

STATE OF NEW YORK

S. 4007

A. 3007

SENATE - ASSEMBLY

February 1, 2023

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to known and projected department of health state fund medicaid expenditures (Part A); to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law relating to providing enhanced consumer and provider protections, in relation to the effectiveness of certain provisions relating to contracts between plans, insurers, or corporations and hospitals; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to adjustments of rates, in relation to the effectiveness of certain provisions relating to the amount of income to be applied toward the cost of medical care, services and supplies of institutionalized spouses; to amend chapter 906 of the laws of 1984, amending the social services law relating to expanding medical assistance eligibility and the scope of services available to certain persons with disabilities, in relation to the effectiveness thereof; to amend the social services law, in relation to the age of eligibility for home and community-based services waivers; to amend chapter 313 of the laws of 2018, amending the public health law relating to body imaging scanning equipment, in relation to the effectiveness thereof; to amend chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings, in relation to the effectiveness of certain provisions thereof; to amend chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, in relation to the effectiveness of certain provisions thereof; to amend the public health law, in relation to extending the demonstration period in certain physician committees; to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD12571-01-3

relation to the effectiveness thereof; to amend the public health law, in relation to reimbursement rate promulgation for residential health care facilities; to amend the public health law, in relation to certified home health agency services payments; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness of certain provisions relating to increasing information available to patients; to amend part H of chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to making certain provisions permanent; to amend part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to extending the effectiveness of certain provisions thereof; to amend the social services law, in relation to the effectiveness of certain provisions relating to negotiation of supplemental rebates relating to medication assisted treatment; to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in relation to the effectiveness thereof; to amend part KK of chapter 56 of the laws of 2020, amending the public health law relating to the designation of statewide general hospital quality and sole community pools and the reduction of capital related inpatient expenses, in relation to the effectiveness thereof; to amend part C of chapter 60 of the laws of 2014, amending the social services law relating to fair hearings within the Fully Integrated Duals Advantage program, in relation to the effectiveness thereof; to amend chapter 779 of the laws of 1986, amending the social services law relating to authorizing services for non-residents in adult homes, residences for adults and enriched housing programs, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to extending the provisions thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend part A of chapter 56 of the laws of 2013, amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government

rates for behavioral services and adding an alternative payment methodology requirement; and to amend the public health law, in relation to residential health care facility assessments; and to amend part MM of chapter 57 of the laws of 2021 amending the public health law relating to aiding in the transition to adulthood for children with medical fragility living in pediatric nursing homes and other settings, in relation to the effectiveness thereof (Part B); to amend part A3 of chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to extending the effectiveness of provisions thereof; to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to extending certain provisions relating to the distribution of pool allocations and graduate medical education; to amend the public health law, in relation to extending certain provisions relating to health care initiative pool distributions; to amend the social services law, in relation to extending payment provisions for general hospitals; and to amend the public health law, in relation to extending certain provisions relating to the assessments on covered lives (Part C); to amend the social services law, in relation to copayments for drugs; to amend the public health law, in relation to prescriber prevails; and to repeal certain provisions of the social services law relating to coverage for certain prescription drugs (Part D); to amend the public health law, in relation to amending and extending the voluntary indigent care pool; in relation to establishing the definition of rural emergency hospital; and in relation to expanding eligibility for vital access provider assurance program funding; and to amend Part I of chapter 57 of the laws of 2022 relating to providing a five percent across the board payment increase to all qualifying fee-for-service Medicaid rates, in relation to Medicaid payments made for the operating component of hospital inpatient services (Part E); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the effectiveness of certain provisions thereof; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017 amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part F); to amend the elder law, in relation to programs for the aging (Part G); to amend section 5 of part AAA of chapter 56 of the laws of 2022, amending the social services law relating to expanding Medicaid eligibility requirements for seniors and disabled individuals, in relation to the effectiveness of the basic health plan program; to amend the social services law, in relation to enacting the 1332 state innovation program; and to amend the state finance law, in relation to establishing the 1332 state innovation program fund (Part H); to amend the public health law, in relation to extending authority to enroll certain recipients in need of more than 120 days of community based-long term care in a managed

long term care plan; to amend the public health law, in relation to extending the moratorium on the processing and approval of applications seeking a certificate of authority as a managed long term care plan, setting performance standards for managed long term care plans and granting the commissioner of health the authority to procure in the event the department of health determines that a sufficient number of managed long term care plans have not met the enhanced performance standards; to amend the social services law, in relation to fiscal intermediaries; to amend part I of chapter 57 of the laws of 2022 providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, in relation to providing an additional increase to all qualifying fee-for-service Medicaid rates for the operating component of residential health care facilities services and an additional increase to all qualifying fee-for-service Medicaid rates for the operating component of assisted living programs; to amend the public health law, in relation to home care worker wage parity; to amend part H of chapter 59 of the laws of 2011 amending the public health law and other laws relating to known and projected department of health state fund medical expenditures, in relation to extending the provisions thereof; to repeal certain provisions of the social services law relating to the consumer directed personal assistance program; to amend the public health law, in relation to establishing the state supplemental premium assistance for consumer directed personal assistants; and to amend the state finance law, in relation to creating the CDPAP supplemental premium assistance fund (Part I); to amend the insurance law and the public health law, in relation to insurer, organization, or corporation review of certain documentation for certain claims (Part J); to amend the social services law, in relation to authorizing Medicaid eligibility for certain services provided to individuals who are in a correctional institution, and for certain services provided to individuals who are in an institution for mental disease (Part K); to amend the insurance law, in relation to site of service review and coverage for services provided at hospital-based outpatient clinics (Part L); to amend the public health law, in relation to streamlining and adding criteria to the certificate of need process and to review and oversight of material transactions (Part M); to amend the social services law, in relation to expanding the Medicaid Buy-In program for people with disabilities (Part N); to amend the public health law, in relation to prohibiting the sale or distribution of flavored tobacco products (Part O); to amend the public health law, in relation to establishing a new statewide health care transformative program (Part P); to amend the social services law, in relation to establishing Medicaid reimbursement for community health workers (CHWs) for high-risk populations; and to amend the public health law, in relation to permitting licensed mental health counselors and licensed marriage and family therapists in community health centers to be reimbursed (Part Q); to amend the social services law and the public health law, in relation to expanding Medicaid coverage of preventative health care services (Part R); to amend the public health law and the education law, in relation to modernizing the state of New York's emergency medical system and workforce; and to repeal certain sections of the public health law relating thereto (Part S); to amend the public health law, in relation to lead testing in certain multiple dwellings; and to amend the executive law, in relation to expanding the powers of the secretary of state with respect to the New York state uniform fire

prevention and building code (Part T); to amend the general business law, in relation to safeguarding abortion access through data privacy protection (Part U); to amend the education law, in relation to authorizing licensed pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with standardized procedures or protocols developed and approved by the board of pharmacy (Part V); to amend the education law, in relation to the provision of HIV pre-exposure prophylaxis; to amend the public health law and the education law, in relation to the administration of COVID-19 and influenza tests; to amend part C of chapter 57 of the laws of 2022 amending the public health law and the education law relating to allowing pharmacists to direct limited service laboratories and order and administer COVID-19 and influenza tests and modernizing nurse practitioners, in relation to the effectiveness thereof; to amend the education law and the social services law, in relation to the scope of practice of nurses and pharmacists; to amend the education law, in relation to authorizing dentists to offer HIV and hepatitis C screening and diagnostic tests; to amend the education law and the public health law, in relation to the scope of practice of physician assistants; to amend chapter 471 of the laws of 2016 amending the education law and the public health law relating to authorizing certain advanced home health aides to perform certain advanced tasks, in relation to the effectiveness thereof; to amend the education law, in relation to the scope of practice of medication aides; to amend the education law, in relation to enacting the interstate medical licensure compact; to amend the education law, in relation to enacting the nurse licensure compact; and providing for the repeal of certain provisions upon the expiration thereof (Part W); to amend the public health law, in relation to providing for the registration of temporary health care services agencies (Part X); to amend the civil practice law and rules and the judiciary law, in relation to affidavits for medical debt actions (Subpart A); to amend the insurance law, in relation to prescription drug price and supply chain transparency; and to amend the state finance law, in relation to funds deposited in the pharmacy benefit manager regulatory fund (Subpart B); to amend the public health law, in relation to requiring hospitals participating in the general hospital indigent care pool to use certain forms for the collection of medical debt (Subpart C); and to amend the insurance law, in relation to guaranty fund coverage for insurers writing health insurance (Subpart D) (Part Y); to amend the public health law and the social services law, in relation to quality improvement and increased consumer transparency in assisted living residences (Part Z); to amend the public health law, in relation to hepatitis C screening and requiring third trimester syphilis testing; and to amend chapter 425 of the laws of 2013 amending the public health law relating to requiring hospitals to offer hepatitis C testing, in relation to making such provisions permanent (Part AA); to amend the public health law, in relation to adding certain fentanyl analogs to the schedules of controlled substances; to amend the public health law, in relation to the definition of "imitation controlled substance"; to amend the penal law and the criminal procedure law, in relation to criminal possession and sale of imitation controlled substances; and to repeal certain provisions of the public health law relating thereto (Part BB); to amend the public health law, the state finance law, the civil practice law and rules, the limited liability company law, the partnership law, the correction law, the education

law, the executive law, the mental hygiene law, the penal law, the surrogate's court procedure act, the social services law, the workers' compensation law, the cannabis law, the county law, the general business law, the insurance law, the labor law, the criminal procedure law, the business corporation law, the vehicle and traffic law, the administrative code of the city of New York, the military law, and the tax law, in relation to repealing articles governing healthcare professions in the education law and adding such provisions to the public health law and transferring all functions, powers, duties and obligations relating thereto; to repeal certain provisions of the education law relating thereto; and to repeal certain provisions of the public health law relating thereto (Part CC); in relation to establishing a cost of living adjustment for designated human services programs (Part DD); to amend part A of chapter 56 of the laws of 2013, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2013-2014 state fiscal year, in relation to the effectiveness of certain provisions thereof (Part EE); to amend the education law, in relation to expanding the description of certain services which are not prohibited by statutes governing the practice of nursing (Part FF); to amend the mental hygiene law and the education law, in relation to credentialing qualified mental health associates (Part GG); to amend the mental hygiene law, in relation to certified community behavioral health clinics (Part HH); to amend the insurance law and the financial services law, in relation to insurance coverage for behavioral health services (Subpart A); to amend the insurance law and the public health law, in relation to utilization review standards for mental health services (Subpart B); to amend the insurance law and the public health law, in relation to telehealth payment parity (Subpart C); to amend the insurance law, in relation to private rights of action (Subpart D); to amend the insurance law, in relation to substance use disorder treatment (Subpart E); and to amend the insurance law and the public health law, in relation to network adequacy for mental health and substance use disorder services (Subpart F) (Part II); and to amend the mental hygiene law, in relation to the imposition of sanctions by the commissioner of mental health (Part JJ)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 necessary to implement the state health and mental hygiene budget for
3 the 2023-2024 state fiscal year. Each component is wholly contained
4 within a Part identified as Parts A through JJ. The effective date for
5 each particular provision contained within such Part is set forth in the
6 last section of such Part. Any provision in any section contained within
7 a Part, including the effective date of the Part, which makes a refer-
8 ence to a section "of this act", when used in connection with that
9 particular component, shall be deemed to mean and refer to the corre-
10 sponding section of the Part in which it is found. Section three of this
11 act sets forth the general effective date of this act.

12

PART A

Section 1. Paragraph (a) of subdivision 1 of section 92 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates, as amended by section 2 of part H of chapter 57 of the laws of 2022, is amended to read as follows:

(a) For state fiscal years 2011-12 through ~~[2023-24]~~ 2024-25, the director of the budget, in consultation with the commissioner of health referenced as "commissioner" for purposes of this section, shall assess on a quarterly basis, as reflected in quarterly reports pursuant to subdivision five of this section known and projected department of health state funds medicaid expenditures by category of service and by geographic regions, as defined by the commissioner.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023.

PART B

Section 1. Subdivision 1 of section 20 of chapter 451 of the laws of 2007 amending the public health law, the social services law and the insurance law relating to providing enhanced consumer and provider protections, as amended by chapter 181 of the laws of 2021, is amended to read as follows:

1. sections four, eleven and thirteen of this act shall take effect immediately and shall expire and be deemed repealed June 30, ~~[2023]~~ 2025;

§ 2. Subdivision 6-a of section 93 of part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to adjustments of rates, as amended by section 2 of part T of chapter 57 of the laws of 2018, is amended to read as follows:

6-a. section fifty-seven of this act shall expire and be deemed repealed ~~[on March 31, 2023]~~ March 31, 2028; provided that the amendments made by such section to subdivision 4 of section 366-c of the social services law shall apply with respect to determining initial and continuing eligibility for medical assistance, including the continued eligibility of recipients originally determined eligible prior to the effective date of this act, and provided further that such amendments shall not apply to any person or group of persons if it is subsequently determined by the Centers for Medicare and Medicaid services or by a court of competent jurisdiction that medical assistance with federal financial participation is available for the costs of services provided to such person or persons under the provisions of subdivision 4 of section 366-c of the social services law in effect immediately prior to the effective date of this act.

§ 3. Section 3 of chapter 906 of the laws of 1984, amending the social services law relating to expanding medical assistance eligibility and the scope of services available to certain persons with disabilities, as amended by section 4 of part T of chapter 57 of the laws of 2018, is amended to read as follows:

§ 3. This act shall take effect on the thirtieth day after it shall have become a law and shall be of no further force and effect after ~~[March 31, 2023]~~ March 31, 2028, at which time the provisions of this act shall be deemed to be repealed.

§ 4. Subparagraph (i) of paragraph b of subdivision 6 of section 366 of the social services law, as amended by chapter 389 of the laws of 2008, is amended to read as follows:

(i) be ~~[eighteen]~~ twenty-one years of age or under;

§ 5. Subparagraph (i) of paragraph b of subdivision 7 of section 366 of the social services law, as amended by chapter 324 of the laws of 2004, is amended to read as follows:

(i) be ~~[eighteen]~~ twenty-one years of age or under;

§ 6. Subparagraph (i) of paragraph b of subdivision 9 of section 366 of the social services law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

(i) be under ~~[eighteen]~~ twenty-one years of age;

§ 7. Section 2 of chapter 313 of the laws of 2018, amending the public health law relating to body imaging scanning equipment, is amended to read as follows:

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that, effective immediately, the addition, amendment, and/or repeal of any rules and regulations necessary to implement the provisions of this act on its effective date are directed to be completed on or before such effective date; and provided further, that this act shall expire and be deemed repealed ~~[five years after such effective date]~~ January 30, 2029.

§ 8. Section 5 of chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect June 1, 1983 and shall remain in full force and effect until July 1, ~~[2023]~~ 2033.

§ 9. Section 5 of chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect immediately, provided however that the provisions of this act shall remain in full force and effect until July 1, ~~[2023]~~ 2033 at which time the provisions of this act shall be deemed to be repealed.

§ 10. Subparagraph (ii) of paragraph (c) of subdivision 11 of section 230 of the public health law, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

(ii) Participation and membership during a three year demonstration period in a physician committee of the Medical Society of the State of New York or the New York State Osteopathic Society whose purpose is to confront and refer to treatment physicians who are thought to be suffering from alcoholism, drug abuse, or mental illness. Such demonstration period shall commence on April first, nineteen hundred eighty and terminate on May thirty-first, nineteen hundred eighty-three. An additional demonstration period shall commence on June first, nineteen hundred eighty-three and terminate on March thirty-first, nineteen hundred eighty-six. An additional demonstration period shall commence on April first, nineteen hundred eighty-six and terminate on March thirty-first, nineteen hundred eighty-nine. An additional demonstration period shall commence April first, nineteen hundred eighty-nine and terminate March thirty-first, nineteen hundred ninety-two. An additional demonstration period shall commence April first, nineteen hundred ninety-two and terminate March thirty-first, nineteen hundred ninety-five. An additional demonstration period shall commence on April first, nineteen hundred ninety-five and terminate on March thirty-first, nineteen hundred ninety-eight. An additional demonstration period shall commence on April first, nineteen hundred ninety-eight and terminate on March thirty-first, two thousand three. An additional demonstration period shall commence on April first, two thousand three and terminate on March thirty-first, two thousand thirteen. An additional demonstration period

1 shall commence April first, two thousand thirteen and terminate on March
2 thirty-first, two thousand eighteen. An additional demonstration period
3 shall commence April first, two thousand eighteen and terminate on July
4 first, two thousand [~~twenty-three~~] thirty-three provided, however, that
5 the commissioner may prescribe requirements for the continuation of such
6 demonstration program, including periodic reviews of such programs and
7 submission of any reports and data necessary to permit such reviews.
8 During these additional periods, the provisions of this subparagraph
9 shall also apply to a physician committee of a county medical society.

10 § 11. Section 4 of chapter 505 of the laws of 1995, amending the
11 public health law relating to the operation of department of health
12 facilities, as amended by section 1 of part E of chapter 57 of the laws
13 of 2019, is amended to read as follows:

14 § 4. This act shall take effect immediately; provided, however, that
15 the provisions of paragraph (b) of subdivision 4 of section 409-c of the
16 public health law, as added by section three of this act, shall take
17 effect January 1, 1996 and shall expire and be deemed repealed [~~twenty-~~
18 ~~eight years from the effective date thereof~~] March 31, 2028.

19 § 12. Paragraph (b) of subdivision 17 of section 2808 of the public
20 health law, as amended by section 15 of part E of chapter 57 of the laws
21 of 2019, is amended to read as follows:

22 (b) Notwithstanding any inconsistent provision of law or regulation to
23 the contrary, for the state fiscal years beginning April first, two
24 thousand ten and ending March thirty-first, two thousand [~~twenty-three~~]
25 twenty-seven, the commissioner shall not be required to revise certified
26 rates of payment established pursuant to this article for rate periods
27 prior to April first, two thousand [~~twenty-three~~] twenty-seven, based on
28 consideration of rate appeals filed by residential health care facili-
29 ties or based upon adjustments to capital cost reimbursement as a result
30 of approval by the commissioner of an application for construction under
31 section twenty-eight hundred two of this article, in excess of an aggre-
32 gate annual amount of eighty million dollars for each such state fiscal
33 year provided, however, that for the period April first, two thousand
34 eleven through March thirty-first, two thousand twelve such aggregate
35 annual amount shall be fifty million dollars. In revising such rates
36 within such fiscal limit, the commissioner shall, in prioritizing such
37 rate appeals, include consideration of which facilities the commissioner
38 determines are facing significant financial hardship as well as such
39 other considerations as the commissioner deems appropriate and, further,
40 the commissioner is authorized to enter into agreements with such facil-
41 ities or any other facility to resolve multiple pending rate appeals
42 based upon a negotiated aggregate amount and may offset such negotiated
43 aggregate amounts against any amounts owed by the facility to the
44 department, including, but not limited to, amounts owed pursuant to
45 section twenty-eight hundred seven-d of this article; provided, however,
46 that the commissioner's authority to negotiate such agreements resolving
47 multiple pending rate appeals as hereinbefore described shall continue
48 on and after April first, two thousand [~~twenty-three~~] twenty-seven. Rate
49 adjustments made pursuant to this paragraph remain fully subject to
50 approval by the director of the budget in accordance with the provisions
51 of subdivision two of section twenty-eight hundred seven of this arti-
52 cle.

53 § 13. Paragraph (a) of subdivision 13 of section 3614 of the public
54 health law, as amended by section 16 of part E of chapter 57 of the laws
55 of 2019, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of law or regulation and subject to the availability of federal financial participation, effective April first, two thousand twelve through March thirty-first, two thousand ~~[twenty-three]~~ twenty-seven, payments by government agencies for services provided by certified home health agencies, except for such services provided to children under eighteen years of age and other discreet groups as may be determined by the commissioner pursuant to regulations, shall be based on episodic payments. In establishing such payments, a statewide base price shall be established for each sixty day episode of care and adjusted by a regional wage index factor and an individual patient case mix index. Such episodic payments may be further adjusted for low utilization cases and to reflect a percentage limitation of the cost for high-utilization cases that exceed outlier thresholds of such payments.

§ 14. Section 4 of chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, as amended by section 2 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 4. This act shall take effect 120 days after it shall have become a law and shall expire and be deemed repealed March 31, ~~[2023]~~ 2026.

§ 15. Paragraph (e-1) of subdivision 12 of section 2808 of the public health law, as amended by section 3 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(e-1) Notwithstanding any inconsistent provision of law or regulation, the commissioner shall provide, in addition to payments established pursuant to this article prior to application of this section, additional payments under the medical assistance program pursuant to title eleven of article five of the social services law for non-state operated public residential health care facilities, including public residential health care facilities located in the county of Nassau, the county of Westchester and the county of Erie, but excluding public residential health care facilities operated by a town or city within a county, in aggregate annual amounts of up to one hundred fifty million dollars in additional payments for the state fiscal year beginning April first, two thousand six and for the state fiscal year beginning April first, two thousand seven and for the state fiscal year beginning April first, two thousand eight and of up to three hundred million dollars in such aggregate annual additional payments for the state fiscal year beginning April first, two thousand nine, and for the state fiscal year beginning April first, two thousand ten and for the state fiscal year beginning April first, two thousand eleven, and for the state fiscal years beginning April first, two thousand twelve and April first, two thousand thirteen, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand fourteen, April first, two thousand fifteen and April first, two thousand sixteen and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand seventeen, April first, two thousand eighteen, and April first, two thousand nineteen, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand twenty, April first, two thousand twenty-one, and April first, two thousand twenty-two, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand twenty-three, April first, two thousand

twenty-four, and April first, two thousand twenty-five. The amount allocated to each eligible public residential health care facility for this period shall be computed in accordance with the provisions of paragraph (f) of this subdivision, provided, however, that patient days shall be utilized for such computation reflecting actual reported data for two thousand three and each representative succeeding year as applicable, and provided further, however, that, in consultation with impacted providers, of the funds allocated for distribution in the state fiscal year beginning April first, two thousand thirteen, up to thirty-two million dollars may be allocated in accordance with paragraph (f-1) of this subdivision.

§ 16. Section 18 of chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, as amended by section 4 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 18. This act shall take effect immediately, except that sections six, nine, ten and eleven of this act shall take effect on the sixtieth day after it shall have become a law, sections two, three, four and nine of this act shall expire and be of no further force or effect on or after March 31, ~~2023~~ 2026, section two of this act shall take effect on April 1, 1985 or seventy-five days following the submission of the report required by section one of this act, whichever is later, and sections eleven and thirteen of this act shall expire and be of no further force or effect on or after March 31, 1988.

§ 17. Section 4 of part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, as amended by section 5 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 4. This act shall take effect immediately~~;~~ ~~provided that the provisions of section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003, and shall expire March 31, 2023 when upon such date the provisions of such section shall be deemed repealed~~.

§ 18. Subdivision (o) of section 111 of part H of chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, as amended by section 6 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

~~[(o) sections thirty-eight and thirty-eight-a of this act shall expire and be deemed repealed March 31, 2023;]~~

§ 19. Section 32 of part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, as amended by section 7 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 32. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2008; provided however, that sections one, six-a, nineteen, twenty, twenty-four, and twenty-five of this act shall take effect July 1, 2008; provided however that sections sixteen, seventeen and eighteen of this act shall expire April 1, ~~2023~~ 2026; provided, however, that the amendments made by section twenty-eight of this act shall take effect on the same date as section 1 of chapter 281 of the laws of 2007 takes effect; provided

1 further, that sections twenty-nine, thirty, and thirty-one of this act
2 shall take effect October 1, 2008; provided further, that section twen-
3 ty-seven of this act shall take effect January 1, 2009; and provided
4 further, that section twenty-seven of this act shall expire and be
5 deemed repealed March 31, ~~2023~~ 2026; and provided, further, however,
6 that the amendments to subdivision 1 of section 241 of the education law
7 made by section twenty-nine of this act shall not affect the expiration
8 of such subdivision and shall be deemed to expire therewith and provided
9 that the amendments to section 272 of the public health law made by
10 section thirty of this act shall not affect the repeal of such section
11 and shall be deemed repealed therewith.

12 § 20. Section 228 of chapter 474 of the laws of 1996, amending the
13 education law and other laws relating to rates for residential health
14 care facilities, as amended by section 12 of part BB of chapter 56 of
15 the laws of 2020, is amended to read as follows:

16 § 228. 1. Definitions. (a) Regions, for purposes of this section,
17 shall mean a downstate region to consist of Kings, New York, Richmond,
18 Queens, Bronx, Nassau and Suffolk counties and an upstate region to
19 consist of all other New York state counties. A certified home health
20 agency or long term home health care program shall be located in the
21 same county utilized by the commissioner of health for the establishment
22 of rates pursuant to article 36 of the public health law.

23 (b) Certified home health agency (CHHA) shall mean such term as
24 defined in section 3602 of the public health law.

25 (c) Long term home health care program (LTHHCP) shall mean such term
26 as defined in subdivision 8 of section 3602 of the public health law.

27 (d) Regional group shall mean all those CHHAs and LTHHCPs, respective-
28 ly, located within a region.

29 (e) Medicaid revenue percentage, for purposes of this section, shall
30 mean CHHA and LTHHCP revenues attributable to services provided to
31 persons eligible for payments pursuant to title 11 of article 5 of the
32 social services law divided by such revenues plus CHHA and LTHHCP reven-
33 ues attributable to services provided to beneficiaries of Title XVIII of
34 the federal social security act (medicare).

35 (f) Base period, for purposes of this section, shall mean calendar
36 year 1995.

37 (g) Target period. For purposes of this section, the 1996 target peri-
38 od shall mean August 1, 1996 through March 31, 1997, the 1997 target
39 period shall mean January 1, 1997 through November 30, 1997, the 1998
40 target period shall mean January 1, 1998 through November 30, 1998, the
41 1999 target period shall mean January 1, 1999 through November 30, 1999,
42 the 2000 target period shall mean January 1, 2000 through November 30,
43 2000, the 2001 target period shall mean January 1, 2001 through November
44 30, 2001, the 2002 target period shall mean January 1, 2002 through
45 November 30, 2002, the 2003 target period shall mean January 1, 2003
46 through November 30, 2003, the 2004 target period shall mean January 1,
47 2004 through November 30, 2004, and the 2005 target period shall mean
48 January 1, 2005 through November 30, 2005, the 2006 target period shall
49 mean January 1, 2006 through November 30, 2006, and the 2007 target
50 period shall mean January 1, 2007 through November 30, 2007 and the 2008
51 target period shall mean January 1, 2008 through November 30, 2008, and
52 the 2009 target period shall mean January 1, 2009 through November 30,
53 2009 and the 2010 target period shall mean January 1, 2010 through
54 November 30, 2010 and the 2011 target period shall mean January 1, 2011
55 through November 30, 2011 and the 2012 target period shall mean January
56 1, 2012 through November 30, 2012 and the 2013 target period shall mean

1 January 1, 2013 through November 30, 2013, and the 2014 target period
2 shall mean January 1, 2014 through November 30, 2014 and the 2015 target
3 period shall mean January 1, 2015 through November 30, 2015 and the 2016
4 target period shall mean January 1, 2016 through November 30, 2016 and
5 the 2017 target period shall mean January 1, 2017 through November 30,
6 2017 and the 2018 target period shall mean January 1, 2018 through
7 November 30, 2018 and the 2019 target period shall mean January 1, 2019
8 through November 30, 2019 and the 2020 target period shall mean January
9 1, 2020 through November 30, 2020[~~r~~] and the 2021 target period shall
10 mean January 1, 2021 through November 30, 2021 and the 2022 target peri-
11 od shall mean January 1, 2022 through November 30, 2022 and the 2023
12 target period shall mean January 1, 2023 through November 30, 2023 and
13 the 2024 target period shall mean January 1, 2024 through November 30,
14 2024 and the 2025 target period shall mean January 1, 2025 through
15 November 30, 2025 and the 2026 target period shall mean January 1, 2026
16 through November 30, 2026 and the 2027 target period shall mean January
17 1, 2027 through November 30, 2027.

18 2. (a) Prior to February 1, 1997, for each regional group the commis-
19 sioner of health shall calculate the 1996 medicaid revenue percentages
20 for the period commencing August 1, 1996 to the last date for which such
21 data is available and reasonably accurate.

22 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to
23 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
24 prior to February 1, 2003, prior to February 1, 2004, prior to February
25 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
26 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,
27 prior to February 1, 2011, prior to February 1, 2012, prior to February
28 1, 2013, prior to February 1, 2014, prior to February 1, 2015, prior to
29 February 1, 2016, prior to February 1, 2017, prior to February 1, 2018,
30 prior to February 1, 2019, prior to February 1, 2020, prior to February
31 1, 2021, prior to February 1, 2022, [~~and~~] prior to February 1, 2023,
32 prior to February 1, 2024, prior to February 1, 2025, prior to February
33 1, 2026 and prior to February 1, 2027 for each regional group the
34 commissioner of health shall calculate the prior year's medicaid revenue
35 percentages for the period commencing January 1 through November 30 of
36 such prior year.

37 3. By September 15, 1996, for each regional group the commissioner of
38 health shall calculate the base period medicaid revenue percentage.

39 4. (a) For each regional group, the 1996 target medicaid revenue
40 percentage shall be calculated by subtracting the 1996 medicaid revenue
41 reduction percentages from the base period medicaid revenue percentages.
42 The 1996 medicaid revenue reduction percentage, taking into account
43 regional and program differences in utilization of medicaid and medicare
44 services, for the following regional groups shall be equal to:

45 (i) one and one-tenth percentage points for CHHAs located within the
46 downstate region;

47 (ii) six-tenths of one percentage point for CHHAs located within the
48 upstate region;

49 (iii) one and eight-tenths percentage points for LTHHCPs located with-
50 in the downstate region; and

51 (iv) one and seven-tenths percentage points for LTHHCPs located within
52 the upstate region.

53 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
54 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019,
55 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025, 2026 and 2027 for each
56 regional group, the target medicaid revenue percentage for the respec-

tive year shall be calculated by subtracting the respective year's medicaid revenue reduction percentage from the base period medicaid revenue percentage. The medicaid revenue reduction percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025, 2026 and 2027, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to for each such year:

(i) one and one-tenth percentage points for CHHAs located within the downstate region;

(ii) six-tenths of one percentage point for CHHAs located within the upstate region;

(iii) one and eight-tenths percentage points for LTHHCPs located within the downstate region; and

(iv) one and seven-tenths percentage points for LTHHCPs located within the upstate region.

(c) For each regional group, the 1999 target medicaid revenue percentage shall be calculated by subtracting the 1999 medicaid revenue reduction percentage from the base period medicaid revenue percentage. The 1999 medicaid revenue reduction percentages, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

(i) eight hundred twenty-five thousandths (.825) of one percentage point for CHHAs located within the downstate region;

(ii) forty-five hundredths (.45) of one percentage point for CHHAs located within the upstate region;

(iii) one and thirty-five hundredths percentage points (1.35) for LTHHCPs located within the downstate region; and

(iv) one and two hundred seventy-five thousandths percentage points (1.275) for LTHHCPs located within the upstate region.

5. (a) For each regional group, if the 1996 medicaid revenue percentage is not equal to or less than the 1996 target medicaid revenue percentage, the commissioner of health shall compare the 1996 medicaid revenue percentage to the 1996 target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the 1996 medicaid revenue reduction percentage, shall be called the 1996 reduction factor. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the 1996 medicaid revenue percentage is equal to or less than the 1996 target medicaid revenue percentage, the 1996 reduction factor shall be zero.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025, 2026 and 2027, for each regional group, if the medicaid revenue percentage for the respective year is not equal to or less than the target medicaid revenue percentage for such respective year, the commissioner of health shall compare such respective year's medicaid revenue percentage to such respective year's target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the respective year's medicaid revenue reduction percentage, shall be called the reduction factor for such respective year. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the medicaid revenue percentage for a particular year is equal to or less than the target medicaid revenue percentage for that year, the reduction factor for that year shall be zero.

6. (a) For each regional group, the 1996 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1996 state share reduction amount:

(i) two million three hundred ninety thousand dollars (\$2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars (\$1,270,000) for LTHHCPs located within the downstate region; and

(iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1996 reduction factor shall be zero, there shall be no 1996 state share reduction amount.

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 ~~[and]~~, 2023, 2024, 2025, 2026 and 2027, for each regional group, the reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

(i) two million three hundred ninety thousand dollars (\$2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars (\$1,270,000) for LTHHCPs located within the downstate region; and

(iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the reduction factor for a particular year shall be zero, there shall be no state share reduction amount for such year.

(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

(i) one million seven hundred ninety-two thousand five hundred dollars (\$1,792,500) for CHHAs located within the downstate region;

(ii) five hundred sixty-two thousand five hundred dollars (\$562,500) for CHHAs located within the upstate region;

(iii) nine hundred fifty-two thousand five hundred dollars (\$952,500) for LTHHCPs located within the downstate region; and

(iv) four hundred forty-two thousand five hundred dollars (\$442,500) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1999 reduction factor shall be zero, there shall be no 1999 state share reduction amount.

7. (a) For each regional group, the 1996 state share reduction amount shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage within the applicable regional group. This proportion shall be multiplied by the applicable 1996 state share reduction amount calculation pursuant to paragraph (a) of subdivision 6 of this section. This amount shall be called the 1996 provider specific state share reduction amount.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,

1 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025, 2026 and 2027 for each
2 regional group, the state share reduction amount for the respective year
3 shall be allocated by the commissioner of health among CHHAs and LTHHCPs
4 on the basis of the extent of each CHHA's and LTHHCP's failure to
5 achieve the target medicaid revenue percentage for the applicable year,
6 calculated on a provider specific basis utilizing revenues for this
7 purpose, expressed as a proportion of the total of each CHHA's and
8 LTHHCP's failure to achieve the target medicaid revenue percentage for
9 the applicable year within the applicable regional group. This propor-
10 tion shall be multiplied by the applicable year's state share reduction
11 amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of
12 this section. This amount shall be called the provider specific state
13 share reduction amount for the applicable year.

14 8. (a) The 1996 provider specific state share reduction amount shall
15 be due to the state from each CHHA and LTHHCP and may be recouped by the
16 state by March 31, 1997 in a lump sum amount or amounts from payments
17 due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the
18 social services law.

19 (b) The provider specific state share reduction amount for 1997, 1998,
20 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,
21 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022
22 [~~and~~], 2023, 2024, 2025, 2026 and 2027 respectively, shall be due to the
23 state from each CHHA and LTHHCP and each year the amount due for such
24 year may be recouped by the state by March 31 of the following year in a
25 lump sum amount or amounts from payments due to the CHHA and LTHHCP
26 pursuant to title 11 of article 5 of the social services law.

27 9. CHHAs and LTHHCPs shall submit such data and information at such
28 times as the commissioner of health may require for purposes of this
29 section. The commissioner of health may use data available from third-
30 party payors.

31 10. On or about June 1, 1997, for each regional group the commissioner
32 of health shall calculate for the period August 1, 1996 through March
33 31, 1997 a medicaid revenue percentage, a reduction factor, a state
34 share reduction amount, and a provider specific state share reduction
35 amount in accordance with the methodology provided in paragraph (a) of
36 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-
37 sion 6 and paragraph (a) of subdivision 7 of this section. The provider
38 specific state share reduction amount calculated in accordance with this
39 subdivision shall be compared to the 1996 provider specific state share
40 reduction amount calculated in accordance with paragraph (a) of subdivi-
41 sion 7 of this section. Any amount in excess of the amount determined in
42 accordance with paragraph (a) of subdivision 7 of this section shall be
43 due to the state from each CHHA and LTHHCP and may be recouped in
44 accordance with paragraph (a) of subdivision 8 of this section. If the
45 amount is less than the amount determined in accordance with paragraph
46 (a) of subdivision 7 of this section, the difference shall be refunded
47 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs
48 and LTHHCPs shall submit data for the period August 1, 1996 through
49 March 31, 1997 to the commissioner of health by April 15, 1997.

50 11. If a CHHA or LTHHCP fails to submit data and information as
51 required for purposes of this section:

52 (a) such CHHA or LTHHCP shall be presumed to have no decrease in medi-
53 caid revenue percentage between the applicable base period and the
54 applicable target period for purposes of the calculations pursuant to
55 this section; and

(b) the commissioner of health shall reduce the current rate paid to such CHHA and such LTHHCP by state governmental agencies pursuant to article 36 of the public health law by one percent for a period beginning on the first day of the calendar month following the applicable due date as established by the commissioner of health and continuing until the last day of the calendar month in which the required data and information are submitted.

12. The commissioner of health shall inform in writing the director of the budget and the chair of the senate finance committee and the chair of the assembly ways and means committee of the results of the calculations pursuant to this section.

§ 21. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 13 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(f) Prior to February 1, 2001, February 1, 2002, February 1, 2003, February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007, February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011, February 1, 2012, February 1, 2013, February 1, 2014, February 1, 2015, February 1, 2016, February 1, 2017, February 1, 2018, February 1, 2019, February 1, 2020, February 1, 2021, February 1, 2022 [and], February 1, 2023, February 1, 2024, February 1, 2025 and February 1, 2026, the commissioner of health shall calculate the result of the statewide total of residential health care facility days of care provided to beneficiaries of title XVIII of the federal social security act (medicare), divided by the sum of such days of care plus days of care provided to residents eligible for payments pursuant to title 11 of article 5 of the social services law minus the number of days provided to residents receiving hospice care, expressed as a percentage, for the period commencing January 1, through November 30, of the prior year respectively, based on such data for such period. This value shall be called the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide target percentage respectively.

§ 22. Subparagraph (ii) of paragraph (b) of subdivision 3 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 14 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide target percentages are not for each year at least three percentage points higher than the statewide base percentage, the commissioner of health shall determine the percentage by which the statewide target percentage for each year is not at least three percentage points higher than the statewide base percentage. The percentage calculated pursuant to this paragraph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide reduction percentage respectively. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide target percentage for the respective year is at least three percentage points higher than the statewide base

percentage, the statewide reduction percentage for the respective year shall be zero.

§ 23. Subparagraph (iii) of paragraph (b) of subdivision 4 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 15 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide reduction percentage shall be multiplied by one hundred two million dollars respectively to determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide aggregate reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide reduction percentage shall be zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 reduction amount.

§ 24. The opening paragraph of paragraph (e) of subdivision 7 of section 367-a of the social services law, as amended by section 1 of part GG of chapter 56 of the laws of 2020, is amended to read as follows:

During the period from April first, two thousand fifteen through March thirty-first, two thousand [~~twenty-three~~] twenty-six, the commissioner may, in lieu of a managed care provider or pharmacy benefit manager, negotiate directly and enter into an arrangement with a pharmaceutical manufacturer for the provision of supplemental rebates relating to pharmaceutical utilization by enrollees of managed care providers pursuant to section three hundred sixty-four-j of this title and may also negotiate directly and enter into such an agreement relating to pharmaceutical utilization by medical assistance recipients not so enrolled. Such rebate arrangements shall be limited to the following: antiretrovirals approved by the FDA for the treatment of HIV/AIDS, opioid dependence agents and opioid antagonists listed in a statewide formulary established pursuant to subparagraph (vii) of this paragraph, hepatitis C agents, high cost drugs as provided for in subparagraph (viii) of this paragraph, gene therapies as provided for in subparagraph (ix) of this paragraph, and any other class or drug designated by the commissioner for which the pharmaceutical manufacturer has in effect a rebate arrangement with the federal secretary of health and human services pursuant to 42 U.S.C. § 1396r-8, and for which the state has established standard clinical criteria. No agreement entered into pursuant to this paragraph shall have an initial term or be extended beyond the expiration or repeal of this paragraph.

§ 25. Subdivision 1 of section 60 of part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, as amended by section 8 of part GG of chapter 56 of the laws of 2020, is amended to read as follows:

1. section one of this act shall expire and be deemed repealed March 31, [~~2026~~] 2029;

§ 26. Section 8 of part KK of chapter 56 of the laws of 2020, amending the public health law relating to the designation of statewide general

1 hospital quality and sole community pools and the reduction of capital
2 related inpatient expenses, is amended to read as follows:

3 § 8. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2020, provided,
5 further that sections [~~three~~] four through [~~nine~~] seven of this act
6 shall expire and be deemed repealed March 31, [~~2023~~] 2026; provided
7 further, however, that the director of the budget may, in consultation
8 with the commissioner of health, delay the effective dates prescribed
9 herein for a period of time which shall not exceed ninety days following
10 the conclusion or termination of an executive order issued pursuant to
11 section 28 of the executive law declaring a state disaster emergency for
12 the entire state of New York, upon such delay the director of budget
13 shall notify the chairs of the assembly ways and means committee and
14 senate finance committee and the chairs of the assembly and senate
15 health committee; provided further, however, that the director of the
16 budget shall notify the legislative bill drafting commission upon the
17 occurrence of a delay in the effective date of this act in order that
18 the commission may maintain an accurate and timely effective data base
19 of the official text of the laws of the state of New York in furtherance
20 of effectuating the provisions of section 44 of the legislative law and
21 section 70-b of the public officers law.

22 § 27. Subdivision 4-a of section 71 of part C of chapter 60 of the
23 laws of 2014, amending the social services law relating to fair hearings
24 within the Fully Integrated Duals Advantage program, as amended by
25 section 7 of part MM of chapter 56 of the laws of 2020, is amended to
26 read as follows:

27 4-a. section twenty-two of this act shall take effect April 1, 2014,
28 and shall be deemed expired January 1, [~~2024~~] 2027;

29 § 28. Section 4 of chapter 779 of the laws of 1986, amending the
30 social services law relating to authorizing services for non-residents
31 in adult homes, residences for adults and enriched housing programs, as
32 amended by section 1 of item PP of subpart B of part XXX of chapter 58
33 of the laws of 2020, is amended to read as follows:

34 § 4. This act shall take effect on the one hundred twentieth day after
35 it shall have become a law and shall remain in full force and effect
36 until July 1, [~~2023~~] 2027, provided however, that effective immediately,
37 the addition, amendment and/or repeal of any rules or regulations neces-
38 sary for the implementation of the foregoing sections of this act on its
39 effective date are authorized and directed to be made and completed on
40 or before such effective date.

41 § 29. Section 11 of chapter 884 of the laws of 1990, amending the
42 public health law relating to authorizing bad debt and charity care
43 allowances for certified home health agencies, as amended by section 1
44 of part S of chapter 57 of the laws of 2021, is amended to read as
45 follows:

46 § 11. This act shall take effect immediately and:

47 (a) sections one and three shall expire on December 31, 1996,
48 (b) sections four through ten shall expire on June 30, [~~2023~~] 2025,
49 and

50 (c) provided that the amendment to section 2807-b of the public health
51 law by section two of this act shall not affect the expiration of such
52 section 2807-b as otherwise provided by law and shall be deemed to
53 expire therewith.

54 § 30. Subdivision 5-a of section 246 of chapter 81 of the laws of
55 1995, amending the public health law and other laws relating to medical

1 reimbursement and welfare reform, as amended by section 3 of part S of
2 chapter 57 of the laws of 2021, is amended to read as follows:

3 5-a. Section sixty-four-a of this act shall be deemed to have been in
4 full force and effect on and after April 1, 1995 through March 31, 1999
5 and on and after July 1, 1999 through March 31, 2000 and on and after
6 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
7 through March 31, 2007, and on and after April 1, 2007 through March 31,
8 2009, and on and after April 1, 2009 through March 31, 2011, and on and
9 after April 1, 2011 through March 31, 2013, and on and after April 1,
10 2013 through March 31, 2015, and on and after April 1, 2015 through
11 March 31, 2017 and on and after April 1, 2017 through March 31, 2019,
12 and on and after April 1, 2019 through March 31, 2021, and on and after
13 April 1, 2021 through March 31, 2023, and on and after April 1, 2023
14 through March 31, 2027;

15 § 31. Section 64-b of chapter 81 of the laws of 1995, amending the
16 public health law and other laws relating to medical reimbursement and
17 welfare reform, as amended by section 4 of part S of chapter 57 of the
18 laws of 2021, is amended to read as follows:

19 § 64-b. Notwithstanding any inconsistent provision of law, the
20 provisions of subdivision 7 of section 3614 of the public health law, as
21 amended, shall remain and be in full force and effect on April 1, 1995
22 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
23 and after April 1, 2000 through March 31, 2003 and on and after April 1,
24 2003 through March 31, 2007, and on and after April 1, 2007 through
25 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
26 and on and after April 1, 2011 through March 31, 2013, and on and after
27 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
28 through March 31, 2017 and on and after April 1, 2017 through March 31,
29 2019, and on and after April 1, 2019 through March 31, 2021, and on and
30 after April 1, 2021 through March 31, 2023, and on and after April 1,
31 2023 through March 31, 2027.

32 § 32. Section 4-a of part A of chapter 56 of the laws of 2013, amend-
33 ing chapter 59 of the laws of 2011 amending the public health law and
34 other laws relating to general hospital reimbursement for annual rates,
35 as amended by section 5 of part S of chapter 57 of the laws of 2021, is
36 amended to read as follows:

37 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
38 2807-c of the public health law, section 21 of chapter 1 of the laws of
39 1999, or any other contrary provision of law, in determining rates of
40 payments by state governmental agencies effective for services provided
41 on and after January 1, 2017 through March 31, ~~2023~~ 2024, for inpa-
42 tient and outpatient services provided by general hospitals, for inpa-
43 tient services and adult day health care outpatient services provided by
44 residential health care facilities pursuant to article 28 of the public
45 health law, except for residential health care facilities or units of
46 such facilities providing services primarily to children under twenty-
47 one years of age, for home health care services provided pursuant to
48 article 36 of the public health law by certified home health agencies,
49 long term home health care programs and AIDS home care programs, and for
50 personal care services provided pursuant to section 365-a of the social
51 services law, the commissioner of health shall apply no greater than
52 zero trend factors attributable to the 2017, 2018, 2019, 2020, 2021,
53 2022 ~~[and]~~, 2023, 2024 and 2025 calendar years in accordance with para-
54 graph (c) of subdivision 10 of section 2807-c of the public health law,
55 provided, however, that such no greater than zero trend factors attrib-
56 utable to such 2017, 2018, 2019, 2020, 2021, 2022 ~~[and]~~, 2023, 2024 and

1 ~~2025~~ calendar years shall also be applied to rates of payment provided
2 on and after January 1, 2017 through March 31, ~~[2023]~~ ~~2025~~ for personal
3 care services provided in those local social services districts, includ-
4 ing New York city, whose rates of payment for such services are estab-
5 lished by such local social services districts pursuant to a rate-set-
6 ting exemption issued by the commissioner of health to such local social
7 services districts in accordance with applicable regulations; and
8 provided further, however, that for rates of payment for assisted living
9 program services provided on and after January 1, 2017 through March 31,
10 ~~[2023]~~ ~~2025~~, such trend factors attributable to the 2017, 2018, 2019,
11 2020, 2021, 2022 ~~[and]~~, 2023, ~~2024 and 2025~~ calendar years shall be
12 established at no greater than zero percent.

13 § 33. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
14 amending the public health law and other laws relating to medical
15 reimbursement and welfare reform, as amended by section 6 of part S of
16 chapter 57 of the laws of 2021, is amended to read as follows:

17 2. Sections five, seven through nine, twelve through fourteen, and
18 eighteen of this act shall be deemed to have been in full force and
19 effect on and after April 1, 1995 through March 31, 1999 and on and
20 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
21 through March 31, 2003 and on and after April 1, 2003 through March 31,
22 2006 and on and after April 1, 2006 through March 31, 2007 and on and
23 after April 1, 2007 through March 31, 2009 and on and after April 1,
24 2009 through March 31, 2011 and sections twelve, thirteen and fourteen
25 of this act shall be deemed to be in full force and effect on and after
26 April 1, 2011 through March 31, 2015 and on and after April 1, 2015
27 through March 31, 2017 and on and after April 1, 2017 through March 31,
28 2019, and on and after April 1, 2019 through March 31, 2021, and on and
29 after April 1, 2021 through March 31, 2023, and on and after April 1,
30 2023 through March 31, 2025;

31 § 34. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
32 2807-d of the public health law, as amended by section 11 of part S of
33 chapter 57 of the laws of 2021, is amended to read as follows:

34 (vi) Notwithstanding any contrary provision of this paragraph or any
35 other provision of law or regulation to the contrary, for residential
36 health care facilities the assessment shall be six percent of each resi-
37 dential health care facility's gross receipts received from all patient
38 care services and other operating income on a cash basis for the period
39 April first, two thousand two through March thirty-first, two thousand
40 three for hospital or health-related services, including adult day
41 services; provided, however, that residential health care facilities'
42 gross receipts attributable to payments received pursuant to title XVIII
43 of the federal social security act (medicare) shall be excluded from the
44 assessment; provided, however, that for all such gross receipts received
45 on or after April first, two thousand three through March thirty-first,
46 two thousand five, such assessment shall be five percent, and further
47 provided that for all such gross receipts received on or after April
48 first, two thousand five through March thirty-first, two thousand nine,
49 and on or after April first, two thousand nine through March thirty-
50 first, two thousand eleven such assessment shall be six percent, and
51 further provided that for all such gross receipts received on or after
52 April first, two thousand eleven through March thirty-first, two thou-
53 sand thirteen such assessment shall be six percent, and further provided
54 that for all such gross receipts received on or after April first, two
55 thousand thirteen through March thirty-first, two thousand fifteen such
56 assessment shall be six percent, and further provided that for all such

1 gross receipts received on or after April first, two thousand fifteen
2 through March thirty-first, two thousand seventeen such assessment shall
3 be six percent, and further provided that for all such gross receipts
4 received on or after April first, two thousand seventeen through March
5 thirty-first, two thousand nineteen such assessment shall be six
6 percent, and further provided that for all such gross receipts received
7 on or after April first, two thousand nineteen through March thirty-
8 first, two thousand twenty-one such assessment shall be six percent, and
9 further provided that for all such gross receipts received on or after
10 April first, two thousand twenty-one through March thirty-first, two
11 thousand twenty-three such assessment shall be six percent, and further
12 provided that for all such gross receipts received on or after April
13 first, two thousand twenty-three through March thirty-first, two thou-
14 sand twenty-five such assessment shall be six percent.

