

2376

2013-2014 Regular Sessions

I N S E N A T E

January 16, 2013

Introduced by Sens. KLEIN, CARLUCCI, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, the education law and the insurance law, in relation to establishing a health care practitioner hygienic dress code; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Article 2 of the public health law is amended by adding a
2 new title 6 to read as follows:

3 T I T L E 6

4 H E A L T H C A R E P R A C T I T I O N E R H Y G I E N I C

5 D R E S S C O D E

6 SECTION 266. HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE.

7 S 266. HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE. 1. DEFINITIONS.
8 THE FOLLOWING WORDS OR PHRASES AS USED IN THIS TITLE SHALL HAVE THE
9 FOLLOWING MEANINGS:

10 (A) "CONTINUING EDUCATION" SHALL MEAN ALL PROFESSIONAL CONTINUING
11 EDUCATION PROGRAMS REQUIRED EITHER BY STATE LAW, OR BY PROFESSIONAL
12 ASSOCIATIONS AUTHORIZED BY THE EDUCATION DEPARTMENT TO MONITOR THE
13 REQUIREMENTS OF LICENSURE OR CERTIFICATION AND TO CONDUCT CONTINUING
14 EDUCATION REQUIRED TO BE COMPLETED BY A HEALTH CARE PRACTITIONER.

15 (B) "COUNCIL" SHALL MEAN THE STATE HEALTH CARE PRACTITIONER HYGIENIC
16 DRESS CODE COUNCIL ESTABLISHED BY SUBDIVISION TWO OF THIS SECTION.

17 (C) "HEALTH CARE FACILITY" SHALL MEAN AND INCLUDE A HOSPITAL AND RESI-
18 DENTIAL HEALTH CARE FACILITY AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED
19 ONE OF THIS CHAPTER, AND ANY SETTING IN WHICH A HEALTH CARE PRACTITIONER
20 REGULARLY PRACTICES HIS OR HER PROFESSION.

21 (D) "HEALTH CARE PRACTITIONER" SHALL MEAN ANY PERSON LICENSED AS A
22 PHYSICIAN PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION

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

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1 LAW, PHYSICIAN ASSISTANT OR SPECIALIST ASSISTANT PURSUANT TO ARTICLE ONE
2 HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW, NURSE PURSUANT TO ARTICLE ONE
3 HUNDRED THIRTY-NINE OF THE EDUCATION LAW, OR MIDWIFE PURSUANT TO ARTICLE
4 ONE HUNDRED FORTY OF THE EDUCATION LAW.

5 2. STATE HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE COUNCIL. (A) THE
6 STATE HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE COUNCIL IS HEREBY
7 ESTABLISHED IN THE DEPARTMENT TO BE AN EXPERT PANEL TO ADVISE THE
8 COMMISSIONER AND THE COMMISSIONER OF EDUCATION ON: (I) THE BEST PRAC-
9 TICES RELATED TO MITIGATING AND ELIMINATING THE SPREAD OF DISEASE,
10 INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC IN
11 HEALTH CARE FACILITIES BY MEANS OF THE UNHYGIENIC CLOTHING, JEWELRY AND
12 HEALTH CARE FACILITY IDENTIFICATION TAGS WORN BY HEALTH CARE PRACTITION-
13 ERS AND THE CLEANING PERSONNEL OF SUCH FACILITIES, (II) THE PROMOTION OF
14 BETTER AND COORDINATED POLICIES TO ENSURE BETTER HYGIENIC PRACTICES IN
15 HEALTH CARE FACILITIES, AND (III) THE DEVELOPMENT OF GUIDELINES TO
16 ASSIST THE EDUCATION DEPARTMENT IN ESTABLISHING MATERIALS AND CURRICULA
17 TO BE USED IN PROVIDING CONTINUING EDUCATION PROGRAMS TO HEALTH CARE
18 PRACTITIONERS ON THE USE OF A HYGIENIC DRESS CODE TO MINIMIZE THE SPREAD
19 OF DISEASE, INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL
20 PUBLIC.

