

5789--B

2015-2016 Regular Sessions

I N   S E N A T E

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Introduced by Sens. VALESKY, KLEIN, ROBACH, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to promoting the development, provision and accessibility of telehealth/telemedicine services; and to amend the state finance law, in relation to establishing a New York state telehealth/telemedicine development and research grant fund

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

1     Section 1. Section 206 of the public health law is amended by adding  
2     a new subdivision 30 to read as follows:  
3     30. THE COMMISSIONER SHALL ESTABLISH AND HELP TO PROMOTE THE MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK TO SERVE THE ENTIRE  
4     STATE, INCLUDING UNDERSERVED RURAL, URBAN AND SUBURBAN AREAS. IN ADDITION, IN ACCORDANCE WITH SUBDIVISION EIGHTEEN-A OF THIS SECTION, THE  
5     COMMISSIONER SHALL HELP TO PROMOTE THE INCREASED UTILIZATION, STORAGE  
6     AND RETRIEVAL OF ELECTRONIC RECORDS, INCLUDING TELEHEALTH/TELEMEDICINE  
7     RECORDS, IMAGES, INFORMATION AND DATA, TO HELP PROMOTE THE GENERAL  
8     PUBLIC HEALTH, IMPROVE INDIVIDUAL HEALTH CARE OUTCOMES AND PROVIDE FOR A  
9     COST EFFECTIVE HEALTH CARE DELIVERY SYSTEM.  
10    S 2. Section 220 of the public health law, as amended by section 7 of  
11    part N of chapter 56 of the laws of 2012, is amended to read as follows:  
12    S 220. Public health and health planning council; appointment of  
13    members. There shall continue to be in the department a public health  
14    and health planning council to consist of the commissioner and fourteen  
15  
16

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

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1 members to be appointed by the governor with the advice and consent of  
2 the senate; provided that effective December first, two thousand ten,  
3 the membership of the council shall consist of the commissioner and  
4 twenty-four members to be appointed by the governor with the advice and  
5 consent of the senate. Membership on the council shall be reflective of  
6 the diversity of the state's population including, but not limited to,  
7 the various geographic areas and population densities throughout the  
8 state. The members shall include representatives of the public health  
9 system, health care providers that comprise the state's health care  
10 delivery system, individuals with expertise in the clinical and adminis-  
11 trative aspects of health care delivery, ESTABLISHING AND MAINTAINING A  
12 STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK AND THE UTILIZATION, STORAGE  
13 AND RETRIEVAL OF ELECTRONIC MEDICAL RECORDS, issues affecting health  
14 care consumers, health planning, health care financing and reimburse-  
15 ment, health care regulation and compliance, and public health practice  
16 and at least two members shall also be members of the behavioral health  
17 services advisory council; at least four members shall be represen-  
18 tatives of general hospitals or nursing homes; and at least one member  
19 shall be a representative of each of the following groups: home care  
20 agencies, diagnostic and treatment centers, health care payors, labor  
21 organizations for health care employees, and health care consumer advo-  
22 cacy organizations.

23 S 3. The public health law is amended by adding three new sections  
24 2999-ee, 2999-ff and 2999-gg to read as follows:

25 S 2999-EE. COORDINATION OF DEPARTMENT RESPONSIBILITIES FOR  
26 TELEHEALTH/TELEMEDICINE; BIENNIAL PLAN. 1. THE COMMISSIONER SHALL COOR-  
27 DINATE AND FOCUS THE DEPARTMENT'S DEVELOPMENTAL, ADMINISTRATIVE,  
28 RESEARCH AND EVALUATION RESPONSIBILITIES FOR THE PROVISION AND MAINTE-  
29 NANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK AND SUCH SERVICES  
30 AS PROVIDED PURSUANT TO THIS ARTICLE AND SECTION TWENTY-EIGHT HUNDRED  
31 FIVE-U OF THIS CHAPTER.

