

# STATE OF NEW YORK

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## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. GOTTFRIED, REYES, PAULIN, SIMON, BARRON, STECK, EPSTEIN, ENGLEBRIGHT, BICHOTTE HERMELYN, GALEF, ABINANTI, NOLAN, JACKSON, MITAYNES, HEVESI, SOLAGES, L. ROSENTHAL, SAYEGH, GONZALEZ-ROJAS, FORREST -- read once and referred to the Committee on Health -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law, in relation to health equity assessments in the establishment or construction of a hospital

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public health law is amended by adding a new section 2802-b to read as follows:

§ 2802-b. Health equity impact assessments. 1. Definitions. As used in this section:

(a) "Application" means an application under this article for the construction, establishment, change in the establishment, merger, acquisition, closure, or substantial reduction, expansion, or addition of a hospital service or health-related service of a hospital that requires review or approval by the council or the commissioner, where the application is filed or submitted to the council, the commissioner or the department after this section takes effect.

(b) "Project" means the construction, establishment, change in the establishment, merger, acquisition, closure, or substantial reduction of a hospital service or health-related service of a hospital that is the subject of an application.

(c) "Health equity impact assessment" or "impact assessment" means an assessment of whether, and if so how, a project will improve access to hospital services and health care, health equity and reduction of health disparities, with particular reference to members of medically underserved groups, in the applicant's service area.

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

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1 (d) "Medically underserved group" means: low-income people; racial and  
2 ethnic minorities; immigrants; women; lesbian, gay, bisexual, transgen-  
3 der, or other-than-cisgender people; people with disabilities; older  
4 adults; persons living with a prevalent infectious disease or condition;  
5 persons living in rural areas; people who are eligible for or receive  
6 public health benefits; people who do not have third-party health cover-  
7 age or have inadequate third-party health coverage; and other people who  
8 are unable to obtain health care.

9 2. (a) (i) Every application shall include a health equity impact  
10 assessment of the project. The impact assessment shall be filed together  
11 with the application, and the application shall not be complete without  
12 the impact statement. The applicant shall promptly amend or modify the  
13 impact statement as necessary.

14 (ii) However, in the case of a diagnostic and treatment center whose  
15 patient population is over fifty percent combined patients enrolled in  
16 Medicaid or uninsured, a health equity impact assessment is not required  
17 unless the application includes a change in controlling person, princi-  
18 pal stockholder, or principal member (as defined in section twenty-eight  
19 hundred one-a of this article) of the applicant.

20 (b) In considering whether and on what terms to approve an applica-  
21 tion, the commissioner and the council, as the case may be, shall  
22 consider the health equity impact statement.

23 3. Scope and contents of a health equity impact assessment. A health  
24 equity impact assessment shall include:

25 (a) A demonstration of whether, and if so how, the proposed project  
26 will improve access to hospital services and health care, health equity  
27 and reduction of health disparities, with particular reference to  
28 members of medically underserved groups, in the applicant's service  
29 area.

30 (b) The extent to which medically underserved groups in the appli-  
31 cant's service area use the applicant's hospital or health-related  
32 services or similar services at the time of the application and the  
33 extent to which they are expected to if the project is implemented.

34 (c) The performance of the applicant in meeting its obligations, if  
35 any, under section twenty-eight hundred seven-k of this article and  
36 federal regulations requiring providing uncompensated care, community  
37 services, and access by minorities and people with disabilities to  
38 programs receiving federal financial assistance, including the existence  
39 of any civil rights access complaints against the applicant, and how the  
40 applicant's meeting of these obligations will be affected by implementa-  
41 tion of the project.

42 (d) How and to what extent the applicant will provide hospital and  
43 health-related services to the medically indigent, Medicare recipients,  
44 Medicaid recipients and members of medically underserved groups if the  
45 project is implemented.

46 (e) The amount of indigent care, both free and below cost, that will  
47 be provided by the applicant if the project is approved.

48 (f) Access by public or private transportation, including applicant-  
49 sponsored transportation services, to the applicant's hospital or  
50 health-related services if the project is implemented.

51 (g) The means of assuring effective communication between the appli-  
52 cant's hospital and health-related service staff and people of limited  
53 English-speaking ability and those with speech, hearing or visual  
54 impairments handicaps if the project is implemented.

55 (h) The extent to which implementation of the project will reduce  
56 architectural barriers for people with mobility impairments.

1 (i) A review of how the applicant will maintain or improve the quality  
2 of hospital and health-related services including a review of:

3 (i) demographics of the applicant's service area;

4 (ii) economic status of the population of the applicant's service  
5 area;

6 (iii) physician and professional staffing issues related to the  
7 project;

8 (iv) availability of similar services at other institutions in or near  
9 the applicant's service area; and

10 (v) historical and projected market shares of hospital and health care  
11 service providers in the applicant's service area.

12 4. The health equity impact assessment shall be prepared for the  
13 applicant by an independent entity and include the meaningful engagement  
14 of public health experts, organizations representing employees of the  
15 applicant, stakeholders, and community leaders and residents of the  
16 applicant's service area.

17 5. The department shall publicly post the application and the health  
18 equity impact assessment on the department's website within one week of  
19 the filing with the department, including any filing with the council.

20 § 2. This act shall take effect on the one hundred eightieth day after  
21 it becomes a law. Effective immediately, the commissioner of health and  
22 the public health and health planning council shall make regulations and  
23 take other actions reasonably necessary to implement this act on that  
24 date.