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New Law Allows New York Clinics to Provide Primary Medical Care Off-Site

The New York Legislature has enacted, and Governor Andrew M. Cuomo recently signed into law, a new provision of the Public Health Law that permits Article 28¹ hospital outpatient clinics (clinic) and diagnostic and treatment centers (D&TC) to provide primary care services off-site for patients who are unable to travel to the facility.

Public Health Law §2803(11) authorizes the Commissioner of the Department of Health (DOH) to allow clinics and D&TCs to provide primary care services:

- a) that are ordinarily provided on-site;
- b) that are provided by a primary care professional to a patient who has a pre-existing clinical relationship with the clinic or D&TC or with the health care professional providing the service; and
- c) that are provided to a patient who is unable to leave his or her residence to receive services at the clinic or D&TC without unreasonable difficulty due to circumstances including but not limited to clinical impairment.

The new law allows the Commissioner to authorize clinics and D&TCs to maintain continuity of care with existing patients who, because of a deterioration in their health, are unable to travel to the facility for primary care services. The facilities would be able, for example, to send a primary care physician to a patient's home, assisted living residence, or nursing home to continue caring for the patient, including diagnosing any new medical problem, adjusting medications, and reviewing and revising the patient's plan of care.

¹ Article 28 of the New York Public Health Law governs the establishment and operation of health care facilities, including hospitals and diagnostic treatment centers.

The new law specifically does not authorize clinics or D&TCs to provide home care services as defined in Public Health Law §3602(1), including:

- > nursing services;
- > home health aide services;
- > physical, speech and occupational therapy;
- > nutritional services;
- > medical social services;
- > personal care services;
- > homemaker services; and
- > housekeeper or chore services.

The new law takes effect March 28, 2017, but it authorizes the Commissioner of DOH to promulgate regulations in the meantime. The law requires that the regulations be developed in consultation with representatives of clinics, D&TCs, home care services agencies, and their respective trade associations.

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