15 § 35. Section 3 of part MM of chapter 57 of the laws of 2021 amending
16 the public health law relating to aiding in the transition to adulthood
17 for children with medical fragility living in pediatric nursing homes
18 and other settings is amended to read as follows:

19 § 3. This act shall take effect on the one hundred twentieth day after
20 it shall have become a law; provided however, that section one of this
21 act shall expire and be deemed repealed [~~two~~] four years after such
22 effective date; and provided further, that section two of this act shall
23 expire and be deemed repealed [~~three~~] five years after such effective
24 date.

25 § 36. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2023; provided,
27 however, that the amendments to subdivision 6 of section 366 of the
28 social services law made by section four of this act shall not affect
29 the repeal of such subdivision and shall be deemed repealed therewith;
30 provided further, however, that the amendments to subparagraph (ii) of
31 paragraph (c) of subdivision 11 of section 230 of the public health law
32 made by section ten of this act shall not affect the expiration of such
33 subparagraph and shall be deemed to expire therewith; and provided
34 further, however, that the amendments to the opening paragraph of para-
35 graph (e) of subdivision 7 of section 367-a of the social services law
36 made by section twenty-four of this act shall not affect the repeal of
37 such paragraph and shall be deemed repealed therewith.

38 PART C

39 Section 1. Section 34 of part A3 of chapter 62 of the laws of 2003
40 amending the general business law and other laws relating to enacting
41 major components necessary to implement the state fiscal plan for the
42 2003-04 state fiscal year, as amended by section 1 of part Y of chapter
43 56 of the laws of 2020, is amended to read as follows:

44 § 34. (1) Notwithstanding any inconsistent provision of law, rule or
45 regulation and effective April 1, 2008 through March 31, [~~2023~~] 2026,
46 the commissioner of health is authorized to transfer and the state comp-
47 troller is authorized and directed to receive for deposit to the credit
48 of the department of health's special revenue fund - other, health care
49 reform act (HCRA) resources fund - 061, provider collection monitoring
50 account, within amounts appropriated each year, those funds collected
51 and accumulated pursuant to section 2807-v of the public health law,
52 including income from invested funds, for the purpose of payment for
53 administrative costs of the department of health related to adminis-

1 tration of statutory duties for the collections and distributions
2 authorized by section 2807-v of the public health law.

3 (2) Notwithstanding any inconsistent provision of law, rule or regu-
4 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
5 commissioner of health is authorized to transfer and the state comp-
6 troller is authorized and directed to receive for deposit to the credit
7 of the department of health's special revenue fund - other, health care
8 reform act (HCRA) resources fund - 061, provider collection monitoring
9 account, within amounts appropriated each year, those funds collected
10 and accumulated and interest earned through surcharges on payments for
11 health care services pursuant to section 2807-s of the public health law
12 and from assessments pursuant to section 2807-t of the public health law
13 for the purpose of payment for administrative costs of the department of
14 health related to administration of statutory duties for the collections
15 and distributions authorized by sections 2807-s, 2807-t, and 2807-m of
16 the public health law.

17 (3) Notwithstanding any inconsistent provision of law, rule or regu-
18 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
19 commissioner of health is authorized to transfer and the comptroller is
20 authorized to deposit, within amounts appropriated each year, those
21 funds authorized for distribution in accordance with the provisions of
22 paragraph (a) of subdivision 1 of section 2807-l of the public health
23 law for the purposes of payment for administrative costs of the depart-
24 ment of health related to the child health insurance plan program
25 authorized pursuant to title 1-A of article 25 of the public health law
26 into the special revenue funds - other, health care reform act (HCRA)
27 resources fund - 061, child health insurance account, established within
28 the department of health.

29 (5) Notwithstanding any inconsistent provision of law, rule or regu-
30 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
31 commissioner of health is authorized to transfer and the comptroller is
32 authorized to deposit, within amounts appropriated each year, those
33 funds allocated pursuant to paragraph (j) of subdivision 1 of section
34 2807-v of the public health law for the purpose of payment for adminis-
35 trative costs of the department of health related to administration of
36 the state's tobacco control programs and cancer services provided pursu-
37 ant to sections 2807-r and 1399-ii of the public health law into such
38 accounts established within the department of health for such purposes.

39 (6) Notwithstanding any inconsistent provision of law, rule or regu-
40 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
41 commissioner of health is authorized to transfer and the comptroller is
42 authorized to deposit, within amounts appropriated each year, the funds
43 authorized for distribution in accordance with the provisions of section
44 2807-l of the public health law for the purposes of payment for adminis-
45 trative costs of the department of health related to the programs funded
46 pursuant to section 2807-l of the public health law into the special
47 revenue funds - other, health care reform act (HCRA) resources fund -
48 061, pilot health insurance account, established within the department
49 of health.

50 (7) Notwithstanding any inconsistent provision of law, rule or regu-
51 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
52 commissioner of health is authorized to transfer and the comptroller is
53 authorized to deposit, within amounts appropriated each year, those
54 funds authorized for distribution in accordance with the provisions of
55 subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c
56 of the public health law from monies accumulated and interest earned in

1 the bad debt and charity care and capital statewide pools through an
2 assessment charged to general hospitals pursuant to the provisions of
3 subdivision 18 of section 2807-c of the public health law and those
4 funds authorized for distribution in accordance with the provisions of
5 section 2807-l of the public health law for the purposes of payment for
6 administrative costs of the department of health related to programs
7 funded under section 2807-l of the public health law into the special
8 revenue funds - other, health care reform act (HCRA) resources fund -
9 061, primary care initiatives account, established within the department
10 of health.

11 (8) Notwithstanding any inconsistent provision of law, rule or regu-
12 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
13 commissioner of health is authorized to transfer and the comptroller is
14 authorized to deposit, within amounts appropriated each year, those
15 funds authorized for distribution in accordance with section 2807-l of
16 the public health law for the purposes of payment for administrative
17 costs of the department of health related to programs funded under
18 section 2807-l of the public health law into the special revenue funds -
19 other, health care reform act (HCRA) resources fund - 061, health care
20 delivery administration account, established within the department of
21 health.

22 (9) Notwithstanding any inconsistent provision of law, rule or regu-
23 lation and effective April 1, 2008 through March 31, ~~[2023]~~ 2026, the
24 commissioner of health is authorized to transfer and the comptroller is
25 authorized to deposit, within amounts appropriated each year, those
26 funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the
27 public health law and section 367-i of the social services law and for
28 distribution in accordance with the provisions of subdivision 9 of
29 section 2807-j of the public health law for the purpose of payment for
30 administration of statutory duties for the collections and distributions
31 authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a
32 and 3614-b of the public health law and section 367-i of the social
33 services law into the special revenue funds - other, health care reform
34 act (HCRA) resources fund - 061, provider collection monitoring account,
35 established within the department of health.

36 § 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of
37 section 2807-j of the public health law, as amended by section 2 of part
38 Y of chapter 56 of the laws of 2020, are amended to read as follows:

39 (iv) seven hundred sixty-five million dollars annually of the funds
40 accumulated for the periods January first, two thousand through December
41 thirty-first, two thousand ~~[twenty-two]~~ twenty five, and

42 (v) one hundred ninety-one million two hundred fifty thousand dollars
43 of the funds accumulated for the period January first, two thousand
44 ~~[twenty-three]~~ twenty-six through March thirty-first, two thousand
45 ~~[twenty-three]~~ twenty-six.

46 § 3. Subdivision 5 of section 168 of chapter 639 of the laws of 1996,
47 constituting the New York Health Care Reform Act of 1996, as amended by
48 section 3 of part Y of chapter 56 of the laws of 2020, is amended to
49 read as follows:

50 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
51 law, as amended or as added by this act, shall expire on December 31,
52 ~~[2023]~~ 2026, and shall be thereafter effective only in respect to any
53 act done on or before such date or action or proceeding arising out of
54 such act including continued collections of funds from assessments and
55 allowances and surcharges established pursuant to sections 2807-c,
56 2807-j, 2807-s and 2807-t of the public health law, and administration

1 and distributions of funds from pools established pursuant to sections
2 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
3 health law related to patient services provided before December 31,
4 ~~2023~~ 2026, and continued expenditure of funds authorized for programs
5 and grants until the exhaustion of funds therefor;

6 § 4. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,
7 constituting the New York Health Care Reform Act of 2000, as amended by
8 section 4 of part Y of chapter 56 of the laws of 2020, is amended to
9 read as follows:

10 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
11 law, as amended by this act, shall expire on December 31, ~~2023~~ 2026,
12 and shall be thereafter effective only in respect to any act done before
13 such date or action or proceeding arising out of such act including
14 continued collections of funds from assessments and allowances and
15 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
16 2807-t of the public health law, and administration and distributions of
17 funds from pools established pursuant to sections 2807-c, 2807-j,
18 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
19 health law, as amended or added by this act, related to patient services
20 provided before December 31, ~~2023~~ 2026, and continued expenditure of
21 funds authorized for programs and grants until the exhaustion of funds
22 therefor;

23 § 5. Section 2807-l of the public health law, as amended by section 5
24 of part Y of chapter 56 of the laws of 2020, is amended to read as
25 follows:

26 § 2807-l. Health care initiatives pool distributions. 1. Funds accumu-
27 lated in the health care initiatives pools pursuant to paragraph (b) of
28 subdivision nine of section twenty-eight hundred seven-j of this arti-
29 cle, or the health care reform act (HCRA) resources fund established
30 pursuant to section ninety-two-dd of the state finance law, whichever is
31 applicable, including income from invested funds, shall be distributed
32 or retained by the commissioner or by the state comptroller, as applica-
33 ble, in accordance with the following.

34 (a) Funds shall be reserved and accumulated from year to year and
35 shall be available, including income from invested funds, for purposes
36 of distributions to programs to provide health care coverage for unin-
37 sured or underinsured children pursuant to sections twenty-five hundred
38 ten and twenty-five hundred eleven of this chapter from the respective
39 health care initiatives pools established for the following periods in
40 the following amounts:

41 (i) from the pool for the period January first, nineteen hundred nine-
42 ty-seven through December thirty-first, nineteen hundred ninety-seven,
43 up to one hundred twenty million six hundred thousand dollars;

44 (ii) from the pool for the period January first, nineteen hundred
45 ninety-eight through December thirty-first, nineteen hundred ninety-
46 eight, up to one hundred sixty-four million five hundred thousand
47 dollars;

48 (iii) from the pool for the period January first, nineteen hundred
49 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
50 up to one hundred eighty-one million dollars;

51 (iv) from the pool for the period January first, two thousand through
52 December thirty-first, two thousand, two hundred seven million dollars;

53 (v) from the pool for the period January first, two thousand one
54 through December thirty-first, two thousand one, two hundred thirty-five
55 million dollars;

(vi) from the pool for the period January first, two thousand two through December thirty-first, two thousand two, three hundred twenty-four million dollars;

(vii) from the pool for the period January first, two thousand three through December thirty-first, two thousand three, up to four hundred fifty million three hundred thousand dollars;

(viii) from the pool for the period January first, two thousand four through December thirty-first, two thousand four, up to four hundred sixty million nine hundred thousand dollars;

(ix) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand five through December thirty-first, two thousand five, up to one hundred fifty-three million eight hundred thousand dollars;

(x) from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, up to three hundred twenty-five million four hundred thousand dollars;

(xi) from the health care reform act (HCRA) resources fund for the period January first, two thousand seven through December thirty-first, two thousand seven, up to four hundred twenty-eight million fifty-nine thousand dollars;

(xii) from the health care reform act (HCRA) resources fund for the period January first, two thousand eight through December thirty-first, two thousand ten, up to four hundred fifty-three million six hundred seventy-four thousand dollars annually;

(xiii) from the health care reform act (HCRA) resources fund for the period January first, two thousand eleven, through March thirty-first, two thousand eleven, up to one hundred thirteen million four hundred eighteen thousand dollars;

(xiv) from the health care reform act (HCRA) resources fund for the period April first, two thousand eleven, through March thirty-first, two thousand twelve, up to three hundred twenty-four million seven hundred forty-four thousand dollars;

(xv) from the health care reform act (HCRA) resources fund for the period April first, two thousand twelve, through March thirty-first, two thousand thirteen, up to three hundred forty-six million four hundred forty-four thousand dollars;

(xvi) from the health care reform act (HCRA) resources fund for the period April first, two thousand thirteen, through March thirty-first, two thousand fourteen, up to three hundred seventy million six hundred ninety-five thousand dollars; and

(xvii) from the health care reform act (HCRA) resources fund for each state fiscal year for periods on and after April first, two thousand fourteen, within amounts appropriated.

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions for health insurance programs under the individual subsidy programs established pursuant to the expanded health care coverage act of nineteen hundred eighty-eight as amended, and for evaluation of such programs from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following amounts:

(i) (A) an amount not to exceed six million dollars on an annualized basis for the periods January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine; up to six million dollars for the period January first, two thousand through

1 December thirty-first, two thousand; up to five million dollars for the
2 period January first, two thousand one through December thirty-first,
3 two thousand one; up to four million dollars for the period January
4 first, two thousand two through December thirty-first, two thousand two;
5 up to two million six hundred thousand dollars for the period January
6 first, two thousand three through December thirty-first, two thousand
7 three; up to one million three hundred thousand dollars for the period
8 January first, two thousand four through December thirty-first, two
9 thousand four; up to six hundred seventy thousand dollars for the period
10 January first, two thousand five through June thirtieth, two thousand
11 five; up to one million three hundred thousand dollars for the period
12 April first, two thousand six through March thirty-first, two thousand
13 seven; and up to one million three hundred thousand dollars annually for
14 the period April first, two thousand seven through March thirty-first,
15 two thousand nine, shall be allocated to individual subsidy programs;
16 and

17 (B) an amount not to exceed seven million dollars on an annualized
18 basis for the periods during the period January first, nineteen hundred
19 ninety-seven through December thirty-first, nineteen hundred ninety-nine
20 and four million dollars annually for the periods January first, two
21 thousand through December thirty-first, two thousand two, and three
22 million dollars for the period January first, two thousand three through
23 December thirty-first, two thousand three, and two million dollars for
24 the period January first, two thousand four through December thirty-
25 first, two thousand four, and two million dollars for the period January
26 first, two thousand five through June thirtieth, two thousand five shall
27 be allocated to the catastrophic health care expense program.

28 (ii) Notwithstanding any law to the contrary, the characterizations of
29 the New York state small business health insurance partnership program
30 as in effect prior to June thirtieth, two thousand three, voucher
31 program as in effect prior to December thirty-first, two thousand one,
32 individual subsidy program as in effect prior to June thirtieth, two
33 thousand five, and catastrophic health care expense program, as in
34 effect prior to June thirtieth, two thousand five, may, for the purposes
35 of identifying matching funds for the community health care conversion
36 demonstration project described in a waiver of the provisions of title
37 XIX of the federal social security act granted to the state of New York
38 and dated July fifteenth, nineteen hundred ninety-seven, may continue to
39 be used to characterize the insurance programs in sections four thousand
40 three hundred twenty-one-a, four thousand three hundred twenty-two-a,
41 four thousand three hundred twenty-six and four thousand three hundred
42 twenty-seven of the insurance law, which are successor programs to these
43 programs.

44 (c) Up to seventy-eight million dollars shall be reserved and accumu-
45 lated from year to year from the pool for the period January first,
46 nineteen hundred ninety-seven through December thirty-first, nineteen
47 hundred ninety-seven, for purposes of public health programs, up to
48 seventy-six million dollars shall be reserved and accumulated from year
49 to year from the pools for the periods January first, nineteen hundred
50 ninety-eight through December thirty-first, nineteen hundred ninety-
51 eight and January first, nineteen hundred ninety-nine through December
52 thirty-first, nineteen hundred ninety-nine, up to eighty-four million
53 dollars shall be reserved and accumulated from year to year from the
54 pools for the period January first, two thousand through December thir-
55 ty-first, two thousand, up to eighty-five million dollars shall be
56 reserved and accumulated from year to year from the pools for the period

1 January first, two thousand one through December thirty-first, two thou-
2 sand one, up to eighty-six million dollars shall be reserved and accumu-
3 lated from year to year from the pools for the period January first, two
4 thousand two through December thirty-first, two thousand two, up to
5 eighty-six million one hundred fifty thousand dollars shall be reserved
6 and accumulated from year to year from the pools for the period January
7 first, two thousand three through December thirty-first, two thousand
8 three, up to fifty-eight million seven hundred eighty thousand dollars
9 shall be reserved and accumulated from year to year from the pools for
10 the period January first, two thousand four through December thirty-
11 first, two thousand four, up to sixty-eight million seven hundred thirty
12 thousand dollars shall be reserved and accumulated from year to year
13 from the pools or the health care reform act (HCRA) resources fund,
14 whichever is applicable, for the period January first, two thousand five
15 through December thirty-first, two thousand five, up to ninety-four
16 million three hundred fifty thousand dollars shall be reserved and accu-
17 mulated from year to year from the health care reform act (HCRA)
18 resources fund for the period January first, two thousand six through
19 December thirty-first, two thousand six, up to seventy million nine
20 hundred thirty-nine thousand dollars shall be reserved and accumulated
21 from year to year from the health care reform act (HCRA) resources fund
22 for the period January first, two thousand seven through December thir-
23 ty-first, two thousand seven, up to fifty-five million six hundred
24 eighty-nine thousand dollars annually shall be reserved and accumulated
25 from year to year from the health care reform act (HCRA) resources fund
26 for the period January first, two thousand eight through December thir-
27 ty-first, two thousand ten, up to thirteen million nine hundred twenty-
28 two thousand dollars shall be reserved and accumulated from year to year
29 from the health care reform act (HCRA) resources fund for the period
30 January first, two thousand eleven through March thirty-first, two thou-
31 sand eleven, and for periods on and after April first, two thousand
32 eleven, up to funding amounts specified below and shall be available,
33 including income from invested funds, for:

34 (i) deposit by the commissioner, within amounts appropriated, and the
35 state comptroller is hereby authorized and directed to receive for
36 deposit to, to the credit of the department of health's special revenue
37 fund - other, hospital based grants program account or the health care
38 reform act (HCRA) resources fund, whichever is applicable, for purposes
39 of services and expenses related to general hospital based grant
40 programs, up to twenty-two million dollars annually from the nineteen
41 hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen
42 hundred ninety-nine pool, two thousand pool, two thousand one pool and
43 two thousand two pool, respectively, up to twenty-two million dollars
44 from the two thousand three pool, up to ten million dollars for the
45 period January first, two thousand four through December thirty-first,
46 two thousand four, up to eleven million dollars for the period January
47 first, two thousand five through December thirty-first, two thousand
48 five, up to twenty-two million dollars for the period January first, two
49 thousand six through December thirty-first, two thousand six, up to
50 twenty-two million ninety-seven thousand dollars annually for the period
51 January first, two thousand seven through December thirty-first, two
52 thousand ten, up to five million five hundred twenty-four thousand
53 dollars for the period January first, two thousand eleven through March
54 thirty-first, two thousand eleven, up to thirteen million four hundred
55 forty-five thousand dollars for the period April first, two thousand
56 eleven through March thirty-first, two thousand twelve, and up to thir-

1 teen million three hundred seventy-five thousand dollars each state
2 fiscal year for the period April first, two thousand twelve through
3 March thirty-first, two thousand fourteen;

4 (ii) deposit by the commissioner, within amounts appropriated, and the
5 state comptroller is hereby authorized and directed to receive for
6 deposit to, to the credit of the emergency medical services training
7 account established in section ninety-seven-q of the state finance law
8 or the health care reform act (HCRA) resources fund, whichever is appli-
9 cable, up to sixteen million dollars on an annualized basis for the
10 periods January first, nineteen hundred ninety-seven through December
11 thirty-first, nineteen hundred ninety-nine, up to twenty million dollars
12 for the period January first, two thousand through December thirty-
13 first, two thousand, up to twenty-one million dollars for the period
14 January first, two thousand one through December thirty-first, two thou-
15 sand one, up to twenty-two million dollars for the period January first,
16 two thousand two through December thirty-first, two thousand two, up to
17 twenty-two million five hundred fifty thousand dollars for the period
18 January first, two thousand three through December thirty-first, two
19 thousand three, up to nine million six hundred eighty thousand dollars
20 for the period January first, two thousand four through December thir-
21 ty-first, two thousand four, up to twelve million one hundred thirty
22 thousand dollars for the period January first, two thousand five through
23 December thirty-first, two thousand five, up to twenty-four million two
24 hundred fifty thousand dollars for the period January first, two thou-
25 sand six through December thirty-first, two thousand six, up to twenty
26 million four hundred ninety-two thousand dollars annually for the period
27 January first, two thousand seven through December thirty-first, two
28 thousand ten, up to five million one hundred twenty-three thousand
29 dollars for the period January first, two thousand eleven through March
30 thirty-first, two thousand eleven, up to eighteen million three hundred
31 fifty thousand dollars for the period April first, two thousand eleven
32 through March thirty-first, two thousand twelve, up to eighteen million
33 nine hundred fifty thousand dollars for the period April first, two
34 thousand twelve through March thirty-first, two thousand thirteen, up to
35 nineteen million four hundred nineteen thousand dollars for the period
36 April first, two thousand thirteen through March thirty-first, two thou-
37 sand fourteen, and up to nineteen million six hundred fifty-nine thou-
38 sand seven hundred dollars each state fiscal year for the period of
39 April first, two thousand fourteen through March thirty-first, two thou-
40 sand [~~twenty-three~~] ~~twenty-six~~;

41 (iii) priority distributions by the commissioner up to thirty-two
42 million dollars on an annualized basis for the period January first, two
43 thousand through December thirty-first, two thousand four, up to thir-
44 ty-eight million dollars on an annualized basis for the period January
45 first, two thousand five through December thirty-first, two thousand
46 six, up to eighteen million two hundred fifty thousand dollars for the
47 period January first, two thousand seven through December thirty-first,
48 two thousand seven, up to three million dollars annually for the period
49 January first, two thousand eight through December thirty-first, two
50 thousand ten, up to seven hundred fifty thousand dollars for the period
51 January first, two thousand eleven through March thirty-first, two thou-
52 sand eleven, up to two million nine hundred thousand dollars each state
53 fiscal year for the period April first, two thousand eleven through
54 March thirty-first, two thousand fourteen, and up to two million nine
55 hundred thousand dollars each state fiscal year for the period April
56 first, two thousand fourteen through March thirty-first, two thousand

1 ~~[twenty-three]~~ twenty-six to be allocated (A) for the purposes estab-
2 lished pursuant to subparagraph (ii) of paragraph (f) of subdivision
3 nineteen of section twenty-eight hundred seven-c of this article as in
4 effect on December thirty-first, nineteen hundred ninety-six and as may
5 thereafter be amended, up to fifteen million dollars annually for the
6 periods January first, two thousand through December thirty-first, two
7 thousand four, up to twenty-one million dollars annually for the period
8 January first, two thousand five through December thirty-first, two
9 thousand six, and up to seven million five hundred thousand dollars for
10 the period January first, two thousand seven through March thirty-first,
11 two thousand seven;

12 (B) pursuant to a memorandum of understanding entered into by the
13 commissioner, the majority leader of the senate and the speaker of the
14 assembly, for the purposes outlined in such memorandum upon the recom-
15 mendation of the majority leader of the senate, up to eight million
16 five hundred thousand dollars annually for the period January first, two
17 thousand through December thirty-first, two thousand six, and up to four
18 million two hundred fifty thousand dollars for the period January first,
19 two thousand seven through June thirtieth, two thousand seven, and for
20 the purposes outlined in such memorandum upon the recommendation of the
21 speaker of the assembly, up to eight million five hundred thousand
22 dollars annually for the periods January first, two thousand through
23 December thirty-first, two thousand six, and up to four million two
24 hundred fifty thousand dollars for the period January first, two thou-
25 sand seven through June thirtieth, two thousand seven; and

26 (C) for services and expenses, including grants, related to emergency
27 assistance distributions as designated by the commissioner. Notwith-
28 standing section one hundred twelve or one hundred sixty-three of the
29 state finance law or any other contrary provision of law, such distrib-
30 utions shall be limited to providers or programs where, as determined by
31 the commissioner, emergency assistance is vital to protect the life or
32 safety of patients, to ensure the retention of facility caregivers or
33 other staff, or in instances where health facility operations are jeop-
34 ardized, or where the public health is jeopardized or other emergency
35 situations exist, up to three million dollars annually for the period
36 April first, two thousand seven through March thirty-first, two thousand
37 eleven, up to two million nine hundred thousand dollars each state
38 fiscal year for the period April first, two thousand eleven through
39 March thirty-first, two thousand fourteen, up to two million nine
40 hundred thousand dollars each state fiscal year for the period April
41 first, two thousand fourteen through March thirty-first, two thousand
42 seventeen, up to two million nine hundred thousand dollars each state
43 fiscal year for the period April first, two thousand seventeen through
44 March thirty-first, two thousand twenty, ~~[and]~~ up to two million nine
45 hundred thousand dollars each state fiscal year for the period April
46 first, two thousand twenty through March thirty-first, two thousand
47 twenty-three, and up to two million nine hundred thousand dollars each
48 state fiscal year for the period April first, two thousand twenty-three
49 through March thirty-first, two thousand twenty-six. Upon any distrib-
50 ution of such funds, the commissioner shall immediately notify the chair
51 and ranking minority member of the senate finance committee, the assem-
52 bly ways and means committee, the senate committee on health, and the
53 assembly committee on health;

54 (iv) distributions by the commissioner related to poison control
55 centers pursuant to subdivision seven of section twenty-five hundred-d
56 of this chapter, up to five million dollars for the period January

1 first, nineteen hundred ninety-seven through December thirty-first,
2 nineteen hundred ninety-seven, up to three million dollars on an annual-
3 ized basis for the periods during the period January first, nineteen
4 hundred ninety-eight through December thirty-first, nineteen hundred
5 ninety-nine, up to five million dollars annually for the periods January
6 first, two thousand through December thirty-first, two thousand two, up
7 to four million six hundred thousand dollars annually for the periods
8 January first, two thousand three through December thirty-first, two
9 thousand four, up to five million one hundred thousand dollars for the
10 period January first, two thousand five through December thirty-first,
11 two thousand six annually, up to five million one hundred thousand
12 dollars annually for the period January first, two thousand seven
13 through December thirty-first, two thousand nine, up to three million
14 six hundred thousand dollars for the period January first, two thousand
15 ten through December thirty-first, two thousand ten, up to seven hundred
16 seventy-five thousand dollars for the period January first, two thousand
17 eleven through March thirty-first, two thousand eleven, up to two
18 million five hundred thousand dollars each state fiscal year for the
19 period April first, two thousand eleven through March thirty-first, two
20 thousand fourteen, up to three million dollars each state fiscal year
21 for the period April first, two thousand fourteen through March thirty-
22 first, two thousand seventeen, up to three million dollars each state
23 fiscal year for the period April first, two thousand seventeen through
24 March thirty-first, two thousand twenty, ~~and~~ up to three million
25 dollars each state fiscal year for the period April first, two thousand
26 twenty through March thirty-first, two thousand twenty-three, and up to
27 three million dollars each state fiscal year for the period April first,
28 two thousand twenty-three through March thirty-first, two thousand twen-
29 ty-six; and

30 (v) deposit by the commissioner, within amounts appropriated, and the
31 state comptroller is hereby authorized and directed to receive for
32 deposit to, to the credit of the department of health's special revenue
33 fund - other, miscellaneous special revenue fund - 339 maternal and
34 child HIV services account or the health care reform act (HCRA)
35 resources fund, whichever is applicable, for purposes of a special
36 program for HIV services for women and children, including adolescents
37 pursuant to section twenty-five hundred-f-one of this chapter, up to
38 five million dollars annually for the periods January first, two thou-
39 sand through December thirty-first, two thousand two, up to five million
40 dollars for the period January first, two thousand three through Decem-
41 ber thirty-first, two thousand three, up to two million five hundred
42 thousand dollars for the period January first, two thousand four through
43 December thirty-first, two thousand four, up to two million five hundred
44 thousand dollars for the period January first, two thousand five through
45 December thirty-first, two thousand five, up to five million dollars for
46 the period January first, two thousand six through December thirty-
47 first, two thousand six, up to five million dollars annually for the
48 period January first, two thousand seven through December thirty-first,
49 two thousand ten, up to one million two hundred fifty thousand dollars
50 for the period January first, two thousand eleven through March thirty-
51 first, two thousand eleven, and up to five million dollars each state
52 fiscal year for the period April first, two thousand eleven through
53 March thirty-first, two thousand fourteen;

54 (d) (i) An amount of up to twenty million dollars annually for the
55 period January first, two thousand through December thirty-first, two
56 thousand six, up to ten million dollars for the period January first,

1 two thousand seven through June thirtieth, two thousand seven, up to
2 twenty million dollars annually for the period January first, two thou-
3 sand eight through December thirty-first, two thousand ten, up to five
4 million dollars for the period January first, two thousand eleven
5 through March thirty-first, two thousand eleven, up to nineteen million
6 six hundred thousand dollars each state fiscal year for the period April
7 first, two thousand eleven through March thirty-first, two thousand
8 fourteen, up to nineteen million six hundred thousand dollars each state
9 fiscal year for the period April first, two thousand fourteen through
10 March thirty-first, two thousand seventeen, up to nineteen million six
11 hundred thousand dollars each state fiscal year for the period of April
12 first, two thousand seventeen through March thirty-first, two thousand
13 twenty, ~~and~~ up to nineteen million six hundred thousand dollars each
14 state fiscal year for the period of April first, two thousand twenty
15 through March thirty-first, two thousand twenty-three, and up to nine-
16 teen million six hundred thousand dollars each state fiscal year for the
17 period of April first, two thousand twenty-three through March thirty-
18 first, two thousand twenty-six, shall be transferred to the health
19 facility restructuring pool established pursuant to section twenty-eight
20 hundred fifteen of this article;

21 (ii) provided, however, amounts transferred pursuant to subparagraph
22 (i) of this paragraph may be reduced in an amount to be approved by the
23 director of the budget to reflect the amount received from the federal
24 government under the state's 1115 waiver which is directed under its
25 terms and conditions to the health facility restructuring program.

26 (f) Funds shall be accumulated and transferred from as follows:

27 (i) from the pool for the period January first, nineteen hundred nine-
28 ty-seven through December thirty-first, nineteen hundred ninety-seven,
29 (A) thirty-four million six hundred thousand dollars shall be trans-
30 ferred to funds reserved and accumulated pursuant to paragraph (b) of
31 subdivision nineteen of section twenty-eight hundred seven-c of this
32 article, and (B) eighty-two million dollars shall be transferred and
33 deposited and credited to the credit of the state general fund medical
34 assistance local assistance account;

35 (ii) from the pool for the period January first, nineteen hundred
36 ninety-eight through December thirty-first, nineteen hundred ninety-
37 eight, eighty-two million dollars shall be transferred and deposited and
38 credited to the credit of the state general fund medical assistance
39 local assistance account;

40 (iii) from the pool for the period January first, nineteen hundred
41 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
42 eighty-two million dollars shall be transferred and deposited and cred-
43 ited to the credit of the state general fund medical assistance local
44 assistance account;

45 (iv) from the pool or the health care reform act (HCRA) resources
46 fund, whichever is applicable, for the period January first, two thou-
47 sand through December thirty-first, two thousand four, eighty-two
48 million dollars annually, and for the period January first, two thousand
49 five through December thirty-first, two thousand five, eighty-two
50 million dollars, and for the period January first, two thousand six
51 through December thirty-first, two thousand six, eighty-two million
52 dollars, and for the period January first, two thousand seven through
53 December thirty-first, two thousand seven, eighty-two million dollars,
54 and for the period January first, two thousand eight through December
55 thirty-first, two thousand eight, ninety million seven hundred thousand
56 dollars shall be deposited by the commissioner, and the state comp-

1 troller is hereby authorized and directed to receive for deposit to the
2 credit of the state special revenue fund - other, HCRA transfer fund,
3 medical assistance account;

4 (v) from the health care reform act (HCRA) resources fund for the
5 period January first, two thousand nine through December thirty-first,
6 two thousand nine, one hundred eight million nine hundred seventy-five
7 thousand dollars, and for the period January first, two thousand ten
8 through December thirty-first, two thousand ten, one hundred twenty-six
9 million one hundred thousand dollars, for the period January first, two
10 thousand eleven through March thirty-first, two thousand eleven, twenty
11 million five hundred thousand dollars, and for each state fiscal year
12 for the period April first, two thousand eleven through March thirty-
13 first, two thousand fourteen, one hundred forty-six million four hundred
14 thousand dollars, shall be deposited by the commissioner, and the state
15 comptroller is hereby authorized and directed to receive for deposit, to
16 the credit of the state special revenue fund - other, HCRA transfer
17 fund, medical assistance account.

18 (g) Funds shall be transferred to primary health care services pools
19 created by the commissioner, and shall be available, including income
20 from invested funds, for distributions in accordance with former section
21 twenty-eight hundred seven-bb of this article from the respective health
22 care initiatives pools for the following periods in the following
23 percentage amounts of funds remaining after allocations in accordance
24 with paragraphs (a) through (f) of this subdivision:

25 (i) from the pool for the period January first, nineteen hundred nine-
26 ty-seven through December thirty-first, nineteen hundred ninety-seven,
27 fifteen and eighty-seven-hundredths percent;

28 (ii) from the pool for the period January first, nineteen hundred
29 ninety-eight through December thirty-first, nineteen hundred ninety-
30 eight, fifteen and eighty-seven-hundredths percent; and

31 (iii) from the pool for the period January first, nineteen hundred
32 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
33 sixteen and thirteen-hundredths percent.

34 (h) Funds shall be reserved and accumulated from year to year by the
35 commissioner and shall be available, including income from invested
36 funds, for purposes of primary care education and training pursuant to
37 article nine of this chapter from the respective health care initiatives
38 pools established for the following periods in the following percentage
39 amounts of funds remaining after allocations in accordance with para-
40 graphs (a) through (f) of this subdivision and shall be available for
41 distributions as follows:

42 (i) funds shall be reserved and accumulated:

43 (A) from the pool for the period January first, nineteen hundred nine-
44 ty-seven through December thirty-first, nineteen hundred ninety-seven,
45 six and thirty-five-hundredths percent;

46 (B) from the pool for the period January first, nineteen hundred nine-
47 ty-eight through December thirty-first, nineteen hundred ninety-eight,
48 six and thirty-five-hundredths percent; and

49 (C) from the pool for the period January first, nineteen hundred nine-
50 ty-nine through December thirty-first, nineteen hundred ninety-nine, six
51 and forty-five-hundredths percent;

52 (ii) funds shall be available for distributions including income from
53 invested funds as follows:

54 (A) for purposes of the primary care physician loan repayment program
55 in accordance with section nine hundred three of this chapter, up to
56 five million dollars on an annualized basis;

(B) for purposes of the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter, up to two million dollars on an annualized basis;

(C) for purposes of minority participation in medical education grants in accordance with section nine hundred six of this chapter, up to one million dollars on an annualized basis; and

(D) provided, however, that the commissioner may reallocate any funds remaining or unallocated for distributions for the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter.

(i) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for distributions in accordance with section twenty-nine hundred fifty-two and section twenty-nine hundred fifty-eight of this chapter for rural health care delivery development and rural health care access development, respectively, from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, thirteen and forty-nine-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, thirteen and forty-nine-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, thirteen and seventy-one-hundredths percent;

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, seventeen million dollars annually, and for the period January first, two thousand three through December thirty-first, two thousand three, up to fifteen million eight hundred fifty thousand dollars;

(v) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand four through December thirty-first, two thousand four, up to fifteen million eight hundred fifty thousand dollars, for the period January first, two thousand five through December thirty-first, two thousand five, up to nineteen million two hundred thousand dollars, for the period January first, two thousand six through December thirty-first, two thousand six, up to nineteen million two hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to eighteen million one hundred fifty thousand dollars annually, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to four million five hundred thirty-eight thousand dollars, for each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to sixteen million two hundred thousand dollars, up to sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, ~~and~~ up to sixteen million two hundred thousand dollars each state

1 fiscal year for the period April first, two thousand twenty through
2 March thirty-first, two thousand twenty-three, and up to sixteen million
3 two hundred thousand dollars each state fiscal year for the period April
4 first, two thousand twenty-three through March thirty-first, two thou-
5 sand twenty-six.

6 (j) Funds shall be reserved and accumulated from year to year and
7 shall be available, including income from invested funds, for purposes
8 of distributions related to health information and health care quality
9 improvement pursuant to former section twenty-eight hundred seven-n of
10 this article from the respective health care initiatives pools estab-
11 lished for the following periods in the following percentage amounts of
12 funds remaining after allocations in accordance with paragraphs (a)
13 through (f) of this subdivision:

14 (i) from the pool for the period January first, nineteen hundred nine-
15 ty-seven through December thirty-first, nineteen hundred ninety-seven,
16 six and thirty-five-hundredths percent;

17 (ii) from the pool for the period January first, nineteen hundred
18 ninety-eight through December thirty-first, nineteen hundred ninety-
19 eight, six and thirty-five-hundredths percent; and

20 (iii) from the pool for the period January first, nineteen hundred
21 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
22 six and forty-five-hundredths percent.

23 (k) Funds shall be reserved and accumulated from year to year and
24 shall be available, including income from invested funds, for allo-
25 cations and distributions in accordance with section twenty-eight
26 hundred seven-p of this article for diagnostic and treatment center
27 uncompensated care from the respective health care initiatives pools or
28 the health care reform act (HCRA) resources fund, whichever is applica-
29 ble, for the following periods in the following percentage amounts of
30 funds remaining after allocations in accordance with paragraphs (a)
31 through (f) of this subdivision, and for periods on and after January
32 first, two thousand, in the following amounts:

33 (i) from the pool for the period January first, nineteen hundred nine-
34 ty-seven through December thirty-first, nineteen hundred ninety-seven,
35 thirty-eight and one-tenth percent;

36 (ii) from the pool for the period January first, nineteen hundred
37 ninety-eight through December thirty-first, nineteen hundred ninety-
38 eight, thirty-eight and one-tenth percent;

39 (iii) from the pool for the period January first, nineteen hundred
40 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
41 thirty-eight and seventy-one-hundredths percent;

42 (iv) from the pool for the periods January first, two thousand through
43 December thirty-first, two thousand two, forty-eight million dollars
44 annually, and for the period January first, two thousand three through
45 June thirtieth, two thousand three, twenty-four million dollars;

46 (v) (A) from the pool or the health care reform act (HCRA) resources
47 fund, whichever is applicable, for the period July first, two thousand
48 three through December thirty-first, two thousand three, up to six
49 million dollars, for the period January first, two thousand four through
50 December thirty-first, two thousand six, up to twelve million dollars
51 annually, for the period January first, two thousand seven through
52 December thirty-first, two thousand thirteen, up to forty-eight million
53 dollars annually, for the period January first, two thousand fourteen
54 through March thirty-first, two thousand fourteen, up to twelve million
55 dollars for the period April first, two thousand fourteen through March
56 thirty-first, two thousand seventeen, up to forty-eight million dollars

1 annually, for the period April first, two thousand seventeen through
2 March thirty-first, two thousand twenty, up to forty-eight million
3 dollars annually, [and] for the period April first, two thousand twenty
4 through March thirty-first, two thousand twenty-three, up to forty-eight
5 million dollars annually, and for the period April first, two thousand
6 twenty-three through March thirty-first, two thousand twenty-six, up to
7 forty-eight million dollars annually;

8 (B) from the health care reform act (HCRA) resources fund for the
9 period January first, two thousand six through December thirty-first,
10 two thousand six, an additional seven million five hundred thousand
11 dollars, for the period January first, two thousand seven through Decem-
12 ber thirty-first, two thousand thirteen, an additional seven million
13 five hundred thousand dollars annually, for the period January first,
14 two thousand fourteen through March thirty-first, two thousand fourteen,
15 an additional one million eight hundred seventy-five thousand dollars,
16 for the period April first, two thousand fourteen through March thirty-
17 first, two thousand seventeen, an additional seven million five hundred
18 thousand dollars annually, for the period April first, two thousand
19 seventeen through March thirty-first, two thousand twenty, an additional
20 seven million five hundred thousand dollars annually, [and] for the
21 period April first, two thousand twenty through March thirty-first, two
22 thousand twenty-three, an additional seven million five hundred thousand
23 dollars annually, and for the period April first, two thousand twenty-
24 three through March thirty-first, two thousand twenty-six, an additional
25 seven million five hundred thousand dollars annually for voluntary non-
26 profit diagnostic and treatment center uncompensated care in accordance
27 with subdivision four-c of section twenty-eight hundred seven-p of this
28 article; and

29 (vi) funds reserved and accumulated pursuant to this paragraph for
30 periods on and after July first, two thousand three, shall be deposited
31 by the commissioner, within amounts appropriated, and the state comp-
32 troller is hereby authorized and directed to receive for deposit to the
33 credit of the state special revenue funds - other, HCRA transfer fund,
34 medical assistance account, for purposes of funding the state share of
35 rate adjustments made pursuant to section twenty-eight hundred seven-p
36 of this article, provided, however, that in the event federal financial
37 participation is not available for rate adjustments made pursuant to
38 paragraph (b) of subdivision one of section twenty-eight hundred seven-p
39 of this article, funds shall be distributed pursuant to paragraph (a) of
40 subdivision one of section twenty-eight hundred seven-p of this article
41 from the respective health care initiatives pools or the health care
42 reform act (HCRA) resources fund, whichever is applicable.

43 (l) Funds shall be reserved and accumulated from year to year by the
44 commissioner and shall be available, including income from invested
45 funds, for transfer to and allocation for services and expenses for the
46 payment of benefits to recipients of drugs under the AIDS drug assist-
47 ance program (ADAP) - HIV uninsured care program as administered by
48 Health Research Incorporated from the respective health care initi-
49 atives pools or the health care reform act (HCRA) resources fund, which-
50 ever is applicable, established for the following periods in the follow-
51 ing percentage amounts of funds remaining after allocations in
52 accordance with paragraphs (a) through (f) of this subdivision, and for
53 periods on and after January first, two thousand, in the following
54 amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, nine and fifty-two-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, nine and fifty-two-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine and December thirty-first, nineteen hundred ninety-nine, nine and sixty-eight-hundredths percent;

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, up to twelve million dollars annually, and for the period January first, two thousand three through December thirty-first, two thousand three, up to forty million dollars; and

(v) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the periods January first, two thousand four through December thirty-first, two thousand four, up to fifty-six million dollars, for the period January first, two thousand five through December thirty-first, two thousand six, up to sixty million dollars annually, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to sixty million dollars annually, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to fifteen million dollars, each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to forty-two million three hundred thousand dollars and up to forty-one million fifty thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand ~~twenty-three~~ twenty-six.

(m) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions pursuant to section twenty-eight hundred seven-r of this article for cancer related services from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, seven and ninety-four-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, seven and ninety-four-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine and December thirty-first, nineteen hundred ninety-nine, six and forty-five-hundredths percent;

(iv) from the pool for the period January first, two thousand through December thirty-first, two thousand two, up to ten million dollars on an annual basis;

(v) from the pool for the period January first, two thousand three through December thirty-first, two thousand four, up to eight million nine hundred fifty thousand dollars on an annual basis;

(vi) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thou-

1 sand five through December thirty-first, two thousand six, up to ten
2 million fifty thousand dollars on an annual basis, for the period Janu-
3 ary first, two thousand seven through December thirty-first, two thou-
4 sand ten, up to nineteen million dollars annually, and for the period
5 January first, two thousand eleven through March thirty-first, two thou-
6 sand eleven, up to four million seven hundred fifty thousand dollars.

7 (n) Funds shall be accumulated and transferred from the health care
8 reform act (HCRA) resources fund as follows: for the period April first,
9 two thousand seven through March thirty-first, two thousand eight, and
10 on an annual basis for the periods April first, two thousand eight
11 through November thirtieth, two thousand nine, funds within amounts
12 appropriated shall be transferred and deposited and credited to the
13 credit of the state special revenue funds - other, HCRA transfer fund,
14 medical assistance account, for purposes of funding the state share of
15 rate adjustments made to public and voluntary hospitals in accordance
16 with paragraphs (i) and (j) of subdivision one of section twenty-eight
17 hundred seven-c of this article.

18 2. Notwithstanding any inconsistent provision of law, rule or regu-
19 lation, any funds accumulated in the health care initiatives pools
20 pursuant to paragraph (b) of subdivision nine of section twenty-eight
21 hundred seven-j of this article, as a result of surcharges, assessments
22 or other obligations during the periods January first, nineteen hundred
23 ninety-seven through December thirty-first, nineteen hundred ninety-
24 nine, which are unused or uncommitted for distributions pursuant to this
25 section shall be reserved and accumulated from year to year by the
26 commissioner and, within amounts appropriated, transferred and deposited
27 into the special revenue funds - other, miscellaneous special revenue
28 fund - 339, child health insurance account or any successor fund or
29 account, for purposes of distributions to implement the child health
30 insurance program established pursuant to sections twenty-five hundred
31 ten and twenty-five hundred eleven of this chapter for periods on and
32 after January first, two thousand one; provided, however, funds reserved
33 and accumulated for priority distributions pursuant to subparagraph
34 (iii) of paragraph (c) of subdivision one of this section shall not be
35 transferred and deposited into such account pursuant to this subdivi-
36 sion; and provided further, however, that any unused or uncommitted pool
37 funds accumulated and allocated pursuant to paragraph (j) of subdivision
38 one of this section shall be distributed for purposes of the health
39 information and quality improvement act of 2000.

40 3. Revenue from distributions pursuant to this section shall not be
41 included in gross revenue received for purposes of the assessments
42 pursuant to subdivision eighteen of section twenty-eight hundred seven-c
43 of this article, subject to the provisions of paragraph (e) of subdivi-
44 sion eighteen of section twenty-eight hundred seven-c of this article,
45 and shall not be included in gross revenue received for purposes of the
46 assessments pursuant to section twenty-eight hundred seven-d of this
47 article, subject to the provisions of subdivision twelve of section
48 twenty-eight hundred seven-d of this article.

49 § 6. Subdivision 5-a of section 2807-m of the public health law, as
50 amended by section 6 of part Y of chapter 56 of the laws of 2020, is
51 amended to read as follows:

52 5-a. Graduate medical education innovations pool. (a) Supplemental
53 distributions. (i) Thirty-one million dollars for the period January
54 first, two thousand eight through December thirty-first, two thousand
55 eight, shall be set aside and reserved by the commissioner from the
56 regional pools established pursuant to subdivision two of this section

1 and shall be available for distributions pursuant to subdivision five of
2 this section and in accordance with section 86-1.89 of title 10 of the
3 codes, rules and regulations of the state of New York as in effect on
4 January first, two thousand eight; provided, however, for purposes of
5 funding the empire clinical research investigation program (ECRIP) in
6 accordance with paragraph eight of subdivision (e) and paragraph two of
7 subdivision (f) of section 86-1.89 of title 10 of the codes, rules and
8 regulations of the state of New York, distributions shall be made using
9 two regions defined as New York city and the rest of the state and the
10 dollar amount set forth in subparagraph (i) of paragraph two of subdivi-
11 sion (f) of section 86-1.89 of title 10 of the codes, rules and regu-
12 lations of the state of New York shall be increased from sixty thousand
13 dollars to seventy-five thousand dollars.

14 (ii) For periods on and after January first, two thousand nine,
15 supplemental distributions pursuant to subdivision five of this section
16 and in accordance with section 86-1.89 of title 10 of the codes, rules
17 and regulations of the state of New York shall no longer be made and the
18 provisions of section 86-1.89 of title 10 of the codes, rules and regu-
19 lations of the state of New York shall be null and void.

