

STATE OF NEW YORK

9421

IN ASSEMBLY

March 14, 2024

Introduced by M. of A. CUNNINGHAM -- read once and referred to the
Committee on Health

AN ACT to amend the executive law, in relation to establishing the
commission for the modernization and revitalization of the state
university of New York downstate medical center

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

1 Section 1. The executive law is amended by adding a new article 49-C
2 to read as follows:

3 ARTICLE 49-C

4 COMMISSION FOR THE MODERNIZATION AND REVITALIZATION OF SUNY DOWNSTATE

5 MEDICAL CENTER

6 Section 996. Legislative intent.

7 996-a. Commission for the modernization and revitalization of

8 SUNY downstate medical center.

9 996-b. Severability.

10 § 996. Legislative intent. 1. The legislature hereby finds and
11 declares that the state university downstate medical center (hereinafter
12 referred to as "downstate") as established pursuant to section three
13 hundred fifty-two of the education law, is a vital component of our
14 state's health care system. As one of three state hospitals and the only
15 state hospital in the city of New York, it is incumbent upon the state
16 to ensure that this hospital remains fiscally viable to continue to
17 provide the health care services that the residents of central Brooklyn
18 deserve and depend on. The state university downstate medical center is
19 one of the state's largest safety-net hospitals, which cares for all
20 patients, regardless of their ability to pay. It predominantly serves
21 people of color, low income, uninsured, underinsured, undocumented and
22 at-risk individuals who have limited access to affordable health care
23 and who are more prone to suffer from serious disease and face higher
24 morbidity rates than other patients across our city and state. In two
25 thousand twenty-two, the hospital had over three hundred thousand outpa-
26 tient visits and has an average of fourteen thousand inpatients each

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

LBD14727-01-4

1 year. It also provides seven thousand four hundred free health screen-
2 ings a year and sponsors over one hundred community service projects
3 annually.

4 2. Provided further, downstate is in the heart of central Brooklyn and
5 has the largest medical school in New York city, which offers training
6 in fifty-six specialties across five schools and colleges and annually
7 educates and trains nearly one thousand nine hundred students. The
8 medical school student population is made up of nearly sixty percent
9 students of color, produces the most physicians of color in the state of
10 New York, and nearly seventy percent of two thousand twenty-two gradu-
11 ates remained in New York for their residency. Having a hospital affil-
12 iated with the medical school is both critical for the training of
13 medical students and is an essential part in producing the next gener-
14 ation of health care professionals, which are desperately needed to
15 enhance the access to vital health care in our communities.

16 3. The legislature further finds that the entire Brooklyn health care
17 delivery system remains in need of a continued global examination,
18 assessing the needs of each of its diverse communities, the access to
19 high quality of care throughout Brooklyn, the demographics, health care
20 equities and disparities of each community, the availability of special-
21 ty services for low income populations, and the interconnectivity
22 between the various health care systems to ensure the long term finan-
23 cial sustainability of each of the various delivery systems in the
24 borough. Such further examination can begin with the modernization and
25 revitalization of downstate continuing as a hospital offering critical
26 hospital specialty services for the community, becoming a core specialty
27 hospital center of excellence for those critical specialty services, but
28 simultaneously undertaking an examination of the appropriateness of
29 converting certain designated inpatient beds that are not utilized for
30 the specialty hospital center of excellence providing specialty services
31 pursuant to subdivision two of section nine hundred ninety-six-a of this
32 article, to an outpatient setting, expanding services to include access
33 to primary care through clinics, urgent care or other hospital affil-
34 iated practices.

35 4. The legislature further finds that the continued operation of the
36 state university downstate medical center as a free-standing state-oper-
37 ated public hospital, staffed with public employees, at its current
38 location, within and under the appointing authority of the state univer-
39 sity of New York in a modernized and revitalized form, is vital and
40 necessary, and the state should develop a plan to ensure its future
41 sustainability and shall provide state funding and other resources
42 necessary to implement and execute such plan. Such plan shall be based
43 on the recommendations of the commission for the modernization and revi-
44 talization of SUNY downstate medical center ("the commission"). The
45 commission shall examine those services that are necessary to be
46 provided at downstate, alternative services which are more suitable for
47 the community, and which are in addition to the core center of excel-
48 lence specialty services which shall continue to be offered at down-
49 state.

