

# STATE OF NEW YORK

6534--A

2021-2022 Regular Sessions

## IN SENATE

May 5, 2021

Introduced by Sens. RIVERA, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing the primary care reform commission

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

1 Section 1. The article heading of article 29-AA of the public health  
2 law, as added by section 35 of part H of chapter 59 of the laws of 2011,  
3 is amended to read as follows:

4 PATIENT CENTERED MEDICAL HOMES AND PRIMARY CARE

5 § 2. The public health law is amended by adding a new section 2959-b  
6 to read as follows:

7 § 2959-b. Primary care reform commission. 1. (a) Commission estab-  
8 lished. The primary care reform commission, referred to in this section  
9 as the "commission", is hereby established in the department. The  
10 commission shall review, examine, and make findings on the level of  
11 primary care spending by all payers in the context of all health care  
12 spending in the state, and shall publish an annual report on the find-  
13 ings. The commission shall also make recommendations to increase and  
14 strengthen spending on primary care in the state, taking care to avoid  
15 increasing costs to patients or the total cost of health care.

16 (b) Composition and powers. (i) The commission shall consist of:

17 (1) the commissioner and the superintendent of the department of  
18 financial services, who may be represented by their respective desig-  
19 nees;

20 (2) four members appointed by the governor; and

21 (3) ten members appointed by the governor as follows: four on the  
22 recommendation of the speaker of the assembly, four on the recommenda-  
23 tion of the temporary president of the senate, one on the recommendation

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

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1 of the minority leader of the assembly, and one on the recommendation of  
2 the minority leader of the senate.

3 (ii) Any vacancy in the membership of the commission shall be filled  
4 in the same manner as the member being succeeded was appointed.

5 (iii) The commission shall select a chairperson from among the members  
6 of the commission.

7 (iv) The composition of the commission shall include members with  
8 expertise in health care financing, reimbursement, and regulation, from  
9 among the following categories: primary care providers and administra-  
10 tors from federally qualified health centers and professional practice  
11 groups, as well as representatives with relevant expertise from busi-  
12 nesses operating within New York, public and commercial health plans  
13 including managed care plans, and primary care professional and advocacy  
14 organizations. A commission member may represent more than one category.

15 (v) Any decision or action by the commission shall be by a majority  
16 vote of the current filled membership.

17 2. (a) Each Medicaid managed care provider shall provide primary care  
18 spending data as requested by the commission under this section. The  
19 information shall include, but not be limited to, primary care spending,  
20 total health care spending, and all further information the commission  
21 requests relating to its work.

22 (b) Each insurance entity providing managed care products, individual  
23 comprehensive accident and health insurance or group or blanket compre-  
24 hensive accident and health insurance, as defined in the insurance law,  
25 corporation organized under article forty-three of the insurance law  
26 providing comprehensive health insurance, entity licensed under article  
27 forty-four of this chapter providing comprehensive health insurance,  
28 every other plan over which the department of financial services has  
29 jurisdiction, and every third-party payor providing health coverage  
30 shall provide primary care spending data as requested by the commission  
31 under this section. The information shall include, but not be limited  
32 to, primary care spending, total health care spending, and all further  
33 information the commission requests. An entity that provides information  
34 under paragraph (a) of this subdivision shall not be required to provide  
35 duplicate information under this paragraph.

36 (c) Failure of any entity to provide information to the commission  
37 requested by the commission under this section shall be considered a  
38 violation under section twelve of this chapter.

39 (d) The commissioner, and the superintendent of the department of  
40 financial services with respect to entities regulated by the superinten-  
41 dent, shall establish requirements to ensure compliance with all appli-  
42 cable laws and to protect the privacy of any proprietary information  
43 that is provided to the commission under this section.

44 3. The department and the department of financial services shall  
45 provide assistance and staff to the commission, as requested by the  
46 commission. Assistance shall also be made available, as requested by  
47 the commission, from other agencies, departments, and public authorities  
48 of the state.

49 4. The following terms, when used in this section, shall have the  
50 following meanings:

51 (a) "Primary care" means the health care fields of family practice,  
52 general pediatrics, primary care internal medicine, primary care obstet-  
53 rics, and primary care gynecology, provided in all outpatient settings  
54 including, but not limited to, health care professional practices and  
55 hospitals as defined by article twenty-eight of this chapter. Primary  
56 care shall not include inpatient services. Primary care includes, but is

1 not limited to, primary care services for acute and chronic conditions  
2 and preventive care, services provided in regular check-ups, office  
3 visits, telemedicine, and other services, provided by or under the  
4 direction of a physician, nurse practitioner, physician assistant, or  
5 midwife.

6 (b) "Primary care spending" means any expenditure of funds made by  
7 insurers, public entities, or the state for the purpose of supporting  
8 primary care providers. Primary care spending is included regardless of  
9 payment methodology, such as fee-for-service, capitation, incentives,  
10 value-based payments or other methodologies, adjusted appropriately to  
11 exclude any portion of the expenditure that is reasonably apportioned to  
12 exclude expenses for inpatient services or other non-primary care  
13 services.

14 (c) "Medicaid managed care provider" means a managed care provider  
15 under section forty-four hundred three-f of this chapter or section  
16 three hundred sixty-four-j of the social services law.

17 5. (a) The commission shall publish, post on the department's website,  
18 and deliver an annual report to the governor, the temporary president of  
19 the senate, the speaker of the assembly, the chairperson of the senate  
20 finance committee, the chairperson of the assembly ways and means  
21 committee and the chairs of the senate and assembly health and insurance  
22 committees. The first report shall be published and delivered no later  
23 than March thirty-first, two thousand twenty-two.

24 (b) The content of the annual reports shall be at the discretion of  
25 the commission but the first report shall include:

26 (i) An analysis of current primary care spending, including in  
27 relation to all other health care spending in the aggregate.

28 (ii) Recommendations to the governor and the legislature of any chang-  
29 es to the definition of "primary care" for the purposes of the commis-  
30 sion's future work. Such recommendations may be made prior to delivery  
31 of the commission's report.

32 (iii) Recommendations for legislative and executive action, including  
33 amendments to current law, new legislation, changes to regulations, or  
34 new regulations.

35 (iv) Identification of barriers, including payment methodologies by  
36 health care payors and providers, to providing primary care and increas-  
37 ing primary care spending.

38 (v) Recommendations to improve providing increased and higher-quality  
39 primary care and primary care spending, with special attention to  
40 increasing health care equity, reducing health care disparities, and  
41 avoiding increasing costs to patients or the total cost of health care.

42 (vi) Recommendations to increase primary care spending, exclusive of  
43 resulting expenditures on prescription drugs, dental care, or other care  
44 requiring a specialist, to be the greater of twelve percent or a one  
45 percent increase year after year of overall health care spending by two  
46 thousand twenty-six.

47 § 3. This act shall take effect immediately.