20 (b) Empire clinical research investigator program (ECRIP). Nine
21 million one hundred twenty thousand dollars annually for the period
22 January first, two thousand nine through December thirty-first, two
23 thousand ten, and two million two hundred eighty thousand dollars for
24 the period January first, two thousand eleven, through March thirty-
25 first, two thousand eleven, nine million one hundred twenty thousand
26 dollars each state fiscal year for the period April first, two thousand
27 eleven through March thirty-first, two thousand fourteen, up to eight
28 million six hundred twelve thousand dollars each state fiscal year for
29 the period April first, two thousand fourteen through March thirty-
30 first, two thousand seventeen, up to eight million six hundred twelve
31 thousand dollars each state fiscal year for the period April first, two
32 thousand seventeen through March thirty-first, two thousand twenty,
33 ~~and~~ up to eight million six hundred twelve thousand dollars each state
34 fiscal year for the period April first, two thousand twenty through
35 March thirty-first, two thousand twenty-three, and up to eight million
36 six hundred twelve thousand dollars each state fiscal year for the peri-
37 od April first, two thousand twenty-three through March thirty-first,
38 two thousand twenty-six, shall be set aside and reserved by the commis-
39 sioner from the regional pools established pursuant to subdivision two
40 of this section to be allocated regionally with two-thirds of the avail-
41 able funding going to New York city and one-third of the available fund-
42 ing going to the rest of the state and shall be available for distrib-
43 ution as follows:

44 Distributions shall first be made to consortia and teaching general
45 hospitals for the empire clinical research investigator program (ECRIP)
46 to help secure federal funding for biomedical research, train clinical
47 researchers, recruit national leaders as faculty to act as mentors, and
48 train residents and fellows in biomedical research skills based on
49 hospital-specific data submitted to the commissioner by consortia and
50 teaching general hospitals in accordance with clause (G) of this subpar-
51 agraph. Such distributions shall be made in accordance with the follow-
52 ing methodology:

53 (A) The greatest number of clinical research positions for which a
54 consortium or teaching general hospital may be funded pursuant to this
55 subparagraph shall be one percent of the total number of residents
56 training at the consortium or teaching general hospital on July first,

1 two thousand eight for the period January first, two thousand nine
2 through December thirty-first, two thousand nine rounded up to the near-
3 est one position.

4 (B) Distributions made to a consortium or teaching general hospital
5 shall equal the product of the total number of clinical research posi-
6 tions submitted by a consortium or teaching general hospital and
7 accepted by the commissioner as meeting the criteria set forth in para-
8 graph (b) of subdivision one of this section, subject to the reduction
9 calculation set forth in clause (C) of this subparagraph, times one
10 hundred ten thousand dollars.

11 (C) If the dollar amount for the total number of clinical research
12 positions in the region calculated pursuant to clause (B) of this
13 subparagraph exceeds the total amount appropriated for purposes of this
14 paragraph, including clinical research positions that continue from and
15 were funded in prior distribution periods, the commissioner shall elimi-
16 nate one-half of the clinical research positions submitted by each
17 consortium or teaching general hospital rounded down to the nearest one
18 position. Such reduction shall be repeated until the dollar amount for
19 the total number of clinical research positions in the region does not
20 exceed the total amount appropriated for purposes of this paragraph. If
21 the repeated reduction of the total number of clinical research posi-
22 tions in the region by one-half does not render a total funding amount
23 that is equal to or less than the total amount reserved for that region
24 within the appropriation, the funding for each clinical research posi-
25 tion in that region shall be reduced proportionally in one thousand
26 dollar increments until the total dollar amount for the total number of
27 clinical research positions in that region does not exceed the total
28 amount reserved for that region within the appropriation. Any reduction
29 in funding will be effective for the duration of the award. No clinical
30 research positions that continue from and were funded in prior distrib-
31 ution periods shall be eliminated or reduced by such methodology.

32 (D) Each consortium or teaching general hospital shall receive its
33 annual distribution amount in accordance with the following:

34 (I) Each consortium or teaching general hospital with a one-year ECRIP
35 award shall receive its annual distribution amount in full upon
36 completion of the requirements set forth in items (I) and (II) of clause
37 (G) of this subparagraph. The requirements set forth in items (IV) and
38 (V) of clause (G) of this subparagraph must be completed by the consor-
39 tium or teaching general hospital in order for the consortium or teach-
40 ing general hospital to be eligible to apply for ECRIP funding in any
41 subsequent funding cycle.

42 (II) Each consortium or teaching general hospital with a two-year
43 ECRIP award shall receive its first annual distribution amount in full
44 upon completion of the requirements set forth in items (I) and (II) of
45 clause (G) of this subparagraph. Each consortium or teaching general
46 hospital will receive its second annual distribution amount in full upon
47 completion of the requirements set forth in item (III) of clause (G) of
48 this subparagraph. The requirements set forth in items (IV) and (V) of
49 clause (G) of this subparagraph must be completed by the consortium or
50 teaching general hospital in order for the consortium or teaching gener-
51 al hospital to be eligible to apply for ECRIP funding in any subsequent
52 funding cycle.

53 (E) Each consortium or teaching general hospital receiving distrib-
54 utions pursuant to this subparagraph shall reserve seventy-five thousand
55 dollars to primarily fund salary and fringe benefits of the clinical
56 research position with the remainder going to fund the development of

1 faculty who are involved in biomedical research, training and clinical
2 care.

3 (F) Undistributed or returned funds available to fund clinical
4 research positions pursuant to this paragraph for a distribution period
5 shall be available to fund clinical research positions in a subsequent
6 distribution period.

7 (G) In order to be eligible for distributions pursuant to this subpar-
8 agraph, each consortium and teaching general hospital shall provide to
9 the commissioner by July first of each distribution period, the follow-
10 ing data and information on a hospital-specific basis. Such data and
11 information shall be certified as to accuracy and completeness by the
12 chief executive officer, chief financial officer or chair of the consor-
13 tium governing body of each consortium or teaching general hospital and
14 shall be maintained by each consortium and teaching general hospital for
15 five years from the date of submission:

16 (I) For each clinical research position, information on the type,
17 scope, training objectives, institutional support, clinical research
18 experience of the sponsor-mentor, plans for submitting research outcomes
19 to peer reviewed journals and at scientific meetings, including a meet-
20 ing sponsored by the department, the name of a principal contact person
21 responsible for tracking the career development of researchers placed in
22 clinical research positions, as defined in paragraph (c) of subdivision
23 one of this section, and who is authorized to certify to the commission-
24 er that all the requirements of the clinical research training objec-
25 tives set forth in this subparagraph shall be met. Such certification
26 shall be provided by July first of each distribution period;

27 (II) For each clinical research position, information on the name,
28 citizenship status, medical education and training, and medical license
29 number of the researcher, if applicable, shall be provided by December
30 thirty-first of the calendar year following the distribution period;

31 (III) Information on the status of the clinical research plan, accom-
32 plishments, changes in research activities, progress, and performance of
33 the researcher shall be provided upon completion of one-half of the
34 award term;

35 (IV) A final report detailing training experiences, accomplishments,
36 activities and performance of the clinical researcher, and data, meth-
37 ods, results and analyses of the clinical research plan shall be
38 provided three months after the clinical research position ends; and

39 (V) Tracking information concerning past researchers, including but
40 not limited to (A) background information, (B) employment history, (C)
41 research status, (D) current research activities, (E) publications and
42 presentations, (F) research support, and (G) any other information
43 necessary to track the researcher; and

44 (VI) Any other data or information required by the commissioner to
45 implement this subparagraph.

46 (H) Notwithstanding any inconsistent provision of this subdivision,
47 for periods on and after April first, two thousand thirteen, ECRIP grant
48 awards shall be made in accordance with rules and regulations promulgat-
49 ed by the commissioner. Such regulations shall, at a minimum:

50 (1) provide that ECRIP grant awards shall be made with the objective
51 of securing federal funding for biomedical research, training clinical
52 researchers, recruiting national leaders as faculty to act as mentors,
53 and training residents and fellows in biomedical research skills;

54 (2) provide that ECRIP grant applicants may include interdisciplinary
55 research teams comprised of teaching general hospitals acting in collab-

1 oration with entities including but not limited to medical centers,
2 hospitals, universities and local health departments;

3 (3) provide that applications for ECRIP grant awards shall be based on
4 such information requested by the commissioner, which shall include but
5 not be limited to hospital-specific data;

6 (4) establish the qualifications for investigators and other staff
7 required for grant projects eligible for ECRIP grant awards; and

8 (5) establish a methodology for the distribution of funds under ECRIP
9 grant awards.

10 (c) Physician loan repayment program. One million nine hundred sixty
11 thousand dollars for the period January first, two thousand eight
12 through December thirty-first, two thousand eight, one million nine
13 hundred sixty thousand dollars for the period January first, two thou-
14 sand nine through December thirty-first, two thousand nine, one million
15 nine hundred sixty thousand dollars for the period January first, two
16 thousand ten through December thirty-first, two thousand ten, four
17 hundred ninety thousand dollars for the period January first, two thou-
18 sand eleven through March thirty-first, two thousand eleven, one million
19 seven hundred thousand dollars each state fiscal year for the period
20 April first, two thousand eleven through March thirty-first, two thou-
21 sand fourteen, up to one million seven hundred five thousand dollars
22 each state fiscal year for the period April first, two thousand fourteen
23 through March thirty-first, two thousand seventeen, up to one million
24 seven hundred five thousand dollars each state fiscal year for the peri-
25 od April first, two thousand seventeen through March thirty-first, two
26 thousand twenty, ~~and~~ up to one million seven hundred five thousand
27 dollars each state fiscal year for the period April first, two thousand
28 twenty through March thirty-first, two thousand twenty-three, and up to
29 one million seven hundred five thousand dollars each state fiscal year
30 for the period April first, two thousand twenty-three through March
31 thirty-first, two thousand twenty-six, shall be set aside and reserved
32 by the commissioner from the regional pools established pursuant to
33 subdivision two of this section and shall be available for purposes of
34 physician loan repayment in accordance with subdivision ten of this
35 section. Notwithstanding any contrary provision of this section,
36 sections one hundred twelve and one hundred sixty-three of the state
37 finance law, or any other contrary provision of law, such funding shall
38 be allocated regionally with one-third of available funds going to New
39 York city and two-thirds of available funds going to the rest of the
40 state and shall be distributed in a manner to be determined by the
41 commissioner without a competitive bid or request for proposal process
42 as follows:

43 (i) Funding shall first be awarded to repay loans of up to twenty-five
44 physicians who train in primary care or specialty tracks in teaching
45 general hospitals, and who enter and remain in primary care or specialty
46 practices in underserved communities, as determined by the commissioner.

47 (ii) After distributions in accordance with subparagraph (i) of this
48 paragraph, all remaining funds shall be awarded to repay loans of physi-
49 cians who enter and remain in primary care or specialty practices in
50 underserved communities, as determined by the commissioner, including
51 but not limited to physicians working in general hospitals, or other
52 health care facilities.

53 (iii) In no case shall less than fifty percent of the funds available
54 pursuant to this paragraph be distributed in accordance with subpara-
55 graphs (i) and (ii) of this paragraph to physicians identified by gener-
56 al hospitals.

1 (iv) In addition to the funds allocated under this paragraph, for the
2 period April first, two thousand fifteen through March thirty-first, two
3 thousand sixteen, two million dollars shall be available for the
4 purposes described in subdivision ten of this section;

5 (v) In addition to the funds allocated under this paragraph, for the
6 period April first, two thousand sixteen through March thirty-first, two
7 thousand seventeen, two million dollars shall be available for the
8 purposes described in subdivision ten of this section;

9 (vi) Notwithstanding any provision of law to the contrary, and subject
10 to the extension of the Health Care Reform Act of 1996, sufficient funds
11 shall be available for the purposes described in subdivision ten of this
12 section in amounts necessary to fund the remaining year commitments for
13 awards made pursuant to subparagraphs (iv) and (v) of this paragraph.

14 (d) Physician practice support. Four million nine hundred thousand
15 dollars for the period January first, two thousand eight through Decem-
16 ber thirty-first, two thousand eight, four million nine hundred thousand
17 dollars annually for the period January first, two thousand nine through
18 December thirty-first, two thousand ten, one million two hundred twen-
19 ty-five thousand dollars for the period January first, two thousand
20 eleven through March thirty-first, two thousand eleven, four million
21 three hundred thousand dollars each state fiscal year for the period
22 April first, two thousand eleven through March thirty-first, two thou-
23 sand fourteen, up to four million three hundred sixty thousand dollars
24 each state fiscal year for the period April first, two thousand fourteen
25 through March thirty-first, two thousand seventeen, up to four million
26 three hundred sixty thousand dollars for each state fiscal year for the
27 period April first, two thousand seventeen through March thirty-first,
28 two thousand twenty, ~~and~~ up to four million three hundred sixty thou-
29 sand dollars for each fiscal year for the period April first, two thou-
30 sand twenty through March thirty-first, two thousand twenty-three, and
31 up to four million three hundred sixty thousand dollars for each fiscal
32 year for the period April first, two thousand twenty-three through March
33 thirty-first, two thousand twenty-six, shall be set aside and reserved
34 by the commissioner from the regional pools established pursuant to
35 subdivision two of this section and shall be available for purposes of
36 physician practice support. Notwithstanding any contrary provision of
37 this section, sections one hundred twelve and one hundred sixty-three of
38 the state finance law, or any other contrary provision of law, such
39 funding shall be allocated regionally with one-third of available funds
40 going to New York city and two-thirds of available funds going to the
41 rest of the state and shall be distributed in a manner to be determined
42 by the commissioner without a competitive bid or request for proposal
43 process as follows:

44 (i) Preference in funding shall first be accorded to teaching general
45 hospitals for up to twenty-five awards, to support costs incurred by
46 physicians trained in primary or specialty tracks who thereafter estab-
47 lish or join practices in underserved communities, as determined by the
48 commissioner.

49 (ii) After distributions in accordance with subparagraph (i) of this
50 paragraph, all remaining funds shall be awarded to physicians to support
51 the cost of establishing or joining practices in underserved communi-
52 ties, as determined by the commissioner, and to hospitals and other
53 health care providers to recruit new physicians to provide services in
54 underserved communities, as determined by the commissioner.

(iii) In no case shall less than fifty percent of the funds available pursuant to this paragraph be distributed to general hospitals in accordance with subparagraphs (i) and (ii) of this paragraph.

(e) Work group. For funding available pursuant to paragraphs (c) [and], (d) and (e) of this subdivision:

(i) The department shall appoint a work group from recommendations made by associations representing physicians, general hospitals and other health care facilities to develop a streamlined application process by June first, two thousand twelve.

(ii) Subject to available funding, applications shall be accepted on a continuous basis. The department shall provide technical assistance to applicants to facilitate their completion of applications. An applicant shall be notified in writing by the department within ten days of receipt of an application as to whether the application is complete and if the application is incomplete, what information is outstanding. The department shall act on an application within thirty days of receipt of a complete application.

(f) Study on physician workforce. Five hundred ninety thousand dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, one hundred forty-eight thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, five hundred sixteen thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to four hundred eighty-seven thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to four hundred eighty-seven thousand dollars for each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [and] up to four hundred eighty-seven thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, and up to four hundred eighty-seven thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available to fund a study of physician workforce needs and solutions including, but not limited to, an analysis of residency programs and projected physician workforce and community needs. The commissioner shall enter into agreements with one or more organizations to conduct such study based on a request for proposal process.

(g) Diversity in medicine/post-baccalaureate program. Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law or any other law, one million nine hundred sixty thousand dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, four hundred ninety thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, one million seven hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to one million six hundred five thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to one million six hundred five thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [and] up to one million six hundred five thousand

1 dollars each state fiscal year for the period April first, two thousand
2 twenty through March thirty-first, two thousand twenty-three, and up to
3 one million six hundred five thousand dollars each state fiscal year for
4 the period April first, two thousand twenty-three through March thirty-
5 first, two thousand twenty-six, shall be set aside and reserved by the
6 commissioner from the regional pools established pursuant to subdivision
7 two of this section and shall be available for distributions to the
8 Associated Medical Schools of New York to fund its diversity program
9 including existing and new post-baccalaureate programs for minority and
10 economically disadvantaged students and encourage participation from all
11 medical schools in New York. The associated medical schools of New York
12 shall report to the commissioner on an annual basis regarding the use of
13 funds for such purpose in such form and manner as specified by the
14 commissioner.

15 (h) In the event there are undistributed funds within amounts made
16 available for distributions pursuant to this subdivision, such funds may
17 be reallocated and distributed in current or subsequent distribution
18 periods in a manner determined by the commissioner for any purpose set
19 forth in this subdivision.

20 § 7. Subdivision 4-c of section 2807-p of the public health law, as
21 amended by section 10 of part Y of chapter 56 of the laws of 2020, is
22 amended to read as follows:

23 4-c. Notwithstanding any provision of law to the contrary, the commis-
24 sioner shall make additional payments for uncompensated care to volun-
25 tary non-profit diagnostic and treatment centers that are eligible for
26 distributions under subdivision four of this section in the following
27 amounts: for the period June first, two thousand six through December
28 thirty-first, two thousand six, in the amount of seven million five
29 hundred thousand dollars, for the period January first, two thousand
30 seven through December thirty-first, two thousand seven, seven million
31 five hundred thousand dollars, for the period January first, two thou-
32 sand eight through December thirty-first, two thousand eight, seven
33 million five hundred thousand dollars, for the period January first, two
34 thousand nine through December thirty-first, two thousand nine, fifteen
35 million five hundred thousand dollars, for the period January first, two
36 thousand ten through December thirty-first, two thousand ten, seven
37 million five hundred thousand dollars, for the period January first, two
38 thousand eleven through December thirty-first, two thousand eleven, seven
39 million five hundred thousand dollars, for the period January first, two
40 thousand twelve through December thirty-first, two thousand twelve,
41 seven million five hundred thousand dollars, for the period January
42 first, two thousand thirteen through December thirty-first, two thousand
43 thirteen, seven million five hundred thousand dollars, for the period
44 January first, two thousand fourteen through December thirty-first, two
45 thousand fourteen, seven million five hundred thousand dollars, for the
46 period January first, two thousand fifteen through December thirty-
47 first, two thousand fifteen, seven million five hundred thousand
48 dollars, for the period January first two thousand sixteen through
49 December thirty-first, two thousand sixteen, seven million five hundred
50 thousand dollars, for the period January first, two thousand seventeen
51 through December thirty-first, two thousand seventeen, seven million
52 five hundred thousand dollars, for the period January first, two thou-
53 sand eighteen through December thirty-first, two thousand eighteen,
54 seven million five hundred thousand dollars, for the period January
55 first, two thousand nineteen through December thirty-first, two thousand
56 nineteen, seven million five hundred thousand dollars, for the period

1 January first, two thousand twenty through December thirty-first, two
2 thousand twenty, seven million five hundred thousand dollars, for the
3 period January first, two thousand twenty-one through December thirty-
4 first, two thousand twenty-one, seven million five hundred thousand
5 dollars, for the period January first, two thousand twenty-two through
6 December thirty-first, two thousand twenty-two, seven million five
7 hundred thousand dollars, for the period January first, two thousand
8 twenty-three through December thirty-first, two thousand twenty-three,
9 seven million five hundred thousand dollars, for the period January
10 first, two thousand twenty-four through December thirty-first, two thou-
11 sand twenty-four, seven million five hundred thousand dollars, for the
12 period January first, two thousand twenty-five through December thirty-
13 first, two thousand twenty-five, seven million five hundred thousand
14 dollars, and for the period January first, two thousand [~~twenty-three~~]
15 ~~twenty-six~~ through March thirty-first, two thousand [~~twenty-three~~] ~~twen-~~
16 ~~ty-six~~, in the amount of one million six hundred thousand dollars,
17 provided, however, that for periods on and after January first, two
18 thousand eight, such additional payments shall be distributed to volun-
19 tary, non-profit diagnostic and treatment centers and to public diagnos-
20 tic and treatment centers in accordance with paragraph (g) of subdivi-
21 sion four of this section. In the event that federal financial
22 participation is available for rate adjustments pursuant to this
23 section, the commissioner shall make such payments as additional adjust-
24 ments to rates of payment for voluntary non-profit diagnostic and treat-
25 ment centers that are eligible for distributions under subdivision
26 four-a of this section in the following amounts: for the period June
27 first, two thousand six through December thirty-first, two thousand six,
28 fifteen million dollars in the aggregate, and for the period January
29 first, two thousand seven through June thirtieth, two thousand seven,
30 seven million five hundred thousand dollars in the aggregate. The
31 amounts allocated pursuant to this paragraph shall be aggregated with
32 and distributed pursuant to the same methodology applicable to the
33 amounts allocated to such diagnostic and treatment centers for such
34 periods pursuant to subdivision four of this section if federal finan-
35 cial participation is not available, or pursuant to subdivision four-a
36 of this section if federal financial participation is available.
37 Notwithstanding section three hundred sixty-eight-a of the social
38 services law, there shall be no local share in a medical assistance
39 payment adjustment under this subdivision.

40 § 8. Subparagraph (xv) of paragraph (a) of subdivision 6 of section
41 2807-s of the public health law, as amended by section 11 of part Y of
42 chapter 56 of the laws of 2020, is amended and a new subparagraph (xvi)
43 is added to read as follows:

44 (xv) A gross annual statewide amount for the period January first, two
45 thousand fifteen through December thirty-first, two thousand [~~twenty-~~
46 ~~three~~] twenty-two, shall be one billion forty-five million dollars.

47 (xvi) A gross annual statewide amount for the period January first,
48 two thousand twenty-three to December thirty-first, two thousand twen-
49 ty-six shall be one billion eighty-five million dollars, forty million
50 dollars annually of which shall be allocated under section twenty-eight
51 hundred seven-o of this article among the municipalities of and the
52 state of New York based on each municipality's share and the state's
53 share of early intervention program expenditures not reimbursable by the
54 medical assistance program for the latest twelve month period for which
55 such data is available.

§ 9. Paragraph (g) of subdivision 6 of section 2807-s of the public health law, as added by chapter 820 of the laws of 2021, is amended to read as follows:

(g) A further gross statewide amount for the state fiscal year two thousand twenty-two [~~and each state fiscal year thereafter~~] shall be forty million dollars.

§ 10. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section 2807-s of the public health law, as amended by section 12 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

(xiii) twenty-three million eight hundred thirty-six thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand [~~twenty-three~~] twenty-six;

§ 11. Subdivision 6 of section 2807-t of the public health law, as amended by section 13 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

6. Prospective adjustments. (a) The commissioner shall annually reconcile the sum of the actual payments made to the commissioner or the commissioner's designee for each region pursuant to section twenty-eight hundred seven-s of this article and pursuant to this section for the prior year with the regional allocation of the gross annual statewide amount specified in subdivision six of section twenty-eight hundred seven-s of this article for such prior year. The difference between the actual amount raised for a region and the regional allocation of the specified gross annual amount for such prior year shall be applied as a prospective adjustment to the regional allocation of the specified gross annual payment amount for such region for the year next following the calculation of the reconciliation. The authorized dollar value of the adjustments shall be the same as if calculated retrospectively.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, for covered lives assessment rate periods on and after January first, two thousand fifteen through December thirty-first, two thousand [~~twenty-three~~] twenty-one, for amounts collected in the aggregate in excess of one billion forty-five million dollars on an annual basis, and for the period January first, two thousand twenty-two to December thirty-first, two thousand twenty-six for amounts collected in the aggregate in excess of one billion eighty-five million dollars on an annual basis, prospective adjustments shall be suspended if the annual reconciliation calculation from the prior year would otherwise result in a decrease to the regional allocation of the specified gross annual payment amount for that region, provided, however, that such suspension shall be lifted upon a determination by the commissioner, in consultation with the director of the budget, that sixty-five million dollars in aggregate collections on an annual basis over and above one billion forty-five million dollars on an annual basis for the period on and after January first, two thousand fifteen through December thirty-first, two thousand twenty-one and for the period January first, two thousand twenty-two to December thirty-first, two thousand twenty-six for amounts collected in the aggregate in excess of one billion eighty-five million dollars on an annual basis have been reserved and set aside for deposit in the HCRA resources fund. Any amounts collected in the aggregate at or below one billion forty-five million dollars on an annual basis for the period on and after January first, two thousand fifteen through December thirty-first, two thousand twenty-two, and for the period January first, two thousand twenty-three to December thirty-first, two thousand twenty-six for amounts collected in the aggregate in excess of one billion eighty-five million dollars on an annual basis, shall be subject to regional

1 adjustments reconciling any decreases or increases to the regional allo-
2 cation in accordance with paragraph (a) of this subdivision.

3 § 12. Section 2807-v of the public health law, as amended by section
4 14 of part Y of chapter 56 of the laws of 2020, is amended to read as
5 follows:

6 § 2807-v. Tobacco control and insurance initiatives pool distrib-
7 utions. 1. Funds accumulated in the tobacco control and insurance
8 initiatives pool or in the health care reform act (HCRA) resources fund
9 established pursuant to section ninety-two-dd of the state finance law,
10 whichever is applicable, including income from invested funds, shall be
11 distributed or retained by the commissioner or by the state comptroller,
12 as applicable, in accordance with the following:

13 (a) Funds shall be deposited by the commissioner, within amounts
14 appropriated, and the state comptroller is hereby authorized and
15 directed to receive for deposit to the credit of the state special
16 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and
17 medicaid administration account, or any successor fund or account, for
18 purposes of services and expenses related to the toll-free medicaid
19 fraud hotline established pursuant to section one hundred eight of chap-
20 ter one of the laws of nineteen hundred ninety-nine from the tobacco
21 control and insurance initiatives pool established for the following
22 periods in the following amounts: four hundred thousand dollars annually
23 for the periods January first, two thousand through December thirty-
24 first, two thousand two, up to four hundred thousand dollars for the
25 period January first, two thousand three through December thirty-first,
26 two thousand three, up to four hundred thousand dollars for the period
27 January first, two thousand four through December thirty-first, two
28 thousand four, up to four hundred thousand dollars for the period Janu-
29 ary first, two thousand five through December thirty-first, two thousand
30 five, up to four hundred thousand dollars for the period January first,
31 two thousand six through December thirty-first, two thousand six, up to
32 four hundred thousand dollars for the period January first, two thousand
33 seven through December thirty-first, two thousand seven, up to four
34 hundred thousand dollars for the period January first, two thousand
35 eight through December thirty-first, two thousand eight, up to four
36 hundred thousand dollars for the period January first, two thousand nine
37 through December thirty-first, two thousand nine, up to four hundred
38 thousand dollars for the period January first, two thousand ten through
39 December thirty-first, two thousand ten, up to one hundred thousand
40 dollars for the period January first, two thousand eleven through March
41 thirty-first, two thousand eleven and within amounts appropriated on and
42 after April first, two thousand eleven.

43 (b) Funds shall be reserved and accumulated from year to year and
44 shall be available, including income from invested funds, for purposes
45 of payment of audits or audit contracts necessary to determine payor and
46 provider compliance with requirements set forth in sections twenty-eight
47 hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred
48 seven-t of this article from the tobacco control and insurance initi-
49 atives pool established for the following periods in the following
50 amounts: five million six hundred thousand dollars annually for the
51 periods January first, two thousand through December thirty-first, two
52 thousand two, up to five million dollars for the period January first,
53 two thousand three through December thirty-first, two thousand three, up
54 to five million dollars for the period January first, two thousand four
55 through December thirty-first, two thousand four, up to five million
56 dollars for the period January first, two thousand five through December

1 thirty-first, two thousand five, up to five million dollars for the
2 period January first, two thousand six through December thirty-first,
3 two thousand six, up to seven million eight hundred thousand dollars for
4 the period January first, two thousand seven through December thirty-
5 first, two thousand seven, and up to eight million three hundred twen-
6 ty-five thousand dollars for the period January first, two thousand
7 eight through December thirty-first, two thousand eight, up to eight
8 million five hundred thousand dollars for the period January first, two
9 thousand nine through December thirty-first, two thousand nine, up to
10 eight million five hundred thousand dollars for the period January
11 first, two thousand ten through December thirty-first, two thousand ten,
12 up to two million one hundred twenty-five thousand dollars for the peri-
13 od January first, two thousand eleven through March thirty-first, two
14 thousand eleven, up to fourteen million seven hundred thousand dollars
15 each state fiscal year for the period April first, two thousand eleven
16 through March thirty-first, two thousand fourteen, up to eleven million
17 one hundred thousand dollars each state fiscal year for the period April
18 first, two thousand fourteen through March thirty-first, two thousand
19 seventeen, up to eleven million one hundred thousand dollars each state
20 fiscal year for the period April first, two thousand seventeen through
21 March thirty-first, two thousand twenty, [and] up to eleven million one
22 hundred thousand dollars each state fiscal year for the period April
23 first, two thousand twenty through March thirty-first, two thousand
24 twenty-three, and up to eleven million one hundred thousand dollars each
25 state fiscal year for the period April first, two thousand twenty-three
26 through March thirty-first, two thousand twenty-six.

27 (c) Funds shall be deposited by the commissioner, within amounts
28 appropriated, and the state comptroller is hereby authorized and
29 directed to receive for deposit to the credit of the state special
30 revenue funds - other, HCRA transfer fund, enhanced community services
31 account, or any successor fund or account, for mental health services
32 programs for case management services for adults and children; supported
33 housing; home and community based waiver services; family based treat-
34 ment; family support services; mobile mental health teams; transitional
35 housing; and community oversight, established pursuant to articles seven
36 and forty-one of the mental hygiene law and subdivision nine of section
37 three hundred sixty-six of the social services law; and for comprehen-
38 sive care centers for eating disorders pursuant to the former section
39 twenty-seven hundred ninety-nine-l of this chapter, provided however
40 that, for such centers, funds in the amount of five hundred thousand
41 dollars on an annualized basis shall be transferred from the enhanced
42 community services account, or any successor fund or account, and depos-
43 ited into the fund established by section ninety-five-e of the state
44 finance law; from the tobacco control and insurance initiatives pool
45 established for the following periods in the following amounts:

46 (i) forty-eight million dollars to be reserved, to be retained or for
47 distribution pursuant to a chapter of the laws of two thousand, for the
48 period January first, two thousand through December thirty-first, two
49 thousand;

50 (ii) eighty-seven million dollars to be reserved, to be retained or
51 for distribution pursuant to a chapter of the laws of two thousand one,
52 for the period January first, two thousand one through December thirty-
53 first, two thousand one;

54 (iii) eighty-seven million dollars to be reserved, to be retained or
55 for distribution pursuant to a chapter of the laws of two thousand two,

1 for the period January first, two thousand two through December thirty-
2 first, two thousand two;

3 (iv) eighty-eight million dollars to be reserved, to be retained or
4 for distribution pursuant to a chapter of the laws of two thousand
5 three, for the period January first, two thousand three through December
6 thirty-first, two thousand three;

7 (v) eighty-eight million dollars, plus five hundred thousand dollars,
8 to be reserved, to be retained or for distribution pursuant to a chapter
9 of the laws of two thousand four, and pursuant to the former section
10 twenty-seven hundred ninety-nine-l of this chapter, for the period Janu-
11 ary first, two thousand four through December thirty-first, two thousand
12 four;

13 (vi) eighty-eight million dollars, plus five hundred thousand dollars,
14 to be reserved, to be retained or for distribution pursuant to a chapter
15 of the laws of two thousand five, and pursuant to the former section
16 twenty-seven hundred ninety-nine-l of this chapter, for the period Janu-
17 ary first, two thousand five through December thirty-first, two thousand
18 five;

19 (vii) eighty-eight million dollars, plus five hundred thousand
20 dollars, to be reserved, to be retained or for distribution pursuant to
21 a chapter of the laws of two thousand six, and pursuant to former
22 section twenty-seven hundred ninety-nine-l of this chapter, for the
23 period January first, two thousand six through December thirty-first,
24 two thousand six;

25 (viii) eighty-six million four hundred thousand dollars, plus five
26 hundred thousand dollars, to be reserved, to be retained or for distrib-
27 ution pursuant to a chapter of the laws of two thousand seven and pursu-
28 ant to the former section twenty-seven hundred ninety-nine-l of this
29 chapter, for the period January first, two thousand seven through Decem-
30 ber thirty-first, two thousand seven; and

31 (ix) twenty-two million nine hundred thirteen thousand dollars, plus
32 one hundred twenty-five thousand dollars, to be reserved, to be retained
33 or for distribution pursuant to a chapter of the laws of two thousand
34 eight and pursuant to the former section twenty-seven hundred ninety-
35 nine-l of this chapter, for the period January first, two thousand eight
36 through March thirty-first, two thousand eight.

37 (d) Funds shall be deposited by the commissioner, within amounts
38 appropriated, and the state comptroller is hereby authorized and
39 directed to receive for deposit to the credit of the state special
40 revenue funds - other, HCRA transfer fund, medical assistance account,
41 or any successor fund or account, for purposes of funding the state
42 share of services and expenses related to the family health plus program
43 including up to two and one-half million dollars annually for the period
44 January first, two thousand through December thirty-first, two thousand
45 two, for administration and marketing costs associated with such program
46 established pursuant to clause (A) of subparagraph (v) of paragraph (a)
47 of subdivision two of section three hundred sixty-nine-ee of the social
48 services law from the tobacco control and insurance initiatives pool
49 established for the following periods in the following amounts:

50 (i) three million five hundred thousand dollars for the period January
51 first, two thousand through December thirty-first, two thousand;

52 (ii) twenty-seven million dollars for the period January first, two
53 thousand one through December thirty-first, two thousand one; and

54 (iii) fifty-seven million dollars for the period January first, two
55 thousand two through December thirty-first, two thousand two.

(e) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of services and expenses related to the family health plus program including up to two and one-half million dollars annually for the period January first, two thousand through December thirty-first, two thousand two for administration and marketing costs associated with such program established pursuant to clause (B) of subparagraph (v) of paragraph (a) of subdivision two of section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) two million five hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) thirty million five hundred thousand dollars for the period January first, two thousand one through December thirty-first, two thousand one; and

(iii) sixty-six million dollars for the period January first, two thousand two through December thirty-first, two thousand two.

(f) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medicaid fraud hotline and medicaid administration account, or any successor fund or account, for purposes of payment of administrative expenses of the department related to the family health plus program established pursuant to section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: five hundred thousand dollars on an annual basis for the periods January first, two thousand through December thirty-first, two thousand six, five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, and five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven and within amounts appropriated on and after April first, two thousand eleven.

(g) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the health maintenance organization direct pay market program established pursuant to sections forty-three hundred twenty-one-a and forty-three hundred twenty-two-a of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-five million dollars for the period January first, two thousand through December thirty-first, two thousand of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(ii) up to thirty-six million dollars for the period January first, two thousand one through December thirty-first, two thousand one of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(iii) up to thirty-nine million dollars for the period January first, two thousand two through December thirty-first, two thousand two of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(iv) up to forty million dollars for the period January first, two thousand three through December thirty-first, two thousand three of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(v) up to forty million dollars for the period January first, two thousand four through December thirty-first, two thousand four of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(vi) up to forty million dollars for the period January first, two thousand five through December thirty-first, two thousand five of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(vii) up to forty million dollars for the period January first, two thousand six through December thirty-first, two thousand six of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(viii) up to forty million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law; and

(ix) up to forty million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight of which fifty per centum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty per centum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law.

(h) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York individual program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

1 (i) up to six million dollars for the period January first, two thou-
2 sand one through December thirty-first, two thousand one;

3 (ii) up to twenty-nine million dollars for the period January first,
4 two thousand two through December thirty-first, two thousand two;

5 (iii) up to five million one hundred thousand dollars for the period
6 January first, two thousand three through December thirty-first, two
7 thousand three;

8 (iv) up to twenty-four million six hundred thousand dollars for the
9 period January first, two thousand four through December thirty-first,
10 two thousand four;

11 (v) up to thirty-four million six hundred thousand dollars for the
12 period January first, two thousand five through December thirty-first,
13 two thousand five;

14 (vi) up to fifty-four million eight hundred thousand dollars for the
15 period January first, two thousand six through December thirty-first,
16 two thousand six;

17 (vii) up to sixty-one million seven hundred thousand dollars for the
18 period January first, two thousand seven through December thirty-first,
19 two thousand seven; and

20 (viii) up to one hundred three million seven hundred fifty thousand
21 dollars for the period January first, two thousand eight through Decem-
22 ber thirty-first, two thousand eight.

23 (i) Funds shall be reserved and accumulated from year to year and
24 shall be available, including income from invested funds, for purposes
25 of services and expenses related to the healthy New York group program
26 established pursuant to sections four thousand three hundred twenty-six
27 and four thousand three hundred twenty-seven of the insurance law from
28 the tobacco control and insurance initiatives pool established for the
29 following periods in the following amounts:

30 (i) up to thirty-four million dollars for the period January first,
31 two thousand one through December thirty-first, two thousand one;

32 (ii) up to seventy-seven million dollars for the period January first,
33 two thousand two through December thirty-first, two thousand two;

34 (iii) up to ten million five hundred thousand dollars for the period
35 January first, two thousand three through December thirty-first, two
36 thousand three;

37 (iv) up to twenty-four million six hundred thousand dollars for the
38 period January first, two thousand four through December thirty-first,
39 two thousand four;

40 (v) up to thirty-four million six hundred thousand dollars for the
41 period January first, two thousand five through December thirty-first,
42 two thousand five;

43 (vi) up to fifty-four million eight hundred thousand dollars for the
44 period January first, two thousand six through December thirty-first,
45 two thousand six;

46 (vii) up to sixty-one million seven hundred thousand dollars for the
47 period January first, two thousand seven through December thirty-first,
48 two thousand seven; and

49 (viii) up to one hundred three million seven hundred fifty thousand
50 dollars for the period January first, two thousand eight through Decem-
51 ber thirty-first, two thousand eight.

52 (i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this
53 subdivision, the commissioner shall reserve and accumulate up to two
54 million five hundred thousand dollars annually for the periods January
55 first, two thousand four through December thirty-first, two thousand
56 six, one million four hundred thousand dollars for the period January

1 first, two thousand seven through December thirty-first, two thousand
2 seven, two million dollars for the period January first, two thousand
3 eight through December thirty-first, two thousand eight, from funds
4 otherwise available for distribution under such paragraphs for the
5 services and expenses related to the pilot program for entertainment
6 industry employees included in subsection (b) of section one thousand
7 one hundred twenty-two of the insurance law, and an additional seven
8 hundred thousand dollars annually for the periods January first, two
9 thousand four through December thirty-first, two thousand six, an addi-
10 tional three hundred thousand dollars for the period January first, two
11 thousand seven through June thirtieth, two thousand seven for services
12 and expenses related to the pilot program for displaced workers included
13 in subsection (c) of section one thousand one hundred twenty-two of the
14 insurance law.

15 (j) Funds shall be reserved and accumulated from year to year and
16 shall be available, including income from invested funds, for purposes
17 of services and expenses related to the tobacco use prevention and
18 control program established pursuant to sections thirteen hundred nine-
19 ty-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the
20 tobacco control and insurance initiatives pool established for the
21 following periods in the following amounts:

22 (i) up to thirty million dollars for the period January first, two
23 thousand through December thirty-first, two thousand;

24 (ii) up to forty million dollars for the period January first, two
25 thousand one through December thirty-first, two thousand one;

26 (iii) up to forty million dollars for the period January first, two
27 thousand two through December thirty-first, two thousand two;

28 (iv) up to thirty-six million nine hundred fifty thousand dollars for
29 the period January first, two thousand three through December thirty-
30 first, two thousand three;

31 (v) up to thirty-six million nine hundred fifty thousand dollars for
32 the period January first, two thousand four through December thirty-
33 first, two thousand four;

34 (vi) up to forty million six hundred thousand dollars for the period
35 January first, two thousand five through December thirty-first, two
36 thousand five;

37 (vii) up to eighty-one million nine hundred thousand dollars for the
38 period January first, two thousand six through December thirty-first,
39 two thousand six, provided, however, that within amounts appropriated, a
40 portion of such funds may be transferred to the Roswell Park Cancer
41 Institute Corporation to support costs associated with cancer research;

42 (viii) up to ninety-four million one hundred fifty thousand dollars
43 for the period January first, two thousand seven through December thir-
44 ty-first, two thousand seven, provided, however, that within amounts
45 appropriated, a portion of such funds may be transferred to the Roswell
46 Park Cancer Institute Corporation to support costs associated with
47 cancer research;

48 (ix) up to ninety-four million one hundred fifty thousand dollars for
49 the period January first, two thousand eight through December thirty-
50 first, two thousand eight;

51 (x) up to ninety-four million one hundred fifty thousand dollars for
52 the period January first, two thousand nine through December thirty-
53 first, two thousand nine;

54 (xi) up to eighty-seven million seven hundred seventy-five thousand
55 dollars for the period January first, two thousand ten through December
56 thirty-first, two thousand ten;

(xii) up to twenty-one million four hundred twelve thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) up to fifty-two million one hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xiv) up to six million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xv) up to six million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xvi) up to six million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xvii) up to six million dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(k) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, health care services account, or any successor fund or account, for purposes of services and expenses related to public health programs, including comprehensive care centers for eating disorders pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the health care services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law for periods prior to March thirty-first, two thousand eleven, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-one million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to forty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to eighty-one million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) one hundred twenty-two million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) one hundred eight million five hundred seventy-five thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) ninety-one million eight hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) one hundred fifty-six million six hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) one hundred fifty-one million four hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) twenty-nine million two hundred thirty-seven thousand two hundred fifty dollars, plus an additional one hundred twenty-five thousand dollars, for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) one hundred twenty million thirty-eight thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve; and

(xiv) one hundred nineteen million four hundred seven thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand fourteen.

(l) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the personal care and certified home health agency rate or fee increases established pursuant to subdivision three of section three hundred sixty-seven-o of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-three million two hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) twenty-three million two hundred thousand dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) twenty-three million two hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) up to sixty-five million two hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) up to sixty-five million two hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) up to sixty-five million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) up to sixty-five million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) up to sixty-five million two hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and

1 (ix) up to sixteen million three hundred thousand dollars for the
2 period January first, two thousand eight through March thirty-first, two
3 thousand eight.

4 (m) Funds shall be deposited by the commissioner, within amounts
5 appropriated, and the state comptroller is hereby authorized and
6 directed to receive for deposit to the credit of the state special
7 revenue funds - other, HCRA transfer fund, medical assistance account,
8 or any successor fund or account, for purposes of funding the state
9 share of services and expenses related to home care workers insurance
10 pilot demonstration programs established pursuant to subdivision two of
11 section three hundred sixty-seven-o of the social services law from the
12 tobacco control and insurance initiatives pool established for the
13 following periods in the following amounts:

14 (i) three million eight hundred thousand dollars for the period Janu-
15 ary first, two thousand through December thirty-first, two thousand;

16 (ii) three million eight hundred thousand dollars for the period Janu-
17 ary first, two thousand one through December thirty-first, two thousand
18 one;

19 (iii) three million eight hundred thousand dollars for the period
20 January first, two thousand two through December thirty-first, two thou-
21 sand two;

22 (iv) up to three million eight hundred thousand dollars for the period
23 January first, two thousand three through December thirty-first, two
24 thousand three;

25 (v) up to three million eight hundred thousand dollars for the period
26 January first, two thousand four through December thirty-first, two
27 thousand four;

28 (vi) up to three million eight hundred thousand dollars for the period
29 January first, two thousand five through December thirty-first, two
30 thousand five;

31 (vii) up to three million eight hundred thousand dollars for the peri-
32 od January first, two thousand six through December thirty-first, two
33 thousand six;

34 (viii) up to three million eight hundred thousand dollars for the
35 period January first, two thousand seven through December thirty-first,
36 two thousand seven; and

37 (ix) up to nine hundred fifty thousand dollars for the period January
38 first, two thousand eight through March thirty-first, two thousand
39 eight.

40 (n) Funds shall be transferred by the commissioner and shall be depos-
41 ited to the credit of the special revenue funds - other, miscellaneous
42 special revenue fund - 339, elderly pharmaceutical insurance coverage
43 program premium account authorized pursuant to the provisions of title
44 three of article two of the elder law, or any successor fund or account,
45 for funding state expenses relating to the program from the tobacco
46 control and insurance initiatives pool established for the following
47 periods in the following amounts:

48 (i) one hundred seven million dollars for the period January first,
49 two thousand through December thirty-first, two thousand;

50 (ii) one hundred sixty-four million dollars for the period January
51 first, two thousand one through December thirty-first, two thousand one;

52 (iii) three hundred twenty-two million seven hundred thousand dollars
53 for the period January first, two thousand two through December thirty-
54 first, two thousand two;

1 (iv) four hundred thirty-three million three hundred thousand dollars
2 for the period January first, two thousand three through December thir-
3 ty-first, two thousand three;

4 (v) five hundred four million one hundred fifty thousand dollars for
5 the period January first, two thousand four through December thirty-
6 first, two thousand four;

7 (vi) five hundred sixty-six million eight hundred thousand dollars for
8 the period January first, two thousand five through December thirty-
9 first, two thousand five;

10 (vii) six hundred three million one hundred fifty thousand dollars for
11 the period January first, two thousand six through December thirty-
12 first, two thousand six;

13 (viii) six hundred sixty million eight hundred thousand dollars for
14 the period January first, two thousand seven through December thirty-
15 first, two thousand seven;

16 (ix) three hundred sixty-seven million four hundred sixty-three thou-
17 sand dollars for the period January first, two thousand eight through
18 December thirty-first, two thousand eight;

19 (x) three hundred thirty-four million eight hundred twenty-five thou-
20 sand dollars for the period January first, two thousand nine through
21 December thirty-first, two thousand nine;

22 (xi) three hundred forty-four million nine hundred thousand dollars
23 for the period January first, two thousand ten through December thirty-
24 first, two thousand ten;

25 (xii) eighty-seven million seven hundred eighty-eight thousand dollars
26 for the period January first, two thousand eleven through March thirty-
27 first, two thousand eleven;

28 (xiii) one hundred forty-three million one hundred fifty thousand
29 dollars for the period April first, two thousand eleven through March
30 thirty-first, two thousand twelve;

31 (xiv) one hundred twenty million nine hundred fifty thousand dollars
32 for the period April first, two thousand twelve through March thirty-
33 first, two thousand thirteen;

34 (xv) one hundred twenty-eight million eight hundred fifty thousand
35 dollars for the period April first, two thousand thirteen through March
36 thirty-first, two thousand fourteen;

37 (xvi) one hundred twenty-seven million four hundred sixteen thousand
38 dollars each state fiscal year for the period April first, two thousand
39 fourteen through March thirty-first, two thousand seventeen;

40 (xvii) one hundred twenty-seven million four hundred sixteen thousand
41 dollars each state fiscal year for the period April first, two thousand
42 seventeen through March thirty-first, two thousand twenty; ~~and~~

43 (xviii) one hundred twenty-seven million four hundred sixteen thousand
44 dollars each state fiscal year for the period April first, two thousand
45 twenty through March thirty-first, two thousand twenty-three; and

46 (xix) one hundred twenty-seven million four hundred sixteen thousand
47 dollars each state fiscal year for the period April first, two thousand
48 twenty-three through March thirty-first, two thousand twenty-six.

