

5458--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sens. HANNON, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- 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 diagnostic or treatment centers within retail businesses

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

1 Section 1. Section 2801-a of the public health law is amended by
2 adding a new subdivision 17 to read as follows:
3 17. (A) DIAGNOSTIC OR TREATMENT CENTERS ESTABLISHED TO PROVIDE HEALTH
4 CARE SERVICES WITHIN THE SPACE OF A RETAIL BUSINESS OPERATION, SUCH AS A
5 PHARMACY OR A STORE OPEN TO THE GENERAL PUBLIC, OR WITHIN SPACE USED BY
6 AN EMPLOYER FOR PROVIDING HEALTH CARE SERVICES TO ITS EMPLOYEES, MAY BE
7 OPERATED BY LEGAL ENTITIES FORMED UNDER THE LAWS OF THE STATE OF NEW
8 YORK: (I) WHOSE STOCKHOLDERS OR MEMBERS, AS APPLICABLE, ARE NOT NATURAL
9 PERSONS; (II) WHOSE PRINCIPAL STOCKHOLDERS AND MEMBERS, AS APPLICABLE,
10 AND CONTROLLING PERSONS COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THIS
11 SECTION; AND (III) THAT DEMONSTRATE, TO THE SATISFACTION OF THE PUBLIC
12 HEALTH AND HEALTH PLANNING COUNCIL, SUFFICIENT EXPERIENCE AND EXPERTISE
13 IN DELIVERING HIGH QUALITY HEALTH CARE SERVICES. SUCH DIAGNOSTIC AND
14 TREATMENT CENTERS SHALL BE REFERRED TO IN THIS SECTION AS "LIMITED
15 SERVICES CLINICS".
16 (B) FOR PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION, THE PUBLIC
17 HEALTH AND HEALTH PLANNING COUNCIL SHALL ADOPT AND AMEND RULES AND REGU-
18 LATIONS, NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, TO
19 ADDRESS ANY MATTER IT DEEMS PERTINENT TO THE ESTABLISHMENT OF LIMITED
20 SERVICES CLINICS. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE
21 LIMITED TO, PROVISIONS GOVERNING OR RELATING TO: (I) ANY DIRECT OR INDI-
22 RECT CHANGES OR TRANSFERS OF OWNERSHIP INTERESTS OR VOTING RIGHTS IN

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

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1 SUCH ENTITIES OR THEIR STOCKHOLDERS OR MEMBERS, AS APPLICABLE; (II)
2 PUBLIC HEALTH AND HEALTH PLANNING COUNCIL APPROVAL OF ANY CHANGE IN
3 CONTROLLING INTERESTS, PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS,
4 PARENT COMPANY OR SPONSORS; (III) OVERSIGHT OF THE OPERATOR AND ITS
5 SHAREHOLDERS OR MEMBERS, AS APPLICABLE, INCLUDING LOCAL GOVERNANCE OF
6 THE LIMITED SERVICES CLINICS; AND (IV) THE CHARACTER AND COMPETENCE AND
7 QUALIFICATIONS OF, AND CHANGES RELATING TO, THE DIRECTORS AND OFFICERS
8 OF THE OPERATOR AND ITS PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS,
9 PARENT COMPANY OR SPONSORS.

10 (C) THE FOLLOWING PROVISIONS OF THIS SECTION SHALL NOT APPLY TO LIMIT-
11 ED SERVICES CLINICS: (I) PARAGRAPH (A) OF SUBDIVISION THREE OF THIS
12 SECTION; (II) PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELAT-
13 ING TO STOCKHOLDERS AND MEMBERS OTHER THAN PRINCIPAL STOCKHOLDERS AND
14 PRINCIPAL MEMBERS; (III) PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS
15 SECTION, RELATING TO THE DISPOSITION OF STOCK OR VOTING RIGHTS; AND (IV)
16 PARAGRAPH (E) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE
17 OWNERSHIP OF STOCK OR MEMBERSHIP.

18 (D) A LIMITED SERVICES CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE
19 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
20 TER. A PRESCRIBER PRACTICING IN A LIMITED SERVICE CLINIC SHALL NOT BE
21 DEEMED TO BE IN THE EMPLOY OF A PHARMACY OR PRACTICING IN A HOSPITAL FOR
22 PURPOSES OF SUBDIVISION TWO OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE
23 EDUCATION LAW.

