

# STATE OF NEW YORK

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5132

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

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Introduced by M. of A. GOTTFRIED -- read once and referred 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 Assem-  
bly, do enact as follows:

1 Section 1. Section 4361 of the public health law, as added by chapter  
2 589 of the laws of 1990, is amended to read as follows:

3 § 4361. Transplant council. 1. There shall be created in the depart-  
4 ment a transplant council which shall advise and make recommendations to  
5 the commissioner on matters relating to organ donation, procurement  
6 organizations, banks, and storage facilities and other issues related to  
7 the donation, procurement, storage, allocation, distribution, and trans-  
8 plantation of organs and tissue. The council shall consist of twenty-one  
9 members of which seven, including the chairperson, shall be appointed by  
10 the governor, seven by the temporary president of the senate and seven  
11 by the speaker of the assembly. The transplant council shall be composed  
12 of members of the general public, transplant recipients or donors or  
13 their family members, representatives of organ procurement organizations  
14 and banks or storage facilities, physicians with expertise in organ and  
15 tissue transplantation and the care of persons with end stage disease  
16 resulting from organ failure and persons with expertise in histocompati-  
17 bility typing, law and ethics.

18 2. The terms of office of members of the transplant council shall be  
19 three years, provided, however, that of the members first appointed  
20 seven shall be appointed for terms which shall expire on December thir-  
21 ty-first, nineteen hundred ninety-two, seven shall be appointed for  
22 terms which shall expire on December thirty-first, nineteen hundred  
23 ninety-four and seven shall be appointed for terms which shall expire  
24 December thirty-first, nineteen hundred ninety-six. Vacancies shall be

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

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1 filled by appointment in like manner for the unexpired term of such  
2 member.

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

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

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

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

13 ~~[6-]~~ 7. (a) The transplant council shall review existing federal law  
14 and policies, including federal regulations and the policies of the  
15 federal organ procurement and transplantation network governing organ  
16 procurement organizations and procurement activities, and make recommen-  
17 dations annually to the commissioner regarding state regulation of organ  
18 donation procurement organizations and activities and tissue banks and  
19 tissue procurement activities ~~[provided that the council shall make~~  
20 ~~initial recommendations to the commissioner on or before April first,~~  
21 ~~nineteen hundred ninety-two]~~ and transplantation.

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

31 § 2. This act shall take effect immediately.