3673--B

## 2011-2012 Regular Sessions

## IN SENATE

## 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:

Section 1. Paragraph (a) of subdivision 16 of section 2801-a of the public health law, as amended by section 57 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

(a) The commissioner shall charge to applicants for the establishment of hospitals the following application fee:

(i) For general hospitals: \$3,000
(ii) For nursing homes: \$3,000
(iii) For safety net diagnostic and treatment centers

5

6

7

8

9

10

11

12

13

14

15 16

17

18

19

20

21 22 as defined in paragraph (c) of this subdivision: \$1,000 (iv) For all other diagnostic and treatment centers: \$2,000

(V) FOR CONVENIENT CARE CLINICS \$1,000

- S 2. Section 2801-a of the public health law is amended by adding a new subdivision 17 to read as follows:
- 17. CONVENIENT CARE CLINICS. (A) DIAGNOSTIC OR TREATMENT CENTERS ESTABLISHED TO PROVIDE HEALTH CARE SERVICES WITHIN THE SPACE OF A RETAIL BUSINESS OPERATION, SUCH AS A PHARMACY, A STORE OPEN TO THE GENERAL PUBLIC OR A SHOPPING MALL, MAY BE OPERATED BY LEGAL ENTITIES FORMED UNDER THE LAWS OF THIS STATE WHOSE STOCKHOLDERS OR MEMBERS, AS APPLICABLE, ARE NOT NATURAL PERSONS AND WHOSE PRINCIPAL STOCKHOLDERS AND MEMBERS, AS APPLICABLE, AND CONTROLLING PERSONS COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THIS SECTION AND DEMONSTRATE, TO THE SATISFACTION OF 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

S. 3673--B 2

22

23

25

26

27

28 29

30

31

32 33

34 35

36

38

39 40

45

47

48

50

51

55

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

- (B) THE FOLLOWING PROVISIONS OF THIS SECTION SHALL NOT APPLY TO CONVENIENT CARE CLINICS OPERATED PURSUANT TO THIS SUBDIVISION: (I) PARA-GRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO PUBLIC NEED; (II) PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO STOCKHOLDERS AND MEMBERS; (III) PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE DISPOSITION OF STOCK OR VOTING RIGHTS; AND (IV) PARAGRAPH (E) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE OWNERSHIP OF STOCK OR MEMBERSHIP.
- (C) A CONVENIENT CARE CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-TER. A PRESCRIBER PRACTICING IN A CONVENIENT CARE CLINIC SHALL NOT BE DEEMED TO BE IN THE EMPLOY OF A PHARMACY OR PRACTICING IN A HOSPITAL FOR PURPOSES OF SUBDIVISION TWO OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE EDUCATION LAW.
- (D) THE COMMISSIONER SHALL PROMULGATE REGULATIONS FOR CONVENIENT CARE 37 CLINICS, WHICH MAY BE DIFFERENT FROM THE REGULATIONS OTHERWISE APPLICA-BLE TO DIAGNOSTIC OR TREATMENT CENTERS, INCLUDING, BUT NOT LIMITED TO: DESIGNATING OR LIMITING THE DIAGNOSES AND SERVICES THAT MAY BE PROVIDED; AND REOUIREMENTS OR GUIDELINES FOR ADVERTISING AND SIGNAGE, DISCLOSURE OWNERSHIP INTERESTS, INFORMED CONSENT, RECORD KEEPING, A REASONABLE 41 MEANS TO ACCOMPLISH NECESSARY REFERRALS FOR TREATMENT, CASE REPORTING TO 42 43 THE PATIENT'S PRIMARY CARE OR OTHER HEALTH CARE PROVIDERS, DESIGN, CONSTRUCTION, FIXTURES, AND EQUIPMENT STANDARDS THAT ARE CONSISTENT WITH 44 A PRIMARY CARE PRACTICE. IN MAKING REGULATIONS UNDER THIS SECTION, THE COMMISSIONER SHALL (I) CONSULT WITH A WORKGROUP INCLUDING BUT NOT LIMIT-ED TO REPRESENTATIVES OF PROFESSIONAL SOCIETIES OF APPROPRIATE HEALTH CARE PROFESSIONALS, INCLUDING THOSE IN PRIMARY CARE AND OTHER SPECIALI-49 TIES AND CONVENIENT CARE CLINIC OPERATORS; AND (II) PROMOTE AND STRENGTHEN PRIMARY CARE; THE INTEGRATION OF SERVICES PROVIDED BY CONVEN-IENT CARE CLINICS WITH THE SERVICES PROVIDED BY THE PATIENT'S OTHER HEALTH CARE PROVIDERS; AND THE REFERRAL OF PATIENTS TO APPROPRIATE 52 53 HEALTH CARE PROVIDERS, INCLUDING APPROPRIATE TRANSMISSION OF PATIENT 54 HEALTH RECORDS.
  - S 3. This act shall take effect immediately.