*** § 2805-b. Admission of patients and emergency treatment of nonadmitted patients.** 1. For purposes of this section, the following terms shall have the following meanings:

(a) "Emergency medical condition" shall mean:

(i) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(1) placing the health of the individual in serious jeopardy;

(2) serious impairment to bodily functions, including risks to future fertility;

(3) serious dysfunction of any bodily organ or part; or

(ii) with respect to a pregnant person who is in active labor:

(1) that there is inadequate time to effect a safe transfer to another hospital before delivery; or

(2) that transfer poses a threat to the health or safety of the pregnant person or the pregnancy.

(b) "Stabilize" shall mean, with respect to an emergency medical condition described in subparagraph (i) of paragraph (a) of this subdivision, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or, with respect to an emergency medical condition described in subparagraph (ii) of paragraph (a) of this subdivision, to deliver, including the placenta. "Stabilizing treatment" includes abortion pursuant to section twenty-five hundred ninety-nine-bb of this article when failure to provide an abortion will, within reasonable probability, result in material deterioration of the patient's condition upon or during transfer of the patient from the facility.

(c) "Transfer" shall mean the movement (including the discharge) of an individual outside of a general hospital's facilities at the direction of any person employed by, or affiliated or associated, directly or indirectly, with, the general hospital, but does not include such a movement of an individual who (i) has been declared dead, or (ii) leaves the facility without the permission of any such person.

(d) "Appropriate transfer" shall mean a transfer to a medical facility:

(i) in which the transferring general hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health;

(ii) in which the receiving facility:

(1) has available space and qualified personnel for the treatment of the individual; and

(2) has agreed to accept transfer of the individual and to provide appropriate medical treatment;

(iii) in which the transferring general hospital sends to the receiving facility all medical records related to the emergency condition for which the individual has presented available at the time of the transfer, including records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests and the informed written consent or certification or copy thereof provided under paragraph (d) of subdivision three of this section, unless the patient objects; and

(iv) in which the transfer is effected through qualified personnel and transportation equipment, as required, including the use of necessary and medically appropriate life support measures during the transfer.

2. Every general hospital as defined in this article shall admit any person who is in need of immediate hospitalization with all convenient speed and shall not before admission question the patient or any member of the patient's family concerning insurance, credit or payment of charges, provided, however, that the patient or a member of the patient's family shall agree to supply such information promptly after the patient's admission. However, no general hospital shall require any patient or member of the patient's family to write or to sign during those times when the religious tenets of such person temporarily prohibit such person from performing such acts. No general hospital shall transfer any patient to another hospital or health care facility on the grounds that the patient is unable to pay or guarantee payment for services rendered. Every general hospital which maintains facilities for providing out-patient emergency medical care must provide such care to any person who, in the opinion of a health care practitioner licensed, certified, or authorized under title eight of the education

law, acting within their lawful scope of practice, requires such care.

3. (a) Medical screening required. Every general hospital must provide appropriate medical screening examination within the capability of the general hospital's emergency department, including ancillary services routinely available to the emergency department when a request is made by an individual or on the individual's behalf for examination or treatment for a medical condition to determine whether an emergency medical condition exists. With respect to a pregnant person, such medical screening examination must include a determination by a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice as to whether the individual is in active labor. A general hospital may not delay provision of an appropriate medical screening examination or further medical examination, and treatment required under paragraph (b) of this subdivision in order to inquire about the individual's method of payment or insurance status.

(b) Necessary stabilizing treatment for emergency medical conditions and labor. If any individual comes to a general hospital and the general hospital determines that the individual has an emergency medical condition, the general hospital must provide either:

(i) within the staff and facilities available at the general hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition; or

(ii) for transfer of the individual to another medical facility in accordance with paragraph (e) of this subdivision.

(c) Obligation to provide treatment in accordance with applicable standard of care. Admission of an individual experiencing an emergency medical condition does not relieve a general hospital of the obligation to provide treatment that is within the hospital's abilities and consistent with the applicable standard of care.

(d) Refusal to consent to treatment. A general hospital is deemed to meet the requirements of paragraph (b) of this subdivision with respect to an individual if the general hospital offers the individual the further medical examination and treatment described in such paragraph and informs the individual, or a person legally authorized to make health care decisions on behalf of the individual, of the risks and

benefits to the individual of such examination and treatment, but the individual, or a person legally authorized to make health care decisions on behalf of the individual, refuses to consent to the examination and treatment. The general hospital shall take all reasonable steps to secure the individual's written informed consent, or that of an individual legally authorized to make health care decisions on behalf of the individual, to refuse such examination and treatment.

