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

4712--E

2011-2012 Regular Sessions

I N S E N A T E

April 15, 2011

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to air ambulance subscription services; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. Section 1108 of the insurance law is amended by adding a new subsection (k) to read as follows:

(K) AN AIR AMBULANCE SERVICE THAT HOLDS A VALID AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW AND THAT COMPLIES WITH SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS ARTICLE.

S 2. The insurance law is amended by adding a new section 1124 to read as follows:

S 1124. AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE. (A) AN AIR AMBULANCE SERVICE THAT HOLDS A VALID AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW AND A VALID AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE ISSUED BY THE SUPERINTENDENT PURSUANT TO SUBSECTION (B) OF THIS SECTION MAY ENTER INTO A SUBSCRIPTION AGREEMENT WITH A PERSON OR OTHER ENTITY IN THIS STATE UNDER WHICH THE AIR AMBU-

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

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LANCE SERVICE AGREES TO DISCOUNT OR WAIVE ANY PART OF ITS FEES FOR SERVICE IN THE EVENT THAT THE AIR AMBULANCE SERVICE TRANSPORTS A PERSON BY AIRCRAFT TO, FROM OR BETWEEN GENERAL HOSPITALS OR OTHER HEALTH CARE FACILITIES.

(B) THE SUPERINTENDENT MAY ISSUE AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE TO ANY ENTITY THAT IS TRUSTWORTHY TO ACT IN SUCH CAPACITY AND THAT HAS COMPLIED WITH THE PREREQUISITES HEREIN PRESCRIBED. THE AIR AMBULANCE SERVICE MUST HOLD A VALID AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW THAT AUTHORIZES THE AMBULANCE SERVICE TO PROVIDE SERVICES BY AIRCRAFT. THE AIR AMBULANCE SERVICE MUST ALSO OBTAIN, AND MAINTAIN THROUGHOUT THE TERM OF ITS AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE, A SURETY BOND ISSUED BY AN AUTHORIZED INSURER AND PAYABLE TO AIR AMBULANCE SERVICE SUBSCRIBERS TO REFUND UNEARNED SUBSCRIPTION FEES PAID TO THE AIR AMBULANCE SERVICE.

(C) THE APPLICATION FOR AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE SHALL BE IN SUCH FORM OR FORMS, AND SHALL CONTAIN SUCH INFORMATION AS THE SUPERINTENDENT SHALL PRESCRIBE. THE AIR AMBULANCE SERVICE SHALL WITH THE SUBMISSION OF THE APPLICATION ALSO SUBMIT PROOF THAT IT HAS OBTAINED THE SURETY BOND REQUIRED IN SUBSECTION (B) OF THIS SECTION AND A COPY OF ITS AMBULANCE SERVICE OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW.

(D) AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE SHALL BE VALID FOR A TERM OF TWO YEARS TO RUN CONCURRENTLY WITH, AND TERMINATE ON THE SAME DATE AS, THE TERM OF THE AIR AMBULANCE SERVICE'S OPERATING CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH PURSUANT TO SECTION THREE THOUSAND FIVE OF THE PUBLIC HEALTH LAW. AT THE TIME OF APPLICATION FOR EVERY SUCH CERTIFICATE, AND FOR EVERY RENEWAL THEREOF, AN APPLICANT SHALL PAY TO THE SUPERINTENDENT THE SUM OF ONE THOUSAND DOLLARS.

(E) IF AN APPLICANT FILES AN APPLICATION FOR A RENEWAL CERTIFICATE WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH CERTIFICATE, THEN THE CERTIFICATE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL CERTIFICATE APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL CERTIFICATE AS PROVIDED IN THIS SECTION.

(F) THE SUPERINTENDENT MAY REFUSE TO RENEW, REVOKE, OR SUSPEND AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE FOR A PERIOD THE SUPERINTENDENT DETERMINES, IF AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT AN APPLICANT OR CERTIFICATE HOLDER HAS: (1) NOT OBTAINED OR MAINTAINED THE SURETY BOND REQUIRED BY SUBSECTION (B) OF THIS SECTION OR (2) DEMONSTRATED UNTRUSTWORTHINESS, INCLUDING HAVING VIOLATED THIS SECTION.