24 (E) THE COMMISSIONER SHALL PROMULGATE REGULATIONS SETTING FORTH OPERA-
25 TIONAL AND PHYSICAL PLANT STANDARDS FOR LIMITED SERVICES CLINICS, WHICH
26 MAY BE DIFFERENT FROM THE REGULATIONS OTHERWISE APPLICABLE TO DIAGNOSTIC
27 OR TREATMENT CENTERS, INCLUDING, BUT NOT LIMITED TO:

28 (I) REQUIRING THAT LIMITED SERVICES CLINICS ATTAIN AND MAINTAIN
29 ACCREDITATION AND REQUIRING TIMELY REPORTING TO THE DEPARTMENT IF A
30 LIMITED SERVICE CLINIC LOSES ITS ACCREDITATION;

31 (II) DESIGNATING OR LIMITING THE TREATMENTS AND SERVICES THAT MAY BE
32 PROVIDED, INCLUDING:

33 (1) PROHIBITING THE PROVISION OF SERVICES TO PATIENTS TWENTY-FOUR
34 MONTHS OF AGE OR YOUNGER;

35 (2) THE PROVISION OF SPECIFIC IMMUNIZATIONS TO PATIENTS YOUNGER THAN
36 EIGHTEEN YEARS OF AGE;

37 (III) REQUIRING LIMITED SERVICE CLINICS TO ACCEPT WALK-INS AND OFFER
38 EXTENDED BUSINESS HOURS;

39 (IV) SETTING FORTH GUIDELINES FOR ADVERTISING AND SIGNAGE, DISCLOSURE
40 OF OWNERSHIP INTERESTS, INFORMED CONSENT, RECORD KEEPING, REFERRAL FOR
41 TREATMENT AND CONTINUITY OF CARE, CASE REPORTING TO THE PATIENT'S PRIMA-
42 RY CARE OR OTHER HEALTH CARE PROVIDERS, DESIGN, CONSTRUCTION, FIXTURES,
43 AND EQUIPMENT. SIGNAGE SHALL ALSO BE REQUIRED TO INDICATE THAT
44 PRESCRIPTIONS AND OVER-THE-COUNTER SUPPLIES MAY BE PURCHASED BY A
45 PATIENT FROM ANY BUSINESS AND DO NOT NEED TO BE PURCHASED ON-SITE;

46 (V) REQUIRING THE OPERATOR TO DIRECTLY EMPLOY A MEDICAL DIRECTOR WHO
47 IS LICENSED AND CURRENTLY REGISTERED TO PRACTICE MEDICINE IN THE STATE
48 OF NEW YORK; AND

49 (VI) REQUIRING LIMITED SERVICE CLINICS TO UTILIZE AND MAINTAIN AN
50 ELECTRONIC HEALTH RECORD SYSTEM THAT CONNECTS TO THE LOCAL REGIONAL
51 HEALTH INFORMATION ORGANIZATION TO FACILITATE THE EXCHANGE OF HEALTH
52 INFORMATION.

53 (F) SUCH REGULATIONS ALSO SHALL PROMOTE AND STRENGTHEN PRIMARY CARE
54 THROUGH: (I) THE INTEGRATION OF SERVICES PROVIDED BY LIMITED SERVICES
55 CLINICS WITH THE SERVICES PROVIDED BY THE PATIENT'S OTHER HEALTH CARE

1 PROVIDERS; AND (II) THE REFERRAL OF PATIENTS TO APPROPRIATE HEALTH CARE
2 PROVIDERS, INCLUDING APPROPRIATE TRANSMISSION OF PATIENT HEALTH RECORDS.

3 (G) A LIMITED SERVICES CLINIC SHALL PROVIDE TREATMENT WITHOUT DISCRIM-
4 INATION AS TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, DISABILITY,
5 SEXUAL ORIENTATION OR SOURCE OF PAYMENT.

6 (H) NOTWITHSTANDING THIS SUBDIVISION AND ANY OTHER LAW OR REGULATION
7 TO THE CONTRARY AND SUBJECT TO THE PROVISIONS OF SECTION TWENTY-EIGHT
8 HUNDRED TWO OF THIS ARTICLE, A GENERAL HOSPITAL, A DIAGNOSTIC AND TREAT-
9 MENT CENTER, COMMUNITY HEALTH CENTER OR FEDERALLY QUALIFIED HEALTH
10 CENTER MAY OPERATE A LIMITED SERVICES CLINIC WHICH MEETS THE REGULATION
11 PROMULGATED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION REGARDING
12 OPERATIONAL AND PHYSICAL PLANT STANDARDS FOR LIMITED SERVICES CLINICS.

13 S 2. This act shall take effect immediately.