

STATE OF NEW YORK

8732

IN SENATE

March 5, 2024

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

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

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

ARTICLE 49-C

COMMISSION FOR THE MODERNIZATION AND REVITALIZATION OF DOWNSTATE MEDICAL CENTER

3 Section 996. Commission for the modernization and revitalization of
4 downstate medical center.

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

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

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

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

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

46 2. Definitions. For the purposes of this section, the following terms
47 shall have the following meanings:

48 (a) "Commission" shall mean the commission for the modernization and
49 revitalization of downstate medical center.

50 (b) "Downstate" shall mean the downstate medical center.

51 (c) "Core specialty center of excellence services" shall include the
52 following services which shall continue to be offered in a hospital
53 setting at downstate, notwithstanding the recommendations of the commis-
54 sion:

55 (i) Level II Trauma care and related services;

56 (ii) Transplant care and related services;

1 (iii) Cardiology care and related services;
2 (iv) Maternity and pediatric care for low income and ethnically
3 diverse populations; and
4 (v) Emergency services. Provided, however, the commission shall be
5 authorized to examine the size, scope and other appropriate features
6 necessary in providing emergency services at downstate.

7 3. Commission for the modernization and revitalization of downstate
8 medical center. (a) There is hereby created within the executive depart-
9 ment the commission for the modernization and revitalization of down-
10 state medical center.

11 (b) The commission shall examine those services that should be offered
12 at downstate, or a downstate affiliate, which are in addition to the
13 core specialty center of excellence services which shall continue to be
14 offered at downstate. In determining its recommendations, the commission
15 shall consider the following factors: (i) the financial sustainability
16 of downstate considering management operations, billing practices,
17 current health care services and delivery model; (ii) the patient mix
18 and demographics, including but not limited to, the financial challenges
19 posed by the provision of safety net services to low income, uninsured,
20 underinsured, undocumented and at-risk individuals; (iii) the services
21 available and readily accessible at other health care systems or provid-
22 ers in Brooklyn and access to those services by residents of central
23 Brooklyn; (iv) the health care disparities in central Brooklyn; (v)
24 access to primary care, outpatient services, and emergency services for
25 residents of the downstate community and the feasibility of downstate
26 offering expanded services to address these needs; (vi) those services
27 which are necessary for the training and education of students and grad-
28 uates of the downstate medical school; and (vii) other services the
29 commission deems appropriate in making its recommendations. The commis-
30 sion shall also determine what capital project improvements are required
31 at downstate to both maintain the core specialty center of excellence
32 services and also enable the hospital to adequately meet current and
33 future health care needs of the community as identified by the commis-
34 sion. The commission shall also provide an analysis of current emergency
35 room operations, which shall include, but shall not be limited to,
36 patient care and service capacity as well as improvements needed to
37 adequately address patient service demands and the technology, equipment
38 and capital infrastructure improvements that are required to improve
39 patient services and to improve the financial position of downstate.

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

43 4. Commission appointments. The commission shall consist of the
44 following members: (a) the commissioner of health, who shall serve as
45 the ex-officio chair the commission; (b) a representative of organized
46 labor representing employees at the state university of New York pursu-
47 ant to article fourteen of the civil service law; (c) one member
48 appointed by the temporary president of the senate; (d) one member
49 appointed by the speaker of the assembly; (e) one member appointed by
50 the minority leader of the senate; (f) one member appointed by the
51 minority leader of the assembly; (g) two members appointed by the local
52 community boards; (h) two members appointed by the governor; and (i) the
53 chancellor of the state university of New York.

54 5. Compensation. The members of the commission shall receive no
55 compensation for their service as members, but shall be allowed their

1 actual and necessary expenses incurred in the performance of their
2 duties.

3 6. Commission commencement. (a) The commission and its deliberations
4 shall be subject to article seven of the public officers law.

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

6 (c) The commission shall begin to act forty-five days after this arti-
7 cle shall have become a law.

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

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

17 (i) operating certificate files;

18 (ii) institutional cost reports;

19 (iii) facility occupancy reports;

20 (iv) annual reports of the certificate of need program;

21 (v) the statewide planning and research cooperative system; and

22 (vi) any other documentation requested by the commission.

23 8. Dormitory authority representation. The director of the dormitory
24 authority of the state of New York shall appoint one or more represen-
25 tatives to be a liaison between the commission and the authority.

26 9. Other required recommendations. In carrying out its task, the
27 commission shall also formally solicit recommendations from health care
28 experts, county health departments, community-based organizations, state
29 and regional health care industry associations, labor unions and other
30 interested parties as broadly as it considers it necessary and proper,
31 and it shall take into account such recommendations and the recommenda-
32 tions of the Kings county health care stakeholders council during its
33 deliberations. In developing its recommendations, the commission shall
34 as far as practicable estimate the improvement in quality of care,
35 financial status of the hospitals, and all other efficiencies that may
36 be derived from reconfiguration of the Kings county health care system.

37 10. Report of commission. (a) The commission shall be finished with
38 its study and analysis and provide its written recommendations to the
39 legislature and the governor, along with suggested legislative and exec-
40 utive action, including but not limited to infrastructure investments,
41 and refinancing of existing debt of general hospitals in Kings county,
42 by December thirty-first, two thousand twenty-four.

43 (b) Such recommendations shall include, but not be limited to:

44 (i) recommended dates by which such actions should occur;

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

50 (iii) the commission's justification for its recommendations.

51 11. Implementation of recommendations. (a) Notwithstanding any contra-
52 ry provision of law, rule or regulation related to the establishment,
53 construction, approval, or revisions to the operating certificates,
54 resizing, consolidation, conversion or restructuring of health care
55 facilities identified in the commission's recommendations, including but
56 not limited to sections twenty-eight hundred one-a, twenty-eight hundred

1 two, twenty-eight hundred five, twenty-eight hundred six, and twenty-
2 eight hundred six-b of the public health law, the commissioner of health
3 shall take all actions necessary to implement, in a reasonable, cost-ef-
4 ficient manner, the recommendations of the commission pursuant to this
5 section.

6 (b) The provisions of paragraph (a) of this subdivision shall not
7 apply if a majority of the members of each house of the legislature vote
8 to adopt a concurrent resolution rejecting the recommendations of the
9 commission in their entirety by February first, two thousand twenty-
10 five. In no event shall the commissioner of health begin to implement
11 the recommendations of the commission prior to February first, two thou-
12 sand twenty-five. Provided, further, the commissioner of health shall be
13 precluded from acting upon any certificate of need application, or any
14 other submission or closure plan which limits or in any way alters the
15 services provided by downstate, on or after the effective date of this
16 section, until after February first, two thousand twenty-five. Provided,
17 however, that nothing herein shall be construed as: (i) limiting the
18 authority of the commissioner of health to enforce or implement any
19 provision of the public health law relating to the health or safety of
20 the patients at downstate; or (ii) from approving an application relat-
21 ing to capital and infrastructure improvements at downstate that do not
22 impact the scope or level of services offered at downstate.

23 12. Severability clause. If any clause, sentence, paragraph, subdivi-
24 sion, section or part of this section shall be adjudged by any court of
25 competent jurisdiction to be invalid, such judgment shall not affect,
26 impair, or invalidate the remainder thereof, but shall be confined in
27 its operation to the clause, sentence, paragraph, subdivision, section
28 or part thereof directly involved in the controversy in which such judg-
29 ment shall have been rendered. It is hereby declared to be the intent of
30 the legislature that this section would have been enacted even if such
31 invalid provisions had not been included herein.

32 § 2. This act shall take effect immediately.