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

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I N A S S E M B L Y

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Introduced by M. of A. GOTTFRIED, JACOBS, JOHN, TOWNS, PAULIN, EDDINGTON, HOOPER -- Multi-Sponsored by -- M. of A. BRENNAN, CHRISTENSEN, CLARK, COOK, CYMBROWITZ, DESTITO, DINOWITZ, ENGLEBRIGHT, ESPAILLAT, FARRELL, GLICK, GREENE, LIFTON, P. RIVERA, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to hospital establishment

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

Section 1. Subdivision 1 of section 2801-a of the public health law, as amended by chapter 667 of the laws of 1997, is amended to read as follows:

1. (A) No hospital, as defined in this article, shall be established except with the written approval of the public health council. No certificate of incorporation of a business membership or not-for-profit corporation shall hereafter be filed which includes among its corporate purposes or powers the establishment or operation of any hospital, as defined in this article, or the solicitation of contributions for any such purpose, or two or more of such purposes, except with the written approval of the public health council, and when otherwise required by law of a justice of the supreme court, endorsed on or annexed to the certificate of incorporation. No articles of organization of a limited liability company established pursuant to the New York limited liability company law which includes among its powers or purposes the establishment or operation of any hospital as defined in this article, shall be filed with the department of state except upon the approval of the public health council.

(B) FOR THE PURPOSES OF THIS SUBDIVISION, A PERSON (OTHER THAN A PERSON ACTING SOLELY AS A MEMBER OF THE GOVERNING BODY OF A HOSPITAL OR AN EMPLOYEE OF A HOSPITAL), PARTNERSHIP, COMPANY, STOCKHOLDER, MEMBER,

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

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CORPORATION OR OTHER ENTITY SHALL BE DEEMED TO HAVE AUTHORITY TO OPERATE A HOSPITAL IF IT HAS OR SHARES DECISION-MAKING AUTHORITY OVER ANY OF THE FOLLOWING:

(I) APPOINTMENT OR DISMISSAL OF A HOSPITAL'S MANAGEMENT-LEVEL EMPLOYEES OR MEDICAL STAFF;

(II) ELECTION OR REMOVAL OF MEMBERS OF THE GOVERNING BOARD OR CORPORATE OFFICERS OF THE HOSPITAL;

(III) APPROVAL OF THE HOSPITAL'S OPERATING OR CAPITAL BUDGETS;

(IV) ADOPTION, APPROVAL OR ENFORCEMENT OF THE HOSPITAL'S OPERATING POLICIES OR PROCEDURES, OR THE MISSION AND PHILOSOPHY OF THE HOSPITAL;

(V) APPROVAL OF APPLICATIONS FOR CONSTRUCTION OR ESTABLISHMENT APPROVAL FILED BY OR ON BEHALF OF THE HOSPITAL;

(VI) APPROVAL OF HOSPITAL DEBT NECESSARY TO FINANCE THE COST OF COMPLIANCE WITH OPERATIONAL OR PHYSICAL PLANT STANDARDS REQUIRED BY LAW;

(VII) APPROVAL OF CONTRACTS FOR MANAGEMENT OF THE HOSPITAL OR FOR CLINICAL SERVICES AT THE HOSPITAL; AND

(VIII) APPROVAL OF SETTLEMENTS OF ADMINISTRATIVE PROCEEDINGS OR LITIGATION TO WHICH THE HOSPITAL IS PARTY THAT EXCEED THE HOSPITAL'S INSURANCE COVERAGE OR COVERAGE BY ANY APPLICABLE SELF-INSURANCE FUND.

(C) ANY PERSON, PARTNERSHIP, COMPANY, STOCKHOLDER, MEMBER, OR CORPORATION, OR OTHER ENTITY WITH AUTHORITY TO OPERATE A HOSPITAL SHALL BE SUBJECT TO APPROVAL FOR ESTABLISHMENT BY THE PUBLIC HEALTH COUNCIL UNDER THIS SECTION, UNLESS OTHERWISE AUTHORIZED BY THIS CHAPTER TO OPERATE A HOSPITAL WITHOUT SUCH ESTABLISHMENT APPROVAL.

(D) ANY ASSIGNMENT OR DELEGATION OF ANY AUTHORITY TO OPERATE A HOSPITAL, AS SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE SUBJECT TO APPROVAL FOR ESTABLISHMENT BY THE PUBLIC HEALTH COUNCIL UNDER THIS SECTION, EXCEPT FOR:

(I) ASSIGNMENT OR DELEGATION BY THE GOVERNING BODY OF THE HOSPITAL TO A COMMITTEE OF THE GOVERNING BODY, A CORPORATE OFFICER OR AN EMPLOYEE OF THE HOSPITAL; OR

(II) A MANAGEMENT CONTRACT UNDER WHICH A GOVERNING BODY CONTRACTS WITH AN ENTITY TO MANAGE DAY-TO-DAY OPERATIONS OF A HOSPITAL OR A PORTION OR SERVICE THEREOF, PROVIDED THAT SUCH A MANAGEMENT CONTRACT SHALL REQUIRE THE WRITTEN APPROVAL OF THE COMMISSIONER BEFORE IT MAY TAKE EFFECT.

(E) ANY AMENDMENT TO A MISSION STATEMENT OF A HOSPITAL UNDER SECTION TWENTY-EIGHT HUNDRED THREE-L OF THIS ARTICLE SHALL BE SUBJECT TO REVIEW BY THE PUBLIC HEALTH COUNCIL PRIOR TO ITS ADOPTION. THE PUBLIC HEALTH COUNCIL SHALL ISSUE AN ADVISORY DETERMINATION DESCRIBING THE IMPACT OF SUCH AMENDMENT ON PUBLIC NEED FOR AND THE AVAILABILITY OF HEALTH SERVICES IN ACCORDANCE WITH THIS SECTION.

S 2. Subdivision 1 of section 2803-l of the public health law, as amended by chapter 639 of the laws of 1996, is amended to read as follows:

1. The governing body of a voluntary non-profit general hospital must issue an organizational mission statement identifying at a minimum THE MISSION AND PHILOSOPHY OF THE HOSPITAL AS IT RELATES TO THE PROVISION OF ALL HEALTH CARE SERVICES, the populations and communities served by the hospital and the hospital's commitment to meeting the health care needs of the community.

S 3. Subdivision 4 of section 2803-l of the public health law, as amended by chapter 639 of the laws of 1996, is amended to read as follows:

4. The governing body shall file with the commissioner its mission statement, its annual implementation report, and at least every three years a report detailing amendments to the statement and reflecting

changes in the hospital's operational and financial commitment to meeting the health care needs of the community, providing charity care services, and improving access to health care services by the underserved. ANY AMENDMENT TO A MISSION STATEMENT AS IT RELATES TO THE PROVISION OR AVAILABILITY OF HEALTH CARE SERVICES PROVIDED BY A HOSPITAL SHALL BE FILED WITH THE COMMISSIONER AND THE PUBLIC HEALTH COUNCIL AT LEAST NINETY DAYS PRIOR TO ITS ADOPTION BY THE GOVERNING BODY. THE PUBLIC HEALTH COUNCIL SHALL REVIEW SUCH AMENDMENT AND ITS IMPACT ON PUBLIC NEED FOR AND THE AVAILABILITY OF HEALTH SERVICES, AND, PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS ARTICLE, SHALL ISSUE AN ADVISORY DETERMINATION WITH RESPECT TO SUCH IMPACT.

S 4. This act shall take effect immediately.