STATE OF NEW YORK

2495

2017-2018 Regular Sessions

IN SENATE

January 13, 2017

Introduced by Sens. HANNON, AKSHAR, AVELLA, CARLUCCI, DeFRANCISCO, FUNKE, GALLIVAN, GOLDEN, MARCHIONE, ORTT, RANZENHOFER, SERINO, SEWARD, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to the transplant council

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 4361 of the public health law, as added by chapter 589 of the laws of 1990, is amended to read as follows:

§ 4361. Transplant council. 1. There shall be created in the department a transplant council which shall advise **and make recommendations to** the commissioner on matters relating to organ **donation,** procurement organizations, banks, and storage facilities and other issues related to the **donation,** procurement, storage, allocation, distribution, and transplantation of organs and tissue. The council shall consist of twenty-one members of which seven, including the chairperson, shall be appointed by the governor, seven by the temporary president of the senate and seven by the speaker of the assembly. The transplant council shall be composed of members of the general public, transplant recipients or donors or their family members, representatives of organ procurement organizations and banks or storage facilities, physicians with expertise in organ and tissue transplantation and the care of persons with end stage disease resulting from organ failure and persons with expertise in histocompatibility typing, law and ethics.

2. The terms of office of members of the transplant council shall be three years, provided, however, that of the members first appointed seven shall be appointed for terms which shall expire on December thirty-first, nineteen hundred ninety-two, seven shall be appointed for terms which shall expire on December thirty-first, nineteen hundred ninety-four and seven shall be appointed for terms which shall expire

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

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December thirty-first, nineteen hundred ninety-six. Vacancies shall be filled by appointment in like manner for the unexpired term of such member.

3. The transplant council shall meet as frequently as its business may require, and at least twice in each year.

4. The transplant council shall enact and from time to time may amend by-laws in relation to its meetings and the transaction of its business.

5. **A majority of the appointed voting membership of the transplant council shall constitute a quorum.**

6. The members of the council shall receive no compensation for their services as members of the council, but each of them shall be allowed the necessary and actual expenses which are incurred in the performance of his or her duties under this article.

[~~6.~~] **7.** (a) The transplant council shall review existing federal law and policies, including federal regulations and the policies of the federal organ procurement and transplantation network governing organ procurement organizations and procurement activities, and make recommendations **annually** to the commissioner regarding state regulation of organ **donation** procurement organizations and activities and tissue banks and tissue procurement activities [~~provided that the council shall make initial recommendations to the commissioner on or before April first, nineteen hundred ninety-two~~] **and transplantation**.

(b) Prior to the commissioner's final approval and promulgation of [~~such~~] proposed rules and regulations **relating to organ donation, procurement and/or transplantation**, if such rules and regulations are modified in any respect, they shall be submitted to the council in accordance with the provisions of subdivision three of section forty-three hundred sixty-five of this article. If the commissioner determines not to promulgate **or amend** such proposed rules and regulations **as proposed by the council**, the commissioner shall provide a written explanation of such determination to the council.

§ 2. This act shall take effect immediately.