32 2. THE COMMISSIONER, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS SPECI-  
33 FIED IN SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-FF OF  
34 THIS ARTICLE, HEALTH CARE FACILITIES, AND THOSE ON-SITE AND ORIGINATING  
35 SITE HEALTH CARE FACILITIES AND THOSE WHICH USE REMOTE PATIENT MONITOR-  
36 ING, ON OR BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN AND EVERY TWO  
37 YEARS THEREAFTER, SHALL PREPARE AND SUBMIT A BIENNIAL PLAN TO SUPPORT  
38 THE PROVISION AND MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE  
39 NETWORK AND SUCH SERVICES PROVIDED PURSUANT TO THIS ARTICLE, SECTION  
40 TWENTY-EIGHT HUNDRED FIVE-U, SUBDIVISION TWO OF SECTION TWENTY-EIGHT  
41 HUNDRED TWENTY-FIVE, SUBDIVISION THREE-C OF SECTION THIRTY-SIX HUNDRED  
42 FOURTEEN OF THIS CHAPTER, AS WELL AS OTHER TELEHEALTH/TELEMEDICINE  
43 SERVICES FOR WHICH THE DEPARTMENT HAS DEVELOPMENTAL AND ADMINISTRATIVE  
44 RESPONSIBILITY. THE BIENNIAL PLAN SHALL INCLUDE:

45 (A) ANY NECESSARY RECOMMENDATIONS FOR LEGISLATIVE, ADMINISTRATIVE OR  
46 BUDGETARY SUPPORT FOR THE OPTIMUM USE OF TELEHEALTH/TELEMEDICINE  
47 SERVICES AND THE STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK;

48 (B) THE IDENTIFICATION OF BARRIERS TO THE PROVISION OF AND ACCESS TO  
49 TELEHEALTH/TELEMEDICINE, INCLUDING EDUCATION AND TRAINING FOR EXISTING  
50 TELEHEALTH/TELEMEDICINE PROVIDERS AND POTENTIAL FUTURE PROVIDERS PURSU-  
51 ANT TO THIS ARTICLE AND SECTION TWENTY-EIGHT HUNDRED FIVE-U OF THIS  
52 CHAPTER AND CONSUMERS, INTEGRATED DEVELOPMENT OF SUCH NETWORK, INCREAS-  
53 ING ACCESS TO BROADBAND SERVICES, REDUCING GAPS IN SUCH NETWORK AND  
54 BROADBAND SERVICES ON A STATEWIDE AND REGIONAL BASIS ESPECIALLY IN RURAL  
55 AND OTHER UNDERSERVED AREAS, ELECTRONIC RECORDS INTERFACE AND OTHER

1 BARRIERS, AND THE METHODS BY WHICH THE DEPARTMENT WILL AID IN ADDRESSING  
2 SUCH BARRIERS; AND

3 (C) AN ABSTRACT OF TELEHEALTH/TELEMEDICINE RESEARCH EITHER BEING OR TO  
4 BE CONDUCTED BY THE DEPARTMENT, OR FACILITATED BY THE DEPARTMENT AND  
5 BEING OR TO BE CONDUCTED BY PROVIDERS OR OTHER ENTITIES, AND FOSTER THE  
6 DISSEMINATION OF SUCH ABSTRACT TO HEALTH CARE PROVIDERS, HEALTH CARE  
7 FACILITIES AND THE GENERAL PUBLIC.

8 3. THE COMMISSIONER SHALL PROVIDE COPIES OF THE BIENNIAL PLAN TO THE  
9 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
10 ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE  
11 ASSEMBLY, THE CHAIRS OF THE SENATE AND ASSEMBLY HEALTH COMMITTEES, THE  
12 HEALTHCARE ASSOCIATION OF NEW YORK STATE, THE MEDICAL SOCIETY OF NEW  
13 YORK STATE AND THE HOME HEALTHCARE ASSOCIATION OF NEW YORK STATE.

