

# STATE OF NEW YORK

620

2017-2018 Regular Sessions

## IN ASSEMBLY

January 9, 2017

Introduced by M. of A. GUNTHER, LIFTON, STECK, COOK, PALMESANO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to creating a rural home health flexibility program

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

1 Section 1. Section 3622 of the public health law, as renumbered by  
2 section 22 of part C of chapter 58 of the laws of 2004, is renumbered  
3 section 3623 and a new section 3622 is added to read as follows:

4 § 3622. Rural home health flexibility program. 1. The legislature  
5 finds and declares that the provision and accessibility of home health  
6 care and long term home health care program services in rural areas  
7 necessitates regulatory flexibility in order for limited resources to be  
8 best utilized and maximized to meet the health care needs of rural citi-  
9 zens and to promote the efficiency of the delivery of services in rural  
10 areas. The legislature therefore establishes a rural home health flexi-  
11 bility program for such purposes.

12 2. Pursuant to the purposes of this section, the commissioner,  
13 notwithstanding any inconsistent provision of law or regulation, shall  
14 consider for approval proposals from providers operating under this  
15 article and serving rural counties to:

16 (a) Create and operate a long term home health care program which does  
17 not provide all the required services specified in regulations of the  
18 department, provided that:

19 (i) there is demonstrated need for such program in the service area;  
20 and

21 (ii) the applicant to provide such program demonstrates to the commis-  
22 sioner's satisfaction that such applicant has made, and continues to  
23 make, all appropriate efforts to provide all required services but that  
24 the lack of available health personnel within the service area is an  
25 obstacle.

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

LBD02595-01-7

1 (b) Establish or operate a certified home health agency or long term  
2 home health care program which serves a geographic area less than an  
3 entire planning area when:

- 4 (i) no other provider otherwise serves the entire planning area;
- 5 (ii) collaborative approaches to the service of citizens in the plan-  
6 ning area is appropriate for feasibility and efficiency; and
- 7 (iii) the department is satisfied that such collaboration will result  
8 in accessible and economically-feasible services within the planning  
9 area.

10 (c) Qualify for home telehealth reimbursement pursuant to this article  
11 when all of the conditions ordinarily required for such reimbursement or  
12 services are unable to be met, provided that the applicant demonstrates,  
13 and continues to undertake, best efforts to meet such requirements and  
14 that the quality or safety of patient care will not be diminished as a  
15 result.

16 (d) Be exempted from the applicability of a regulatory requirement, or  
17 any part thereof, that imposes adverse impacts on such rural providers  
18 when:

- 19 (i) such impacts have been identified by the department pursuant to  
20 article two of the state administrative procedure act; and
- 21 (ii) compliance with such requirements would be overly burdensome  
22 because of the constraints or demands of the provider's rural area, or  
23 the provider's resources.

24 (e) Receive approval for such other areas of flexibility the commis-  
25 sioner identifies, with the assistance of the workgroup authorized in  
26 subdivision three of this section, appropriate to the purposes of this  
27 section, including proposals to enhance the administration, services and  
28 quality of care provided by a home care agency or program, provided that  
29 such flexibility does not compromise the quality and safety of services  
30 provided.

31 3. The commissioner shall convene a temporary workgroup comprised of  
32 representatives of certified home health agencies, long term home health  
33 care programs and licensed home care services agencies serving rural  
34 counties, as well as rural consumers and rural workforce represen-  
35 tatives, to assist in identifying additional areas for flexibility in  
36 the department's rules, regulations and administrative requirements,  
37 consistent with the purposes of this section.

38 § 2. This act shall take effect immediately.