21 (B) THE COUNCIL SHALL BE COMPOSED OF TWENTY-FIVE MEMBERS APPOINTED BY
22 THE COMMISSIONER. THE COMMISSIONER SHALL SEEK RECOMMENDATIONS FOR
23 APPOINTMENTS FROM THE COMMISSIONER OF EDUCATION AND THE SUPERINTENDENT
24 OF FINANCIAL SERVICES. THE MEMBERSHIP OF THE COUNCIL SHALL INCLUDE
25 REPRESENTATIVES OF THE VARIOUS PROFESSIONS WITHIN THE DEFINITION OF
26 HEALTH CARE PRACTITIONER, THE VARIOUS FACILITIES AND SETTINGS WITHIN THE
27 DEFINITION OF HEALTH CARE FACILITY, EDUCATORS OF HEALTH CARE PRACTITION-
28 ERS, CLEANING AND STERILIZATION SERVICES FOR HEALTH CARE FACILITIES,
29 PHARMACEUTICAL COMPANIES, AND INSURERS AND CORPORATIONS PROVIDING HEALTH
30 CARE COVERAGE. THE CHAIR OF THE COUNCIL SHALL BE A MEMBER THEREOF AS IS
31 SO DESIGNATED BY THE COMMISSIONER.

32 (C) THE MEMBERS OF THE COUNCIL SHALL HAVE EXPERTISE IN THE MAINTENANCE
33 AND CREATION OF SANITARY AND HYGIENIC CONDITIONS IN THE TREATMENT OF
34 PATIENTS BY HEALTH CARE PRACTITIONERS AND IN HEALTH CARE FACILITIES. THE
35 TERM OF OFFICE OF SUCH MEMBERS SHALL BE FOUR YEARS. THE MEMBERS OF THE
36 COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE
37 ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES IN THE PERFORMANCE OF THEIR
38 DUTIES.

39 (D) THE COUNCIL SHALL MEET UPON THE CALL OF THE COMMISSIONER OR THE
40 CHAIR. THE COUNCIL MAY ADOPT REGULATIONS CONSISTENT WITH THIS SECTION.

41 (E) THE COMMISSIONER SHALL DESIGNATE SUCH EMPLOYEE AND PROVIDE FOR
42 OTHER RESOURCES OF THE DEPARTMENT AS MAY BE REASONABLY NECESSARY TO
43 PROVIDE SUPPORT AND SERVICES FOR THE WORK OF THE COUNCIL.

44 (F) THE COUNCIL MAY PROVIDE TECHNICAL INFORMATION AND GUIDANCE TO
45 HEALTH CARE PRACTITIONERS AND HEALTH CARE FACILITIES ON THE LATEST AND
46 BEST PRACTICES AND STRATEGIES RELATED TO MITIGATING AND ELIMINATING THE
47 SPREAD OF DISEASE, INFECTION AND BACTERIA DURING THE COURSE OF TREATMENT
48 OF PATIENTS AS IT RELATES TO THE USE OF HYGIENIC HEALTH CARE PRACTITION-
49 ER CLOTHING, ATTIRE AND A DRESS CODE.

50 3. POLICIES TO BE CONSIDERED, EXAMINED AND POSSIBLY ADVANCED AFTER
51 EVIDENCE-BASED REVIEW BY THE COUNCIL. THE COUNCIL SHALL CONSIDER AND
52 EXAMINE THE FOLLOWING POLICIES AND GUIDELINES IN THE ADOPTION OF RULES
53 AND REGULATIONS:

54 (A) THE PROVISION OF EDUCATION AND INSTRUCTION TO PATIENTS AND HEALTH
55 CARE PRACTITIONERS ON HOW ENHANCED SANITARY AND HYGIENIC POLICIES,

1 INCLUDING THE USE OF HYGIENIC HEALTH CARE PRACTITIONER CLOTHING, ATTIRE
2 AND A DRESS CODE, CAN HELP TO REDUCE THE RISK OF CROSS-INFECTION;