14 4. (A) THE COMMISSIONER, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS  
15 SPECIFIED IN SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED  
16 NINETY-NINE-FF OF THIS ARTICLE, HEALTH CARE FACILITIES, THOSE ON-SITE  
17 AND ORIGINATING SITE HEALTH CARE FACILITIES AND THOSE WHICH USE REMOTE  
18 PATIENT MONITORING SHALL IDENTIFY STANDARDS DETERMINED TO BE NECESSARY  
19 FOR THE PROMOTION AND MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE  
20 NETWORK AND SUCH SERVICES UNDER THIS ARTICLE. SUCH STANDARDS, INCLUDING  
21 STANDARDS FOR THE PROTECTION OF PATIENT INFORMATION, MAY BE IDENTIFIED  
22 FROM:

23 (I) THE AMERICAN TELEMEDICINE ASSOCIATION, THE FEDERAL FOOD AND DRUG  
24 ADMINISTRATION AND/OR SUCH OTHER GENERALLY RECOGNIZED STANDARD-SETTING  
25 ORGANIZATIONS AS THE COMMISSIONER MAY DETERMINE;

26 (II) TITLE EIGHT OF THE EDUCATION LAW AND REGULATIONS PROMULGATED  
27 PURSUANT THERETO, THIS CHAPTER AND REGULATIONS PROMULGATED PURSUANT  
28 THERETO AND, AS APPLICABLE, SUCH STANDARDS OF RELEVANT PROFESSIONAL OR  
29 ACCREDITING BODIES AS THE COMMISSIONER MAY DETERMINE, TO ENSURE THAT  
30 TELEHEALTH/TELEMEDICINE MONITORING IS CONDUCTED BY INDIVIDUALS IN  
31 ACCORDANCE WITH AND AS LIMITED BY THE APPLICABLE SCOPE OF PRACTICE,  
32 LICENSURE AND/OR CREDENTIALING PROVISIONS OF SUCH LAWS AND STANDARDS.

33 (B) THE COMMISSIONER MAY INCORPORATE, WITHIN HIS OR HER BIENNIAL PLAN  
34 SUBMITTED PURSUANT TO SUBDIVISION TWO OF THIS SECTION, RECOMMENDATIONS  
35 FOR ANY ADDITIONAL STANDARDS OR REQUIREMENTS FOR TELEHEALTH/TELEMEDICINE  
36 SERVICES AS MAY BE NECESSARY UNDER THIS ARTICLE.

37 S 2999-FF. TELEHEALTH/TELEMEDICINE DEVELOPMENT; GRANTS FOR UNDERSERVED  
38 AREAS AND POPULATIONS. 1. SUBJECT TO THE AVAILABILITY OF FUNDING FROM  
39 THE NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT AND RESEARCH  
40 GRANT FUND, ESTABLISHED PURSUANT TO SECTION NINETY-NINE-Z OF THE STATE  
41 FINANCE LAW, FUNDS MADE AVAILABLE IN THE GENERAL FUND OR ANY OTHER FUNDS  
42 MADE AVAILABLE THEREFOR, THE DEPARTMENT SHALL PROVIDE GRANTS TO ELIGIBLE  
43 PROVIDERS FOR:

44 (A) THE DEVELOPMENT AND PROPER MAINTENANCE OF A STATEWIDE  
45 TELEHEALTH/TELEMEDICINE NETWORK THAT APPROPRIATELY INTEGRATES WITH THE  
46 CURRENT HEALTH CARE DELIVERY SYSTEM AND THAT PROMOTES THE HIGHEST STAND-  
47 ARDS FOR THE PROVISION OF QUALITY AND COST EFFECTIVE HEALTH CARE  
48 THROUGHOUT THE STATE;

49 (B) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES IN GEOGRAPHIC  
50 AREAS OF THE STATE DEEMED BY THE DEPARTMENT TO BE UNDERSERVED ON THE  
51 BASIS OF A LACK OF PROVIDERS PURSUANT TO THIS ARTICLE;

52 (C) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES IN GEOGRAPHIC  
53 AREAS OF THE STATE DEEMED BY THE DEPARTMENT TO BE UNDERSERVED ON THE  
54 BASIS OF THE LACK OF TELEHEALTH/TELEMEDICINE SERVICES IN THE AREA;

55 (D) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW POPU-  
56 LATIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD

