

10436

I N   A S S E M B L Y

May 27, 2016

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Introduced by M. of A. RUSSELL -- read once and referred to the Committee on Health

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 members to be appointed by the governor with the advice and consent of  
16 the senate; provided that effective December first, two thousand ten,  
17 the membership of the council shall consist of the commissioner and  
18 twenty-four members to be appointed by the governor with the advice and  
19 consent of the senate. Membership on the council shall be reflective of  
20 the diversity of the state's population including, but not limited to,  
21 the various geographic areas and population densities throughout the  
22 state. The members shall include representatives of the public health  
23 system, health care providers that comprise the state's health care  
24  
25

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

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1 delivery system, individuals with expertise in the clinical and adminis-  
2 trative aspects of health care delivery, ESTABLISHING AND MAINTAINING A  
3 STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK AND THE UTILIZATION, STORAGE  
4 AND RETRIEVAL OF ELECTRONIC MEDICAL RECORDS, issues affecting health  
5 care consumers, health planning, health care financing and reimburse-  
6 ment, health care regulation and compliance, and public health practice  
7 and at least two members shall also be members of the behavioral health  
8 services advisory council; at least four members shall be represen-  
9 tatives of general hospitals or nursing homes; and at least one member  
10 shall be a representative of each of the following groups: home care  
11 agencies, diagnostic and treatment centers, health care payors, labor  
12 organizations for health care employees, and health care consumer advo-  
13 cacy organizations.

14 S 3. The public health law is amended by adding three new sections  
15 2999-ee, 2999-ff and 2999-gg to read as follows:

16 S 2999-EE. COORDINATION OF DEPARTMENT RESPONSIBILITIES FOR  
17 TELEHEALTH/TELEMEDICINE; BIENNIAL PLAN. 1. THE COMMISSIONER SHALL COOR-  
18 DINATE AND FOCUS THE DEPARTMENT'S DEVELOPMENTAL, ADMINISTRATIVE,  
19 RESEARCH AND EVALUATION RESPONSIBILITIES FOR THE PROVISION AND MAINTE-  
20 NANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK AND SUCH SERVICES  
21 AS PROVIDED PURSUANT TO THIS ARTICLE AND SECTION TWENTY-EIGHT HUNDRED  
22 FIVE-U OF THIS CHAPTER.

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

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

39 (B) THE IDENTIFICATION OF BARRIERS TO THE PROVISION OF AND ACCESS TO  
40 TELEHEALTH/TELEMEDICINE, INCLUDING EDUCATION AND TRAINING FOR EXISTING  
41 TELEHEALTH/TELEMEDICINE PROVIDERS AND POTENTIAL FUTURE PROVIDERS PURSU-  
42 ANT TO THIS ARTICLE AND SECTION TWENTY-EIGHT HUNDRED FIVE-U OF THIS  
43 CHAPTER AND CONSUMERS, INTEGRATED DEVELOPMENT OF SUCH NETWORK, INCREAS-  
44 ING ACCESS TO BROADBAND SERVICES, REDUCING GAPS IN SUCH NETWORK AND  
45 BROADBAND SERVICES ON A STATEWIDE AND REGIONAL BASIS ESPECIALLY IN RURAL  
46 AND OTHER UNDERSERVED AREAS, ELECTRONIC RECORDS INTERFACE AND OTHER  
47 BARRIERS, AND THE METHODS BY WHICH THE DEPARTMENT WILL AID IN ADDRESSING  
48 SUCH BARRIERS; AND

49 (C) AN ABSTRACT OF TELEHEALTH/TELEMEDICINE RESEARCH EITHER BEING OR TO  
50 BE CONDUCTED BY THE DEPARTMENT, OR FACILITATED BY THE DEPARTMENT AND  
51 BEING OR TO BE CONDUCTED BY PROVIDERS OR OTHER ENTITIES, AND FOSTER THE  
52 DISSEMINATION OF SUCH ABSTRACT TO HEALTH CARE PROVIDERS, HEALTH CARE  
53 FACILITIES AND THE GENERAL PUBLIC.

54 3. THE COMMISSIONER SHALL PROVIDE COPIES OF THE BIENNIAL PLAN TO THE  
55 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
56 ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE

1 ASSEMBLY, THE CHAIRS OF THE SENATE AND ASSEMBLY HEALTH COMMITTEES, THE  
2 HEALTHCARE ASSOCIATION OF NEW YORK STATE, THE MEDICAL SOCIETY OF NEW  
3 YORK STATE AND THE HOME HEALTHCARE ASSOCIATION OF NEW YORK STATE.

