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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MAGNARELLI, JAFFEE, MAISEL, SCHIMEL, MILLMAN,
COOK, GIBSON, HOOPER, WEPRIN -- Multi-Sponsored by -- M. of A.
BOYLAND, PERRY -- read once and referred 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 TITLE 6

4 HEALTH CARE PRACTITIONER HYGIENIC

5 DRESS CODE

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.

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

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(D) "HEALTH CARE PRACTITIONER" SHALL MEAN ANY PERSON LICENSED AS A PHYSICIAN PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW, PHYSICIAN ASSISTANT OR SPECIALIST ASSISTANT PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW, NURSE PURSUANT TO ARTICLE ONE HUNDRED THIRTY-NINE OF THE EDUCATION LAW, OR MIDWIFE PURSUANT TO ARTICLE ONE HUNDRED FORTY OF THE EDUCATION LAW.

2. STATE HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE COUNCIL. (A) THE STATE HEALTH CARE PRACTITIONER HYGIENIC DRESS CODE COUNCIL IS HEREBY ESTABLISHED IN THE DEPARTMENT TO BE AN EXPERT PANEL TO ADVISE THE COMMISSIONER AND THE COMMISSIONER OF EDUCATION ON: (I) THE BEST PRACTICES RELATED TO MITIGATING AND ELIMINATING THE SPREAD OF DISEASE, INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC IN HEALTH CARE FACILITIES BY MEANS OF THE UNHYGIENIC CLOTHING, JEWELRY AND HEALTH CARE FACILITY IDENTIFICATION TAGS WORN BY HEALTH CARE PRACTITIONERS AND THE CLEANING PERSONNEL OF SUCH FACILITIES, (II) THE PROMOTION OF BETTER AND COORDINATED POLICIES TO ENSURE BETTER HYGIENIC PRACTICES IN HEALTH CARE FACILITIES, AND (III) THE DEVELOPMENT OF GUIDELINES TO ASSIST THE EDUCATION DEPARTMENT IN ESTABLISHING MATERIALS AND CURRICULA TO BE USED IN PROVIDING CONTINUING EDUCATION PROGRAMS TO HEALTH CARE PRACTITIONERS ON THE USE OF A HYGIENIC DRESS CODE TO MINIMIZE THE SPREAD OF DISEASE, INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC.

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

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

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

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

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

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

(A) THE PROVISION OF EDUCATION AND INSTRUCTION TO PATIENTS AND HEALTH CARE PRACTITIONERS ON HOW ENHANCED SANITARY AND HYGIENIC POLICIES, INCLUDING THE USE OF HYGIENIC HEALTH CARE PRACTITIONER CLOTHING, ATTIRE AND A DRESS CODE, CAN HELP TO REDUCE THE RISK OF CROSS-INFECTION;

(B) ENCOURAGING HEALTH CARE FACILITIES TO PROVIDE ADEQUATE SUPPLIES OF CLEAN SCRUBS, OTHER ARTICLES OF CLOTHING AND HEALTH CARE FACILITY IDENTIFICATION TAGS TO HEALTH CARE PRACTITIONERS TO ENSURE FREQUENT CHANGES THEREOF;

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

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

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

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

4. HEALTH CARE PRACTITIONER HYGIENIC RESOURCE CENTERS. THE COMMISSIONER, IN CONSULTATION WITH THE COUNCIL, MAY DESIGNATE A HEALTH CARE PRACTITIONER HYGIENIC RESOURCE CENTER OR CENTERS. SUCH RESOURCE CENTER MAY BE STATEWIDE OR REGIONAL, AND SHALL ACT AS A SOURCE OF TECHNICAL SUPPORT, INFORMATION AND GUIDANCE FOR HEALTH CARE PRACTITIONERS AND HEALTH CARE FACILITIES ON THE LATEST STRATEGIES AND BEST PRACTICES WITH REGARD TO ESTABLISHING SANITARY AND HYGIENIC CONDITIONS FOR THE TREATMENT OF PATIENTS. THE DEPARTMENT, IN CONSULTATION WITH THE COUNCIL, MAY CONTRACT WITH NOT-FOR-PROFIT ORGANIZATIONS OR ASSOCIATIONS TO ESTABLISH AND MANAGE SUCH RESOURCE CENTERS. SUCH RESOURCE CENTERS MAY CHARGE A FEE TO HELP OFFSET THE COST OF PROVIDING SUCH SERVICES.

