

6081--A

2015-2016 Regular Sessions

I N S E N A T E

October 30, 2015

Introduced by Sens. HANNON, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing within the department of health a health care proxy registry

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

1 Section 1. Section 2980 of the public health law is amended by adding
2 a new subdivision 16 to read as follows:
3 16. "HEALTH CARE PROXY REGISTRY" OR "REGISTRY" MEANS THE HEALTH CARE
4 PROXY REGISTRY ESTABLISHED BY SECTION TWENTY-NINE HUNDRED EIGHTY-SIX-A
5 OF THIS ARTICLE.
6 S 2. Subdivision 1 of section 2984 of the public health law, as added
7 by chapter 752 of the laws of 1990, is amended to read as follows:
8 1. (A) A health care provider who is provided with a health care proxy
9 shall arrange for the proxy or a copy thereof to be inserted in the
10 principal's medical record if the health care proxy has not been
11 included in such record.
12 (B) WHERE THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION HAVE NOT
13 BEEN MET AND THE REQUIREMENTS OF SECTION TWENTY-NINE HUNDRED
14 EIGHTY-THREE OF THIS ARTICLE HAVE BEEN SATISFIED, AN ATTENDING PHYSICIAN
15 OR HEALTH CARE PROVIDER SHALL CONTACT THE REGISTRY TO DETERMINE WHETHER
16 THE INDIVIDUAL HAS TRANSMITTED A HEALTH CARE PROXY TO THE REGISTRY. IN
17 THE EVENT SUCH INDIVIDUAL HAS TRANSMITTED HIS OR HER HEALTH CARE PROXY
18 TO THE REGISTRY, SUCH HEALTH CARE PROXY OR A COPY THEREOF SHALL BE
19 INSERTED IN THE PRINCIPAL'S MEDICAL RECORD.
20 S 3. The public health law is amended by adding a new section 2986-a
21 to read as follows:

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

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1 S 2986-A. HEALTH CARE PROXY REGISTRY. 1. DEFINITIONS. FOR THE PURPOSES
2 OF THIS SECTION, "HEALTH CARE PROXY" OR "HEALTH CARE PROXIES" SHALL MEAN
3 A HEALTH CARE PROXY OR HEALTH CARE PROXIES PROPERLY EXECUTED PURSUANT TO
4 THIS ARTICLE.

5 2. HEALTH CARE PROXY REGISTRY; ESTABLISHMENT. THE DEPARTMENT SHALL
6 ESTABLISH A HEALTH CARE PROXY REGISTRY, WHICH SHALL MAINTAIN HEALTH CARE
7 PROXIES SUBMITTED TO SUCH REGISTRY PURSUANT TO THIS SECTION AND PROVIDE
8 ACCESS TO SUCH REGISTRY BY ATTENDING PHYSICIANS, HEALTH CARE PROVIDERS
9 AND THE PRINCIPAL OF A HEALTH CARE PROXY.

10 3. TRANSMISSION OF HEALTH CARE PROXY TO THE REGISTRY. AN INDIVIDUAL,
11 REGARDLESS OF HIS OR HER RESIDENCY, MAY TRANSMIT HIS OR HER HEALTH CARE
12 PROXY TO THE DEPARTMENT FOR PLACEMENT IN THE REGISTRY. SUCH TRANSMISSION
13 MAY BE VIA FIRST CLASS MAIL OR IN ANY OTHER MANNER PRESCRIBED BY THE
14 DEPARTMENT IN REGULATION.

15 4. ACCESS TO THE REGISTRY. THE DEPARTMENT SHALL ESTABLISH A STRAIGHT-
16 FORWARD, EASILY ACCESSIBLE MECHANISM TO PROVIDE HEALTH CARE PROVIDERS
17 AND THE PRINCIPAL OF A HEALTH CARE PROXY ACCESS TO THE REGISTRY. SUCH
18 ACCESS MAY BE THROUGH A WEBSITE-BASED SYSTEM OR A TOLL-FREE CALLING
19 SYSTEM. SUCH REGISTRY SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS AND
20 REGULATIONS RELATED TO MAINTAINING THE PRIVACY AND CONFIDENTIALITY OF
21 RECORDS CONTAINED WITHIN THE REGISTRY.

22 5. REVOCATION OR MODIFICATION OF A HEALTH CARE PROXY. WHEN AN INDIVID-
23 UAL HAS REVOKED OR MODIFIED HIS OR HER HEALTH CARE PROXY, IT SHALL BE
24 SUCH INDIVIDUAL'S RESPONSIBILITY TO NOTIFY THE REGISTRY OF SUCH REVOCATION,
25 OR TO TRANSMIT TO THE REGISTRY SUCH MODIFIED REGISTRY.

26 6. LIABILITY. NEITHER THE DEPARTMENT, NOR THE REGISTRY, SHALL BE
27 CIVILLY OR CRIMINALLY LIABLE FOR PROVIDING, UPON REQUEST, A HEALTH CARE
28 PROXY TO AN ATTENDING HEALTH CARE PROVIDER, IF SUCH HEALTH CARE PROXY
29 BEING PROVIDED PURSUANT TO THIS SECTION HAS BEEN REVOKED OR MODIFIED
30 PURSUANT TO THIS ARTICLE BY THE INDIVIDUAL FOR WHOM THE HEALTH CARE
31 PROXY HAS BEEN CREATED AND SUCH INDIVIDUAL HAS FAILED TO TRANSMIT TO THE
32 REGISTRY PURSUANT TO THIS SECTION NOTIFICATION OF SUCH REVOCATION OR, AS
33 THE CASE MAY BE, FAILED TO TRANSMIT PURSUANT TO THIS SECTION SUCH MODI-
34 FIED HEALTH CARE PROXY.

35 S 4. The department of health shall promulgate regulations to imple-
36 ment the provisions of this act, which shall include, at a minimum,
37 provisions affording attending health care providers reasonable opportu-
38 nity to contact the health care proxy registry, at no cost to the health
39 care provider.

40 S 5. This act shall take effect on the one hundred eightieth day after
41 it shall have become a law; provided that, effective immediately, any
42 rules and regulations necessary to implement the provisions of this act
43 on its effective date are authorized and directed to be completed on or
44 before such effective date.