

5458--C

2015-2016 Regular Sessions

I N S E N A T E

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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 -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to authorizing the establishment of limited service clinics

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, AND FURTHER DEMONSTRATE
14 A COMMITMENT TO OPERATE LIMITED SERVICES CLINICS IN MEDICALLY UNDER-
15 SERVED AREAS OF THE STATE. SUCH DIAGNOSTIC AND TREATMENT CENTERS SHALL
16 BE REFERRED TO IN THIS SECTION AS "LIMITED SERVICES CLINICS".

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

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1 (B) FOR PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION, THE PUBLIC
2 HEALTH AND HEALTH PLANNING COUNCIL SHALL ADOPT AND AMEND RULES AND REGU-
3 LATIONS, NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, TO
4 ADDRESS ANY MATTER IT DEEMS PERTINENT TO THE ESTABLISHMENT OF LIMITED
5 SERVICES CLINICS. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE
6 LIMITED TO, PROVISIONS GOVERNING OR RELATING TO: (I) ANY DIRECT OR INDI-
7 RECT CHANGES OR TRANSFERS OF OWNERSHIP INTERESTS OR VOTING RIGHTS IN
8 SUCH ENTITIES OR THEIR STOCKHOLDERS OR MEMBERS, AS APPLICABLE; (II)
9 PUBLIC HEALTH AND HEALTH PLANNING COUNCIL APPROVAL OF ANY CHANGE IN
10 CONTROLLING INTERESTS, PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS,
11 PARENT COMPANY OR SPONSORS; (III) OVERSIGHT OF THE OPERATOR AND ITS
12 SHAREHOLDERS OR MEMBERS, AS APPLICABLE, INCLUDING LOCAL GOVERNANCE OF
13 THE LIMITED SERVICES CLINICS; AND (IV) THE CHARACTER AND COMPETENCE AND
14 QUALIFICATIONS OF, AND CHANGES RELATING TO, THE DIRECTORS AND OFFICERS
15 OF THE OPERATOR AND ITS PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS,
16 PARENT COMPANY OR SPONSORS.

17 (C) THE FOLLOWING PROVISIONS OF THIS SECTION SHALL NOT APPLY TO LIMIT-
18 ED SERVICES CLINICS: (I) PARAGRAPH (A) OF SUBDIVISION THREE OF THIS
19 SECTION; (II) PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELAT-
20 ING TO STOCKHOLDERS AND MEMBERS OTHER THAN PRINCIPAL STOCKHOLDERS AND
21 PRINCIPAL MEMBERS; (III) PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS
22 SECTION, RELATING TO THE DISPOSITION OF STOCK OR VOTING RIGHTS; AND (IV)
23 PARAGRAPH (E) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE
24 OWNERSHIP OF STOCK OR MEMBERSHIP.

25 (D) A LIMITED SERVICES CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE
26 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
27 TER. A PRESCRIBER PRACTICING IN A LIMITED SERVICE CLINIC SHALL NOT BE
28 DEEMED TO BE IN THE EMPLOY OF A PHARMACY OR PRACTICING IN A HOSPITAL FOR
29 PURPOSES OF SUBDIVISION TWO OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE
30 EDUCATION LAW.

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

35 (I) REQUIRING THAT LIMITED SERVICES CLINICS ATTAIN AND MAINTAIN
36 ACCREDITATION AND REQUIRING TIMELY REPORTING TO THE DEPARTMENT IF A
37 LIMITED SERVICES CLINIC LOSES ITS ACCREDITATION;

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

40 (A) LIMITING THE SCOPE OF SERVICES TO THE FOLLOWING, PROVIDED THAT
41 SUCH SERVICES SHALL NOT INCLUDE MONITORING OR TREATMENT AND SERVICES
42 OVER PROLONGED PERIODS:

43 (1) THE PROVISION OF TREATMENT AND SERVICES TO PATIENTS FOR MINOR
44 ACUTE EPISODIC ILLNESSES OR CONDITIONS;

45 (2) EPISODIC PREVENTIVE AND WELLNESS TREATMENTS AND SERVICES SUCH AS
46 IMMUNIZATIONS; AND

47 (3) TREATMENT AND SERVICES FOR MINOR TRAUMAS THAT ARE NOT REASONABLY
48 LIKELY TO BE LIFE THREATENING OR POTENTIALLY DISABLING IF AMBULATORY
49 CARE WITHIN THE CAPACITY OF THE LIMITED SERVICES CLINIC IS PROVIDED;

50 (B) PROHIBITING THE PROVISION OF SERVICES TO PATIENTS TWENTY-FOUR
51 MONTHS OF AGE OR YOUNGER;

