

1528

2015-2016 Regular Sessions

I N S E N A T E

January 13, 2015

Introduced by Sens. KLEIN, CARLUCCI, SAVINO -- 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 including certain respiratory diseases and obesity within disease management demonstration programs (Part A); to amend the public health law, in relation to the reduction of emphysema, chronic bronchitis and other chronic respiratory diseases in children (Part B); to amend the public health law, in relation to directing the health research science board to study respiratory diseases and obesity (Part C); and to amend the public health law, in relation to breastfeeding of infants and the adolescent pregnancy nutrition counseling program (Part D)

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

1 Section 1. This act enacts into law major components of legislation  
2 which combat the incidence of adult and child obesity and respiratory  
3 diseases. Each component is wholly contained within a Part identified  
4 as Parts A through D. The effective date for each particular provision  
5 contained within such Part is set forth in the last section of such  
6 Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes a reference to a section "of  
8 this act", when used in connection with that particular component, shall  
9 be deemed to mean and refer to the corresponding section of the Part in  
10 which it is found. Section three of this act sets forth the general  
11 effective date of this act.

12 PART A

13 Section 1. Subdivisions 2 and 4 of section 2111 of the public health  
14 law, as added by section 21 of part C of chapter 58 of the laws of 2004,  
15 are amended to read as follows:

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

LBD03952-01-5

1 2. The department shall establish the criteria by which individuals  
2 will be identified as eligible for enrollment in the demonstration  
3 programs. Persons eligible for enrollment in the disease management  
4 demonstration program shall be limited to individuals who: receive  
5 medical assistance pursuant to title eleven of article five of the  
6 social services law and may be eligible for benefits pursuant to title  
7 18 of the social security act (Medicare); are not enrolled in a Medicaid  
8 managed care plan, including individuals who are not required or not  
9 eligible to participate in Medicaid managed care programs pursuant to  
10 section three hundred sixty-four-j of the social services law; are diag-  
11 nosed with chronic health problems as may be specified by the entity  
12 undertaking the demonstration program, including, but not limited to one  
13 or more of the following: congestive heart failure, chronic obstructive  
14 pulmonary disease, asthma, EMPHYSEMA, CHRONIC BRONCHITIS, OTHER CHRONIC  
15 RESPIRATORY DISEASES, diabetes, ADULT AND CHILDHOOD OBESITY, or other  
16 chronic health conditions as may be specified by the department; or have  
17 experienced or are likely to experience one or more hospitalizations or  
18 are otherwise expected to incur excessive costs and high utilization of  
19 health care services.

20 4. The demonstration program shall offer evidence-based services and  
21 interventions designed to ensure that the enrollees receive high quali-  
22 ty, preventative and cost-effective care, aimed at reducing the necessi-  
23 ty for hospitalization or emergency room care or at reducing lengths of  
24 stay when hospitalization is necessary. The demonstration program may  
25 include screening of eligible enrollees, developing an individualized  
26 care management plan for each enrollee and implementing that plan.  
27 Disease management demonstration programs that utilize information tech-  
28 nology systems that allow for continuous application of evidence-based  
29 guidelines to medical assistance claims data and other available data to  
30 identify specific instances in which clinical interventions are justi-  
31 fied and communicate indicated interventions to physicians, health care  
32 providers and/or patients, and monitor physician and health care provid-  
33 er response to such interventions, shall have the enrollees, or groups  
34 of enrollees, approved by the department for participation. The services  
35 provided by the demonstration program as part of the care management  
36 plan may include, but are not limited to, case management, social work,  
37 individualized health counselors, multi-behavioral goals plans, claims  
38 data management, health and self-care education, drug therapy management  
39 and oversight, personal emergency response systems and other monitoring  
40 technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONI-  
41 TORING, telehealth services and similar services designed to improve the  
42 quality and cost-effectiveness of health care services.

