STATE OF NEW YORK

7747

2017-2018 Regular Sessions

IN ASSEMBLY

May 11, 2017

Introduced by M. of A. GOTTFRIED -- (at request of the Department of Health) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the social services law and chapter 2 of the laws of 2004 amending the public health law, the social services law and the state finance law relating to enacting the assisted living reform act, in relation to reporting requirements by the department of health; to repeal certain provisions of the public health law and the social services law relating thereto; to repeal section 10 of chapter 409 of the laws of 1991 relating to providing for the submission of certain reports and written plans by certain state departments, the omnibus economic development act of nineteen hundred eighty-seven, and the New York state urban development corporation act, relating to reporting requirements; to repeal section 2 of the families in transition act of 2000, relating to an annual reporting requirement; and to repeal section 24-b of part B of chapter 58 of the laws of 2007 amending the elder law and other laws relating to the elderly pharmaceutical insurance coverage program, program eligibility and the generic drug dispensing fee, relating to reporting requirements

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

Section 1. Subdivision 5 of section 266 of the public health law, as added by chapter 483 of the laws of 2014, is amended to read as follows:

5. Report [~~annually~~] **every three years, commencing January first, two thousand eighteen,** to the commissioner, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on health, and the chair of the assembly health committee.

§ 2. Subparagraph (ii) of paragraph (b) of subdivision 1 of section 409-c of the public health law is REPEALED.

§ 3. Subdivision 5 of section 613 of the public health law is REPEALED.

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

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§ 4. Section 695-d of the public health law is REPEALED.

§ 5. Paragraph o of subdivision 1 of section 802 of the public health law is REPEALED.

§ 5-a. Paragraphs m and n of subdivision 1 of section 802 of the public health law, as added by chapter 445 of the laws of 1975 and as relettered by chapter 231 of the laws of 1990, are amended to read as follows:

m. make rules and regulations for the exercise of the council's powers and performance of its duties in order to carry out the provisions of this article; **and**

n. exercise and perform such other functions, powers, and duties as may from time to time be conferred or imposed by law[~~; and~~]**.**

§ 6. Paragraph (h) of subdivision 2 of section 1606 of the public health law is REPEALED.

§ 7. Subdivision 12 of section 2165 of the public health law is REPEALED.

§ 8. Subdivisions 1 and 2 of section 2401-a of the public health law are REPEALED.

§ 9. Subdivision 3 of section 2401-a of the public health law, as added by chapter 393 of the laws of 2007, is amended to read as follows:

[~~3.~~] Skin cancer reporting. The department shall [~~annually~~] submit a written report **every three years, commencing January first, two thousand eighteen,** to the governor and the legislature on the incidence of skin cancer in the state of New York, by type and as a percentage of the overall number of reported cases of all types of cancer, as well as the associated causes of each type of skin cancer, if such causes are readily ascertainable. Such report shall be generated based on data gathered and reviewed pursuant to this title, and shall provide information which is as current as practicable; provided, however, a retrospective of the past ten years of information collected pursuant to this title and predominant trends associated with such information, as concerns skin cancer and its associated causes, shall be a component of such report and each report submitted thereafter. At the discretion of the commissioner, such reports may provide additional information other than the information required by this subdivision. The first report created pursuant to this subdivision shall be submitted one year after the effective date of this subdivision. The reports generated pursuant to this subdivision shall be made available to the public on the department's website.

§ 10. Subdivision 3 of section 2475 of the public health law is REPEALED.

§ 11. Section 2500-c of the public health law is REPEALED.

§ 12. Subdivision 5 of section 2500-i of the public health law, as added by chapter 46 of the laws of 2008, is amended to read as follows:

5. The department shall [~~annually report, on or before January first,~~] **report every three years, commencing January first, two thousand eighteen,** to the governor, the temporary president of the senate and the speaker of the assembly on the implementation of this section and any recommendations for furthering the purpose of this section.

§ 13. Subdivision 13 of section 2511 of the public health law is REPEALED.

§ 14. Section 2515-d of the public health law is REPEALED.

§ 15. Section 2703 of the public health law is REPEALED.

§ 16. Paragraph (g) of subdivision 1 of section 2712 of the public health law is REPEALED.

§ 17. Subdivision 5 of section 2803-b of the public health law is REPEALED.

§ 18. Section 2953 of the public health law is REPEALED.

§ 19. Subdivision 12 of section 2959-a of the public health law is REPEALED.

§ 20. Subdivision 3 of section 2998-a of the public health law is REPEALED.

§ 21. Paragraph (e) of subdivision 1 of section 2998-b of the public health law is REPEALED.

§ 22. Paragraph (c) of subdivision 1 of section 2998-c of the public health law is REPEALED.

§ 23. Section 3397-g of the public health law is REPEALED.