3 (B) ENCOURAGING HEALTH CARE FACILITIES TO PROVIDE ADEQUATE SUPPLIES OF
4 CLEAN SCRUBS, OTHER ARTICLES OF CLOTHING AND HEALTH CARE FACILITY IDEN-
5 TIFICATION TAGS TO HEALTH CARE PRACTITIONERS TO ENSURE FREQUENT CHANGES
6 THEREOF;

7 (C) ENCOURAGING HEALTH CARE FACILITIES TO PROVIDE CHANGING ROOMS, AND
8 INSTRUCTION ON HOW TO APPROPRIATELY WASH CLOTHING WORN BY HEALTH CARE
9 PRACTITIONERS;

10 (D) THE WEARING OF PATHOGEN-RESISTANT SCRUBS AND COATS, APRONS OR
11 SLIPS MADE OF PLASTIC OR WICKING MATERIALS, AND DOUBLE GLOVES;

12 (E) THE ADOPTION OF A PROHIBITION ON THE WEARING OUTSIDE OF A HEALTH
13 CARE FACILITY BY HEALTH CARE PRACTITIONERS OF CLOTHING WORN DURING
14 TREATMENT OF PATIENTS; AND

15 (F) CONSIDERATION OF ALTERATIONS IN MEDICAID AND PRIVATE PAYOR
16 REIMBURSEMENT RATES AND PRACTICES TO ENCOURAGE MORE OPTIMUM SANITARY AND
17 HYGIENIC CONDITIONS IN HEALTH CARE FACILITIES.

18 4. HEALTH CARE PRACTITIONER HYGIENIC RESOURCE CENTERS. THE COMMISSION-
19 ER, IN CONSULTATION WITH THE COUNCIL, MAY DESIGNATE A HEALTH CARE PRAC-
20 TITIONER HYGIENIC RESOURCE CENTER OR CENTERS. SUCH RESOURCE CENTER MAY
21 BE STATEWIDE OR REGIONAL, AND SHALL ACT AS A SOURCE OF TECHNICAL
22 SUPPORT, INFORMATION AND GUIDANCE FOR HEALTH CARE PRACTITIONERS AND
23 HEALTH CARE FACILITIES ON THE LATEST STRATEGIES AND BEST PRACTICES WITH
24 REGARD TO ESTABLISHING SANITARY AND HYGIENIC CONDITIONS FOR THE TREAT-
25 MENT OF PATIENTS. THE DEPARTMENT, IN CONSULTATION WITH THE COUNCIL, MAY
26 CONTRACT WITH NOT-FOR-PROFIT ORGANIZATIONS OR ASSOCIATIONS TO ESTABLISH
27 AND MANAGE SUCH RESOURCE CENTERS. SUCH RESOURCE CENTERS MAY CHARGE A FEE
28 TO HELP OFFSET THE COST OF PROVIDING SUCH SERVICES.

29 5. CONTINUING EDUCATION FOR HEALTH CARE PRACTITIONERS. THE COUNCIL, IN
30 CONSULTATION WITH THE DEPARTMENT, THE EDUCATION DEPARTMENT AND HEALTH
31 CARE PRACTITIONER PROFESSIONAL ORGANIZATIONS, SHALL DEVELOP, COMPILE AND
32 PUBLISH INFORMATION AND COURSE MATERIALS ON SANITARY AND HYGIENIC PRAC-
33 TICES THAT SHOULD BE FOLLOWED BY HEALTH CARE PRACTITIONERS AND HEALTH
34 CARE FACILITIES TO MITIGATE AND ELIMINATE THE SPREAD OF DISEASE,
35 INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC BY
36 MEANS OF THE CLOTHING, JEWELRY AND HEALTH CARE FACILITY IDENTIFICATION
37 TAGS WORN BY HEALTH CARE PRACTITIONERS AND THE CLEANING PERSONNEL OF
38 SUCH FACILITIES. IN ADDITION, WITHIN TWO YEARS OF THE EFFECTIVE DATE OF
39 THIS TITLE, THE COUNCIL SHALL MAKE RECOMMENDATIONS TO THE EDUCATION
40 DEPARTMENT FOR THE COURSE WORK, TRAINING AND CURRICULUM TO BE INCLUDED
41 IN THE CONTINUING EDUCATION ON THE BEST PRACTICES, STRATEGIES AND
42 APPROACHES RELATED TO MITIGATING AND ELIMINATING THE SPREAD OF DISEASE,
43 INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC IN
44 HEALTH CARE FACILITIES BY MEANS OF THE CLOTHING, JEWELRY AND HEALTH CARE
45 FACILITY IDENTIFICATION TAGS WORN BY HEALTH CARE PRACTITIONERS AND THE
46 CLEANING PERSONNEL OF SUCH FACILITIES.

