

STATE OF NEW YORK

7079

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to allowing patients to register in the "donate life registry" through their electronic health records

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

1 Section 1. Paragraph (v) of subdivision 1 of section 206 of the public
2 health law, as added by chapter 40 of the laws of 2016, is amended and a
3 new paragraph (w) is added to read as follows:

4 (v) require, in consultation and cooperation with the superintendent
5 of financial services, that every individual applying for health care
6 coverage through the state health benefit exchange established pursuant
7 to the federal Patient Protection and Affordable Care Act (P.L.
8 111-148), as amended by the federal Health Care and Education Reconcil-
9 iation Act of 2010 (P.L. 111-152), be provided space so that such appli-
10 cant may register in the "donate life registry" for organ, eye and
11 tissue donations under section forty-three hundred ten of this chapter
12 with the following stated in clear conspicuous type:

13 "Would you like to be added to the Donate Life Registry? Check box for
14 'yes' or 'skip this question'."

15 The commissioner shall not maintain records of any person who checks
16 "skip this question". Except where the application is made in person or
17 electronically, failure to check a box shall not impair the validity of
18 an application, and failure to check "yes" or checking "skip this ques-
19 tion" shall not be construed to imply a wish not to donate. In the case
20 of an applicant under eighteen years of age, checking "yes" shall not
21 constitute consent to make an anatomical gift or registration in the
22 donate life registry, except as otherwise provided pursuant to the
23 provisions of paragraph (b) of subdivision one of section forty-three
24 hundred one of this chapter. Where an applicant has previously consented

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

LBD11125-01-3

1 to make an anatomical gift or registered in the donate life registry,
2 checking "skip this question" or failing to check a box shall not impair
3 that consent or registration.

4 (w) require that every electronic health record vendor include and
5 integrate components into their electronic health record products imple-
6 mented for general hospitals in the state regulated under article twen-
7 ty-eight of this chapter in such a manner to allow patients to register
8 in the "donate life registry" for organ, eye and tissue donations as
9 provided for under section forty-three hundred ten of this chapter.
10 Electronic health record vendors shall provide the integration of such
11 elements without additional cost under this paragraph as a component of
12 either existing or new implementations of their electronic health record
13 products. Patient facing elements of these requirements shall include
14 opportunities for patients to directly register in the "donate life
15 registry" for organ, eye and tissue donations as a component of such
16 elements.

17 § 2. Paragraph (a) of subdivision 5 of section 4310 of the public
18 health law, as amended by chapter 37 of the laws of 2022, is amended to
19 read as follows:

20 (a) Such organ, eye and tissue registration of consent to make an
21 anatomical gift can be made through: (i) indication made on the applica-
22 tion or renewal form of a driver's license, (ii) indication made on a
23 non-driver identification card application or renewal form, (iii) indi-
24 cation made on a voter registration form pursuant to subdivision five of
25 section 5-210 of the election law, (iv) indication made on the applica-
26 tion for, or manual renewal application by an account holder of, health
27 care coverage offered through the state health benefit exchange, (v)
28 enrollment through the donate life registry website, (vi) paper enroll-
29 ment submitted to the donate life registry, (vii) indication made on the
30 application or renewal form of a hunting, fishing or trapping license
31 issued pursuant to title seven of article eleven of the environmental
32 conservation law, (viii) indication made on transactions administered by
33 the office of temporary and disability assistance through the mybene-
34 fits.ny.gov website, or any such successor website; (ix) indication made
35 on applications, renewals or related transactions for college financial
36 aid, grants, or scholarships offered or administered through any website
37 maintained by the higher education services corporation; (x) indication
38 made on transactions conducted through an individual's electronic health
39 records; or [~~(*)~~] (xi) through any other method identified by the
40 commissioner. The department shall establish a means by which to regis-
41 ter the consent given by individuals who are sixteen or seventeen years
42 of age in the donate life registry, and shall make registration avail-
43 able by any of the methods provided in subparagraphs (i), (ii), (iii),
44 (iv), (v), (vi), (vii), (viii), (ix) [~~and~~], (x) and (xi) of this para-
45 graph.

