFICIENCY NECESSARY FOR ADEQUATE COMMUNICATION WITH HEALTH CARE PROVIDERS AND OTHER PERSONNEL HAVE EFFECTIVE ACCESS TO THE HOSPITAL'S PROGRAMS AND SERVICES, INCLUDING BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. EVERY HOSPITAL SHALL ENSURE THAT ALL INDIVIDUALS PROVIDING LANGUAGE ASSISTANCE SERVICES TO PATIENTS HAVE SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE CLINICAL AND OTHER INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES. LANGUAGE ASSISTANCE SERVICES FOR PRIMARY AND NON-PRIMARY LANGUAGES SHALL BE AVAILABLE AT ALL LOCATIONS DURING ALL TIMES THAT PATIENT CARE IS AVAILABLE, AND SHALL, TO THE EXTENT PRACTICABLE, BE PROVIDED IN PERSON. TRANSLATIONS OF ALL FREQUENTLY USED FORMS, AND OTHER WRITTEN MATERIALS THAT ARE ESSENTIAL TO A PATIENT'S CARE AND TREATMENT OR ARE OTHERWISE NECESSARY TO PROVIDE ADEQUATE ACCESS TO THE HOSPITAL'S SERVICES SHALL BE AVAILABLE IN ALL OF THE HOSPITAL'S PRIMARY LANGUAGES. EVERY HOSPITAL SHALL DEVELOP AND IMPLEMENT A COMPREHENSIVE LANGUAGE ASSISTANCE PLAN THAT ESTABLISHES UNIFORM POLICIES AND PROCEDURES FOR PROVIDING LANGUAGE ASSISTANCE SERVICES, INCLUDING PROCEDURES FOR DOCUMENTING THE PROVISION OF, OR REFUSAL OF, LANGUAGE ASSISTANCE SERVICES, AND THAT REQUIRES TRAINING TO ENSURE THAT ALL STAFF WHO HAVE CONTACT WITH PATIENTS COMPLY WITH THE

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

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PLAN, AND THAT ALL STAFF MEMBERS WHO PROVIDE MEDICAL INTERPRETATION SERVICES IN PRIMARY LANGUAGES HAVE RECEIVED TRAINING IN MEDICAL INTERPRETATION. SUCH INDIVIDUAL PROVIDING LANGUAGE ASSISTANCE SERVICES MAY BE A QUALIFIED INTERPRETER, VOLUNTARY WORKER OR OTHER PERSONNEL CURRENTLY EMPLOYED BY SAID HOSPITAL AND MAY PERFORM OTHER DUTIES AS DIRECTED BY THE HOSPITAL.

2. THE STATEMENT REGARDING PATIENT RIGHTS AND RESPONSIBILITIES REQUIRED PURSUANT TO PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED THREE OF THIS ARTICLE SHALL INCLUDE A PROVISION NOTIFYING PATIENTS OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES, INCLUDING ORAL INTERPRETATION AND TRANSLATIONS OF FORMS AND OTHER MATERIALS. NOTICE OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES SHALL ALSO BE POSTED IN CONSPICUOUS LOCATIONS THROUGHOUT THE HOSPITAL AND IN OUTPATIENT CLINICS, IN ALL PRIMARY LANGUAGES.

3. (A) EVERY HOSPITAL SHALL SUBMIT TO THE COMMISSIONER AN ANNUAL REPORT ASSESSING ITS COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE REPORT SHALL IDENTIFY THE PRIMARY LANGUAGES USED BY ITS PATIENTS, AND THE PERCENTAGE OF THE HOSPITAL'S PATIENTS WHO SPEAK EACH SUCH PRIMARY LANGUAGE.

(B) THE HOSPITAL SHALL MAINTAIN A RECORD OF THE FOREIGN LANGUAGE PRIMARILY SPOKEN BY ANY PATIENT SEEKING OR RECEIVING LANGUAGE ASSISTANCE SERVICES AT THE HOSPITAL. SUCH INFORMATION SHALL BE RECORDED WHETHER OR NOT SUCH PATIENT ACTUALLY OBTAINS SUCH SERVICES.

4. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION, WHICH SHALL INCLUDE THE METHODOLOGY TO BE USED BY HOSPITALS IN DETERMINING PRIMARY LANGUAGES.

5. FOR PURPOSES OF THIS SECTION:

(A) "PRIMARY LANGUAGE" MEANS A LANGUAGE OTHER THAN ENGLISH THAT IS EITHER (I) USED TO COMMUNICATE, DURING AT LEAST FIVE PERCENT OF PATIENT VISITS IN A YEAR, BY PATIENTS WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT THE LEVEL OF PROFICIENCY NECESSARY FOR EFFECTIVE COMMUNICATION WITH HEALTH CARE PROVIDERS; OR (II) SPOKEN BY NON-ENGLISH SPEAKING INDIVIDUALS COMPRISING MORE THAN FIVE PERCENT OF THE PRIMARY HOSPITAL SERVICE AREA POPULATION, AS CALCULATED BY USING DEMOGRAPHIC INFORMATION AVAILABLE FROM THE UNITED STATES BUREAU OF THE CENSUS, SUPPLEMENTED BY DATA FROM SCHOOL SYSTEMS;

(B) "PATIENT VISITS" SHALL INCLUDE ALL VISITS BY PATIENTS TO EMERGENCY ROOMS AND OUTPATIENT CLINICS, AS WELL AS INPATIENT ADMISSIONS OF THE HOSPITAL;

(C) "PATIENT ASSISTANT" SHALL MEAN AN INDIVIDUAL WHO COMMUNICATES ON BEHALF OF ANOTHER WHO, BY REASON OF AGE OR INCAPACITY, CANNOT COMMUNICATE FOR HIMSELF OR HERSELF; AND

(D) "HOSPITAL" SHALL MEAN A GENERAL HOSPITAL AS DEFINED IN SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE.

6. NOTHING IN THIS SECTION SHALL PRECLUDE MEDICAL FACILITIES FROM PROVIDING LANGUAGE ASSISTANCE SERVICES IN ADDITION TO THOSE REQUIRED UNDER THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.