43 S 2. This act shall take effect immediately.

44

#### PART B

45 Section 1. Section 2599-b of the public health law, as amended by  
46 section 88 of part B of chapter 58 of the laws of 2005, is amended to  
47 read as follows:

48 S 2599-b. Program development. 1. The program shall be designed to  
49 prevent and reduce the incidence and prevalence of obesity in children  
50 and adolescents, especially among populations with high rates of obesity  
51 and obesity-related health complications including, but not limited to,  
52 diabetes, heart disease, cancer, osteoarthritis, asthma, EMPHYSEMA,  
53 CHRONIC BRONCHITIS, OTHER CHRONIC RESPIRATORY DISEASES and other condi-  
54 tions. The program shall use recommendations and goals of the United

1 States departments of agriculture and health and human services, the  
2 surgeon general and centers for disease control AND PREVENTION in devel-  
3 oping and implementing guidelines for nutrition education and physical  
4 activity projects as part of obesity prevention efforts. The content and  
5 implementation of the program shall stress the benefits of choosing a  
6 balanced, healthful diet from the many options available to consumers,  
7 without specifically targeting the elimination of any particular food  
8 group, food product or food-related industry.

9 2. The childhood obesity prevention program shall include, but not be  
10 limited to:

11 (a) developing media health promotion campaigns targeted to children  
12 and adolescents and their parents and caregivers that emphasize increas-  
13 ing consumption of low-calorie, high-nutrient foods, decreasing consump-  
14 tion of high-calorie, low-nutrient foods and increasing physical activ-  
15 ity designed to prevent or reduce obesity;

16 (b) establishing school-based childhood obesity prevention nutrition  
17 education and physical activity programs including programs described in  
18 section twenty-five hundred ninety-nine-c of this article, as well as  
19 other programs with linkages to physical and health education courses,  
20 and which utilize the school health index of the National Center for  
21 Chronic Disease Prevention and Health Promotion or other recognized  
22 school health assessment PURSUANT TO ARTICLE NINETEEN OF THE EDUCATION  
23 LAW;

24 (c) establishing community-based childhood obesity prevention nutri-  
25 tion education and physical activity programs including programs which  
26 involve parents and caregivers, and which encourage communities, fami-  
27 lies, child care and other settings to provide safe and adequate space  
28 and time for physical activity and encourage a healthy diet, AND CAN BE  
29 IN COORDINATION WITH COUNTY COOPERATIVE EXTENSION PROGRAMS ESTABLISHED  
30 PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR-B OF THE COUNTY LAW;

31 (d) coordinating with the state education department, department of  
32 agriculture and markets, office of parks, recreation and historic pres-  
33 ervation, office of temporary and disability assistance, office of chil-  
34 dren and family services and other federal, state and local agencies to  
35 incorporate strategies to prevent and reduce childhood obesity into  
36 government food assistance, health, education and recreation programs;

37 (e) sponsoring periodic conferences or meetings to bring together  
38 experts in nutrition, exercise, public health, mental health, education,  
39 parenting, media, food marketing, food security, agriculture, community  
40 planning and other disciplines to examine societal-based solutions to  
41 the problem of childhood obesity and issue guidelines and recommenda-  
42 tions for New York state policy and programs;

43 (f) developing training programs for medical and other health profes-  
44 sionals to teach practical skills in nutrition and exercise education to  
45 children and their parents and caregivers; [and]

46 (g) developing screening programs in coordination with health care  
47 providers and institutions including but not limited to day care centers  
48 and schools for overweight and obesity for children aged two through  
49 eighteen years, using body mass index (BMI) appropriate for age and  
50 gender, and notification, in a manner protecting the confidentiality of  
51 such children and their families, of parents of BMI status, and explana-  
52 tion of the consequences of such status, including recommended actions  
53 parents may need to take and information about resources and referrals  
54 available to families to enhance nutrition and physical activity to  
55 reduce and prevent obesity[.]; AND

1 (H) COORDINATING WITH THE EDUCATION DEPARTMENT, OFFICE OF TEMPORARY  
2 AND DISABILITY ASSISTANCE, OFFICE OF CHILDREN AND FAMILY SERVICES AND  
3 OTHER FEDERAL, STATE AND LOCAL AGENCIES TO INCORPORATE STRATEGIES TO  
4 CURTAIL THE INCIDENCE OF ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC  
5 RESPIRATORY DISEASES TO ENABLE ADULTS AND CHILDREN TO SAFELY INCREASE  
6 PHYSICAL ACTIVITY.

7 3. The department, IN COOPERATION WITH THE EDUCATION DEPARTMENT, shall  
8 periodically collect and analyze information from schools, health and  
9 nutrition programs and other sources to determine the prevalence of  
10 childhood obesity in New York state, and to evaluate, to the extent  
11 possible, the effectiveness of the childhood obesity prevention program.