49 (o) Funds shall be reserved and accumulated and shall be transferred
50 to the Roswell Park Cancer Institute Corporation, from the tobacco
51 control and insurance initiatives pool established for the following
52 periods in the following amounts:

53 (i) up to ninety million dollars for the period January first, two
54 thousand through December thirty-first, two thousand;

55 (ii) up to sixty million dollars for the period January first, two
56 thousand one through December thirty-first, two thousand one;

1 (iii) up to eighty-five million dollars for the period January first,
2 two thousand two through December thirty-first, two thousand two;

3 (iv) eighty-five million two hundred fifty thousand dollars for the
4 period January first, two thousand three through December thirty-first,
5 two thousand three;

6 (v) seventy-eight million dollars for the period January first, two
7 thousand four through December thirty-first, two thousand four;

8 (vi) seventy-eight million dollars for the period January first, two
9 thousand five through December thirty-first, two thousand five;

10 (vii) ninety-one million dollars for the period January first, two
11 thousand six through December thirty-first, two thousand six;

12 (viii) seventy-eight million dollars for the period January first, two
13 thousand seven through December thirty-first, two thousand seven;

14 (ix) seventy-eight million dollars for the period January first, two
15 thousand eight through December thirty-first, two thousand eight;

16 (x) seventy-eight million dollars for the period January first, two
17 thousand nine through December thirty-first, two thousand nine;

18 (xi) seventy-eight million dollars for the period January first, two
19 thousand ten through December thirty-first, two thousand ten;

20 (xii) nineteen million five hundred thousand dollars for the period
21 January first, two thousand eleven through March thirty-first, two thou-
22 sand eleven;

23 (xiii) sixty-nine million eight hundred forty thousand dollars each
24 state fiscal year for the period April first, two thousand eleven
25 through March thirty-first, two thousand fourteen;

26 (xiv) up to ninety-six million six hundred thousand dollars each state
27 fiscal year for the period April first, two thousand fourteen through
28 March thirty-first, two thousand seventeen;

29 (xv) up to ninety-six million six hundred thousand dollars each state
30 fiscal year for the period April first, two thousand seventeen through
31 March thirty-first, two thousand twenty; **[and]**

32 (xvi) up to ninety-six million six hundred thousand dollars each state
33 fiscal year for the period April first, two thousand twenty through
34 March thirty-first, two thousand twenty-three; **and**

35 **(xvii) up to ninety-six million six hundred thousand dollars each**
36 **state fiscal year for the period April first, two thousand twenty-three**
37 **through March thirty-first, two thousand twenty-six.**

38 (p) Funds shall be deposited by the commissioner, within amounts
39 appropriated, and the state comptroller is hereby authorized and
40 directed to receive for deposit to the credit of the state special
41 revenue funds - other, indigent care fund - 068, indigent care account,
42 or any successor fund or account, for purposes of providing a medicaid
43 disproportionate share payment from the high need indigent care adjust-
44 ment pool established pursuant to section twenty-eight hundred seven-w
45 of this article, from the tobacco control and insurance initiatives pool
46 established for the following periods in the following amounts:

47 (i) eighty-two million dollars annually for the periods January first,
48 two thousand through December thirty-first, two thousand two;

49 (ii) up to eighty-two million dollars for the period January first,
50 two thousand three through December thirty-first, two thousand three;

51 (iii) up to eighty-two million dollars for the period January first,
52 two thousand four through December thirty-first, two thousand four;

53 (iv) up to eighty-two million dollars for the period January first,
54 two thousand five through December thirty-first, two thousand five;

55 (v) up to eighty-two million dollars for the period January first, two
56 thousand six through December thirty-first, two thousand six;

(vi) up to eighty-two million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to eighty-two million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to eighty-two million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to eighty-two million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to twenty million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xi) up to eighty-two million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(q) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of providing distributions to eligible school based health centers established pursuant to section eighty-eight of chapter one of the laws of nineteen hundred ninety-nine, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) seven million dollars annually for the period January first, two thousand through December thirty-first, two thousand two;

(ii) up to seven million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to seven million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to seven million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to seven million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to seven million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to seven million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to seven million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to seven million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to one million seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) up to five million six hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) up to five million two hundred eighty-eight thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xiii) up to five million two hundred eighty-eight thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xiv) up to five million two hundred eighty-eight thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xv) up to five million two hundred eighty-eight thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(r) Funds shall be deposited by the commissioner within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of providing distributions for supplementary medical insurance for Medicare part B premiums, physicians services, outpatient services, medical equipment, supplies and other health services, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) forty-three million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) sixty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) sixty-five million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) sixty-seven million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) sixty-eight million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) sixty-eight million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) sixty-eight million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) seventeen million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) sixty-eight million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) sixty-eight million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) sixty-eight million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) seventeen million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xiii) sixty-eight million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(s) Funds shall be deposited by the commissioner within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of providing distributions pursuant to paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighteen million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) twenty-four million dollars annually for the periods January first, two thousand one through December thirty-first, two thousand two;

(iii) up to twenty-four million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iv) up to twenty-four million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(v) up to twenty-four million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vi) up to twenty-four million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vii) up to twenty-four million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(viii) up to twenty-four million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(ix) up to twenty-two million dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(t) Funds shall be reserved and accumulated from year to year by the commissioner and shall be made available, including income from invested funds:

(i) For the purpose of making grants to a state owned and operated medical school which does not have a state owned and operated hospital on site and available for teaching purposes. Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law, such grants shall be made in the amount of up to five hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) For the purpose of making grants to medical schools pursuant to section eighty-six-a of chapter one of the laws of nineteen hundred ninety-nine in the sum of up to four million dollars for the period January first, two thousand through December thirty-first, two thousand; and

(iii) The funds disbursed pursuant to subparagraphs (i) and (ii) of this paragraph from the tobacco control and insurance initiatives pool are contingent upon meeting all funding amounts established pursuant to paragraphs (a), (b), (c), (d), (e), (f), (l), (m), (n), (p), (q), (r) and (s) of this subdivision, paragraph (a) of subdivision nine of section twenty-eight hundred seven-j of this article, and paragraphs (a), (i) and (k) of subdivision one of section twenty-eight hundred seven-l of this article.

(u) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of services and expenses related to the nursing home quality improvement demonstration program established pursuant to section twenty-eight hundred eight-d of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to twenty-five million dollars for the period beginning April first, two thousand two and ending December thirty-first, two thousand two, and on an annualized basis, for each annual period thereafter beginning January first, two thousand three and ending December thirty-first, two thousand four;

(ii) up to eighteen million seven hundred fifty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five; and

1 (iii) up to fifty-six million five hundred thousand dollars for the
2 period January first, two thousand six through December thirty-first,
3 two thousand six.

4 (v) Funds shall be transferred by the commissioner and shall be depos-
5 ited to the credit of the hospital excess liability pool created pursu-
6 ant to section eighteen of chapter two hundred sixty-six of the laws of
7 nineteen hundred eighty-six, or any successor fund or account, for
8 purposes of expenses related to the purchase of excess medical malprac-
9 tice insurance and the cost of administrating the pool, including costs
10 associated with the risk management program established pursuant to
11 section forty-two of part A of chapter one of the laws of two thousand
12 two required by paragraph (a) of subdivision one of section eighteen of
13 chapter two hundred sixty-six of the laws of nineteen hundred eighty-six
14 as may be amended from time to time, from the tobacco control and insur-
15 ance initiatives pool established for the following periods in the
16 following amounts:

17 (i) up to fifty million dollars or so much as is needed for the period
18 January first, two thousand two through December thirty-first, two thou-
19 sand two;

20 (ii) up to seventy-six million seven hundred thousand dollars for the
21 period January first, two thousand three through December thirty-first,
22 two thousand three;

23 (iii) up to sixty-five million dollars for the period January first,
24 two thousand four through December thirty-first, two thousand four;

25 (iv) up to sixty-five million dollars for the period January first,
26 two thousand five through December thirty-first, two thousand five;

27 (v) up to one hundred thirteen million eight hundred thousand dollars
28 for the period January first, two thousand six through December thirty-
29 first, two thousand six;

30 (vi) up to one hundred thirty million dollars for the period January
31 first, two thousand seven through December thirty-first, two thousand
32 seven;

33 (vii) up to one hundred thirty million dollars for the period January
34 first, two thousand eight through December thirty-first, two thousand
35 eight;

36 (viii) up to one hundred thirty million dollars for the period January
37 first, two thousand nine through December thirty-first, two thousand
38 nine;

39 (ix) up to one hundred thirty million dollars for the period January
40 first, two thousand ten through December thirty-first, two thousand ten;

41 (x) up to thirty-two million five hundred thousand dollars for the
42 period January first, two thousand eleven through March thirty-first,
43 two thousand eleven;

44 (xi) up to one hundred twenty-seven million four hundred thousand
45 dollars each state fiscal year for the period April first, two thousand
46 eleven through March thirty-first, two thousand fourteen;

47 (xii) up to one hundred twenty-seven million four hundred thousand
48 dollars each state fiscal year for the period April first, two thousand
49 fourteen through March thirty-first, two thousand seventeen;

50 (xiii) up to one hundred twenty-seven million four hundred thousand
51 dollars each state fiscal year for the period April first, two thousand
52 seventeen through March thirty-first, two thousand twenty; ~~and~~

53 (xiv) up to one hundred twenty-seven million four hundred thousand
54 dollars each state fiscal year for the period April first, two thousand
55 twenty through March thirty-first, two thousand twenty-three; and

(xv) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(w) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the treatment of breast and cervical cancer pursuant to paragraph (d) of subdivision four of section three hundred sixty-six of the social services law, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to four hundred fifty thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to two million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to two million one hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to two million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to two million one hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million one hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million one hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million one hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million one hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to five hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xiii) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; **[and]**

(xiv) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; **and**

(xv) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(x) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the non-public general hospital rates increases for recruitment and retention of health care workers from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-seven million one hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) fifty million eight hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) sixty-nine million three hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) sixty-nine million three hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) sixty-nine million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) sixty-five million three hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) sixty-one million one hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(viii) forty-eight million seven hundred twenty-one thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(y) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to public general hospitals for recruitment and retention of health care workers pursuant to paragraph (b) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighteen million five hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) thirty-seven million four hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) fifty-two million two hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) fifty-two million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) fifty-two million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

1 (vi) forty-nine million dollars for the period January first, two
2 thousand seven through December thirty-first, two thousand seven;
3 (vii) forty-nine million dollars for the period January first, two
4 thousand eight through December thirty-first, two thousand eight; and
5 (viii) twelve million two hundred fifty thousand dollars for the peri-
6 od January first, two thousand nine through March thirty-first, two
7 thousand nine.

8 Provided, however, amounts pursuant to this paragraph may be reduced
9 in an amount to be approved by the director of the budget to reflect
10 amounts received from the federal government under the state's 1115
11 waiver which are directed under its terms and conditions to the health
12 workforce recruitment and retention program.

13 (z) Funds shall be deposited by the commissioner, within amounts
14 appropriated, and the state comptroller is hereby authorized and
15 directed to receive for deposit to the credit of the state special
16 revenue funds - other, HCRA transfer fund, medical assistance account,
17 or any successor fund or account, for purposes of funding the state
18 share of the non-public residential health care facility rate increases
19 for recruitment and retention of health care workers pursuant to para-
20 graph (a) of subdivision eighteen of section twenty-eight hundred eight
21 of this article from the tobacco control and insurance initiatives pool
22 established for the following periods in the following amounts:

23 (i) twenty-one million five hundred thousand dollars on an annualized
24 basis for the period January first, two thousand two through December
25 thirty-first, two thousand two;

26 (ii) thirty-three million three hundred thousand dollars on an annual-
27 ized basis for the period January first, two thousand three through
28 December thirty-first, two thousand three;

29 (iii) forty-six million three hundred thousand dollars on an annual-
30 ized basis for the period January first, two thousand four through
31 December thirty-first, two thousand four;

32 (iv) forty-six million three hundred thousand dollars for the period
33 January first, two thousand five through December thirty-first, two
34 thousand five;

35 (v) forty-six million three hundred thousand dollars for the period
36 January first, two thousand six through December thirty-first, two thou-
37 sand six;

38 (vi) thirty million nine hundred thousand dollars for the period Janu-
39 ary first, two thousand seven through December thirty-first, two thou-
40 sand seven;

41 (vii) twenty-four million seven hundred thousand dollars for the peri-
42 od January first, two thousand eight through December thirty-first, two
43 thousand eight;

44 (viii) twelve million three hundred seventy-five thousand dollars for
45 the period January first, two thousand nine through December thirty-
46 first, two thousand nine;

47 (ix) nine million three hundred thousand dollars for the period Janu-
48 ary first, two thousand ten through December thirty-first, two thousand
49 ten; and

50 (x) two million three hundred twenty-five thousand dollars for the
51 period January first, two thousand eleven through March thirty-first,
52 two thousand eleven.

53 (aa) Funds shall be reserved and accumulated from year to year and
54 shall be available, including income from invested funds, for purposes
55 of grants to public residential health care facilities for recruitment
56 and retention of health care workers pursuant to paragraph (b) of subdi-

1 vision eighteen of section twenty-eight hundred eight of this article
2 from the tobacco control and insurance initiatives pool established for
3 the following periods in the following amounts:

4 (i) seven million five hundred thousand dollars on an annualized basis
5 for the period January first, two thousand two through December thirty-
6 first, two thousand two;

7 (ii) eleven million seven hundred thousand dollars on an annualized
8 basis for the period January first, two thousand three through December
9 thirty-first, two thousand three;

10 (iii) sixteen million two hundred thousand dollars on an annualized
11 basis for the period January first, two thousand four through December
12 thirty-first, two thousand four;

13 (iv) sixteen million two hundred thousand dollars for the period Janu-
14 ary first, two thousand five through December thirty-first, two thousand
15 five;

16 (v) sixteen million two hundred thousand dollars for the period Janu-
17 ary first, two thousand six through December thirty-first, two thousand
18 six;

19 (vi) ten million eight hundred thousand dollars for the period January
20 first, two thousand seven through December thirty-first, two thousand
21 seven;

22 (vii) six million seven hundred fifty thousand dollars for the period
23 January first, two thousand eight through December thirty-first, two
24 thousand eight; and

25 (viii) one million three hundred fifty thousand dollars for the period
26 January first, two thousand nine through December thirty-first, two
27 thousand nine.

28 (bb)(i) Funds shall be deposited by the commissioner, within amounts
29 appropriated, and subject to the availability of federal financial
30 participation, and the state comptroller is hereby authorized and
31 directed to receive for deposit to the credit of the state special
32 revenue funds - other, HCRA transfer fund, medical assistance account,
33 or any successor fund or account, for the purpose of supporting the
34 state share of adjustments to Medicaid rates of payment for personal
35 care services provided pursuant to paragraph (e) of subdivision two of
36 section three hundred sixty-five-a of the social services law, for local
37 social service districts which include a city with a population of over
38 one million persons and computed and distributed in accordance with
39 memorandums of understanding to be entered into between the state of New
40 York and such local social service districts for the purpose of support-
41 ing the recruitment and retention of personal care service workers or
42 any worker with direct patient care responsibility, from the tobacco
43 control and insurance initiatives pool established for the following
44 periods and the following amounts:

45 (A) forty-four million dollars, on an annualized basis, for the period
46 April first, two thousand two through December thirty-first, two thou-
47 sand two;

48 (B) seventy-four million dollars, on an annualized basis, for the
49 period January first, two thousand three through December thirty-first,
50 two thousand three;

51 (C) one hundred four million dollars, on an annualized basis, for the
52 period January first, two thousand four through December thirty-first,
53 two thousand four;

54 (D) one hundred thirty-six million dollars, on an annualized basis,
55 for the period January first, two thousand five through December thir-
56 ty-first, two thousand five;

1 (E) one hundred thirty-six million dollars, on an annualized basis,
2 for the period January first, two thousand six through December thirty-
3 first, two thousand six;

4 (F) one hundred thirty-six million dollars for the period January
5 first, two thousand seven through December thirty-first, two thousand
6 seven;

7 (G) one hundred thirty-six million dollars for the period January
8 first, two thousand eight through December thirty-first, two thousand
9 eight;

10 (H) one hundred thirty-six million dollars for the period January
11 first, two thousand nine through December thirty-first, two thousand
12 nine;

13 (I) one hundred thirty-six million dollars for the period January
14 first, two thousand ten through December thirty-first, two thousand ten;

15 (J) thirty-four million dollars for the period January first, two
16 thousand eleven through March thirty-first, two thousand eleven;

17 (K) up to one hundred thirty-six million dollars each state fiscal
18 year for the period April first, two thousand eleven through March thir-
19 ty-first, two thousand fourteen;

20 (L) up to one hundred thirty-six million dollars each state fiscal
21 year for the period March thirty-first, two thousand fourteen through
22 April first, two thousand seventeen;

23 (M) up to one hundred thirty-six million dollars each state fiscal
24 year for the period April first, two thousand seventeen through March
25 thirty-first, two thousand twenty; **[and]**

26 (N) up to one hundred thirty-six million dollars each state fiscal
27 year for the period April first, two thousand twenty through March thir-
28 ty-first, two thousand twenty-three; **and**

29 **(O) up to one hundred thirty-six million dollars each state fiscal**
30 **year for the period April first, two thousand twenty-three through March**
31 **thirty-first, two thousand twenty-six.**

32 (ii) Adjustments to Medicaid rates made pursuant to this paragraph
33 shall not, in aggregate, exceed the following amounts for the following
34 periods:

35 (A) for the period April first, two thousand two through December
36 thirty-first, two thousand two, one hundred ten million dollars;

37 (B) for the period January first, two thousand three through December
38 thirty-first, two thousand three, one hundred eighty-five million
39 dollars;

40 (C) for the period January first, two thousand four through December
41 thirty-first, two thousand four, two hundred sixty million dollars;

42 (D) for the period January first, two thousand five through December
43 thirty-first, two thousand five, three hundred forty million dollars;

44 (E) for the period January first, two thousand six through December
45 thirty-first, two thousand six, three hundred forty million dollars;

46 (F) for the period January first, two thousand seven through December
47 thirty-first, two thousand seven, three hundred forty million dollars;

48 (G) for the period January first, two thousand eight through December
49 thirty-first, two thousand eight, three hundred forty million dollars;

50 (H) for the period January first, two thousand nine through December
51 thirty-first, two thousand nine, three hundred forty million dollars;

52 (I) for the period January first, two thousand ten through December
53 thirty-first, two thousand ten, three hundred forty million dollars;

54 (J) for the period January first, two thousand eleven through March
55 thirty-first, two thousand eleven, eighty-five million dollars;

1 (K) for each state fiscal year within the period April first, two
2 thousand eleven through March thirty-first, two thousand fourteen, three
3 hundred forty million dollars;

4 (L) for each state fiscal year within the period April first, two
5 thousand fourteen through March thirty-first, two thousand seventeen,
6 three hundred forty million dollars;

7 (M) for each state fiscal year within the period April first, two
8 thousand seventeen through March thirty-first, two thousand twenty,
9 three hundred forty million dollars; [and]

10 (N) for each state fiscal year within the period April first, two
11 thousand twenty through March thirty-first, two thousand twenty-three,
12 three hundred forty million dollars; and

13 (O) for each state fiscal year within the period April first, two
14 thousand twenty-three through March thirty-first, two thousand twenty-
15 six, three hundred forty million dollars.

16 (iii) Personal care service providers which have their rates adjusted
17 pursuant to this paragraph shall use such funds for the purpose of
18 recruitment and retention of non-supervisory personal care services
19 workers or any worker with direct patient care responsibility only and
20 are prohibited from using such funds for any other purpose. Each such
21 personal care services provider shall submit, at a time and in a manner
22 to be determined by the commissioner, a written certification attesting
23 that such funds will be used solely for the purpose of recruitment and
24 retention of non-supervisory personal care services workers or any work-
25 er with direct patient care responsibility. The commissioner is author-
26 ized to audit each such provider to ensure compliance with the written
27 certification required by this subdivision and shall recoup any funds
28 determined to have been used for purposes other than recruitment and
29 retention of non-supervisory personal care services workers or any work-
30 er with direct patient care responsibility. Such recoupment shall be in
31 addition to any other penalties provided by law.

32 (cc) Funds shall be deposited by the commissioner, within amounts
33 appropriated, and the state comptroller is hereby authorized and
34 directed to receive for deposit to the credit of the state special
35 revenue funds - other, HCRA transfer fund, medical assistance account,
36 or any successor fund or account, for the purpose of supporting the
37 state share of adjustments to Medicaid rates of payment for personal
38 care services provided pursuant to paragraph (e) of subdivision two of
39 section three hundred sixty-five-a of the social services law, for local
40 social service districts which shall not include a city with a popu-
41 lation of over one million persons for the purpose of supporting the
42 personal care services worker recruitment and retention program as
43 established pursuant to section three hundred sixty-seven-q of the
44 social services law, from the tobacco control and insurance initiatives
45 pool established for the following periods and the following amounts:

46 (i) two million eight hundred thousand dollars for the period April
47 first, two thousand two through December thirty-first, two thousand two;

48 (ii) five million six hundred thousand dollars, on an annualized
49 basis, for the period January first, two thousand three through December
50 thirty-first, two thousand three;

51 (iii) eight million four hundred thousand dollars, on an annualized
52 basis, for the period January first, two thousand four through December
53 thirty-first, two thousand four;

54 (iv) ten million eight hundred thousand dollars, on an annualized
55 basis, for the period January first, two thousand five through December
56 thirty-first, two thousand five;

1 (v) ten million eight hundred thousand dollars, on an annualized
2 basis, for the period January first, two thousand six through December
3 thirty-first, two thousand six;

4 (vi) eleven million two hundred thousand dollars for the period Janu-
5 ary first, two thousand seven through December thirty-first, two thou-
6 sand seven;

7 (vii) eleven million two hundred thousand dollars for the period Janu-
8 ary first, two thousand eight through December thirty-first, two thou-
9 sand eight;

10 (viii) eleven million two hundred thousand dollars for the period
11 January first, two thousand nine through December thirty-first, two
12 thousand nine;

13 (ix) eleven million two hundred thousand dollars for the period Janu-
14 ary first, two thousand ten through December thirty-first, two thousand
15 ten;

16 (x) two million eight hundred thousand dollars for the period January
17 first, two thousand eleven through March thirty-first, two thousand
18 eleven;

19 (xi) up to eleven million two hundred thousand dollars each state
20 fiscal year for the period April first, two thousand eleven through
21 March thirty-first, two thousand fourteen;

22 (xii) up to eleven million two hundred thousand dollars each state
23 fiscal year for the period April first, two thousand fourteen through
24 March thirty-first, two thousand seventeen;

25 (xiii) up to eleven million two hundred thousand dollars each state
26 fiscal year for the period April first, two thousand seventeen through
27 March thirty-first, two thousand twenty; ~~and~~

28 (xiv) up to eleven million two hundred thousand dollars each state
29 fiscal year for the period April first, two thousand twenty through
30 March thirty-first, two thousand twenty-three; and

31 (xv) up to eleven million two hundred thousand dollars each state
32 fiscal year for the period April first, two thousand twenty-three
33 through March thirty-first, two thousand twenty-six.

34 (dd) Funds shall be deposited by the commissioner, within amounts
35 appropriated, and the state comptroller is hereby authorized and
36 directed to receive for deposit to the credit of the state special
37 revenue fund - other, HCRA transfer fund, medical assistance account, or
38 any successor fund or account, for purposes of funding the state share
39 of Medicaid expenditures for physician services from the tobacco control
40 and insurance initiatives pool established for the following periods in
41 the following amounts:

42 (i) up to fifty-two million dollars for the period January first, two
43 thousand two through December thirty-first, two thousand two;

44 (ii) eighty-one million two hundred thousand dollars for the period
45 January first, two thousand three through December thirty-first, two
46 thousand three;

47 (iii) eighty-five million two hundred thousand dollars for the period
48 January first, two thousand four through December thirty-first, two
49 thousand four;

50 (iv) eighty-five million two hundred thousand dollars for the period
51 January first, two thousand five through December thirty-first, two
52 thousand five;

53 (v) eighty-five million two hundred thousand dollars for the period
54 January first, two thousand six through December thirty-first, two thou-
55 sand six;

(vi) eighty-five million two hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) eighty-five million two hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) eighty-five million two hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) eighty-five million two hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) twenty-one million three hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xi) eighty-five million two hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(ee) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the free-standing diagnostic and treatment center rate increases for recruitment and retention of health care workers pursuant to subdivision seventeen of section twenty-eight hundred seven of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) three million two hundred fifty thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) three million two hundred fifty thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) three million two hundred fifty thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) three million two hundred fifty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) three million two hundred fifty thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) three million two hundred fifty thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) three million four hundred thirty-eight thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) two million four hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) one million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) three hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(ff) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medicaid expenditures for disabled persons as authorized pursuant to former subparagraphs twelve and thirteen of paragraph (a) of subdivision one of section three hundred sixty-six of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) one million eight hundred thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) sixteen million four hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eighteen million seven hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) thirty million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) thirty million six hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) thirty million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) fifteen million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) fifteen million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) fifteen million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) three million seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) fifteen million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) fifteen million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xiii) fifteen million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xiv) fifteen million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xv) fifteen million dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(gg) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to non-public general hospitals pursuant to paragraph (c) of

subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to one million three hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to three million two hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to five million six hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to eight million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eight million six hundred thousand dollars on an annualized basis for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million six hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million six hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million six hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) up to six hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(hh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue fund - other, HCRA transfer fund, medical assistance account for purposes of providing financial assistance to residential health care facilities pursuant to subdivisions nineteen and twenty-one of section twenty-eight hundred eight of this article, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) for the period April first, two thousand two through December thirty-first, two thousand two, ten million dollars;

(ii) for the period January first, two thousand three through December thirty-first, two thousand three, nine million four hundred fifty thousand dollars;

(iii) for the period January first, two thousand four through December thirty-first, two thousand four, nine million three hundred fifty thousand dollars;

(iv) up to fifteen million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to fifteen million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to fifteen million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

1 (vii) up to fifteen million dollars for the period January first, two
2 thousand eight through December thirty-first, two thousand eight;

3 (viii) up to fifteen million dollars for the period January first, two
4 thousand nine through December thirty-first, two thousand nine;

5 (ix) up to fifteen million dollars for the period January first, two
6 thousand ten through December thirty-first, two thousand ten;

7 (x) up to three million seven hundred fifty thousand dollars for the
8 period January first, two thousand eleven through March thirty-first,
9 two thousand eleven; and

10 (xi) fifteen million dollars each state fiscal year for the period
11 April first, two thousand eleven through March thirty-first, two thou-
12 sand fourteen.

13 (ii) Funds shall be deposited by the commissioner, within amounts
14 appropriated, and the state comptroller is hereby authorized and
15 directed to receive for deposit to the credit of the state special
16 revenue funds - other, HCRA transfer fund, medical assistance account,
17 or any successor fund or account, for the purpose of supporting the
18 state share of Medicaid expenditures for disabled persons as authorized
19 by sections 1619 (a) and (b) of the federal social security act pursuant
20 to the tobacco control and insurance initiatives pool established for
21 the following periods in the following amounts:

22 (i) six million four hundred thousand dollars for the period April
23 first, two thousand two through December thirty-first, two thousand two;

24 (ii) eight million five hundred thousand dollars, for the period Janu-
25 ary first, two thousand three through December thirty-first, two thou-
26 sand three;

27 (iii) eight million five hundred thousand dollars for the period Janu-
28 ary first, two thousand four through December thirty-first, two thousand
29 four;

30 (iv) eight million five hundred thousand dollars for the period Janu-
31 ary first, two thousand five through December thirty-first, two thousand
32 five;

33 (v) eight million five hundred thousand dollars for the period January
34 first, two thousand six through December thirty-first, two thousand six;

35 (vi) eight million six hundred thousand dollars for the period January
36 first, two thousand seven through December thirty-first, two thousand
37 seven;

38 (vii) eight million five hundred thousand dollars for the period Janu-
39 ary first, two thousand eight through December thirty-first, two thou-
40 sand eight;

41 (viii) eight million five hundred thousand dollars for the period
42 January first, two thousand nine through December thirty-first, two
43 thousand nine;

44 (ix) eight million five hundred thousand dollars for the period Janu-
45 ary first, two thousand ten through December thirty-first, two thousand
46 ten;

47 (x) two million one hundred twenty-five thousand dollars for the peri-
48 od January first, two thousand eleven through March thirty-first, two
49 thousand eleven;

50 (xi) eight million five hundred thousand dollars each state fiscal
51 year for the period April first, two thousand eleven through March thir-
52 ty-first, two thousand fourteen;

53 (xii) eight million five hundred thousand dollars each state fiscal
54 year for the period April first, two thousand fourteen through March
55 thirty-first, two thousand seventeen;

(xiii) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xiv) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xv) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(jj) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purposes of a grant program to improve access to infertility services, treatments and procedures, from the tobacco control and insurance initiatives pool established for the period January first, two thousand two through December thirty-first, two thousand two in the amount of nine million one hundred seventy-five thousand dollars, for the period April first, two thousand six through March thirty-first, two thousand seven in the amount of five million dollars, for the period April first, two thousand seven through March thirty-first, two thousand eight in the amount of five million dollars, for the period April first, two thousand eight through March thirty-first, two thousand nine in the amount of five million dollars, and for the period April first, two thousand nine through March thirty-first, two thousand ten in the amount of five million dollars, for the period April first, two thousand ten through March thirty-first, two thousand eleven in the amount of two million two hundred thousand dollars, and for the period April first, two thousand eleven through March thirty-first, two thousand twelve up to one million one hundred thousand dollars.

(kk) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds -- other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medical Assistance Program expenditures from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) thirty-eight million eight hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to two hundred ninety-five million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to four hundred seventy-two million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to nine hundred million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eight hundred sixty-six million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to six hundred sixteen million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to five hundred seventy-eight million nine hundred twenty-five thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

1 (viii) within amounts appropriated on and after January first, two
2 thousand nine.

3 (ll) Funds shall be deposited by the commissioner, within amounts
4 appropriated, and the state comptroller is hereby authorized and
5 directed to receive for deposit to the credit of the state special
6 revenue funds -- other, HCRA transfer fund, medical assistance account,
7 or any successor fund or account, for purposes of funding the state
8 share of Medicaid expenditures related to the city of New York from the
9 tobacco control and insurance initiatives pool established for the
10 following periods in the following amounts:

11 (i) eighty-two million seven hundred thousand dollars for the period
12 January first, two thousand two through December thirty-first, two thou-
13 sand two;

14 (ii) one hundred twenty-four million six hundred thousand dollars for
15 the period January first, two thousand three through December thirty-
16 first, two thousand three;

17 (iii) one hundred twenty-four million seven hundred thousand dollars
18 for the period January first, two thousand four through December thir-
19 ty-first, two thousand four;

20 (iv) one hundred twenty-four million seven hundred thousand dollars
21 for the period January first, two thousand five through December thir-
22 ty-first, two thousand five;

23 (v) one hundred twenty-four million seven hundred thousand dollars for
24 the period January first, two thousand six through December thirty-
25 first, two thousand six;

26 (vi) one hundred twenty-four million seven hundred thousand dollars
27 for the period January first, two thousand seven through December thir-
28 ty-first, two thousand seven;

29 (vii) one hundred twenty-four million seven hundred thousand dollars
30 for the period January first, two thousand eight through December thir-
31 ty-first, two thousand eight;

32 (viii) one hundred twenty-four million seven hundred thousand dollars
33 for the period January first, two thousand nine through December thir-
34 ty-first, two thousand nine;

35 (ix) one hundred twenty-four million seven hundred thousand dollars
36 for the period January first, two thousand ten through December thirty-
37 first, two thousand ten;

38 (x) thirty-one million one hundred seventy-five thousand dollars for
39 the period January first, two thousand eleven through March thirty-
40 first, two thousand eleven; and

41 (xi) one hundred twenty-four million seven hundred thousand dollars
42 each state fiscal year for the period April first, two thousand eleven
43 through March thirty-first, two thousand fourteen.

44 (mm) Funds shall be deposited by the commissioner, within amounts
45 appropriated, and the state comptroller is hereby authorized and
46 directed to receive for deposit to the credit of the state special
47 revenue funds - other, HCRA transfer fund, medical assistance account,
48 or any successor fund or account, for purposes of funding specified
49 percentages of the state share of services and expenses related to the
50 family health plus program in accordance with the following schedule:

51 (i) (A) for the period January first, two thousand three through
52 December thirty-first, two thousand four, one hundred percent of the
53 state share;

54 (B) for the period January first, two thousand five through December
55 thirty-first, two thousand five, seventy-five percent of the state
56 share; and

1 (C) for periods beginning on and after January first, two thousand
2 six, fifty percent of the state share.

3 (ii) Funding for the family health plus program will include up to
4 five million dollars annually for the period January first, two thousand
5 three through December thirty-first, two thousand six, up to five
6 million dollars for the period January first, two thousand seven through
7 December thirty-first, two thousand seven, up to seven million two
8 hundred thousand dollars for the period January first, two thousand
9 eight through December thirty-first, two thousand eight, up to seven
10 million two hundred thousand dollars for the period January first, two
11 thousand nine through December thirty-first, two thousand nine, up to
12 seven million two hundred thousand dollars for the period January first,
13 two thousand ten through December thirty-first, two thousand ten, up to
14 one million eight hundred thousand dollars for the period January first,
15 two thousand eleven through March thirty-first, two thousand eleven, up
16 to six million forty-nine thousand dollars for the period April first,
17 two thousand eleven through March thirty-first, two thousand twelve, up
18 to six million two hundred eighty-nine thousand dollars for the period
19 April first, two thousand twelve through March thirty-first, two thou-
20 sand thirteen, and up to six million four hundred sixty-one thousand
21 dollars for the period April first, two thousand thirteen through March
22 thirty-first, two thousand fourteen, for administration and marketing
23 costs associated with such program established pursuant to clauses (A)
24 and (B) of subparagraph (v) of paragraph (a) of subdivision two of the
25 former section three hundred sixty-nine-ee of the social services law
26 from the tobacco control and insurance initiatives pool established for
27 the following periods in the following amounts:

28 (A) one hundred ninety million six hundred thousand dollars for the
29 period January first, two thousand three through December thirty-first,
30 two thousand three;

31 (B) three hundred seventy-four million dollars for the period January
32 first, two thousand four through December thirty-first, two thousand
33 four;

34 (C) five hundred thirty-eight million four hundred thousand dollars
35 for the period January first, two thousand five through December thir-
36 ty-first, two thousand five;

37 (D) three hundred eighteen million seven hundred seventy-five thousand
38 dollars for the period January first, two thousand six through December
39 thirty-first, two thousand six;

40 (E) four hundred eighty-two million eight hundred thousand dollars for
41 the period January first, two thousand seven through December thirty-
42 first, two thousand seven;

43 (F) five hundred seventy million twenty-five thousand dollars for the
44 period January first, two thousand eight through December thirty-first,
45 two thousand eight;

46 (G) six hundred ten million seven hundred twenty-five thousand dollars
47 for the period January first, two thousand nine through December thir-
48 ty-first, two thousand nine;

49 (H) six hundred twenty-seven million two hundred seventy-five thousand
50 dollars for the period January first, two thousand ten through December
51 thirty-first, two thousand ten;

52 (I) one hundred fifty-seven million eight hundred seventy-five thou-
53 sand dollars for the period January first, two thousand eleven through
54 March thirty-first, two thousand eleven;

1 (J) six hundred twenty-eight million four hundred thousand dollars for
2 the period April first, two thousand eleven through March thirty-first,
3 two thousand twelve;

4 (K) six hundred fifty million four hundred thousand dollars for the
5 period April first, two thousand twelve through March thirty-first, two
6 thousand thirteen;

7 (L) six hundred fifty million four hundred thousand dollars for the
8 period April first, two thousand thirteen through March thirty-first,
9 two thousand fourteen; and

10 (M) up to three hundred ten million five hundred ninety-five thousand
11 dollars for the period April first, two thousand fourteen through March
12 thirty-first, two thousand fifteen.

13 (nn) Funds shall be deposited by the commissioner, within amounts
14 appropriated, and the state comptroller is hereby authorized and
15 directed to receive for deposit to the credit of the state special
16 revenue fund - other, HCRA transfer fund, health care services account,
17 or any successor fund or account, for purposes related to adult home
18 initiatives for medicaid eligible residents of residential facilities
19 licensed pursuant to section four hundred sixty-b of the social services
20 law from the tobacco control and insurance initiatives pool established
21 for the following periods in the following amounts:

22 (i) up to four million dollars for the period January first, two thou-
23 sand three through December thirty-first, two thousand three;

24 (ii) up to six million dollars for the period January first, two thou-
25 sand four through December thirty-first, two thousand four;

26 (iii) up to eight million dollars for the period January first, two
27 thousand five through December thirty-first, two thousand five,
28 provided, however, that up to five million two hundred fifty thousand
29 dollars of such funds shall be received by the comptroller and deposited
30 to the credit of the special revenue fund - other / aid to localities,
31 HCRA transfer fund - 061, enhanced community services account - 05, or
32 any successor fund or account, for the purposes set forth in this para-
33 graph;

34 (iv) up to eight million dollars for the period January first, two
35 thousand six through December thirty-first, two thousand six, provided,
36 however, that up to five million two hundred fifty thousand dollars of
37 such funds shall be received by the comptroller and deposited to the
38 credit of the special revenue fund - other / aid to localities, HCRA
39 transfer fund - 061, enhanced community services account - 05, or any
40 successor fund or account, for the purposes set forth in this paragraph;

41 (v) up to eight million dollars for the period January first, two
42 thousand seven through December thirty-first, two thousand seven,
43 provided, however, that up to five million two hundred fifty thousand
44 dollars of such funds shall be received by the comptroller and deposited
45 to the credit of the special revenue fund - other / aid to localities,
46 HCRA transfer fund - 061, enhanced community services account - 05, or
47 any successor fund or account, for the purposes set forth in this para-
48 graph;

49 (vi) up to two million seven hundred fifty thousand dollars for the
50 period January first, two thousand eight through December thirty-first,
51 two thousand eight;

52 (vii) up to two million seven hundred fifty thousand dollars for the
53 period January first, two thousand nine through December thirty-first,
54 two thousand nine;

(viii) up to two million seven hundred fifty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(ix) up to six hundred eighty-eight thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(oo) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to non-public general hospitals pursuant to paragraph (e) of subdivision twenty-five of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to five million dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(ii) up to five million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(iii) up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(iv) up to five million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(v) up to five million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(vi) up to five million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(vii) up to five million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(viii) up to one million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(pp) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting the provision of tax credits for long term care insurance pursuant to subdivision one of section one hundred ninety of the tax law, paragraph (a) of subdivision fourteen of section two hundred ten-B of such law, subsection (aa) of section six hundred six of such law and paragraph one of subdivision (m) of section fifteen hundred eleven of such law, in the following amounts:

(i) ten million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(ii) ten million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(iii) ten million dollars for the period January first, two thousand six through December thirty-first, two thousand six; and

(iv) five million dollars for the period January first, two thousand seven through June thirtieth, two thousand seven.

(qq) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting the long-term care insurance education and outreach program established pursuant to section two hundred seventeen-a of the elder law for the following periods in the following amounts:

(i) up to five million dollars for the period January first, two thousand four through December thirty-first, two thousand four; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach

1 program and three million fifty thousand dollars shall be deposited by
2 the commissioner, within amounts appropriated, and the comptroller is
3 hereby authorized and directed to receive for deposit to the credit of
4 the special revenue funds - other, HCRA transfer fund, long term care
5 insurance resource center account of the state office for the aging or
6 any future account designated for the purpose of implementing the long
7 term care insurance education and outreach program and providing the
8 long term care insurance resource centers with the necessary resources
9 to carry out their operations;

10 (ii) up to five million dollars for the period January first, two
11 thousand five through December thirty-first, two thousand five; of such
12 funds one million nine hundred fifty thousand dollars shall be made
13 available to the department for the purpose of developing, implementing
14 and administering the long-term care insurance education and outreach
15 program and three million fifty thousand dollars shall be deposited by
16 the commissioner, within amounts appropriated, and the comptroller is
17 hereby authorized and directed to receive for deposit to the credit of
18 the special revenue funds - other, HCRA transfer fund, long term care
19 insurance resource center account of the state office for the aging or
20 any future account designated for the purpose of implementing the long
21 term care insurance education and outreach program and providing the
22 long term care insurance resource centers with the necessary resources
23 to carry out their operations;

24 (iii) up to five million dollars for the period January first, two
25 thousand six through December thirty-first, two thousand six; of such
26 funds one million nine hundred fifty thousand dollars shall be made
27 available to the department for the purpose of developing, implementing
28 and administering the long-term care insurance education and outreach
29 program and three million fifty thousand dollars shall be made available
30 to the office for the aging for the purpose of providing the long term
31 care insurance resource centers with the necessary resources to carry
32 out their operations;

33 (iv) up to five million dollars for the period January first, two
34 thousand seven through December thirty-first, two thousand seven; of
35 such funds one million nine hundred fifty thousand dollars shall be made
36 available to the department for the purpose of developing, implementing
37 and administering the long-term care insurance education and outreach
38 program and three million fifty thousand dollars shall be made available
39 to the office for the aging for the purpose of providing the long term
40 care insurance resource centers with the necessary resources to carry
41 out their operations;

42 (v) up to five million dollars for the period January first, two thou-
43 sand eight through December thirty-first, two thousand eight; of such
44 funds one million nine hundred fifty thousand dollars shall be made
45 available to the department for the purpose of developing, implementing
46 and administering the long term care insurance education and outreach
47 program and three million fifty thousand dollars shall be made available
48 to the office for the aging for the purpose of providing the long term
49 care insurance resource centers with the necessary resources to carry
50 out their operations;

51 (vi) up to five million dollars for the period January first, two
52 thousand nine through December thirty-first, two thousand nine; of such
53 funds one million nine hundred fifty thousand dollars shall be made
54 available to the department for the purpose of developing, implementing
55 and administering the long-term care insurance education and outreach
56 program and three million fifty thousand dollars shall be made available

1 to the office for the aging for the purpose of providing the long-term
2 care insurance resource centers with the necessary resources to carry
3 out their operations;

4 (vii) up to four hundred eighty-eight thousand dollars for the period
5 January first, two thousand ten through March thirty-first, two thousand
6 ten; of such funds four hundred eighty-eight thousand dollars shall be
7 made available to the department for the purpose of developing, imple-
8 menting and administering the long-term care insurance education and
9 outreach program.

10 (rr) Funds shall be reserved and accumulated from the tobacco control
11 and insurance initiatives pool and shall be available, including income
12 from invested funds, for the purpose of supporting expenses related to
13 implementation of the provisions of title three of article twenty-nine-D
14 of this chapter, for the following periods and in the following amounts:

15 (i) up to ten million dollars for the period January first, two thou-
16 sand six through December thirty-first, two thousand six;

17 (ii) up to ten million dollars for the period January first, two thou-
18 sand seven through December thirty-first, two thousand seven;

19 (iii) up to ten million dollars for the period January first, two
20 thousand eight through December thirty-first, two thousand eight;

21 (iv) up to ten million dollars for the period January first, two thou-
22 sand nine through December thirty-first, two thousand nine;

23 (v) up to ten million dollars for the period January first, two thou-
24 sand ten through December thirty-first, two thousand ten; and

25 (vi) up to two million five hundred thousand dollars for the period
26 January first, two thousand eleven through March thirty-first, two thou-
27 sand eleven.

28 (ss) Funds shall be reserved and accumulated from the tobacco control
29 and insurance initiatives pool and used for a health care stabilization
30 program established by the commissioner for the purposes of stabilizing
31 critical health care providers and health care programs whose ability to
32 continue to provide appropriate services are threatened by financial or
33 other challenges, in the amount of up to twenty-eight million dollars
34 for the period July first, two thousand four through June thirtieth, two
35 thousand five. Notwithstanding the provisions of section one hundred
36 twelve of the state finance law or any other inconsistent provision of
37 the state finance law or any other law, funds available for distribution
38 pursuant to this paragraph may be allocated and distributed by the
39 commissioner, or the state comptroller as applicable without a compet-
40 itive bid or request for proposal process. Considerations relied upon by
41 the commissioner in determining the allocation and distribution of these
42 funds shall include, but not be limited to, the following: (i) the
43 importance of the provider or program in meeting critical health care
44 needs in the community in which it operates; (ii) the provider or
45 program provision of care to under-served populations; (iii) the quality
46 of the care or services the provider or program delivers; (iv) the abil-
47 ity of the provider or program to continue to deliver an appropriate
48 level of care or services if additional funding is made available; (v)
49 the ability of the provider or program to access, in a timely manner,
50 alternative sources of funding, including other sources of government
51 funding; (vi) the ability of other providers or programs in the communi-
52 ty to meet the community health care needs; (vii) whether the provider
53 or program has an appropriate plan to improve its financial condition;
54 and (viii) whether additional funding would permit the provider or
55 program to consolidate, relocate, or close programs or services where

1 such actions would result in greater stability and efficiency in the
2 delivery of needed health care services or programs.

3 (tt) Funds shall be reserved and accumulated from year to year and
4 shall be available, including income from invested funds, for purposes
5 of providing grants for two long term care demonstration projects
6 designed to test new models for the delivery of long term care services
7 established pursuant to section twenty-eight hundred seven-x of this
8 chapter, for the following periods and in the following amounts:

9 (i) up to five hundred thousand dollars for the period January first,
10 two thousand four through December thirty-first, two thousand four;

11 (ii) up to five hundred thousand dollars for the period January first,
12 two thousand five through December thirty-first, two thousand five;

13 (iii) up to five hundred thousand dollars for the period January
14 first, two thousand six through December thirty-first, two thousand six;

15 (iv) up to one million dollars for the period January first, two thou-
16 sand seven through December thirty-first, two thousand seven; and

17 (v) up to two hundred fifty thousand dollars for the period January
18 first, two thousand eight through March thirty-first, two thousand
19 eight.

20 (uu) Funds shall be reserved and accumulated from year to year and
21 shall be available, including income from invested funds, for the
22 purpose of supporting disease management and telemedicine demonstration
23 programs authorized pursuant to section twenty-one hundred eleven of
24 this chapter for the following periods in the following amounts:

25 (i) five million dollars for the period January first, two thousand
26 four through December thirty-first, two thousand four, of which three
27 million dollars shall be available for disease management demonstration
28 programs and two million dollars shall be available for telemedicine
29 demonstration programs;

30 (ii) five million dollars for the period January first, two thousand
31 five through December thirty-first, two thousand five, of which three
32 million dollars shall be available for disease management demonstration
33 programs and two million dollars shall be available for telemedicine
34 demonstration programs;

35 (iii) nine million five hundred thousand dollars for the period Janu-
36 ary first, two thousand six through December thirty-first, two thousand
37 six, of which seven million five hundred thousand dollars shall be
38 available for disease management demonstration programs and two million
39 dollars shall be available for telemedicine demonstration programs;

40 (iv) nine million five hundred thousand dollars for the period January
41 first, two thousand seven through December thirty-first, two thousand
42 seven, of which seven million five hundred thousand dollars shall be
43 available for disease management demonstration programs and one million
44 dollars shall be available for telemedicine demonstration programs;

45 (v) nine million five hundred thousand dollars for the period January
46 first, two thousand eight through December thirty-first, two thousand
47 eight, of which seven million five hundred thousand dollars shall be
48 available for disease management demonstration programs and two million
49 dollars shall be available for telemedicine demonstration programs;

50 (vi) seven million eight hundred thirty-three thousand three hundred
51 thirty-three dollars for the period January first, two thousand nine
52 through December thirty-first, two thousand nine, of which seven million
53 five hundred thousand dollars shall be available for disease management
54 demonstration programs and three hundred thirty-three thousand three
55 hundred thirty-three dollars shall be available for telemedicine demon-

1 stration programs for the period January first, two thousand nine
2 through March first, two thousand nine;

3 (vii) one million eight hundred seventy-five thousand dollars for the
4 period January first, two thousand ten through March thirty-first, two
5 thousand ten shall be available for disease management demonstration
6 programs.

7 (ww) Funds shall be deposited by the commissioner, within amounts
8 appropriated, and the state comptroller is hereby authorized and
9 directed to receive for the deposit to the credit of the state special
10 revenue funds - other, HCRA transfer fund, medical assistance account,
11 or any successor fund or account, for purposes of funding the state
12 share of the general hospital rates increases for recruitment and
13 retention of health care workers pursuant to paragraph (e) of subdivi-
14 sion thirty of section twenty-eight hundred seven-c of this article from
15 the tobacco control and insurance initiatives pool established for the
16 following periods in the following amounts:

17 (i) sixty million five hundred thousand dollars for the period January
18 first, two thousand five through December thirty-first, two thousand
19 five; and

20 (ii) sixty million five hundred thousand dollars for the period Janu-
21 ary first, two thousand six through December thirty-first, two thousand
22 six.

23 (xx) Funds shall be deposited by the commissioner, within amounts
24 appropriated, and the state comptroller is hereby authorized and
25 directed to receive for the deposit to the credit of the state special
26 revenue funds - other, HCRA transfer fund, medical assistance account,
27 or any successor fund or account, for purposes of funding the state
28 share of the general hospital rates increases for rural hospitals pursu-
29 ant to subdivision thirty-two of section twenty-eight hundred seven-c of
30 this article from the tobacco control and insurance initiatives pool
31 established for the following periods in the following amounts:

32 (i) three million five hundred thousand dollars for the period January
33 first, two thousand five through December thirty-first, two thousand
34 five;

35 (ii) three million five hundred thousand dollars for the period Janu-
36 ary first, two thousand six through December thirty-first, two thousand
37 six;

38 (iii) three million five hundred thousand dollars for the period Janu-
39 ary first, two thousand seven through December thirty-first, two thou-
40 sand seven;

41 (iv) three million five hundred thousand dollars for the period Janu-
42 ary first, two thousand eight through December thirty-first, two thou-
43 sand eight; and

44 (v) three million two hundred eight thousand dollars for the period
45 January first, two thousand nine through November thirtieth, two thou-
46 sand nine.

47 (yy) Funds shall be reserved and accumulated from year to year and
48 shall be available, within amounts appropriated and notwithstanding
49 section one hundred twelve of the state finance law and any other
50 contrary provision of law, for the purpose of supporting grants not to
51 exceed five million dollars to be made by the commissioner without a
52 competitive bid or request for proposal process, in support of the
53 delivery of critically needed health care services, to health care
54 providers located in the counties of Erie and Niagara which executed a
55 memorandum of closing and conducted a merger closing in escrow on Novem-
56 ber twenty-fourth, nineteen hundred ninety-seven and which entered into

1 a settlement dated December thirtieth, two thousand four for a loss on
2 disposal of assets under the provisions of title XVIII of the federal
3 social security act applicable to mergers occurring prior to December
4 first, nineteen hundred ninety-seven.