(G) THE COMMISSIONER OF HEALTH SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT WHEN THE COMMISSIONER HAS REVOKED, SUSPENDED, LIMITED, OR ANNULLED AN AIR AMBULANCE SERVICE OPERATING CERTIFICATE. AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE ISSUED PURSUANT TO THIS SECTION SHALL TERMINATE BY OPERATION OF LAW UPON THE EFFECTIVE DATE OF THE REVOCATION, SUSPENSION, OR ANNULMENT OF THE AIR AMBULANCE SERVICE'S OPERATING CERTIFICATE BY THE COMMISSIONER.

(H) AN AIR AMBULANCE SERVICE SHALL FILE ITS SUBSCRIPTION AGREEMENT FORMS WITH THE SUPERINTENDENT IN CONNECTION WITH ITS APPLICATION OR ANY RENEWAL APPLICATION FOR AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE. AN AIR AMBULANCE SERVICE THAT AMENDS ITS SUBSCRIPTION AGREEMENT FORMS SHALL FILE THE REVISED FORMS WITH THE SUPERINTENDENT PRIOR TO

USING THE FORMS IN THIS STATE, PROVIDED THAT WHERE THE AMENDMENTS TO THE FORMS ARE ONLY TECHNICAL OR NON-SUBSTANTIATIVE, THE AIR AMBULANCE SERVICE MAY FILE THE REVISED FORMS AT OR BEFORE THE TIME IT RENEWS ITS AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE.

(I) THE SUBSCRIPTION AGREEMENT FORMS SHALL: (1) EXPRESSLY STATE THAT THE SUBSCRIPTION IS NOT A GUARANTEE FOR THE PROVISION OF MEDICAL TREATMENT OR TRANSPORT; (2) LIST THE CONDITIONS UNDER WHICH THE AIR AMBULANCE SERVICE MAY NOT PROVIDE MEDICAL TREATMENT OR TRANSPORT; AND (3) STATE THAT A SUBSCRIBER MAY FILE A COMPLAINT WITH THE DEPARTMENT, AND INCLUDE THE DEPARTMENT'S WEBSITE AND MAILING ADDRESS.

(J) AN AIR AMBULANCE SUBSCRIPTION AGREEMENT MAY: (1) CONDITION A DISCOUNT OR WAIVER OF ANY PART OF THE FEES UPON THE AIR AMBULANCE SERVICE RECEIVING AN ASSIGNMENT OF INSURANCE PAYMENTS, OR OTHER RIGHT TO REIMBURSEMENT OR RECOVERY, FOR THE AIR AMBULANCE SERVICES; (2) PROVIDE FOR A DISCOUNT OR WAIVER OF ANY PART OF THE FEES FOR AIR AMBULANCE SERVICE PROVIDED BY AN ENTITY AFFILIATED WITH THE AIR AMBULANCE SERVICE THAT IS DULY AUTHORIZED TO PROVIDE THE AMBULANCE SERVICES IN THE JURISDICTION IN WHICH THE SERVICES ARE RENDERED; AND (3) COVER TWO OR MORE PERSONS, SUCH AS FAMILY MEMBERS, EMPLOYEES, OCCUPANTS OF A SPECIFIED PREMISES, OR ANOTHER GROUP OF PERSONS WITH A COMMON RELATIONSHIP WITH ONE ANOTHER. FOR PURPOSES OF THIS SECTION, AN ENTITY IS AFFILIATED WITH AN AIR AMBULANCE SERVICE WHERE THE ENTITY AND THE AIR AMBULANCE SERVICE HAVE ENTERED INTO AN AGREEMENT TO PROVIDE RECIPROCAL AIR AMBULANCE SERVICES TO EACH OTHER'S SUBSCRIBERS.

(K) A SUBSCRIBER'S INSURER, WITH RESPECT TO A HEALTH INSURANCE POLICY OR CONTRACT DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE, SHALL NOT TAKE INTO CONSIDERATION ANY DISCOUNT OR FEE WAIVER GIVEN TO THE SUBSCRIBER BY THE AIR AMBULANCE SERVICE WHEN DETERMINING THE BENEFIT PAYABLE UNDER THE HEALTH INSURANCE POLICY OR CONTRACT FOR AIR AMBULANCE SERVICES.

(L) THE SUPERINTENDENT SHALL NOTIFY THE COMMISSIONER OF HEALTH WHENEVER THE SUPERINTENDENT ISSUES, RENEWS, REFUSES TO RENEW, REVOKES OR SUSPENDS AN AIR AMBULANCE SERVICE SUBSCRIPTION CERTIFICATE.

(M) THE SUPERINTENDENT MAY PROMULGATE REGULATIONS IMPLEMENTING THIS SECTION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed 3 years after such effective date.