1 FACILITATE THE MANAGEMENT OF PATIENT CARE, ACCESS TO CARE, COST-EFFEC-  
2 TIVENESS OF CARE AND/OR TO HELP IMPLEMENT THE PROVISIONS OF SECTION  
3 TWENTY-ONE HUNDRED ELEVEN AND SUBDIVISION TWO OF SECTION TWENTY-EIGHT  
4 HUNDRED TWENTY-FIVE OF THIS CHAPTER AS RELATED TO SUCH SERVICES;

5 (E) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW CONDI-  
6 TIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD  
7 FACILITATE THE MANAGEMENT OF SUCH CONDITIONS, ACCESS TO CARE, COST-EF-  
8 FECTIVENESS OF CARE AND/OR HELP IMPLEMENT SECTION TWENTY-ONE HUNDRED  
9 ELEVEN AND SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE  
10 OF THIS CHAPTER AS RELATED TO SUCH SERVICES;

11 (F) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES TO EVALUATE  
12 THE POTENTIAL BENEFITS OF NEW TELEHEALTH/TELEMEDICINE TECHNOLOGY, FOR  
13 PATIENT CARE, ACCESS TO CARE, COST-EFFECTIVENESS OF CARE AND/OR HELP  
14 IMPLEMENT SECTION TWENTY-ONE HUNDRED ELEVEN AND SUBDIVISION TWO OF  
15 SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE OF THIS CHAPTER AS RELATED TO  
16 SUCH SERVICES; OR

17 (G) SUCH OTHER PURPOSES AS THE DEPARTMENT MAY IDENTIFY.

18 2. ELIGIBLE PROVIDERS, FOR THE PURPOSES OF THIS ARTICLE AND SECTION  
19 TWENTY-EIGHT HUNDRED FIVE-U OF THIS CHAPTER SHALL INCLUDE THOSE  
20 LICENSED, CERTIFIED OR AUTHORIZED PURSUANT TO ARTICLE TWENTY-EIGHT,  
21 THIRTY-SIX OR FORTY, OR SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAP-  
22 TER, OR PHYSICIANS LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE  
23 OF THE EDUCATION LAW; PROVIDED HOWEVER THAT ELIGIBILITY PURSUANT TO THIS  
24 SECTION TO PROVIDE TELEHEALTH/TELEMEDICINE SERVICES SHALL BE CONSISTENT  
25 WITH THE AUTHORITY FOR THE PROVISION OF CARE OTHERWISE PROVIDED PURSUANT  
26 TO ARTICLE TWENTY-EIGHT, THIRTY-SIX OR FORTY, OR SECTION FORTY-FOUR  
27 HUNDRED THREE-F OF THIS CHAPTER, OR TITLE EIGHT OF THE EDUCATION LAW.

28 3. THE DEPARTMENT, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS SPECI-  
29 FIED IN SUBDIVISION TWO OF THIS SECTION, SHALL ESTABLISH THE FORMS AND  
30 PROCESS FOR THE SUBMISSION AND APPROVAL OF GRANT APPLICATIONS PURSUANT  
31 TO THIS SUBDIVISION.

32 S 2999-GG. TELEHEALTH/TELEMEDICINE RESEARCH. 1. THE COMMISSIONER SHALL  
33 PROMOTE AND SUPPORT CLINICAL AND PROGRAMMATIC RESEARCH BY PROVIDERS AND  
34 OTHER ENTITIES TO FURTHER EVALUATE, REFINE AND/OR DEVELOP EFFECTIVE AND  
35 EFFICIENT APPLICATION OF TELEHEALTH/TELEMEDICINE METHODS AND TECHNOLOGY  
36 TO POPULATIONS, CONDITIONS AND CIRCUMSTANCES, AND TO ESTABLISH AND MAIN-  
37 TAIN A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK. THE COMMISSIONER SHALL  
38 MAKE AVAILABLE DATA AND TECHNICAL ASSISTANCE FOR SUCH RESEARCH, PROVIDED  
39 THAT ANY DATA MADE AVAILABLE SHALL NOT CONTAIN INDIVIDUALLY IDENTIFYING  
40 INFORMATION.

