



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

August 3, 2018 Edition



In the News – State



JCOPE Primes Lobbying Community for New Regulations

NYS's First Comprehensive Lobbying Regulations Take Effect January 1, 2019

The State Joint Commission on Public Ethics (JCOPE) this week began an educational outreach to the lobbying community, outlining some of the “key elements” of New York’s inaugural lobbying regulations that take effect January 1st.

In April, the Commission unanimously approved 92 pages of new rules that further define the requirements under the NYS Lobbying Act. For example, the new rules seek to explain activities that constitute lobbying; explicate the distinction between contractual client and a beneficial client and the related requirements for each; outline the expanded governmental target reporting requirements; and clarify the definitions of direct and grass roots lobbying and when the use of social media becomes reportable lobbying activity. The regulations were first released in August 2017 and underwent months of revision under the provisions of State’s Administrative Procedure Act.

According to JCOPE, in the next few months, it will be sending out a series of emails, with more information about what Lobbyists and Clients will need to know about additional reporting requirements. In addition, a new lobbying filing application is set to launch in conjunction with the new regulations. The emails will include information about accessing the new application, creating new profiles, and submitting reports.

To follow is JCOPE’s first missive with “key elements of the regulations...to improve the quality of the information available to the public through rigorous disclosure rules and streamlined reporting requirements”:

1. **The Contractual Client and Beneficial Client.** The regulations require that lobbyists identify both who is paying for their services, and who the services are intended to benefit (they can be – and often are – the same party). In short, the Contractual Client is the individual or organization that retains a Lobbyist for itself or another. The Beneficial Client is the individual or organization who benefits from the lobbying activity.

The regulations require that Contractual Clients complete Client Semi-Annual Reports, Except for the Source of Funding section. Beneficial Clients are subject to source of funding reporting, preventing groups from using third-party intermediaries to hire a lobbyist and hide their sources of funding.

2. **Greater Specificity on Lobbying Targets.** The regulations require a Lobbyist Bi-Monthly Report and Client Semi-Annual Report to disclose the name of the person, organization, or legislative body before which the Lobbyist or Client has lobbied. Instead of merely disclosing, for example, that the filer lobbied before “the Assembly”, the regulations require a filer to identify the Public Official’s name or office, or the legislative committee, as applicable, which will greatly increase transparency and lead to the disclosure of more meaningful information.
3. **Grassroots and Direct Lobbying and the Use of Social Media.** The regulations clarify definitions of direct and grassroots lobbying, as well as when the use of social media is considered reportable lobbying activity. For Direct Lobbying via social media, Public Officials must be either directly tagged or linked to be considered reportable lobbying. For Grassroots Lobbying, if the social media communication meets the criteria for a Grassroots Lobbying Communication, like any other such communication, it must be reported. In either case, the attribution of personal social media activities of an individual to an organization only occurs when those activities are conducted in the course of such person’s employment.
4. **Coalitions.** The regulations strive to improve transparency surrounding who is behind Coalitions without discouraging their formation. Striking that balance, the regulations allow Coalitions to either file lobbying reports as an entity, or, in the alternative, member contributions may be disclosed in each Coalition member’s filing, if there is one. Regardless of whether a Coalition elects to file as a distinct, separate entity, or how a member reports its contribution to the Coalition, if applicable, all Coalition members who spend more than \$5,000 on lobbying in a year are considered Beneficial Clients which may trigger source of funding disclosures for those member organizations.
5. **Lobby Days.** The regulations clarify that an organization holding a Lobby Day must list an employee or Designated Lobbyist as an Individual Lobbyist on their lobbying filings only if such persons make Direct Contact with a Public Official *and* speak on behalf of the organization at the Lobby Day. Volunteers or members of the organization are not required to be listed. The regulations also clarify what expenses from the Lobby Day would be attributable to the organization as reportable to the Commission.
6. **Streamlining.** Going forward, certain Client entities who act as their own Lobbyist may not be required to file both Lobbyist Bi-Monthly Reports and a Client Semi-Annual Report. Specifically, Clients who only utilize in-house lobbyists may file regular Bi-Monthly Reports. In such cases, those filers would not be required to also submit a Client Semi-Annual Report.