5 (zz) Funds shall be reserved and accumulated from year to year and
6 shall be available, within amounts appropriated, for the purpose of
7 supporting expenditures authorized pursuant to section twenty-eight
8 hundred eighteen of this article from the tobacco control and insurance
9 initiatives pool established for the following periods in the following
10 amounts:

11 (i) six million five hundred thousand dollars for the period January
12 first, two thousand five through December thirty-first, two thousand
13 five;

14 (ii) one hundred eight million three hundred thousand dollars for the
15 period January first, two thousand six through December thirty-first,
16 two thousand six, provided, however, that within amounts appropriated in
17 the two thousand six through two thousand seven state fiscal year, a
18 portion of such funds may be transferred to the Roswell Park Cancer
19 Institute Corporation to fund capital costs;

20 (iii) one hundred seventy-one million dollars for the period January
21 first, two thousand seven through December thirty-first, two thousand
22 seven, provided, however, that within amounts appropriated in the two
23 thousand six through two thousand seven state fiscal year, a portion of
24 such funds may be transferred to the Roswell Park Cancer Institute
25 Corporation to fund capital costs;

26 (iv) one hundred seventy-one million five hundred thousand dollars for
27 the period January first, two thousand eight through December thirty-
28 first, two thousand eight;

29 (v) one hundred twenty-eight million seven hundred fifty thousand
30 dollars for the period January first, two thousand nine through December
31 thirty-first, two thousand nine;

32 (vi) one hundred thirty-one million three hundred seventy-five thou-
33 sand dollars for the period January first, two thousand ten through
34 December thirty-first, two thousand ten;

35 (vii) thirty-four million two hundred fifty thousand dollars for the
36 period January first, two thousand eleven through March thirty-first,
37 two thousand eleven;

38 (viii) four hundred thirty-three million three hundred sixty-six thou-
39 sand dollars for the period April first, two thousand eleven through
40 March thirty-first, two thousand twelve;

41 (ix) one hundred fifty million eight hundred six thousand dollars for
42 the period April first, two thousand twelve through March thirty-first,
43 two thousand thirteen;

44 (x) seventy-eight million seventy-one thousand dollars for the period
45 April first, two thousand thirteen through March thirty-first, two thou-
46 sand fourteen.

47 (aaa) Funds shall be reserved and accumulated from year to year and
48 shall be available, including income from invested funds, for services
49 and expenses related to school based health centers, in an amount up to
50 three million five hundred thousand dollars for the period April first,
51 two thousand six through March thirty-first, two thousand seven, up to
52 three million five hundred thousand dollars for the period April first,
53 two thousand seven through March thirty-first, two thousand eight, up to
54 three million five hundred thousand dollars for the period April first,
55 two thousand eight through March thirty-first, two thousand nine, up to
56 three million five hundred thousand dollars for the period April first,

1 two thousand nine through March thirty-first, two thousand ten, up to
2 three million five hundred thousand dollars for the period April first,
3 two thousand ten through March thirty-first, two thousand eleven, up to
4 two million eight hundred thousand dollars each state fiscal year for
5 the period April first, two thousand eleven through March thirty-first,
6 two thousand fourteen, up to two million six hundred forty-four thousand
7 dollars each state fiscal year for the period April first, two thousand
8 fourteen through March thirty-first, two thousand seventeen, up to two
9 million six hundred forty-four thousand dollars each state fiscal year
10 for the period April first, two thousand seventeen through March thirty-
11 ty-first, two thousand twenty, [and] up to two million six hundred
12 forty-four thousand dollars each state fiscal year for the period April
13 first, two thousand twenty through March thirty-first, two thousand
14 twenty-three, and up to two million six hundred forty-four thousand
15 dollars each state fiscal year for the period April first, two thousand
16 twenty-three through March thirty-first, two thousand twenty-six. The
17 total amount of funds provided herein shall be distributed as grants
18 based on the ratio of each provider's total enrollment for all sites to
19 the total enrollment of all providers. This formula shall be applied to
20 the total amount provided herein.

21 (bbb) Funds shall be reserved and accumulated from year to year and
22 shall be available, including income from invested funds, for purposes
23 of awarding grants to operators of adult homes, enriched housing
24 programs and residences through the enhancing abilities and life experi-
25 ence (EnAbLe) program to provide for the installation, operation and
26 maintenance of air conditioning in resident rooms, consistent with this
27 paragraph, in an amount up to two million dollars for the period April
28 first, two thousand six through March thirty-first, two thousand seven,
29 up to three million eight hundred thousand dollars for the period April
30 first, two thousand seven through March thirty-first, two thousand
31 eight, up to three million eight hundred thousand dollars for the period
32 April first, two thousand eight through March thirty-first, two thousand
33 nine, up to three million eight hundred thousand dollars for the period
34 April first, two thousand nine through March thirty-first, two thousand
35 ten, and up to three million eight hundred thousand dollars for the
36 period April first, two thousand ten through March thirty-first, two
37 thousand eleven. Residents shall not be charged utility cost for the use
38 of air conditioners supplied under the EnAbLe program. All such air
39 conditioners must be operated in occupied resident rooms consistent with
40 requirements applicable to common areas.

41 (ccc) Funds shall be deposited by the commissioner, within amounts
42 appropriated, and the state comptroller is hereby authorized and
43 directed to receive for the deposit to the credit of the state special
44 revenue funds - other, HCRA transfer fund, medical assistance account,
45 or any successor fund or account, for purposes of funding the state
46 share of increases in the rates for certified home health agencies, long
47 term home health care programs, AIDS home care programs, hospice
48 programs and managed long term care plans and approved managed long term
49 care operating demonstrations as defined in section forty-four hundred
50 three-f of this chapter for recruitment and retention of health care
51 workers pursuant to subdivisions nine and ten of section thirty-six
52 hundred fourteen of this chapter from the tobacco control and insurance
53 initiatives pool established for the following periods in the following
54 amounts:

55 (i) twenty-five million dollars for the period June first, two thou-
56 sand six through December thirty-first, two thousand six;

1 (ii) fifty million dollars for the period January first, two thousand
2 seven through December thirty-first, two thousand seven;

3 (iii) fifty million dollars for the period January first, two thousand
4 eight through December thirty-first, two thousand eight;

5 (iv) fifty million dollars for the period January first, two thousand
6 nine through December thirty-first, two thousand nine;

7 (v) fifty million dollars for the period January first, two thousand
8 ten through December thirty-first, two thousand ten;

9 (vi) twelve million five hundred thousand dollars for the period Janu-
10 ary first, two thousand eleven through March thirty-first, two thousand
11 eleven;

12 (vii) up to fifty million dollars each state fiscal year for the peri-
13 od April first, two thousand eleven through March thirty-first, two
14 thousand fourteen;

15 (viii) up to fifty million dollars each state fiscal year for the
16 period April first, two thousand fourteen through March thirty-first,
17 two thousand seventeen;

18 (ix) up to fifty million dollars each state fiscal year for the period
19 April first, two thousand seventeen through March thirty-first, two
20 thousand twenty; [and]

21 (x) up to fifty million dollars each state fiscal year for the period
22 April first, two thousand twenty through March thirty-first, two thou-
23 sand twenty-three; and

24 (xi) up to fifty million dollars each state fiscal year for the period
25 April first, two thousand twenty-three through March thirty-first, two
26 thousand twenty-six.

27 (ddd) Funds shall be deposited by the commissioner, within amounts
28 appropriated, and the state comptroller is hereby authorized and
29 directed to receive for the deposit to the credit of the state special
30 revenue funds - other, HCRA transfer fund, medical assistance account,
31 or any successor fund or account, for purposes of funding the state
32 share of increases in the medical assistance rates for providers for
33 purposes of enhancing the provision, quality and/or efficiency of home
34 care services pursuant to subdivision eleven of section thirty-six
35 hundred fourteen of this chapter from the tobacco control and insurance
36 initiatives pool established for the following period in the amount of
37 eight million dollars for the period April first, two thousand six
38 through December thirty-first, two thousand six.

39 (eee) Funds shall be reserved and accumulated from year to year and
40 shall be available, including income from invested funds, to the Center
41 for Functional Genomics at the State University of New York at Albany,
42 for the purposes of the Adirondack network for cancer education and
43 research in rural communities grant program to improve access to health
44 care and shall be made available from the tobacco control and insurance
45 initiatives pool established for the following period in the amount of
46 up to five million dollars for the period January first, two thousand
47 six through December thirty-first, two thousand six.

48 (fff) Funds shall be made available to the empire state stem cell
49 trust fund established by section ninety-nine-p of the state finance law
50 within amounts appropriated up to fifty million dollars annually and
51 shall not exceed five hundred million dollars in total.

52 (ggg) Funds shall be deposited by the commissioner, within amounts
53 appropriated, and the state comptroller is hereby authorized and
54 directed to receive for deposit to the credit of the state special
55 revenue fund - other, HCRA transfer fund, medical assistance account, or
56 any successor fund or account, for the purpose of supporting the state

1 share of Medicaid expenditures for hospital translation services as
2 authorized pursuant to paragraph (k) of subdivision one of section twen-
3 ty-eight hundred seven-c of this article from the tobacco control and
4 initiatives pool established for the following periods in the following
5 amounts:

6 (i) sixteen million dollars for the period July first, two thousand
7 eight through December thirty-first, two thousand eight; and

8 (ii) fourteen million seven hundred thousand dollars for the period
9 January first, two thousand nine through November thirtieth, two thou-
10 sand nine.

11 (hhh) Funds shall be deposited by the commissioner, within amounts
12 appropriated, and the state comptroller is hereby authorized and
13 directed to receive for deposit to the credit of the state special
14 revenue fund - other, HCRA transfer fund, medical assistance account, or
15 any successor fund or account, for the purpose of supporting the state
16 share of Medicaid expenditures for adjustments to inpatient rates of
17 payment for general hospitals located in the counties of Nassau and
18 Suffolk as authorized pursuant to paragraph (l) of subdivision one of
19 section twenty-eight hundred seven-c of this article from the tobacco
20 control and initiatives pool established for the following periods in
21 the following amounts:

22 (i) two million five hundred thousand dollars for the period April
23 first, two thousand eight through December thirty-first, two thousand
24 eight; and

25 (ii) two million two hundred ninety-two thousand dollars for the peri-
26 od January first, two thousand nine through November thirtieth, two
27 thousand nine.

28 (iii) Funds shall be reserved and set aside and accumulated from year
29 to year and shall be made available, including income from investment
30 funds, for the purpose of supporting the New York state medical indem-
31 nity fund as authorized pursuant to title four of article twenty-nine-D
32 of this chapter, for the following periods and in the following amounts,
33 provided, however, that the commissioner is authorized to seek waiver
34 authority from the federal centers for medicare and Medicaid for the
35 purpose of securing Medicaid federal financial participation for such
36 program, in which case the funding authorized pursuant to this paragraph
37 shall be utilized as the non-federal share for such payments:

38 Thirty million dollars for the period April first, two thousand eleven
39 through March thirty-first, two thousand twelve.

40 2. (a) For periods prior to January first, two thousand five, the
41 commissioner is authorized to contract with the article forty-three
42 insurance law plans, or such other contractors as the commissioner shall
43 designate, to receive and distribute funds from the tobacco control and
44 insurance initiatives pool established pursuant to this section. In the
45 event contracts with the article forty-three insurance law plans or
46 other commissioner's designees are effectuated, the commissioner shall
47 conduct annual audits of the receipt and distribution of such funds. The
48 reasonable costs and expenses of an administrator as approved by the
49 commissioner, not to exceed for personnel services on an annual basis
50 five hundred thousand dollars, for collection and distribution of funds
51 pursuant to this section shall be paid from such funds.

52 (b) Notwithstanding any inconsistent provision of section one hundred
53 twelve or one hundred sixty-three of the state finance law or any other
54 law, at the discretion of the commissioner without a competitive bid or
55 request for proposal process, contracts in effect for administration of
56 pools established pursuant to sections twenty-eight hundred seven-k,

1 twenty-eight hundred seven-l and twenty-eight hundred seven-m of this
2 article for the period January first, nineteen hundred ninety-nine
3 through December thirty-first, nineteen hundred ninety-nine may be
4 extended to provide for administration pursuant to this section and may
5 be amended as may be necessary.

6 § 13. Paragraph (a) of subdivision 12 of section 367-b of the social
7 services law, as amended by section 15 of part Y of chapter 56 of the
8 laws of 2020, is amended to read as follows:

9 (a) For the purpose of regulating cash flow for general hospitals, the
10 department shall develop and implement a payment methodology to provide
11 for timely payments for inpatient hospital services eligible for case
12 based payments per discharge based on diagnosis-related groups provided
13 during the period January first, nineteen hundred eighty-eight through
14 March thirty-first two thousand ~~[twenty-three]~~ twenty-six, by such
15 hospitals which elect to participate in the system.

16 § 14. Paragraph (r) of subdivision 9 of section 3614 of the public
17 health law, as added by section 16 of part Y of chapter 56 of the laws
18 of 2020, is amended and three new paragraphs (s), (t) and (u) are added
19 to read as follows:

20 (r) for the period April first, two thousand twenty-two through March
21 thirty-first, two thousand twenty-three, up to one hundred million
22 dollars[-];

23 (s) for the period April first, two thousand twenty-three through
24 March thirty-first, two thousand twenty-four, up to one hundred million
25 dollars;

26 (t) for the period April first, two thousand twenty-four through March
27 thirty-first, two thousand twenty-five, up to one hundred million
28 dollars;

29 (u) for the period April first, two thousand twenty-five through March
30 thirty-first, two thousand twenty-six, up to one hundred million
31 dollars.

32 § 15. Paragraph (v) of subdivision 1 of section 367-q of the social
33 services law, as added by section 17 of part Y of chapter 56 of the laws
34 of 2020, is amended and three new paragraphs (w), (x) and (y) are added
35 to read as follows:

36 (v) for the period April first, two thousand twenty-two through March
37 thirty-first, two thousand twenty-three, up to twenty-eight million five
38 hundred thousand dollars[-];

39 (w) for the period April first, two thousand twenty-three through
40 March thirty-first, two thousand twenty-four, up to twenty-eight million
41 five hundred thousand dollars;

42 (x) for the period April first, two thousand twenty-four through March
43 thirty-first, two thousand twenty-five, up to twenty-eight million five
44 hundred thousand dollars;

45 (y) for the period April first, two thousand twenty-five through March
46 thirty-first, two thousand twenty-six, up to twenty-eight million five
47 hundred thousand dollars.

48 § 16. This act shall take effect April 1, 2023; provided, however, if
49 this act shall become a law after such date it shall take effect imme-
50 diately and shall be deemed to have been in full force and effect on and
51 after April 1, 2023; and further provided, that:

52 (a) the amendments to sections 2807-j and 2807-s of the public health
53 law made by sections two, eight, nine, and ten of this act shall not
54 affect the expiration of such sections and shall expire therewith;

(b) the amendments to subdivision 6 of section 2807-t of the public health law made by section eleven of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and
(c) the amendments to paragraph (i-1) of subdivision 1 of section 2807-v of the public health law made by section twelve of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith.

PART D

Section 1. Paragraph (a) of subdivision 4 of section 365-a of the social services law, as amended by chapter 493 of the laws of 2010, is amended to read as follows:

(a) drugs which may be dispensed without a prescription as required by section sixty-eight hundred ten of the education law; provided, however, that the state commissioner of health may by regulation specify certain of such drugs which may be reimbursed as an item of medical assistance in accordance with the price schedule established by such commissioner. Notwithstanding any other provision of law, ~~additions~~ modifications to the list of drugs reimbursable under this paragraph may be filed as regulations by the commissioner of health without prior notice and comment;

§ 2. Paragraph (b) of subdivision 3 of section 273 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

(b) In the event that the patient does not meet the criteria in paragraph (a) of this subdivision, the prescriber may provide additional information to the program to justify the use of a prescription drug that is not on the preferred drug list. The program shall provide a reasonable opportunity for a prescriber to reasonably present his or her justification of prior authorization. ~~[If, after consultation with the program, the prescriber, in his or her reasonable professional judgment, determines that]~~ The program will consider the additional information and the justification presented to determine whether the use of a prescription drug that is not on the preferred drug list is warranted, and the ~~[prescriber's]~~ program's determination shall be final.

§ 3. Subdivisions 25 and 25-a of section 364-j of the social services law are REPEALED.

§ 4. This act shall take effect October 1, 2023; provided that sections two and three of this act shall take effect April 1, 2024.

PART E

Section 1. Subdivision 5-d of section 2807-k of the public health law, as amended by section 3 of part KK of chapter 56 of the laws of 2020, is amended to read as follows:

5-d. (a) Notwithstanding any inconsistent provision of this section, section twenty-eight hundred seven-w of this article or any other contrary provision of law, and subject to the availability of federal financial participation, for periods on and after January first, two thousand twenty, through March thirty-first, two thousand ~~[twenty-three]~~ twenty-six, all funds available for distribution pursuant to this section, except for funds distributed pursuant to ~~[subparagraph (v) of]~~ paragraph (b) of subdivision five-b of this section, and all funds available for distribution pursuant to section twenty-eight hundred

seven-w of this article, shall be reserved and set aside and distributed in accordance with the provisions of this subdivision.

(b) The commissioner shall promulgate regulations, and may promulgate emergency regulations, establishing methodologies for the distribution of funds as described in paragraph (a) of this subdivision and such regulations shall include, but not be limited to, the following:

(i) Such regulations shall establish methodologies for determining each facility's relative uncompensated care need amount based on uninsured inpatient and outpatient units of service from the cost reporting year two years prior to the distribution year, multiplied by the applicable medicaid rates in effect January first of the distribution year, as summed and adjusted by a statewide cost adjustment factor and reduced by the sum of all payment amounts collected from such uninsured patients, and as further adjusted by application of a nominal need computation that shall take into account each facility's medicaid inpatient share.

(ii) Annual distributions pursuant to such regulations for the two thousand twenty through two thousand ~~twenty-two~~ twenty-five calendar years shall be in accord with the following:

(A) one hundred thirty-nine million four hundred thousand dollars shall be distributed as Medicaid Disproportionate Share Hospital ("DSH") payments to major public general hospitals; and

(B) nine hundred sixty-nine million nine hundred thousand dollars as Medicaid DSH payments to eligible general hospitals, other than major public general hospitals.

For the calendar years two thousand twenty through two thousand twenty-two, the total distributions to eligible general hospitals, other than major public general hospitals, shall be subject to an aggregate reduction of one hundred fifty million dollars annually, provided that eligible general hospitals, other than major public general hospitals, that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article shall not be subject to such reduction.

For the calendar years two thousand twenty-three through two thousand twenty-five, the total distributions to eligible general hospitals, other than major public general hospitals, shall be subject to an aggregate reduction of two hundred thirty-five million four hundred thousand dollars annually, provided that eligible general hospitals, other than major public general hospitals that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article as of April first, two thousand twenty, shall not be subject to such reduction.

Such ~~reduction~~ reductions shall be determined by a methodology to be established by the commissioner. Such ~~methodology~~ methodologies may take into account the payor mix of each non-public general hospital, including the percentage of inpatient days paid by Medicaid.

(iii) For calendar years two thousand twenty through two thousand ~~twenty-two~~ twenty-five, sixty-four million six hundred thousand dollars shall be distributed to eligible general hospitals, other than major public general hospitals, that experience a reduction in indigent care pool payments pursuant to this subdivision, and that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article as of April first, two thousand twenty. Such distribution shall be established pursuant to regulations promulgated by the commissioner and shall be proportional to the reduction experienced by the facility.

(iv) Such regulations shall reserve one percent of the funds available for distribution in the two thousand fourteen and two thousand fifteen calendar years, and for calendar years thereafter, pursuant to this subdivision, subdivision fourteen-f of section twenty-eight hundred seven-c of this article, and sections two hundred eleven and two hundred twelve of chapter four hundred seventy-four of the laws of nineteen hundred ninety-six, in a "financial assistance compliance pool" and shall establish methodologies for the distribution of such pool funds to facilities based on their level of compliance, as determined by the commissioner, with the provisions of subdivision nine-a of this section.

(c) The commissioner shall annually report to the governor and the legislature on the distribution of funds under this subdivision including, but not limited to:

(i) the impact on safety net providers, including community providers, rural general hospitals and major public general hospitals;

(ii) the provision of indigent care by units of services and funds distributed by general hospitals; and

(iii) the extent to which access to care has been enhanced.

§ 2. Subdivision 1 of section 2801 of the public health law, as amended by section 1 of part Z of chapter 57 of the laws of 2019, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, a rural emergency hospital under 42 USC 1395x(kkk), or successor provisions, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings. No provision of this article or any other provision of law shall be construed to: (a) limit the volume of mental health, substance use disorder services or developmental disability services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health, the commissioner of the office of alcoholism and substance abuse services and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-

1 five-l of the social services law or part L of chapter fifty-six of the
2 laws of two thousand twelve; (b) require a provider licensed pursuant to
3 article thirty-one of the mental hygiene law or certified pursuant to
4 article sixteen or article thirty-two of the mental hygiene law to
5 obtain an operating certificate from the department if such provider has
6 been authorized to provide integrated services in accordance with regu-
7 lations issued by the commissioner in consultation with the commissioner
8 of the office of mental health, the commissioner of the office of alco-
9 holism and substance abuse services and the commissioner of the office
10 for people with developmental disabilities, including regulations issued
11 pursuant to subdivision seven of section three hundred sixty-five-l of
12 the social services law or part L of chapter fifty-six of the laws of
13 two thousand twelve.

14 § 3. Section 2801-g of the public health law is amended by adding a
15 new subdivision 4 to read as follows:

16 4. At least thirty days prior to a general hospital applying to the
17 federal centers for medicare and medicaid services to convert from a
18 general hospital with inpatients to a rural emergency hospital under 42
19 USC 1395x(kkk), or successor provisions, such hospital shall hold a
20 public community forum for the purpose of obtaining public input
21 concerning the anticipated impact of the hospital's closure of inpatient
22 units, including but not limited to, the impact on recipients of medical
23 assistance for needy persons, the uninsured, and medically underserved
24 populations, and options and proposals to ameliorate such anticipated
25 impact. The hospital shall afford all public participants a reasonable
26 opportunity to speak about relevant matters at such community forum.
27 Prior to any community forum and as soon as practicable, the hospital
28 shall be required to:

29 (a) notify the office of mental health and the local director of
30 community services in the event such general hospital has psychiatric
31 inpatient beds licensed under article thirty-one of the mental hygiene
32 law or designated pursuant to section 9.39 of the mental hygiene law,
33 and

34 (b) notify the office of addiction services and supports in the event
35 such general hospital has inpatient substance use disorder treatment
36 programs or inpatient chemical dependence treatment programs licensed
37 under article thirty-two of the mental hygiene law.

38 § 4. The opening paragraph of subdivision (g) of section 2826 of the
39 public health law, as amended by section 3 of part M of chapter 57 of
40 the laws of 2022, is amended to read as follows:

41 Notwithstanding subdivision (a) of this section, and within amounts
42 appropriated for such purposes as described herein, [~~for the period of~~
43 ~~April first, two thousand twenty-two through March thirty-first, two~~
44 ~~thousand twenty-three,~~] the commissioner may award a temporary adjust-
45 ment to the non-capital components of rates, or make temporary lump-sum
46 Medicaid payments to eligible facilities in severe financial distress to
47 enable such facilities to maintain operations and vital services while
48 such facilities establish long term solutions to achieve sustainable
49 health services. Provided, however, the commissioner is authorized to
50 make such a temporary adjustment or make such temporary lump sum payment
51 only pursuant to criteria, an application, and an evaluation process[~~7~~
52 ~~and transformation plan~~] acceptable to the commissioner in consultation
53 with the director of the division of the budget. The department shall
54 publish on its website the criteria, application, and evaluation process
55 [~~and guidance for transformation plans~~] and notification of any award
56 recipients.

§ 5. Subparagraph (F) of paragraph (i) of subdivision (g) of section 2826 of the public health law, as added by section 3 of part M of chapter 57 of the laws of 2022, is amended to read as follows:

(F) an independent practice association or accountable care organization authorized under applicable regulations that participate in managed care provider network arrangements with any of the provider types in subparagraphs (A) through (F) of this paragraph; or an entity that was formed as a preferred provider system pursuant to the delivery system reform incentive payment (DSRIP) program and collaborated with an independent practice association that received VBP innovator status from the department for purposes of meeting DSRIP goals, and which preferred provider system remains operational as an integrated care system.

§ 6. The opening paragraph of paragraph (ii) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, is amended to read as follows:

Eligible applicants must demonstrate that without such award, they will be in severe financial distress [~~through March thirty-first, two thousand sixteen~~], as evidenced by:

§ 7. Subparagraph (A), the opening paragraph of subparagraph (E) and subparagraph (F) of paragraph (iii) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, are amended to read as follows:

(A) [~~Applications under this subdivision~~] Eligible applicants shall [~~include a multi-year transformation plan that is aligned with the delivery system reform incentive payment ("DSRIP") program goals and objectives. Such plan shall be approved by~~] submit a completed application to the department [~~and shall demonstrate a path towards long term sustainability and improved patient care~~].

The department shall review all applications under this subdivision, and [~~a~~] determine:

(F) After review of all applications under this subdivision, and a determination of the aggregate amount of requested funds, the department [~~shall~~] may make awards to eligible applicants; provided, however, that such awards may be in an amount lower than such requested funding, on a per applicant or aggregate basis.

§ 8. Paragraph (v) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, is amended to read as follows:

(v) Payments made to awardees pursuant to this subdivision [~~shall be~~] that are made on a monthly basis[~~. Such payments~~] will be based on the applicant's actual monthly financial performance during such period and the reasonable cash amount necessary to sustain operations for the following month. The applicant's monthly financial performance shall be measured by such applicant's monthly financial and activity reports, which shall include, but not be limited to, actual revenue and expenses for the prior month, projected cash need for the current month, and projected cash need for the following month.

§ 9. Part I of chapter 57 of the laws of 2022 relating to providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, is amended by adding a new section 1-a to read as follows:

§ 1-a. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of hospital inpatient services shall be subject to a uniform rate increase of five percent in addition to the increase contained in section one of this act, subject to the

1 approval of the commissioner of health and the director of the budget.
2 Such rate increase shall be subject to federal financial participation.
3 § 10. This act shall take effect immediately; provided that sections
4 two and three of this act shall take effect on the sixtieth day after it
5 shall have become a law; provided, further, that sections one, four,
6 five, six, seven, eight, and nine of this act shall be deemed to have
7 been in full force and effect on and after April 1, 2023.

PART F

9 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
10 of the laws of 1986, amending the civil practice law and rules and other
11 laws relating to malpractice and professional medical conduct, as
12 amended by section 1 of part Z of chapter 57 of the laws of 2022, is
13 amended to read as follows:

14 (a) The superintendent of financial services and the commissioner of
15 health or their designee shall, from funds available in the hospital
16 excess liability pool created pursuant to subdivision 5 of this section,
17 purchase a policy or policies for excess insurance coverage, as author-
18 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
19 law; or from an insurer, other than an insurer described in section 5502
20 of the insurance law, duly authorized to write such coverage and actual-
21 ly writing medical malpractice insurance in this state; or shall
22 purchase equivalent excess coverage in a form previously approved by the
23 superintendent of financial services for purposes of providing equiv-
24 alent excess coverage in accordance with section 19 of chapter 294 of
25 the laws of 1985, for medical or dental malpractice occurrences between
26 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
27 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
28 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
29 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
30 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
31 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
32 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
33 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
34 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
35 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
36 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
37 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
38 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
39 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
40 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
41 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
42 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
43 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June
44 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019
45 and June 30, 2020, between July 1, 2020 and June 30, 2021, between July
46 1, 2021 and June 30, 2022, ~~[and]~~ between July 1, 2022 and June 30, 2023,
47 and between July 1, 2023 and June 30, 2024 or reimburse the hospital
48 where the hospital purchases equivalent excess coverage as defined in
49 subparagraph (i) of paragraph (a) of subdivision 1-a of this section for
50 medical or dental malpractice occurrences between July 1, 1987 and June
51 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
52 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
53 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
54 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June

1 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
2 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
3 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
4 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
5 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
6 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
7 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
8 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
9 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
10 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
11 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
12 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
13 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
14 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
15 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021,
16 between July 1, 2021 and June 30, 2022, [and] between July 1, 2022 and
17 June 30, 2023, and between July 1, 2023 and June 30, 2024 for physicians
18 or dentists certified as eligible for each such period or periods pursu-
19 ant to subdivision 2 of this section by a general hospital licensed
20 pursuant to article 28 of the public health law; provided that no single
21 insurer shall write more than fifty percent of the total excess premium
22 for a given policy year; and provided, however, that such eligible
23 physicians or dentists must have in force an individual policy, from an
24 insurer licensed in this state of primary malpractice insurance coverage
25 in amounts of no less than one million three hundred thousand dollars
26 for each claimant and three million nine hundred thousand dollars for
27 all claimants under that policy during the period of such excess cover-
28 age for such occurrences or be endorsed as additional insureds under a
29 hospital professional liability policy which is offered through a volun-
30 tary attending physician ("channeling") program previously permitted by
31 the superintendent of financial services during the period of such
32 excess coverage for such occurrences. During such period, such policy
33 for excess coverage or such equivalent excess coverage shall, when
34 combined with the physician's or dentist's primary malpractice insurance
35 coverage or coverage provided through a voluntary attending physician
36 ("channeling") program, total an aggregate level of two million three
37 hundred thousand dollars for each claimant and six million nine hundred
38 thousand dollars for all claimants from all such policies with respect
39 to occurrences in each of such years provided, however, if the cost of
40 primary malpractice insurance coverage in excess of one million dollars,
41 but below the excess medical malpractice insurance coverage provided
42 pursuant to this act, exceeds the rate of nine percent per annum, then
43 the required level of primary malpractice insurance coverage in excess
44 of one million dollars for each claimant shall be in an amount of not
45 less than the dollar amount of such coverage available at nine percent
46 per annum; the required level of such coverage for all claimants under
47 that policy shall be in an amount not less than three times the dollar
48 amount of coverage for each claimant; and excess coverage, when combined
49 with such primary malpractice insurance coverage, shall increase the
50 aggregate level for each claimant by one million dollars and three
51 million dollars for all claimants; and provided further, that, with
52 respect to policies of primary medical malpractice coverage that include
53 occurrences between April 1, 2002 and June 30, 2002, such requirement
54 that coverage be in amounts no less than one million three hundred thou-
55 sand dollars for each claimant and three million nine hundred thousand

dollars for all claimants for such occurrences shall be effective April 1, 2002.

§ 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 2 of part Z of chapter 57 of the laws of 2022, is amended to read as follows:

(3)(a) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021, between July 1, 2021 and June 30, 2022, ~~and~~ between July 1, 2022 and June 30, 2023, and between July 1, 2023 and June 30, 2024 allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary.

(b) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance or equivalent excess coverage for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017

1 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
2 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021,
3 between July 1, 2021 and June 30, 2022, [~~and~~] between July 1, 2022 and
4 June 30, 2023, and between July 1, 2023 and June 30, 2024 allocable to
5 each general hospital for physicians or dentists certified as eligible
6 for purchase of a policy for excess insurance coverage or equivalent
7 excess coverage by such general hospital in accordance with subdivision
8 2 of this section, and may amend such determination and certification as
9 necessary. The superintendent of financial services shall determine and
10 certify to each general hospital and to the commissioner of health the
11 ratable share of such cost allocable to the period July 1, 1987 to
12 December 31, 1987, to the period January 1, 1988 to June 30, 1988, to
13 the period July 1, 1988 to December 31, 1988, to the period January 1,
14 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989,
15 to the period January 1, 1990 to June 30, 1990, to the period July 1,
16 1990 to December 31, 1990, to the period January 1, 1991 to June 30,
17 1991, to the period July 1, 1991 to December 31, 1991, to the period
18 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
19 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
20 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
21 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
22 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
23 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
24 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
25 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
26 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
27 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period
28 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
29 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
30 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,
31 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
32 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
33 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
34 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
35 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
36 June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the
37 period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and
38 June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the
39 period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and
40 June 30, 2016, to the period July 1, 2016 and June 30, 2017, to the
41 period July 1, 2017 to June 30, 2018, to the period July 1, 2018 to June
42 30, 2019, to the period July 1, 2019 to June 30, 2020, to the period
43 July 1, 2020 to June 30, 2021, to the period July 1, 2021 to June 30,
44 2022, [~~and~~] to the period July 1, 2022 to June 30, 2023, and to the
45 period July 1, 2023 to June 30, 2024.

46 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
47 18 of chapter 266 of the laws of 1986, amending the civil practice law
48 and rules and other laws relating to malpractice and professional
49 medical conduct, as amended by section 3 of part Z of chapter 57 of the
50 laws of 2022, are amended to read as follows:

51 (a) To the extent funds available to the hospital excess liability
52 pool pursuant to subdivision 5 of this section as amended, and pursuant
53 to section 6 of part J of chapter 63 of the laws of 2001, as may from
54 time to time be amended, which amended this subdivision, are insuffi-
55 cient to meet the costs of excess insurance coverage or equivalent
56 excess coverage for coverage periods during the period July 1, 1992 to

1 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
2 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
3 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
4 during the period July 1, 1997 to June 30, 1998, during the period July
5 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
6 2000, during the period July 1, 2000 to June 30, 2001, during the period
7 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
8 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
9 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
10 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
11 during the period July 1, 2006 to June 30, 2007, during the period July
12 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
13 2009, during the period July 1, 2009 to June 30, 2010, during the period
14 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
15 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
16 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
17 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during
18 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017
19 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,
20 during the period July 1, 2019 to June 30, 2020, during the period July
21 1, 2020 to June 30, 2021, during the period July 1, 2021 to June 30,
22 2022, [and] during the period July 1, 2022 to June 30, 2023, and during
23 the period July 1, 2023 to June 30, 2024 allocated or reallocated in
24 accordance with paragraph (a) of subdivision 4-a of this section to
25 rates of payment applicable to state governmental agencies, each physi-
26 cian or dentist for whom a policy for excess insurance coverage or
27 equivalent excess coverage is purchased for such period shall be respon-
28 sible for payment to the provider of excess insurance coverage or equiv-
29 alent excess coverage of an allocable share of such insufficiency, based
30 on the ratio of the total cost of such coverage for such physician to
31 the sum of the total cost of such coverage for all physicians applied to
32 such insufficiency.

33 (b) Each provider of excess insurance coverage or equivalent excess
34 coverage covering the period July 1, 1992 to June 30, 1993, or covering
35 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
36 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
37 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
38 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
39 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
40 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
41 the period July 1, 2001 to October 29, 2001, or covering the period
42 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
43 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
44 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
45 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
46 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
47 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
48 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
49 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
50 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
51 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
52 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
53 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
54 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
55 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or
56 covering the period July 1, 2020 to June 30, 2021, or covering the peri-

od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30, 2023, or covering the period July 1, 2023 to June 30, 2024 shall notify a covered physician or dentist by mail, mailed to the address shown on the last application for excess insurance coverage or equivalent excess coverage, of the amount due to such provider from such physician or dentist for such coverage period determined in accordance with paragraph (a) of this subdivision. Such amount shall be due from such physician or dentist to such provider of excess insurance coverage or equivalent excess coverage in a time and manner determined by the superintendent of financial services.

(c) If a physician or dentist liable for payment of a portion of the costs of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or covering the period July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30, 2023, or covering the period July 1, 2023 to June 30, 2024 determined in accordance with paragraph (a) of this subdivision fails, refuses or neglects to make payment to the provider of excess insurance coverage or equivalent excess coverage in such time and manner as determined by the superintendent of financial services pursuant to paragraph (b) of this subdivision, excess insurance coverage or equivalent excess coverage purchased for such physician or dentist in accordance with this section for such coverage period shall be cancelled and shall be null and void as of the first day on or after the commencement of a policy period where the liability for payment pursuant to this subdivision has not been met.

(d) Each provider of excess insurance coverage or equivalent excess coverage shall notify the superintendent of financial services and the commissioner of health or their designee of each physician and dentist eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering

1 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
2 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
3 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
4 ing the period April 1, 2002 to June 30, 2002, or covering the period
5 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
6 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
7 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
8 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
9 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
10 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
11 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
12 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
13 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
14 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
15 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
16 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
17 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to
18 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or
19 covering the period July 1, 2021 to June 30, 2022, or covering the peri-
20 od July 1, 2022 to June [1] 30, 2023, or covering the period July 1,
21 2023 to June 30, 2024 that has made payment to such provider of excess
22 insurance coverage or equivalent excess coverage in accordance with
23 paragraph (b) of this subdivision and of each physician and dentist who
24 has failed, refused or neglected to make such payment.

25 (e) A provider of excess insurance coverage or equivalent excess
26 coverage shall refund to the hospital excess liability pool any amount
27 allocable to the period July 1, 1992 to June 30, 1993, and to the period
28 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
29 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
30 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
31 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
32 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
33 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
34 and to the period April 1, 2002 to June 30, 2002, and to the period July
35 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
36 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
37 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
38 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
39 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
40 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
41 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
42 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
43 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
44 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
45 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
46 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,
47 and to the period July 1, 2020 to June 30, 2021, and to the period July
48 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,
49 2023, and to the period July 1, 2023 to June 30, 2024 received from the
50 hospital excess liability pool for purchase of excess insurance coverage
51 or equivalent excess coverage covering the period July 1, 1992 to June
52 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and
53 covering the period July 1, 1994 to June 30, 1995, and covering the
54 period July 1, 1995 to June 30, 1996, and covering the period July 1,
55 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30,
56 1998, and covering the period July 1, 1998 to June 30, 1999, and cover-

1 ing the period July 1, 1999 to June 30, 2000, and covering the period
2 July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to
3 October 29, 2001, and covering the period April 1, 2002 to June 30,
4 2002, and covering the period July 1, 2002 to June 30, 2003, and cover-
5 ing the period July 1, 2003 to June 30, 2004, and covering the period
6 July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to
7 June 30, 2006, and covering the period July 1, 2006 to June 30, 2007,
8 and covering the period July 1, 2007 to June 30, 2008, and covering the
9 period July 1, 2008 to June 30, 2009, and covering the period July 1,
10 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30,
11 2011, and covering the period July 1, 2011 to June 30, 2012, and cover-
12 ing the period July 1, 2012 to June 30, 2013, and covering the period
13 July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to
14 June 30, 2015, and covering the period July 1, 2015 to June 30, 2016,
15 and covering the period July 1, 2016 to June 30, 2017, and covering the
16 period July 1, 2017 to June 30, 2018, and covering the period July 1,
17 2018 to June 30, 2019, and covering the period July 1, 2019 to June 30,
18 2020, and covering the period July 1, 2020 to June 30, 2021, and cover-
19 ing the period July 1, 2021 to June 30, 2022, and covering the period
20 July 1, 2022 to June 30, 2023 for, and covering the period July 1, 2023
21 to June 30, 2024 a physician or dentist where such excess insurance
22 coverage or equivalent excess coverage is cancelled in accordance with
23 paragraph (c) of this subdivision.

24 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
25 practice law and rules and other laws relating to malpractice and
26 professional medical conduct, as amended by section 4 of part Z of chap-
27 ter 57 of the laws of 2022, is amended to read as follows:

28 § 40. The superintendent of financial services shall establish rates
29 for policies providing coverage for physicians and surgeons medical
30 malpractice for the periods commencing July 1, 1985 and ending June 30,
31 ~~[2023]~~ 2024; provided, however, that notwithstanding any other provision
32 of law, the superintendent shall not establish or approve any increase
33 in rates for the period commencing July 1, 2009 and ending June 30,
34 2010. The superintendent shall direct insurers to establish segregated
35 accounts for premiums, payments, reserves and investment income attrib-
36 utable to such premium periods and shall require periodic reports by the
37 insurers regarding claims and expenses attributable to such periods to
38 monitor whether such accounts will be sufficient to meet incurred claims
39 and expenses. On or after July 1, 1989, the superintendent shall impose
40 a surcharge on premiums to satisfy a projected deficiency that is
41 attributable to the premium levels established pursuant to this section
42 for such periods; provided, however, that such annual surcharge shall
43 not exceed eight percent of the established rate until July 1, ~~[2023]~~
44 2024, at which time and thereafter such surcharge shall not exceed twen-
45 ty-five percent of the approved adequate rate, and that such annual
46 surcharges shall continue for such period of time as shall be sufficient
47 to satisfy such deficiency. The superintendent shall not impose such
48 surcharge during the period commencing July 1, 2009 and ending June 30,
49 2010. On and after July 1, 1989, the surcharge prescribed by this
50 section shall be retained by insurers to the extent that they insured
51 physicians and surgeons during the July 1, 1985 through June 30, ~~[2023]~~
52 2024 policy periods; in the event and to the extent physicians and
53 surgeons were insured by another insurer during such periods, all or a
54 pro rata share of the surcharge, as the case may be, shall be remitted
55 to such other insurer in accordance with rules and regulations to be
56 promulgated by the superintendent. Surcharges collected from physicians

1 and surgeons who were not insured during such policy periods shall be
2 apportioned among all insurers in proportion to the premium written by
3 each insurer during such policy periods; if a physician or surgeon was
4 insured by an insurer subject to rates established by the superintendent
5 during such policy periods, and at any time thereafter a hospital,
6 health maintenance organization, employer or institution is responsible
7 for responding in damages for liability arising out of such physician's
8 or surgeon's practice of medicine, such responsible entity shall also
9 remit to such prior insurer the equivalent amount that would then be
10 collected as a surcharge if the physician or surgeon had continued to
11 remain insured by such prior insurer. In the event any insurer that
12 provided coverage during such policy periods is in liquidation, the
13 property/casualty insurance security fund shall receive the portion of
14 surcharges to which the insurer in liquidation would have been entitled.
15 The surcharges authorized herein shall be deemed to be income earned for
16 the purposes of section 2303 of the insurance law. The superintendent,
17 in establishing adequate rates and in determining any projected defi-
18 ciency pursuant to the requirements of this section and the insurance
19 law, shall give substantial weight, determined in his discretion and
20 judgment, to the prospective anticipated effect of any regulations
21 promulgated and laws enacted and the public benefit of stabilizing
22 malpractice rates and minimizing rate level fluctuation during the peri-
23 od of time necessary for the development of more reliable statistical
24 experience as to the efficacy of such laws and regulations affecting
25 medical, dental or podiatric malpractice enacted or promulgated in 1985,
26 1986, by this act and at any other time. Notwithstanding any provision
27 of the insurance law, rates already established and to be established by
28 the superintendent pursuant to this section are deemed adequate if such
29 rates would be adequate when taken together with the maximum authorized
30 annual surcharges to be imposed for a reasonable period of time whether
31 or not any such annual surcharge has been actually imposed as of the
32 establishment of such rates.

33 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
34 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
35 1986, amending the civil practice law and rules and other laws relating
36 to malpractice and professional medical conduct, as amended by section 5
37 of part Z of chapter 57 of the laws of 2022, are amended to read as
38 follows:

39 § 5. The superintendent of financial services and the commissioner of
40 health shall determine, no later than June 15, 2002, June 15, 2003, June
41 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
42 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
43 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June
44 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, June 15, 2022,
45 ~~and~~ June 15, 2023, and June 15, 2024 the amount of funds available in
46 the hospital excess liability pool, created pursuant to section 18 of
47 chapter 266 of the laws of 1986, and whether such funds are sufficient
48 for purposes of purchasing excess insurance coverage for eligible
49 participating physicians and dentists during the period July 1, 2001 to
50 June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June
51 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
52 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
53 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
54 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
55 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
56 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,

1 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
2 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
3 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,
4 2022, or July 1, 2022 to June 30, 2023, or July 1, 2023 to June 30, 2024
5 as applicable.

6 (a) This section shall be effective only upon a determination, pursu-
7 ant to section five of this act, by the superintendent of financial
8 services and the commissioner of health, and a certification of such
9 determination to the state director of the budget, the chair of the
10 senate committee on finance and the chair of the assembly committee on
11 ways and means, that the amount of funds in the hospital excess liabil-
12 ity pool, created pursuant to section 18 of chapter 266 of the laws of
13 1986, is insufficient for purposes of purchasing excess insurance cover-
14 age for eligible participating physicians and dentists during the period
15 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
16 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
17 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
18 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
19 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
20 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
21 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
22 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
23 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
24 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,
25 2022, or July 1, 2022 to June 30, 2023, or July 1, 2023 to June 30, 2024
26 as applicable.

27 (e) The commissioner of health shall transfer for deposit to the
28 hospital excess liability pool created pursuant to section 18 of chapter
29 266 of the laws of 1986 such amounts as directed by the superintendent
30 of financial services for the purchase of excess liability insurance
31 coverage for eligible participating physicians and dentists for the
32 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
33 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
34 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
35 2007, as applicable, and the cost of administering the hospital excess
36 liability pool for such applicable policy year, pursuant to the program
37 established in chapter 266 of the laws of 1986, as amended, no later
38 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
39 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
40 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
41 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June
42 15, 2020, June 15, 2021, June 15, 2022, ~~[and]~~ June 15, 2023, and June
43 15, 2024 as applicable.

44 § 6. Section 20 of part H of chapter 57 of the laws of 2017, amending
45 the New York Health Care Reform Act of 1996 and other laws relating to
46 extending certain provisions thereto, as amended by section 6 of part Z
47 of chapter 57 of the laws of 2022, is amended to read as follows:

48 § 20. Notwithstanding any law, rule or regulation to the contrary,
49 only physicians or dentists who were eligible, and for whom the super-
50 intendent of financial services and the commissioner of health, or their
51 designee, purchased, with funds available in the hospital excess liabil-
52 ity pool, a full or partial policy for excess coverage or equivalent
53 excess coverage for the coverage period ending the thirtieth of June,
54 two thousand ~~[twenty-two]~~ twenty-three, shall be eligible to apply for
55 such coverage for the coverage period beginning the first of July, two
56 thousand ~~[twenty-two]~~ twenty-three; provided, however, if the total

1 number of physicians or dentists for whom such excess coverage or equiv-
2 alent excess coverage was purchased for the policy year ending the thir-
3 tieth of June, two thousand [~~twenty-two~~] twenty-three exceeds the total
4 number of physicians or dentists certified as eligible for the coverage
5 period beginning the first of July, two thousand [~~twenty-two~~] twenty-
6 three, then the general hospitals may certify additional eligible physi-
7 cians or dentists in a number equal to such general hospital's propor-
8 tional share of the total number of physicians or dentists for whom
9 excess coverage or equivalent excess coverage was purchased with funds
10 available in the hospital excess liability pool as of the thirtieth of
11 June, two thousand [~~twenty-two~~] twenty-three, as applied to the differ-
12 ence between the number of eligible physicians or dentists for whom a
13 policy for excess coverage or equivalent excess coverage was purchased
14 for the coverage period ending the thirtieth of June, two thousand
15 [~~twenty-two~~] twenty-three and the number of such eligible physicians or
16 dentists who have applied for excess coverage or equivalent excess
17 coverage for the coverage period beginning the first of July, two thou-
18 sand [~~twenty-two~~] twenty-three.

19 § 7. This act shall take effect immediately and shall be deemed to
20 have been in full force and effect on and after April 1, 2023.

21 PART G

22 Section 1. Paragraph (a) of subdivision 12 of section 203 of the elder
23 law, as added by section 1 of part U of chapter 57 of the laws of 2019,
24 is amended to read as follows:

25 (a) The director is hereby authorized to implement private pay proto-
26 cols for programs and services administered by the office. These proto-
27 cols may be implemented by area agencies on aging at their option and
28 such protocols shall not be applied to services for a participant when
29 being paid for with federal funds or funds designated as federal match,
30 or for individuals with an income below [~~four~~] two hundred and fifty
31 percent of the federal poverty level. All private payments received
32 directly by an area agency on aging or indirectly by one of its contrac-
33 tors shall be used to supplement, not supplant, funds by state, federal,
34 or county appropriations. Such private pay payments shall be set at a
35 cost to the participant of not more than twenty percent above either the
36 unit cost to the area agency on aging to provide the program or service
37 directly, or the amount that the area agency on aging pays to its
38 contractor to provide the program or service. Private pay payments
39 received under this subdivision shall be used by the area agency on
40 aging to first reduce any unmet need for programs and services, and then
41 to support and enhance services or programs provided by the area agency
42 on aging. No participant, regardless of income, shall be required to pay
43 for any program or service that they are receiving at the time these
44 protocols are implemented by the area agency on aging. This subdivision
45 shall not prevent cost sharing for the programs and services established
46 pursuant to section two hundred fourteen of this title [~~for individuals~~
47 ~~below four hundred percent of the federal poverty level~~]. Consistent
48 with federal and state statute and regulations, when providing programs
49 and services, area agencies on aging and their contractors shall contin-
50 ue to give priority for programs and services to individuals with the
51 greatest economic or social needs. In the event that the capacity to
52 provide programs and services is limited, such programs and services
53 shall be provided to individuals with incomes below [~~four~~] two hundred
54 and fifty percent of the federal poverty level before such programs and

1 services are provided to those participating in the private pay protocol
2 pursuant to this subdivision.