4 4. (A) THE COMMISSIONER, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS  
5 SPECIFIED IN SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED  
6 NINETY-NINE-FF OF THIS ARTICLE, HEALTH CARE FACILITIES, THOSE ON-SITE  
7 AND ORIGINATING SITE HEALTH CARE FACILITIES AND THOSE WHICH USE REMOTE  
8 PATIENT MONITORING SHALL IDENTIFY STANDARDS DETERMINED TO BE NECESSARY  
9 FOR THE PROMOTION AND MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE  
10 NETWORK AND SUCH SERVICES UNDER THIS ARTICLE. SUCH STANDARDS, INCLUDING  
11 STANDARDS FOR THE PROTECTION OF PATIENT INFORMATION, MAY BE IDENTIFIED  
12 FROM:

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

16 (II) TITLE EIGHT OF THE EDUCATION LAW AND REGULATIONS PROMULGATED  
17 PURSUANT THERETO, THIS CHAPTER AND REGULATIONS PROMULGATED PURSUANT  
18 THERETO AND, AS APPLICABLE, SUCH STANDARDS OF RELEVANT PROFESSIONAL OR  
19 ACCREDITING BODIES AS THE COMMISSIONER MAY DETERMINE, TO ENSURE THAT  
20 TELEHEALTH/TELEMEDICINE MONITORING IS CONDUCTED BY INDIVIDUALS IN  
21 ACCORDANCE WITH AND AS LIMITED BY THE APPLICABLE SCOPE OF PRACTICE,  
22 LICENSURE AND/OR CREDENTIALING PROVISIONS OF SUCH LAWS AND STANDARDS.

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

27 S 2999-FF. TELEHEALTH/TELEMEDICINE DEVELOPMENT; GRANTS FOR UNDERSERVED  
28 AREAS AND POPULATIONS. 1. SUBJECT TO THE AVAILABILITY OF FUNDING FROM  
29 THE NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT AND RESEARCH  
30 GRANT FUND, ESTABLISHED PURSUANT TO SECTION NINETY-NINE-Z OF THE STATE  
31 FINANCE LAW, FUNDS MADE AVAILABLE IN THE GENERAL FUND OR ANY OTHER FUNDS  
32 MADE AVAILABLE THEREFOR, THE DEPARTMENT SHALL PROVIDE GRANTS TO ELIGIBLE  
33 PROVIDERS FOR:

34 (A) THE DEVELOPMENT AND PROPER MAINTENANCE OF A STATEWIDE  
35 TELEHEALTH/TELEMEDICINE NETWORK THAT APPROPRIATELY INTEGRATES WITH THE  
36 CURRENT HEALTH CARE DELIVERY SYSTEM AND THAT PROMOTES THE HIGHEST STAND-  
37 ARDS FOR THE PROVISION OF QUALITY AND COST EFFECTIVE HEALTH CARE  
38 THROUGHOUT THE STATE;

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

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

45 (D) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW POPU-  
46 LATIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD  
47 FACILITATE THE MANAGEMENT OF PATIENT CARE, ACCESS TO CARE, COST-EFFEC-  
48 TIVENESS OF CARE AND/OR TO HELP IMPLEMENT THE PROVISIONS OF SECTION  
49 TWENTY-ONE HUNDRED ELEVEN AND SUBDIVISION TWO OF SECTION TWENTY-EIGHT  
50 HUNDRED TWENTY-FIVE OF THIS CHAPTER AS RELATED TO SUCH SERVICES;

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

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

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

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

3. THE DEPARTMENT, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS SPECIFIED IN SUBDIVISION TWO OF THIS SECTION, SHALL ESTABLISH THE FORMS AND PROCESS FOR THE SUBMISSION AND APPROVAL OF GRANT APPLICATIONS PURSUANT TO THIS SUBDIVISION.

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

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

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

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

3-D. CAPITAL REIMBURSEMENT FOR TELEHEALTH/TELEMEDICINE. THE DEPARTMENT SHALL INCLUDE IN THE REIMBURSEMENT RATES ESTABLISHED PURSUANT TO THIS SECTION A COST ALLOWANCE FOR THE REIMBURSEMENT OF CAPITAL COSTS FOR THE DEVELOPMENT, OPERATION AND PROVISION OF TELEHEALTH/TELEMEDICINE SERVICES, INCLUDING THE LINKAGE OF TELEHEALTH/TELEMEDICINE AND ELECTRONIC MEDICAL RECORDS. THE METHODOLOGY FOR THE INCLUSION OF THE ALLOWANCE SHALL BE DEVELOPED IN CONSULTATION WITH THE ELIGIBLE PROVIDERS FOR TELEHEALTH/TELEMEDICINE PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-NINE-EE OF THIS CHAPTER.

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

S 99-Z. NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT AND RESEARCH GRANT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND COMMISSIONER OF TAXATION AND FINANCE A

1 SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE TELEHEALTH/TELEMEDICINE  
2 DEVELOPMENT AND RESEARCH FUND".

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

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

11 4. THE MONIES OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT  
12 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER  
13 OF HEALTH, OR BY AN OFFICER OR EMPLOYEE OF THE DEPARTMENT OF HEALTH  
14 DESIGNATED BY SUCH COMMISSIONER.

15 S 6. This act shall take effect immediately, except that section four  
16 of this act shall take effect on the first of April next succeeding the  
17 date on which this act shall have become a law; and provided, further,  
18 that effective immediately, the addition, amendment and/or repeal of any  
19 rule or regulation necessary for the implementation of this act on its  
20 effective date are authorized and directed to be made and completed on  
21 or before such effective date.