STATE OF NEW YORK

436

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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

AN ACT to amend the civil practice law and rules, in relation to permitting grand jury inspection of medical records pursuant to subpoena duces tecum powers

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

Section 1. Paragraph 2 of subdivision (a) of rule 3122 of the civil practice law and rules, as added by chapter 307 of the laws of 2011, is amended to read as follows:

2. A medical provider served with a subpoena duces tecum, other than a trial subpoena issued by a court **or a subpoena issued on behalf of a grand jury and subscribed by a magistrate from the court which empaneled said grand jury**, requesting the production of a patient's medical records pursuant to this rule need not respond or object to the subpoena if the subpoena is not accompanied by a written authorization by the patient. Any subpoena served upon a medical provider requesting the medical records of a patient shall state in conspicuous bold-faced type that the records shall not be provided unless **(i)** the subpoena is accompanied by a written authorization by the patient, [~~or~~] **(ii)** the court has issued the subpoena or otherwise directed the production of the documents**, or (iii) a magistrate from the court which empaneled a grand jury has subscribed the subpoena issued on behalf of the grand jury**.

§ 2. Section 4504 of the civil practice law and rules is amended by adding a new subdivision (b-1) to read as follows:

(b-1) Crime committed against patient; generally. A physician, dentist, podiatrist, chiropractor, nurse, as well as the entities and organizations included in subdivision (a) of this section, shall be required to disclose information regarding a patient who has been a victim of a crime and directly pertaining to such crime as reasonably

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

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specified in: (i) a trial subpoena issued by a court; or (ii) a subpoena issued on behalf of a grand jury and subscribed by a magistrate from the court which empaneled said grand jury.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.