3 § 2. This act shall take effect immediately.

4 PART H

5 Section 1. Section 5 of part AAA of chapter 56 of the laws of 2022,
6 amending the social services law relating to expanding Medicaid eligi-
7 bility requirements for seniors and disabled individuals, is amended to
8 read as follows:

9 § 5. This act shall take effect January 1, 2023, subject to federal
10 financial participation for sections one, three, and four of this act;
11 provided, however that ~~[the]~~ section two of this act shall take effect
12 January 1, 2024. The commissioner of health shall notify the legislative
13 bill drafting commission upon the occurrence of federal financial
14 participation in order that the commission may maintain an accurate and
15 timely effective data base of the official text of the laws of the state
16 of New York in furtherance of effectuating the provisions of section 44
17 of the legislative law and section 70-b of the public officers law.

18 § 2. Short title. This act shall be known and may be cited as the
19 "1332 state innovation program".

20 § 3. The social services law is amended by adding a new section 369-ii
21 to read as follows:

22 § 369-ii. 1332 state innovation program. 1. Authorization. Notwith-
23 standing section three hundred sixty-nine-gg of this title, subject to
24 federal approval, if it is in the financial interest of the state to do
25 so, the commissioner of health is authorized, with the approval of the
26 director of the budget, to establish a 1332 state innovation program
27 pursuant to section 1332 of the patient protection and affordable care
28 act (P.L. 111-148) and subdivision twenty-five of section two hundred
29 sixty-eight-c of the public health law. The commissioner of health's
30 authority pursuant to this section is contingent upon obtaining and
31 maintaining all necessary approvals from the secretary of health and
32 human services and the secretary of the treasury based on an application
33 for a waiver for state innovation. The commissioner of health may take
34 all actions necessary to obtain such approvals.

35 2. Definitions. For the purposes of this section:

36 (a) "Eligible organization" means an insurer licensed pursuant to
37 article thirty-two or forty-two of the insurance law, a corporation or
38 an organization under article forty-three of the insurance law, or an
39 organization certified under article forty-four of the public health
40 law, including providers certified under section forty-four hundred
41 three-e of the public health law.

42 (b) "Approved organization" means an eligible organization approved by
43 the commissioner of health to underwrite a 1332 state innovation health
44 insurance plan pursuant to this section.

45 (c) "Health care services" means:

46 (i) the services and supplies as defined by the commissioner of health
47 in consultation with the superintendent of financial services, and shall
48 be consistent with and subject to the essential health benefits as
49 defined by the commissioner in accordance with the provisions of the
50 patient protection and affordable care act (P.L. 111-148) and consistent
51 with the benefits provided by the reference plan selected by the commis-
52 sioner of health for the purposes of defining such benefits, and shall
53 include coverage of and access to the services of any national cancer
54 institute-designated cancer center licensed by the department of health

1 within the service area of the approved organization that is willing to
2 agree to provide cancer-related inpatient, outpatient and medical
3 services to all enrollees in approved organizations' plans in such
4 cancer center's service area under the prevailing terms and conditions
5 that the approved organization requires of other similar providers to be
6 included in the approved organization's network, provided that such
7 terms shall include reimbursement of such center at no less than the
8 fee-for-service medicaid payment rate and methodology applicable to the
9 center's inpatient and outpatient services;

10 (ii) dental and vision services as defined by the commissioner of
11 health, and

12 (iii) as defined by the commissioner of health and subject to federal
13 approval, certain services and supports provided to enrollees who have
14 functional limitations and/or chronic illnesses that have the primary
15 purpose of supporting the ability of the enrollee to live or work in the
16 setting of their choice, which may include the individual's home, a
17 worksite, or a provider-owned or controlled residential setting.

18 (d) "Qualified health plan" means a health plan that meets the crite-
19 ria for certification described in § 1311(c) of the patient protection
20 and affordable care act (P.L. 111-148), and is offered to individuals
21 through the NY State of Health, the official health Marketplace, or
22 Marketplace, as defined in subdivision two of section two hundred
23 sixty-eight-a of the public health law.

24 (e) "Basic health insurance plan" means a health plan providing health
25 care services, separate and apart from qualified health plans, that is
26 issued by an approved organization and certified in accordance with
27 section three hundred sixty-nine-gg of this title.

28 (f) "1332 state innovation plan" means a standard health plan provid-
29 ing health care services, separate and apart from a qualified health
30 plan and a basic health insurance plan, that is issued by an approved
31 organization and certified in accordance with this section.

32 3. State innovation plan eligible individual. (a) A person is eligible
33 to receive coverage for health care under this section if they:

34 (i) reside in New York state and are under sixty-five years of age;

35 (ii) are not eligible for medical assistance under title eleven of
36 this article or for the child health insurance plan described in title
37 one-A of article twenty-five of the public health law;

38 (iii) are not eligible for minimum essential coverage, as defined in
39 section 5000A(f) of the Internal Revenue Service Code of 1986, or is
40 eligible for an employer-sponsored plan that is not affordable, in
41 accordance with section 5000A(f) of such code; and

42 (iv) have household income at or below two hundred fifty percent of
43 the federal poverty line defined and annually revised by the United
44 States department of health and human services for a household of the
45 same size; and has household income that exceeds one hundred thirty-
46 three percent of the federal poverty line defined and annually revised
47 by the United States department of health and human services for a
48 household of the same size; however, MAGI eligible noncitizens lawfully
49 present in the United States with household incomes at or below one
50 hundred thirty-three percent of the federal poverty line shall be eligi-
51 ble to receive coverage for health care services pursuant to the
52 provisions of this section if such noncitizen would be ineligible for
53 medical assistance under title eleven of this article due to their immi-
54 gration status.

55 (b) Subject to federal approval, a child born to an individual eligi-
56 ble for and receiving coverage for health care services pursuant to this

1 section who but for their eligibility under this section would be eligi-
2 ble for coverage pursuant to subparagraphs two or four of paragraph (b)
3 of subdivision one of section three hundred sixty-six of this article,
4 shall be administratively enrolled, as defined by the commissioner of
5 health, in medical assistance and to have been found eligible for such
6 assistance on the date of such birth and to remain eligible for such
7 assistance for a period of one year.

8 (c) Subject to federal approval, an individual who is eligible for and
9 receiving coverage for health care services pursuant to this section is
10 eligible to continue to receive health care services pursuant to this
11 section during the individual's pregnancy and for a period of one year
12 following the end of the pregnancy without regard to any change in the
13 income of the household that includes the pregnant individual, even if
14 such change would render the pregnant individual ineligible to receive
15 health care services pursuant to this section.

16 (d) For the purposes of this section, 1332 state innovation program
17 eligible individuals are prohibited from being treated as qualified
18 individuals under section 1312 of the Affordable Care Act and as eligi-
19 ble individuals under section 1331 of the ACA and enrolling in qualified
20 health plan through the Marketplace or standard health plan through the
21 Basic Health Program.

22 4. Enrollment. (a) Subject to federal approval, the commissioner of
23 health is authorized to establish an application and enrollment proce-
24 dure for prospective enrollees. Such procedure will include a verifica-
25 tion system for applicants, which must be consistent with 42 USC §
26 1320b-7.

27 (b) Such procedure shall allow for continuous enrollment for enrollees
28 to the 1332 state innovation program where an individual may apply and
29 enroll for coverage at any point.

30 (c) Upon an applicant's enrollment in a 1332 state innovation plan,
31 coverage for health care services pursuant to the provisions of this
32 section shall be retroactive to the first day of the month in which the
33 individual was determined eligible, except in the case of program tran-
34 sitions within the Marketplace.

35 (d) A person who has enrolled for coverage pursuant to this section,
36 and who loses eligibility to enroll in the 1332 state innovation program
37 for a reason other than citizenship status, lack of state residence,
38 failure to provide a valid social security number, providing inaccurate
39 information that would affect eligibility when requesting or renewing
40 health coverage pursuant to this section, or failure to make an applica-
41 ble premium payment, before the end of a twelve month period beginning
42 on the effective date of the person's initial eligibility for coverage,
43 or before the end of a twelve month period beginning on the date of any
44 subsequent determination of eligibility, shall have their eligibility
45 for coverage continued until the end of such twelve month period,
46 provided that the state receives federal approval for using funds under
47 an approved 1332 waiver.

48 5. Premiums. Subject to federal approval, the commissioner of health
49 shall establish premium payments enrollees in a 1332 state innovation
50 plan shall pay to approved organizations for coverage of health care
51 services pursuant to this section. Such premium payments shall be estab-
52 lished in the following manner:

53 (a) up to fifteen dollars monthly for an individual with a household
54 income above two hundred percent of the federal poverty line but at or
55 below two hundred fifty percent of the federal poverty line defined and

1 annually revised by the United States department of health and human
2 services for a household of the same size; and

3 (b) no payment is required for individuals with a household income at
4 or below two hundred percent of the federal poverty line defined and
5 annually revised by the United States department of health and human
6 services for a household of the same size.

7 6. Cost-sharing. The commissioner of health shall establish cost-shar-
8 ing obligations for enrollees, subject to federal approval, including
9 childbirth and newborn care consistent with the medical assistance
10 program under title eleven of this article. There shall be no cost-shar-
11 ing obligations for enrollees for:

12 (a) dental and vision services as defined in subparagraph (ii) of
13 paragraph (c) of subdivision two of this section; and

14 (b) services and supports as defined in subparagraph (iii) of para-
15 graph (c) of subdivision two of this section.

16 7. Rates of payment. (a) The commissioner of health shall select the
17 contract with an independent actuary to study and recommend appropriate
18 reimbursement methodologies for the cost of health care service coverage
19 pursuant to this section. Such independent actuary shall review and make
20 recommendations concerning appropriate actuarial assumptions relevant to
21 the establishment of reimbursement methodologies, including but not
22 limited to; the adequacy of rates of payment in relation to the popu-
23 lation to be served adjusted for case mix, the scope of health care
24 services approved organizations must provide, the utilization of such
25 services and the network of providers required to meet state standards.

26 (b) Upon consultation with the independent actuary and entities
27 representing approved organizations, the commissioner of health shall
28 develop reimbursement methodologies and fee schedules for determining
29 rates of payment, which rates shall be approved by the director of the
30 division of the budget, to be made by the department to approved organ-
31 izations for the cost of health care services coverage pursuant to this
32 section. Such reimbursement methodologies and fee schedules may include
33 provisions for capitation arrangements.

34 (c) The commissioner of health shall have the authority to promulgate
35 regulations, including emergency regulations, necessary to effectuate
36 the provisions of this subdivision.

37 (d) The department of health shall require the independent actuary
38 selected pursuant to paragraph (a) of this subdivision to provide a
39 complete actuarial report, along with all actuarial assumptions made and
40 all other data, materials and methodologies used in the development of
41 rates for the 1332 state innovation plan authorized under this section.
42 Such report shall be provided annually to the temporary president of the
43 senate and the speaker of the assembly.

44 8. An individual who is lawfully admitted for permanent residence,
45 permanently residing in the United States under color of law, or who is
46 a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C.
47 1101(a)(15), and who would be ineligible for medical assistance under
48 title eleven of this article due to their immigration status if the
49 provisions of section one hundred twenty-two of this chapter were
50 applied, shall be considered to be ineligible for medical assistance for
51 purposes of paragraphs (b) and (c) of subdivision three of this section.

52 9. Reporting. The commissioner of health shall submit a report to the
53 temporary president of the senate and the speaker of the assembly annu-
54 ally by December thirty-first. The report shall include, at a minimum,
55 an analysis of the 1332 state innovation program and its impact on the
56 financial interest of the state; its impact on the Marketplace including

enrollment and premiums; its impact on the number of uninsured individuals in the state; its impact on the Medicaid global cap; and the demographics of the 1332 state innovation program enrollees including age and immigration status.

10. Severability. If the secretary of health and human services or the secretary of the treasury do not approve any provision of the application for a state innovation waiver, such decision shall in no way affect or impair any other provisions that the secretaries may approve under this section.

§ 4. The state finance law is amended by adding a new section 98-d to read as follows:

§ 98-d. 1332 state innovation program fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "1332 state innovation program fund".

2. Such fund shall be kept separate and shall not be commingled with any other funds in the custody of the state comptroller and the commissioner of taxation and finance.

3. Such fund shall consist of moneys transferred from the federal government pursuant to 42 U.S.C. 18052 and an approved 1332 state innovation program waiver application for the purpose implementing the state plan under the 1332 state innovation program, established pursuant to section three hundred sixty-nine-ii of the social services law.

4. Upon federal approval, all moneys in such fund shall be used to implement and operate the 1332 state innovation program, pursuant to section three hundred sixty-nine-ii of the social services law, except to the extent that the provisions of such section conflict or are inconsistent with federal law, in which case the provisions of such federal law shall supersede such state law provisions.

§ 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2023; provided that section three of this act shall be contingent upon the commissioner of health obtaining and maintaining all necessary approvals from the secretary of health and human services and the secretary of the treasury based on an application for a waiver for state innovation pursuant to section 1332 of the patient protection and affordable care act (P.L. 111-148) and subdivision 25 of section 268-c of the public health law. The department of health shall notify the legislative bill drafting commission upon the occurrence of approval of the waiver program in order that the commission may maintain an accurate and timely data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

1 Section 1. Subdivision (i) of section 111 of part H of chapter 59 of
2 the laws of 2011, amending the public health law and other laws relating
3 to known and projected department of health state fund medical expendi-
4 tures, as amended by section 8 of part E of chapter 57 of the laws of
5 2019, is amended to read as follows:

6 (i) the amendments to paragraph (b) and subparagraph (i) of paragraph
7 (g) of subdivision 7 of section 4403-f of the public health law made by
8 section forty-one-b of this act shall expire and be repealed April 1,
9 ~~2023~~ 2027;

10 § 2. The opening paragraph of subdivision 2 of section 4403-f of the
11 public health law, as amended by section 8 of part C of chapter 58 of
12 the laws of 2007, is amended to read as follows:

13 An eligible applicant shall submit an application for a certificate of
14 authority to operate a managed long term care plan upon forms prescribed
15 by the commissioner, including any such forms or process as may be
16 required or prescribed by the commissioner in accordance with the
17 competitive bid process under subdivision six-a of this section. Such
18 eligible applicant shall submit information and documentation to the
19 commissioner which shall include, but not be limited to:

20 § 3. Paragraph (a) of subdivision 6 of section 4403-f of the public
21 health law, as amended by section 4 of part MM of chapter 56 of the laws
22 of 2020, is amended to read as follows:

23 (a) An applicant shall be issued a certificate of authority as a
24 managed long term care plan upon a determination by the commissioner
25 that the applicant complies with the operating requirements for a
26 managed long term care plan under this section. The commissioner shall
27 issue no more than seventy-five certificates of authority to managed
28 long term care plans pursuant to this section.

29 (a-1) Nothing in this section shall be construed as requiring the
30 department to contract with or to contract for a particular line of
31 business with an entity certified under this section for the provision
32 of services available under title eleven of article five of the social
33 services law. A managed long term care plan that has been issued a
34 certificate of authority, or an applicant for a certificate of authority
35 as a managed long term care plan that has, in the sole discretion of the
36 commissioner, in any of the three calendar years immediately preceding
37 the application, met any of the following criteria shall not be eligible
38 for a contract for the provision of services available under title eleven
39 of article five of the social services law: (i) classified as a poor
40 performer, or substantially similar terminology, by the centers for
41 medicare and medicaid services; (ii) an excessive volume of penalties,
42 statements of findings, statements of deficiency, intermediate sanctions
43 or enforcement actions, regardless of whether the applicant has
44 addressed such issues in a timely manner; or (iii) other criteria as
45 deemed appropriate by the commissioner.

46 § 4. The opening paragraph of subparagraph (i) of paragraph (d) of
47 subdivision 6 of section 4403-f of the public health law, as added by
48 section 5 of part MM of chapter 56 of the laws of 2020, is amended to
49 read as follows:

50 Effective April first, two thousand twenty, and expiring March thir-
51 ty-first, two thousand ~~twenty-two~~ twenty-seven, the commissioner shall
52 place a moratorium on the processing and approval of applications seek-
53 ing a certificate of authority as a managed long term care plan pursuant
54 to this section, including applications seeking authorization to expand
55 an existing managed long term care plan's approved service area or scope
56 of eligible enrollee populations. Such moratorium shall not apply to:

§ 5. Section 4403-f of the public health law is amended by adding a new subdivision 6-a to read as follows:

6-a. Performance standards and procurement. (a) On or before October first, two thousand twenty-four, each managed long term care plan that has been issued a certificate of authority pursuant to this section shall have demonstrated experience operating a managed long term care plan that continuously enrolled no fewer than twenty thousand enrollees and/or demonstrated experience operating a Medicare Dual Eligible Special Needs Plan, or an integrated Medicaid product offered by the department, that has continuously enrolled no fewer than five thousand residents of this state in the immediately preceding calendar year. In addition, a managed long term care plan shall sufficiently demonstrate, in the sole discretion of the commissioner, success in the following performance categories:

(i) in addition to meeting the requirements of paragraph (j) of subdivision seven of this section, commitment to contracting with the minimum number of licensed home care service agencies needed to provide necessary personal care services to the greatest practicable number of enrollees, and with the minimum number of fiscal intermediaries needed to provide necessary consumer directed personal assistance services to the greatest practicable number of enrollees in accordance with section three hundred sixty-five-f of the social services law;

(ii) readiness to timely implement and adhere to maximum wait time criteria for key categories of service in accordance with laws, rules and regulations of the department or the center for medicare and medicaid services;

(iii) implementation of a community reinvestment plan that has been approved by the department and commits a percentage of the managed long term care plan's surplus to health related social needs and advancing health equity in the managed long term care plan's service area;

(iv) commitment to quality improvement;

(v) accessibility and geographic distribution of network providers, taking into account the needs of persons with disabilities and the differences between rural, suburban, and urban settings;

(vi) demonstrated cultural and language competencies specific to the population of participants;

(vii) breadth of service area across multiple regions;

(viii) ability to serve enrollees across the continuum of care, as demonstrated by the type and number of products the managed long term care operates or has applied to operate, including integrated care for participants who are dually eligible for medicaid and medicare, and those operated under title one-A of article twenty-five of this chapter and section three hundred sixty-nine-gg of the social services law;

(ix) value based care readiness and experience; and

(x) such other criteria as deemed appropriate by the commissioner.

(b) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, if no sooner than October first, two thousand twenty-four the commissioner has determined, in their sole discretion, that an insufficient number of managed long term care plans have met the performance standards set forth in paragraph (a) of this subdivision, each managed long term care plan that has been issued a certificate of authority to cover a population of enrollees eligible for services under title XIX of the federal social security act shall be required to submit an application for continuance of its certification of authority to operate as a managed long term care plan under this section, and shall be subject to selection through a competitive bid process based on proposals submitted

1 to the department, which competitive bid process may be limited to a
2 geographic or other reasonable basis of need, as determined by the
3 commissioner. In making a determination regarding the need for a compet-
4 itive bid process, the commissioner shall consider whether any managed
5 long term care plans that have not met the performance standards are
6 engaged in a merger, acquisition, or similar transaction with a managed
7 long term care plan that has met the performance standards, as evidenced
8 through an executed definitive agreement by such managed long term care
9 plans.

10 (ii) In the event the commissioner determines to select managed long
11 term care plans through a competitive bid process, any proposal submit-
12 ted to the department through the competitive bid process shall include:

13 (A) the criteria set forth in paragraph (a) of this subdivision;

14 (B) the type and number of products the bidder proposes to operate,
15 including those providing integrated care to individuals dually eligible
16 for services and benefits under titles XVIII and XIX of the federal
17 social security act in conjunction with an affiliated Medicare Dual
18 Eligible Special Needs Plan; and

19 (C) the bidder's commitment to offering plans in multiple regions, as
20 such regions are defined by the department, and in every county of each
21 region for which they are submitting a bid.

22 (iii) Managed long term care plans awarded under this paragraph shall
23 be entitled to enter into a contract with the department for the purpose
24 of offering managed long term care services to enrollees pursuant to
25 this section.

26 (iv) Managed long term care plans which submit a bid through a compet-
27 itive bid process and are not awarded under this paragraph shall, upon
28 direction from the commissioner, terminate its services and operations
29 in accordance with the contract between the managed long term care plan
30 and the department, and shall be additionally required to maintain
31 coverage of participants for such period of time as determined necessary
32 by the commissioner to achieve the safe and orderly transfer of partic-
33 ipants. Participants who, after no less than sixty days notice, have not
34 selected another plan will be assigned to a managed long term care plan
35 or plans, as determined by the commissioner.

36 (c) Notwithstanding sections one hundred twelve and one hundred
37 sixty-three of the state finance law, sections one hundred forty-two and
38 one hundred forty-three of the economic development law, and any other
39 inconsistent provision of law, in the event the commissioner determines
40 to provide for the selection of qualified managed long term care plans
41 in accordance with paragraph (b) of this subdivision through a compet-
42 itive bid process, such process shall be based on proposals submitted to
43 the department; provided, however, that:

44 (i) A proposal submitted by a managed long term care plan shall
45 include information sufficient to allow the commissioner to evaluate the
46 bidder in accordance with the requirements identified in paragraph (b)
47 of this subdivision.

48 (ii) In addition to the criteria described in subparagraph (i) of this
49 paragraph, the commissioner shall also consider:

50 (A) the corporate organization and status of the bidder as a charita-
51 ble corporation under the not-for-profit corporation law;

52 (B) for current or previously authorized managed care providers, past
53 performance in meeting managed care contract or federal or state
54 requirements, and if the commissioner issued any statements of findings,
55 statements of deficiency, intermediate sanctions or enforcement actions

1 to a bidder for non-compliance with such requirements, whether the
2 bidder addressed such issues in a timely manner; and

3 (C) any other criteria deemed appropriate by the commissioner.

4 (iii) Subparagraphs (i) and (ii) of this paragraph describing proposal
5 content and selection criteria requirements shall not be construed as
6 limiting or requiring the commissioner to evaluate such content or
7 criteria on a pass-fail, scale, or other particular methodological
8 basis; provided, however, that the commissioner must consider all such
9 content and criteria using methods determined by the commissioner in
10 their discretion and, as applicable, in consultation with the commis-
11 sioners of the office of mental health, the office for people with
12 developmental disabilities, the office of addiction services and
13 supports, and the office of children and family services.

14 (iv) No sooner than October first, two thousand twenty-four the
15 department shall post on its website:

16 (A) The request for proposals and a description of the proposed
17 services to be provided pursuant to contracts in accordance with this
18 subdivision;

19 (B) The criteria on which the department shall determine qualified
20 bidders and evaluate their applications, including all criteria identi-
21 fied in this subdivision;

22 (C) The manner by which a proposal may be submitted, which may include
23 submission by electronic means;

24 (D) The manner by which a managed long term care plan may continue to
25 provide health and long term care services to enrollees who are eligible
26 under title XIX of the federal social security act pending awards to
27 managed long term care plans through a competitive bid process pursuant
28 to this subdivision; and

29 (E) Upon award, the managed long term care plans that the commissioner
30 intends to contract with pursuant to this subdivision, provided that the
31 commissioner shall update such list to indicate the final slate of
32 contracted managed long term care plans.

33 (v) (A) No sooner than April first two thousand twenty-six, the
34 commissioner shall make awards under this subdivision to at least two
35 managed long term care plans in each geographic region defined by the
36 commissioner in the request for proposals for which at least two managed
37 long term care plans have submitted a proposal, and shall have
38 discretion to offer more contracts based on need for access.

39 (B) Notwithstanding sections one hundred twelve and one hundred
40 sixty-three of the state finance law, sections one hundred forty-two and
41 one hundred forty-three of the economic development law, and any other
42 inconsistent provision of law, managed long term care plans awarded
43 under this subdivision shall be entitled to enter into a contract with
44 the department for the purpose of providing health and long term care
45 services to enrollees who are eligible under title XIX of the federal
46 social security act. Such contracts shall run for a term to be deter-
47 mined by the commissioner, which may be renewed or modified from time to
48 time without a new request for proposals, to ensure consistency with
49 changes in federal and state laws, regulations or policies, including
50 the expansion or reduction of medical assistance services available to
51 participants through a managed long term care plan.

52 (C) Nothing in this paragraph or other provision of this section shall
53 be construed to limit in any way the ability of the department to termi-
54 nate awarded contracts for cause, which shall include but not be limited
55 to any violation of the terms of such contracts or violations of state

1 or federal laws and regulations and any loss of necessary state or
2 federal funding.

3 (D) Notwithstanding sections one hundred twelve and one hundred
4 sixty-three of the state finance law, sections one hundred forty-two and
5 one hundred forty-three of the economic development law, and any other
6 inconsistent provision of law, the department may, in accordance with
7 the provisions of this paragraph, issue new requests for proposals and
8 award new contracts for terms following an existing term of a contract
9 entered into under this paragraph.

10 (vi) (A) Within sixty days of the department issuing the request for
11 proposals, a managed long term care plan that was approved to provide
12 health and long term care services to enrollees who are eligible under
13 title XIX of the federal social security act prior to the issuance of
14 the request for proposals shall submit its intention to complete such
15 proposal to the department.

16 (B) A managed long term care plan that: (1) fails to submit its intent
17 timely, (2) indicates within the sixty days its intent not to complete
18 such a proposal, or (3) fails to submit a proposal within the further
19 timeframe specified by the commissioner in the request for proposals,
20 shall, upon direction from the commissioner, terminate its services and
21 operations in accordance with the contract between the managed long term
22 care plan and the department and shall be additionally required to main-
23 tain coverage of enrollees for such period of time as determined neces-
24 sary by the commissioner to achieve the safe and orderly transfer of
25 enrollees.

26 (vii) If necessary to ensure access to a sufficient number of managed
27 long term care plans on a geographic or other basis, including a lack of
28 adequate and appropriate care, language and cultural competence, or
29 special needs services, the commissioner may reissue a request for
30 proposals as provided for under paragraph (b) of this subdivision,
31 provided, however, that such request may be limited to the geographic or
32 other basis of need that the request for proposals seeks to address. Any
33 awards shall be subject to the requirements of this section, including
34 the minimum and maximum number of awards in a region.

35 (d) In the event the commissioner, in their sole discretion at any
36 time on or after October first, two thousand twenty-four, determines not
37 to select managed long term care plans through a competitive bid proc-
38 ess, the commissioner shall require a managed long term care plan that
39 has not met the performance standards set forth in paragraph (a) of this
40 subdivision to establish and implement a performance improvement plan
41 acceptable to the commissioner. The determination not to select managed
42 long term care plans through a competitive bid process and to require a
43 performance improvement plan shall not preclude the commissioner from
44 making a later determination to select managed long term care plans
45 through a competitive bid process. In making the determination whether
46 to select through a competitive bid process, the commissioner shall
47 consider the standards set forth in paragraph (a) of this subdivision.

48 (e) The commissioner shall have the authority to promulgate regu-
49 lations, including emergency regulations, to effectuate the provisions
50 of this subdivision.

51 (f) The commissioner shall have the authority to add or modify all
52 criteria in this subdivision.

53 § 6. Subparagraph (i) of paragraph (g) of subdivision 7 of section
54 4403-f of the public health law, as amended by section 1 of part GGG of
55 chapter 59 of the laws of 2017, is amended to read as follows:

(i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a comprehensive assessment that shall include, but not be limited to, an evaluation of the medical, social, cognitive, and environmental needs of each prospective enrollee in such program. This assessment shall also serve as the basis for the development and provision of an appropriate plan of care for the enrollee, including appropriate community-based referrals. Upon approval of federal waivers pursuant to paragraph (b) of this subdivision which require medical assistance recipients who require community-based long term care services to enroll in a plan, and upon approval of the commissioner, a plan may enroll an applicant who is currently receiving home and community-based services and complete the comprehensive assessment within thirty days of enrollment provided that the plan continues to cover transitional care until such time as the assessment is completed.

§ 6-a. Subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law, as added by section 65-c of part A of chapter 57 of the laws of 2006 and relettered by section 20 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a comprehensive assessment that shall include, but not be limited to, an evaluation of the medical, social and environmental needs of each prospective enrollee in such program. This assessment shall also serve as the basis for the development and provision of an appropriate plan of care for the prospective enrollee, including appropriate community-based referrals.

§ 7. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 4-a of section 365-f of the social services law, as amended by section 3 of part G of chapter 57 of the laws of 2019, the opening paragraph of subparagraph (i) as amended by section 2 of part PP of chapter 57 of the laws of 2022, are amended to read as follows:

(i) "Fiscal intermediary" means an entity that provides fiscal intermediary services and has a contract for providing such services with ~~[the department of health and is selected through the procurement process described in paragraphs (b), (b-1), (b-2) and (b-3) of this subdivision. Eligible applicants for contracts shall be entities that are capable of appropriately providing fiscal intermediary services, performing the responsibilities of a fiscal intermediary, and complying with this section, including but not limited to entities that]:~~

(A) ~~[are a service center for independent living under section one thousand one hundred twenty one of the education law; or]~~ a local department of social services;

(B) ~~[have been established as fiscal intermediaries prior to January first, two thousand twelve and have been continuously providing such services for eligible individuals under this section.]~~ an organization licensed under article forty-four of the public health law; or

(C) an accountable care organization certified under article twenty-nine-E of the public health law or an integrated delivery system composed primarily of health care providers recognized by the department as a performing provider system under the delivery system reform incentive payment program.

(ii) Fiscal intermediary services shall include the following services, performed on behalf of the consumer to facilitate his or her role as the employer:

1 (A) wage and benefit processing for consumer directed personal assist-
2 ants;

3 (B) processing all income tax and other required wage withholdings;

4 (C) complying with workers' compensation, disability and unemployment
5 requirements;

6 (D) maintaining personnel records for each consumer directed personal
7 assistant, including time records and other documentation needed for
8 wages and benefit processing and a copy of the medical documentation
9 required pursuant to regulations established by the commissioner;

10 (E) ensuring that the health status of each consumer directed personal
11 assistant is assessed prior to service delivery pursuant to regulations
12 issued by the commissioner;

13 (F) maintaining records of service authorizations or reauthorizations;

14 (G) monitoring the consumer's or, if applicable, the designated repre-
15 sentative's continuing ability to fulfill the consumer's responsibil-
16 ities under the program and promptly notifying the authorizing entity of
17 any circumstance that may affect the consumer's or, if applicable, the
18 designated representative's ability to fulfill such responsibilities;

19 (H) complying with regulations established by the commissioner speci-
20 fying the responsibilities of fiscal intermediaries providing services
21 under this title; and

22 (I) entering into a department approved memorandum of understanding
23 with the consumer that describes the parties' responsibilities under
24 this program[; ~~and~~

25 ~~(J) other related responsibilities which may include, as determined by~~
26 ~~the commissioner, assisting consumers to perform the consumers' respon-~~
27 ~~sibilities under this section and department regulations in a manner~~
28 ~~that does not infringe upon the consumer's responsibilities and self di-~~
29 ~~rection].~~

30 § 8. Paragraph (b) of subdivision 4-a of section 365-f of the social
31 services law, as amended by section 4 of part G of chapter 57 of the
32 laws of 2019, subparagraph (vi) as amended by section 1 of part LL of
33 chapter 57 of the laws of 2021, is amended to read as follows:

34 (b) ~~[Notwithstanding any inconsistent provision of section one hundred~~
35 ~~sixty-three of the state finance law, or section one hundred forty-two~~
36 ~~of the economic development law the commissioner shall enter into~~
37 ~~contracts under this subdivision with eligible contractors that submit~~
38 ~~an offer for a contract, provided, however, that:~~

39 ~~(i) the department shall post on its website:~~

40 ~~(A) a description of the proposed services to be provided pursuant to~~
41 ~~contracts in accordance with this subdivision;~~

42 ~~(B) that the selection of contractors shall be based on criteria~~
43 ~~reasonably related to the contractors' ability to provide fiscal inter-~~
44 ~~mediary services including but not limited to: ability to appropriately~~
45 ~~serve individuals participating in the program, geographic distribution~~
46 ~~that would ensure access in rural and underserved areas, demonstrated~~
47 ~~cultural and language competencies specific to the population of consum-~~
48 ~~ers and those of the available workforce, ability to provide timely~~
49 ~~consumer assistance, experience serving individuals with disabilities,~~
50 ~~the availability of consumer peer support, and demonstrated compliance~~
51 ~~with all applicable federal and state laws and regulations, including~~
52 ~~but not limited to those relating to wages and labor;~~

53 ~~(C) the manner by which prospective contractors may seek such~~
54 ~~selection, which may include submission by electronic means;~~

~~(ii) all reasonable and responsive offers that are received from prospective contractors in timely fashion shall be reviewed by the commissioner;~~

~~(iii) the commissioner shall award such contracts to the contractors that best meet the criteria for selection and are best suited to serve the purposes of this section and the needs of consumers;~~

~~(iv) all entities providing fiscal intermediary services on or before April first, two thousand nineteen, shall submit an offer for a contract under this section within sixty days after the commissioner publishes the initial offer on the department's website. Such entities shall be deemed authorized to provide such services unless: (A) the entity fails to submit an offer for a contract under this section within the sixty days; or (B) the entity's offer for a contract under this section is denied;~~

~~(v) all decisions made and approaches taken pursuant to this paragraph shall be documented in a procurement record as defined in section one hundred sixty three of the state finance law; and~~

~~(vi) the commissioner is authorized to either reoffer contracts or utilize the previous offer, to ensure that all provisions of this section are met.]~~ As of January first, two thousand twenty-four no entity shall provide, directly or through contract, fiscal intermediary services without an authorization as a fiscal intermediary issued by the commissioner in accordance with this subdivision. The commissioner may issue regulations, including emergency regulations, clarifying the authorization process, standards and time frames.

§ 9. Paragraphs (b-1), (b-2) and (b-3) of subdivision 4-a of section 365-f of the social services law are REPEALED.

§ 10. Subdivision 4-b of section 365-f of the social services law, as amended by section 8 of part G of chapter 57 of the laws of 2019, is amended to read as follows:

4-b. Actions involving the authorization of a fiscal intermediary.

~~(a) [The department may terminate a fiscal intermediary's contract under this section or suspend or limit the fiscal intermediary's rights and privileges under the contract upon thirty day's written notice to the fiscal intermediary, if the commissioner finds that the fiscal intermediary has failed to comply with the provisions of this section or regulations promulgated hereunder. The written notice shall include:~~

~~(i) A description of the conduct and the issues related thereto that have been identified as failure of compliance; and~~

~~(ii) the time frame of the conduct that fails compliance]~~ A fiscal intermediary's authorization may be revoked, suspended, limited or annulled upon thirty days written notice to the fiscal intermediary, if the commissioner finds that the fiscal intermediary has failed to comply with the provisions of this subdivision or regulations promulgated hereunder.

(b) Notwithstanding the foregoing, upon determining that the public health or safety would be imminently endangered by the continued operation or actions of the fiscal intermediary, the commissioner may ~~[terminate]~~ revoke, suspend, limit or annul the fiscal intermediary's ~~[contract or suspend or limit the fiscal intermediary's rights and privileges under the contract]~~ authorization immediately ~~[upon written notice]~~.

(c) All orders or determinations under this subdivision shall be subject to review as provided in article seventy-eight of the civil practice law and rules.

§ 11. Paragraph (c) of subdivision 4-d of section 365-f of the social services law, as added by section 7 of part G of chapter 57 of the laws of 2019, is amended to read as follows:

(c) Where a fiscal intermediary is suspending or ceasing operation pursuant to an order under subdivision four-b of this section, ~~[or has failed to submit an offer for a contract, or has been denied a contract under this section,]~~ all the provisions of this subdivision shall apply except subparagraph (i) of paragraph (a) of this subdivision, notice of which to all parties shall be provided by the department as appropriate.

§ 12. Paragraph (d) of subdivision 4-d of section 365-f of the social services law, as added by section 3 of part LL of chapter 57 of the laws of 2021 is REPEALED.

§ 13. Part I of chapter 57 of the laws of 2022, providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, is amended by adding two new sections 1-a and 1-b to read as follows:

§ 1-a. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of residential health care facilities services shall be subject to a uniform rate increase of five percent in addition to the increase contained in subdivision 1 of section 1 of this part, subject to the approval of the commissioner of the department of health and the director of the budget. Such rate increase shall be subject to federal financial participation.

§ 1-b. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of assisted living programs as defined by paragraph (a) of subdivision one of section 461-l of the social services law shall be subject to a uniform rate increase of five percent in addition to the increase contained in section one of this part, subject to the approval of the commissioner of the department of health and the director of the budget. Such rate increase shall be subject to federal financial participation.

§ 14. Paragraphs (d) and (i) of subdivision 1 and subdivisions 2, 4, 5, 5-a, 6, 6-a, 7, 7-a, 9 and 10 of section 3614-c of the public health law, paragraphs (d) and (i) of subdivision 1 and subdivisions 2, 4, 5, 6, 7, 9 and 10 as amended and subdivisions 6-a and 7-a as added by section 1 and subdivision 5-a as added by section 1-a of part 00 of chapter 56 of the laws of 2020, are amended to read as follows:

(d) "Home care aide" means a home health aide, personal care aide, home attendant, ~~[personal assistant performing consumer directed personal assistance services pursuant to section three hundred sixty-five f of the social services law,]~~ or other licensed or unlicensed person whose primary responsibility includes the provision of in-home assistance with activities of daily living, instrumental activities of daily living or health-related tasks; provided, however, that home care aide does not include any individual (i) working on a casual basis, or (ii) ~~[except for a person employed under the consumer directed personal assistance program under section three hundred sixty-five f of the social services law]~~ who is a relative through blood, marriage or adoption of: (1) the employer; or (2) the person for whom the worker is delivering services, under a program funded or administered by federal, state or local government.

~~[(i) "Fiscal intermediary" means a fiscal intermediary in the consumer directed personal assistance program under section three hundred sixty-five f of the social services law.]~~

2. Notwithstanding any inconsistent provision of law, rule or regulation, no payments by government agencies shall be made to certified home health agencies, long term home health care programs, managed care plans, ~~[fiscal intermediaries]~~ the nursing home transition and diversion waiver program under section three hundred sixty-six of the social services law, or the traumatic brain injury waiver program under section twenty-seven hundred forty of this chapter for any episode of care furnished, in whole or in part, by any home care aide who is compensated at amounts less than the applicable minimum rate of home care aide total compensation established pursuant to this section.

4. The terms of this section shall apply equally to services provided by home care aides who work on episodes of care as direct employees of certified home health agencies, long term home health care programs, or managed care plans, or as employees of licensed home care services agencies, limited licensed home care services agencies, ~~[or fiscal intermediaries]~~ or under any other arrangement.

5. No payments by government agencies shall be made to certified home health agencies, licensed home care services agencies, long term home health care programs, managed care plans, ~~[fiscal intermediaries]~~ for any episode of care without the certified home health agency, licensed home care services agency, long term home health care program, or managed care plan ~~[or the fiscal intermediary]~~, having delivered prior written certification to the commissioner annually, at a time prescribed by the commissioner, on forms prepared by the department in consultation with the department of labor, that all services provided under each episode of care during the period covered by the certification are in full compliance with the terms of this section and any regulations promulgated pursuant to this section and that no portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, or managed care plan, ~~[or fiscal intermediary]~~, related persons or entities, other than to a home care aide as defined in this section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner. Such written certification shall also verify that the certified home health agency, long term home health care program, or managed care plan has received from the licensed home care services agency, ~~[fiscal intermediary]~~ or other third party an annual statement of wage parity hours and expenses on a form provided by the department of labor accompanied by an independently-audited financial statement verifying such expenses.

5-a. No portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, or managed care plan, ~~[or fiscal intermediary]~~, related persons or entities, other than to a home care aide as defined in this section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner.

6. If a certified home health agency, long term home health care program or managed care plan elects to provide home care aide services through contracts with licensed home care services agencies, ~~[fiscal intermediaries]~~ or through other third parties, provided that the episode of care on which the home care aide works is covered under the terms of this section, the certified home health agency, long term home health care program, or managed care plan shall include in its contracts, a requirement that it be provided with a written certifi-

1 ication, verified by oath, from the licensed home care services agency,
2 [~~fiscal intermediary,~~] or other third party, on forms prepared by the
3 department in consultation with the department of labor, which attests
4 to the licensed home care services agency's, [~~fiscal intermediary's,~~] or
5 other third party's compliance with the terms of this section. Such
6 contracts shall also obligate the licensed home care services agency,
7 [~~fiscal intermediary,~~] or other third party to provide the certified
8 home health agency, long term home health care program, or managed care
9 plan all information from the licensed home care services agency,
10 [~~fiscal intermediary~~] or other third party necessary to verify compli-
11 ance with the terms of this section, which shall include an annual
12 compliance statement of wage parity hours and expenses on a form
13 provided by the department of labor accompanied by an independently-au-
14 dited financial statement verifying such expenses. Such annual state-
15 ments shall be available no less than annually for the previous calendar
16 year, at a time as prescribed by the commissioner. Such certifications,
17 the information necessary to verify compliance, and the annual compli-
18 ance statement and financial statements shall be retained by all certi-
19 fied home health agencies, long term home health care programs, or
20 managed care plans, and all licensed home care services agencies,
21 [~~fiscal intermediaries,~~] or other third parties for a period of no less
22 than ten years, and made available to the department upon request. Any
23 licensed home care services agency, [~~fiscal intermediary,~~] or other
24 third party who shall upon oath verify any statement required to be
25 transmitted under this section and any regulations promulgated pursuant
26 to this section which is known by such party to be false shall be guilty
27 of perjury and punishable as provided by the penal law.

28 6-a. The certified home health agency, long term home health care
29 program, or managed care plan shall review and assess the annual compli-
30 ance statement of wage parity hours and expenses and make a written
31 referral to the department of labor for any reasonably suspected fail-
32 ures of licensed home care services agencies, [~~fiscal intermediaries,~~]
33 or third parties to conform to the wage parity requirements of this
34 section.

35 7. The commissioner shall distribute to all certified home health
36 agencies, long term home health care programs, managed care plans, and
37 licensed home care services agencies[, ~~and fiscal intermediaries~~] offi-
38 cial notice of the minimum rates of home care aide compensation at least
39 one hundred twenty days prior to the effective date of each minimum rate
40 for each social services district covered by the terms of this section.

41 7-a. Any certified home health agency, licensed home care services
42 agency, long term home health care program, managed care plan, [~~or~~
43 ~~fiscal intermediary,~~] or other third party that willfully pays less than
44 such stipulated minimums regarding wages and supplements, as established
45 in this section, shall be guilty of a misdemeanor and upon conviction
46 shall be punished, for a first offense by a fine of five hundred dollars
47 or by imprisonment for not more than thirty days, or by both fine and
48 imprisonment; for a second offense by a fine of one thousand dollars,
49 and in addition thereto the contract on which the violation has occurred
50 shall be forfeited; and no such person or corporation shall be entitled
51 to receive any sum nor shall any officer, agent or employee of the state
52 pay the same or authorize its payment from the funds under his or her
53 charge or control to any person or corporation for work done upon any
54 contract, on which the certified home health agency, licensed home care
55 services agency, long term home health care program, managed care plan,

1 ~~[or fiscal intermediary,]~~ or other third party has been convicted of a
2 second offense in violation of the provisions of this section.

3 9. Nothing in this section should be construed as applicable to any
4 service provided by certified home health agencies, licensed home care
5 services agencies, long term home health care programs, or managed care
6 plans~~[, or fiscal intermediaries]~~ except for all episodes of care reim-
7 bursed in whole or in part by the New York Medicaid program.

8 10. No certified home health agency, managed care plan, or long term
9 home health care program shall be liable for recoupment of payments or
10 any other penalty under this section for services provided through a
11 licensed home care services agency, ~~[fiscal intermediary,]~~ or other
12 third party with which the certified home health agency, long term home
13 health care program, or managed care plan has a contract because the
14 licensed agency, ~~[fiscal intermediary,]~~ or other third party failed to
15 comply with the provisions of this section if the certified home health
16 agency, long term home health care program, or managed care plan has
17 reasonably and in good faith collected certifications and all informa-
18 tion required pursuant to this section and conducts the monitoring and
19 reporting required by this section.

20 § 15. Subdivision 1 of section 3614-f of the public health law, as
21 added by section 1 of part XX of chapter 56 of the laws of 2022, is
22 amended to read as follows:

23 1. For the purpose of this section, "home care aide" shall ~~[have the~~
24 ~~same meaning as defined in section thirty-six hundred fourteen-c of this~~
25 ~~article]~~ mean a home health aide, personal care aide, home attendant,
26 personal assistant performing consumer directed personal assistance
27 services pursuant to section three hundred sixty-five-f of the social
28 services law, or other licensed or unlicensed person whose primary
29 responsibility includes the provisions of in-home assistance with activ-
30 ities of daily living, instrumental activities of daily living or
31 health-related tasks; provided, however, that home care aide does not
32 include any individual (i) working on a casual basis, or (ii) (expect
33 for a person employed under the consumer directed personal assistance
34 program under section three hundred sixty-five-f of the social services
35 law) who is a relative through blood, marriage or adoption of: (1) the
36 employer; or (2) the person whom the worker is delivering services,
37 under a program funded or administered by federal, state or local
38 government.

39 § 16. The public health law is amended by adding a new section 3614-g
40 to read as follows:

41 § 3614-g. State supplemental premium assistance for consumer directed
42 personal assistants.

43 1. State supplemental assistance for the payment of qualified health
44 plan premiums shall be available to a personal assistant performing
45 consumer directed personal assistance services pursuant to section three
46 hundred sixty-five-f of the social services law, provided that such
47 personal assistant:

48 (a) attests on the NY State of Health Marketplace application that
49 they are providing such services on a full-time basis or part-time
50 basis, as defined in applicable regulation,

51 (b) is eligible for federal premium tax credits pursuant to section
52 36B(b)(3)(A) of the Internal Revenue Code,

53 (c) is not otherwise eligible for comprehensive coverage under
54 title 11 or 11-D of article five of the social services law; and

1 (d) is enrolled in a qualified health plan defined in 42 U.S.C.
2 18021(a), certified by the NY State of Health Marketplace, which does
3 not include a catastrophic plan described in 42 U.S.C. 18022(e).

4 2. The amount of the supplemental premium assistance shall be equal to
5 at least the contribution for the benchmark silver qualified health plan
6 available in such personal assistant's county of residence, and shall
7 account for the full-time or part-time status of the personal assistant.
8 Personal assistants working part-time shall be eligible for a minimum of
9 one-half of the state supplemental premium credit available for personal
10 assistants working full-time. Such credit shall be paid directly to the
11 qualified health plan issuer. Any subsidies provided pursuant to this
12 section shall be in accordance with a schedule or methodology published
13 by the commissioner, which may be based on a sliding scale in relation
14 to the household income of the personal assistant, or such other method-
15 ology as the commissioner deems appropriate.

16 3. Applicants for coverage through the NY State Marketplace who are
17 newly eligible for supplemental premium assistance pursuant to this
18 section shall be eligible for a special enrollment period through the NY
19 State of Health Marketplace.

20 4. The commissioner shall submit such applications to the secretary of
21 the department of health and human services or treasury as may be neces-
22 sary to receive federal financial participation in the costs of payments
23 made pursuant to this section; provided further, however, that nothing
24 in this section shall be deemed to affect the payment of the state
25 supplemental premium assistance pursuant to applicable law and regu-
26 lation if federal financial participation in the costs of such payments
27 is not available.

28 5. Fiscal intermediaries and personal assistants under section three
29 hundred sixty-five-f of the social services law shall be required to
30 provide such information as is necessary for the implementation and
31 operation of this section. The department shall specify the frequency
32 and format of such reporting and determine the type and amount of infor-
33 mation to be submitted, including any supporting documentation.

34 6. The commissioner shall promulgate any rules and regulations and
35 take such steps as may be necessary for the implementation and operation
36 of this section.

37 § 17. The state finance law is amended by adding a new section
38 97-bbbbbb to read as follows:

39 § 97-bbbbbb. CDPAP supplemental premium assistance fund. 1. CDPAP
40 supplemental premium assistance fund. There is hereby established in the
41 joint custody of the state comptroller and the commissioner of taxation
42 and finance a special fund to be known as the "CDPAP supplemental premi-
43 um assistance fund".

44 2. Such fund shall be kept separate and shall not be commingled with
45 any other funds in the custody of the state comptroller and the commis-
46 sioner of taxation and finance.

