

2133

2009-2010 Regular Sessions

I N   S E N A T E

February 11, 2009

---

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to site selection and a statewide registry for magnetic resonance imaging facilities

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

1     Section 1.   The public health law is amended by adding a new article  
2     35-B to read as follows:

3                                 ARTICLE 35-B

4                                 MAGNETIC RESONANCE IMAGING FACILITIES

5     SECTION 3560. SITE SELECTION OF MAGNETIC RESONANCE IMAGING FACILITIES.

6                 3561. STATEWIDE REGISTRY OF MAGNETIC RESONANCE IMAGING FACILI-  
7                                 TIES.

8     S 3560. SITE SELECTION OF MAGNETIC RESONANCE IMAGING FACILITIES. 1.  
9     FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING DEFINITIONS SHALL APPLY:

10    (A) "MAGNETIC RESONANCE IMAGING FACILITY" MEANS ANY MEDICAL FACILITY  
11    WHICH EMPLOYS A NONINVASIVE DIAGNOSTIC TECHNIQUE THAT PRODUCES COMPUTER-  
12    IZED IMAGES OF INTERNAL BODY TISSUES AND IS BASED ON NUCLEAR MAGNETIC  
13    RESONANCE OF ATOMS WITHIN THE BODY INDUCED BY THE APPLICATION OF RADIO  
14    WAVES.

15    (B) "SPONSORING AGENCY" MEANS AN AGENCY OR UNIT OF GOVERNMENT, A  
16    VOLUNTARY ORGANIZATION OR ANY OTHER PERSON, ORGANIZATION OR ENTITY WHICH  
17    INTENDS TO ESTABLISH OR OPERATE A MAGNETIC RESONANCE IMAGING FACILITY.

18    (C) "MUNICIPALITY" MEANS A COUNTY OR A CITY IF A FACILITY IS TO BE  
19    LOCATED THEREIN.

20    (D) "COMMISSIONER" MEANS THE COUNTY OR CITY COMMISSIONER OF HEALTH  
21    RESPONSIBLE FOR ISSUANCE OF A LICENSE AND OPERATING CERTIFICATE TO THE  
22    PROPOSED MAGNETIC RESONANCE IMAGING FACILITY.

23    2.     IF A SPONSORING AGENCY INTENDS TO ESTABLISH A MAGNETIC RESONANCE  
24    IMAGING FACILITY WITHIN A MUNICIPALITY BUT DOES NOT HAVE A SPECIFIC SITE  
25    SELECTED, IT MAY NOTIFY THE COMMISSIONER OF HEALTH OF THE MUNICIPALITY

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

LBD08810-01-9

1 IN WRITING OF ITS INTENTIONS AND INCLUDE IN SUCH NOTICE A DESCRIPTION OF  
2 THE NATURE, SIZE AND MEDICAL SUPPORT REQUIREMENTS OF THE FACILITY.  
3 PROVIDED, HOWEVER, NOTHING IN THIS SUBDIVISION SHALL PRECLUDE THE  
4 PROPOSED ESTABLISHMENT OF A SITE PURSUANT TO SUBDIVISION THREE OF THIS  
5 SECTION.

6 3. (A) WHEN A SITE HAS BEEN SELECTED BY THE SPONSORING AGENCY, IT  
7 SHALL NOTIFY THE COMMISSIONER OF HEALTH OF THE MUNICIPALITY IN WRITING  
8 AND INCLUDE IN SUCH NOTICE THE SPECIFIC ADDRESS OF THE SITE, THE TYPE OF  
9 MAGNETIC RESONANCE IMAGING TECHNOLOGY, THE NUMBER OF PATIENTS WHO COULD  
10 BE SERVED ANNUALLY, AND THE COMMUNITY SUPPORT REQUIREMENTS OF THE FACIL-  
11 ITY. SUCH NOTICE SHALL ALSO CONTAIN THE MOST RECENTLY PUBLISHED DATA  
12 COMPILED PURSUANT TO SECTION THIRTY-FIVE HUNDRED SIXTY-ONE OF THIS ARTI-  
13 CLE WHICH CAN REASONABLY BE EXPECTED TO PERMIT THE MUNICIPALITY TO EVAL-  
14 UATE ALL SUCH FACILITIES AFFECTING THE NATURE AND CHARACTER OF THE AREA  
15 WHEREIN SUCH PROPOSED FACILITY IS TO BE LOCATED. THE MUNICIPALITY SHALL  
16 HAVE TWENTY DAYS AFTER THE RECEIPT OF SUCH NOTICE TO:

