S T A T E O F N E W Y O R K

2215--A

2013-2014 Regular Sessions

I N S E N A T E

January 14, 2013

Introduced by Sens. CARLUCCI, LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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:

Section 1. This act shall be known and may be cited as "Jaden's law".

S 2. Subdivision 1 of section 207 of the public health law is amended by adding a new paragraph (j) to read as follows:

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

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

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

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

(B) WHO THE PHYSICIAN ANTICIPATES WILL BE ADMITTED TO A HOSPITAL FOR AN ELECTIVE ORTHOPEDIC PROCEDURE OR TREATMENT OR OTHERWISE BELIEVES IS AN APPROPRIATE CANDIDATE FOR BONE MARROW OR PBSC DONATION; OR FOR WHOM THE PHYSICIAN OTHERWISE BELIEVES BONE MARROW OR PBSC DONATION IS APPROPRIATE TO THE PATIENT'S MEDICAL CIRCUMSTANCES OR IS DESIRED BY THE PATIENT.

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

LBD00729-04-4

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

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

S 4. Section 4310 of the public health law, as amended by chapter 639 of the laws of 2006, the section heading as separately amended by chapter 640 of the laws of 2006, subdivisions 1 and 3 as amended by chapter 158 of the laws of 2012 and subdivision 2 as separately amended by chapters 158 and 465 of the laws of 2012, is amended to read as follows:

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

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

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

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

3. (a) Information contained in the registry shall be accessible to (i) federally designated organ procurement organizations, FEDERALLY REGULATED BONE MARROW OR PERIPHERAL BLOOD STEM CELL PROCUREMENT ORGANIZATIONS, IN APPROPRIATE CASES, (ii) eye and tissue banks licensed by the department pursuant to article forty-three-B of this chapter, and (iii) any other entity formally approved by the commissioner.

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

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

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

4. If the department had an established registry prior to the effective date of this section, it shall be deemed to meet the requirements of this section.

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

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

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

8. THE REGISTRATION OF BONE MARROW OR PERIPHERAL BLOOD STEM CELL DONORS SHALL BE FOR THE PURPOSE OF IDENTIFYING THE DONORS AND TRANSFERRING THEIR REGISTRATION INFORMATION TO A FEDERALLY REGULATED BONE MARROW OR PERIPHERAL BLOOD STEM CELL PROCUREMENT AGENCY.

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

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

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

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