STATE OF NEW YORK

7879--A

IN SENATE

January 3, 2024

Introduced by Sens. FERNANDEZ, HINCHEY, JACKSON, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to requiring all health information systems or electronic health record systems to segregate certain patient information from the rest of such patient's medical record

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

Section 1. Subdivision 18-a of section 206 of the public health law is amended by adding a new paragraph (e) to read as follows:

(e) Within one hundred eighty days from the effective date of this paragraph, the commissioner shall establish rules and regulations consistent with state and federal law and regulations, including but not limited to article thirty-three of the mental hygiene law and section twenty-seven hundred eighty-two of this chapter, requiring any health information system or electronic health record system operating in the state of New York that electronically stores or maintains medical information, electronic health records, personal health records, health care claims, payment and other administrative data on behalf of a provider of health care, health care service plan, pharmaceutical company, contractor, or employer to develop capabilities, policies, and procedures to:

(i) segregate health information related to reproductive health services as defined in paragraph (a) of subdivision one of section sixty-five hundred thirty-one-b of the education law, gender-affirming care as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law, care protected under 42 CFR part 2, diagnosis and treatment for a sexually transmitted infection or HIV, mental health services, alcohol or substance use treatment, and any other health care services determined by the commissioner through regulations, in consultation with medical providers and patient advocates, from the rest of the patient's record;

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

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(ii) limit user access privileges to health information segregated pursuant to subparagraph (i) of this paragraph to only those persons whom the patient has specifically authorized to access the health information;

(iii) provide the ability to automatically disable access to health information segregated pursuant to subparagraph (i) of this paragraph by individuals and entities in another state with the documented authorization of the patient; and

(iv) unless otherwise ordered by a court of competent jurisdiction, notify the patient and the provider who rendered the care documented in the health information segregated pursuant to subparagraph (i) of this paragraph at least thirty days prior to complying with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons for health information segregated pursuant to subparagraph (i) of this paragraph.

§ 2. This act shall take effect on the one hundred eightieth day after 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.