

6582--A

2013-2014 Regular Sessions

I N A S S E M B L Y

April 10, 2013

Introduced by M. of A. WRIGHT, GUNTHER -- Multi-Sponsored by -- M. of A. PALMESANO, PEOPLES-STOKES, PERRY, RA, THIELE -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to providing for the creation and dissemination of information pertaining to bone marrow and peripheral blood stem cell donation and bone marrow and peripheral blood stem cell donation registration

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

1 Section 1. This act shall be known and may be cited as "Jaden's law".
2 S 2. Subdivision 1 of section 207 of the public health law is amended
3 by adding a new paragraph (j) to read as follows:

4 (J) BONE MARROW AND PERIPHERAL BLOOD STEM CELL DONATION.

5 S 3. The public health law is amended by adding a new section 4369 to
6 read as follows:

7 S 4369. BONE MARROW AND PERIPHERAL BLOOD STEM CELL INFORMATION. 1. A
8 PHYSICIAN, AS EARLY AS PRACTICABLE IN THE PHYSICIAN'S THERAPEUTIC
9 RELATIONSHIP WITH A PATIENT, AND UNLESS THE PHYSICIAN REASONABLY
10 BELIEVES THAT BONE MARROW OR PBSC DONATION WOULD THREATEN THE HEALTH OF
11 THE PATIENT, MAY PROVIDE A COPY OF THE BROCHURE PREPARED BY THE COMMIS-
12 SIONER TO EVERY PATIENT:

13 (A) WHO IS KNOWN BY THE PHYSICIAN TO BE AT LEAST EIGHTEEN YEARS OF AGE
14 BUT NO OLDER THAN SIXTY YEARS OF AGE; AND

15 (B) WHO THE PHYSICIAN ANTICIPATES WILL BE ADMITTED TO A HOSPITAL FOR
16 AN ELECTIVE ORTHOPEDIC PROCEDURE OR TREATMENT OR OTHERWISE BELIEVES IS
17 AN APPROPRIATE CANDIDATE FOR BONE MARROW OR PBSC DONATION; OR FOR WHOM
18 THE PHYSICIAN OTHERWISE BELIEVES BONE MARROW OR PBSC DONATION IS APPRO-

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

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1 PRIATE TO THE PATIENT'S MEDICAL CIRCUMSTANCES OR IS DESIRED BY THE
2 PATIENT.

3 2. THE PHYSICIAN MAY OFFER TO DISCUSS THE INFORMATION CONTAINED IN THE
4 BROCHURE WITH THE PATIENT OR THE PATIENT'S REPRESENTATIVE.

5 3. THIS SECTION SHALL NOT BE CONSTRUED TO APPLY TO A PHYSICIAN WHO IS
6 DIRECTLY AFFILIATED WITH A RELIGIOUS DENOMINATION THAT ADHERES TO THE
7 TENET THAT BONE MARROW OR PBSC TRANSFER IS CONTRARY TO THE MORAL PRINCI-
8 PLES WHICH THE DENOMINATION CONSIDERS TO BE AN ESSENTIAL PART OF ITS
9 BELIEFS AND PRACTICES.

10 S 4. Section 4310 of the public health law, as amended by chapter 639
11 of the laws of 2006, the section heading as separately amended by chap-
12 ter 640 of the laws of 2006, subdivisions 1 and 3 as amended by chapter
13 158 of the laws of 2012 and subdivision 2 as separately amended by chap-
14 ters 158 and 465 of the laws of 2012, is amended to read as follows:

15 S 4310. New York state donate life registry for organ [and], tissue,
16 BONE MARROW OR PERIPHERAL BLOOD STEM CELL donations. 1. The department
17 shall establish an organ and tissue donor registry, which shall be
18 called and be referred to as the "donate life registry". Such registry
19 shall contain a listing of all donors who have declared their consent to
20 make an anatomical gift OR TO DONATE BONE MARROW OR PERIPHERAL BLOOD
21 STEM CELLS.

22 2. Such registration of consent to make an anatomical gift OR TO
23 DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS can be made through
24 (a) indication made on the application or renewal form of a license, (b)
25 indication made on a non-driver identification card application or
26 renewal form, (c) enrolling in the registry website maintained by the
27 department, which may include using an electronic signature subject to
28 article three of the state technology law, (d) indication made on a
29 voter registration form pursuant to subdivision five of section 5-210 of
30 the election law, or (e) through any other method identified by the
31 commissioner. Where required by law for consent forms described in para-
32 graphs (a) and (b) of this subdivision, the commissioner shall ensure
33 that space is provided on any consent form so that the applicant shall
34 register or decline registration in the donate life registry for organ
35 and tissue donations under this section and that the following is stated
36 on the form in clear and conspicuous type:

37 "You must fill out the following section: Would you like to be added
38 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
39 tion'."