52 (C) THE PROVISION OF SPECIFIC IMMUNIZATIONS TO PATIENTS YOUNGER THAN
53 EIGHTEEN YEARS OF AGE;

54 (III) REQUIRING LIMITED SERVICES CLINICS TO ACCEPT WALK-INS AND OFFER
55 EXTENDED BUSINESS HOURS;

1 (IV) SETTING FORTH GUIDELINES FOR ADVERTISING AND SIGNAGE, WHICH SHALL
2 INCLUDE SIGNAGE INDICATING THAT PRESCRIPTIONS AND OVER-THE-COUNTER
3 SUPPLIES MAY BE PURCHASED BY A PATIENT FROM ANY BUSINESS AND DO NOT NEED
4 TO BE PURCHASED ON-SITE;

5 (V) SETTING FORTH GUIDELINES FOR DISCLOSURE OF OWNERSHIP INTERESTS,
6 INFORMED CONSENT, RECORD KEEPING, REFERRAL FOR TREATMENT AND CONTINUITY
7 OF CARE, CASE REPORTING TO THE PATIENT'S PRIMARY CARE OR OTHER HEALTH
8 CARE PROVIDERS, DESIGN, CONSTRUCTION, FIXTURES, AND EQUIPMENT; AND

9 (VI) REQUIRING THE OPERATOR TO DIRECTLY EMPLOY A MEDICAL DIRECTOR WHO
10 IS LICENSED AND CURRENTLY REGISTERED TO PRACTICE MEDICINE IN THE STATE
11 OF NEW YORK.

12 (F) SUCH REGULATIONS ALSO SHALL PROMOTE AND STRENGTHEN PRIMARY CARE BY
13 REQUIRING LIMITED SERVICES CLINICS TO:

14 (I) INQUIRE OF EACH PATIENT WHETHER HE OR SHE HAS A PRIMARY CARE
15 PROVIDER;

16 (II) MAINTAIN AND REGULARLY UPDATE A LIST OF LOCAL PRIMARY CARE
17 PROVIDERS AND PROVIDE SUCH LIST TO EACH PATIENT WHO INDICATES THAT HE OR
18 SHE DOES NOT HAVE A PRIMARY CARE PROVIDER;

19 (III) REFER PATIENTS TO THEIR PRIMARY CARE PROVIDERS OR OTHER HEALTH
20 CARE PROVIDERS AS APPROPRIATE;

21 (IV) TRANSMIT, BY ELECTRONIC MEANS WHENEVER POSSIBLE, RECORDS OF
22 SERVICES TO PATIENTS' PRIMARY CARE PROVIDERS;

23 (V) EXECUTE PARTICIPATION AGREEMENTS WITH HEALTH INFORMATION ORGANIZA-
24 TIONS, ALSO KNOWN AS QUALIFIED ENTITIES, PURSUANT TO WHICH LIMITED
25 SERVICES CLINICS AGREE TO PARTICIPATE IN THE STATEWIDE HEALTH INFORMA-
26 TION NETWORK FOR NEW YORK (SHIN-NY); AND

27 (VI) DECLINE TO TREAT ANY PATIENT FOR THE SAME CONDITION OR ILLNESS
28 MORE THAN THREE TIMES IN A YEAR.

29 (G) A LIMITED SERVICES CLINIC SHALL PROVIDE TREATMENT WITHOUT DISCRIM-
30 INATION AS TO SOURCE OF PAYMENT.

31 (H) NOTWITHSTANDING THIS SUBDIVISION AND OTHER LAW OR REGULATION TO
32 THE CONTRARY AND SUBJECT TO THE PROVISIONS OF SECTION TWENTY-EIGHT
33 HUNDRED TWO OF THIS ARTICLE, A GENERAL HOSPITAL, A DIAGNOSTIC AND TREAT-
34 MENT CENTER, COMMUNITY HEALTH CENTER OR FEDERALLY QUALIFIED HEALTH
35 CENTER MAY OPERATE A LIMITED SERVICES CLINIC WHICH MEETS THE REGULATION
36 PROMULGATED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION REGARDING
37 OPERATIONAL PHYSICAL PLANT STANDARDS.

38 (I) IN DETERMINING WHETHER TO APPROVE ADDITIONAL LIMITED SERVICES
39 CLINIC LOCATIONS, THE DEPARTMENT SHALL CONSIDER WHETHER THE OPERATOR HAS
40 FULFILLED ITS COMMITMENT TO OPERATE LIMITED SERVICES CLINICS IN
41 MEDICALLY UNDERSERVED AREAS OF THE STATE.

42 S 2. This act shall take effect immediately.