(e) Restricting transfers until individual stabilized. (i) If an individual at a general hospital has an emergency medical condition which has not been stabilized, the general hospital may not transfer the individual unless:

(1) the individual, or a person legally authorized to make health care decisions on behalf of the individual, after being informed of the general hospital's obligations under this section and of the risk of transfer, in writing requests transfer to another medical facility; and

(2) a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice has signed a certification that:

(A) based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual; and

(B) the transfer is an appropriate transfer to that facility;

(ii) A certification described in clauses one and two of subparagraph (i) of this paragraph shall include a summary of the risks and benefits upon which the certification is based.

(f) Acceptance of transfer. A general hospital shall not refuse to accept an appropriate transfer of an individual who requires such specialized capabilities or facilities if the general hospital has the capacity to treat the individual.

(g) No delay in examination or treatment. A general hospital may not delay provision of an appropriate medical screening examination required under paragraph (a) of this subdivision or further medical examination and treatment required under paragraph (b) of this subdivision in order to inquire about the individual's method of payment or insurance status.

(h) Retaliation prohibited. A general hospital may not penalize, retaliate, discriminate or otherwise take an adverse action against a

health care practitioner, because the practitioner refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or because the practitioner provides treatment necessary to stabilize a patient who is, in the practitioner's reasonable medical judgment, experiencing an emergency medical condition. A general hospital may not penalize, retaliate, discriminate or otherwise take an adverse action against any individual because the individual reports a violation of a requirement of this subdivision.

(i) Nothing herein shall be interpreted as requiring the provision of care in violation of state or federal law.

4. General hospitals shall adopt, implement, and periodically update standard protocols for the management of emergency medical conditions, including diagnosis, stabilization, treatment, or transfer to another medical unit or facility.

5. A general hospital within a city with a population of one million or more may request the emergency medical service of such city's health and hospitals corporation or any person, firm, organization or corporation providing ambulance service to divert ambulances to another hospital only under the following circumstances:

A request for diversion of emergency patients with life threatening conditions shall only be made by a hospital when acceptance of an additional critical patient may endanger the life of that patient or the life of another patient. A request for the diversion of other emergency patients shall only be made when all appropriate beds are filled and shall be withdrawn as soon as a bed is available. Notwithstanding the foregoing, all requests for diversion must be renewed at the beginning of each tour of duty as designated by the emergency medical service of such city's health and hospitals corporation.

Diversion of patients with certain medical conditions which, in the best interest of the patients, require their transport directly to specialty referral centers shall be permitted following the designation of such specialty referral centers. Diversion of patients with psychiatric conditions to comprehensive psychiatric emergency programs,

as such term is defined in section 1.03 of the mental hygiene law, and subject to the provisions of section 31.27 of such law, shall only be permitted following the designation of the programs by the commissioners of health and mental health to receive such patients.

6. Nothing in this section shall be construed to deny to a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice the right to evaluate the medical needs of persons arriving at the hospital for emergency treatment and to delay or deny medical treatment where, in the opinion of the health care practitioner, no emergency medical condition exists.

7. The staff of a general hospital shall: (a) inquire whether or not the person admitted has served in the United States armed forces. Such information shall be listed on the admissions form; (b) notify any admittee who is a veteran of the possible availability of services at a hospital operated by the United States veterans health administration, and, upon request by the admittee, such staff shall make arrangements for the individual's transfer to a United States veterans health administration hospital, provided, however, that transfers shall be authorized only after it has been determined, according to accepted clinical and medical standards, that the patient's condition has stabilized and transfer can be accomplished safely and without complication; and (c) provide any admittee who has served in the United States armed forces with a copy of the "Information for Veterans concerning Health Care Options" fact sheet, maintained by the department of veterans' services pursuant to subdivision twenty-nine of section four of the veterans' services law prior to discharging or transferring the patient. The commissioner shall promulgate rules and regulations for notifying such admittees of possible available services and for arranging a requested transfer.