17 (I) APPROVE THE SITE RECOMMENDED BY THE SPONSORING AGENCY;

18 (II) SUGGEST ONE OR MORE SUITABLE SITES WITHIN ITS JURISDICTION WHICH  
19 COULD ACCOMMODATE SUCH A FACILITY; OR

20 (III) OBJECT TO THE ESTABLISHMENT OF A FACILITY OF THE KIND DESCRIBED  
21 BY THE SPONSORING AGENCY BECAUSE TO DO SO WOULD RESULT IN AN OVER-CON-  
22 CENTRATION OF MEDICAL RESONANCE IMAGING FACILITIES IN THE MUNICIPALITY  
23 OR THE REGION.

24 SUCH RESPONSE SHALL BE FORWARDED TO THE SPONSORING AGENCY. IF THE  
25 MUNICIPALITY DOES NOT RESPOND WITHIN TWENTY DAYS, THE SPONSORING AGENCY  
26 MAY ESTABLISH A MAGNETIC RESONANCE IMAGING FACILITY AT THE SITE RECOM-  
27 MENDED IN ITS NOTICE.

28 (B) PRIOR TO FORWARDING A RESPONSE TO THE SPONSORING AGENCY, THE MUNI-  
29 CIPALITY MAY HOLD A PUBLIC HEARING PURSUANT TO LOCAL LAW.

30 (C) IF THE MUNICIPALITY APPROVES THE SITE RECOMMENDED BY THE SPONSOR-  
31 ING AGENCY, THE SPONSORING AGENCY SHALL SEEK TO ESTABLISH THE FACILITY  
32 AT THE APPROVED SITE.

33 (D) IF THE SITE OR SITES SUGGESTED BY THE MUNICIPALITY ARE SATISFAC-  
34 TORY WITH REGARD TO THE NATURE, SIZE AND COMMUNITY SUPPORT REQUIREMENTS  
35 OF THE FACILITY AND THE AREA IN WHICH SUCH SITE OR SITES ARE LOCATED  
36 DOES NOT ALREADY INCLUDE AN EXCESSIVE NUMBER OF MAGNETIC RESONANCE IMAG-  
37 ING FACILITIES, THE SPONSORING AGENCY SHALL SEEK TO ESTABLISH ITS FACIL-  
38 ITY AT ONE OF THE SITES DESIGNATED BY THE MUNICIPALITY.

39 IF THE MUNICIPALITY SUGGESTS A SITE OR SITES WHICH ARE NOT SATISFAC-  
40 TORY TO THE SPONSORING AGENCY, THE AGENCY SHALL SO NOTIFY THE MUNICI-  
41 PALITY WHICH SHALL HAVE TEN DAYS TO SUGGEST AN ALTERNATIVE SITE OR SITES  
42 FOR THE PROPOSED MAGNETIC RESONANCE IMAGING FACILITY.

43 (E) IN THE EVENT THE MUNICIPALITY OBJECTS TO ESTABLISHMENT OF A  
44 FACILITY IN THE MUNICIPALITY BECAUSE TO DO SO WOULD RESULT IN AN  
45 OVER-CONCENTRATION OF MAGNETIC RESONANCE IMAGING FACILITIES; OR THE  
46 SPONSORING AGENCY OBJECTS TO THE ESTABLISHMENT OF A FACILITY IN THE AREA  
47 OR AREAS SUGGESTED BY THE MUNICIPALITY; OR IN THE EVENT THAT THE MUNICI-  
48 PALITY AND SPONSORING AGENCY CANNOT AGREE UPON A SITE, EITHER THE SPON-  
49 SORING AGENCY OR THE MUNICIPALITY MAY REQUEST AN IMMEDIATE HEARING  
50 BEFORE THE COMMISSIONER OF HEALTH TO RESOLVE THE ISSUE. THE COMMISSION-  
51 ER OF HEALTH SHALL PERSONALLY OR BY A HEARING OFFICER CONDUCT SUCH A  
52 HEARING WITHIN FIVE DAYS OF SUCH A REQUEST.