Adult-Use Marijuana Program Work Group

Workgroup to Draft Legislation for Regulated Adult-Use Marijuana Program

Governor Andrew Cuomo this week appointed a workgroup to draft legislation establishing a regulated adult-use marijuana program in New York based on the findings of a multi-agency study he commissioned in January.

The study, released last month and led by the Department of Health, concluded that the positive impacts of a regulated marijuana market in New York State outweigh the potential negative impacts, and that areas that may be a cause for concern can be mitigated with regulation and proper use of public education that is tailored to address key populations.

The workgroup will be overseen by Counsel to the Governor Alphonso David. It is tasked with engaging State Senate and the Assembly leadership, and the bill sponsors of medical and regulated marijuana legislation (Senator Diane Savino, Assembly Member Richard Gottfried, Senator Liz Krueger and Assembly Member Crystal Peoples Stokes), advocates, and academic experts with experience from other states. The members are:

- David Holtgrave, PhD, Dean, School of Public Health, University at Albany.
- R. Lorraine Collins, PhD, Associate Dean for Research, University at Buffalo.
- Jeff Reynolds, PhD, CEO, Family and Children's Association of Long Island.
- Brendan Cox, former Albany Police Chief.
- Angela H. Hawken, PhD, Professor of Public Policy, NYU Marron Institute of Urban Management.
- Natasha Schüll, PhD, Associate Professor of Media, Culture, and Communication, NYU Steinhardt.
- Tracie Gardner, Associate Director at the Legal Action Center.
- Dr. Chinazo Cunningham, MS, Professor, Albert Einstein College of Medicine.
- Counsel to the Governor Alphonso David.
- Department of Health Commissioner Dr. Howard Zucker.
- Budget Director Robert Mujica.
- Chief Diversity Officer for New York State Lourdes Zapata.
- Office of Mental Health Commissioner Dr. Ann Sullivan.
- Office of Alcoholism and Substance Abuse Services Commissioner Arlene González-Sánchez.
- Office of Children and Family Services Acting Commissioner Sheila Poole.
- Department of Transportation Acting Commissioner Paul Karas.
- New York State Police Superintendent George P. Beach II.
- Acting Commissioner of Taxation and Finance Nonie Manion.
- New York State Agriculture & Markets Commissioner Richard A. Ball.
- Empire State Development Corporation Commissioner Howard Zemsky.



Laws of 2018

Chapter 101 - Sponsored by Senator Golden/M of A Joyner - Provides a cost of living adjustment in relation to the special accidental death benefit paid to a widow or widower.

Chapter 132 - Sponsored by Assemblymember Fahy/Senator Amedore - Requires the certification of the final state equalization rate, class ratios, and class equalization rates shall occur no later than thirty days prior to the tax levy.

Chapter 144 - Sponsored by M of A Cusick/Senator Lanza - Extends, until December 31, 2019, the authorization of residential property owners in high risk brush fire areas on Staten Island to cut and remove reeds.

Chapter 147 - Sponsored by M of A Magnarelli/Senator DeFrancisco - Creates a provisional permit for clinical laboratory personnel.

Chapter 155 - Sponsored by M of A Ortiz/Senator Lanza - Relates to certain water charges for hospitals and charities in New York city; extends provisions.

Chapter 164 - Sponsored by M of A Ryan/Senator Jacobs - Allows the Department of Health to reclassify drugs by regulation following an action by the federal government.

Chapter 168 - Sponsored by M of A Dinowitz/Senator Bonacic - Extends provisions of law relating to the use of electronic means for the commencement and filing of papers.

Chapter 182 - Sponsored by Senator Phillips/M of A Mosley - Extends certain provisions of law relating to limiting the check cashing exemption for national banks and other regulated entities.

In the News – City



New York City Council and De Blasio Administration Announce New Effort to Confront Taxi and FHV Service Refusals

New office will address refusals of service by taxis and FHV's that affect people of color and outer borough residents in New York

City Council Speaker Corey Johnson and Mayor Bill de Blasio this week announced the creation of an antidiscrimination office within the NYC Taxi and Limousine Commission.