41 2. THE COMMISSIONER IS AUTHORIZED TO APPLY FOR SUCH GOVERNMENTAL,  
42 PHILANTHROPIC AND OTHER GRANTS THAT MAY BE AVAILABLE FOR SUCH RESEARCH.  
43 MONIES FROM SUCH GRANTS SHALL BE DEPOSITED IN THE NEW YORK STATE  
44 TELEHEALTH/TELEMEDICINE DEVELOPMENT AND RESEARCH GRANT FUND ESTABLISHED  
45 BY SECTION NINETY-NINE-Z OF THE STATE FINANCE LAW.

46 3. THE DEPARTMENT SHALL CONSULT WITH ELIGIBLE PROVIDERS, AS SPECIFIED  
47 IN SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-FF OF THIS  
48 ARTICLE AND SECTION TWENTY-EIGHT HUNDRED FIVE-U OF THIS CHAPTER IN THE  
49 IMPLEMENTATION OF THIS SECTION.

50 S 4. Section 3614 of the public health law is amended by adding a new  
51 subdivision 3-d to read as follows:

52 3-D. CAPITAL REIMBURSEMENT FOR TELEHEALTH/TELEMEDICINE. THE DEPARTMENT  
53 SHALL INCLUDE IN THE REIMBURSEMENT RATES ESTABLISHED PURSUANT TO THIS  
54 SECTION A COST ALLOWANCE FOR THE REIMBURSEMENT OF CAPITAL COSTS FOR THE  
55 DEVELOPMENT, OPERATION AND PROVISION OF TELEHEALTH/TELEMEDICINE  
56 SERVICES, INCLUDING THE LINKAGE OF TELEHEALTH/TELEMEDICINE AND ELECTRON-

1 IC MEDICAL RECORDS. THE METHODOLOGY FOR THE INCLUSION OF THE ALLOWANCE  
2 SHALL BE DEVELOPED IN CONSULTATION WITH THE ELIGIBLE PROVIDERS FOR  
3 TELEHEALTH/TELEMEDICINE PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-  
4 NINE-EE OF THIS CHAPTER.

5 S 5. The state finance law is amended by adding a new section 99-z to  
6 read as follows:

7 S 99-Z. NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT AND  
8 RESEARCH GRANT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY  
9 OF THE STATE COMPTROLLER AND COMMISSIONER OF TAXATION AND FINANCE A  
10 SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE TELEHEALTH/TELEMEDICINE  
11 DEVELOPMENT AND RESEARCH FUND".

12 2. SUCH FUND SHALL CONSIST OF ALL MONIES APPROPRIATED FOR THE PURPOSE  
13 OF SUCH FUND AND ANY GRANT, GIFT OR BEQUEST MADE FOR PURPOSES OF DEVEL-  
14 OPMENT OR GRANTS FOR TELEHEALTH/TELEMEDICINE SERVICES PURSUANT TO  
15 SECTION TWENTY-NINE HUNDRED NINETY-NINE-FF OF THE PUBLIC HEALTH LAW.

16 3. MONIES OF THE FUND SHALL BE AVAILABLE TO THE COMMISSIONER OF HEALTH  
17 FOR THE PURPOSE OF PROVIDING DEVELOPMENT AND RESEARCH GRANTS FOR  
18 TELEHEALTH/TELEMEDICINE PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-  
19 NINE-FF OF THE PUBLIC HEALTH LAW.

20 4. THE MONIES OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT  
21 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER  
22 OF HEALTH, OR BY AN OFFICER OR EMPLOYEE OF THE DEPARTMENT OF HEALTH  
23 DESIGNATED BY SUCH COMMISSIONER.

24 S 6. This act shall take effect immediately, except that section four  
25 of this act shall take effect on the first of April next succeeding the  
26 date on which this act shall have become a law; and provided, further,  
27 that effective immediately, the addition, amendment and/or repeal of any  
28 rule or regulation necessary for the implementation of this act on its  
29 effective date are authorized and directed to be made and completed on  
30 or before such effective date.