

1197

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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;

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

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1 (III) IF THE EMERGENCY SERVICES ARE PROVIDED BY A NON-PARTICIPATING
2 PROVIDER, WITHOUT IMPOSING ANY ADMINISTRATIVE REQUIREMENT OR LIMITATION
3 ON COVERAGE THAT IS MORE RESTRICTIVE THAN THE REQUIREMENTS OR LIMITA-
4 TIONS THAT APPLY TO EMERGENCY SERVICES RECEIVED FROM PARTICIPATING
5 PROVIDERS; AND

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

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

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

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

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

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