

# STATE OF NEW YORK

3336

2019-2020 Regular Sessions

## IN SENATE

February 5, 2019

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

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 § 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 eighty-  
14 three of this article have been satisfied, an attending physician or  
15 health care provider shall contact the registry to determine whether the  
16 individual has transmitted a health care proxy to the registry. In the  
17 event such individual has transmitted his or her health care proxy to  
18 the registry, such health care proxy or a copy thereof shall be inserted  
19 in the principal's medical record.

20 § 3. The public health law is amended by adding a new section 2986-a  
21 to read as follows:

22 § 2986-a. Health care proxy registry. 1. Definitions. For the purposes  
23 of this section, "health care proxy" or "health care proxies" shall mean  
24 a health care proxy or health care proxies properly executed pursuant to  
25 this article.

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

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1     2. Health care proxy registry; establishment. The department shall  
2     establish a health care proxy registry, which shall maintain health care  
3     proxies submitted to such registry pursuant to this section and provide  
4     access to such registry by attending physicians, health care providers  
5     and the principal of a health care proxy.

6     3. Transmission of health care proxy to the registry. An individual,  
7     regardless of his or her residency, may transmit his or her health care  
8     proxy to the department for placement in the registry. Such transmission  
9     may be via first class mail or in any other manner prescribed by the  
10    department in regulation.

11    4. Access to the registry. The department shall establish a straight-  
12    forward, easily accessible mechanism to provide health care providers  
13    and the principal of a health care proxy access to the registry. Such  
14    access may be through a website-based system or a toll-free calling  
15    system. Such registry shall comply with all state and federal laws and  
16    regulations related to maintaining the privacy and confidentiality of  
17    records contained within the registry.

18    5. Revocation or modification of a health care proxy. When an individ-  
19    ual has revoked or modified his or her health care proxy, it shall be  
20    such individual's responsibility to notify the registry of such revoca-  
21    tion, or to transmit to the registry such modified registry.

22    6. Liability. Neither the department, nor the registry, shall be  
23    civilly or criminally liable for providing, upon request, a health care  
24    proxy to an attending health care provider, if such health care proxy  
25    being provided pursuant to this section has been revoked or modified  
26    pursuant to this article by the individual for whom the health care  
27    proxy has been created and such individual has failed to transmit to the  
28    registry pursuant to this section notification of such revocation or, as  
29    the case may be, failed to transmit pursuant to this section such modi-  
30    fied health care proxy.

31    § 4. The department of health shall promulgate regulations to imple-  
32    ment the provisions of this act, which shall include, at a minimum,  
33    provisions affording attending health care providers reasonable opportu-  
34    nity to contact the health care proxy registry, at no cost to the health  
35    care provider.

36    § 5. This act shall take effect on the one hundred eightieth day after  
37    it shall have become a law. Effective immediately, any rules and regu-  
38    lations necessary to implement the provisions of this act on its effec-  
39    tive date are authorized and directed to be completed on or before such  
40    effective date.