12 S 2. The opening paragraph of section 2599-c of the public health law,  
13 as amended by section 88 of part B of chapter 58 of the laws of 2005, is  
14 amended to read as follows:

15 The commissioner, IN COOPERATION WITH THE COMMISSIONERS OF EDUCATION  
16 AND AGRICULTURE AND MARKETS, AND COUNTY BOARDS OF COOPERATIVE EXTENSION,  
17 shall encourage the establishment of school-based childhood obesity  
18 prevention and physical activity programs that promote:

19 S 3. This act shall take effect immediately.

20 PART C

21 Section 1. Paragraphs (a), (b) and (c) of subdivision 1 of section  
22 2411 of the public health law, as amended by section 5 of part A of  
23 chapter 60 of the laws of 2014, are amended to read as follows:

24 (a) Survey state agencies, boards, programs and other state govern-  
25 mental entities to assess what, if any, relevant data has been or is  
26 being collected which may be of use to researchers engaged in breast  
27 cancer research, OR ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRON-  
28 CHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

29 (b) Consistent with the survey conducted pursuant to paragraph (a) of  
30 this subdivision, compile a list of data collected by state agencies  
31 which may be of assistance to researchers engaged in breast cancer  
32 research as established in section twenty-four hundred twelve of this  
33 title, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR  
34 OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

35 (c) Consult with the Centers for Disease Control and Prevention, the  
36 National Institutes of Health, the Federal Agency For Health Care Policy  
37 and Research, the National Academy of Sciences and other organizations  
38 or entities which may be involved in cancer research to solicit both  
39 information regarding breast cancer research projects that are currently  
40 being conducted and recommendations for future research projects, AND  
41 ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC  
42 RESPIRATORY DISEASE RESEARCH PROJECTS;

43 S 2. Subdivision 1 of section 2500 of the public health law, as  
44 amended by chapter 822 of the laws of 1987, is amended to read as  
45 follows:

46 1. The commissioner shall act in an advisory and supervisory capacity,  
47 in matters pertaining to the safeguarding of motherhood, the prevention  
48 of maternal, perinatal, infant and child mortality, the prevention of  
49 diseases, low birth weight, CHILDHOOD OBESITY, and defects of childhood  
50 and the promotion of maternal, prenatal and child health, including care  
51 in hospitals, and shall administer such services bearing on the health  
52 of mothers and children for which funds are or shall hereafter be made  
53 available.

54 S 3. This act shall take effect immediately.

1

## PART D

2 Section 1. Section 2505-a of the public health law, as added by chap-  
3 ter 292 of the laws of 2009, is amended to read as follows:

4 S 2505-a. Rights of breastfeeding mothers. 1. The principles enunci-  
5 ated in subdivision three of this section are declared to be the public  
6 policy of the state and a copy of such statement of rights shall be  
7 posted conspicuously in a public place in each maternal health care  
8 facility AND CHILD DAY CARE FACILITY. For purposes of this section,  
9 "maternal health care provider" means a physician, midwife, or other  
10 authorized practitioner attending a pregnant woman; and "maternal health  
11 care facility" includes hospitals and freestanding birthing centers  
12 providing perinatal services in accordance with article twenty-eight of  
13 this chapter and applicable regulations.

14 2. The commissioner shall make available to every maternal health care  
15 provider [and], maternal health care facility AND CHILD DAY CARE FACILI-  
16 TY, on the health department's website for the purpose of health care  
17 facilities to include such rights in the maternity information leaflet  
18 as described in section twenty-eight hundred three-j of this chapter, a  
19 copy of the statement of rights provided in subdivision three of this  
20 section in the top six languages other than English spoken in the state  
21 according to the latest available data from the U.S. Bureau of Census,  
22 and shall adopt any rules and regulations necessary to ensure that such  
23 patients are treated in accordance with the provisions of such state-  
24 ment.

25 3. The statement of rights shall consist of the following:

26 "Breastfeeding Mothers' Bill of Rights"

27 Choosing the way you will feed your new baby is one of the important  
28 decisions you will make in preparing for your infant's arrival. Doctors  
29 agree that for most women breastfeeding is the safest and most healthy  
30 choice. It is your right to be informed about the benefits of breast-  
31 feeding and have your health care provider [and], maternal health care  
32 facility AND CHILD DAY CARE FACILITY encourage and support breastfeed-  
33 ing. You have the right to make your own choice about breastfeeding.  
34 Whether you choose to breastfeed or not you have the following basic  
35 rights regardless of your race, creed, national origin, sexual orien-  
36 tation, gender identity or expression, or source of payment for your  
37 health care. Maternal health care facilities have a responsibility to  
38 ensure that you understand these rights. They must provide this informa-  
39 tion clearly for you and must provide an interpreter if necessary. These  
40 rights may only be limited in cases where your health or the health of  
41 your baby requires it. If any of the following things are not medically  
42 right for you or your baby, you should be fully informed of the facts  
43 and be consulted.

