

# STATE OF NEW YORK

6534

2021-2022 Regular Sessions

## IN SENATE

May 5, 2021

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed 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:

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:

PATIENT CENTERED MEDICAL HOMES AND PRIMARY CARE

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

6 § 2959-b. Primary care reform commission. 1. (a) Commission estab-  
7 lished. The primary care reform commission, referred to in this section  
8 as the "commission", is hereby established in the department. The  
9 commission shall review, examine, and make findings on the level of  
10 primary care spending by all payers in the context of all health care  
11 spending in the state, and shall publish an annual report on the find-  
12 ings. The commission shall also make recommendations to increase and  
13 strengthen spending on primary care in the state, taking care to avoid  
14 increasing costs to patients or the total cost of health care.

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

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

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

20 (3) twelve members appointed by the governor as follows: four on the  
21 recommendation of the speaker of the assembly, four on the recommenda-  
22 tion of the temporary president of the senate, two on the recommendation  
23 of the minority leader of the assembly, and two on the recommendation of  
24 the minority leader of the senate.  
25

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

LBD10879-01-1

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

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

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

13 (v) Any decision or action by the commission shall be by a majority  
14 vote. Members of the commission may be represented by a designee.

15 2. (a) Each Medicaid managed care provider shall provide primary care  
16 spending data as requested by the commission under this section. The  
17 information shall include, but not be limited to, primary care spending,  
18 total health care spending, and all further information the commission  
19 requests relating to its work. The commissioner shall establish require-  
20 ments to ensure compliance with all applicable laws and to protect the  
21 privacy of any proprietary information that is provided to the commis-  
22 sion under this section.

23 (b) Each insurance entity providing managed care products, individual  
24 comprehensive accident and health insurance or group or blanket compre-  
25 hensive accident and health insurance, as defined in the insurance law,  
26 corporation organized under article forty-three of the insurance law  
27 providing comprehensive health insurance, an entity licensed under arti-  
28 cle forty-four of this chapter providing comprehensive health insurance,  
29 and every other plan over which the department of financial services has  
30 jurisdiction shall provide primary care spending data as requested by  
31 the commission under this section. The information shall include, but  
32 not be limited to, primary care spending, total health care spending,  
33 and all further information the commission requests. The superintendent  
34 of the department of financial services shall establish requirements to  
35 ensure compliance with all applicable laws and to protect the privacy of  
36 any proprietary information that is provided to the commission under  
37 this section. An entity that provides information under paragraph (a) of  
38 this subdivision shall not be required to provide duplicate information  
39 under this paragraph.

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

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

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

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

1 telemedicine, preventive care, services for acute and chronic condi-  
2 tions, and other services, provided by or under the direction of a  
3 physician, nurse practitioner, physician assistant, or midwife.

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

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

14 5. (a) The commission shall publish and deliver an annual report to  
15 the governor, temporary president of the senate, the speaker of the  
16 assembly, and the chairperson of the senate finance committee, the  
17 chairperson of the assembly ways and means committee and the chair-  
18 persons of the senate and assembly health and insurance committees. The  
19 first report shall be published and delivered no later than March thir-  
20 ty-first, two thousand twenty-two.

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

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

25 (ii) Recommendations to the legislature of any changes to the defi-  
26 nition of "primary care" for the purposes of the commission's future  
27 work. Such recommendations may be made to the legislature prior to  
28 delivery of the commission's report.

29 (iii) Recommendations for legislative and executive action, including  
30 amendments to current law, new legislation, changes to regulations, or  
31 new regulations.

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

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

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

44 § 3. This act shall take effect immediately.