46 § 3. Paragraph (a) of subdivision 5 of section 4310 of the public
47 health law, as amended by chapter 29 of the laws of 2023, is amended to
48 read as follows:

49 (a) Such organ, eye and tissue registration of consent to make an
50 anatomical gift can be made through: (i) indication made on the applica-
51 tion or renewal form of a driver's license, (ii) indication made on a
52 non-driver identification card application or renewal form, (iii) indi-
53 cation made on a voter registration form pursuant to subdivision five of
54 section 5-210 of the election law, (iv) indication made on the applica-
55 tion for, or manual renewal application by an account holder of, health
56 care coverage offered through the NY State of Health, the official

1 Health Plan Marketplace, (v) enrollment through the donate life registry
2 website, (vi) paper enrollment submitted to the donate life registry,
3 (vii) indication made on the application or renewal form of a hunting,
4 fishing or trapping license issued pursuant to title seven of article
5 eleven of the environmental conservation law, (viii) indication made on
6 transactions administered by the office of temporary and disability
7 assistance through the mybenefits.ny.gov website, or any such successor
8 website; (ix) indication made on applications, renewals or related tran-
9 sactions for college financial aid, grants, or scholarships offered or
10 administered through any website maintained by the higher education
11 services corporation; (x) indication made by an insured and/or applicant
12 for insurance during enrollments, renewals, and the initial process for
13 an insured in setting up an online member service portal with their
14 insurer for accident and health insurance policies and contracts issued
15 pursuant to article forty-four of this chapter, article forty-two of the
16 insurance law, or article forty-three of the insurance law, excepting
17 renewals made through the NY State of Health, the official Health Plan
18 Marketplace, other than those specifically referenced in subparagraph
19 (iv) of this paragraph and paragraph (v) of subdivision one of section
20 two hundred six of this chapter; and provided, however, that nothing in
21 this section shall apply to the medical assistance program under title
22 eleven of article five of the social services law; (xi) indication made
23 on transactions conducted through an individual's electronic health
24 record; or [~~(xi)~~] (xii) through any other method identified by the
25 commissioner. The department shall establish a means by which to regis-
26 ter the consent given by individuals who are sixteen or seventeen years
27 of age in the donate life registry, and shall make registration avail-
28 able by any of the methods provided in subparagraphs (i), (ii), (iii),
29 (iv), (v), (vi), (vii), (viii), (ix), (x) [~~and~~], (xi) and (xii) of this
30 paragraph.

31 § 4. Subparagraph (i) of paragraph (b) of subdivision 5 of section
32 4310 of the public health law, as amended by chapter 37 of the laws of
33 2022, is amended to read as follows:

34 (i) Where required by law for transactions described in subparagraphs
35 (i), (ii), (iv), (vii), (viii), (ix), [~~and~~] (x) and (xi) of paragraph
36 (a) of this subdivision, the commissioner shall ensure, in consultation
37 with the head of any agency required to implement such transaction, that
38 space is provided on any required form so that the applicant shall
39 register or decline registration in the donate life registry for organ,
40 eye and tissue donations under this section and that the following is
41 stated on the form in clear and conspicuous type:

42 "You must fill out the following section: Would you like to be added
43 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
44 tion'."

45 § 5. Subparagraph (i) of paragraph (b) of subdivision 5 of section
46 4310 of the public health law, as amended by chapter 758 of the laws of
47 2022, is amended to read as follows:

48 (i) Where required by law for transactions described in subparagraphs
49 (i), (ii), (iv), (vii), (viii), (ix), (x) [~~and~~], (xi) and (xii) of para-
50 graph (a) of this subdivision, the commissioner shall ensure, in consul-
51 tation with the head of any agency required to implement such trans-
52 action, that space is provided on any required form so that the
53 applicant shall register or decline registration in the donate life
54 registry for organ, eye and tissue donations under this section and that
55 the following is stated on the form in clear and conspicuous type:

1 "You must fill out the following section: Would you like to be added
2 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
3 tion'."

4 § 6. This act shall take effect on the first of January next succeed-
5 ing the date on which it shall have become a law; provided, however,
6 that if chapter 758 of the laws of 2022 shall not have taken effect on
7 or before such date then sections three and five of this act shall take
8 effect on the same date and in the same manner as such chapter of the
9 laws of 2022 takes effect. Effective immediately, the commissioner of
10 health is authorized to take any actions necessary to implement the
11 provisions of this act on or before its effective date.