44 (1) Before You Deliver, if you attend prenatal childbirth education  
45 classes provided by the maternal health care facility and all hospital  
46 clinics and diagnostic and treatment centers providing prenatal services  
47 in accordance with article 28 of the public health law you must receive  
48 the breastfeeding mothers' bill of rights. Each maternal health care  
49 facility shall provide the maternity information leaflet, including the  
50 Breastfeeding Mothers' Bill of Rights, in accordance with section twen-  
51 ty-eight hundred three-i of [this chapter] THE PUBLIC HEALTH LAW to each  
52 patient or to the appointed personal representative at the time of  
53 prebooking or time of admission to a maternal health care facility. Each  
54 maternal health care provider shall give a copy of the Breastfeeding

1 Mothers' Bill of Rights to each patient at or prior to the medically  
2 appropriate time.

3 You have the right to complete information about the benefits of  
4 breastfeeding for yourself and your baby. This will help you make an  
5 informed choice on how to feed your baby.

6 You have the right to receive information that is free of commercial  
7 interests and includes:

8 \* How breastfeeding benefits you and your baby nutritionally,  
9 medically and emotionally;

10 \* How to prepare yourself for breastfeeding;

11 \* How to understand some of the problems you may face and how to solve  
12 them.

13 (2) In The Maternal Health Care Facility:

14 \* You have the right to have your baby stay with you right after birth  
15 whether you deliver vaginally or by cesarean section. You have the right  
16 to begin breastfeeding within one hour after birth.

17 \* You have the right to have someone trained to help you in breast-  
18 feeding give you information and help you when you need it.

19 \* You have the right to have your baby not receive any bottle feeding  
20 or pacifiers.

21 \* You have the right to know about and refuse any drugs that may dry  
22 up your milk.

23 \* You have the right to have your baby in your room with you 24 hours  
24 a day.

25 \* You have the right to breastfeed your baby at any time day or night.

26 \* You have the right to know if your doctor or your baby's pediatri-  
27 cian is advising against breastfeeding before any feeding decisions are  
28 made.

29 \* You have the right to have a sign on your baby's crib clearly stat-  
30 ing that your baby is breastfeeding and that no bottle feeding of any  
31 type is to be offered.

32 \* You have the right to receive full information about how you are  
33 doing with breastfeeding and get help on how to improve.

34 \* You have the right to breastfeed your baby in the neonatal intensive  
35 care unit. If nursing is not possible, every attempt will be made to  
36 have your baby receive your pumped or expressed milk.

37 \* If you, or your baby, are re-hospitalized in a maternal care facili-  
38 ty after the initial delivery stay, the hospital will make every effort  
39 to continue to support breastfeeding, to provide hospital grade electric  
40 pumps and rooming in facilities.

41 \* You have the right to have help from someone specially trained in  
42 breastfeeding support and expressing breast milk if your baby has  
43 special needs.

44 \* You have the right to have a family member or friend receive breast-  
45 feeding information from a staff member if you request it.

46 (3) When You Leave The Maternal Health Care Facility:

47 \* You have the right to printed breastfeeding information free of  
48 commercial material.

49 \* You have the right, unless specifically requested by you, and avail-  
50 able at the facility, to be discharged from the facility without  
51 discharge packs containing infant formula, or formula coupons unless  
52 ordered by your baby's health care provider.

53 \* You have the right to get information about breastfeeding resources  
54 in your community including information on availability of breastfeeding  
55 consultants, support groups and breast pumps.

1 \* You have the right to have the facility give you information to help  
2 choose a medical provider for your baby and understand the importance of  
3 a follow-up appointment.

4 \* You have the right to receive information about safely collecting  
5 and storing your breast milk.

6 \* You have the right to breastfeed your baby in any location, public  
7 or private, where you are otherwise authorized to be. Complaints can be  
8 directed to the New York State Division of Human Rights.

9 \* YOU HAVE A RIGHT TO BREASTFEED YOUR BABY AT YOUR PLACE OF EMPLOYMENT  
10 OR CHILD DAY CARE CENTER IN AN ENVIRONMENT THAT DOES NOT DISCOURAGE  
11 BREASTFEEDING OR THE PROVISION OF BREAST MILK.

