

5785

2011-2012 Regular Sessions

I N S E N A T E

June 16, 2011

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law and the social services law, in relation to providing quality out-patient specialty care for patients of academic medical centers regardless of source of payment or insurance type and improving access to specialty care for medical assistance recipients

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

- 1 Section 1. Legislative intent. The legislature hereby finds that:
2 a. Private academic medical centers operate a two-tiered system of
3 out-patient specialty care in which patients are sorted into the medical
4 centers' faculty practices or clinics depending upon their source of
5 payment or insurance status. Within this two-tiered system of out-pa-
6 tient specialty care, privately insured patients are treated at faculty
7 practices while Medicaid and uninsured patients are treated at the
8 hospital-based clinics, even if both types of patients are seeking care
9 for the same problem.
10 b. Once separated into different systems of care, the Medicaid and
11 uninsured patients are not given access to the same services as private-
12 ly insured patients. For example, privately insured patients are able to
13 see highly experienced faculty physicians to whom they have twenty-four
14 hour access, resulting in continuity of care and good care coordination.
15 Medicaid or uninsured patients, by contrast, only have access to rotat-
16 ing student doctors, who are less able to provide the continuity of care
17 or care coordination that is so critical for patients who suffer from
18 chronic or serious medical conditions. Furthermore, these student
19 doctors often lack adequate supervision from attending physicians, who
20 are not required by the academic medical centers to spend sufficient
21 time supervising residents and caring for patients in the clinics. In
22 cases of emergency, Medicaid and uninsured patients only have access to

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

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1 the hospital's emergency room, and not to a twenty-four hour call
2 service as the privately insured patients do, which contributes to emer-
3 gency room overcrowding as well as higher health care costs.

4 c. The difference in access to care experienced by patients based on
5 their insurance status contributes to racial and ethnic disparities in
6 health outcomes, particularly since African-Americans and Hispanics are
7 disproportionately represented among Medicaid beneficiaries and the
8 uninsured.

9 d. The system is economically wasteful, as it allows two systems of
10 care to operate within one facility and it causes Medicaid and other
11 state funds to be spent on inferior care.

12 e. The system runs counter to current state health policy, which is
13 increasingly focused on patient-centered medical homes and similar inno-
14 vative strategies to achieve care coordination for Medicaid benefici-
15 aries and cost reduction for the state's health care system.

16 The legislature intends to eliminate this separate and unequal system
17 of care by requiring private academic teaching hospitals to care for all
18 patients, regardless of insurance type or source of payment, in the same
19 place and at the same time.

20 The legislature further intends to ensure that academic medical
21 centers, which receive millions of dollars every year through the Medi-
22 caid program and the state's indigent care pool, do not limit access to
23 care and services to patients in whose name those funds are given.

24 The legislature further intends to ensure that all patients are made
25 aware of hospital financial assistance policies through the hospital's
26 website and patient referral line.

27 The legislature also intends to require that New York state general
28 hospitals make reasonable efforts to negotiate with Medicaid managed
29 care plans in their social services districts to ensure that all medical
30 service providers employed by the general hospitals are credentialed by
31 available plans.

32 S 2. The public health law is amended by adding a new section 2805-u
33 to read as follows:

34 S 2805-U. PROHIBITION AGAINST PATIENT STEERING BASED ON SOURCE OF
35 PAYMENT AND INTEGRATION OF OUT-PATIENT CARE. 1. NO GENERAL HOSPITAL
36 SHALL REFER, STEER, OR OTHERWISE DIRECT ANY PATIENT SEEKING SPECIALITY
37 OUT-PATIENT HOSPITAL SERVICES TO PRIVATE PHYSICIAN PRACTICES THAT ARE
38 NOT LICENSED PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO,
39 UNIVERSITY FACULTY PRACTICE CORPORATIONS, AS DEFINED IN SECTION FOURTEEN
40 HUNDRED TWELVE OF THE NOT-FOR-PROFIT CORPORATION LAW, IF THE PATIENT'S
41 INSURANCE IS ACCEPTED BY THE GENERAL HOSPITAL AND APPROPRIATELY CREDEN-
42 TIALED PHYSICIANS ARE AVAILABLE TO TREAT THE PATIENT IN THE APPROPRIATE
43 OUT-PATIENT CLINIC OWNED AND OPERATED BY THE GENERAL HOSPITAL. THE
44 PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF WHETHER THE PATIENT
45 CONTACTS THE GENERAL HOSPITAL VIA A TELEPHONE-BASED OR INTERNET-BASED
46 PHYSICIAN REFERRAL SERVICE, AS A WALK-IN, OR THROUGH THE PATIENT'S
47 PRIMARY CARE PHYSICIAN.