47 6. REPORT. ON OR BEFORE MARCH FIRST OF EACH EVEN NUMBERED YEAR, THE
48 COUNCIL SHALL SUBMIT TO THE GOVERNOR, THE COMMISSIONER, THE COMMISSIONER
49 OF EDUCATION, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
50 ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE
51 ASSEMBLY, AND THE CHAIRS OF THE SENATE AND ASSEMBLY COMMITTEES ON HEALTH
52 A REPORT ON ITS ACTIVITIES AND ACCOMPLISHMENTS PURSUANT TO THIS ARTICLE
53 RELATING TO SANITARY AND HYGIENIC CONDITIONS IN HEALTH CARE FACILITIES.
54 SUCH REPORT MAY ALSO INCLUDE SUCH LEGISLATIVE PROPOSALS AS IT DEEMS
55 NECESSARY TO MORE EFFECTIVELY IMPLEMENT THE PROVISIONS OF THIS TITLE.

1 S 2. Paragraphs b and c of subdivision 3 of section 6507 of the educa-
2 tion law, as added by chapter 987 of the laws of 1971, are amended and a
3 new paragraph d is added to read as follows:

4 b. Review qualifications in connection with licensing requirements;
5 [and]

6 c. Provide for licensing examinations and reexaminations[.]; AND

7 D. (I) ESTABLISH STANDARDS FOR CONTINUING EDUCATION FOR HEALTH CARE
8 PRACTITIONERS ON THE BEST PRACTICES, STRATEGIES AND APPROACHES RELATED
9 TO MITIGATING AND ELIMINATING THE SPREAD OF DISEASE, INFECTION AND
10 BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC IN HEALTH CARE
11 FACILITIES BY MEANS OF THE CLOTHING, JEWELRY AND HEALTH CARE FACILITY
12 IDENTIFICATION TAGS WORN BY HEALTH CARE PRACTITIONERS AND THE CLEANING
13 PERSONNEL OF SUCH FACILITIES. IN PROMULGATION OF SUCH STANDARDS, THE
14 DEPARTMENT AND THE APPROPRIATE BOARD OF EACH SUCH PROFESSION SHALL
15 CONSIDER AND, TO THE EXTENT PRACTICABLE, IMPLEMENT THE RECOMMENDATIONS
16 OF THE STATE HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE COUNCIL.

17 (II) FOR THE PURPOSES OF THIS PARAGRAPH:

18 (A) "HEALTH CARE FACILITY" SHALL MEAN AND INCLUDE A HOSPITAL AND A
19 RESIDENTIAL HEALTH CARE FACILITY AS DEFINED IN SECTION TWENTY-EIGHT
20 HUNDRED ONE OF THE PUBLIC HEALTH LAW, AND ANY SETTING IN WHICH A HEALTH
21 CARE PRACTITIONER REGULARLY PRACTICES HIS OR HER PROFESSION.

22 (B) "HEALTH CARE PRACTITIONER" SHALL MEAN ANY PERSON LICENSED AS A
23 PHYSICIAN PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THIS TITLE,
24 PHYSICIAN ASSISTANT OR SPECIALIST ASSISTANT PURSUANT TO ARTICLE ONE
25 HUNDRED THIRTY-ONE-B OF THIS TITLE, NURSE PURSUANT TO ARTICLE ONE
26 HUNDRED THIRTY-NINE OF THIS TITLE, OR MIDWIFE PURSUANT TO ARTICLE ONE
27 HUNDRED FORTY OF THIS TITLE.

