

7193

I N S E N A T E

March 19, 2010

Introduced by Sen. DUANE -- 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 establishing the New York state home care quality of care innovations initiative; and to amend the state finance law, in relation to establishing New York state home care quality innovations initiative fund

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 section  
2 3616-b to read as follows:

3 S 3616-B. NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITI-  
4 ATIVE. 1. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT WITH THE  
5 ADVANCEMENT OF CLINICAL TECHNIQUES AND THE IMPROVEMENTS IN DATA, TECH-  
6 NOLOGY AND MEASUREMENT OF CLINICAL PRACTICES AND OUTCOMES, NEW AND  
7 SIGNIFICANT OPPORTUNITIES EXIST FOR QUALITY OF CARE INNOVATION, WITH  
8 CONSEQUENT BENEFITS FOR PATIENTS, THE HEALTH CARE SYSTEM AND POTENTIAL  
9 FOR COST-SAVINGS FOR ALL PAYERS. THE LEGISLATURE FURTHER FINDS THAT WITH  
10 THE INCREASING, CENTRAL ROLE OF HOME CARE IN THE TOTAL CARE OF ALL TYPES  
11 OF PATIENTS, THE SUPPORT OF QUALITY INNOVATION IN CONNECTION WITH CARE  
12 IN THE HOME SHOULD BE A VITAL FOCUS FOR ADVANCING THESE OPPORTUNITIES.

13 THE LEGISLATURE FINDS THAT METHODS OF ADVANCING THESE OPPORTUNITIES  
14 THROUGH HOME CARE, BOTH DIRECTLY THROUGH HOME CARE AGENCIES AND THROUGH  
15 HOME CARE'S COLLABORATION WITH HOSPITALS, PHYSICIANS AND OTHERS, INCLUDE  
16 BUT ARE NOT LIMITED TO: (A) THE DEVELOPMENT, TARGETED APPLICATION AND  
17 UTILIZATION OF CLINICAL GUIDELINES AND EVIDENCE BASED PRACTICES TAILORED  
18 TO SPECIFIC CONDITIONS, POPULATIONS AND CIRCUMSTANCES OF CARE; (B) THE  
19 APPLICATION OF SPECIFIC TECHNOLOGY AS A BASIC STANDARD OF CARE FOR  
20 CERTAIN CONDITIONS; (C) IDENTIFYING AND ADDRESSING GAPS AND OTHER  
21 ASPECTS AFFECTING TRANSITIONS IN CARE, ESPECIALLY TRANSITIONS TO AND  
22 FROM HOME CARE AND HOSPITALS, NURSING HOMES, REHABILITATION CENTERS AND  
23 OTHER SETTINGS; AND (D) TARGETING THE CONTRIBUTING FACTORS TO HOSPITAL  
24 READMISSIONS AND PROMOTING APPROPRIATE INTERVENTIONS TO PREVENT AND  
25 REDUCE SUCH READMISSIONS.

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

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1 THE LEGISLATURE FINDS THAT SUCH INNOVATIONS NECESSITATE THE STATE'S  
2 INVESTMENT IN AND VOLUNTARY ENGAGEMENT OF HOME CARE AGENCIES, THEIR  
3 PATIENTS AND COLLABORATIVE PROVIDERS, AND THAT THE ACTIVE SUPPORT AND  
4 PARTNERSHIP OF THE DEPARTMENT IS CONDUCIVE TO THE GOAL OF THESE INNO-  
5 VATIONS AND, AS SUCH, IN THE STRONG INTEREST OF THE CITIZENS OF THE  
6 STATE.

7 THE LEGISLATURE THEREFORE CONCLUDES THAT THE STATE ESTABLISH THE "HOME  
8 CARE QUALITY OF CARE INNOVATIONS INITIATIVE" TO PROMOTE AND SUPPORT  
9 THESE ACTIVITIES AND INTERVENTIONS.

10 2. THERE IS HEREBY CREATED THE NEW YORK STATE HOME CARE QUALITY OF  
11 CARE INNOVATIONS INITIATIVE, WHICH HEREINAFTER MAY BE REFERRED TO AS  
12 "INITIATIVE." SUCH INITIATIVE IS CREATED FOR THE PURPOSE OF PROMOTING  
13 QUALITY INNOVATIONS IN THE CARE OF PATIENTS AT HOME TO IMPROVE OVERALL  
14 CARE MANAGEMENT, PATIENT OUTCOMES, PATIENT/CAREGIVER SELF-MANAGEMENT OF  
15 CHRONIC CONDITIONS AND POTENTIAL COST-EFFECTIVENESS OF CARE. SUCH INITI-  
16 ATIVE SHALL BE UNDERTAKEN TO INFORM AND SUPPORT, AND NOT BE EMPLOYED TO  
17 SUPERSEDE CLINICAL JUDGMENT ABOUT THE PROVISION OR MANAGEMENT OF CARE.

