S T A T E O F N E W Y O R K

5815--A

2013-2014 Regular Sessions

I N S E N A T E

June 17, 2013

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Corporations, Authorities and Commissions 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 authorities law, in relation to authorizing the Westchester health care corporation to enter into agreements for the creation and operation of a health care delivery system network

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

Section 1. Section 3301 of the public authorities law is amended by adding a new subdivision 6 to read as follows:

6. AS A FREE-STANDING PUBLIC HEALTH CARE PROVIDER, THE CORPORATION IS AT A COMPETITIVE DISADVANTAGE IN THE CURRENT AND EMERGING HEALTH CARE ENVIRONMENT, YET IT CANNOT BECOME PART OF A LARGER SYSTEM OF CORPORATE ENTITIES WHILE MAINTAINING ITS PUBLIC STATUS. SIGNIFICANT INVESTMENTS IN THE PUBLIC ASSETS OF THE CORPORATION AND ITS EFFORTS TO PROVIDE HIGH QUALITY HEALTH CARE SERVICES TO MEDICALLY UNDERSERVED POPULATIONS ARE JEOPARDIZED BY THE CORPORATION'S INABILITY TO COMPETE ON ITS OWN AND BY POTENTIAL LIMITS ON ITS ABILITY TO COLLABORATE WITH OTHER PUBLIC AND PRIVATE PROVIDERS, ENTITIES AND INDIVIDUALS. THE STATE FINDS THAT THE BENEFITS OF COLLABORATION BY THE CORPORATION OUTWEIGH ANY ADVERSE IMPACT ON COMPETITION. THE BENEFITS OF THE CORPORATION'S COLLABORATIVE EFFORTS INCLUDE PRESERVING AND EXPANDING NEEDED HEALTH CARE SERVICES IN ITS PRIMARY SERVICE AREA; CONSOLIDATING UNNEEDED OR DUPLICATIVE HEALTH CARE SERVICES; ENHANCING THE QUALITY OF, AND EXPANDING ACCESS TO, HEALTH CARE DELIVERED TO MEDICALLY UNDERSERVED POPULATIONS; LOWERING COSTS AND IMPROVING THE EFFICIENCY OF THE HEALTH CARE SERVICES IT DELIVERS; AND ACHIEVING IMPROVED REIMBURSEMENT FROM NON-GOVERNMENTAL PAYORS. BASED ON THE FINDINGS CONTAINED IN THIS SECTION, THE STATE HEREBY AFFIRMATIVELY EXPRESSES A POLICY TO ALLOW THE CORPORATION TO ENGAGE IN COLLABORATIVE

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

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ACTIVITIES CONSISTENT WITH ITS HEALTH CARE PURPOSES, NOTWITHSTANDING THAT THOSE COLLABORATIONS MAY HAVE THE EFFECT OF DISPLACING COMPETITION IN THE PROVISION OF HOSPITAL, PHYSICIAN OR OTHER HEALTH CARE-RELATED SERVICES. WITH RESPECT TO THE COLLABORATIVE ACTIVITIES CONTEMPLATED IN THIS SECTION AND IN SUBDIVISION EIGHT OF SECTION THIRTY-THREE HUNDRED SIX OF THIS TITLE, THE CORPORATION AND THE PUBLIC OR PRIVATE ENTITIES AND INDIVIDUALS WITH WHICH IT COLLABORATES SHALL BE IMMUNIZED FROM LIABILITY UNDER THE FEDERAL AND STATE ANTITRUST LAWS.