40 The commissioner shall not maintain records of any person who checks
41 "skip this question". Failure to check a box shall not impair the valid-
42 ity of an application, and failure to check "yes" or checking "skip this
43 question" shall not be construed to imply a wish not to donate. In the
44 case of an applicant under eighteen years of age, checking "yes" shall
45 not constitute consent to make an anatomical gift or registration in the
46 donate life registry. Where an applicant has previously consented to
47 make an anatomical gift or registered in the donate life registry,
48 checking "skip this question" or failing to check a box shall not impair
49 that consent or registration. The registration shall take effect upon
50 the provision of written or electronic notice of the registration to the
51 person enrolling in the registry.

52 3. (a) Information contained in the registry shall be accessible to
53 (i) federally designated organ procurement organizations, FEDERALLY
54 REGULATED BONE MARROW OR PERIPHERAL BLOOD STEM CELL PROCUREMENT ORGAN-
55 IZATIONS, IN APPROPRIATE CASES, (ii) eye and tissue banks licensed by

1 the department pursuant to article forty-three-B of this chapter, and
2 (iii) any other entity formally approved by the commissioner.

3 (b) The information contained in the registry shall not be released to
4 any person except as expressly authorized by this section solely for the
5 purpose:

6 (I) of identifying potential organ and tissue donors at or near the
7 time of death; OR

8 (II) IDENTIFYING POTENTIAL BONE MARROW OR PERIPHERAL BLOOD STEM CELL
9 DONORS.

10 4. If the department had an established registry prior to the effec-
11 tive date of this section, it shall be deemed to meet the requirements
12 of this section.

13 5. The registry shall provide persons enrolled the opportunity to
14 specify which organs and tissues they want to donate, INCLUDING WHETHER
15 THEY WANT TO DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS, and if
16 the donation can be used for transplantation, research, or both.

17 6. A person registered in the organ and tissue registry before the
18 effective date of this subdivision shall be deemed to have expressed
19 intent to donate ORGANS AND TISSUES OTHER THAN BONE MARROW OR PERIPHERAL
20 BLOOD STEM CELLS, until and unless he or she files an amendment to his
21 or her registration or a new registration expressing consent to donate.

22 7. The commissioner shall contact each person registered before the
23 effective date of this subdivision in the organ and tissue registry in
24 writing to inform him or her that at the time he or she registered, the
25 registry was that of intent and that the registry is now one of consent,
26 to explain in clear and understandable terms the difference between
27 intent and consent, and to provide opportunity for the person to change
28 his or her registration to provide consent by amending his or her
29 current registration or executing a new registration.

30 8. THE REGISTRATION OF BONE MARROW OR PERIPHERAL BLOOD STEM CELL
31 DONORS SHALL BE FOR THE PURPOSE OF IDENTIFYING THE DONORS AND TRANS-
32 FERRING THEIR REGISTRATION INFORMATION TO A FEDERALLY REGULATED BONE
33 MARROW OR PERIPHERAL BLOOD STEM CELL PROCUREMENT AGENCY.

34 9. The commissioner is authorized to promulgate rules and regulations
35 necessary to implement the provisions of this section.

36 S 5. Subdivision 2 of section 4310 of the public health law, as
37 amended by chapter 158 of the laws of 2012, is amended to read as
38 follows:

39 2. Such registration of consent to make an anatomical gift OR TO
40 DONATE BONE MARROW OR PERIPHERAL BLOOD STEM CELLS can be made through
41 (a) indication made on the application or renewal form of a license, (b)
42 indication made on a non-driver identification card application or
43 renewal form, (c) enrolling in the registry website maintained by the
44 department, which may include using an electronic signature subject to
45 article three of the state technology law, (d) indication made on a
46 voter registration form pursuant to subdivision five of section 5-210 of
47 the election law, or (e) through any other method identified by the
48 commissioner. The registration shall take effect upon the provision of
49 written or electronic notice of the registration to the person enrolling
50 in the registry.

51 S 6. This act shall take effect on the ninetieth day after it shall
52 have become a law; provided that the amendments to subdivision 2 of
53 section 4310 of the public health law made by section four of this act
54 shall be subject to the expiration of such subdivision pursuant to
55 section 6 of chapter 465 of the laws of 2012, as amended, when upon such
56 date the provisions of section five of this act shall take effect.