47 3. Such fund shall consist of moneys appropriated for State supple-
48 mental premium assistance for the payment of qualified health plan
49 premium of eligible enrollees performing consumer directed personal
50 assistance services, in accordance with section thirty-six hundred four-
51 teen-g of the social services law, or transferred to such account pursu-
52 ant to applicable law.

53 4. The moneys, when allocated in accordance with section thirty-six
54 hundred fourteen-g of the social services law, shall be paid out of the
55 fund to qualified health plans on behalf of eligible enrollees.

§ 18. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023; provided, however, that:

(a) the amendments to section 4403-f of the public health law made by sections two through six-a of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(b) the amendments to subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law made by section six of this act shall be subject to the expiration and reversion of such subparagraph pursuant to subdivision (i) of section 111 of part H of chapter 59 of the laws of 2011, as amended, when upon such date the provisions of section six-a of this act shall take effect;

(c) sections fourteen, sixteen, and seventeen of this act shall take effect on and after the first of January next succeeding the date of enactment of a state supplemental premium assistance program in accordance with sections sixteen and seventeen of this act, takes effect; provided, however, such sections fourteen, sixteen, and seventeen of this act shall take effect no earlier than January 1, 2025; and provided, further, the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of the establishment of such state supplemental premium assistance program in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law; and

(d) effective immediately, the commissioner of health shall promulgate any rules and regulations and take such steps, including requiring the submission of reports or surveys by fiscal intermediaries under the consumer directed personal assistance program, as may be necessary for the timely implementation of this act on or before such effective date.

PART J

Section 1. Subsection (a) of section 3224-a of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

(a) Except in a case where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law to pay a claim submitted by a policyholder or person covered under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for the services rendered that is transmitted via the internet or electronic mail[~~r~~] or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile.

(1) Where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law to pay such a claim is clear, except for the desire of the insurer or organization or corporation to review clinical documentation or, to the

1 extent agreed upon by a hospital and the insurer or organization or
2 corporation, electronic medical records, to confirm the medical necessi-
3 ty of emergency services or inpatient services following an emergency
4 department visit provided by a hospital that participates in the
5 network of the insurer or organization or corporation, which includes
6 whether the services provided were emergency services or that the site
7 of service or level of care billed was appropriate for the services
8 provided, the insurer or organization or corporation shall pay the claim
9 at the contracted rate for the services and site billed by the hospital
10 within the timeframes set forth in this subsection. The insurer or
11 organization or corporation may, within thirty days of paying the claim,
12 request that the hospital submit to the insurer or organization or
13 corporation only the clinical documentation or, to the extent agreed
14 upon by the hospital and the insurer or organization or corporation,
15 electronic medical records, necessary to confirm the medical necessity
16 of the emergency services or inpatient services following an emergency
17 department visit provided by the hospital, which includes whether the
18 services provided by the hospital were emergency services or that the
19 site of service or level of care billed was appropriate for the services
20 provided. The hospital shall provide the clinical documentation to the
21 insurer or organization or corporation within forty-five days of its
22 request.

23 (2) Unless otherwise agreed upon by the hospital and the insurer or
24 organization or corporation, an insurer or organization or corporation
25 may submit a claim, within ninety days of receipt of the clinical
26 documentation from the hospital, to a joint committee composed of clini-
27 cians from the insurer or organization or corporation and the hospital
28 for a post-payment audit. If the hospital fails to provide clinical
29 documentation to the insurer or organization or corporation within
30 forty-five days of the request, the insurer or organization or corpo-
31 ration may submit the claim to the joint committee for review within
32 ninety days after the end of the forty-five day period. The joint
33 committee shall meet at least quarterly to review such claims. Nothing
34 herein shall require the joint committee to be registered as a utiliza-
35 tion review agent under article forty-nine of the public health law or
36 file a utilization review report under article forty-nine of this chap-
37 ter.

38 (3) Within ninety days of the joint committee's receipt of the request
39 to review the claim from an insurer or organization or corporation, the
40 joint committee shall request the clinical documentation from the hospi-
41 tal, review the claim and information submitted by the parties, and make
42 a joint determination as to the medical necessity of the services
43 provided, which includes whether the services were emergency services or
44 that the site of service or level of care billed was appropriate for the
45 services; provided, however, the insurer or organization or corporation
46 and hospital may agree to meet more frequently than every ninety days,
47 so long as such frequency does not require the joint committee to meet
48 more frequently than every thirty days. Failure by the hospital to
49 provide the clinical documentation to the joint committee within sixty
50 days of request, or an alternative timeframe as may be agreed upon by
51 all parties, shall result in a final determination that the services
52 were not medically necessary by the joint committee, which shall not be
53 subject to review under article forty-nine of this chapter and article
54 forty-nine of the public health law.

55 (A) In the event a joint determination cannot be agreed upon within
56 the ninety-day period, the hospital or insurer or organization or corpo-

1 ration may refer the claim to a mutually agreed upon independent third-
2 party review agent within five business days from the end of the nine-
3 ty-day period, for a determination. The determination of the independent
4 third-party review agent shall be binding.

5 (B) The hospital and the insurer or organization or corporation shall
6 designate one or more mutually agreed upon independent third-party
7 review agents in the participating provider agreement. If the hospital
8 and the insurer or organization or corporation are unable to reach
9 agreement in the participating provider agreement on one or more inde-
10 pendent third-party review agents, then the insurer or organization or
11 corporation may select an independent third-party review agent that has
12 been certified by the superintendent as an external appeal agent pursu-
13 ant to article forty-nine of this chapter or as an independent dispute
14 resolution entity pursuant to article six of the financial services law.
15 If the independent third-party review agent determines that the services
16 provided were not medically necessary, in whole or in part, the insurer
17 or corporation or organization may recoup, offset, or otherwise require
18 the hospital to refund any overpayment resulting from its determination
19 consistent with subsection (b) of section three thousand two hundred
20 twenty-four-b of this article within thirty days. The insurer or organ-
21 ization or corporation shall provide written notification to the hospi-
22 tal of such recoup or offset, which shall include: (i) the claim number;
23 (ii) the amount of the overpayment; and (iii) the date of the joint
24 committee determination.

25 (C) During the entirety of the review process, the hospital shall pend
26 the imposition of any copayment, coinsurance or deductible until such
27 time as there is a final determination as to whether the services in
28 question were medically necessary. The hospital may thereafter bill the
29 insured for the amount of the copayment, coinsurance or deductible for
30 services determined to be medically necessary and shall hold the insured
31 harmless for any other amounts, including amounts for services deter-
32 mined to be not medically necessary.

33 (4) Nothing in this subsection shall in any way be deemed to limit the
34 ability of insurers or organizations or corporations and hospitals to
35 agree to establish parameters for referral or review of medical records,
36 including while the insured is in the hospital, or for insurers or
37 organizations or corporations to require preauthorization for services
38 that are not emergency services.

39 (5) For purposes of this subsection, "hospital" shall mean a general
40 hospital as defined in section two thousand eight hundred one of the
41 public health law.

42 (6) Nothing in this subsection shall preclude an insurer or organiza-
43 tion or corporation and a hospital from agreeing to other dispute resol-
44 ution mechanisms, provided that the parties may not negotiate away the
45 requirement that the insurer or organization or corporation pay the
46 claim as billed by the hospital prior to reviewing such claim for
47 medical necessity. When a hospital and an insurer or organization or
48 corporation are parties to a participating provider agreement applicable
49 to the inpatient hospital admission being reviewed by the joint commit-
50 tee, the definition of medical necessity set forth in such participating
51 provider agreement shall apply for purposes of joint committee and inde-
52 pendent third-party review.

53 § 2. Subsection (b) of section 3224-a of the insurance law, as amended
54 by chapter 694 of the laws of 2021, is amended to read as follows:

55 (b) In a case where the obligation of an insurer or an organization or
56 corporation licensed or certified pursuant to article forty-three or

forty-seven of this chapter or article forty-four of the public health law to pay a claim or make a payment for health care services rendered is not reasonably clear due to a good faith dispute regarding the eligibility of a person for coverage, the liability of another insurer or corporation or organization for all or part of the claim, the amount of the claim, the benefits covered under a contract or agreement, or the manner in which services were accessed or provided, an insurer or organization or corporation shall pay any undisputed portion of the claim in accordance with this subsection and notify the policyholder, covered person or health care provider in writing, and through the internet or other electronic means for claims submitted in that manner, within thirty calendar days of the receipt of the claim:

- (1) whether the claim or bill has been denied or partially approved;
- (2) which claim or medical payment that it is not obligated to pay the claim, stating the specific reasons why it is not liable; and
- (3) to request all additional information needed to determine liability to pay the claim or make the health care payment; and
- (4) of the specific type of plan or product the policyholder or covered person is enrolled in; provided that nothing in this section shall authorize discrimination based on the source of payment.

Upon receipt of the information requested in paragraph three of this subsection or an appeal of a claim or bill for health care services denied pursuant to this subsection, an insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law shall comply with subsection (a) of this section; provided, that if the insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law determines that payment or additional payment is due on ~~[the] a claim[.]~~ as a result of an internal or external appeal determination made pursuant to section four thousand nine hundred four or title two of article forty-nine of this chapter or section four thousand nine hundred four or title two of article forty-nine of the public health law, such payment shall be made to the policyholder or covered person or health care provider within fifteen days of the determination. Any denial or partial approval of claim or payment and the specific reasons for such denial or partial approval pursuant to this subsection shall be prominently displayed on a written notice with at least twelve-point type. A partial approval of claim or payment shall state at the top of such written notice with at least fourteen-point type bold: "NOTICE OF PARTIAL APPROVAL OF MEDICAL COVERAGE". A denial of claim or payment shall state at the top of such written notice with at least fourteen-point type bold: "NOTICE OF DENIAL OF MEDICAL COVERAGE". Any additional terms or conditions included on such notice of partial approval or such notice of denial, such as but not limited to time restraints to file an appeal, shall be included with at least twelve-point type.

§ 3. Paragraphs 4 and 5 of subsection (b) of section 3224-b of the insurance law are renumbered paragraphs 6 and 7 and two new paragraphs 4 and 5 are added to read as follows:

(4) A review or audit of claims by or on behalf of a health plan shall not reverse or otherwise alter a medical necessity determination, which includes, a site of service or level of care determination made by a utilization review agent or external appeal agent pursuant to article forty-nine of this chapter or article forty-nine of the public health law.

(5) A review or audit of claims by or on behalf of a health plan shall not downgrade the coding of a claim if it has the effect of reversing or altering a medical necessity determination, which includes, a level of care determination made by or on behalf of the health plan; provided however, that nothing in this paragraph shall limit a health plan's ability to review or audit claims for fraud, waste or abuse.

§ 4. The opening paragraph of subsection (c) of section 4904 of the insurance law, as amended by section 18 of part YY of chapter 56 of the laws of 2020, is amended to read as follows:

A utilization review agent shall establish a standard appeal process which includes procedures for appeals to be filed in writing or by telephone. A utilization review agent must establish a period of no less than forty-five days after receipt of notification by the insured of the initial utilization review determination and receipt of all necessary information to file the appeal from said determination. The utilization review agent must provide written acknowledgment of the filing of the appeal to the appealing party within fifteen days of such filing and shall make a determination with regard to the appeal within thirty days of the receipt of necessary information to conduct the appeal and, upon overturning the adverse decision, shall comply with subsection ~~[(a)]~~ (b) of section three thousand two hundred twenty-four-a of this chapter as applicable. The utilization review agent shall notify the insured, the insured's designee and, where appropriate, the insured's health care provider, in writing of the appeal determination within two business days of the rendering of such determination.

§ 5. The opening paragraph of subdivision 3 of section 4904 of the public health law, as amended by section 17 of part YY of chapter 56 of the laws of 2020, is amended to read as follows:

A utilization review agent shall establish a standard appeal process which includes procedures for appeals to be filed in writing or by telephone. A utilization review agent must establish a period of no less than forty-five days after receipt of notification by the enrollee of the initial utilization review determination and receipt of all necessary information to file the appeal from said determination. The utilization review agent must provide written acknowledgment of the filing of the appeal to the appealing party within fifteen days of such filing and shall make a determination with regard to the appeal within thirty days of the receipt of necessary information to conduct the appeal and, upon overturning the adverse determination, shall comply with subsection ~~[(a)]~~ (b) of section three thousand two hundred twenty-four-a of the insurance law as applicable. The utilization review agent shall notify the enrollee, the enrollee's designee and, where appropriate, the enrollee's health care provider, in writing, of the appeal determination within two business days of the rendering of such determination. The notice of the appeal determination shall include:

§ 6. Nothing in this act shall limit the authority of the office of the medicaid inspector general, the department of health, or the state from conducting oversight activities, audits, recovering funds and imposing penalties in accordance with any relevant rule, regulation, provision of law or contract.

§ 7. This act shall take effect January 1, 2024.

PART K

Section 1. Subparagraphs 1 and 2 of paragraph (e) of subdivision 1 of section 366 of the social services law, as added by section 1 of part D

1 of chapter 56 of the laws of 2013, clause (iii) of subparagraph 2 as
2 amended by chapter 477 of the laws of 2022, are amended to read as
3 follows:

4 (1) is an inmate or patient in an institution or facility wherein
5 medical assistance may not be provided in accordance with applicable
6 federal or state requirements, except for persons described in subpara-
7 graph ten of paragraph (c) of this subdivision or subdivision one-a or
8 subdivision one-b of this section; or except for certain services
9 provided to persons in a correctional institution or facility permitted
10 by a waiver authorized pursuant to section eleven hundred fifteen of the
11 federal social security act; if, so long as, and to the extent federal
12 financial participation is available for such expenditures provided
13 pursuant to such waiver; or

14 (2) is a patient in a public institution operated primarily for the
15 treatment of tuberculosis or care of the mentally disabled, with the
16 exception of: (i) a person sixty-five years of age or older and a
17 patient in any such institution; (ii) a person under twenty-one years of
18 age and receiving in-patient psychiatric services in a public institu-
19 tion operated primarily for the care of the mentally disabled; (iii) a
20 patient in a public institution operated primarily for the care of indi-
21 viduals with developmental disabilities who is receiving medical care or
22 treatment in that part of such institution that has been approved pursu-
23 ant to law as a hospital or nursing home; (iv) a patient in an institu-
24 tion operated by the state department of mental hygiene, while under
25 care in a hospital on release from such institution for the purpose of
26 receiving care in such hospital; ~~[or]~~ (v) is a person residing in a
27 community residence or a residential care center for adults; or (vi)
28 certain services provided to persons in an institution for mental
29 diseases permitted by a waiver authorized pursuant to section eleven
30 hundred fifteen of the federal social security act; if, so long as, and
31 to the extent federal financial participation is available for such
32 expenditures provided pursuant to such waiver.

33 § 2. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after April 1, 2023.

35 PART L

36 Section 1. Section 3241 of the insurance law is amended by adding a
37 new subsection (d) to read as follows:

38 (d)(1) For purposes of this subsection:

39 (A) "Free-standing ambulatory surgical center" shall mean a diagnostic
40 and treatment center authorized pursuant to article twenty-eight of the
41 public health law and operated independently from a hospital.

42 (B) "Health care plan" shall mean an insurer, a corporation organized
43 pursuant to article forty-three of this chapter, a health maintenance
44 organization certified pursuant to article forty-four of the public
45 health law, a municipal cooperative health benefit plan certified pursu-
46 ant to article forty-seven of this chapter, and a student health plan
47 established or maintained pursuant to section one thousand one hundred
48 twenty-four of this chapter, that issues a health insurance policy or
49 contract or that arranges for care and services for members under a
50 contract with the department of health with a network of health care
51 providers and utilizes site of service review to determine coverage for
52 services delivered by participating providers.

1 (C) "Hospital-based outpatient clinic" shall mean a clinic authorized
2 pursuant to article twenty-eight of the public health law and listed on
3 a hospital's operating certificate.

4 (D) "Site of service review" shall mean criteria applied by a health
5 care plan for purposes of determining whether a procedure will be
6 covered for a given insured or enrollee when rendered by a network
7 provider at a hospital-based outpatient clinic rather than a free-stand-
8 ing ambulatory surgical center.

9 (2) Site of service review shall be deemed utilization review in
10 accordance with and subject to the requirements and protections of arti-
11 cle forty-nine of this chapter and article forty-nine of the public
12 health law, including the right to internal and external appeal of
13 denials related to site of service.

14 (3) Site of service review shall prioritize patient health and safety,
15 patient choice of health care provider, and access to care and shall not
16 be based solely on cost.

17 (4) A health care plan shall have adequate free-standing ambulatory
18 surgical center providers to meet the health needs of insureds and
19 enrollees and to provide an appropriate choice of providers sufficient
20 to render the services covered under the policy or contract.

21 (5) Except as provided in paragraph six of this subsection, starting
22 January first, two thousand twenty-four, a health care plan shall
23 provide notice disclosing and clearly explaining the site of service
24 review to:

25 (A) policyholders, contract holders, insureds, and enrollees and
26 prospective policyholders, contract holders, insureds, and enrollees at
27 the time of plan and policy or contract selection. This disclosure shall
28 include a statement that site of service review may limit the settings
29 in which services covered under the policy or contract may be provided
30 and render a participating provider unable to perform a service and
31 shall disclose to insureds or enrollees any quality or cost differen-
32 tial, including differences in out-of-pocket costs, between the hospi-
33 tal-based outpatient clinic and the free-standing ambulatory surgical
34 center when services at a hospital-based outpatient clinic are
35 requested, or at any other time upon the insured's or enrollee's
36 request. Provider directories shall also indicate when health care plan
37 site of service review may limit the scope of services that will be
38 covered when delivered by a participating provider;

39 (B) participating providers at least ninety days prior to implementa-
40 tion. A health care plan shall also inform providers of the process for
41 requesting coverage of a service in a hospital-based outpatient clinic
42 setting, including the right to request a real time clinical peer to
43 peer discussion as part of the authorization process; and

44 (C) the superintendent and, as applicable, to the commissioner of
45 health, at least forty-five days prior to notifying policyholders,
46 contract holders, insureds and enrollees and prospective policyholders,
47 contract holders, insureds and enrollees and participating providers in
48 accordance with this subsection. Such notice to the superintendent and,
49 as applicable, to the commissioner of health, shall include draft commu-
50 nications to the foregoing persons for purposes of complying with this
51 subsection.

52 (6) A health care plan that has implemented site of service review
53 prior to January first, two thousand twenty-four shall provide the
54 disclosures set forth in paragraph five of this subsection at the begin-
55 ning of the open enrollment period for individual health insurance poli-
56 cies and contracts, and for group health insurance policies and

contracts, prior to issuance, renewal, or January first, two thousand twenty-four, whichever is earlier.

(7) Starting January first, two thousand twenty-four, at a minimum, a health care plan shall approve a service covered under the policy or contract and requested to be performed by a network provider at a hospital-based outpatient clinic in the following situations:

(A) the procedure cannot be safely performed in a free-standing ambulatory surgical center due to the insured's or enrollee's health condition or the health care services;

(B) there is not sufficient free-standing ambulatory surgical center capacity in the insured's or enrollee's geographic area; or

(C) the provision of health care services at a free-standing ambulatory surgical center would result in undue delay.

(8) Starting January first, two thousand twenty-four, site of service clinical review criteria developed by health care plans shall also take into consideration whether:

(A) the insured's or enrollee's in-network treating physician recommends that the service be provided at a hospital-based outpatient clinic;

(B) the insured's in-network treating physician is not credentialed or does not have privileges at a free-standing ambulatory surgical center; or

(C) the insured has an established relationship with an in-network treating physician who performs the requested service in a hospital-based outpatient clinic.

§ 2. This act shall take effect April 1, 2023.

PART M

Section 1. Subdivision 3 of section 2801-a of the public health law, as amended by section 57 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

3. The public health and health planning council shall not approve a certificate of incorporation, articles of organization or application for establishment unless it is satisfied, insofar as applicable, as to (a) the public need for the existence of the institution at the time and place and under the circumstances proposed, provided, however, that in the case of an institution proposed to be established or operated by an organization defined in subdivision one of section one hundred seventy-two-a of the executive law, the needs of the members of the religious denomination concerned, for care or treatment in accordance with their religious or ethical convictions, shall be deemed to be public need; (b) the character, competence, and standing in the community, of the proposed incorporators, directors, sponsors, stockholders, members, or operators; with respect to any proposed incorporator, director, sponsor, stockholder, member, or operator who is already or within the past ~~ten~~ seven years ~~has~~ been an incorporator, director, sponsor, member, principal stockholder, principal member, or operator of any hospital or other health-related or long-term care facility, program or agency, including but not limited to, private proprietary home for adults, residence for adults, or non-profit home for the aged or blind which has been issued an operating certificate by the state department of social services, or a halfway house, hostel or other residential facility or institution for the care, custody or treatment of the mentally disabled which is subject to approval by the department of mental hygiene, no approval shall be granted unless the public health and health planning

1 council, having afforded an adequate opportunity to members of health
2 systems agencies, if any, having geographical jurisdiction of the area
3 where the institution is to be located to be heard, shall affirmatively
4 find by substantial evidence as to each such incorporator, director,
5 sponsor, member, principal stockholder, principal member, or operator
6 that a substantially consistent high level of care is being or was being
7 rendered in each such hospital, home, residence, halfway house, hostel,
8 or other residential facility or institution ~~[with]~~ in which such person
9 is or was affiliated; for the purposes of this paragraph, the public
10 health and health planning council shall adopt rules and regulations,
11 subject to the approval of the commissioner, to establish the criteria
12 to be used to determine whether a substantially consistent high level of
13 care has been rendered, provided, however, that there shall not be a
14 finding that a substantially consistent high level of care has been
15 rendered where there have been violations of the state hospital code, or
16 other applicable rules and regulations, that (i) threatened to directly
17 affect the health, safety or welfare of any patient or resident, and
18 (ii) were recurrent or were not promptly corrected; (c) the financial
19 resources of the proposed institution and its sources of future reven-
20 ues; and (d) such other matters as it shall deem pertinent.

21 § 2. Paragraphs (b) and (c) of subdivision 4 of section 2801-a of the
22 public health law, as amended by section 57 of part A of chapter 58 of
23 the laws of 2010, are amended to read as follows:

24 (b) ~~[(i)]~~ Any transfer, assignment or other disposition of ~~[ten~~
25 ~~percent or more of]~~ an interest, stock, or voting rights in a sole
26 proprietorship, partnership ~~[or]~~, limited liability company, or corpo-
27 ration which is the operator of a hospital ~~[to a new partner or member]~~
28 or any transfer, assignment or other disposition which results in the
29 ownership or control of an interest, stock, or voting rights in that
30 operator, shall be approved by the public health and health planning
31 council, in accordance with the provisions of subdivisions two ~~[and]~~,
32 three, and three-b of this section, except that: ~~[(A) any such change~~
33 ~~shall be subject to the approval by the public]~~

34 (i) Public health and health planning council approval in accordance
35 with paragraph (b) of ~~[subdivision]~~ subdivisions three and three-b of
36 this section shall be required only with respect to ~~[the new partner or~~
37 ~~member, and]~~ any ~~[remaining partners or members]~~ person, partner,
38 member, or stockholder who ~~[have]~~ has not been previously approved for
39 that ~~[facility]~~ operator in accordance with such ~~[paragraph, and (B)~~
40 ~~such]~~ paragraphs.

41 (ii) Such change shall not be subject to the public need assessment
42 described in paragraph (a) of subdivision three of this section.

43 ~~[(ii) With]~~ (iii) No prior approval of the public health and health
44 planning council shall be required with respect to a transfer, assign-
45 ment or disposition ~~[involving less than ten percent of]~~, directly or
46 indirectly, of: (A) an interest, stock, or voting rights of less than
47 ten percent in ~~[such partnership or limited liability company]~~ the oper-
48 ator, to ~~[a new]~~ any person, partner ~~[or]~~, member, ~~[no prior approval of~~
49 ~~the public health and health planning council shall be required]~~ or
50 stockholder who has not been previously approved by the public health
51 and health planning council, or its predecessor for that operator.
52 However, no such transaction shall be effective unless at least ninety
53 days prior to the intended effective date thereof, the ~~[partnership or~~
54 ~~limited liability company]~~ operator fully completes and files with the
55 public health and health planning council notice on a form, to be devel-
56 oped by the public health and health planning council, which shall

disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction for any of the reasons set forth in item ~~[(A), (B), (C) or (D)]~~ one, two, three or four below, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions. ~~[Within ninety days from the date of receipt of such notice, the]~~ The public health and health planning council may bar, any transaction under this subparagraph: ~~[(A)]~~ (1) if the equity position of the partnership ~~[or]~~, limited liability company, or corporation that operates a hospital for profit, determined in accordance with generally accepted accounting principles, would be reduced as a result of the transfer, assignment or disposition; ~~[(B)]~~ (2) if the transaction would result in the ownership of a partnership or membership interest or stock by any persons who have been convicted of a felony described in subdivision five of section twenty-eight hundred six of this article; ~~[(C)]~~ (3) if there are reasonable grounds to believe that the proposed transaction does not satisfy the character and competence criteria set forth in subdivision three or three-b of this section; or ~~[(D)]~~ (4) if the transaction, together with all transactions under this subparagraph for the ~~[partnership, or successor,]~~ operator during any five year period would, in the aggregate, involve twenty-five percent or more of the interest in the ~~[partnership]~~ operator. The public health and health planning council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction~~[-]; or~~ ~~[(iii) With respect to a transfer, assignment or disposition of]~~ (B) an interest, stock, or voting rights ~~[in such partnership or limited liability company]~~ to any ~~[remaining]~~ person, partner ~~[or]~~, member, ~~[which transaction involves the withdrawal of the transferor from the partnership or limited liability company, no prior approval of the public health and health planning council shall be required]~~ or stockholder, previously approved by the public health and health planning council, or its predecessor, for that operator. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the ~~[partnership or limited liability company]~~ operator fully completes and files with the public health and health planning council notice on a form, to be developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction for the reason set forth below, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions. ~~[Within ninety days from the date of receipt of such notice, the]~~ The public health and health

1 planning council may bar any transaction under this subparagraph if the
2 equity position of the [~~partnership or limited liability company~~] opera-
3 tor, determined in accordance with generally accepted accounting princi-
4 ples, would be reduced as a result of the transfer, assignment or dispo-
5 sition. The public health and health planning council shall state
6 specific reasons for barring any transaction under this subparagraph and
7 shall so notify each party to the proposed transaction.

8 (c) [~~Any transfer, assignment or other disposition of ten percent or~~
9 ~~more of the stock or voting rights thereunder of a corporation which is~~
10 ~~the operator of a hospital or which is a member of a limited liability~~
11 ~~company which is the operator of a hospital to a new stockholder, or any~~
12 ~~transfer, assignment or other disposition of the stock or voting rights~~
13 ~~thereunder of such a corporation which results in the ownership or~~
14 ~~control of more than ten percent of the stock or voting rights there-~~
15 ~~under of such corporation by any person not previously approved by the~~
16 ~~public health and health planning council, or its predecessor, for that~~
17 ~~corporation shall be subject to approval by the public health and health~~
18 ~~planning council, in accordance with the provisions of subdivisions two~~
19 ~~and three of this section and rules and regulations pursuant thereto;~~
20 ~~except that: any such transaction shall be subject to the approval by~~
21 ~~the public health and health planning council in accordance with para-~~
22 ~~graph (b) of subdivision three of this section only with respect to a~~
23 ~~new stockholder or a new principal stockholder; and shall not be subject~~
24 ~~to paragraph (a) of subdivision three of this section. In the absence of~~
25 ~~such approval, the operating certificate of such hospital shall be~~
26 ~~subject to revocation or suspension. No prior approval of the public~~
27 ~~health and health planning council shall be required with respect to a~~
28 ~~transfer, assignment or disposition of ten percent or more of the stock~~
29 ~~or voting rights thereunder of a corporation which is the operator of a~~
30 ~~hospital or which is a member of a limited liability company which is~~
31 ~~the owner of a hospital to any person previously approved by the public~~
32 ~~health and health planning council, or its predecessor, for that corpo-~~
33 ~~ration. However, no such transaction shall be effective unless at least~~
34 ~~ninety days prior to the intended effective date thereof, the stockhold-~~
35 ~~er completes and files with the public health and health planning coun-~~
36 ~~cil notice on forms to be developed by the public health and health~~
37 ~~planning council, which shall disclose such information as may reason-~~
38 ~~ably be necessary for the public health and health planning council to~~
39 ~~determine whether it should bar the transaction. Such transaction will~~
40 ~~be final as of the intended effective date unless, prior thereto, the~~
41 ~~public health and health planning council shall state specific reasons~~
42 ~~for barring such transactions under this paragraph and shall notify each~~
43 ~~party to the proposed transaction.] Nothing in this [paragraph] subdivi-
44 sion shall be construed as permitting [~~a~~] any person, partner, member,
45 or stockholder not previously approved by the public health and health
46 planning council for that [~~corporation~~] operator to [~~become the owner~~
47 ~~of~~] own or control, directly or indirectly, ten percent or more of the
48 interest, stock, or voting rights of [~~a~~] any partnership, limited
49 liability company, or corporation which is the operator of a hospital or
50 a corporation which is a member of a limited liability company which is
51 the owner of a hospital without first obtaining the approval of the
52 public health and health planning council. In the absence of approval by
53 the public health and health planning council as required under this
54 subdivision, the operating certificate of such hospital shall be subject
55 to revocation or suspension. Failure to provide notice as required~~

1 under this subdivision may subject the operating certificate of such
2 operator to revocation or suspension.

3 § 3. Section 3611-a of the public health law, as amended by section 92
4 of part C of chapter 58 of the laws of 2009, subdivisions 1 and 2 as
5 amended by section 67 of part A of chapter 58 of the laws of 2010, is
6 amended to read as follows:

7 § 3611-a. Change in the operator or owner. 1. Any [~~change in the~~
8 ~~person who, or any~~] transfer, assignment, or other disposition of an
9 interest, stock, or voting rights [~~of ten percent or more~~] in a sole
10 proprietorship, partnership, limited liability company, or corporation
11 which is the operator of a licensed home care services agency or a
12 certified home health agency, or any transfer, assignment or other
13 disposition which results in the ownership or control of an interest,
14 stock, or voting rights [~~of ten percent or more~~] in [~~a limited liabil-~~
15 ~~ity company or a partnership which is the~~] that operator [~~of a licensed~~
16 ~~home care services agency or a certified home health agency~~], shall be
17 approved by the public health and health planning council, in accordance
18 with the provisions of subdivision four of section thirty-six hundred
19 five of this article relative to licensure or subdivision two of section
20 thirty-six hundred six of this article relative to certificate of
21 approval, except that:

22 (a) Public health and health planning council approval shall be
23 required only with respect to the person, [~~or the~~] partner, member or
24 [~~partner~~] stockholder that is acquiring the interest, stock, or voting
25 rights[~~;~~ and].

26 (b) With respect to certified home health agencies, such change shall
27 not be subject to the public need assessment described in paragraph (a)
28 of subdivision two of section thirty-six hundred six of this article.

29 (c) With respect to licensed home care services agencies, the commis-
30 sioner may promulgate regulations directing whether such change shall be
31 subject to the public need assessment described in paragraph (a) of
32 subdivision four of section thirty-six hundred five of this article.

33 [~~(e)~~] (d) No prior approval of the public health and health planning
34 council shall be required with respect to a transfer, assignment or
35 disposition, directly or indirectly, of:

36 (i) an interest, stock, or voting rights to any person, partner,
37 member, or stockholder previously approved by the public health and
38 health planning council, or its predecessor, for that operator. However,
39 no such transaction shall be effective unless at least ninety days prior
40 to the intended effective date thereof, the operator completes and files
41 with the public health and health planning council notice on forms to be
42 developed by the public health and health planning council, which shall
43 disclose such information as may reasonably be necessary for the depart-
44 ment to recommend and for the public health and health planning council
45 to determine whether it should bar the transaction, and has fully
46 responded to any request for additional information by the department
47 acting on behalf of the public health and health planning council during
48 the review period. Such transaction will be final upon completion of the
49 review period, which shall be no longer than ninety days from the date
50 the department receives a complete response to its final request for
51 additional information, unless, prior thereto, the public health and
52 health planning council has notified each party to the proposed trans-
53 action that it has barred such transactions under this paragraph and has
54 stated specific reasons for barring such transactions; or

55 (ii) an interest, stock, or voting rights of less than ten percent in
56 the operator to any person, partner, member, or stockholder who has not

1 been previously approved by the public health and health planning coun-
2 cil for that operator. However, no such transaction shall be effective
3 unless at least ninety days prior to the intended effective date there-
4 of, the ~~[partner or member]~~ operator completes and files with the public
5 health and health planning council notice on forms to be developed by
6 the public health and health planning council, which shall disclose such
7 information as may reasonably be necessary for the department to recom-
8 mend and for the public health and health planning council to determine
9 whether it should bar the transaction, and has fully responded to any
10 request for additional information by the department acting on behalf of
11 the public health and health planning council during the review period.
12 Such transaction will be final ~~[as of the intended effective date]~~ upon
13 completion of the review period, which shall be no longer than ninety
14 days from the date the department receives a complete response to its
15 final request for additional information, unless, prior thereto, the
16 public health and health planning council ~~[shall state]~~ has notified
17 each party to the proposed transaction that it has barred such trans-
18 actions under this paragraph and has stated specific reasons for barring
19 such transactions ~~[under this paragraph and shall notify each party to~~
20 ~~the proposed transaction]~~.

21 (iii) Nothing in this subdivision shall be construed as permitting any
22 person, partner, member, or stockholder not previously approved by the
23 public health and health planning council for that operator to own or
24 control, directly or indirectly, ten percent or more of the interest,
25 stock, or voting rights of any partnership, limited liability company,
26 or corporation which is the operator of a licensed home care services
27 agency or a certified home health agency without first obtaining the
28 approval of the public health and health planning council.

29 (iv) In the absence of approval by the public health and health plan-
30 ning council as required under this paragraph, the license or certif-
31 icate of approval of such operator shall be subject to revocation or
32 suspension. Failure to provide notice as required under this paragraph
33 may subject the license or certificate of approval of such operator to
34 revocation or suspension thereof.

35 2. ~~[Any transfer, assignment or other disposition of ten percent or~~
36 ~~more of the stock or voting rights thereunder of a corporation which is~~
37 ~~the operator of a licensed home care services agency or a certified home~~
38 ~~health agency, or any transfer, assignment or other disposition of the~~
39 ~~stock or voting rights thereunder of such a corporation which results in~~
40 ~~the ownership or control of more than ten percent of the stock or voting~~
41 ~~rights thereunder of such corporation by any person shall be subject to~~
42 ~~approval by the public health and health planning council in accordance~~
43 ~~with the provisions of subdivision four of section thirty six hundred~~
44 ~~five of this article relative to licensure or subdivision two of section~~
45 ~~thirty-six hundred six of this article relative to certificate of~~
46 ~~approval, except that:~~

47 ~~(a) Public health and health planning council approval shall be~~
48 ~~required only with respect to the person or entity acquiring such stock~~
49 ~~or voting rights; and~~

50 ~~(b) With respect to certified home health agencies, such change shall~~
51 ~~not be subject to the public need assessment described in paragraph (a)~~
52 ~~of subdivision two of section thirty six hundred six of this article. In~~
53 ~~the absence of such approval, the license or certificate of approval~~
54 ~~shall be subject to revocation or suspension.~~

55 ~~(c) No prior approval of the public health and health planning council~~
56 ~~shall be required with respect to a transfer, assignment or disposition~~

~~of an interest or voting rights to any person previously approved by the public health and health planning council, or its predecessor, for that operator. However, no such transaction shall be effective unless at least one hundred twenty days prior to the intended effective date thereof, the partner or member completes and files with the public health and health planning council notice on forms to be developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the public health and health planning council to determine whether it should bar the transaction. Such transaction will be final as of the intended effective date unless, prior thereto, the public health and health planning council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction.~~

3-] (a) The commissioner shall charge to applicants for a change in operator or owner of a licensed home care services agency or a certified home health agency an application fee in the amount of two thousand dollars.

(b) The fees paid by certified home health agencies pursuant to this subdivision for any application approved in accordance with this section shall be deemed allowable costs in the determination of reimbursement rates established pursuant to this article. All fees pursuant to this section shall be payable to the department of health for deposit into the special revenue funds - other, miscellaneous special revenue fund - 339, certificate of need account.

§ 4. Paragraph (b) of subdivision 3 of section 4004 of the public health law, as amended by section 69 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

(b) Any ~~[change in the person, principal stockholder or]~~ transfer, assignment or other disposition, of an interest, stock, or voting rights in a sole proprietorship, partnership, limited liability company, or corporation which is the operator of a hospice, ~~or any transfer, assignment or other disposition which results in the direct or indirect ownership or control of an interest, stock or voting rights in that operator,~~ shall be approved by the public health and health planning council in accordance with the provisions of subdivisions one and two of this section~~[-]; except that:~~

(i) Public health and health planning council approval shall be required only with respect to the person, partner, member, or stockholder that is acquiring the interest, stock, or voting rights.

(ii) Such change shall not be subject to the public need assessment described in paragraph (a) of subdivision two of this section.

(iii) No prior approval of the public health and health planning council shall be required with respect to a transfer, assignment or disposition, directly or indirectly, of:

(A) an interest, stock, or voting rights to any person, partner, member, or stockholder previously approved by the public health and health planning council, or its predecessor, for that operator. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the operator completes and files with the public health and health planning council notice, on forms to be developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council

1 during the review period. Such transaction will be final upon completion
2 of the review period, which shall be no longer than ninety days from the
3 date the department receives a complete response to its final request
4 for additional information, unless, prior thereto, the public health and
5 health planning council has notified each party to the proposed trans-
6 action that it has barred such transactions under this paragraph and has
7 stated specific reasons for barring such transactions; or

8 (B) an interest, stock, or voting rights of less than ten percent in
9 the operator to any person, partner, member, or stockholder who has not
10 been previously approved by the public health and health planning coun-
11 cil for that operator. However, no such transaction shall be effective
12 unless at least ninety days prior to the intended effective date there-
13 of, the operator completes and files with the public health and health
14 planning council notice on forms to be developed by the public health
15 and health planning council, which shall disclose such information as
16 may reasonably be necessary for the department to recommend and for the
17 public health and health planning council to determine whether it should
18 bar the transaction, and has fully responded to any request for addi-
19 tional information by the department acting on behalf of the public
20 health and health planning council during the review period. Such trans-
21 action will be final upon completion of the review period, which shall
22 be no longer than ninety days from the date the department receives a
23 complete response to its final request for additional information,
24 unless, prior thereto, the public health and health planning council has
25 notified each party to the proposed transaction that it has barred such
26 transactions under this paragraph and has stated specific reasons for
27 barring such transactions.

28 (iv) Nothing in this subdivision shall be construed as permitting any
29 person, partner, member, or stockholder not previously approved by the
30 public health and health planning council for that operator to own or
31 control, directly or indirectly, ten percent or more of the interest,
32 stock, or voting rights of any partnership, limited liability company,
33 or corporation which is the operator of a hospice without first obtain-
34 ing the approval of the public health and health planning council.

35 (v) In the absence of approval by the public health and health plan-
36 ning council as required under this paragraph, the certificate of
37 approval of such operator shall be subject to revocation or suspension.
38 Failure to provide notice as required under this paragraph may subject
39 the certificate of approval of such operator to revocation or suspen-
40 sion.

41 § 5. The public health law is amended by adding a new article 45-A to
42 read as follows:

43 ARTICLE 45-A

44 REVIEW AND OVERSIGHT OF MATERIAL TRANSACTIONS

45 Section 4550. Legislative purpose and intent.

46 4551. Definitions.

47 4552. Review and oversight of material transactions.

48 4553. Notice of material transaction; requirements.

49 4554. Material transaction review.

50 4555. Penalty for noncompliance; injunctive relief.

51 4556. Rules and regulations.

52 4557. Separability.

53 § 4550. Legislative purpose and intent. While hospitals remain vital
54 to the health system, services are increasingly being delivered through
55 ambulatory care. This shift to ambulatory care is giving rise to new
56 health care delivery structures that are not subject to the same facili-

1 ty licensure and oversight requirements. In particular, there has been a
2 proliferation of large physician practices being managed by entities
3 that are investor-backed. As a general matter, physician practices are
4 subject to far less regulation and oversight than hospitals under arti-
5 cle twenty-eight of this chapter, home care agencies under article thir-
6 ty-six of this chapter, hospice providers, or providers of behavioral
7 health services under articles thirty-one and thirty-two of the mental
8 hygiene law, as well as managed care organizations or other insurers
9 authorized under this chapter or the insurance law. Even as these inve-
10 stor-backed entities increasingly take on the characteristics associated
11 with diagnostic and treatment centers under article twenty-eight of this
12 chapter or other licensed provider types, or may assume more risk from
13 managed care organizations and licensed insurers, they remain unregu-
14 lated by the state outside of the licensure of the individual practi-
15 tioners who practice at these sites and enrollment in Medicaid. More-
16 over, transactions involving the change of control, by virtue of a sale,
17 merger or acquisition of these providers, are not subject to any state
18 change of ownership or control review, such that the state is not able
19 to track or monitor the impact of these transactions on cost, quality,
20 access, equity, and competition.

21 This phenomenon may have a negative impact on patient care, health
22 care costs, and ultimately access to services. These large investor-
23 backed health care entities shift volume and business away from communi-
24 ty hospitals and their ambulatory care networks and other safety net
25 providers, undermining their financial sustainability, which must
26 continue to provide essential services to the community. In addition,
27 the concentration of these investor-backed physician practices is a
28 significant contributor to health care cost inflation, which has also
29 given rise to other legislation, including the no surprise billing
30 provisions in the financial services law.

31 § 4551. Definitions. For the purposes of this article, the following
32 terms shall have the following meanings:

33 1. "Control" means the possession, direct or indirect, of the power to
34 direct or cause the direction of the management and policies of a health
35 care entity, whether through the ownership of voting securities, by
36 contract (except a commercial contract for goods or non-management
37 services) or otherwise; but no person shall be deemed to control another
38 person solely by reason of being an officer or director of a health care
39 entity. "Control" shall be presumed to exist if any person directly or
40 indirectly owns, controls, or holds with the power to vote ten percent
41 or more of the voting securities of a health care entity.

42 2. "Health care entity" shall include but not be limited to a physi-
43 cian practice or management services organization or similar entity
44 providing all or substantially all administrative or management services
45 under contract with one or more physician practice, provider-sponsored
46 organization, health insurance plan, or any other kind of health care
47 facility, organization or plan providing health care services in this
48 state; provided, however, that a "health care entity" shall not include
49 an insurer directly authorized to do business in this state, or a phar-
50 macy benefit manager registered or licensed in this state. An "insurer"
51 shall not include non-insurance subsidiaries and affiliated entities of
52 insurance companies regulated under the insurance law or this chapter.

53 3. "Health equity" shall mean achieving the highest level of health
54 for all people and shall entail focused efforts to address avoidable
55 inequalities by equalizing those conditions for health for those that

1 have experienced injustices, socioeconomic disadvantages, and systemic
2 disadvantages.

3 4. "Material transaction" shall mean:

4 (a) any of the following, occurring during a single transaction or in
5 a series of related transactions, that take place within a time period
6 and meet or exceed thresholds, as determined by the commissioner in
7 regulation, for factors including but not limited to changes in revenue:

8 (i) a merger with a health care entity;

9 (ii) an acquisition of one or more health care entities, including but
10 not limited to the assignment, sale, or other conveyance of assets,
11 voting securities, membership, or partnership interest or the transfer
12 of control;

13 (iii) an affiliation or contract formed between a health care entity
14 and another person; or

15 (iv) the formation of a partnership, joint venture, accountable care
16 organization, parent organization, or management services organization
17 for the purpose of administering contracts with health plans, third-par-
18 ty administrators, pharmacy benefit managers, or health care providers
19 as prescribed by the commissioner by regulation.

20 (b) "Material transaction" shall not include a clinical affiliation of
21 health care entities formed for the purpose of collaborating on clinical
22 trials or graduate medical education programs and shall not include any
23 transaction that is already subject to review under article twenty-
24 eight, thirty, thirty-six, forty, forty-six, forty-six-A, or forty-six-B
25 of this chapter.

26 § 4552. Review and oversight of material transactions. 1. The depart-
27 ment shall have the authority to review and approve material trans-
28 actions, which may be further defined by the commissioner in regulation,
29 to assess such transactions' impact on cost, quality, access, health
30 equity and competition in the health care service market.

31 2. In accordance with this article, and with the rules and regulations
32 promulgated by the commissioner pursuant to section forty-five hundred
33 fifty-six of this article, the department shall adopt criteria for the
34 consideration of requests by health care entities to consummate a mate-
35 rial transaction. The criteria shall include the factors listed in
36 subdivision one of section forty-five hundred fifty-four of this arti-
37 cle.

38 3. Nothing in this article shall limit or restrict the authority of
39 the superintendent of financial services under article fifteen, sixteen,
40 seventeen, forty-two, forty-three, seventy-one, or seventy-three of the
41 insurance law, or regulations promulgated thereunder.

42 § 4553. Notice of material transaction; requirements. 1. A health care
43 entity shall not consummate a material transaction without obtaining
44 approval from the department for such material transaction.

45 2. In order to obtain approval of a material transaction by the
46 department, a health care entity shall submit to the department written
47 notice and application, with supporting documentation as described below
48 and further defined in regulation, which the department shall be in
49 receipt of at least thirty days before the desired closing date of the
50 transaction, in the form and manner prescribed by the department. Such
51 written notice shall include, but not be limited to:

52 (a) The names of the parties to the proposed material transaction and
53 their current addresses;

54 (b) Copies of any definitive agreements governing the terms of the
55 material transaction, including pre- and post-closing conditions;

1 (c) Identification of all locations where health care services are
2 currently provided by each party and the revenue generated in the state
3 from such locations;

4 (d) Any plans to reduce or eliminate services and/or participation in
5 specific plan networks;

6 (e) The desired closing date of the proposed material transaction;

7 (f) A brief description of the nature and purpose of the proposed
8 material transaction, which will be used to inform the review under
9 section forty-five hundred fifty-four of this article, including:

10 (i) the anticipated impact of the material transaction on cost, quali-
11 ty, access, health equity, and competition in the impacted markets,
12 which may be supported by data and a formal market impact analysis; and

13 (ii) any commitments by the health care entity to address anticipated
14 impacts; and

15 (g) a non-refundable application fee.

16 3. Except as provided in subdivision two of section forty-five hundred
17 fifty-four of this article, supporting documentation as described in
18 subdivision two of this section shall not be subject to disclosure under
19 article six of the public officers law.

20 § 4554. Material transaction review. 1. When reviewing a potential
21 material transaction, the department may consider the following:

22 (a) Whether the parties to the transaction can demonstrate that the
23 potential positive impacts of the material transaction outweigh the
24 potential negative impacts related to factors such as:

25 (i) patient costs;

26 (ii) access to services;

27 (iii) health equity; and

28 (iv) health outcomes;

29 (b) Whether there is a substantial likelihood of anticompetitive
30 effects from the transaction that outweigh the benefits of the trans-
31 action including by increasing or maintaining services to underserved
32 populations or stabilizing the operations of the existing delivery
33 system;

34 (c) The financial condition of the parties to the transaction;

35 (d) The character and competence of the parties or any officers or
36 directors thereof;

37 (e) The source of the funds or assets for the transaction;

38 (f) The fairness of any exchange of shares, assets, cash, or other
39 consideration for the shares or assets to be received; and

40 (g) Any other relevant information necessary to determine the impact
41 of the material transaction.

42 2. If the department does not act on the application as described in
43 subdivisions three and four of this section within thirty days of
44 receipt of written notice and application as described in subdivision
45 two of section forty-five hundred fifty-three of this article, then the
46 transaction shall be deemed approved. During such thirty-day period, the
47 department shall post in a manner determined by the department in regu-
48 lation for public notice and public comment which may help to inform
49 whether the department takes further actions as determined by this
50 section. At a minimum, the public notice shall include:

51 (a) a summary of the proposed transaction;

52 (b) an explanation of the groups or individuals likely to be impacted
53 by the transaction;

54 (c) information about services currently provided by the health care
55 entity, commitments by the health care entity to continue such services
56 and any services that will be reduced or eliminated; and

1 (d) details about how to submit comments, in a format that is easy to
2 find and easy to read.

3 3. The department shall notify the parties to the transaction within
4 thirty days of receipt of written notice and application as described in
5 subdivision two of section forty-five hundred fifty-three of this arti-
6 cle that it is withholding approval of the transaction if necessary to
7 conduct a thorough examination and complete analysis of whether the
8 transaction is consistent with the criteria established pursuant to
9 subdivision four of section forty-five hundred fifty-two of this arti-
10 cle, including the factors listed in subdivision one of this section.

11 (a) The department may request additional information from a health
12 care entity that is a party to the material transaction and such entity
13 shall promptly reply using the form of communication requested and such
14 reply shall be affirmed as true and accurate under penalty of perjury by
15 an officer of the entity, if required.