§ 24. Paragraph (b) of subdivision 5 of section 3614 of the public health law, as amended by chapter 60 of the laws of 1993, is amended to read as follows:

(b) The total amount of funds to be allocated and distributed for bad debt and charity care allowances to eligible certified home health agencies for a rate period in accordance with this subdivision shall be limited to an annual aggregate amount of six million two hundred fifty thousand dollars; provided, however, that the amount of funds allocated for distribution to eligible publicly sponsored certified home health agencies for bad debt and charity care allowances shall not exceed thirty-five percent of total available funds for all eligible certified home health agencies for bad debt and charity care allowances. In establishing an apportionment of available funds to publicly sponsored certified home health agencies in accordance with this paragraph, the commissioner shall promulgate regulations which may include, but not be limited to, such factors as the ratio of public to nonpublic base year period bad debt and charity care provided by eligible certified home health agencies and differences in costs for delivering such services. Certified home health agencies provided by general hospitals shall not be eligible for any portion of the allocation pursuant to this paragraph for the period of July first, nineteen hundred ninety through December thirty-first, nineteen hundred ninety-four, or for such longer period if extended by law, based on the projected availability of an equitable level of bad debt and charity care coverage for such agencies provided pursuant to chapter two of the laws of nineteen hundred eighty-eight and any future amendments thereto. [~~In order to determine the appropriateness of the exclusion of hospital-based certified home health agencies and the allocation to publicly sponsored certified home health agencies pursuant to this paragraph, the commissioner on or before April thirtieth, nineteen hundred ninety-one and annually thereafter shall report to the governor, the chairmen of the senate finance and assembly ways and means committees and the chairmen of the senate and assembly standing committees on health comparing the levels of bad debt and charity care coverage for all certified home health agencies and indicating whether such coverage is equitable, within a five percent differential, between hospital-based, public, other voluntary non-profit and private proprietary certified home health agencies considering the availability of all other forms of financial support or subsidies for this purpose. Should the differential of the preceding be greater than five percent, the commissioner shall recommend modifications to the provisions of this paragraph, and to any associated regulations, as may be necessary to achieve equitable levels of bad debt and charity care coverage.~~]

§ 25. Section 4807 of the public health law is REPEALED.

§ 26. Section 366-h of the social services law, as added by section 7 of part B of chapter 57 of the laws of 2000, is amended to read as follows:

§ 366-h. Automated system; established. Notwithstanding any inconsistent provision of law or regulation, the commissioner of health shall, as soon as practicable, establish an automated system to ensure that persons who meet the criteria for receipt of medical assistance benefits under paragraph (a) or (c) of subdivision four of section three hundred sixty-six of this title shall remain enrolled in the medical assistance program without interruption and receive the benefits set forth according to paragraph (a) or (c) of subdivision four of section three hundred sixty-six of this title. Pending implementation of such automated system, such commissioner shall, in consultation with the office of temporary and disability assistance, undertake and continue efforts to educate local departments of social services about the measures they must take to ensure that medical assistance benefits are provided to persons eligible for such benefits under subdivision four of section three hundred sixty-six of this title. [~~A report on the progress to implement such automated system shall be submitted annually to the governor and the legislature by the commissioner of health.~~]

§ 27. Subdivision 5 of section 367-e of the social services law is REPEALED.

§ 28. Section 10 of chapter 409 of the laws of 1991 relating to providing for the submission of certain reports and written plans by certain state departments, the omnibus economic development act of nineteen hundred eighty-seven, and the New York state urban development corporation act, is REPEALED.

§ 29. Section 2 of chapter 477 of the laws of 2000 relating to enacting the families in transition act of 2000, is REPEALED.

§ 30. Section 5 of chapter 2 of the laws of 2004 amending the public health law, the social services law and the state finance law relating to enacting the assisted living reform act, is amended to read as follows:

§ 5. A task force on adult care facilities and assisted living residences is hereby created, and shall consist of ten members to be appointed as follows: six members shall be appointed by the governor, two members shall be appointed by the temporary president of the senate, and two members shall be appointed by the speaker of the assembly. The purpose of such task force, which shall be convened not later than December 1, 2004, shall be to update and revise the requirements and regulations applicable to adult care facilities and assisted living residences to better promote resident choice, autonomy and independence. Ex officio members of the task force shall include the commissioner of health, the director of the state office for the aging, the commissioner of the office of mental health, the chair of the commission on quality of care for the mentally disabled, or their designees. The task force shall gather information regarding the various ways in which existing requirements and guidelines unduly infringe on affordability of care and services, individual resident choice, autonomy and independence, examine and evaluate such requirements and guidelines, and make recommendations to improve them so that they achieve their desired objectives for the resident populations they are designed to protect without infringing upon the choice, autonomy and independence of other residents. Such recommendations shall include, but not be limited to: (a) minimizing duplicative or unnecessary regulatory oversight; (b) ensuring that the indigent have adequate access to, and that there are a sufficient number

of enhanced assisted living residences; (c) developing affordable assisted living; (d) promoting resident choice and independence; (e) the evaluation tool as required by section 4657 of the public health law; and, (f) specific standards and criteria relating to the special needs certificates required by section 4655 of the public health law. [~~The task force shall issue a report of its findings and recommendations to the governor and legislature on or before June 1, 2005 and annually thereafter.~~]

§ 31. Section 24-b of part B of chapter 58 of the laws of 2007, amending the elder law and other laws relating to the elderly pharmaceutical insurance coverage program, program eligibility and the generic drug dispensing fee, is REPEALED.

§ 32. This act shall take effect immediately; provided, however, that:

(a) sections one, nine and twelve of this act shall take effect December 31, 2017; and

(b) the amendments to paragraph (b) of subdivision 5 of section 3614 of the public health law made by section twenty-four of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.