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

February 1, 2010

Introduced by M. of A. LANCMAN, GOTTFRIED, GALEF, JAFFEE, FIELDS, PAULIN, GUNTHER, SPANO, COOK, TITONE, REILLY, NOLAN, MARKEY, CASTRO, MENG -- Multi-Sponsored by -- M. of A. DelMONTE, HIKIND, KOON, LUPARDO, McENENY, M. MILLER, PHEFFER, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to reconstituting the state hospital review and planning council as the state health systems council, providing for the composition and certain duties thereof and for the expiration of terms of state hospital review and planning council members

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

Section 1. This act shall be known and may be cited as the "healthcare rule-making reform act".

S 2. The section heading and subdivision (a) of section 2904 of the public health law, the section heading as amended by chapter 470 of the laws of 1976 and subdivision (a) as amended by chapter 383 of the laws of 2003, are amended to read as follows:

State [hospital review and planning] HEALTH SYSTEMS council. (a) (1) There is hereby created within the department a state [hospital review and planning] HEALTH SYSTEMS council comprised of [thirty-one persons] THIRTY-NINE MEMBERS. THIRTY-ONE MEMBERS SHALL BE appointed by the governor by and with the advice and consent of the senate, AND EIGHT MEMBERS SHALL BE APPOINTED BY THE GOVERNOR AND UPON THE RECOMMENDATION OF LEGISLATIVE OFFICIALS UNDER SUBPARAGRAPH (E) OF PARAGRAPH TWO OF THIS SUBDIVISION. In making such appointments AND RECOMMENDATIONS the governor AND LEGISLATIVE OFFICIALS shall consider recommendations from agencies and organizations [primarily] concerned with [hospital, nursing home and medical affairs] ENHANCING THE DELIVERY OF QUALITY AND ACCESSIBLE HEALTH CARE SERVICES.

(2) The council shall be representative of the public including persons having capacities identified with consumers of [hospital and nursing home services] HEALTH CARE SERVICES AND SHALL, EFFECTIVE FEBRUARY FIRST, TWO THOUSAND ELEVEN, CONSIST OF:

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

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(A) NO LESS THAN SEVEN MEMBERS APPOINTED BY THE GOVERNOR WHO ARE REPRESENTATIVE OF PROVIDERS OF HEALTH CARE SERVICES;

(B) NO LESS THAN SEVEN MEMBERS APPOINTED BY THE GOVERNOR WHO ARE REPRESENTATIVE OF PURCHASERS AND PAYERS OF HEALTH CARE SERVICES, INCLUDING BUSINESS, GOVERNMENT ORGANIZATIONS, LABOR AND OTHER INSTITUTIONS OTHER THAN THOSE DIRECTLY RELATED TO A PROVIDER OF HEALTH CARE SERVICES;

(C) NO LESS THAN SEVEN MEMBERS APPOINTED BY THE GOVERNOR WHO ARE REPRESENTATIVE OF LABOR ORGANIZATIONS REPRESENTING HEALTH CARE EMPLOYEES;

(D) NO LESS THAN TEN MEMBERS APPOINTED BY THE GOVERNOR WHO ARE REPRESENTATIVE OF HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS WHICH HAVE A STATEWIDE OR REGIONAL CONSTITUENCY, AND WHO HAVE BEEN INVOLVED IN ACTIVITIES RELATED TO HEALTH CARE CONSUMER ADVOCACY, INCLUDING ISSUES OF INTEREST TO LOW- AND MODERATE-INCOME INDIVIDUALS; AND

(E) EIGHT MEMBERS APPOINTED BY THE GOVERNOR, THREE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE, THREE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, AND ONE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY. Membership on the council shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state. [At least six members shall be persons engaged in hospital or nursing home work at the policy making or administrative level. At least six members shall be duly licensed physicians. On and after April first, nineteen hundred seventy-three, at least one member of the council shall be representative of home health agencies. On or after April first, nineteen hundred eighty-three, at least two members of the council shall be members of the mental health services council. No more than fifteen members of the council shall be physicians, or persons engaged in full-time paid employment connected with hospitals or nursing homes. However, a] A change in the status or employment of a member of the council shall not require his or her resignation or a change in the composition of the council until further appointments are made. The members of the council shall have fixed terms of three years [except that ten of the initial appointments shall be for one year and ten shall be for two years and except that the term of any member appointed as a member of the mental health services council shall terminate upon the expiration of his or her term on the mental health services council]. No person shall be a member of the council for more than six years in any period of twelve consecutive years. EACH VACANCY SHALL BE FILLED BY AN APPOINTMENT OF THE GOVERNOR, WITHIN THE SAME MANNER AND SAME CATEGORY OF THE ORIGINAL APPOINTMENT, WITHIN ONE YEAR OF THE DATE UPON WHICH SUCH VACANCY OCCURS.

