STATE OF NEW YORK

1885

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PERRY -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to clarifying what constitutes abandonment of a patient by a physician for purposes of a medical misconduct allegation, and requiring a physician practicing as a patient's primary care physician who opts to no longer treat the patient to provide notice to such patient

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

Section 1. Subdivision 30 of section 6530 of the education law, as added by chapter 606 of the laws of 1991, is amended and a new subdivision 51 is added to read as follows:

30. Abandoning or neglecting a patient under [~~and~~] **the physician's care including, but not limited to, patients** in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;

51. Failing to comply with the provisions of subdivision ten of section sixty-five hundred twenty-seven of this title.

§ 2. Section 6527 of the education law is amended by adding a new subdivision 10 to read as follows:

10. (a) If a licensed physician having established a primary care relationship with a patient chooses to no longer treat the patient in the capacity as the patient's primary care physician, such physician shall provide notice to the patient not less than ninety days prior to the cessation of the provision of services. Such notice shall include information as to how the patient can obtain his or her medical records or how the records can be transferred to another physician. The physician may include in the notice information identifying other physicians

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

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or medical groups which he or she recommends the patient consider as his or her next primary care physician. The notice shall be considered a formal action and shall be provided to the individual in the form of mail, email or phone; provided that a written record noting when and how the patient was contacted shall be maintained for a period of not less than three years, and shall be noted in such patient's medical records. If the patient was contacted by phone, the record shall reflect whether the physician was successful in speaking with the patient.

(b) For the purposes of this subdivision:

(i) the term "primary care physician" shall mean a physician duly licensed to practice medicine and who consents to being a patient's first contact when such patient has a health concern, who provides continuing care to such patient for various medical conditions, and who, having established a relationship with the patient in which the physician treats such patient during regularly scheduled doctor-patient visits, provides services, including, but not limited to, an annual physical.

(ii) a "primary care relationship" between a patient and a physician shall be deemed to exist where (1) a verbal or written agreement exists between a patient and a physician, under which such physician has agreed to serve as such patient's primary care physician; or (2) the physician seeing the patient has developed a relationship wherein such physician provides the patient medical care that includes, but is not limited to, diagnostic services, prescribing medication, and treating illness during non-hospital visits for medical services.

§ 3. The public health law is amended by adding a new section 230-a-1 to read as follows:

§ 230-a-1. Specific penalties for professional misconduct. Notwithstanding the provisions of section two hundred thirty-a of this title, or any other provision of law to the contrary, the state board for professional medical conduct shall impose on a present or former licensee found guilty of a violation of subdivision thirty or fifty-one of section sixty-five hundred thirty of the education law the following penalties:

1. For a first violation, a ninety-day suspension of the license of such licensee, as applicable, and a fine of ten thousand dollars.

2. For each subsequent violation, the penalty shall be determined by the state board for professional medical misconduct, but shall not be less than a ninety-day suspension of the license of such licensee, as applicable, and a fine of not less than ten thousand dollars.

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