

S. 6970

A. 9834

S E N A T E - A S S E M B L Y

April 18, 2012

IN SENATE -- Introduced by Sens. YOUNG, BRESLIN, O'MARA, RITCHIE, VALE-SKY -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Health

IN ASSEMBLY -- Introduced by M. of A. GUNTHER -- Multi-Sponsored by -- M. of A. BURLING, LIFTON, PALMESANO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the granting of hospital privileges to providers of telemedicine services

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 2805-u to read as follows:
3 S 2805-U. CREDENTIALING AND PRIVILEGING OF HEALTH CARE PRACTITIONERS
4 PROVIDING TELEMEDICINE SERVICES. 1. FOR PURPOSES OF THIS SECTION:
5 (A) "DISTANT SITE HOSPITAL" MEANS A HOSPITAL LICENSED PURSUANT TO THIS
6 ARTICLE OR A HOSPITAL LICENSED BY ANOTHER STATE, THAT HAS ENTERED INTO
7 AN AGREEMENT WITH AN ORIGINATING HOSPITAL TO MAKE AVAILABLE ONE OR MORE
8 HEALTH CARE PRACTITIONERS THAT ARE MEMBERS OF ITS CLINICAL STAFF TO THE
9 ORIGINATING HOSPITAL FOR THE PURPOSES OF PROVIDING TELEMEDICINE
10 SERVICES. TO QUALIFY AS A DISTANT SITE HOSPITAL FOR PURPOSES OF THIS
11 ARTICLE, A HOSPITAL LICENSED BY ANOTHER STATE MUST COMPLY WITH THE
12 FEDERAL REGULATIONS GOVERNING PARTICIPATION BY HOSPITALS IN MEDICARE.
13 (B) "HEALTH CARE PRACTITIONER" SHALL MEAN A PERSON LICENSED PURSUANT
14 TO ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED THIRTY-ONE-B, ONE HUNDRED
15 THIRTY-THREE, ONE HUNDRED THIRTY-NINE, ONE HUNDRED FORTY, ONE HUNDRED
16 FORTY-ONE, ONE HUNDRED FORTY-THREE, ONE HUNDRED FORTY-FOUR, ONE HUNDRED
17 FIFTY-THREE, ONE HUNDRED FIFTY-FOUR OR ONE HUNDRED FIFTY-NINE OF THE
18 EDUCATION LAW, OR AS OTHERWISE AUTHORIZED BY THE COMMISSIONER.
19 (C) "ORIGINATING HOSPITAL" MEANS THE HOSPITAL AT WHICH A PATIENT IS
20 LOCATED AT THE TIME TELEMEDICINE SERVICES ARE PROVIDED TO HIM OR HER.
21 (D) "TELEMEDICINE" MEANS THE DELIVERY OF CLINICAL HEALTH CARE SERVICES
22 BY MEANS OF REAL TIME TWO-WAY ELECTRONIC AUDIO-VISUAL COMMUNICATIONS

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

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1 WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT,
2 EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S HEALTH
3 CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH CARE
4 PROVIDER IS AT A DISTANT SITE.

5 2. WHEN TELEMEDICINE SERVICES ARE PROVIDED TO AN ORIGINATING HOSPI-
6 TAL'S PATIENTS PURSUANT TO AN AGREEMENT WITH A DISTANT SITE HOSPITAL,
7 THE ORIGINATING HOSPITAL MAY, IN LIEU OF SATISFYING THE REQUIREMENTS SET
8 FORTH IN SECTION TWENTY-EIGHT HUNDRED FIVE-K OF THIS ARTICLE, RELY ON
9 THE CREDENTIALING AND PRIVILEGING DECISIONS MADE BY THE DISTANT SITE
10 HOSPITAL IN GRANTING OR RENEWING PRIVILEGES TO A HEALTH CARE PRACTITION-
11 ER WHO IS A MEMBER OF THE CLINICAL STAFF OF THE DISTANT SITE HOSPITAL,
12 PROVIDED THAT:

13 (A) THE DISTANT SITE HOSPITAL PARTICIPATES IN MEDICARE AND MEDICAID;

14 (B) EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE IS LICENSED
15 TO PRACTICE IN THIS STATE;

16 (C) THE DISTANT SITE HOSPITAL, IN ACCORDANCE WITH REQUIREMENTS OTHER-
17 WISE APPLICABLE TO THAT HOSPITAL, COLLECTS AND EVALUATES ALL CREDENTIAL-
18 ING INFORMATION CONCERNING EACH HEALTH CARE PRACTITIONER PROVIDING TELE-
19 MEDICINE SERVICES, PERFORMS ALL REQUIRED VERIFICATION ACTIVITIES, AND
20 ACTS ON BEHALF OF THE ORIGINATING SITE HOSPITAL FOR SUCH CREDENTIALING
21 PURPOSES;

22 (D) THE DISTANT SITE HOSPITAL REVIEWS PERIODICALLY, AT LEAST EVERY TWO
23 YEARS, AND AS OTHERWISE WARRANTED BASED ON OUTCOMES, COMPLAINTS OR OTHER
24 CIRCUMSTANCES, THE CREDENTIALS, PRIVILEGES, PHYSICAL AND MENTAL CAPACI-
25 TY, AND COMPETENCE IN DELIVERING HEALTH CARE SERVICES OF EACH HEALTH
26 CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES, CONSISTENT WITH
27 REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL; REPORTS THE RESULTS
28 OF SUCH REVIEW TO THE ORIGINATING HOSPITAL; AND NOTIFIES THE ORIGINATING
29 HOSPITAL IMMEDIATELY UPON ANY SUSPENSION, REVOCATION, OR LIMITATION OF
30 SUCH PRIVILEGES;

