# STATE OF NEW YORK

7230

2021-2022 Regular Sessions

# IN ASSEMBLY

April 29, 2021

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 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 and strengthen spending on primary care in the state, taking care to avoid increasing costs to patients or the total cost of health care.**

**(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) four members appointed by the governor; and**

**(3) ten members appointed by the governor as follows: four on the recommendation of the speaker of the assembly, four 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.**

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

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(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 members with expertise in health care financing, reimbursement, and regulation, from among the following categories: primary care providers and administrators from federally qualified health centers and professional practice groups, as well as representatives with relevant expertise from businesses operating within New York, public and commercial health plans including managed care plans, and primary care professional and advocacy organizations. A commission member may represent more than one category.

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

2. (a) Each Medicaid managed care provider shall provide primary care spending data 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.

(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 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. 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 privacy 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.

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.

(b) "Primary care spending" means any expenditure of funds made by insurers, public entities, or the state for the purpose of 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.

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

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, two thousand twenty-two.

(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 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, including amendments to current law, new legislation, changes to regulations, or new regulations.

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

§ 3. This act shall take effect immediately.