18 3. SUCH INITIATIVE SHALL INCLUDE BUT NOT BE LIMITED TO: (A) PROMOTING  
19 THE DEVELOPMENT, APPLICATION, UTILIZATION AND RESEARCH OF CLINICAL  
20 GUIDELINES AND EVIDENCE BASED PRACTICES IN CONNECTION WITH THE CARE OF  
21 PATIENTS AT HOME;

22 (B) PROMOTING THE USE OF TECHNOLOGY IN CONJUNCTION WITH CLINICAL  
23 CRITERIA AND EVIDENCE BASED PRACTICES FOR THE ADVANCEMENT OF QUALITY  
24 CARE;

25 (C) PROMOTING QUALITY TRANSITIONS IN CARE, INCLUDING BUT NOT LIMITED  
26 TO TRANSITIONS TO AND FROM HOME-BASED CARE AND TO HOSPITALS, NURSING  
27 HOMES, REHABILITATION CENTERS AND OTHER SETTINGS, AS WELL AS TRANSITIONS  
28 TO AND FROM DIFFERENT HOME CARE PROGRAMS;

29 (D) IDENTIFYING GAPS AND OTHER ELEMENTS OF THE SYSTEM WHICH CONTRIBUTE  
30 TO AVOIDABLE HOSPITAL READMISSIONS, INCLUDING MEDICATION RECONCILIATION,  
31 AND TARGETING INTERVENTION TO PREVENT AND REDUCE SUCH READMISSIONS;

32 (E) IDENTIFYING THE COST-EFFECTIVENESS OF THE APPLICATION OF SUCH  
33 QUALITY INNOVATIONS FOR GOVERNMENTAL AND NONGOVERNMENTAL PAYERS; AND

34 (F) RESEARCHING CLINICAL PROTOCOLS, PROGRAMS, PRACTICES AND OUTCOMES  
35 TO IDENTIFY ADDITIONAL AREAS AND METHODS FOR DEVELOPING AND PROMOTING  
36 QUALITY INNOVATIONS.

37 4. (A) SUCH INITIATIVE SHALL BE UNDERTAKEN WITH VOLUNTARILY PARTIC-  
38 IPATING CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE  
39 PROGRAMS, LICENSED HOME CARE SERVICES AGENCIES AND AIDS HOME CARE  
40 PROGRAMS, AND SHALL INCLUDE SUCH AGENCIES OR PROGRAMS CONTAINED WITHIN  
41 OR UNDER CONTRACT WITH MANAGED LONG TERM CARE PLANS. SUCH INITIATIVES  
42 MAY INCLUDE SUCH AGENCIES' AND PROGRAMS' COLLABORATION WITH PHYSICIANS,  
43 HOSPITALS AND OTHER PROVIDERS OR ENTITIES.

44 (B) SUCH INITIATIVE MAY ALSO INCLUDE THE PARTICIPATION OF: A NON-PRO-  
45 VIDER ENTITY WITH EXPERTISE IN PERFORMING QUALITY AND UTILIZATION REVIEW  
46 FOR HOME HEALTH CARE AS WELL AS STUDIES OR DEMONSTRATIONS FOR IMPROVED  
47 TRANSITIONS IN CARE; AN ENTITY WHICH SERVES AS A NATIONAL ACCREDITING  
48 BODY FOR HOME HEALTH AGENCIES; AND, A STATEWIDE TRADE ASSOCIATION MOST  
49 BROADLY REPRESENTATIVE OF HOME CARE AGENCIES AND PROGRAMS CERTIFIED BY  
50 MEDICARE AND MEDICAID IN THE STATE, INCLUDING CERTIFIED HOME HEALTH  
51 AGENCIES AND LONG TERM HOME HEALTH CARE PROGRAMS.