50 § 996-a. Commission for the modernization and revitalization of SUNY
51 downstate medical center. 1. Commission established. (a) There shall be
52 established the commission for the modernization and revitalization of
53 SUNY downstate medical center (hereinafter referred to as "the commis-
54 sion"). The commission shall conduct a study to examine those services
55 that should be offered at SUNY downstate medical center (hereinafter
56 referred to as "downstate"), or a downstate affiliate, which shall be in

1 addition to the core specialty center of excellence services which shall
2 continue to be offered at downstate, and make recommendations to the
3 legislature and the executive. In conducting its study and determining
4 its recommendations, the commission shall consider the following
5 factors: (i) the financial sustainability of downstate considering
6 management operations, billing practices, current health care services
7 and delivery model; (ii) the patient mix and demographics, including but
8 not limited to, the financial challenges posed by the provision of safe-
9 ty net services to low income, uninsured, underinsured, undocumented and
10 at-risk individuals; (iii) services available and readily accessible, at
11 other health care systems or providers in Brooklyn, and access to those
12 services by residents of central Brooklyn; (iv) the health care dispari-
13 ties in central Brooklyn; (v) access to primary care, outpatient
14 services, and emergency services for residents of the community where
15 downstate is located and the feasibility of downstate offering expanded
16 services to address such needs; (vi) those services which are necessary
17 for the training and education of students and graduates of the down-
18 state medical school; and (vii) other services the commission deems
19 appropriate in making its recommendations.

20 (b) The commissioner shall also determine what capital project
21 improvements are required at downstate medical center to both maintain
22 the core specialty center of excellence services and also enable down-
23 state to adequately meet current and future health care needs of the
24 community as identified by the commission. The commission shall also
25 provide an analysis of current emergency room operations, which shall
26 include, but shall not be limited to, patient care and service capacity
27 as well as improvements needed to adequately address patient service
28 demands and the technology, equipment and capital infrastructure
29 improvements that are required to improve patient services and improve-
30 ment of the financial position of downstate.

31 2. Definitions. (a) For purposes of this article, "core specialty
32 center of excellence services" shall mean the following services which
33 shall continue to be offered in a hospital setting at downstate,
34 notwithstanding the recommendations of the commission:

35 (i) level II trauma care and related services;
36 (ii) transplant care and related services;
37 (iii) cardiologic care and related services;
38 (iv) maternity and pediatric care for low income and ethnically
39 diverse populations; and
40 (v) emergency services, provided, however, the commission shall be
41 authorized to examine the size, scope and other appropriate features
42 necessary in providing emergency services at downstate.

43 (b) The commission shall not be authorized to make recommendations
44 which reduce, limit or in any way alter the core specialty center of
45 excellence services offered in a hospital setting at downstate.

46 3. Commission members. The commission shall consist of the following
47 members:

48 (a) the commissioner of health, who shall serve as the ex-officio
49 chair of the commission;

50 (b) a representative of each organized labor representing employees at
51 the state university of New York pursuant to article fourteen of the
52 civil service law, which shall include the united university professions
53 union, civil service employees association, public employees federation
54 and New York state correctional officers and police benevolent associ-
55 ation;

56 (c) one member appointed by the temporary president of the senate;

- 1 (d) one member appointed by the speaker of the assembly;
- 2 (e) one member appointed by the minority leader of the senate;
- 3 (f) one member appointed by the minority leader of the assembly;
- 4 (g) one member appointed by the Kings county borough president;
- 5 (h) two members appointed by local community boards;
- 6 (i) one member appointed by the mayor of the city of New York;
- 7 (j) one member appointed by the governor; and
- 8 (k) the chancellor of the state university of New York.

9 4. Compensation. The members of the commission shall receive no
10 compensation for their service as members, but shall be allowed their
11 actual and necessary expenses incurred in the performance of their
12 duties.

13 5. Commission deliberations and bylaws. (a) The commission and its
14 deliberations shall be subject to article seven of the public officers
15 law.

16 (b) The commission shall adopt its bylaws on or before its second
17 meeting.

18 6. Department of health assistance. (a) The commissioner of health
19 shall designate such employees of the department of health as are
20 reasonably necessary to provide support services to the commission.