53 IN REVIEWING ANY SUCH OBJECTIONS, THE NEED FOR SUCH FACILITIES IN THE  
54 MUNICIPALITY SHALL BE CONSIDERED AS SHALL THE EXISTING CONCENTRATION OF  
55 SUCH FACILITIES AND OTHER HEALTH FACILITIES IN THE MUNICIPALITY OR IN  
56 THE AREA IN PROXIMITY TO THE SITE SELECTED. THE COMMISSIONER SHALL

1 SUSTAIN THE OBJECTION IF HE DETERMINES THAT THE AREA IN WHICH THE FACIL-  
2 ITY IS TO BE BASED WOULD CAUSE AN OVER-CONCENTRATION OF MAGNETIC RESO-  
3 NANCE IMAGING FACILITIES WHILE OTHER AREAS AND REGIONS ARE WITHOUT THE  
4 SERVICES OF SUCH FACILITIES. THE COMMISSIONER OF HEALTH SHALL MAKE A  
5 DETERMINATION WITHIN FIVE DAYS OF THE HEARING.

6 4. REVIEW OF A DECISION RENDERED BY THE STATE COMMISSIONER OF HEALTH  
7 PURSUANT TO THIS SECTION MAY BE HAD IN A PROCEEDING PURSUANT TO ARTICLE  
8 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES COMMENCED WITHIN THIR-  
9 TY DAYS OF THE DETERMINATION.

10 S 3561. STATEWIDE REGISTRY OF MAGNETIC RESONANCE IMAGING FACILITIES.

11 1. THERE SHALL BE ESTABLISHED IN THE DEPARTMENT A STATEWIDE REGISTRY ON  
12 MAGNETIC RESONANCE IMAGING FACILITIES. THE DEPARTMENT SHALL DEVELOP, IN  
13 COOPERATION WITH THE MUNICIPALITIES RESPONSIBLE FOR THE SITE SELECTION  
14 OF SUCH FACILITIES, A UNIFORM DATA BASE FOR A STATEWIDE REGISTRY TO  
15 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

16 (A) THE NATURE OR TYPE OF SUCH MAGNETIC RESONANCE IMAGING FACILITY;

17 (B) THE TITLE OF THE SPONSORING AGENCY RESPONSIBLE FOR THE OPERATION  
18 OF SUCH FACILITY;

19 (C) THE GEOGRAPHICAL AREA IN WHICH SUCH FACILITY IS LOCATED, INCLUD-  
20 ING BUT NOT LIMITED TO STREET ADDRESS, MUNICIPALITY, LOCAL SCHOOL  
21 DISTRICT AND HEALTH SYSTEMS AGENCY; AND

22 (D) THE NUMBER OF CLIENTS ANNUALLY SERVED BY SUCH FACILITY.

23 2. (A) THE DEPARTMENT SHALL, NO LATER THAN DECEMBER FIFTEENTH, TWO  
24 THOUSAND NINE AND ANNUALLY THEREAFTER, PREPARE DOCUMENTATION AND MAKE  
25 AVAILABLE TO THE PUBLIC THE FOLLOWING INFORMATION:

26 (I) A REGISTRY OF ALL MAGNETIC RESONANCE IMAGING FACILITIES PRESENTLY  
27 OPERATING IN THIS STATE INCLUDING THE TYPES OF SERVICES PROVIDED, THE  
28 NUMBER OF PERSONS SERVED, AND THE MUNICIPALITY IN WHICH IT IS LOCATED;  
29 AND

30 (II) THE NUMBER OF PERSONS IN THE STATE WHO RECEIVED DIAGNOSTIC  
31 SERVICES IN A MAGNETIC RESONANCE IMAGING FACILITY INCLUDING THE GENERAL  
32 TYPE OF SERVICES BEING PROVIDED AND THE MUNICIPALITY IN WHICH PROVIDED.

33 (B) THE DEPARTMENT SHALL PREPARE FOR INCLUSION IN THE ANNUAL REPORT TO  
34 BE FILED WITH THE GOVERNOR AND THE LEGISLATURE AN ANALYSIS OF THE INFOR-  
35 MATION AS PREVIOUSLY DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION SO  
36 AS TO IMPROVE THE ABILITY OF SUCH STATE AGENCIES RESPONSIBLE FOR THE  
37 PLANNING, ADMINISTRATION, LICENSING, REGULATION AND OPERATION OF HEALTH  
38 FACILITIES TO EFFECTIVELY IDENTIFY EXISTING AND FUTURE NEEDS FOR PERSONS  
39 AND SERVICES IN DIFFERENT AREAS AND COORDINATE THEIR PLANNING EFFORTS TO  
40 MEET SUCH NEEDS.

41 3. THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE, WITHIN AVAIL-  
42 ABLE RESOURCES, TO MUNICIPALITIES WHICH INTEND TO ESTABLISH COORDINATED  
43 PLANNING FUNCTIONS AS DESCRIBED IN THIS ARTICLE.

44 S 2. This act shall take effect on the thirtieth day after it shall  
45 have become a law.