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### **Health Equity Assessment Bill Receives Final NYS Legislative Passage**

Health advocacy groups across New York State today applauded state Assembly action Tuesday night giving final legislative passage to S1451a, the Health Equity Assessment Bill. The bill, which had previously passed the state Senate, was approved in the Assembly by a vote of 103 to 44. Assembly Health Committee Chair Richard Gottfried and Senate Health Committee Chair Gustavo Rivera championed the bill, which is a first step toward addressing inequities in access to health care that were starkly exposed by the COVID-19 pandemic. The groups called on Gov. Andrew Cuomo to sign the bill.

The bill would require state health regulators to consider the impact that proposed health facility projects would have on racial and ethnic minorities, low-income people and other vulnerable health consumers. The bill would introduce a new requirement into the Certificate of Need (CON) process through which hospitals, nursing homes and other health facilities seek state regulatory approval for proposed mergers, acquisitions, closings, downsizing, new construction or change of ownership. For the first time, CON applications would have to include an independent assessment of the likely impact of the transaction on access to timely, affordable care for medically-underserved New Yorkers, including those who are low-income, racial or ethnic minorities, women, LGBTQ people, people with disabilities, older adults, immigrants and rural residents.

“This law would protect people of color and low-income New Yorkers who have been the hardest hit by COVID-19 pandemic,” said Elisabeth Benjamin, Vice President of the Community Service Society of New York, which coordinates the statewide Health Care for All New York coalition. “The current process permitted unfettered hospital closures so that we now have only 1.5 beds per 1000 residents in Queens (which suffered the most severe impact of COVID-19) compared to 6.4 beds per 1000 in Manhattan, which had a much lower rate of COVID-19 cases.<sup>1</sup>”

These inequities can be traced to two decades of hospital consolidation across New York State, with more than 40 acute care hospitals closing entirely and others downsizing by eliminating emergency departments, ICUs, maternity units, psychiatric units and other services vital to the consumers they serve.<sup>2</sup> Many of these closures were safety net hospitals and rural hospitals that disproportionately

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<sup>1</sup> A. Dunker and E. Benjamin, *How Structural Inequalities in New York’s Health Care System Exacerbate Health Disparities During the COVID-19 Pandemic: A Call for Equitable Reform*, Community Service Society, June 2020.

<sup>2</sup> L. Uttley et al, *Empowering New York Consumers in an Era of Hospital Consolidation*, MergerWatch and the NYS Health Foundation, May 2018.

provided care for medically underserved consumers. As a result, New York lost over a third of its hospital bed capacity.

“Communities have had little or no say when their hospitals are merging, downsizing or closing because the state CON approval process is not transparent or consumer friendly,” explained Lois Uttley, Women’s Health Program Director for Community Catalyst and coordinator of Community Voices for Health System Accountability (CVHSA). “This lack of meaningful oversight and consumer representation has allowed health systems to proceed with the consolidation in New York’s health care markets, leaving some communities without vital services or any hospital access at all. This bill will require meaningful engagement of affected communities and an independent assessment of how a proposed transaction would affect access to care for medically-underserved people.”

Currently, the New York State Department of Health and the Public Health and Health Planning Council (PHHPC) review and approve proposed health care industry transactions with no formal criteria requiring the examination of whether the project would improve or diminish health equity and address the needs of underserved communities. Moreover, there is only one consumer representative on the 24-member PHHPC, which has multiple representatives of health systems, hospitals, nursing homes and home care agencies, and there is no requirement for public hearings in affected communities.

“It’s especially important that this bill will require a close examination of the likely impact of health industry transactions on people who rely on Medicaid or who are uninsured,” said Lara Kassel, Coordinator of Medicaid Matters New York. “These are the people who have the least ability to seek care outside their own communities when local hospitals and other health providers close or eliminate services. We are grateful the Legislature prioritized this bill to help our systems move closer to greater health equity.”

Heidi Siegfried, Director of Health Policy for the Center for Independence of the Disabled, commented: “We especially appreciate that health facilities seeking an approval from the PHHPC would have to explain how the proposed project would improve access or reduce health disparities of people with disabilities, how it will reduce architectural barriers for people with mobility impairments, and how they will ensure effective communication with people who have speech, visual, or hearing impairments, and disclose the existence of any civil rights access complaints.”

Maria Alvarez, Executive Director of the New York StateWide Senior Action Council, commented that “For-profit companies have been buying up nursing homes, and making money for their owners and investors is more important to them than serving our community needs. This important legislation would require that the impact on access to care for disenfranchised communities is considered as part of hospital and nursing home requests to modify their businesses. On behalf of New York’s older residents, their families and their neighbors, we thank the Legislature for their support and urge the Governor to enact this bill.”

*CVHSA is a statewide alliance of health advocacy groups, including the Center for Independence of the Disabled, Commission on the Public’s Health System, the Community Catalyst Women’s Health Program, the Community Service Society of New York, the Children’s Defense Fund, the Empire Justice Center, March of Dimes, Medicaid Matters NY, Metro NY Healthy Care for All, the NY Immigration Coalition and the New York StateWide Senior Action Council. HCFANY is a statewide coalition of more than 170 organizations working to improve health care coverage and access. Medicaid Matters NY is a statewide coalition working on behalf of Medicaid enrollees.*