

6189

I N   S E N A T E

January 11, 2012

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

AN ACT to amend the public health law and the insurance law, in relation to requiring hospitals to inform emergency care patients whether the attending physician participates with the patient's insurance policy and requiring insurance companies to cover the cost of out-of-network care for patients who are unconscious or otherwise unable to provide informed consent

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

1     Section 1. Section 2805-b of the public health law is amended by  
2     adding a new subdivision 1-a to read as follows:  
3     1-A. EVERY GENERAL HOSPITAL IN WHICH INSURED PATIENTS ARE ADMITTED FOR  
4     EMERGENCY CARE SHALL ADOPT REGULATIONS REQUIRING ITS STAFF TO INFORM  
5     SUCH PATIENTS WHETHER THE ATTENDING PHYSICIAN PARTICIPATES WITH THE  
6     PATIENT'S INSURANCE POLICY. IN THE EVENT SUCH ATTENDING PHYSICIAN DOES  
7     NOT PARTICIPATE WITH THE PATIENT'S INSURANCE POLICY, THE PATIENT SHALL  
8     BE PERMITTED TO DECIDE WHETHER TO BE TREATED BY THE OUT-OF-NETWORK  
9     ATTENDING PHYSICIAN OR TO REQUEST TREATMENT BY AN IN-NETWORK PHYSICIAN,  
10    WHO MUST TREAT SUCH PATIENT WITH ALL CONVENIENT SPEED.  
11    S 2. Subsection (i) of section 3216 of the insurance law is amended by  
12    adding a new paragraph 9-a to read as follows:  
13    (9-A)(A) EVERY POLICY THAT PROVIDES COVERAGE FOR SERVICES TO TREAT AN  
14    EMERGENCY CONDITION IN HOSPITAL FACILITIES:  
15    (I) WITHOUT THE NEED FOR ANY PRIOR AUTHORIZATION DETERMINATION;  
16    (II) IN THE CASE OF PATIENTS WHO ARE UNCONSCIOUS OR OTHERWISE UNABLE  
17    TO PROVIDE INFORMED CONSENT, REGARDLESS OF WHETHER THE HEALTH CARE  
18    PROVIDER FURNISHING SUCH SERVICES IS A PARTICIPATING PROVIDER WITH  
19    RESPECT TO SUCH SERVICES;  
20    (III) IF THE EMERGENCY SERVICES ARE PROVIDED BY A NON-PARTICIPATING  
21    PROVIDER, WITHOUT IMPOSING ANY ADMINISTRATIVE REQUIREMENT OR LIMITATION  
22    ON COVERAGE THAT IS MORE RESTRICTIVE THAN THE REQUIREMENTS OR LIMITA-  
23    TIONS THAT APPLY TO EMERGENCY SERVICES RECEIVED FROM PARTICIPATING  
24    PROVIDERS; AND

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

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1 (IV) IF THE EMERGENCY SERVICES ARE PROVIDED BY A NON-PARTICIPATING  
2 PROVIDER, THE COST-SHARING REQUIREMENT (EXPRESSED AS A COPAYMENT OR  
3 COINSURANCE) SHALL BE THE SAME REQUIREMENT THAT WOULD APPLY IF SUCH  
4 SERVICES WERE PROVIDED BY A PARTICIPATING PROVIDER.

5 (B) ANY REQUIREMENTS OF SECTION 2719A(B) OF THE PUBLIC HEALTH SERVICE  
6 ACT, 42 U.S.C. S 300GG19A(B) AND REGULATIONS THEREUNDER THAT EXCEED THE  
7 REQUIREMENTS OF THIS PARAGRAPH WITH RESPECT TO COVERAGE OF EMERGENCY  
8 SERVICES SHALL BE APPLICABLE TO EVERY POLICY SUBJECT TO THIS PARAGRAPH.

9 (C) FOR PURPOSES OF THIS PARAGRAPH, AN "EMERGENCY CONDITION" MEANS A  
10 MEDICAL OR BEHAVIORAL CONDITION THAT MANIFESTS ITSELF BY ACUTE SYMPTOMS  
11 OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, SUCH THAT A PRUDENT  
12 LAYPERSON, POSSESSING AN AVERAGE KNOWLEDGE OF MEDICINE AND HEALTH, COULD  
13 REASONABLY EXPECT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION TO RESULT  
14 IN (I) PLACING THE HEALTH OF THE PERSON AFFLICTED WITH SUCH CONDITION IN  
15 SERIOUS JEOPARDY, OR IN THE CASE OF A BEHAVIORAL CONDITION PLACING THE  
16 HEALTH OF SUCH PERSON OR OTHERS IN SERIOUS JEOPARDY; (II) SERIOUS  
17 IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS; (III) SERIOUS DYSFUNCTION  
18 OF ANY BODILY ORGAN OR PART OF SUCH PERSON; (IV) SERIOUS DISFIGUREMENT  
19 OF SUCH PERSON; OR (V) A CONDITION DESCRIBED IN CLAUSE (I), (II) OR  
20 (III) OF SECTION 1867(E)(1)(A) OF THE SOCIAL SECURITY ACT.

21 (D) FOR PURPOSES OF THIS PARAGRAPH, "EMERGENCY SERVICES" MEANS, WITH  
22 RESPECT TO AN EMERGENCY CONDITION: (I) A MEDICAL SCREENING EXAMINATION  
23 AS REQUIRED UNDER SECTION 1867 OF THE SOCIAL SECURITY ACT, 42 U.S.C. S  
24 1395DD, WHICH IS WITHIN THE CAPABILITY OF THE EMERGENCY DEPARTMENT OF A  
25 HOSPITAL, INCLUDING ANCILLARY SERVICES ROUTINELY AVAILABLE TO THE EMER-  
26 GENCY DEPARTMENT TO EVALUATE SUCH EMERGENCY MEDICAL CONDITION; AND (II)  
27 WITHIN THE CAPABILITIES OF THE STAFF AND FACILITIES AVAILABLE AT THE  
28 HOSPITAL, SUCH FURTHER MEDICAL EXAMINATION AND TREATMENT AS ARE REQUIRED  
29 UNDER SECTION 1867 OF THE SOCIAL SECURITY ACT, 42 U.S.C. S 1395DD, TO  
30 STABILIZE THE PATIENT.

31 (E) FOR PURPOSES OF THIS PARAGRAPH, "TO STABILIZE" MEANS, WITH RESPECT  
32 TO AN EMERGENCY CONDITION, TO PROVIDE SUCH MEDICAL TREATMENT OF THE  
33 CONDITION AS MAY BE NECESSARY TO ASSURE, WITHIN REASONABLE MEDICAL PROB-  
34 ABILITY, THAT NO MATERIAL DETERIORATION OF THE CONDITION IS LIKELY TO  
35 RESULT FROM OR OCCUR DURING THE TRANSFER OF THE INSURED FROM A FACILITY  
36 OR TO DELIVER A NEWBORN CHILD (INCLUDING THE PLACENTA).

37 S 3. This act shall take effect on the one hundred twentieth day after  
38 it shall have become a law.