

# STATE OF NEW YORK

6926

2021-2022 Regular Sessions

## IN SENATE

May 20, 2021

Introduced by Sen. MAY -- 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 educating nursing home residents about the role of legal counsel in applying for Medicaid benefits

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

1 Section 1. The public health law is amended by adding a new section  
2 2803-z to read as follows:

3 § 2803-z. Notices regarding legal representation. 1. The operator of a  
4 residential health care facility shall provide each resident and the  
5 resident's designated representative, at the time of admission to the  
6 facility, a notice, separate from the admission agreement but to be  
7 acknowledged by the resident and the resident's designated represen-  
8 tative at the same time as an admission agreement, which is typed or  
9 printed using letters which are legible or of clear type no less than  
10 twelve point in size, which provides as follows:

11 "YOU HAVE THE OPTION TO HIRE AN ATTORNEY TO ASSIST WITH APPLYING FOR  
12 MEDICAID: New York State does not mandate that a Medicaid applicant  
13 obtain the assistance of an attorney when completing the Medicaid appli-  
14 cation. There are non-legal agencies and companies, including arms and  
15 affiliates of hospitals and nursing homes, which may offer to prepare  
16 and submit the Medicaid application for free or for a reduced fee. These  
17 entities are not permitted to give legal advice or implement legal stra-  
18 tegies that may best protect your interests, and they are not obligated  
19 to advise you of your rights. Moreover, these entities may have  
20 conflicts of interest. Relying on a non-legal service might expose you  
21 and your family to unnecessary financial risk. You may, however, seek  
22 the assistance of an attorney who is knowledgeable about elder law and  
23 Medicaid eligibility rules. If you wish to identify such an attorney,

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

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1 you may contact the State or local Bar Association attorney referral  
2 service."

3 2. The operator of a residential health care facility shall prominent-  
4 ly display the notice described in subdivision one of this section at  
5 the facility and shall make a copy of such notice available at the same  
6 time and in the same manner that a residency agreement is provided  
7 pursuant to section twenty-eight hundred three-y of this article.

8 § 2. This act shall take effect on the ninetieth day after it shall  
9 have become a law.