The new Office of Inclusion, originally proposed by Council Member Donovan Richards, will focus on the development and implementation of anti-discrimination training for drivers. It will expand on its public education campaign, encouraging passengers to file complaints with the TLC when denied service, so that their experience may be investigated, and appropriate actions taken.

“Service refusal is real, unacceptable and we’re going to fight it in every way we can. These new steps will help ensure that anyone considering this unfair and illegal practice knows that it’s wrong, it carries severe consequences, and it has no place in this industry,” said Mayor Bill de Blasio.

Currently, the bulk of TLC’s service refusal violations are in response to passenger complaints. Service refusal violations lead to penalties of \$500 for the first violation; second violation in 24 months is \$1000 and possible 30-day suspension; third violation within 36 months is \$1000 and revocation prehearing.

The proposed TLC Office of Inclusion will be tasked with:

- Encouraging service refusal complaints (based on a protected class including ethnicity or race or gender, or destination) to be submitted to the TLC;
- Prosecuting service refusal complaints provided by the public;
- Increasing and insuring taxi service in outer boroughs;
- Educating the TLC’s regulated driver communities on NYC’s zero tolerance for service refusals, and penalties involved. Refusals include not stopping when hailed, refusing to go to location requested, and not accepting passengers;
- Educating community groups whose members have experienced service refusals, to stress the importance of reporting service refusals;
- Overseeing production and roll-out of a ride refusal awareness campaign, including a Public Service Announcement that will be distributed citywide to venues outside of taxis to ensure robust exposure to the public. This PSA will also be incorporated into new and existing training

for drivers. The awareness campaign will also be shown on local TV, heard on local radio, and transformed into images for digital and printed outreach materials;

- Developing mandated Continuing Driver Training prior to license renewal;
- Recruiting members of underrepresented communities to become drivers;
- Encouraging citywide coverage by TLC drivers in all communities.

“Today we take a major step forward in ending service refusal once and for all in the taxi and for-hire vehicle industry,” said Council Speaker Corey Johnson.

Briefs

Governor Cuomo Directs DFS to Reject Health Insurance Company Rate Increases That Account for Federal Repeal of the Individual Mandate

Governor Andrew Cuomo this week directed the Department of Financial Services (DFS) to reject rate increases requested by insurance companies that include percentages attributable to the federal repeal of the individual mandate under the Affordable Care Act.

DFS is currently reviewing the rate requests which ranged from -3.2% (HealthNowNY) to 38.6% (New York Quality Health Care Corp FKA Fidelis) with considerations for the individual mandate repeal. Rate request without consideration of the individual mandate repeal ranged from -3.2% (HealthNowNY) to 19.8% (Empire Healthchoice Assurance).

State AG Launches Statewide Police Camera Program

Attorney General Barbara Underwood announced the creation of a statewide police camera program. The CAMS (Capture an Account of a Material Situation) program will designate \$2 million seized in joint federal-state organized crime prosecutions to fund body-worn cameras at local law-enforcement agencies.

To be eligible for funds, law enforcement agencies must have between 130 and 3,000 sworn officers, be a local town, city, or county police agency, and be able to secure a cash match, covering 25 per of the total spend amount. Depending on the agency's size, it can request up to \$150,000 in grant funding.

Governor Cuomo Calls on State Board of Elections to Issue “Strongest Possible Regulations” of New Online Political Ad Transparency Laws

BOE to Promulgate New Regulations on August 9 Defining Scope of Legislation

Governor Andrew Cuomo this week called on the State Board of Elections (BOE) to issue the “strongest possible regulations” of the State's new online political ad transparency laws. BOE is scheduled to promulgate new regulations on August 9 defining online platforms and creating a database of all political advertisements purchased by a person or group for publication on the platform.

The FY 2019 Budget expanded New York State's definition of political communication to include paid internet and digital advertisements; required BOE to maintain a file of all political advertisements purchased by a person or group for publication on the platform; and required online platforms confirm that foreign individuals and entities are not purchasing political advertisements in order to influence the New York electorate. Any individual or organization that fails to comply with the requirements of the law shall be subject to a civil penalty of up to \$1,000 for each violation.