31 (E) WITH RESPECT TO EACH DISTANT SITE HEALTH CARE PRACTITIONER WHO
32 HOLDS PRIVILEGES AT THE ORIGINATING HOSPITAL, THE ORIGINATING HOSPITAL
33 CONDUCTS A PERIODIC INTERNAL REVIEW, AT LEAST EVERY TWO YEARS, OF THE
34 DISTANT SITE PRACTITIONER'S PERFORMANCE OF THESE PRIVILEGES AND PROVIDES
35 THE DISTANT SITE HOSPITAL WITH SUCH PERFORMANCE INFORMATION FOR USE IN
36 THE DISTANT HOSPITAL'S PERIODIC APPRAISAL OF THE DISTANT SITE PHYSICIAN
37 OR HEALTH CARE PRACTITIONER. SUCH INFORMATION SHALL INCLUDE, AT A MINI-
38 MUM, ALL ADVERSE EVENTS THAT RESULT FROM THE TELEMEDICINE SERVICES
39 PROVIDED BY THE DISTANT SITE HEALTH CARE PRACTITIONER TO THE ORIGINATING
40 HOSPITAL'S PATIENTS, ALL COMPLAINTS THE ORIGINATING HOSPITAL HAS
41 RECEIVED ABOUT THE DISTANT SITE PRACTITIONER, AND ANY REVOCATION,
42 SUSPENSION OR LIMITATION OF THE DISTANT SITE PRACTITIONER'S PRIVILEGES
43 BY THE ORIGINATING HOSPITAL; AND

44 (F) THE AGREEMENT ENTERED INTO BETWEEN THE ORIGINATING SITE HOSPITAL
45 AND DISTANT SITE HOSPITAL SHALL BE IN WRITING AND SHALL, AT A MINIMUM:

46 (I) PROVIDE THE CATEGORIES OF HEALTH CARE PRACTITIONERS THAT ARE
47 ELIGIBLE CANDIDATES FOR APPOINTMENT TO THE ORIGINATING HOSPITAL'S CLIN-
48 ICAL STAFF,

49 (II) REQUIRE THE GOVERNING BODY OF THE DISTANT SITE HOSPITAL TO COMPLY
50 WITH THE MEDICARE CONDITIONS OF PARTICIPATION GOVERNING THE APPOINTMENT
51 OF MEDICAL STAFF WITH REGARD TO THE HEALTH CARE PRACTITIONERS PROVIDING
52 TELEMEDICINE SERVICES,

53 (III) ITEMIZE THE CREDENTIALING INFORMATION TO BE COLLECTED AND THE
54 REQUIRED VERIFICATION ACTIVITIES TO BE PERFORMED BY THE DISTANT SITE
55 HOSPITAL AND RELIED UPON BY THE ORIGINATING HOSPITAL IN CONSIDERING THE
56 RECOMMENDATIONS OF THE DISTANT SITE HOSPITAL,

1 (IV) REQUIRE EACH DISTANT SITE HEALTH CARE PRACTITIONER PROVIDING
2 TELEMEDICINE SERVICES TO BE LICENSED TO PRACTICE IN THIS STATE AND PRIV-
3 ILEGED AT THE DISTANT SITE HOSPITAL,

4 (V) REQUIRE THE DISTANT SITE HOSPITAL TO PROVIDE TO THE ORIGINATING
5 HOSPITAL A CURRENT LIST OF EACH DISTANT SITE HEALTH CARE PRACTITIONER'S
6 PRIVILEGES AT THE DISTANT SITE HOSPITAL, AND

7 (VI) REQUIRE THE DISTANT SITE HOSPITAL TO CONDUCT A PERIODIC REVIEW
8 CONSISTENT WITH REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL, AT
9 LEAST EVERY TWO YEARS, AND AS OTHERWISE WARRANTED BASED ON OUTCOMES,
10 COMPLAINTS OR OTHER CIRCUMSTANCES, THE CREDENTIALS, PRIVILEGES, PHYSICAL
11 AND MENTAL CAPACITY, AND COMPETENCE IN DELIVERING HEALTH CARE SERVICES
12 OF EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES; TO
13 PROVIDE THE ORIGINATING HOSPITAL WITH THE RESULTS OF SUCH REVIEW; AND TO
14 NOTIFY THE ORIGINATING HOSPITAL IMMEDIATELY UPON ANY SUSPENSION, REVOCATION,
15 OR LIMITATION OF SUCH PRIVILEGES.

16 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS ALLOWING AN ORIGINATING
17 HOSPITAL TO DELEGATE ITS AUTHORITY OVER AND RESPONSIBILITY FOR DECISIONS
18 CONCERNING THE CREDENTIALING AND GRANTING STAFF MEMBERSHIP OR
19 PROFESSIONAL PRIVILEGES TO HEALTH CARE PRACTITIONERS PROVIDING TELEMEDICINE
20 SERVICES.

21 4. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, AN ORIGINATING
22 HOSPITAL SHALL NOT BE REQUIRED TO PROVIDE A PHYSICAL EXAMINATION OR TO
23 MAINTAIN RECORDED MEDICAL HISTORY INCLUDING IMMUNIZATIONS FOR A HEALTH
24 CARE PROVIDER PROVIDING CONSULTATIONS SOLELY THROUGH TELEMEDICINE FROM A
25 DISTANT SITE HOSPITAL.

26 S 2. This act shall take effect immediately.