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

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I N A S S E M B L Y

March 28, 2016

Introduced by M. of A. GUNTHER, GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring applications for health insurance offered through the state health benefit exchange to include a registration for the donate life registry for organ, eye and tissue donations

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

Section 1. Subdivision 1 of section 206 of the public health law is amended by adding a new paragraph (v) to read as follows:

(V) REQUIRE, IN CONSULTATION AND COOPERATION WITH THE SUPERINTENDENT OF FINANCIAL SERVICES, THAT EVERY APPLICATION FOR A QUALIFIED HEALTH PLAN OFFERED THROUGH THE STATE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT (P.L. 111-148), AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010 (P.L. 111-152), PROVIDE SPACE SO THAT THE APPLICANT MAY REGISTER IN THE "DONATE LIFE REGISTRY" FOR ORGAN, EYE AND TISSUE DONATIONS UNDER SECTION FORTY-THREE HUNDRED TEN OF THIS CHAPTER WITH THE FOLLOWING STATED ON THE APPLICATION IN CLEAR 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". EXCEPT WHERE THE APPLICATION IS MADE IN PERSON OR ELECTRONICALLY, 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.

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

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S 2. Paragraph (a) of subdivision 5 of section 4310 of the public health law, as amended by section 27 of part A of chapter 60 of the laws of 2014, is amended to read as follows:

(a) Such organ, eye and tissue registration of consent to make an anatomical gift can be made through: (i) indication made on the application or renewal form of a driver's license, (ii) indication made on a non-driver identification card application or renewal form, (iii) indication made on a voter registration form pursuant to subdivision five of section 5-210 of the election law, (iv) INDICATION MADE ON THE APPLICATION FOR A QUALIFIED HEALTH PLAN OFFERED THROUGH THE STATE HEALTH BENEFIT EXCHANGE, (V) enrollment through the donate life registry website, [(v)] (VI) paper enrollment submitted to the donate life registry, or [(vi)] (VII) through any other method identified by the commissioner.

S 3. Subparagraph (i) of paragraph (b) of subdivision 5 of section 4310 of the public health law, as amended by section 27 of part A of chapter 60 of the laws of 2014, is amended to read as follows:

(i) Where required by law for registration forms described in subparagraphs (i) [and], (ii) AND (IV) of paragraph (a) of this subdivision, the commissioner shall ensure that space is provided on any registration form so that the applicant shall register or decline registration in the donate life registry for organ, eye 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'."

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Provided, that, effective immediately, any actions necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date. Provided, further, that the amendments to subdivision 5 of section 4310 of the public health law, made by sections two and three of this act, shall not affect the expiration of such subdivision, and shall expire and be deemed repealed therewith.