Dr. Mary T. Bassett Stepping Down as City’s Health Commissioner

Dr. Mary T. Bassett will step down as Health Commissioner at the end of August to take a position at Harvard. Dr. Bassett will become director of the François-Xavier Bagnoud Center for Health and Human Rights at Harvard University, and will be appointed the François-Xavier Bagnoud Professor of the Practice of Health and Human Rights in the department of Social and Behavioral Science at the Harvard T.H. Chan School of Public Health.

She will be succeeded by First Deputy Health Commissioner Dr. Oxiris Barbot, who will assume the role of Acting Health Commissioner on Sept. 1. A native New Yorker, Dr. Barbot has served as First Deputy Health Commissioner since early 2014.

MTA Mulls Fare Hike Amid Ridership Declines

The Metropolitan Transportation Authority (MTA) will proceed with its scheduled fare and toll hikes in 2019, despite continued decreases in ridership.

According to published reports, in May there were 193,000 fewer weekday passengers on subways, buses and paratransit, compared with May 2017. However, the agency is facing budget deficits in 2020 and beyond, necessitating the inflation-based rate increase.

MTA Chairman Joe Lhota indicated that ridership decline is a national trend for transit agencies.

Free Therapy for New York Mets Fans

UMA Health CEO Offers Therapy to Fellow Struggling Mets Fans

Following the worst loss in Mets history, 25-4 to the Washington Nationals, UMA Health CEO Dave Kerpen announced that the company will be offering free therapy sessions with licensed mental health providers for any self-identified New York Mets fans. The announcement comes a day after the latest event in a very difficult season for the team and its fans. The service was reported by Yahoo at <https://finance.yahoo.com/news/free-therapy-york-mets-fans-190000986.html>.

Coming Up

New York State

Wednesday, August 8th

Commissioners' Meeting, NYS Board of Elections, State Board Offices, 40 North Pearl Street
5th Floor, Albany, Noon.

New York City

Tuesday, August 7th

Committee on Consumer Affairs and Business Licensing, Committee Room – City Hall, 10:30 a.m.

Wednesday, August 8th

Committee on Finance, Committee Room – City Hall, 10 a.m.

Committee on Rules, Privileges and Elections, Council Chambers, 10:30 a.m.

City Council State Meeting, Council Chambers, 1:30 a.m.

Tuesday, August 14th

Subcommittee on Zoning and Franchises, Council Chambers - City Hall, 9:30 a.m.

Subcommittee on Landmarks, Public Siting and Maritime Uses, Committee Room – City Hall, Noon.

Subcommittee on Planning, Dispositions and Concessions, Committee Room - City Hall, 2 p.m.

Wednesday, August 15th

Committee on Land Use, Committee Room - City Hall, 11 a.m.

The next issue of *This Week in New York* will be published on September 7th.

Disclaimer: The materials in this *This Week in New York* report are provided for informational purposes only and are not intended to be a comprehensive review of legislative or governmental or political developments, to create a client-consultant/lobbyist relationship, or to provide consulting, lobbying or political advice. Readers are cautioned not to attempt to solve specific problems on the basis of information contained in this *This Week in New York*. If consulting, lobbying or government relations advice is required, please consult a professional expert in such matters. The information contained herein, does not necessarily reflect the opinions of Pitta Bishop & Del Giorno LLC, or any of its members or employees or its clients. Neither Pitta Bishop & Del Giorno LLC, nor its members or employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta Bishop & Del Giorno LLC is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Theresa Cosgrove at tcosgrove@pittabishop.com or at (518) 449-3320.

To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

This Week in New York is a publication of Pitta Bishop & Del Giorno LLC.

120 Broadway, 28th Floor
New York, New York 10271
Telephone (212) 652-3890
Facsimile (212) 652-3891

111 Washington Avenue, St. 401
Albany, New York 12210
Telephone (518) 449-3320
Facsimile (518) 449-5812

25 Hyatt Street, St. 202
Staten Island, New York 10301
Telephone (718) 943-1050
Facsimile (718) 943-1051