Memorandum in Opposition
S2007/A3007 Article VII Budget Bill
Part L
Health Care Regulation Modernization Team: Demonstration Program

The New York American College of Emergency Physicians (New York ACEP) is opposed to provisions of the Health Care Regulation Modernization Team Budget proposal which would provide broad authority to the commissioners of the Department of Health (DOH), Office of Mental Health (OMH), and the Office of Alcoholism and Substance Abuse (OASAS) to waive any current laws, rules or regulations to implement demonstration programs to test and evaluate new models for organizing, financing, and delivering health care services that are not currently permissible under statute or regulation.

While New York ACEP fully supports the concept of modernizing outdated, burdensome laws and rules, this proposal overreaches by providing the Executive Branch with unlimited power to bypass the New York State Legislature and change any State law, rule, or regulation.

The Governor’s State Budget proposal establishes a 25-member Health Care Regulation Modernization Team to provide advice to the Governor on a fundamental restructuring of statutes, policies, and regulations governing oversight and licensure of health care facilities and home care in order to increase quality, reduce costs, and improve health outcomes.

Work would begin no later than July 1, 2017 with a report due on December 31, 2017. The Team is required to review and make recommendations in a number of areas, including but not limited to, streamlining Certificate of Need (CON), creating more flexible rules for licensing and scope of practice for clinicians and caregivers, creating new models of care related to more flexible use of observation beds, ambulatory surgery centers, D&TCs, nursing homes, assisted living, home health, and off campus emergency departments, and evaluating changes in statue, regulation, and policy to support timely and effective emergency medical services and pre-hospital care.

Some of the areas recommended for study by the Team have been previously considered and rejected by the Legislature including inappropriate expansion of scope of practice for non-physician practitioners. In addition, if the New York State Department of Health is contemplating changes in the use of observation beds and models of care for the delivery and payment of emergency services, New York ACEP would favor legislative input as well as representation of emergency physicians in the discussions.

For these reasons, New York ACEP urges the New York State Legislature to reject portions of the Governor’s State Budget proposal to grant full authority to the Executive Branch to change any rules, regulations, or laws without the approval of the Legislature.