

# STATE OF NEW YORK

6534--B

2021-2022 Regular Sessions

## IN SENATE

May 5, 2021

Introduced by Sens. RIVERA, BROUK, 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 -- 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

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 spend-  
14 ing on primary care and strengthen primary care infrastructure in the  
15 state, taking care to avoid increasing costs to patients or the total  
16 cost of health care.

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

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

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

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1 (2) seven members appointed by the governor; and

2 (3) eight members appointed by the governor as follows: three on the  
3 recommendation of the speaker of the assembly, three on the recommenda-  
4 tion of the temporary president of the senate, one on the recommendation  
5 of the minority leader of the assembly, and one on the recommendation of  
6 the minority leader of the senate.

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

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

11 (iv) The composition of the commission shall include at least one  
12 member with expertise in health care financing, reimbursement, and regu-  
13 lation, representing each of the following categories: practicing prima-  
14 ry care providers, federally qualified health centers, professional  
15 practice groups, primary care advocates, primary care consumer advo-  
16 cates, businesses, health plans, and hospitals or health systems.  
17 Commission members shall be appointed so as to represent a geographical  
18 distribution across the state.

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

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

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

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

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

45 (b) Each insurance entity providing managed care products, individual  
46 comprehensive accident and health insurance or group or blanket compre-  
47 hensive accident and health insurance, as defined in the insurance law,  
48 corporation organized under article forty-three of the insurance law  
49 providing comprehensive health insurance, entity licensed under article  
50 forty-four of this chapter providing comprehensive health insurance,  
51 every other plan over which the department of financial services has  
52 jurisdiction, and every third-party payor providing health coverage  
53 shall provide primary care spending data for the five years prior to the  
54 effective date of this section and for each year thereafter as requested  
55 by the commission under this section. The information shall include, but  
56 not be limited to, primary care spending, total health care spending,

1 and all further information the commission requests. Each entity shall  
2 also provide the total cost of care provided by the entity annually for  
3 each of the years. An entity that provides information under paragraph  
4 (a) of this subdivision shall not be required to provide duplicate  
5 information under this paragraph.

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

9 (d) The commissioner, and the superintendent of the department of  
10 financial services with respect to entities regulated by the superinten-  
11 dent, shall establish requirements to ensure compliance with all appli-  
12 cable laws and to protect the confidentiality of any proprietary infor-  
13 mation that is provided to the commission under this section.

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

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

23 (a) "Primary care" means the health care fields of family practice,  
24 general pediatrics, primary care internal medicine, primary care obstet-  
25 rics, and primary care gynecology, provided in all outpatient settings  
26 including, but not limited to, health care professional practices and  
27 hospitals as defined by article twenty-eight of this chapter. Primary  
28 care shall not include inpatient services. Primary care includes, but is  
29 not limited to, primary care services for acute and chronic conditions  
30 and preventive care, services provided in regular check-ups, office  
31 visits, telemedicine, and other services, provided by or under the  
32 direction of a physician, nurse practitioner, physician assistant, or  
33 midwife. The commission shall consider expanding this definition to  
34 include primary care services provided by other health care profes-  
35 sionals.

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

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

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

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

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

5 (iii) Recommendations for legislative and executive action.

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

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

13 (vi) Recommendations to increase primary care spending, to be the  
14 greater of twelve percent or a one percent increase year after year of  
15 overall health care spending by five years following the effective date  
16 of this section.

17 § 3. This act shall take effect immediately.