52 5. THE DEPARTMENT SHALL CONVENE AN ADVISORY GROUP OF REPRESENTATIVES  
53 OF PARTICIPATING PROVIDERS AND PROGRAMS AS WELL AS STATEWIDE ASSOCI-  
54 ATIONS REPRESENTATIVE OF SUCH PROVIDERS AND THEIR CONSUMERS TO GUIDE THE  
55 IMPLEMENTATION OF EACH COMPONENT OF THE INITIATIVE. THE ADVISORY GROUP  
56 MAY ALSO INCLUDE REPRESENTATIVES OF PHYSICIANS, HOSPITALS AND THIRD-PAR-

1 TY PAYORS AND OTHERS WHICH THE DEPARTMENT DEEMS APPROPRIATE AND CONSIST-  
2 ENT WITH THE PURPOSES OF THIS SECTION.

3 6. THE DEPARTMENT SHALL WORK WITH THE ADVISORY GROUP TO: (A) IDENTIFY  
4 CLINICAL GUIDELINES AND EVIDENCE BASED PRACTICES TO BE RESEARCHED AND/OR  
5 PROMOTED THROUGH THE INITIATIVE, WHICH SHALL INCLUDE THE CONSIDERATION  
6 OF NATIONALLY DEVELOPED GUIDELINES AND PRACTICES AS WELL AS THOSE DEVEL-  
7 OPED OR EVIDENCED ON A PROVIDER-SPECIFIC BASIS;

8 (B) IDENTIFY TYPES OF TECHNOLOGY AND AREAS WHERE THE APPLICATION AND  
9 COVERAGE OF SUCH TECHNOLOGY SHOULD BE CONSIDERED AS A STANDARD OF CARE;

10 (C) IDENTIFY ELEMENTS TO BE ADDRESSED IN IMPROVING TRANSITIONS OF CARE  
11 AS WELL AS FOR PREVENTING AVOIDABLE REHOSPITALIZATIONS, AND THE CORRE-  
12 SPONDING METHODS FOR ADDRESSING SUCH ELEMENTS;

13 (D) CONDUCT PROVIDER/CONSUMER EDUCATION, INCLUDING THAT OF PROVIDER  
14 QUALITY IMPROVEMENT PERSONNEL, RELATIVE TO THE UTILIZATION OF CLINICAL  
15 GUIDELINES, EVIDENCE BASED PRACTICES, APPLICATION OF TECHNOLOGY, THE  
16 IMPLEMENTATION OF STRATEGIES TO IMPROVE TRANSITIONS IN CARE AND INTER-  
17 VENTIONS TO PREVENT OR REDUCE HOSPITAL READMISSIONS;

18 (E) DETERMINE DATA TO BE SHARED WITH PROVIDERS WHICH WOULD FURTHER THE  
19 GOALS OF CLINICAL GUIDELINE IDENTIFICATION, DEVELOPMENT AND/OR USE AND  
20 IMPROVEMENT IN TRANSITIONS IN CARE;

21 (F) IDENTIFY AND RESPOND AS PRACTICABLE TO THE TECHNICAL ASSISTANCE  
22 NEEDS OF PROVIDERS PARTICIPATING IN THE INITIATIVE;

23 (G) IMPLEMENT THE GRANT PROGRAM PROVIDED FOR IN SUBDIVISION SEVEN OF  
24 THIS SECTION;

25 (H) DETERMINE AND RECOMMEND POSITIVE ADJUSTMENTS IN THE MEDICAID RATE  
26 METHODOLOGY TO ENABLE AND ENCOURAGE DESIRED PROVIDER BEHAVIOR AND GOALS  
27 WITH REGARD TO QUALITY INNOVATION AND ENHANCEMENT PURSUANT TO THIS  
28 SECTION; AND

29 (I) IDENTIFY AREAS FOR RESEARCH PURSUANT TO THIS SECTION AND FOSTER  
30 SUCH OTHER ACTIVITIES AS THE DEPARTMENT IN CONJUNCTION WITH THE WORK-  
31 GROUP DEEM TO BE NECESSARY, APPROPRIATE AND CONSISTENT WITH THE GOALS OF  
32 THIS SECTION.

33 7. (A) THE DEPARTMENT IS HEREBY AUTHORIZED, FROM ANY FUNDS APPROPRI-  
34 ATED THEREFOR, INCLUDING FUNDS FROM THE NEW YORK STATE HOME CARE QUALITY  
35 OF CARE INNOVATIONS INITIATIVE FUND PURSUANT TO SECTION NINETY-NINE-T OF  
36 THE STATE FINANCE LAW, TO ISSUE GRANTS TO PROVIDERS AND PARTICIPATING  
37 ENTITIES TO ASSIST IN MEETING THE COSTS OF PLANNING, IMPLEMENTING,  
38 AND/OR CONDUCTING QUALITY INNOVATIONS PURSUANT TO THIS SECTION.

