STATE OF NEW YORK

5344--A

2017-2018 Regular Sessions

IN SENATE

March 22, 2017

Introduced by Sens. HANNON, AVELLA, BOYLE -- (at request of the Department of Health) -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to incorporating additional information in the physician profile and streamlining reporting requirements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 2995-a of the public health law, as added by chapter 542 of the laws of 2000, paragraph (h) as amended by section 1 of part A of chapter 57 of the laws of 2015, is amended to read as follows:

1. The department shall collect the following information and create individual profiles on licensees subject to the authority of the office of professional medical conduct, in a format that shall be available for dissemination to the public:

(a) a statement of any criminal convictions (as defined by section 1.20 of the criminal procedure law) within the most recent ten years, under the laws of New York state or any other jurisdiction, for offenses specified by regulations of the department;

(b) a statement of any action (other than an action that remains confidential) taken against the licensee pursuant to section two hundred thirty of this chapter or any similar action taken by any other state or licensing entity, within the most recent ten years;

(c) a statement of any current limitation of the licensee to a specified area, type, scope or condition of practice;

(d) a statement of any loss or involuntary restriction of hospital privileges or a failure to renew professional privileges at hospitals within the last ten years, for reasons related to the quality of patient

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

LBD10164-03-7

care delivered or to be delivered by the physician where procedural due process has been afforded, exhausted, or waived, or the resignation from or removal of medical staff membership or restriction of privileges at a hospital taken in lieu of a pending disciplinary case related to the quality of patient care delivered or to be delivered by the physician (notwithstanding paragraph (a) of subdivision three of section twenty-eight hundred three-e of this chapter, as added by chapter eight hundred sixty-six of the laws of nineteen hundred eighty);

(e) (i) a statement indicating the number of medical malpractice court judgments and arbitration awards within the most recent ten years in which a payment is awarded to a complaining party (notwithstanding subsection (f) of section three hundred fifteen of the insurance law); and

(ii) a statement indicating all malpractice settlements within the most recent ten years in which payment is awarded to a complaining party (notwithstanding subsection (f) of section three hundred fifteen of the insurance law),

(A) if the total number of settlements exceeds two; or

(B) if the commissioner determines any such settlement could be relevant to patient decisionmaking concerning health care quality. The statement shall include the following: "Settlement payments will appear in this profile only if the total number of settlements made within the past ten years exceeds two, or if the commissioner of health determines a settlement to be relevant to patient decisionmaking. Settlement of a claim may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim does not necessarily mean that a medical malpractice has occurred." The commissioner may supplement such statement as may be appropriate.

(iii) judgments, awards and settlements shall be reported in graduated categories indicating the level of significance, date and place of the judgment, award or settlement. Information concerning medical malpractice judgments, awards and settlements shall be put in context by comparing an individual licensee's medical malpractice settlements to the experience of other physicians in New York state within the same board specialty. Pending malpractice claims shall not be disclosed to the public under this section. Nothing herein shall be construed to prevent the board from investigating or disciplining a licensee on the basis of medical malpractice claims that are pending;

(f) name of medical schools attended and date of graduations;

(g) graduate medical education;

(h) current specialty board certification and date of certification;

(i) dates admitted to practice in New York state;

(j) names of hospitals where the licensee has practice privileges;

(k) appointments to medical school faculties and indication as to whether a licensee has had a responsibility for graduate medical education within the most recent ten years;

(l) information regarding publications in peer reviewed medical literature within the most recent ten years;

(m) information regarding professional or community service activities or awards;

(n) (i) the location of the licensee's primary practice setting identified as such; [~~and~~]

(ii) [~~the names of any licensed physicians with whom the licensee shares a group practice, as defined in subdivision five of section two~~

~~hundred thirty-eight of this chapter~~] **hours of operation of the licensee's primary practice setting**;

(iii) availability of assistive technology at the licensee's primary practice setting; and

(iv) whether the licensee is accepting new patients;

(o) the identification of any translating services that may be available at the licensee's primary practice location;

(p) whether the licensee participates in the medicaid or medicare program or any other state or federally financed health insurance program; [~~and~~]

(q) health care plans with which the licensee has contracts, employment, or other affiliation[~~.~~] **provided that the reporting of such information shall not be the responsibility of the physician, but shall be included and updated by the department utilizing provider network participation information, or other reliable sources of information submitted by health care plans;**

(r) physician's website and social media accounts;

(s) the names of any licensed physicians with whom the licensee shares a group practice, as defined in subdivision five of section two hundred thirty-eight of this chapter; and

(t) workforce research and planning information as determined by the commissioner.

§ 2. Section 2995-a of the public health law is amended by adding a new subdivision 1-b to read as follows:

1-b. (a) For the purposes of this section, a physician licensed and registered to practice in this state may authorize a designee to register, transmit, enter or update information on his or her behalf, provided that:

(i) the designee so authorized is employed by the physician or the same professional practice or is under contract with such practice;

(ii) the physician takes reasonable steps to ensure that such designee is sufficiently competent in the profile requirements;

(iii) the physician remains responsible for ensuring the accuracy of the information provided and for any failure to provide accurate information; and

(iv) the physician shall notify the department upon terminating the authorization of any designee, in a manner determined by the department.

(b) The commissioner shall grant access to the profile in a reasonably prompt manner to designees authorized by physicians and establish a mechanism to prevent designees terminated pursuant to subparagraph (iv) of paragraph (a) of this subdivision from accessing the profile in a reasonably prompt manner following notification of termination.

§ 3. Subdivision 4 of section 2995-a of the public health law, as amended by section 3 of part A of chapter 57 of the laws of 2015, is amended to read as follows:

4. Each physician shall periodically report to the department on forms and in the time and manner required by the commissioner any other information as is required by the department for the development of profiles under this section which is not otherwise reasonably obtainable. In addition to such periodic reports and providing the same information, each physician shall update his or her profile information within the six months prior to [~~the expiration date of such physician's registration period~~] **submission of the re-registration application**, as a condition of registration renewal [~~under article one hundred thirty-one~~] **pursuant to section sixty-five hundred twenty-four** of the education law. Except for optional information provided **and information required under**

paragraph (t) of subdivision one of this section, physicians shall notify the department of any change in the profile information within thirty days of such change.

§ 4. Subdivision 6 of section 2995-a of the public health law, as added by chapter 542 of the laws of 2000, is amended to read as follows:

6. A physician may elect to have his or her profile omit certain information provided pursuant to paragraphs **(k),** (l), (m), [~~(n) and (q)~~] **(r), and (s)** of subdivision one of this section. **Information provided pursuant to paragraph (t) of subdivision one of this section shall be omitted from a physician's profile.** In collecting information for such profiles and disseminating the same, the department shall inform physicians that they may choose not to provide such information required pursuant to paragraphs **(k),** (l), (m), [~~(n) and (q)~~] **(r), and (s)** of subdivision one of this section.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.