STATE OF NEW YORK

3708

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. GUNTHER, PAULIN, HUNTER, SEAWRIGHT, McMAHON, BUTTENSCHON, M. MILLER, HAWLEY -- Multi-Sponsored by -- M. of A. BARCLAY -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to authorizing a nursing home patient to install, operate and maintain an electronic monitoring device in his or her room

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

Section 1. Subdivision 3 of section 2803-c of the public health law is amended by adding a new paragraph r to read as follows:

r.(i) Subject to regulations promulgated by the commissioner, every patient, or in the case of a patient who lacks capacity to consent, the patient's lawful representative, shall have the right, at his or her own expense, to install, operate and maintain an electronic monitoring device in the patient's room, provided that:

(A) the electronic monitoring device shall only capture picture or video of the patient's personal space;

(B) audio capture shall require written consent from all roommate patients, or their lawful representatives, whose privacy may reasonably be affected; if no such consent is received, the electronic monitoring device shall only capture picture or silent video; and

(C) A report on the installation of an electronic monitoring device including all required consent received shall be maintained by the facility administrator as part of the patient record.

(ii) For the purposes of this section, the following terms shall have the following meanings:

(A) "electronic monitoring device" means a surveillance instrument with a video camera or an audio recording device, or a combination thereof, which is installed in a patient's room and transmits to a specific recipient or records activity or sounds occurring in the room; and

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

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(B) "patient's personal space" means the space in the the patient's room including and immediately surrounding the patient's bed, furniture, equipment the patient's effects and possessions, and shall not include the personal space of a roommate patient.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.