48 2. EVERY GENERAL HOSPITAL SHALL ENSURE THAT ALL PATIENTS, REGARDLESS
49 OF INSURANCE STATUS, SEEKING SPECIALTY OUT-PATIENT CARE RECEIVE TREAT-
50 MENT FROM AN INTEGRATED TEAM OF MEDICAL PROFESSIONALS, CONSISTING OF
51 ATTENDING PHYSICIANS AND RESIDENTS, WHO RECEIVE ROUTINE ON-SITE SUPER-
52 VISION FROM ATTENDING PHYSICIANS. FURTHERMORE, SUCH HOSPITALS SHALL
53 ENSURE THAT ALL PATIENTS SEEN IN THE CLINIC SETTING SHALL HAVE DIRECT
54 ACCESS TO THE ATTENDING PHYSICIANS SUPERVISING THEIR TREATMENT DURING
55 WEEKEND AND EVENING HOURS AND EMERGENCIES.

1 3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE NEW YORK CITY
2 HEALTH AND HOSPITALS CORPORATION, ESTABLISHED PURSUANT TO CHAPTER ONE
3 THOUSAND SIXTEEN OF THE LAWS OF NINETEEN HUNDRED SIXTY-NINE, AS AMENDED.

4 S 3. Paragraph (c) of subdivision 9-a of section 2807-k of the public
5 health law, as added by section 39-a of part A of chapter 57 of the laws
6 of 2006, is amended to read as follows:

7 (c) Such policies and procedures shall be clear, understandable, in
8 writing and publicly available in summary form and each general hospital
9 participating in the pool shall ensure that every patient is made aware
10 of the existence of such policies and procedures and is provided, in a
11 timely manner, with a summary of such policies and procedures upon
12 request. Any summary provided to patients shall, at a minimum, include
13 specific information as to income levels used to determine eligibility
14 for assistance, a description of the primary service area of the hospi-
15 tal and the means of applying for assistance. For general hospitals with
16 twenty-four hour emergency departments, such policies and procedures
17 shall require the notification of patients during the intake and regis-
18 tration process, through the conspicuous posting of language-appropriate
19 information in the general hospital, NOTIFICATION ON WEBSITES AND
20 THROUGH THE GENERAL HOSPITAL'S PATIENT REFERRAL LINE, and information on
21 bills and statements sent to patients, that financial aid may be avail-
22 able to qualified patients and how to obtain further information. For
23 specialty hospitals without twenty-four hour emergency departments, such
24 notification shall take place through written materials provided to
25 patients during the intake and registration process prior to the
26 provision of any health care services or procedures, NOTIFICATION ON
27 WEBSITES AND THROUGH THE SPECIALTY HOSPITAL'S PATIENT REFERRAL LINE, and
28 through information on bills and statements sent to patients, that
29 financial aid may be available to qualified patients and how to obtain
30 further information. Application materials shall include a notice to
31 patients that upon submission of a completed application, including any
32 information or documentation needed to determine the patient's eligibil-
33 ity pursuant to the hospital's financial assistance policy, the patient
34 may disregard any bills until the hospital has rendered a decision on
35 the application in accordance with this paragraph.

36 S 4. Subparagraph (ii) and clause (F) of subparagraph (iii) of para-
37 graph (a) of subdivision 4 of section 364-j of the social services law,
38 as amended by section 14 of part C of chapter 58 of the laws of 2004 and
39 clause (F) of subparagraph (iii) as relettered by chapter 37 of the laws
40 of 2010, are amended and a new subparagraph (iv) is added to read as
41 follows:

42 (ii) provided, however, if a major public hospital, as defined in the
43 public health law, is designated by the commissioner of health as a
44 managed care provider in a social services district the commissioner of
45 health shall designate at least one other managed care provider which is
46 not a major public hospital or facility operated by a major public
47 hospital[; and].

48 (F) other services as defined by the commissioner of health[.]; AND

49 (IV) EVERY GENERAL HOSPITAL, AS DEFINED BY SECTION TWENTY-EIGHT
50 HUNDRED ONE OF THE PUBLIC HEALTH LAW, MUST USE THE BEST EFFORTS TO NEGO-
51 TIATE WITH MANAGED CARE PROVIDERS LICENSED TO OPERATE IN THE SOCIAL
52 SERVICES DISTRICT IN WHICH SUCH GENERAL HOSPITAL IS LOCATED TO CREDEN-
53 TIAL ALL MEDICAL SERVICES PROVIDERS EMPLOYED BY SUCH GENERAL HOSPITAL.
54 EACH GENERAL HOSPITAL SUBJECT TO THIS SUBDIVISION MUST SUBMIT AN ANNUAL
55 REPORT TO THE DEPARTMENT DESCRIBING THE GENERAL HOSPITAL'S STRATEGIC

1 PLAN TO MEET THE REQUIREMENTS OF THIS SUBDIVISION AND THE EFFORTS MADE
2 TO FULFILL THE STRATEGIC PLAN.
3 S 5. This act shall take effect on the two hundred seventieth day
4 after it shall have become a law; provided however, that the amendments
5 to subdivision 4 of section 364-j of the social services law made by
6 section four of this act shall not affect the repeal of such section and
7 shall be deemed to repeal therewith. Provided further, that effective
8 immediately, the addition, amendment and/or repeal of any rule or regu-
9 lation necessary for implementation of this act on its effective date
10 are authorized and directed to be made and completed on or before such
11 effective date.