S T A T E O F N E W Y O R K

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2015-2016 Regular Sessions

I N S E N A T E

June 3, 2015

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:

Section 1. Section 206 of the public health law is amended by adding a new subdivision 30 to read as follows:

30. THE COMMISSIONER SHALL ESTABLISH AND HELP TO PROMOTE THE MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK TO SERVE THE ENTIRE STATE, INCLUDING UNDERSERVED RURAL, URBAN AND SUBURBAN AREAS. IN ADDITION, IN ACCORDANCE WITH SUBDIVISION EIGHTEEN-A OF THIS SECTION, THE COMMISSIONER SHALL HELP TO PROMOTE THE INCREASED UTILIZATION, STORAGE AND RETRIEVAL OF ELECTRONIC RECORDS, INCLUDING TELEHEALTH/TELEMEDICINE RECORDS, IMAGES, INFORMATION AND DATA, TO HELP PROMOTE THE GENERAL PUBLIC HEALTH, IMPROVE INDIVIDUAL HEALTH CARE OUTCOMES AND PROVIDE FOR A COST EFFECTIVE HEALTH CARE DELIVERY SYSTEM.

S 2. Section 220 of the public health law, as amended by section 7 of part N of chapter 56 of the laws of 2012, is amended to read as follows:

S 220. Public health and health planning council; appointment of members. There shall continue to be in the department a public health and health planning council to consist of the commissioner and fourteen

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

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members to be appointed by the governor with the advice and consent of the senate; provided that effective December first, two thousand ten, the membership of the council shall consist of the commissioner and twenty-four members to be appointed by the governor with the advice and consent of the senate. Membership on the council shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state. The members shall include representatives of the public health system, health care providers that comprise the state's health care delivery system, individuals with expertise in the clinical and administrative aspects of health care delivery, ESTABLISHING AND MAINTAINING A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK AND THE UTILIZATION, STORAGE AND RETRIEVAL OF ELECTRONIC MEDICAL RECORDS, issues affecting health care consumers, health planning, health care financing and reimbursement, health care regulation and compliance, and public health practice and at least two members shall also be members of the behavioral health services advisory council; at least four members shall be representatives of general hospitals or nursing homes; and at least one member shall be a representative of each of the following groups: home care agencies, diagnostic and treatment centers, health care payors, labor organizations for health care employees, and health care consumer advocacy organizations.

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

S 2999-EE. COORDINATION OF DEPARTMENT RESPONSIBILITIES FOR TELEHEALTH/TELEMEDICINE; BIENNIAL PLAN. 1. THE COMMISSIONER SHALL COORDINATE AND FOCUS THE DEPARTMENT'S DEVELOPMENTAL, ADMINISTRATIVE, RESEARCH AND EVALUATION RESPONSIBILITIES FOR THE PROVISION AND MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK AND SUCH SERVICES AS PROVIDED PURSUANT TO THIS ARTICLE AND SECTION TWENTY-EIGHT HUNDRED FIVE-U OF THIS CHAPTER.

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

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

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

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

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

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

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

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

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

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

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

(A) THE DEVELOPMENT AND PROPER MAINTENANCE OF A STATEWIDE TELEHEALTH/TELEMEDICINE NETWORK THAT APPROPRIATELY INTEGRATES WITH THE CURRENT HEALTH CARE DELIVERY SYSTEM AND THAT PROMOTES THE HIGHEST STANDARDS FOR THE PROVISION OF QUALITY AND COST EFFECTIVE HEALTH CARE THROUGHOUT THE STATE;

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

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

(D) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW POPULATIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD

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

(E) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW CONDITIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD FACILITATE THE MANAGEMENT OF SUCH CONDITIONS, 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;

(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 ELECTRON-

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

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

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

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

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