(3) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE, "PROVIDER OF HEALTH CARE SERVICES" MEANS AN INDIVIDUAL WHO: IS A DIRECT PROVIDER OF HEALTH CARE (INCLUDING BUT NOT LIMITED TO A HEALTH CARE PRACTITIONER LICENSED UNDER TITLE EIGHT OF THE EDUCATION LAW, OR ANCILLARY PERSONNEL EMPLOYED UNDER THE SUPERVISION OF SUCH HEALTH CARE PRACTITIONER) WHOSE PRIMARY CURRENT ACTIVITY IS THE PROVISION OF HEALTH CARE OR THE ADMINISTRATION (INCLUDING TRUSTEES OR MEMBERS OF BOARDS OF DIRECTORS) OF HEALTH CARE FACILITIES; OR HOLDS A FIDUCIARY POSITION WITH, OR HAS A FIDUCIARY INTEREST IN, ANY ENTITY WHICH HAS AS ITS PRIMARY PURPOSE THE DELIVERY OF HEALTH CARE, THE CONDUCT OF RESEARCH INTO OR INSTRUCTION FOR HEALTH PROFESSIONALS IN THE PROVISIONS OF HEALTH CARE, OR THE PRODUCTION OF OR SUPPLY OF DRUGS OR

OTHER ARTICLES FOR INDIVIDUALS OR ENTITIES FOR USE IN THE PROVISION OF HEALTH CARE; OR IS A PROFESSIONAL EMPLOYEE OF A HEALTH PROFESSIONS SCHOOL; OR IS THE SPOUSE OR DOMESTIC PARTNER OF AN INDIVIDUAL DESCRIBED IN THIS PARAGRAPH.

(4) The council shall:

(A) meet at least four times in each full calendar year[. Each vacancy shall be filled by an appointment of the governor within one year of the date upon which such vacancy occurs];

(B) ESTABLISH SUCH COMMITTEES OF THE FULL COUNCIL AS NECESSARY TO FULFILL ITS OBLIGATIONS, PROVIDED THAT NOT LESS THAN TWENTY-FIVE PERCENT OF THE MEMBERS OF EACH COMMITTEE SHALL BE REPRESENTATIVE OF HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS UNDER SUBPARAGRAPH (D) OF PARAGRAPH TWO OF THIS SUBDIVISION;

(C) AFFORD MEMBERS OF THE GENERAL PUBLIC THE OPPORTUNITY TO OFFER COMMENT ON MATTERS BEFORE THE COUNCIL, INCLUDING ORAL COMMENT DURING COMMITTEE CONSIDERATION OF SUCH MATTERS IN A MANNER WHICH DOES NOT IMPEDE THE SPONTANEOUS AND FREE FLOW OF DIALOGUE BETWEEN COMMITTEE MEMBERS AND MEMBERS OF THE PUBLIC; AND

(D) ADOPT BYLAWS GOVERNING MEETINGS OF THE COUNCIL WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, A CODE OF ETHICS AND CONFLICTS OF INTEREST WHICH SHALL PRECLUDE A MEMBER FROM VOTING ON A MATTER IN WHICH THE MEMBER HAS ANY INTEREST, FINANCIAL OR OTHERWISE, DIRECT OR INDIRECT.

S 3. Notwithstanding any inconsistent provision of law, the terms of members of the state hospital review and planning council established pursuant to section 2904 of the public health law as amended by section two of this act, and as constituted on the effective date of this act, shall expire on January 31, 2011. Members appointed to the state health systems council for terms effective February 1, 2011 pursuant to paragraph 2 of subdivision (a) of section 2904 of the public health law, as amended by section two of this act, shall be appointed to initial terms as follows: for members appointed pursuant to subparagraph (A) of such paragraph, two shall be appointed for a term of one year, two shall be appointed for a term of two years, and three shall be appointed for a term of three years; for members appointed pursuant to subparagraph (B) of such paragraph, two shall be appointed for a term of one year, two shall be appointed for a term of two years, and three shall be appointed for a term of three years; for members appointed pursuant to subparagraph (C) of such paragraph, two shall be appointed for a term of one year, two shall be appointed for a term of two years and three shall be appointed for a term of three years; for members appointed pursuant to subparagraph (D) of such paragraph, three shall be appointed for terms of one year, four shall be appointed for terms of two years, and three shall be appointed for terms of three years; and members appointed pursuant to subparagraph (E) of such paragraph shall be appointed for terms of three years.

S 4. On and after the effective date of this act, any and all references, direct or indirect, to the state hospital review and planning council contained anywhere in law or regulation shall be deemed for all purposes to be references to the state health systems council.

S 5. This act shall take effect on the thirtieth day after it shall have become a law, except that the amendments to paragraphs 1 and 2 of subdivision (a) of section 2904 of the public health law, as designated by section two of this act, shall take effect February 1, 2011, provided however that the commissioner of health is authorized to take such action as is necessary prior to the effective date of this act to ensure its timely implementation.