12 All the above are your rights. If the maternal health care facility  
13 does not honor these rights you can seek help by contacting the New York  
14 state department of health or by contacting the hospital complaint  
15 hotline or via email.

16 4. The commissioner shall make regulations reasonably necessary to  
17 implement this section.

18 S 2. Section 2505 of the public health law, as added by chapter 479 of  
19 the laws of 1980, is amended to read as follows:

20 S 2505. Human breast milk; collection, storage and distribution;  
21 general powers of the commissioner. The commissioner is hereby  
22 empowered to:

23 (a) adopt regulations and guidelines including, but not limited to  
24 donor standards, methods of collection, and standards for storage, and  
25 distribution of human breast milk;

26 (b) conduct educational activities to inform the public and health  
27 care providers of the availability of human breast milk for infants  
28 determined to require such milk and to inform potential donors of the  
29 opportunities for proper donation;

30 (c) CONDUCT EDUCATIONAL ACTIVITIES TO ENCOURAGE AND FACILITATE EMPLOY-  
31 ERS AND CHILD DAY CARE CENTERS TO ESTABLISH ENVIRONMENTS THAT DO NOT  
32 DISCOURAGE BREASTFEEDING AND THE PROVISION OF BREAST MILK. SUCH ENVIRON-  
33 MENTS MAY INCLUDE SANITARY LOCATIONS FOR BREASTFEEDING AND REFRIGERATORS  
34 TO ASSIST IN BREASTFEEDING AND FEEDING BABIES WITH EXPRESSED BREAST  
35 MILK; AND

36 (D) establish rules and regulations to effectuate the provisions of  
37 this section.

38 S 3. Subdivision 2 of section 2515 of the public health law, as added  
39 by section 20 of part A of chapter 58 of the laws of 2008, is amended to  
40 read as follows:

41 2. "Services for eligible adolescents" means those services, including  
42 but not limited to: vocational and educational counseling, job skills  
43 training, family life and parenting education, life skills development,  
44 coordination, case management, primary preventive health care, PREGNANCY  
45 AND CHILD NUTRITION COUNSELING FOR EXPECTANT MOTHERS TO CURB THE INCI-  
46 DENCE OF CHILDHOOD OBESITY, family planning, social and recreational  
47 programs, child care, outreach and advocacy, follow-up on service utili-  
48 zation, crisis intervention, and efforts to stimulate community interest  
49 and involvement.

50 S 4. Paragraph (c) of subdivision 2 of section 2515-a of the public  
51 health law, as added by section 20 of part A of chapter 58 of the laws  
52 of 2008, is amended to read as follows:

53 (c) serve a geographic area where the incidence of infant mortality,  
54 LOW BIRTH WEIGHT INFANTS, CHILDHOOD OBESITY and the prevalence of low-  
55 income families are high and where the availability or accessibility of  
56 services for eligible adolescents is low;

1 S 5. Subdivision (b) of section 2522 of the public health law, as  
2 amended by chapter 484 of the laws of 2009, is amended and a new subdi-  
3 vision (e-1) is added to read as follows:

4 (b) promotion of community awareness of the benefits TO THE MOTHER AND  
5 CHILD of preconception health and early and continuous prenatal care;

6 (E-1) HEALTH AND NUTRITIONAL EDUCATION AND SERVICES FOR BOTH PARENTS,  
7 REGARDING CHILDHOOD AND ADULT OBESITY AND ASTHMA, AND THE PREVENTION OR  
8 MITIGATION THEREOF;

9 S 6. This act shall take effect immediately.

10 S 2. Severability clause. If any clause, sentence, paragraph, subdi-  
11 vision, section or part of this act shall be adjudged by any court of  
12 competent jurisdiction to be invalid, such judgment shall not affect,  
13 impair, or invalidate the remainder thereof, but shall be confined in  
14 its operation to the clause, sentence, paragraph, subdivision, section  
15 or part thereof directly involved in the controversy in which such judg-  
16 ment shall have been rendered. It is hereby declared to be the intent of  
17 the legislature that this act would have been enacted even if such  
18 invalid provisions had not been included herein.

19 S 3. This act shall take effect immediately provided, however, that  
20 the applicable effective date of Parts A through D of this act shall be  
21 as specifically set forth in the last section of such Parts.