S 2. Section 3306 of the public authorities law is amended by adding a new subdivision 8 to read as follows:

8. (A) IN CARRYING OUT ITS HEALTH CARE PURPOSES THROUGH THE EXERCISE OF THE SPECIAL POWERS EXERCISED PURSUANT TO THIS SECTION AND THE GENERAL POWERS EXERCISED PURSUANT TO SECTION THIRTY-THREE HUNDRED FIVE OF THIS TITLE, THE CORPORATION IS AUTHORIZED TO ENGAGE IN ARRANGEMENTS, CONTRACTS, INFORMATION SHARING AND OTHER COLLABORATIVE ACTIVITIES WITH PUBLIC OR PRIVATE ENTITIES AND INDIVIDUALS IRRESPECTIVE OF THE COMPETITIVE CONSEQUENCES OF THESE ACTIVITIES AND NOTWITHSTANDING THAT THESE ACTIVITIES MAY HAVE THE EFFECT OF DISPLACING COMPETITION IN THE PROVISION OF HOSPITAL, PHYSICIAN, OR OTHER HEALTH CARE-RELATED SERVICES. THESE COLLABORATIVE ACTIVITIES MAY INCLUDE WITHOUT LIMITATION: JOINT VENTURES; JOINT NEGOTIATIONS WITH PHYSICIANS, HOSPITALS AND PAYORS, WHETHER SUCH NEGOTIATIONS RESULT IN SEPARATE OR COMBINED AGREEMENTS; LEASES; AND/OR AGREEMENTS WHICH INVOLVE DELIVERY SYSTEM NETWORK CREATION AND OPERATION, PROVIDED THAT, THE CORPORATION SHALL EXERCISE STATE OVERSIGHT BY DETERMINING WHETHER PARTICULAR COLLABORATIONS WITH PUBLIC OR PRIVATE ENTITIES AND INDIVIDUALS FURTHER THE INTERESTS OF THE STATE AS SET FORTH IN THIS SUBDIVISION AND IN SUBDIVISION SIX OF SECTION THIRTY-THREE HUNDRED ONE OF THIS TITLE. IN UNDERTAKING THESE COLLABORATIVE ACTIVITIES, THE CORPORATION AND THE PUBLIC OR PRIVATE ENTITIES AND INDIVIDUALS WITH WHICH IT COLLABORATES SHALL BE IMMUNIZED FROM LIABILITY UNDER THE FEDERAL AND STATE ANTITRUST LAWS.

(B) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE CORPORATION AND ITS COLLABORATORS SHALL REMAIN SUBJECT TO GENERALLY APPLICABLE PROVISIONS OF THE PUBLIC HEALTH LAW AND REGULATIONS THEREUNDER. IN ADDITION, THE CORPORATION SHALL FILE AN ANNUAL REPORT WITH THE STATE DEPARTMENT OF HEALTH, AS ADDITIONAL STATE OVERSIGHT, CONCERNING THE IMPACT OF THE COLLABORATIONS AUTHORIZED UNDER THIS SECTION ON THE ADVANTAGES AND DISADVANTAGES IDENTIFIED BY THE DEPARTMENT OF HEALTH IN ITS REQUEST FOR APPLICATIONS FOR HEAL NY PHASE 21, ENTITLED "RESTRUCTURING INITIATIVES IN MEDICAID REDESIGN," AND CONCERNING THE IMPACT ON REIMBURSEMENT TO THE CORPORATION'S FACILITIES BY MANAGED CARE ORGANIZATIONS WITH RESPECT TO COMMERCIAL PLAN MEMBERS, INCLUDING THE EXTENT TO WHICH RATES HAVE BEEN NEGOTIATED THAT MORE FAIRLY COMPENSATE THE CORPORATION'S FACILITIES FOR THE COST OF PROVIDING SERVICES TO COMMERCIAL ENROLLEES, WITHOUT CROSS-SUBSIDY FROM MEDICAID OR OTHER GOVERNMENTAL PROGRAMS. IN RESPONSE TO THE REPORT, THE DEPARTMENT OF HEALTH SHALL HAVE SIXTY DAYS AFTER THE REPORT HAS BEEN FILED TO REQUEST, IN WRITING, THAT THE CORPORATION MAKE CHANGES TO ITS POLICIES TO ENSURE THAT THE COLLABORATIONS AUTHORIZED UNDER THIS SECTION FURTHER THE INTERESTS OF THE STATE.

S 3. This act shall take effect immediately.