STATE OF NEW YORK

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2021-2022 Regular Sessions

IN SENATE

May 5, 2021

Introduced by Sens. RIVERA, BROUK, MAY, MYRIE -- 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 -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

PATIENT CENTERED MEDICAL HOMES **AND PRIMARY CARE**

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

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

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

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

(1) the commissioner and the superintendent of the department of financial services, who may be represented by their respective designees;

(2) seven members appointed by the governor; and

(3) eight members appointed by the governor as follows: three on the recommendation of the speaker of the assembly, three on the recommendation of the temporary president of the senate, one on the recommendation of the minority leader of the assembly, and one on the recommendation of the minority leader of the senate.

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

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

(iv) The composition of the commission shall include at least one member with expertise in health care financing, reimbursement, and regulation, representing each of the following categories: practicing primary care providers, federally qualified health centers, professional practice groups, primary care advocates, primary care consumer advocates, businesses, health plans, and hospitals or health systems. Commission members shall be appointed so as to represent a geographical distribution across the state.

(v) Members of the commission, except for those representing New York state departments, agencies, authorities or councils, shall serve for a term of four years and may be reappointed in the same manner as provided for their initial appointment.

(vi) A majority of the current filled membership of the commission shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission, and any decision or action by the commission shall be by a majority vote of those present and voting.

(vii) The commission shall meet at least quarterly at the call of the chairperson. Additional meetings may be called by the chairperson subject to the giving of one week's notice, and shall be called by the chairperson at the request of a majority of the members of the commission.

(viii) The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

2. (a) Each Medicaid managed care provider under section three hundred sixty-four-j of the social services law shall provide primary care spending data for the five years prior to the effective date of this section and for each year thereafter as requested by the commission under this section. The information shall include, but not be limited to, primary care spending, total health care spending, and all further information the commission requests relating to its work. Each medicaid managed care provider shall also provide the total cost of care provided by the provider annually for each of the years.

(b) Each insurance entity providing managed care products, individual comprehensive accident and health insurance or group or blanket comprehensive accident and health insurance, as defined in the insurance law, corporation organized under article forty-three of the insurance law providing comprehensive health insurance, entity licensed under article forty-four of this chapter providing comprehensive health insurance, every other plan over which the department of financial services has jurisdiction, and every third-party payor providing health coverage

shall provide primary care spending data for the five years prior to the effective date of this section and for each year thereafter as requested by the commission under this section. The information shall include, but not be limited to, primary care spending, total health care spending, and all further information the commission requests. Each entity shall also provide the total cost of care provided by the entity annually for each of the years. An entity that provides information under paragraph (a) of this subdivision shall not be required to provide duplicate information under this paragraph.

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

(d) The commissioner, and the superintendent of the department of financial services with respect to entities regulated by the superintendent, shall establish requirements to ensure compliance with all applicable laws and to protect the confidentiality of any proprietary information that is provided to the commission under this section.

3. The department and the department of financial services shall provide assistance and staff to the commission, as requested by the commission. Assistance shall also be made available, as requested by the commission, from other agencies, departments, and public authorities of the state. The commission may accept funding or grants from the state or federal government, or any other government agency or other source determined by the commission, to aid in the commission's work.

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

(a) "Primary care" means the health care fields of family practice, general pediatrics, primary care internal medicine, primary care obstetrics, and primary care gynecology, provided in all outpatient settings including, but not limited to, health care professional practices and hospitals as defined by article twenty-eight of this chapter. Primary care shall not include inpatient services. Primary care includes, but is not limited to, primary care services for acute and chronic conditions and preventive care, services provided in regular check-ups, office visits, telemedicine, and other services, provided by or under the direction of a physician, nurse practitioner, physician assistant, or midwife. The commission shall consider expanding this definition to include primary care services provided by other health care professionals.

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

5. (a) The commission shall publish, post on the department's website, and deliver an annual report to the governor, the temporary president of the senate, the speaker of the assembly, the chairperson of the senate finance committee, the chairperson of the assembly ways and means committee and the chairs of the senate and assembly health and insurance committees. The first report shall be published and delivered no later than March thirty-first of the year following the effective date of this section.

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

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

(ii) Recommendations to the governor and the legislature of any changes to the definition of "primary care" for the purposes of the commission's future work. Such recommendations may be made prior to delivery of the commission's report.

(iii) Recommendations for legislative and executive action.

(iv) Identification of barriers, including payment methodologies by health care payors and providers, to providing primary care and increasing primary care spending.

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

(vi) Recommendations to increase primary care spending.

§ 3. This act shall take effect immediately.