

1132

2011-2012 Regular Sessions

I N   S E N A T E

January 5, 2011

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Introduced by Sens. PARKER, PERALTA -- 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:

1     Section 1. The public health law is amended by adding a new section  
2     2803-t to read as follows:  
3     S 2803-T. PROVISION OF LANGUAGE ASSISTANCE. 1. EVERY HOSPITAL SHALL  
4     PROVIDE LANGUAGE ASSISTANCE SERVICES TO A PATIENT OR PATIENT ASSISTANT  
5     SO AS TO ENSURE THAT ALL PATIENTS WHO CANNOT SPEAK, READ, WRITE OR  
6     UNDERSTAND THE ENGLISH LANGUAGE WITH THE PROFICIENCY NECESSARY FOR  
7     ADEQUATE COMMUNICATION WITH HEALTH CARE PROVIDERS AND OTHER PERSONNEL  
8     HAVE EFFECTIVE ACCESS TO THE HOSPITAL'S PROGRAMS AND SERVICES, INCLUDING  
9     BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. EVERY  
10    HOSPITAL SHALL ENSURE THAT ALL INDIVIDUALS PROVIDING LANGUAGE ASSISTANCE  
11    SERVICES TO PATIENTS HAVE SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE  
12    RELEVANT LANGUAGE TO COMMUNICATE CLINICAL AND OTHER INFORMATION NECES-  
13    SARY FOR THE PATIENT TO ACCESS SERVICES. LANGUAGE ASSISTANCE SERVICES  
14    FOR PRIMARY AND NON-PRIMARY LANGUAGES SHALL BE AVAILABLE AT ALL  
15    LOCATIONS DURING ALL TIMES THAT PATIENT CARE IS AVAILABLE, AND SHALL, TO  
16    THE EXTENT PRACTICABLE, BE PROVIDED IN PERSON. TRANSLATIONS OF ALL  
17    FREQUENTLY USED FORMS, AND OTHER WRITTEN MATERIALS THAT ARE ESSENTIAL TO  
18    A PATIENT'S CARE AND TREATMENT OR ARE OTHERWISE NECESSARY TO PROVIDE  
19    ADEQUATE ACCESS TO THE HOSPITAL'S SERVICES SHALL BE AVAILABLE IN ALL OF  
20    THE HOSPITAL'S PRIMARY LANGUAGES. EVERY HOSPITAL SHALL DEVELOP AND  
21    IMPLEMENT A COMPREHENSIVE LANGUAGE ASSISTANCE PLAN THAT ESTABLISHES  
22    UNIFORM POLICIES AND PROCEDURES FOR PROVIDING LANGUAGE ASSISTANCE  
23    SERVICES, INCLUDING PROCEDURES FOR DOCUMENTING THE PROVISION OF, OR  
24    REFUSAL OF, LANGUAGE ASSISTANCE SERVICES, AND THAT REQUIRES TRAINING TO  
25    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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1 PLAN, AND THAT ALL STAFF MEMBERS WHO PROVIDE MEDICAL INTERPRETATION  
2 SERVICES IN PRIMARY LANGUAGES HAVE RECEIVED TRAINING IN MEDICAL INTER-  
3 PRETATION. SUCH INDIVIDUAL PROVIDING LANGUAGE ASSISTANCE SERVICES MAY BE  
4 A QUALIFIED INTERPRETER, VOLUNTARY WORKER OR OTHER PERSONNEL CURRENTLY  
5 EMPLOYED BY SAID HOSPITAL AND MAY PERFORM OTHER DUTIES AS DIRECTED BY  
6 THE HOSPITAL.

7 2. THE STATEMENT REGARDING PATIENT RIGHTS AND RESPONSIBILITIES  
8 REQUIRED PURSUANT TO PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION TWEN-  
9 TY-EIGHT HUNDRED THREE OF THIS ARTICLE SHALL INCLUDE A PROVISION NOTIFY-  
10 ING PATIENTS OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES,  
11 INCLUDING ORAL INTERPRETATION AND TRANSLATIONS OF FORMS AND OTHER MATE-  
12 RIALS. NOTICE OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES SHALL  
13 ALSO BE POSTED IN CONSPICUOUS LOCATIONS THROUGHOUT THE HOSPITAL AND IN  
14 OUTPATIENT CLINICS, IN ALL PRIMARY LANGUAGES.

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

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

24 4. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS  
25 MAY BE NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION,  
26 WHICH SHALL INCLUDE THE METHODOLOGY TO BE USED BY HOSPITALS IN DETERMIN-  
27 ING PRIMARY LANGUAGES.

28 5. FOR PURPOSES OF THIS SECTION:

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

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

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

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

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

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