21 (b) The commissioner of health shall also submit to the commission
22 such information as may be available from the department of health on
23 general hospital and nursing home capacity, services and beds, avail-
24 ability of primary and ambulatory care services, and the current number
25 of beds in such facilities, including, but not limited to, information
26 from:

- 27 (i) operating certificate files;
- 28 (ii) institutional cost reports;
- 29 (iii) facility occupancy reports;
- 30 (iv) annual reports of the certificate of need program;
- 31 (v) the statewide planning and research cooperative system; and
- 32 (vi) any other documentation request by the commission.

33 7. Liaison. The director of the dormitory authority of the state of
34 New York shall appoint one or more representatives to be a liaison
35 between the commission and the dormitory authority.

36 8. Other required recommendations. In carrying out its tasks and
37 duties, the commission shall also formally solicit recommendations from
38 health care experts, county health departments, community-based organ-
39 izations, state and regional health care industry associations, labor
40 unions and other interested parties as broadly as it considers it neces-
41 sary and proper, and it shall take into account such recommendations and
42 the recommendations of the Kings county health care stakeholders council
43 during its deliberations. In developing its recommendations, the commis-
44 sion shall, as far as practicable, estimate the improvement in quality
45 of care, financial status of the hospitals, and all other efficiencies
46 that may be derived from reconfiguration of the Kings county health care
47 system.

48 9. Report of commission. The commission shall complete its study and
49 provide a report of its written recommendations along with suggested
50 legislative and executive action, including but not limited to infras-
51 tructure investments, and refinancing of existing debt of general hospi-
52 tals in the county of Kings, no later than December thirty-first, two
53 thousand twenty-four. Such recommendations shall include:

54 (a) recommended dates by which such legislative or executive actions
55 should occur;

1 (b) necessary investments, if any, that should be made in each case to
2 carry out the commission's recommendations, including any necessary
3 workforce, training, or other investments to ensure that remaining
4 facilities are able to adequately provide services within the context of
5 a restructured institutional provider health care system; and

6 (c) the commission's justification for such recommendations.

7 10. Implementation of recommendations. (a) Notwithstanding any
8 provision of law, rule or regulation to the contrary related to the
9 establishment, construction, approval, or revisions to the operating
10 certificates, resizing, consolidation, conversion or related to the
11 restructuring of health care facilities identified in the commission's
12 recommendations, including but not limited to sections twenty-eight
13 hundred one-a, twenty-eight hundred two, twenty-eight hundred five,
14 twenty-eight hundred six and twenty-eight hundred six-b of the public
15 health law, the commissioner of health shall take all actions necessary
16 to implement, in a reasonable, cost-efficient manner, the recommenda-
17 tions of the commission pursuant to subdivision nine of this section.

18 (b) The provisions of paragraph (a) of this subdivision shall not
19 apply if a majority of the members of each house of the legislature vote
20 to adopt a concurrent resolution rejecting the recommendations of the
21 commission pursuant to subdivision nine of this section in their entire-
22 ty by February first, two thousand twenty-five. In no event shall the
23 commissioner of health begin to implement the recommendations of the
24 commission pursuant to subdivision nine of this section prior to Febru-
25 ary first, two thousand twenty-five. Provided, further, the commissioner
26 of health shall be precluded from acting upon any certificate of need
27 application, or any other submission or closure plan which limits or in
28 any way alters the services provided by downstate, on or after the
29 effective date of this act, until after February first, two thousand
30 twenty-five. Provided, however, that nothing herein shall be construed
31 as:

32 (i) limiting the authority of the commissioner of health to enforce or
33 implement any provision of the public health law relating to the health
34 or safety of the patients at downstate; or

35 (ii) prohibiting the approval of an application relating to capital
36 and infrastructure improvements at downstate that do not impact the
37 scope or level of services offered at downstate.

38 § 996-b. Severability. If any clause, sentence, paragraph, subdivi-
39 sion, section or part of this article shall be adjudged by any court of
40 competent jurisdiction to be invalid, such judgment shall not affect,
41 impair, or invalidate the remainder thereof, but shall be confined in
42 its operation to the clause, sentence, paragraph, subdivision, section
43 or part thereof directly involved in the controversy in which such judg-
44 ment shall have been rendered. It is hereby declared to be the intent of
45 the legislature that this article would have been enacted even if such
46 invalid provisions had not been included herein.

47 § 2. This act shall take effect immediately.