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 Assembly, do enact as follows:

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

ARTICLE 49-C
COMMISSION FOR THE MODERNIZATION AND REVITALIZATION OF SUNY DOWNSTATE MEDICAL CENTER

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

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year. It also provides seven thousand four hundred free health screenings a year and sponsors over one hundred community service projects annually.

2. Provided further, downstate is in the heart of central Brooklyn and has the largest medical school in New York city, which offers training in fifty-six specialties across five schools and colleges and annually educates and trains nearly one thousand nine hundred students. The medical school student population is made up of nearly sixty percent students of color, produces the most physicians of color in the state of New York, and nearly seventy percent of two thousand twenty-two graduates remained in New York for their residency. Having a hospital affiliated with the medical school is both critical for the training of medical students and is an essential part in producing the next generation of health care professionals, which are desperately needed to enhance the access to vital health care in our communities.

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

4. The legislature further finds that the continued operation of the state university downstate medical center as a free-standing state-operated public hospital, staffed with public employees, at its current location, within and under the appointing authority of the state university of New York in a modernized and revitalized form, is vital and necessary, and the state should develop a plan to ensure its future sustainability and shall provide state funding and other resources necessary to implement and execute such plan. Such plan shall be based on the recommendations of the commission for the modernization and revitalization of SUNY downstate medical center ("the commission"). The commission shall examine those services that are necessary to be provided at downstate, alternative services which are more suitable for the community, and which are in addition to the core center of excellence specialty services which shall continue to be offered at downstate.

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

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

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

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

(i) level II trauma care and related services;

(ii) transplant care and related services;

(iii) cardiologic care and related services;

(iv) maternity and pediatric care for low income and ethnically diverse populations; and

(v) emergency services, provided, however, the commission shall be authorized to examine the size, scope and other appropriate features necessary in providing emergency services at downstate.

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Other required recommendations. In carrying out its tasks and duties, the commission shall also formally solicit recommendations from health care experts, county health departments, community-based organizations, state and regional health care industry associations, labor unions and other interested parties as broadly as it considers it necessary and proper, and it shall take into account such recommendations and the recommendations of the Kings county health care stakeholders council during its deliberations. In developing its recommendations, the commission shall, as far as practicable, estimate the improvement in quality of care, financial status of the hospitals, and all other efficiencies that may be derived from reconfiguration of the Kings county health care system.

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.