

3673--B

2011-2012 Regular Sessions

I N S E N A T E

March 1, 2011

Introduced by Sens. HANNON, LARKIN, OPPENHEIMER, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the establishment of convenient care clinics

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of subdivision 16 of section 2801-a of the
2 public health law, as amended by section 57 of part A of chapter 58 of
3 the laws of 2010, is amended to read as follows:
4 (a) The commissioner shall charge to applicants for the establishment
5 of hospitals the following application fee:
6 (i) For general hospitals: \$3,000
7 (ii) For nursing homes: \$3,000
8 (iii) For safety net diagnostic and treatment centers
9 as defined in paragraph (c) of this subdivision: \$1,000
10 (iv) For all other diagnostic and treatment centers: \$2,000
11 (V) FOR CONVENIENT CARE CLINICS \$1,000
12 S 2. Section 2801-a of the public health law is amended by adding a
13 new subdivision 17 to read as follows:
14 17. CONVENIENT CARE CLINICS. (A) DIAGNOSTIC OR TREATMENT CENTERS
15 ESTABLISHED TO PROVIDE HEALTH CARE SERVICES WITHIN THE SPACE OF A RETAIL
16 BUSINESS OPERATION, SUCH AS A PHARMACY, A STORE OPEN TO THE GENERAL
17 PUBLIC OR A SHOPPING MALL, MAY BE OPERATED BY LEGAL ENTITIES FORMED
18 UNDER THE LAWS OF THIS STATE WHOSE STOCKHOLDERS OR MEMBERS, AS APPLICABLE,
19 ARE NOT NATURAL PERSONS AND WHOSE PRINCIPAL STOCKHOLDERS AND
20 MEMBERS, AS APPLICABLE, AND CONTROLLING PERSONS COMPLY WITH ALL APPLICABLE
21 REQUIREMENTS OF THIS SECTION AND DEMONSTRATE, TO THE SATISFACTION OF
22 THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL, SUFFICIENT EXPERIENCE AND

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

LBD00922-09-2

1 EXPERTISE OR ABILITY IN THE DELIVERY OF HIGH QUALITY HEALTH CARE
2 SERVICES. SUCH DIAGNOSTIC AND TREATMENT CENTERS SHALL BE REFERRED TO IN
3 THIS SECTION AS "CONVENIENT CARE CLINICS". FOR PURPOSES OF THIS SUBDIVI-
4 SION, THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL SHALL ADOPT AND
5 AMEND RULES AND REGULATIONS, IN ACCORDANCE WITH ANY PROVISION OF THIS
6 SECTION, TO ADDRESS ANY MATTER IT DEEMS PERTINENT TO THE ESTABLISHMENT
7 AND OPERATION OF CONVENIENT CARE CLINICS; PROVIDED THAT SUCH RULES AND
8 REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS GOVERNING
9 OR RELATING TO: (I) ANY DIRECT OR INDIRECT CHANGES OR TRANSFERS OF
10 OWNERSHIP INTERESTS OR VOTING RIGHTS IN SUCH ENTITIES OR THEIR STOCK-
11 HOLDERS OR MEMBERS, AS APPLICABLE, AND PROVIDE FOR PUBLIC HEALTH AND
12 HEALTH PLANNING COUNCIL APPROVAL OF ANY CHANGE IN CONTROLLING INTERESTS,
13 PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS, PARENT COMPANY OR SPONSORS;
14 (II) OVERSIGHT OF THE OPERATOR AND ITS SHAREHOLDERS OR MEMBERS, AS
15 APPLICABLE, INCLUDING LOCAL GOVERNANCE OF THE CONVENIENT CARE CLINICS;
16 AND (III) RELATING TO THE CHARACTER AND COMPETENCE AND QUALIFICATIONS
17 OF, AND CHANGES RELATING TO, THE DIRECTORS AND OFFICERS OF THE OPERATOR
18 AND ITS PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS, PARENT COMPANY OR
19 SPONSORS. TO THE EXTENT THAT THE PROPOSED ESTABLISHMENT OF A CONVENIENT
20 CARE CLINIC MUST UNDERGO A CERTIFICATE OF NEED REVIEW, SUCH PROPOSAL
21 SHALL BE SUBJECT TO ADMINISTRATIVE REVIEW BY THE DEPARTMENT.

22 (B) THE FOLLOWING PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
23 CONVENIENT CARE CLINICS OPERATED PURSUANT TO THIS SUBDIVISION: (I) PARA-
24 GRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO PUBLIC NEED;
25 (II) PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO
26 STOCKHOLDERS AND MEMBERS; (III) PARAGRAPH (C) OF SUBDIVISION FOUR OF
27 THIS SECTION, RELATING TO THE DISPOSITION OF STOCK OR VOTING RIGHTS; AND
28 (IV) PARAGRAPH (E) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE
29 OWNERSHIP OF STOCK OR MEMBERSHIP.

30 (C) A CONVENIENT CARE CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE
31 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
32 TER. A PRESCRIBER PRACTICING IN A CONVENIENT CARE CLINIC SHALL NOT BE
33 DEEMED TO BE IN THE EMPLOY OF A PHARMACY OR PRACTICING IN A HOSPITAL FOR
34 PURPOSES OF SUBDIVISION TWO OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE
35 EDUCATION LAW.

36 (D) THE COMMISSIONER SHALL PROMULGATE REGULATIONS FOR CONVENIENT CARE
37 CLINICS, WHICH MAY BE DIFFERENT FROM THE REGULATIONS OTHERWISE APPLICA-
38 BLE TO DIAGNOSTIC OR TREATMENT CENTERS, INCLUDING, BUT NOT LIMITED TO:
39 DESIGNATING OR LIMITING THE DIAGNOSES AND SERVICES THAT MAY BE PROVIDED;
40 AND REQUIREMENTS OR GUIDELINES FOR ADVERTISING AND SIGNAGE, DISCLOSURE
41 OF OWNERSHIP INTERESTS, INFORMED CONSENT, RECORD KEEPING, A REASONABLE
42 MEANS TO ACCOMPLISH NECESSARY REFERRALS FOR TREATMENT, CASE REPORTING TO
43 THE PATIENT'S PRIMARY CARE OR OTHER HEALTH CARE PROVIDERS, DESIGN,
44 CONSTRUCTION, FIXTURES, AND EQUIPMENT STANDARDS THAT ARE CONSISTENT WITH
45 A PRIMARY CARE PRACTICE. IN MAKING REGULATIONS UNDER THIS SECTION, THE
46 COMMISSIONER SHALL (I) CONSULT WITH A WORKGROUP INCLUDING BUT NOT LIMIT-
47 ED TO REPRESENTATIVES OF PROFESSIONAL SOCIETIES OF APPROPRIATE HEALTH
48 CARE PROFESSIONALS, INCLUDING THOSE IN PRIMARY CARE AND OTHER SPECIALI-
49 TIES AND CONVENIENT CARE CLINIC OPERATORS; AND (II) PROMOTE AND
50 STRENGTHEN PRIMARY CARE; THE INTEGRATION OF SERVICES PROVIDED BY CONVEN-
51 IENT CARE CLINICS WITH THE SERVICES PROVIDED BY THE PATIENT'S OTHER
52 HEALTH CARE PROVIDERS; AND THE REFERRAL OF PATIENTS TO APPROPRIATE
53 HEALTH CARE PROVIDERS, INCLUDING APPROPRIATE TRANSMISSION OF PATIENT
54 HEALTH RECORDS.

55 S 3. This act shall take effect immediately.