

# STATE OF NEW YORK

5132

2023-2024 Regular Sessions

## IN SENATE

February 23, 2023

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

AN ACT to amend the public health law and the insurance law, in relation to creating esophageal cancer educational pamphlets and requiring esophageal cancer testing and treatments be covered by certain insurance plans

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 2404-e to read as follows:

3 § 2404-e. Esophageal cancer; duty to inform. 1. The commissioner shall  
4 develop a standardized written summary and educational pamphlet, in  
5 plain non-technical language, which shall explain the following:

6 (a) the symptoms and risk factors for esophageal cancer;

7 (b) the available methods for the detection and diagnosis of esopha-  
8 geal cancer, including information on the relative accuracy of the  
9 available detection and diagnostic techniques;

10 (c) the availability of insurance coverage for diagnostic screening  
11 for esophageal cancer without cost sharing pursuant to paragraph thir-  
12 ty-nine of subsection (i) of section three thousand two hundred sixteen,  
13 paragraph twenty-two of subsection (l) of section three thousand two  
14 hundred twenty-one and subsection (uu) of section four thousand three  
15 hundred three of the insurance law; and

16 (d) the alternative medically viable methods of treating esophageal  
17 cancer, including but not limited to hormonal, radiological, chemothera-  
18 peutic or surgical treatments, or combinations thereof. The summary  
19 shall contain information on esophageal post-treatment risks and other  
20 pertinent information to aid a person in deciding a course of treatment.  
21 The summary shall be updated as is necessary.

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

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1     2. The summary shall be provided to any health care provider or prac-  
2     titioner providing medical treatment in accordance with subdivision  
3     three of this section.

4     3. The standardized written summary and educational pamphlet provided  
5     for by subdivision one of this section may be provided by a health care  
6     provider to each person under his or her care. Health care providers  
7     shall provide to and discuss with each person under his or her care the  
8     standardized written summary and educational pamphlet where such person  
9     is or may be at risk for esophageal cancer or who has been diagnosed to  
10    be afflicted with esophageal cancer upon said diagnosis, or as soon  
11    thereafter as practicable. A person shall be deemed at risk for esopha-  
12    geal cancer where such person has a family history of esophageal cancer.

13    4. Nothing in this section shall be construed to create a cause of  
14    action for lack of informed consent in any instance in which such cause  
15    of action would be limited by section twenty-eight hundred five-d of  
16    this chapter.

17    5. The commissioner shall have the written summary, required by this  
18    section, completed and prepared for distribution on or before January  
19    first, two thousand twenty-four.

20    § 2. Subsection (i) of section 3216 of the insurance law is amended by  
21    adding a new paragraph 39 to read as follows:

22    (39) Every policy that provides coverage for hospital, surgical or  
23    medical care shall provide coverage for the screening and treatment of  
24    esophageal cancer when deemed necessary by a health care provider.

25    § 3. Subsection (l) of section 3221 of the insurance law is amended by  
26    adding a new paragraph 22 to read as follows:

27    (22) Every insurer delivering a group or blanket policy or issuing a  
28    group or blanket policy for delivery in this state that provides cover-  
29    age for hospital, surgical or medical care shall provide coverage for  
30    the screening and treatment of esophageal cancer when deemed necessary  
31    by a health care provider.

32    § 4. Section 4303 of the insurance law is amended by adding a new  
33    subsection (uu) to read as follows:

34    (uu) A medical expense indemnity corporation, a hospital service  
35    corporation or a health service corporation that provides coverage for  
36    hospital, surgical or medical care shall provide coverage for the  
37    screening and treatment of esophageal cancer when deemed necessary by a  
38    health care provider.

39    § 5. This act shall take effect immediately and shall apply to poli-  
40    cies and contracts issued, renewed, modified, altered or amended on and  
41    after such date.