

# STATE OF NEW YORK

8456

## IN SENATE

January 31, 2024

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed 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  
25 to make an anatomical gift or registered in the donate life registry,  
26 checking "skip this question" or failing to check a box shall not impair  
27 that consent or registration.

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

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

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

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

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

43 (a) Such organ, eye and tissue registration of consent to make an  
44 anatomical gift can be made through: (i) indication made on the applica-  
45 tion or renewal form of a driver's license, (ii) indication made on a  
46 non-driver identification card application or renewal form, (iii) indi-  
47 cation made on a voter registration form pursuant to subdivision five of  
48 section 5-210 of the election law, (iv) indication made on the applica-  
49 tion for, or manual renewal application by an account holder of, health  
50 care coverage offered through the NY State of Health, the official  
51 Health Plan Marketplace, (v) enrollment through the donate life registry  
52 website, (vi) paper enrollment submitted to the donate life registry,  
53 (vii) indication made on the application or renewal form of a hunting,  
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1 fishing or trapping license issued pursuant to title seven of article  
2 eleven of the environmental conservation law, (viii) indication made on  
3 transactions administered by the office of temporary and disability  
4 assistance through the mybenefits.ny.gov website, or any such successor  
5 website; (ix) indication made on applications, renewals or related tran-  
6 sactions for college financial aid, grants, or scholarships offered or  
7 administered through any website maintained by the higher education  
8 services corporation; (x) indication made by an insured and/or applicant  
9 for insurance during enrollments, renewals, and the initial process for  
10 an insured in setting up an online member service portal with their  
11 insurer for accident and health insurance policies and contracts issued  
12 pursuant to article forty-four of this chapter, article forty-two of the  
13 insurance law, or article forty-three of the insurance law, excepting  
14 renewals made through the NY State of Health, the official Health Plan  
15 Marketplace, other than those specifically referenced in subparagraph  
16 (iv) of this paragraph and paragraph (v) of subdivision one of section  
17 two hundred six of this chapter; and provided, however, that nothing in  
18 this section shall apply to the medical assistance program under title  
19 eleven of article five of the social services law; (xi) indication made  
20 on transactions conducted through an individual's electronic health  
21 record; or [~~(xi)~~] (xii) through any other method identified by the  
22 commissioner. The department shall establish a means by which to regis-  
23 ter the consent given by individuals who are sixteen or seventeen years  
24 of age in the donate life registry, and shall make registration avail-  
25 able by any of the methods provided in subparagraphs (i), (ii), (iii),  
26 (iv), (v), (vi), (vii), (viii), (ix), (x) [~~and~~], (xi) and (xii) of this  
27 paragraph.

28 § 4. Subparagraph (i) of paragraph (b) of subdivision 5 of section  
29 4310 of the public health law, as amended by chapter 37 of the laws of  
30 2022, is amended to read as follows:

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

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

42 § 5. Subparagraph (i) of paragraph (b) of subdivision 5 of section  
43 4310 of the public health law, as amended by chapter 758 of the laws of  
44 2022, is amended to read as follows:

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

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

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