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

4597--A

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

Introduced by Sens. HANNON, DeFRANCISCO, KRUEGER, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to registration of office-based surgery facilities and payments for the use thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 230-d of the public health law is amended by adding two new paragraphs (j) and (k) to read as follows:

(J) "LICENSEE PRACTICE" SHALL MEAN AN OFFICE-BASED SURGERY FACILITY, WHICH HAS ACCREDITED STATUS. SUCH A FACILITY MAY OPERATE UNDER THE LICENSE OF THE LICENSEE.

(K) "HEALTH PLAN" SHALL MEAN AN INSURER LICENSED PURSUANT TO THE INSURANCE LAW TO WRITE ACCIDENT AND HEALTH INSURANCE, OR A NON-PROFIT MEDICAL AND DENTAL INDEMNITY, OR HEALTH AND HOSPITAL SERVICE CORPORATION LICENSED PURSUANT TO ARTICLE FORTY-THREE OF THE INSURANCE LAW, OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THIS CHAPTER.

S 2. Section 230-d of the public health law is amended by adding two new subdivisions 3-a and 6 to read as follows:

3-A. (A) EVERY FACILITY OPERATED AS AN OFFICE-BASED SURGERY PRACTICE OR SETTING SHALL, NOT LATER THAN JANUARY FIRST, TWO THOUSAND TWELVE, IN ADDITION TO OBTAINING AND MAINTAINING FULL ACCREDITED STATUS, HOLD A CERTIFICATE OF REGISTRATION ISSUED BY THE ACCREDITING AGENCY, IN CONSULTATION WITH THE DEPARTMENT. THE ACCREDITING AGENCY SHALL ISSUE A CERTIFICATE TO AN APPLICANT LICENSEE PRACTICE WHICH:

(I) FILES AN APPLICATION FOR REGISTRATION IN SUCH FORM AND HAVING SUCH CONTENT AS SHALL BE DETERMINED BY THE ACCREDITING AGENCY, IN CONSULTATION WITH THE DEPARTMENT;

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

LBD10692-05-1

(II) HAS SUCCESSFULLY COMPLETED AN ON-SITE INSPECTION OF THE FACILITY CONDUCTED BY A NATIONALLY-RECOGNIZED ACCREDITING AGENCY AS DESIGNATED BY THE COMMISSIONER;

(III) SUBMITS PROOF OF ITS FULL ACCREDITED STATUS; AND

(IV) THE INITIAL CERTIFICATION OF WHICH HAS AN INITIATION DATE OF THE FIRST DATE OF ACCREDITATION AS LONG AS THE FACILITY REMAINS FULLY ACCREDITED PURSUANT TO THIS SECTION.

(B) NO FACILITY OPERATED AS AN OFFICE-BASED SURGERY PRACTICE OR SETTING SHALL HOLD ITSELF OUT AS OR REPRESENT THAT IT IS REGISTERED, UNLESS IT HOLDS A VALID CERTIFICATE OF REGISTRATION ISSUED PURSUANT TO THIS SUBDIVISION.

(C) THE CERTIFICATE OF REGISTRATION ISSUED TO A FACILITY PURSUANT TO THIS SUBDIVISION SHALL BE CONSPICUOUSLY POSTED AT THE PRINCIPAL ADMINISTRATIVE OFFICE OF SUCH FACILITY.

(D) IN THE EVENT THE ACCREDITING AGENCY FINDS THAT AN APPLICATION SUBMITTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION CONTAINS OR EVINCES ANY DEFICIENCY IN THE APPLICANT'S ACCREDITED STATUS, THE ACCREDITING AGENCY MAY ISSUE A PROVISIONAL CERTIFICATE OF REGISTRATION FOR SUCH PERIOD OF TIME AS MAY BE NECESSARY TO CURE SUCH DEFICIENCY. NO SUCH PROVISIONAL CERTIFICATE SHALL BE ISSUED UNTIL THE APPLICANT AGREES IN WRITING TO FULLY COMPLY WITH THE PROVISION OF THIS SECTION.

(E) EACH CERTIFICATE OF REGISTRATION SHALL BE VALID FOR A PERIOD OF THREE YEARS, OR UNTIL THE ACCREDITED STATUS OF THE FACILITY EXPIRES, WHICHEVER SHALL OCCUR FIRST.

6. EVERY FACILITY OPERATED AS AN OFFICE-BASED SURGERY PRACTICE OR SETTING WITH FULL ACCREDITED STATUS, INCLUDING A CURRENT CERTIFICATE OF REGISTRATION, SHALL BE ELIGIBLE TO SEEK PAYMENT FROM A HEALTH PLAN FOR THE USE OF SUCH FACILITY. SUCH PAYMENT SHALL BE IN ADDITION TO THE FEE CHARGED BY THE LICENSEE FOR THE PERFORMANCE OF THE COVERED OFFICE-BASED SURGERY INVOLVING AN INSURED OR A HEALTH PLAN ENROLLEE; PROVIDED THAT THE HEALTH PLAN ALSO REIMBURSES FOR THE USE OF A FACILITY CHARGED IN CONNECTION WITH THE SAME COVERED PROCEDURE PERFORMED AT A HOSPITAL OR AMBULATORY SURGERY CENTER ORGANIZED PURSUANT TO ARTICLE TWENTY-EIGHT OF THIS CHAPTER. WHEN CALCULATING THE APPROPRIATE RATE OF OFFICE-BASED SURGERY FACILITY FEES, A HEALTH PLAN MAY ALSO TAKE INTO CONSIDERATION CERTAIN COMPARABLE AND NON-COMPARABLE COSTS AND OBLIGATIONS OF AMBULATORY SURGERY CENTERS AND HOSPITALS.

S 3. This act shall take effect immediately; provided, however, that subdivision 6 of section 230-d of the public health law, as added by section two of this act, shall be deemed to have been in full force and effect on and after January 18, 2008, and shall only apply to facilities during the period of time which they remain fully accredited pursuant to section 230-d of the public health law.