5. CONTINUING EDUCATION FOR HEALTH CARE PRACTITIONERS. THE COUNCIL, IN CONSULTATION WITH THE DEPARTMENT, THE EDUCATION DEPARTMENT AND HEALTH CARE PRACTITIONER PROFESSIONAL ORGANIZATIONS, SHALL DEVELOP, COMPILE AND PUBLISH INFORMATION AND COURSE MATERIALS ON SANITARY AND HYGIENIC PRACTICES THAT SHOULD BE FOLLOWED BY HEALTH CARE PRACTITIONERS AND HEALTH CARE FACILITIES TO MITIGATE AND ELIMINATE THE SPREAD OF DISEASE, INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC BY MEANS OF THE CLOTHING, JEWELRY AND HEALTH CARE FACILITY IDENTIFICATION TAGS WORN BY HEALTH CARE PRACTITIONERS AND THE CLEANING PERSONNEL OF SUCH FACILITIES. IN ADDITION, WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS TITLE, THE COUNCIL SHALL MAKE RECOMMENDATIONS TO THE EDUCATION DEPARTMENT FOR THE COURSE WORK, TRAINING AND CURRICULUM TO BE INCLUDED IN THE CONTINUING EDUCATION ON THE BEST PRACTICES, STRATEGIES AND APPROACHES RELATED TO MITIGATING AND ELIMINATING THE SPREAD OF DISEASE, INFECTION AND BACTERIA TO PATIENTS, VISITORS AND THE GENERAL PUBLIC IN HEALTH CARE FACILITIES BY MEANS OF THE CLOTHING, JEWELRY AND HEALTH CARE FACILITY IDENTIFICATION TAGS WORN BY HEALTH CARE PRACTITIONERS AND THE CLEANING PERSONNEL OF SUCH FACILITIES.

6. REPORT. ON OR BEFORE MARCH FIRST OF EACH EVEN NUMBERED YEAR, THE COUNCIL SHALL SUBMIT TO THE GOVERNOR, THE COMMISSIONER, THE COMMISSIONER OF EDUCATION, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, AND THE CHAIRS OF THE SENATE AND ASSEMBLY COMMITTEES ON HEALTH A REPORT ON ITS ACTIVITIES AND ACCOMPLISHMENTS PURSUANT TO THIS ARTICLE RELATING TO SANITARY AND HYGIENIC CONDITIONS IN HEALTH CARE FACILITIES.

1 SUCH REPORT MAY ALSO INCLUDE SUCH LEGISLATIVE PROPOSALS AS IT DEEMS
2 NECESSARY TO MORE EFFECTIVELY IMPLEMENT THE PROVISIONS OF THIS TITLE.

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

6 b. Review qualifications in connection with licensing requirements;
7 [and]

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

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

19 (II) FOR THE PURPOSES OF THIS PARAGRAPH:

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

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

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

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

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

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

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

1 (E) THE ASSOCIATION'S RATES, RATING PLANS AND RATING CLASSIFICATIONS
2 SHALL PROVIDE FOR PROGRAMS TO ENCOURAGE HEALTH CARE PROVIDERS, HEALTH
3 CARE FACILITIES AND MEDICAL MALPRACTICE INSURERS TO PARTICIPATE IN
4 HEALTH CARE PROVIDER HYGIENIC DRESS CODE PROGRAMS. SUCH PROGRAMS MAY
5 INCLUDE, BUT SHALL BE LIMITED TO, ENHANCED COVERAGE LEVELS, REDUCTIONS
6 IN DEDUCTIBLE LEVELS OR ACTUARIALLY APPROPRIATE PREMIUM DISCOUNTS FOR
7 HEALTH CARE PROVIDERS AND HEALTH CARE FACILITIES WHICH HAVE IMPLEMENTED
8 A SUCCESSFUL HEALTH CARE PRACTITIONER DRESS CODE PROGRAM, PURSUANT TO
9 TITLE SIX OF ARTICLE TWO OF THE PUBLIC HEALTH LAW, WHICH IS APPROVED BY
10 THE COMMISSIONER OF HEALTH.

11 S 6. This act shall take effect on the first of January next succeed-
12 ing the date on which it shall have become a law and section one of this
13 act shall expire and be deemed repealed January 1, 2023.