

## **State Hospital Review and Planning Council**

§ 2904. State hospital review and planning council. (a) There is hereby created within the department a state hospital review and planning council comprised of thirty-one persons appointed by the governor by and with the advice and consent of the senate. In making such appointments the governor shall consider recommendations from agencies and organizations primarily concerned with hospital, nursing home and medical affairs. The council shall be representative of the public including persons having capacities identified with consumers of hospital and nursing home services. Membership on the council shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state. At least six members shall be persons engaged in hospital or nursing home work at the policy making or administrative level. At least six members shall be duly licensed physicians. On and after April first, nineteen hundred seventy-three, at least one member of the council shall be representative of home health agencies. On or after April first, nineteen hundred eighty-three, at least two members of the council shall be members of the mental health services council. No more than fifteen members of the council shall be physicians, or persons engaged in full-time paid employment connected with hospitals or nursing homes. However, a change in the status or employment of a member of the council shall not require his or her resignation or a change in the composition of the council until further appointments are made. The members of the council shall have fixed terms of three years except that ten of the initial appointments shall be for one year and ten shall be for two years and except that the term of any member appointed as a member of the mental health services council shall terminate upon the expiration of his or her term on the mental health services council. No person shall be a member of the council for more than six years in any period of twelve consecutive years. The council shall meet at least four times in each full calendar year. Each vacancy shall be filled by an appointment of the governor within one year of the date upon which such vacancy occurs.

(b) The council shall consult with the department of health in carrying out state plans submitted pursuant to the requirements of this article and the federal laws relating thereto.

(c) The governor shall approve each health systems agency with a defined geographical boundary, which shall consist of areas entirely within New York state except in those areas where a bi-state planning agreement exists. Such an agreement, subject to regulations promulgated by the commissioner of health, shall include but need not be limited to the following provisions: standards for equitable representation of board membership from each state; boundaries that are consistent with medical trade patterns; provisions for financial support from each state; and comparable policies and procedures to be implemented by the bi-state health systems agency in evaluating the availability and need for hospital or other health care facilities or services and governing the collection of data and statistics for health planning. Any such bi-state agreement shall be signed by the governor of each state or their designee or the state's commissioner or secretary of health or their designee. The governor shall also adopt standards for the approval of all health systems agencies. The standards shall also include the

applicable requirements of any other state or federal law. The charter or by-laws of every health systems agency must meet such standards. Failure to meet the standards or failure thereafter to maintain such standards shall result in the automatic withdrawal of the approval given to the health systems agency.

(d) To the maximum extent feasible, the boundaries of the health service areas established by the governor shall be appropriately coordinated with the boundaries of professional standards review organizations, existing regional planning areas, and state planning and administrative areas.

(e) The council, in cooperation with the various health systems agencies shall consider and advise in accordance with the provisions of this chapter relative to applications for the incorporation or establishment of a new institution and the provisions of this chapter relative to applications for the construction of a hospital as defined in article twenty-eight of this chapter. The state council shall consult with or otherwise obtain the advice of the health systems agency of the area in which the institution is located or the health systems agency of areas that might be substantially affected by the application. At the time members of the council are notified that an application is scheduled for consideration, the applicant and the health systems agency shall be so notified in writing. Before taking any action contrary to the advice of the health systems agency involved, the state council shall afford them an opportunity to request a public hearing in which each such agency and the applicant shall have the right to participate; provided, however, that the council may take action without the advice of the health systems agency whenever such agency has not submitted such advice within the time period applicable to the review of such application.

(f) In general and in cooperation with the various health systems agencies, the council shall seek to improve the quality, efficiency and economy of health care throughout the state. The council shall also advise or assist any public agency with respect to these matters and any public agency or any prepayment health plan, at its request, as to those standards which will be conducive to public health and welfare.

(g) The council and any health systems agency, with respect to any of the matters with which they may deal may hold such public hearings as they deem appropriate and may require the submission of such information and documents as they may deem appropriate.

(h) The members of the council or of any health systems agency shall receive no compensation for their services but shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

(i) No civil action shall be brought in any court against any member, officer or employee of the state council or of any health systems agency for any act done, failure to act, or statement or opinion made, while discharging his duties as a member, officer or employee of the state council or agency, without leave from a justice of the supreme court, first had and obtained. In any event such member, officer or employee shall not be liable for damages in any such action if he shall have acted in good faith, with reasonable care and upon probable cause.

\* (j) The council may employ either directly or by contractual arrangement such personnel necessary for the performance of its functions and to assist it in rendering independent judgment.

\* NB Expired January 1, 1986

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