28 S 3. Section 2343 of the insurance law is amended by adding a new
29 subsection (f) to read as follows:

30 (F) THE SUPERINTENDENT SHALL APPROVE AND IMPLEMENT PROGRAMS TO ENCOUR-
31 AGE HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES AND MEDICAL MALPRAC-
32 TICE INSURERS TO PARTICIPATE IN HEALTH CARE PROVIDER HYGIENIC DRESS CODE
33 PROGRAMS. SUCH PROGRAMS MAY INCLUDE, BUT SHALL BE LIMITED TO, ENHANCED
34 COVERAGE LEVELS, REDUCTIONS IN DEDUCTIBLE LEVELS OR ACTUARIALLY APPRO-
35 PRIATE PREMIUM REDUCTION FOR INSURED HEALTH CARE PROVIDERS AND HEALTH
36 CARE FACILITIES WHICH HAVE IMPLEMENTED A SUCCESSFUL HEALTH CARE PRACTI-
37 TIONER DRESS CODE PROGRAM, PURSUANT TO TITLE SIX OF ARTICLE TWO OF THE
38 PUBLIC HEALTH LAW, WHICH IS APPROVED BY THE COMMISSIONER OF HEALTH.

39 S 4. Section 3436 of the insurance law, as added by chapter 266 of the
40 laws of 1986, is amended by adding a new subsection (f) to read as
41 follows:

42 (F) AN INSURER WHICH ISSUES POLICIES FOR PRIMARY LEVELS OF MEDICAL
43 MALPRACTICE INSURANCE SHALL UPON THE ISSUANCE OR RENEWAL THEREOF,
44 PROVIDE FOR PROGRAMS TO ENCOURAGE HEALTH CARE PROVIDERS, HEALTH CARE
45 FACILITIES AND MEDICAL MALPRACTICE INSURERS TO PARTICIPATE IN HEALTH
46 CARE PROVIDER HYGIENIC DRESS CODE PROGRAMS. SUCH PROGRAMS MAY INCLUDE,
47 BUT SHALL BE LIMITED TO, ENHANCED COVERAGE LEVELS, REDUCTIONS IN DEDUCT-
48 IBLE LEVELS OR ACTUARIALLY APPROPRIATE PREMIUM REDUCTION FOR INSURED
49 HEALTH CARE PROVIDERS AND HEALTH CARE FACILITIES WHICH HAVE IMPLEMENTED
50 A SUCCESSFUL HEALTH CARE PRACTITIONER DRESS CODE PROGRAM, PURSUANT TO
51 TITLE SIX OF ARTICLE TWO OF THE PUBLIC HEALTH LAW, WHICH IS APPROVED BY
52 THE COMMISSIONER OF HEALTH.

53 S 5. Section 5505 of the insurance law is amended by adding a new
54 subsection (e) to read as follows:

55 (E) THE ASSOCIATION'S RATES, RATING PLANS AND RATING CLASSIFICATIONS
56 SHALL PROVIDE FOR PROGRAMS TO ENCOURAGE HEALTH CARE PROVIDERS, HEALTH

1 CARE FACILITIES AND MEDICAL MALPRACTICE INSURERS TO PARTICIPATE IN
2 HEALTH CARE PROVIDER HYGIENIC DRESS CODE PROGRAMS. SUCH PROGRAMS MAY
3 INCLUDE, BUT SHALL BE LIMITED TO, ENHANCED COVERAGE LEVELS, REDUCTIONS
4 IN DEDUCTIBLE LEVELS OR ACTUARIALLY APPROPRIATE PREMIUM DISCOUNTS FOR
5 HEALTH CARE PROVIDERS AND HEALTH CARE FACILITIES WHICH HAVE IMPLEMENTED
6 A SUCCESSFUL HEALTH CARE PRACTITIONER DRESS CODE PROGRAM, PURSUANT TO
7 TITLE SIX OF ARTICLE TWO OF THE PUBLIC HEALTH LAW, WHICH IS APPROVED BY
8 THE COMMISSIONER OF HEALTH.
9 S 6. This act shall take effect on the first of January next succeed-
10 ing the date on which it shall have become a law and section one of this
11 act shall expire and be deemed repealed January 1, 2023.