STATE OF NEW YORK

1172--C

Cal. No. 111

2021-2022 Regular Sessions

IN SENATE

January 7, 2021

Introduced by Sens. RIVERA, JACKSON, MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to the provision of informed consent

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

Section 1. Paragraph (g) of subdivision 1 of section 2803 of the public health law, as added by chapter 2 of the laws of 1988, is amended to read as follows:

(g) The commissioner shall require that every general hospital adopt and make public an identical statement of the rights and responsibilities of patients, **in accordance with applicable law,** including**, but not limited to:**

(i) a patient complaint and quality of care review process[~~,~~]**;**

(ii) a right to receive all information necessary to give informed consent for any proposed intervention, procedure, or treatment, including information regarding the foreseeable and clinically significant risks and benefits of the proposed intervention, procedure, or treatment;

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

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(iii) a right to receive complete information regarding the patient's condition, prognosis, and clinical indications for the proposed intervention, procedure, or treatment;

(iv) a right to receive information regarding alternative treatment options including the foreseeable and clinically significant risks and benefits of such alternative treatment options, taking into consideration any known preconditions;

(v) a right to be informed of the name, position, and functions of any persons, including medical students and physicians exempt from New York state licensure pursuant to section sixty-five hundred twenty-six of the education law, who provide face-to-face care to or direct observation of the patient;

(vi) a right to refuse the proposed intervention, procedure, or treatment and to be informed of the clinical effects of such refusal;

(vii) a right to meaningfully engage and participate in the informed consent process, which shall mean, but not be limited to, affording the patient or their representative time to ask questions and have them answered satisfactorily to the extent reasonable;

(viii) a right to be informed of any human subjects research that the attending physician taking care of the patient participates in and may directly affect a procedure or treatment to be received by the patient, and to provide voluntary written informed consent to participate, should the patient be an appropriate candidate for such human subjects research in the clinical judgment of the attending physician. The informed consent referred to here shall conform with federal requirements regarding protection for human research subjects, and any other applicable laws or regulations;

(ix) a right to an appropriate patient discharge plan; and

(x) for patients other than beneficiaries of title XVIII of the federal social security act (medicare), a right to a discharge review in accordance with section twenty-eight hundred three-i of this article. The form and content of such statement shall be determined in accordance with rules and regulations adopted by the council and approved by the commissioner. A patient who requires continuing health care services in accordance with such patient's discharge plan may not be discharged until such services are secured or determined by the hospital to be reasonably available to the patient. Each general hospital shall give a copy of the statement to each patient, or the appointed personal representative of the patient at or prior to the time of admission to the general hospital, as long as the patient or the appointed personal representative of the patient receives such notice no earlier than fourteen days before admission. Such statement shall also be conspicuously posted by the hospital and shall be a part of the patient's admission package. Nothing herein contained shall be construed to limit any authority vested in the commissioner pursuant to this article related to the operation of hospitals and care and services provided to patients.

§ 2. This act shall take effect on the first of January next succeeding the date on which 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.