* NB Effective until July 1, 2027

* § 2805-b. Admission of patients and emergency treatment of nonadmitted patients. 1. For purposes of this section, the following terms shall have the following meanings:

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(1) placing the health of the individual in serious jeopardy;

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(ii) with respect to a pregnant person who is in active labor:

(1) that there is inadequate time to effect a safe transfer to another hospital before delivery; or

(2) that transfer poses a threat to the health or safety of the pregnant person or the pregnancy.

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(c) "Transfer" shall mean the movement (including the discharge) of an individual outside of a general hospital's facilities at the direction of any person employed by, or affiliated or associated, directly or indirectly, with, the general hospital, but does not include such a movement of an individual who (i) has been declared dead, or (ii) leaves the facility without the permission of any such person.

(d) "Appropriate transfer" shall mean a transfer to a medical facility:

(i) in which the transferring general hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health;

(ii) in which the receiving facility:

(1) has available space and qualified personnel for the treatment of the individual; and

(2) has agreed to accept transfer of the individual and to provide appropriate medical treatment;

(iii) in which the transferring general hospital sends to the receiving facility all medical records related to the emergency condition for which the individual has presented available at the time of the transfer, including records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests and the informed written consent or certification or copy thereof provided under paragraph (d) of subdivision three of this section, unless the patient objects; and

(iv) in which the transfer is effected through qualified personnel and transportation equipment, as required, including the use of necessary and medically appropriate life support measures during the transfer.

2. Every general hospital as defined in this article shall admit any person who is in need of immediate hospitalization with all convenient speed and shall not before admission question the patient or any member of the patient's family concerning insurance, credit or payment of charges, provided, however, that the patient or a member of the patient's family shall agree to supply such information promptly after the patient's admission. However, no general hospital shall require any patient or member of the patient's family to write or to sign during those times when the religious tenets of such person temporarily prohibit such person from performing such acts. No general hospital shall transfer any patient to another hospital or health care facility on the grounds that the patient is unable to pay or guarantee payment for services rendered. Every general hospital which maintains facilities for providing out-patient emergency medical care must provide such care to any person who, in the opinion of a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice, requires such care.

5. A general hospital within a city with a population of one million or more may request the emergency medical service of such city's health

and hospitals corporation or any person, firm, organization or corporation providing ambulance service to divert ambulances to another hospital only under the following circumstances:

A request for diversion of emergency patients with life threatening conditions shall only be made by a hospital when acceptance of an additional critical patient may endanger the life of that patient or the life of another patient. A request for the diversion of other emergency patients shall only be made when all appropriate beds are filled and shall be withdrawn as soon as a bed is available. Notwithstanding the foregoing, all requests for diversion must be renewed at the beginning of each tour of duty as designated by the emergency medical service of such city's health and hospitals corporation.

Diversion of patients with certain medical conditions which, in the best interest of the patients, require their transport directly to specialty referral centers shall be permitted following the designation of such specialty referral centers. Diversion of patients with psychiatric conditions to comprehensive psychiatric emergency programs, as such term is defined in section 1.03 of the mental hygiene law, and subject to the provisions of section 31.27 of such law, shall only be permitted following the designation of the programs by the commissioners of health and mental health to receive such patients.

6. Nothing in this section shall be construed to deny to a health care practitioner licensed, certified, or authorized under title eight of the education law, acting within their lawful scope of practice the right to evaluate the medical needs of persons arriving at the hospital for emergency treatment and to delay or deny medical treatment where, in the opinion of the health care practitioner, no emergency medical condition exists.

7. The staff of a general hospital shall: (a) inquire whether or not the person admitted has served in the United States armed forces. Such information shall be listed on the admissions form; (b) notify any admittee who is a veteran of the possible availability of services at a hospital operated by the United States veterans health administration,

and, upon request by the admittee, such staff shall make arrangements for the individual's transfer to a United States veterans health administration hospital, provided, however, that transfers shall be authorized only after it has been determined, according to accepted clinical and medical standards, that the patient's condition has stabilized and transfer can be accomplished safely and without complication; and (c) provide any admittee who has served in the United States armed forces with a copy of the "Information for Veterans concerning Health Care Options" fact sheet, maintained by the department of veterans' services pursuant to subdivision twenty-nine of section four of the veterans' services law prior to discharging or transferring the patient. The commissioner shall promulgate rules and regulations for notifying such admittees of possible available services and for arranging a requested transfer.

* NB Effective July 1, 2027