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

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2011-2012 Regular Sessions

I N A S S E M B L Y

March 10, 2011

Introduced by M. of A. GLICK, PRETLOW, JAFFEE, BARRON, O'DONNELL, CRESPO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to capping compensation for hospital executives

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 2823 to read as follows:

S 2823. LIMITATION ON SALARY FOR HOSPITAL EXECUTIVES. 1. NOTWITHSTANDING ANY INCONSISTENT SECTION OF LAW, FOR THE PURPOSES FOR THIS SECTION: (A) "HOSPITAL" SHALL MEAN ANY HOSPITAL ORGANIZED UNDER THIS ARTICLE THAT RECEIVES PAYMENT BY PROVIDING SERVICES TO: RECIPIENTS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW; ENROLLEES ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUCH TITLE AND ENROLLED IN APPROVED MANAGED CARE ORGANIZATIONS PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF SUCH TITLE ELEVEN; ENROLLEES ELIGIBLE FOR FAMILY HEALTH PLUS AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT TO TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW; ENROLLEES ELIGIBLE FOR THE CHILD HEALTH INSURANCE PROGRAM AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER; AND ENROLLEES OF THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM, PURSUANT TO TITLE THREE OF ARTICLE TWO OF THE ELDER LAW; AND

(B) "HOSPITAL EXECUTIVE" SHALL MEAN A PERSON OR GROUP HAVING ADMINISTRATIVE OR MANAGERIAL AUTHORITY OF A HOSPITAL, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING POSITIONS: CHIEF EXECUTIVE OFFICER, CHIEF EXECUTIVE, EXECUTIVE OFFICER, EXECUTIVE DIRECTOR, CHIEF FINANCIAL OFFICER, PRESIDENT, EXECUTIVE PRESIDENT, VICE PRESIDENT, EXECUTIVE VICE PRESIDENT, EXECUTIVE VICE PRESIDENT-CORPORATE, EXECUTIVE VICE PRESIDENT-OPERATIONS, SENIOR VICE PRESIDENT, AND SENIOR VICE PRESIDENT OF FINANCE OR ANY OTHER COMPARABLE POSITION; AND

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

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(C) "TOTAL ANNUAL SALARY" MEANS THE TOTAL AMOUNT OF COMPENSATION TO BE PAID TO A HOSPITAL EXECUTIVE FOR SERVICES IN A CALENDAR YEAR, PROVIDED SUCH TERM SHALL INCLUDE DEFERRED COMPENSATION EARNED DURING THAT CALENDAR YEAR, ANY EMPLOYER CONTRIBUTIONS TO A RETIREMENT PLAN MADE IN SUCH CALENDAR YEAR, AND ANY LUMP-SUM CASH PAYMENT MADE TO SUCH HOSPITAL EXECUTIVE IN SUCH CALENDAR YEAR INCLUDING, BUT NOT LIMITED TO, CASH BONUSES, SEVERANCE PAY, OR OTHER BENEFITS UPON TERMINATION OF EMPLOYMENT.

2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, NO EMPLOYMENT CONTRACT OF A HOSPITAL EXECUTIVE SHALL PROVIDE FOR A TOTAL ANNUAL SALARY IN EXCESS OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

3. IN ADDITION TO THE PAYMENT OF THE TOTAL ANNUAL SALARY, A HOSPITAL MAY PROVIDE FOR THE PAYMENT OF THE COST OF INSURANCE BENEFITS FOR A HOSPITAL EXECUTIVE, INCLUDING, BUT NOT LIMITED TO HEALTH INSURANCE, DISABILITY INSURANCE, OR LIFE INSURANCE; PROVIDED THAT ANY SUCH PAYMENTS FOR WHOLE LIFE, SPLIT DOLLAR OR OTHER LIFE INSURANCE POLICIES HAVING A CASH VALUE SHALL BE INCLUDED IN THE TOTAL ANNUAL SALARY OF THE HOSPITAL EXECUTIVE FOR PURPOSES OF THIS SECTION, AND PROVIDED FURTHER THAT ANY PAYMENTS FOR THE EMPLOYEE CONTRIBUTION, CO-PAY OR UNCOVERED MEDICAL EXPENSES UNDER A HEALTH INSURANCE PLAN ALSO SHALL BE INCLUDED IN THE TOTAL ANNUAL SALARY OF THE HOSPITAL EXECUTIVE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PAYMENTS FOR SUCH INSURANCE BENEFITS MAY BE BASED ON THE HOSPITAL EXECUTIVE'S TOTAL SALARY ONLY. ANY PAYMENTS FOR TRANSPORTATION OR TRAVEL EXPENSES IN EXCESS OF ACTUAL DOCUMENTED EXPENSES INCURRED IN THE PERFORMANCE OF DUTIES FOR THE HOSPITAL, AND OTHER LUMP SUM PAYMENT NOT SPECIFICALLY EXCLUDED FROM THE TOTAL ANNUAL SALARY PURSUANT TO THIS SECTION, SHALL BE INCLUDED IN THE TOTAL ANNUAL SALARY OF THE HOSPITAL EXECUTIVE FOR PURPOSES OF THIS SECTION. NOTHING IN THIS SECTION SHALL PROHIBIT A HOSPITAL EXECUTIVE FROM WAIVING ANY RIGHTS PROVIDED FOR IN AN EXISTING CONTRACT OR AGREEMENT AS HEREAFTER PROHIBITED IN FAVOR OF REVISED COMPENSATION OR BENEFIT PROVISIONS AS PERMITTED IN THIS SECTION.

S 2. This act shall take effect immediately, provided that the provisions of this act shall only apply to any employment contracts for persons serving as hospital executives that are entered into, amended or extended on or after the date on which this act shall become a law.