39 (B) THE DEPARTMENT SHALL AWARD SUCH GRANTS BASED ON CRITERIA AND  
40 PRIORITIES ESTABLISHED IN CONSULTATION WITH THE ADVISORY GROUP ESTAB-  
41 LISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

42 (C) GRANTS AWARDED UNDER THIS SECTION MAY BE RENEWED SUBJECT TO THE  
43 AVAILABILITY OF FUNDS.

44 (D) NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED TWELVE OR  
45 ONE HUNDRED THIRTEEN OF THE STATE FINANCE LAW, THE DEPARTMENT MAY ISSUE  
46 GRANTS TO PARTICIPANTS SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION FOUR OF  
47 THIS SECTION WITHOUT A COMPETITIVE BID PROCESS.

48 8. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS SEVEN AND SEVEN-A OF  
49 SECTION THREE THOUSAND FOURTEEN OF THIS ARTICLE, PROVIDER COSTS ASSOCI-  
50 ATED WITH THE PARTICIPATION IN THE QUALITY INNOVATIONS INITIATIVE PURSU-  
51 ANT TO THIS SECTION SHALL NOT BE INCLUDED IN OR SUBJECT TO THE STATEWIDE  
52 AVERAGE ADMINISTRATIVE AND GENERAL COST LIMITATION APPLIED PURSUANT TO  
53 SUCH SUBDIVISIONS.

54 9. THE COMMISSIONER IS AUTHORIZED TO WAIVE PROVISIONS OF THE DEPART-  
55 MENT'S RULES AND REGULATIONS, AS WELL AS RULES AND REGULATIONS PROMUL-  
56 GATED PURSUANT TO THE SOCIAL SERVICES LAW, AS MAY BE NECESSARY AND

1 APPROPRIATE TO FACILITATE THE IMPLEMENTATION AND GOALS OF THIS SECTION,  
2 INCLUDING THE GOAL OF IMPROVING THE COST-EFFECTIVENESS TO PAYERS;  
3 PROVIDED HOWEVER THAT NO RULES OR REGULATIONS SHALL BE WAIVED WHICH  
4 WOULD REMOVE OR DIMINISH RIGHTS AFFORDED TO PROVIDERS OR CONSUMERS OF  
5 CARE.

6 10. THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND LEGISLATURE  
7 REGARDING THE EFFECTS ON QUALITY, COST AND UTILIZATION UNDER THE INITI-  
8 ATIVE. SUCH REPORT SHALL BE FILED ON OR BEFORE DECEMBER FIRST, TWO THOU-  
9 SAND ELEVEN.

10 S 2. The state finance law is amended by adding a new section 99-t to  
11 read as follows:

12 S 99-T. NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITI-  
13 ATIVE FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE  
14 STATE COMPTROLLER AND COMMISSIONER OF TAXATION AND FINANCE A SPECIAL  
15 FUND TO BE KNOWN AS THE "NEW YORK STATE HOME CARE QUALITY OF CARE INNO-  
16 VATIONS INITIATIVE FUND".

17 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSE  
18 OF SUCH FUND AND ANY GRANT, GIFT OR BEQUEST MADE FOR PURPOSES OF HOME  
19 CARE QUALITY OF CARE INNOVATIONS PURSUANT TO SECTION THIRTY-SIX HUNDRED  
20 SIXTEEN-B OF THE PUBLIC HEALTH LAW.

21 3. MONIES OF THE FUND SHALL BE MADE AVAILABLE TO THE COMMISSIONER OF  
22 HEALTH FOR THE PURPOSE OF PROVIDING GRANTS AND FOR THE EXPENSES OF THE  
23 DEPARTMENT PURSUANT TO THE NEW YORK STATE HOME CARE QUALITY OF CARE  
24 INNOVATIONS INITIATIVE AS ADDED BY SECTION THIRTY-SIX HUNDRED SIXTEEN-B  
25 OF THE PUBLIC HEALTH LAW.

26 4. THE MONIES OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT  
27 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER  
28 OF HEALTH, OR BY AN OFFICER OR EMPLOYEE OF THE DEPARTMENT OF HEALTH  
29 DESIGNATED BY SUCH COMMISSIONER.

30 S 3. This act shall take effect immediately.