16 (b) A health care entity shall not refuse to provide documents or
17 other information requested pursuant to this article on the grounds that
18 such information is privileged or confidential.

19 (c) The department may retain actuaries, accountants or other profes-
20 sionals independent of the department as necessary to assist in conduct-
21 ing its analysis of a proposed material transaction. The department
22 shall designate the party or parties to the material transaction that
23 shall bear the cost of retaining such professionals.

24 (d) The department may take other actions to seek public input and
25 otherwise engage the public before making a determination on the
26 proposed material transaction.

27 4. (a) Unless the material transaction is approved pursuant to subdi-
28 vision two of this section, the department shall issue a final order
29 regarding the material transaction.

30 (b) If the department disapproves the material transaction or approves
31 the material transaction subject to conditions, the department may noti-
32 fy the attorney general of the department's findings and analysis so
33 that the attorney general may, if appropriate, conduct an investigation
34 into whether the health care entities have engaged in unfair competition
35 or anticompetitive behavior and, if necessary, take steps to protect
36 consumers in the health care services market.

37 (c) Pursuant to this subdivision, the department shall have the
38 authority to require undertakings as a condition of approving a material
39 transaction, including but not limited to, investments in the communi-
40 ties affected by such material transaction, competition protections, and
41 contributions to state-controlled funds, including the health care
42 transformation fund pursuant to section ninety-two-hh of the state
43 finance law, to preserve access or to otherwise mitigate the impact of
44 the material transaction on the health care delivery system.

45 5. A health care entity that is a party to an approved material trans-
46 action shall notify the department upon closing of the transaction in
47 the form and manner prescribed by the department.

48 § 4555. Penalty for noncompliance; injunctive relief. 1. The depart-
49 ment may impose a civil penalty in an amount of up to ten thousand
50 dollars per day for any violation of this article. All fees, fines, and
51 penalties derived from the operation of this article shall be paid to
52 the department and shall be deposited in the health care transformation
53 fund established pursuant to section ninety-two-hh of the state finance
54 law.

55 2. The attorney general may apply to the supreme court within the
56 judicial district in which a violation of this article is alleged to

1 have occurred for an order enjoining or restraining commission or
2 continuance of the acts complained of. Thereupon the court shall have
3 jurisdiction of the proceeding and shall have power to grant such tempo-
4 rary relief or restraining order as it deems just and proper. In any
5 such proceeding it shall be unnecessary to allege or prove that an
6 adequate remedy at law does not exist or that irreparable damage would
7 result if such order were not granted. The remedy provided by this
8 section shall be in addition to any other remedy provided by law.

9 § 4556. Rules and regulations. The department, in consultation with
10 the department of financial services, may promulgate rules and regu-
11 lations to implement the provisions of this article.

12 § 4557. Separability. If any clause, sentence, paragraph, subdivision,
13 section or part of this article shall be adjudged by any court of compe-
14 tent jurisdiction to be invalid, the judgment shall not affect, impair,
15 or invalidate the remainder thereof, but shall be confined in its opera-
16 tion to the clause, sentence, paragraph, subdivision, section or part
17 thereof directly involved in the controversy in which the judgment shall
18 have been rendered.

19 § 6. Paragraph (b) of subdivision 7 of section 2802 of the public
20 health law, as amended by section 87 of part C of chapter 58 of the laws
21 of 2009, is amended to read as follows:

22 (b) At such time as the commissioner's written approval of the
23 construction is granted, each applicant shall pay the following addi-
24 tional fee:

25 (i) for hospital, nursing home and diagnostic and treatment center
26 applications that require approval by the council, the additional fee
27 shall be [~~fifty-five~~] sixty hundredths of one percent of the total capi-
28 tal value of the application, provided however that applications for
29 construction of a safety net diagnostic and treatment center, as defined
30 in paragraph (c) of subdivision sixteen of section twenty-eight hundred
31 one-a of this article, shall be subject to a fee of forty-five
32 hundredths of one percent of the total capital value of the application;
33 and

34 (ii) for hospital, nursing home and diagnostic and treatment center
35 applications that do not require approval by the council, the additional
36 fee shall be [~~thirty~~] thirty-five hundredths of one percent of the total
37 capital value of the application, provided however that safety net diag-
38 nostic and treatment center applications, as defined in paragraph (c) of
39 subdivision sixteen of section twenty-eight hundred one-a of this arti-
40 cle, shall be subject to a fee of twenty-five hundredths of one percent
41 of the total capital value of the application.

42 § 7. Section 3605 of the public health law is amended by adding two
43 new subdivisions 1-a and 1-b to read as follows:

44 1-a. Core public health services, as defined in section six hundred
45 two of this chapter, when provided in the home by the local health
46 department of a county or of the city of New York, shall not require
47 licensure under this section, provided that such services shall not
48 include: home health aide services; personal care services; or nursing
49 services that require more than minimal patient contact. For the
50 purposes of this subdivision the term "minimal patient contact"
51 includes, but is not limited to, providing assessments of new mothers
52 and infants, direct observation, and lead screening. Patient contact
53 shall be considered more than minimal if it requires more than six
54 patient visits. Core public health services that may be provided without
55 a license pursuant to this subdivision include but are not limited to:
56 immunizations; testing for tuberculosis and observation of tuberculosis

self-directed therapy; verbal assessment, counseling and referral services; and such other services as may be determined by the department.

1-b. Core public health services, as defined in section six hundred two of this chapter, when provided by local health departments in the home as authorized under subdivision one-a of this section, may be eligible for reimbursement under title XIX of the federal Social Security Act provided that the services provided meet federal and state requirements for such reimbursement.

§ 8. Subdivision 2 of section 3611 of the public health law, as amended by section 66 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

2. The public health and health planning council shall not act upon an application for licensure or a certificate of approval for any agency referred to in subdivision one of this section unless it is satisfied as to the character, competence and standing in the community of the proposed incorporators, directors, sponsors, controlling persons, principal stockholders of the parent corporation, health related subsidiary corporation and the New York state corporation established pursuant to paragraph (a) of subdivision one of this section. Stockholders or members of third level or higher entities that will exercise no control of the agency functions shall not be considered controlling persons subject to character and competency review provided that an affidavit stating that such individuals will exercise no control over the agency functions is signed by such individuals and submitted to the department. For the purposes of this section the public health and health planning council may adopt rules and regulations relative to what constitutes parent and subsidiary corporations.

§ 9. This act shall take effect immediately; provided, however that section five of this act shall take effect on the ninetieth day after it shall have become a law and shall apply to material transactions, as defined by section 4551 of the public health law as added by section five of this act, closing on or after April 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART N

Section 1. Section 366 of the social services law is amended by adding a new subdivision 16 to read as follows:

16. (a) The commissioner of health is authorized to submit the appropriate waivers and/or any other required requests for federal approval, including but not limited to, those authorized in section eleven hundred fifteen of the federal social security act, in order to establish expanded medical assistance eligibility for working disabled individuals. Such waiver applications shall be executed consistent with paragraphs (b), (c), (d) and (e) of this subdivision, to the extent those sections comply with the requirements of section eleven hundred fifteen of the federal social security act. Notwithstanding subparagraphs five and six of paragraph (c) of subdivision one of this section and subdivision twelve of section three hundred sixty-seven-a of this title, or any other provision of law to the contrary, if granted such waiver, the commissioner of health may authorize eligible persons to receive medical assistance pursuant to the waiver if, for so long as, and to the extent that, financial participation is available therefor. The waiver applica-

tion shall provide for thirty thousand persons to be eligible to participate in such waiver.

(b) Individuals eligible for participation in such waiver shall:

(i) be a disabled individual, defined as having a medically determinable impairment of sufficient severity and duration to qualify for benefits under Titles II or XVI of the social security act;

(ii) be at least sixteen years of age;

(iii) be otherwise eligible for medical assistance benefits, but for earnings and/or resources in excess of the allowable limit;

(iv) have net available income, determined in accordance with subdivision two of this section, that does not exceed two thousand two hundred fifty percent of the applicable federal poverty line, as defined and updated by the United States department of health and human services;

(v) have resources, as defined in paragraph (e) of subdivision two of section three hundred sixty-six-c of this title, other than retirement accounts, that do not exceed three hundred thousand dollars;

(vi) contribute to the cost of medical assistance provided pursuant to this paragraph in accordance with paragraph (d) of this subdivision; and

(vii) meet such other criteria as may be established by the commissioner as may be necessary to administer the provisions of this subdivision in an equitable manner.

(c) An individual at least sixteen years of age who: is employed; ceases to be eligible for participation in such waiver pursuant to paragraph (b) of this subdivision because the person, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be certified as disabled under the social security act; continues to have a severe medically determinable impairment, to be determined in accordance with applicable federal regulations; and contributes to the cost of medical assistance provided pursuant to this paragraph in accordance with paragraph (d) of this subdivision, shall be eligible for participation in such waiver. For purposes of this paragraph, a person is considered to be employed if the person is earning at least the applicable minimum wage under section six of the federal fair labor standards act and working at least forty hours per month.

(d) Prior to receiving medical assistance pursuant to such waiver, a person whose net available income is greater than or equal to two hundred fifty percent of the applicable federal poverty line shall pay a monthly premium, in accordance with a procedure to be established by the commissioner. The amount of such premium for a person whose net available income is greater than or equal to two hundred fifty percent of the applicable federal poverty line, but less than three hundred percent of the applicable federal poverty line shall be three hundred and forty-seven dollars. The amount of such premium for a person whose net available income is greater than or equal to three hundred percent of the applicable federal poverty line, but less than four hundred percent of the applicable federal poverty line shall be five hundred eighteen dollars. The amount of such premium for a person whose net available income is greater than or equal to four hundred percent of the applicable federal poverty line, but less than five hundred percent of the applicable federal poverty line shall be seven hundred and seventy-nine dollars. The amount of such premium for a person whose net available income is equal to or greater than five hundred percent of the applicable federal poverty line shall be one thousand four hundred and forty-eight dollars. No premium shall be required from a person whose net

1 available income is less than two hundred fifty percent of the applica-
2 ble federal poverty line.

3 (e) Notwithstanding any other provision of this section or any other
4 law to the contrary, for purposes of determining medical assistance
5 eligibility for persons specified in paragraph (b) or (c) of this subdi-
6 vision, the income and resources of responsible relatives shall not be
7 deemed available for as long as the person meets the criteria specified
8 in this subdivision.

9 § 2. This act shall take effect on January 1, 2025.

10 PART 0

11 Section 1. Subdivisions 1, 15, 16, 17 and 18 of section 1399-aa of the
12 public health law, subdivision 1 as amended by chapter 13 of the laws of
13 2003, subdivisions 15, 16, 17 and 18 as added by section 2 of part EE of
14 chapter 56 of the laws of 2020, are amended and two new subdivisions 19
15 and 20 are added to read as follows:

16 1. "Enforcement officer" means the enforcement officer designated
17 pursuant to article thirteen-E of this chapter to enforce such article
18 and hold hearings pursuant thereto; provided that in a city with a popu-
19 lation of more than one million it shall also mean an officer or employ-
20 ee or any agency of such city that is authorized to enforce any local
21 law of such city related to the regulation of the sale of cigarettes,
22 tobacco products, or vapor products to minors.

23 15. "Listed or non-discounted price" means the price listed for ciga-
24 rettes, tobacco products, or vapor products [~~intended or reasonably~~
25 ~~expected to be used with or for the consumption of nicotine,~~] on their
26 packages or any related shelving, posting, advertising or display at the
27 location where the cigarettes, tobacco products, or vapor products
28 [~~intended or reasonably expected to be used with or for the consumption~~
29 ~~of nicotine,~~] are sold or offered for sale, including all applicable
30 taxes.

31 16. "Retail dealer" means a person licensed by the commissioner of
32 taxation and finance to sell cigarettes, tobacco products, or vapor
33 products [~~in this state~~], or a person or business required to obtain
34 such license.

35 17. "Vapor products" means any noncombustible liquid or gel, regard-
36 less of the presence of nicotine therein, that is manufactured into a
37 finished product for use in an electronic [~~cigarette, including any~~]
38 device that delivers vapor which is inhaled, including any refill,
39 cartridge, device or component thereof that contains or is intended to
40 be used with such noncombustible liquid or gel. "Vapor product" shall
41 not include any device, or any component thereof, that does not contain
42 such noncombustible liquid or gel, or any product approved by the United
43 States [~~food and drug administration~~] Food and Drug Administration as a
44 drug or medical device, or manufactured and dispensed pursuant to [~~title~~
45 ~~five A of article thirty-three of this chapter~~] article three, four or
46 five of the cannabis law.

47 18. "Vapor products dealer" means a person licensed by the commission-
48 er of taxation and finance to sell vapor products [~~in this state~~], or a
49 person or business required to obtain such license.

50 19. "Tobacco or vapor seller" means a person, sole proprietorship,
51 corporation, limited liability company, partnership or other enterprise
52 that manufactures, distributes, sells or offers to sell, whether through
53 retail or wholesale, or exchanges or offers to exchange, for any form of
54 consideration, cigarettes, tobacco products, or vapor products. This

definition is without regard to the quantity of cigarettes, tobacco products, or vapor products manufactured, distributed, sold, offered for sale, exchanged, or offered for exchange.

20. "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco.

§ 2. Subdivisions 1, 1-a, 2, 3, 4 and 5 of section 1399-bb of the public health law, subdivisions 1, 2, 3, 4 and 5 as amended and subdivision 1-a as added by section 4 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

1. No retail dealer, or any agent or employee of ~~[a] any~~ retail dealer, engaged in the business of selling or otherwise distributing tobacco products, vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~, or herbal cigarettes for commercial purposes~~[, or any agent or employee of such retail dealer, or any agent or employee of a retail dealer]~~, shall knowingly, in furtherance of such business:

(a) distribute without charge any tobacco products, vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~, or herbal cigarettes to any individual, provided that the distribution of a package containing tobacco products, vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~, or herbal cigarettes in violation of this subdivision shall constitute a single violation without regard to the number of items in the package; or

(b) distribute price reduction instruments which are redeemable for tobacco products, vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~, or herbal cigarettes to any individual, provided that this subdivision shall not apply to coupons contained in newspapers, magazines or other types of publications, coupons obtained through the purchase of tobacco products, vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~, or herbal cigarettes provided that such distribution is confined to a designated area or to coupons sent through the mail.

1-a. No retail dealer engaged in the business of selling or otherwise distributing tobacco products, herbal cigarettes, or vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ for commercial purposes, or any agent or employee of such retail dealer, shall knowingly, in furtherance of such business:

(a) honor or accept a price reduction instrument in any transaction related to the sale of tobacco products, herbal cigarettes, or vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ to a consumer;

(b) sell or offer for sale any tobacco products, herbal cigarettes, or vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ to a consumer through any multi-package discount or otherwise provide to a consumer any tobacco products, herbal cigarettes, or vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ for less than the listed price or non-discounted price in exchange for the purchase of any other tobacco products, herbal cigarettes, or vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ by such consumer;

(c) sell, offer for sale, or otherwise provide any product other than a tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to a consumer for less than the listed price or non-discounted price in exchange for the purchase of a tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] by such consumer; or

(d) sell, offer for sale, or otherwise provide a tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to a consumer for less than the listed price or non-discounted price.

2. The prohibitions contained in subdivision one of this section shall not apply to the following locations:

(a) private social functions when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;

(b) conventions and trade shows; provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one;

(c) events sponsored by tobacco, vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarette manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one;

(d) bars as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter;

(e) tobacco businesses as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article;

(f) factories as defined in subdivision nine of section thirteen hundred ninety-nine-aa of this article and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one.

3. No retail dealer shall distribute tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes at the locations set forth in paragraphs (b), (c) and (f) of subdivision two of this section unless such person gives five days written notice to the enforcement officer.

4. No retail dealer engaged in the business of selling or otherwise distributing [~~electronic cigarettes or~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business, distribute without charge any [~~electronic cigarettes~~] vapor products to any individual under twenty-one years of age.

5. The distribution of tobacco products, [~~electronic cigarettes,~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes pursuant to subdivision two of this section or the distribution without charge of [~~electronic cigarettes, or~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], shall be made only to an individual who demonstrates, through (a) a driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth, or possession, the District of Columbia, a state government within the United States, or a provincial government of the dominion of Canada, (b) a valid passport issued by the United States government or the govern-

ment of any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product, ~~[electronic cigarette],~~ vapor product ~~[intended or reasonably expected to be used with or for the consumption of nicotine],~~ or herbal cigarette or the distribution without charge of ~~[electronic cigarettes, or]~~ vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine to an individual].~~

§ 3. The section heading and subdivisions 1, 2, 3, 4 and 7 of section 1399-cc of the public health law, the section heading, subdivisions 1 and 4 as amended by chapter 542 of the laws of 2014, subdivisions 2, 3 and 7 as amended by chapter 100 of the laws of 2019, are amended to read as follows:

Sale of tobacco products, herbal cigarettes, ~~[liquid nicotine,]~~ shisha, ~~[rolling papers or]~~ smoking paraphernalia, or vapor products to minors prohibited. 1. As used in this section:

(a) "A device capable of deciphering any electronically readable format" or "device" shall mean any commercial device or combination of devices used at a point of sale or entry that is capable of reading the information encoded on the bar code or magnetic strip of a driver's license or non-driver identification card issued by the state commissioner of motor vehicles;

(b) "Card holder" means any person presenting a driver's license or non-driver identification card to a licensee, or to the agent or employee of such licensee under this chapter;

(c) ~~["Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco;~~

~~(d)]~~ "Transaction scan" means the process involving an automated bar code reader by which a licensee, or agent or employee of a licensee under this chapter reviews a driver's license or non-driver identification card presented as a precondition for the purchase of ~~[a]~~ tobacco ~~[product]~~ products, vapor products, or herbal cigarettes pursuant to subdivision three of this section; and

~~[(e)]~~ (d) "Liquid nicotine", "electronic liquid" or "e-liquid" means a liquid composed of nicotine and other chemicals, and which is sold as a product that may be used in an electronic cigarette.

2. Any person operating a place of business wherein tobacco products, herbal cigarettes, ~~[liquid nicotine,]~~ shisha or ~~[electronic cigarettes]~~ vapor products, are sold or offered for sale is prohibited from selling such tobacco or vapor products, herbal cigarettes, ~~[liquid nicotine,]~~ shisha, ~~[electronic cigarettes]~~ or smoking paraphernalia to individuals under twenty-one years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA, VAPOR PRODUCTS, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ~~[LIQUID NICOTINE, ELECTRONIC CIGARETTES, ROLLING PAPERS]~~ OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height.

3. Sale of tobacco products, herbal cigarettes, ~~[liquid nicotine,]~~ shisha ~~[or electronic cigarettes],~~ or vapor products in such places, other than by a vending machine, shall be made only to an individual who

1 demonstrates, through (a) a valid driver's license or non-driver's iden-
2 tification card issued by the commissioner of motor vehicles, the feder-
3 al government, any United States territory, commonwealth or possession,
4 the District of Columbia, a state government within the United States or
5 a provincial government of the dominion of Canada, or (b) a valid pass-
6 port issued by the United States government or any other country, or (c)
7 an identification card issued by the armed forces of the United States,
8 indicating that the individual is at least twenty-one years of age. Such
9 identification need not be required of any individual who reasonably
10 appears to be at least twenty-five years of age, provided, however, that
11 such appearance shall not constitute a defense in any proceeding alleg-
12 ing the sale of [~~a~~] tobacco [~~product,~~ products, vapor products, herbal
13 cigarettes, [~~liquid nicotine,~~ or shisha [~~or electronic cigarettes~~] to
14 an individual under twenty-one years of age.

15 4. (a) Any person operating a place of business wherein tobacco
16 products, vapor products, herbal cigarettes, [~~liquid nicotine,~~ or
17 shisha [~~or electronic cigarettes~~] are sold or offered for sale may
18 perform a transaction scan as a precondition for such purchases.

19 (b) In any instance where the information deciphered by the trans-
20 action scan fails to match the information printed on the driver's
21 license or non-driver identification card, or if the transaction scan
22 indicates that the information is false or fraudulent, the attempted
23 transaction shall be denied.

24 (c) In any proceeding pursuant to section thirteen hundred ninety-
25 nine-ee of this article, it shall be an affirmative defense that such
26 person had produced a driver's license or non-driver identification card
27 apparently issued by a governmental entity, successfully completed that
28 transaction scan, and that the tobacco product, vapor product, herbal
29 cigarettes or [~~liquid nicotine~~ shisha had been sold, delivered or given
30 to such person in reasonable reliance upon such identification and tran-
31 saction scan. In evaluating the applicability of such affirmative
32 defense the commissioner shall take into consideration any written poli-
33 cy adopted and implemented by the seller to effectuate the provisions of
34 this chapter. Use of a transaction scan shall not excuse any person
35 operating a place of business wherein tobacco products, vapor product,
36 herbal cigarettes, [~~liquid nicotine,~~ or shisha [~~or electronic ciga-~~
37 ~~rettes~~] are sold, or the agent or employee of such person, from the
38 exercise of reasonable diligence otherwise required by this chapter.
39 Notwithstanding the above provisions, any such affirmative defense shall
40 not be applicable in any civil or criminal proceeding, or in any other
41 forum.

42 7. No person operating a place of business wherein tobacco products,
43 vapor products, herbal cigarettes, [~~liquid nicotine,~~ or shisha [~~or~~
44 ~~electronic cigarettes~~] are sold or offered for sale shall sell, permit
45 to be sold, offer for sale or display for sale any tobacco product,
46 vapor product, herbal cigarettes, [~~liquid nicotine,~~ or shisha [~~or elec-~~
47 ~~tronic cigarettes~~] in any manner, unless such products and cigarettes
48 are stored for sale (a) behind a counter in an area accessible only to
49 the personnel of such business, or (b) in a locked container; provided,
50 however, such restriction shall not apply to tobacco businesses, as
51 defined in subdivision eight of section thirteen hundred ninety-nine-aa
52 of this article, and to places to which admission is restricted to
53 persons twenty-one years of age or older.

54 § 4. Section 1399-dd of the public health law, as amended by chapter
55 448 of the laws of 2012, subdivision (d) as amended by chapter 100 of
56 the laws of 2019, is amended to read as follows:

§ 1399-dd. Sale of tobacco products, herbal cigarettes or ~~[electronic cigarettes]~~ vapor products in vending machines. No person, firm, partnership, company or corporation shall operate a vending machine which dispenses tobacco products, herbal cigarettes or ~~[electronic cigarettes]~~ vapor products unless such machine is located: (a) in a bar as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter, or the bar area of a food service establishment with a valid, on-premises full liquor license; (b) in a private club; (c) in a tobacco business as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article; or (d) in a place of employment which has an insignificant portion of its regular workforce comprised of people under the age of twenty-one years and only in such locations that are not accessible to the general public; provided, however, that in such locations the vending machine is located in plain view and under the direct supervision and control of the person in charge of the location or ~~[his or her]~~ their designated agent or employee.

§ 5. The section heading and subdivisions 1 and 2 of section 1399-dd-1 of the public health law, as added by section 13 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

Public display of tobacco and vapor product ~~[and electronic cigarette]~~ advertisements and smoking paraphernalia prohibited. 1. For purposes of this section[+]

~~(a) "Advertisement"~~ "advertisement" means words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, which bear a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco or vapor product, ~~[electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine]~~, a trademark of a tobacco or vapor product, ~~[electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or]~~ a trade name associated exclusively with a tobacco or vapor product, ~~[electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine]~~ or to promote the use or sale of a tobacco or vapor product~~[, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine.]~~

~~(b) "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco or nicotine.~~

~~(c) "Vapor product" means any vapor product, as defined by section thirteen hundred ninety-nine aa of this article, intended or reasonably expected to be used with or for the consumption of nicotine.~~

~~(d) "Tobacco products" shall have the same meaning as in subdivision five of section thirteen hundred ninety-nine aa of this article.~~

~~(e) "Electronic cigarette" shall have the same meaning as in subdivision thirteen of section thirteen hundred ninety-nine aa of this article].~~

2. (a) No person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity may place, cause to be placed, maintain or to cause to be maintained, smoking paraphernalia ~~[or]~~, tobacco product, ~~[electronic cigarette]~~ or vapor product ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ advertisements in a store front or exterior window or any door which is used for entry or egress by the public to the building or structure containing a place of business within one thousand five

1 hundred feet of a school, provided that within New York city such prohi-
2 bitions shall only apply within five hundred feet of a school.

3 (b) Any person, corporation, partnership, sole proprietor, limited
4 partnership, association or any other business entity in violation of
5 this section shall be subject to a civil penalty of not more than five
6 hundred dollars for a first violation and not more than one thousand
7 dollars for a second or subsequent violation.

8 § 6. Subdivisions 2, 3 and 4 of section 1399-ee of the public health
9 law, subdivision 2 and paragraphs (e) and (f) of subdivision 3 as
10 amended by section 6 of part EE of chapter 56 of the laws of 2020 and
11 subdivisions 3 and 4 as amended by chapter 162 of the laws of 2002, are
12 amended to read as follows:

13 2. If the enforcement officer determines after a hearing that a
14 violation of this article has occurred, ~~[he or she]~~ or that a state or
15 local health official was denied access to a retail store including all
16 product display and storage areas, for the purpose of evaluating compli-
17 ance with this article, they shall impose a civil penalty of a minimum
18 of three hundred dollars, but not to exceed one thousand five hundred
19 dollars for a first violation, and a minimum of one thousand dollars,
20 but not to exceed two thousand five hundred dollars for each subsequent
21 violation, unless a different penalty is otherwise provided in this
22 article. The enforcement officer shall advise the retail dealer that
23 upon the accumulation of three or more points pursuant to this section
24 the department of taxation and finance shall suspend the dealer's regis-
25 tration. If the enforcement officer determines after a hearing that a
26 retail dealer was selling tobacco or vapor products while their regis-
27 tration was suspended or permanently revoked pursuant to subdivision
28 three or four of this section, ~~[he or she]~~ they shall impose a civil
29 penalty of twenty-five hundred dollars.

30 3. (a) Imposition of points. If the enforcement officer determines,
31 after a hearing, that the retail dealer violated subdivision ~~[one]~~ two
32 of section thirteen hundred ninety-nine-cc of this article with respect
33 to a prohibited sale to a minor, ~~[he or she]~~ they shall, in addition to
34 imposing any other penalty required or permitted pursuant to this
35 section, assign two points to the retail dealer's record where the indi-
36 vidual who committed the violation did not hold a certificate of
37 completion from a state certified tobacco sales training program and one
38 point where the retail dealer demonstrates that the person who committed
39 the violation held a certificate of completion from a state certified
40 tobacco sales training program.

41 (b) Revocation. If the enforcement officer determines, after a hear-
42 ing, that a retail dealer has violated this article four times within a
43 three year time frame ~~[he or she]~~ they shall, in addition to imposing
44 any other penalty required or permitted by this section, direct the
45 commissioner of taxation and finance to revoke the dealer's registration
46 for one year.

47 (c) Duration of points. Points assigned to a retail dealer's record
48 shall be assessed for a period of thirty-six months beginning on the
49 first day of the month following the assignment of points.

50 (d) Reinspection. Any retail dealer who is assigned points pursuant to
51 paragraph (a) of this subdivision shall be reinspected at least two
52 times a year by the enforcement officer until points assessed are
53 removed from the retail dealer's record.

54 (e) Suspension. If the department determines that a retail dealer has
55 accumulated three points or more, the department shall direct the
56 commissioner of taxation and finance to suspend such dealer's registra-

tion for one year. The three points serving as the basis for a suspension shall be erased upon the completion of the one year penalty.

(f) Surcharge. A two hundred fifty dollar surcharge to be assessed for every violation will be made available to enforcement officers and shall be used solely for compliance checks to be conducted to determine compliance with this section.

4. (a) If the enforcement officer determines, after a hearing, that a retail dealer has violated this article while their registration was suspended pursuant to subdivision three of this section, ~~[he or she]~~ the enforcement officer shall, in addition to imposing any other penalty required or permitted by this section, direct the commissioner of taxation and finance to permanently revoke the dealer's registration and not permit the dealer to obtain a new registration.

(b) If the enforcement officer determines, after a hearing, that a vending machine operator has violated this article three times within a two year period, or four or more times cumulatively ~~[he or she]~~ they shall, in addition to imposing any other penalty required or permitted by this section, direct the commissioner of taxation and finance to suspend the vendor's registration for one year and not permit the vendor to obtain a new registration for such period.

§ 7. Subdivision 1 of section 1399-ff of the public health law, as amended by chapter 100 of the laws of 2019, is amended to read as follows:

1. Where a civil penalty for a particular incident has not been imposed or an enforcement action regarding an alleged violation for a particular incident is not pending under section thirteen hundred ninety-nine-ee of this article, a parent or guardian of a person under twenty-one years of age to whom tobacco products, herbal cigarettes ~~[or electronic cigarettes]~~, or vapor products are sold or distributed in violation of this article may submit a complaint to an enforcement officer setting forth the name and address of the alleged violator, the date of the alleged violation, the name and address of the complainant and the person under twenty-one years of age, and a brief statement describing the alleged violation. The enforcement officer shall notify the alleged violator by certified or registered mail, return receipt requested, that a complaint has been submitted, and shall set a date, at least fifteen days after the mailing of such notice, for a hearing on the complaint. Such notice shall contain the information submitted by the complainant.

§ 8. Subdivision 1 of section 1399-gg of the public health law, as amended by chapter 513 of the laws of 2004, is amended to read as follows:

1. All tobacco cigarettes or vapor products sold or offered for sale by a retail dealer shall be sold or offered for sale in the package, box, carton or other container provided by the manufacturer, importer, or packager which bears all health warnings required by applicable law.

§ 9. The opening paragraph and subdivision 3 of section 1399-hh of the public health law, as amended by section 8 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

The commissioner shall develop, plan and implement a comprehensive program to reduce the prevalence of tobacco ~~[use, and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ and vapor product use particularly among persons less than twenty-one years of age. This program shall include, but not be limited to, support for enforcement of this article.

3. Monies made available to enforcement officers pursuant to this section shall only be used for local tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ enforcement activities approved by the commissioner.

§ 10. Subdivision 2 of section 1399-ii of the public health law, as amended by section 12 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

2. The department shall support tobacco and vapor product use prevention and control activities including, but not limited to:

(a) Community programs to prevent and reduce tobacco use through local involvement and partnerships;

(b) School-based programs to prevent and reduce tobacco use and use of vapor products;

(c) Marketing and advertising to discourage tobacco and vapor product ~~[and liquid nicotine]~~ use;

(d) Nicotine cessation programs for youth and adults;

(e) Special projects to reduce the disparities in smoking prevalence among various populations;

(f) Restriction of youth access to tobacco products and vapor products;

(g) Surveillance of smoking and vaping rates; and

(h) Any other activities determined by the commissioner to be necessary to implement the provisions of this section.

Such programs shall be selected by the commissioner through an application process which takes into account whether a program utilizes methods recognized as effective in reducing [nicotine] tobacco or vapor product use. Eligible applicants may include, but not be limited to, a health care provider, schools, a college or university, a local public health department, a public health organization, a health care provider organization, association or society, municipal corporation, or a professional education organization.

§ 11. Section 1399-ii-1 of the public health law, as added by section 11 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

§ 1399-ii-1. ~~[Electronic cigarette and vaping]~~ Vapor product prevention, awareness and control program. The commissioner shall, in consultation and collaboration with the commissioner of education, establish and develop ~~[an electronic cigarette and vaping]~~ a vapor product prevention, control and awareness program within the department. Such program shall be designed to educate students, parents and school personnel about the health risks associated with vapor product use and control measures to reduce the prevalence of vaping, particularly among persons less than twenty-one years of age. Such program shall include, but not be limited to, the creation of age-appropriate instructional tools and materials that may be used by all schools, and marketing and advertising materials to discourage ~~[electronic cigarette]~~ vapor product use.

§ 12. Subdivisions 1, 2 and 3 of section 1399-jj of the public health law, as amended by section 9 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

1. The commissioner shall evaluate the effectiveness of the efforts by state and local governments to reduce the use of tobacco products and vapor products~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ among minors and adults. The principal measurements of effectiveness shall include negative attitudes toward tobacco and vapor products~~[, intended or reasonably expected to be used~~

1 ~~with or for the consumption of nicotine,~~ use and reduction of tobacco
2 and vapor products[~~, intended or reasonably expected to be used with or~~
3 ~~for the consumption of nicotine,~~ use among the general population, and
4 given target populations.

5 2. The commissioner shall ensure that, to the extent practicable, the
6 most current research findings regarding mechanisms to reduce and change
7 attitudes toward tobacco and vapor products[~~, intended or reasonably~~
8 ~~expected to be used with or for the consumption of nicotine,~~ use are
9 used in tobacco and vapor product[~~, intended or reasonably expected to~~
10 ~~be used with or for the consumption of nicotine,~~ education programs
11 administered by the department.

12 3. To diminish tobacco and vapor product[~~, intended or reasonably~~
13 ~~expected to be used with or for the consumption of nicotine,~~ use among
14 minors and adults, the commissioner shall ensure that, to the extent
15 practicable, the following is achieved: The department shall conduct an
16 independent evaluation of the statewide tobacco use prevention and
17 control program under section thirteen hundred ninety-nine-ii of this
18 article. The purpose of this evaluation is to direct the most efficient
19 allocation of state resources devoted to tobacco and vapor product[~~,~~
20 ~~intended or reasonably expected to be used with or for the consumption~~
21 ~~of nicotine,~~ education and cessation to accomplish the maximum
22 prevention and reduction of tobacco and vapor product[~~, intended or~~
23 ~~reasonably expected to be used with or for the consumption of nicotine,~~
24 use among minors and adults. Such evaluation shall be provided to the
25 governor, the majority leader of the senate and the speaker of the
26 assembly on or before September first, two thousand one, and annually on
27 or before such date thereafter. The comprehensive evaluation design
28 shall be guided by the following:

29 (a) sound evaluation principles including, to the extent feasible,
30 elements of controlled experimental methods;

31 (b) an evaluation of the comparative effectiveness of individual
32 program designs which shall be used in funding decisions and program
33 modifications; and

34 (c) an evaluation of other programs identified by state agencies,
35 local lead agencies, and federal agencies.

36 § 13. The opening paragraph and subdivision 2 of section 1399-kk of
37 the public health law, as amended by section 10 of part EE of chapter 56
38 of the laws of 2020, are amended to read as follows:

39 The commissioner shall submit to the governor and the legislature an
40 interim tobacco control report and annual tobacco control reports which
41 shall describe the extent of the use of tobacco products and vapor
42 products[~~, intended or reasonably expected to be used with or for the~~
43 ~~consumption of nicotine,~~ by those under twenty-one years of age in the
44 state and document the progress state and local governments have made in
45 reducing such use among those under twenty-one years of age.

46 2. The commissioner shall submit to the governor and the legislature
47 an annual tobacco and vapor products[~~, intended or reasonably expected~~
48 ~~to be used with or for the consumption of nicotine,~~ control report
49 which shall describe the extent of the use of tobacco products and vapor
50 products[~~, intended or reasonably expected to be used with or for the~~
51 ~~consumption of nicotine,~~ by those under twenty-one years of age in the
52 state and document the progress state and local governments have made in
53 reducing such use among those under twenty-one years of age. The annual
54 report shall be submitted to the governor and the legislature on or
55 before March thirty-first of each year beginning on March thirty-first,
56 nineteen hundred ninety-nine. The annual report shall, to the extent

practicable, include the following information on a county by county basis:

(a) number of licensed and registered tobacco retailers and vendors and licensed vapor products dealers;

(b) the names and addresses of retailers and vendors who have paid fines, or have been otherwise penalized, due to enforcement actions;

(c) the number of complaints filed against licensed and registered tobacco retailers and licensed vapor products dealers;

(d) the number of fires caused or believed to be caused by tobacco products and vapor products~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ and deaths and injuries resulting therefrom;

(e) the number and type of compliance checks conducted;

(f) a survey of attitudes and behaviors regarding tobacco use among those under twenty-one years of age. The initial such survey shall be deemed to constitute the baseline survey;

(g) the number of tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ users and estimated trends in tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ use among those under twenty-one years of age;

(h) annual tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ sales;

(i) tax revenue collected from the sale of tobacco products and vapor products~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~;

(j) the number of licensed tobacco retail outlets and licensed vapor products dealers;

(k) the number of cigarette vending machines;

(l) the number and type of compliance checks;

(m) the names of entities that have paid fines due to enforcement actions; and

(n) the number of complaints filed against licensed tobacco retail outlets and licensed vapor products dealers.

The annual tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ control report shall, to the extent practicable, include the following information:

(a) tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ control efforts sponsored by state government agencies including money spent to educate those under twenty-one years of age on the hazards of tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ use;

(b) recommendations for improving tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ control efforts in the state; and

(c) such other information as the commissioner deems appropriate.

§ 14. Subdivisions 1-a, 2, 3, 4, 5 and 6 of section 1399-11 of the public health law, subdivisions 2, 3, 4, 5 and 6 as amended and subdivision 1-a as added by section 3 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

1-a. It shall be unlawful for any person engaged in the business of selling vapor products to ship or cause to be shipped any vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ to any person in this state who is not: (a) a person that receives a certificate of registration as a vapor products dealer under

1 article [~~twenty-eight-C~~] twenty-eight-C of the tax law; (b) an export
2 warehouse proprietor pursuant to chapter 52 of the internal revenue code
3 or an operator of a customs bonded warehouse pursuant to section 1311 or
4 1555 of title 19 of the United States Code; or (c) a person who is an
5 officer, employee or agent of the United States government, this state
6 or a department, agency, instrumentality or political subdivision of the
7 United States or this state and presents [~~himself or herself~~] themselves
8 as such, when such person is acting in accordance with [~~his or her~~]
9 their official duties. For purposes of this subdivision, a person is a
10 licensed or registered agent or dealer described in paragraph (a) of
11 this subdivision if [~~his or her~~] their name appears on a list of
12 licensed or registered agents or vapor product dealers published by the
13 department of taxation and finance, or if such person is licensed or
14 registered as an agent or dealer under article [~~twenty-eight-C~~] twenty-
15 eight-C of the tax law.

16 2. It shall be unlawful for any common or contract carrier to knowing-
17 ly transport cigarettes to any person in this state reasonably believed
18 by such carrier to be other than a person described in paragraph (a),
19 (b) or (c) of subdivision one of this section. For purposes of the
20 preceding sentence, if cigarettes are transported to a home or resi-
21 dence, it shall be presumed that the common or contract carrier knew
22 that such person was not a person described in paragraph (a), (b) or (c)
23 of subdivision one of this section. It shall be unlawful for any other
24 person to knowingly transport cigarettes to any person in this state,
25 other than to a person described in paragraph (a), (b) or (c) of subdivi-
26 sion one of this section. Nothing in this subdivision shall be
27 construed to prohibit a person other than a common or contract carrier
28 from transporting not more than eight hundred cigarettes at any one time
29 to any person in this state. It shall be unlawful for any common or
30 contract carrier to knowingly transport vapor products [~~intended or~~
31 ~~reasonably expected to be used with or for the consumption of nicotine~~]
32 to any person in this state reasonably believed by such carrier to be
33 other than a person described in paragraph (a), (b) or (c) of subdivi-
34 sion one-a of this section. For purposes of the preceding sentence, if
35 vapor products [~~intended or reasonably expected to be used with or for~~
36 ~~the consumption of nicotine~~] are transported to a home or residence, it
37 shall be presumed that the common or contract carrier knew that such
38 person was not a person described in paragraph (a), (b) or (c) of subdivi-
39 sion one-a of this section. It shall be unlawful for any other person
40 to knowingly transport vapor products [~~intended or reasonably expected~~
41 ~~to be used with or for the consumption of nicotine~~] to any person in
42 this state, other than to a person described in paragraph (a), (b) or
43 (c) of subdivision one of this section. Nothing in this subdivision
44 shall be construed to prohibit a person other than a common or contract
45 carrier from transporting vapor products, provided that the amount of
46 vapor products [~~intended or reasonably expected to be used with or for~~
47 ~~the consumption of nicotine~~] shall not exceed the lesser of 500 millili-
48 ters, or a total nicotine content of 3 grams at any one time to any
49 person in this state.

50 3. When a person engaged in the business of selling cigarettes ships
51 or causes to be shipped any cigarettes to any person in this state,
52 other than in the cigarette manufacturer's original container or wrap-
53 ping, the container or wrapping must be plainly and visibly marked with
54 the word "cigarettes". When a person engaged in the business of selling
55 vapor products ships or causes to be shipped any vapor products
56 [~~intended or reasonably expected to be used with or for the consumption~~

1 ~~of nicotine~~] to any person in this state, other than in the vapor
2 products manufacturer's original container or wrapping, the container or
3 wrapping must be plainly and visibly marked with the words "vapor
4 products".

5 4. Whenever a police officer designated in section 1.20 of the crimi-
6 nal procedure law or a peace officer designated in subdivision four of
7 section 2.10 of such law, acting pursuant to ~~[his or her]~~ their special
8 duties, shall discover any cigarettes or vapor products ~~[intended or~~
9 ~~reasonably expected to be used with or for the consumption of nicotine]~~
10 which have been or which are being shipped or transported in violation
11 of this section, such person is hereby empowered and authorized to seize
12 and take possession of such cigarettes or vapor products ~~[intended or~~
13 ~~reasonably expected to be used with or for the consumption of nicotine]~~,
14 and such cigarettes or vapor products ~~[intended or reasonably expected~~
15 ~~to be used with or for the consumption of nicotine]~~ shall be subject to
16 a forfeiture action pursuant to the procedures provided for in article
17 thirteen-A of the civil practice law and rules, as if such article
18 specifically provided for forfeiture of cigarettes or vapor products
19 ~~[intended or reasonably expected to be used with or for the consumption~~
20 ~~of nicotine]~~ seized pursuant to this section as a pre-conviction forfei-
21 ture crime.

22 5. Any person who violates the provisions of subdivision one, one-a,
23 or two of this section shall be guilty of a class A misdemeanor and for
24 a second or subsequent violation shall be guilty of a class E felony. In
25 addition to the criminal penalty, any person who violates the provisions
26 of subdivision one, one-a, two or three of this section shall be subject
27 to a civil penalty not to exceed the greater of (a) five thousand
28 dollars for each such violation; (b) one hundred dollars for each pack
29 of cigarettes shipped, caused to be shipped or transported in violation
30 of such subdivision; or (c) one hundred dollars for each vapor product
31 ~~[intended or reasonably expected to be used with or for the consumption~~
32 ~~of nicotine]~~ shipped, caused to be shipped or transported in violation
33 of such subdivision.

34 6. The attorney general may bring an action to recover the civil
35 penalties provided by subdivision five of this section and for such
36 other relief as may be deemed necessary. In addition, the corporation
37 counsel of any political subdivision that imposes a tax on cigarettes or
38 vapor products ~~[intended or reasonably expected to be used with or for the~~
39 ~~consumption of nicotine]~~ may bring an action to recover the civil penal-
40 ties provided by subdivision five of this section and for such other
41 relief as may be deemed necessary with respect to any cigarettes or
42 vapor products ~~[intended or reasonably expected to be used with or for~~
43 ~~the consumption of nicotine]~~ shipped, caused to be shipped or trans-
44 ported in violation of this section to any person located within such
45 political subdivision. All civil penalties obtained in any such action
46 shall be retained by the state or political subdivision bringing such
47 action, provided that no person shall be required to pay civil penalties
48 to both the state and a political subdivision with respect to the same
49 violation of this section.

50 § 15. Paragraph (a) of subdivision 2 of section 1399-mm of the public
51 health law, as added by chapter 549 of the laws of 2003, is amended to
52 read as follows:

53 (a) The provisions of subdivision one of this section shall not apply
54 to a tobacco business, as defined in subdivision eight of section thir-
55 teen hundred ~~[ninety-nine-n]~~ ninety-nine-aa of this ~~[chapter]~~ article.

§ 16. Section 1399-mm-1 of the public health law, as added by section 1 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

§ 1399-mm-1. Sale of flavored products prohibited. 1. For the purposes of this section "flavored" shall mean any vapor or tobacco product ~~[intended or reasonably expected to be used with or for the consumption of nicotine,]~~ with a ~~[distinguishable]~~ taste ~~[or]~~, aroma, or sensation, distinguishable by an ordinary consumer, other than the taste or aroma of tobacco, imparted either prior to or during consumption of such product or a component part thereof, including but not limited to tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb or spice, or any concept flavor that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor, or a cooling or numbing sensation imparted during consumption of a tobacco or vapor product. This shall not include any product approved by the United States Food and Drug Administration as a drug or medical device. A vapor or tobacco product ~~[intended or reasonably expected to be used with or for the consumption of nicotine,]~~ shall be presumed to be flavored if a product's packaging or labeling, or if the product's retailer, manufacturer, or a manufacturer's agent or employee, has made a statement or claim directed to consumers or the public, whether expressed or implied, that such product or device has a ~~[distinguishable]~~ taste ~~[or]~~, aroma, or sensation, as distinguishable by the ordinary consumer, other than the taste ~~[or]~~, aroma, or sensation of tobacco.

2. No vapor products dealer, or retail dealer, or tobacco or vapor seller, or any agent or employee of a vapor products dealer, retail dealer, or a tobacco or vapor seller, shall sell or offer for sale ~~[at retail in the state]~~, or exchange or offer for exchange, for any form of consideration, any flavored vapor or tobacco product ~~[intended or reasonably expected to be used with or for the consumption of nicotine],~~ whether through retail or wholesale.

3. No vapor products dealer, retail dealer, or tobacco or vapor seller or any agent or employee of a vapor products dealer, retail dealer, or tobacco or vapor seller, acting in the capacity thereof, shall keep in inventory, store, stow, warehouse, process, package, ship, or distribute flavored vapor or tobacco products anywhere in, or adjacent to, a place of business where vapor or tobacco products are sold, offered for sale, exchanged, or offered for exchange, for any form of consideration, at retail.

4. Any vapor products dealer, retail dealer, or tobacco or vapor seller, or any agent or employee of a vapor products dealer, retail dealer, or tobacco or vapor seller, who violates the provisions of this section shall be subject to a civil penalty of not more than one hundred dollars for each individual package of flavored vapor or tobacco product ~~[intended or reasonably expected to be used with or for the consumption of nicotine sold or offered for sale, provided, however, that with respect to a manufacturer, it shall be an affirmative defense to a finding of violation pursuant to this section that such sale or offer of sale, as applicable, occurred without the knowledge, consent, authorization, or involvement, direct or indirect, of such manufacturer]~~ sold or offered for sale, or exchanged or offered for exchange, for any form of consideration, whether through retail or wholesale, or kept in inventory, stored, stowed, warehoused, processed, packaged, shipped, or distributed anywhere in, or adjacent to, a place of business where vapor

1 or tobacco products are sold, offered for sale, exchanged, or offered
2 for exchange, for any form of consideration, at retail. Violations of
3 the provisions of this section shall be enforced pursuant to ~~[section]~~
4 sections thirteen hundred ninety-nine-ff and thirteen hundred ninety-
5 nine-ee of this article, ~~[except that any]~~ provided, however, that
6 violations of the provisions of this section may also be enforced by the
7 commissioner. Any person may submit a complaint to an enforcement offi-
8 cer that a violation of this section has occurred.

9 ~~[4. The provisions of this section shall not apply to any vapor~~
10 ~~products dealer, or any agent or employee of a vapor products dealer,~~
11 ~~who sells or offers for sale, or who possess with intent to sell or~~
12 ~~offer for sale, any flavored vapor product intended or reasonably~~
13 ~~expected to be used with or for the consumption of nicotine that the~~
14 ~~U.S. Food and Drug Administration has authorized to legally market as~~
15 ~~defined under 21 U.S.C. § 387j and that has received a premarket review~~
16 ~~approval order under 21 U.S.C. § 387j(c) et seq.]~~ 5. Nothing in this
17 section shall be construed to penalize the purchase, use, or possession
18 of a tobacco product or vapor product by any person not engaged as a
19 vapor products dealer, retail dealer, tobacco or vapor seller, or any
20 agent or employee of a vapor products dealer, retail dealer, or tobacco
21 or vapor seller.

22 § 17. Subdivision 1 of section 1399-mm-2 of the public health law, as
23 added by section 1 of part EE of chapter 56 of the laws of 2020, is
24 amended to read as follows:

25 1. No tobacco product, herbal cigarette, or vapor product ~~[intended or~~
26 ~~reasonably expected to be used with or for the consumption of nicotine,~~
27 shall be sold in a pharmacy or in a retail establishment that contains a
28 pharmacy operated as a department as defined by paragraph f of subdivi-
29 sion two of section sixty-eight hundred eight of the education law.
30 Provided, however, that such prohibition on the sale of tobacco
31 products, herbal cigarettes, or vapor products ~~[intended or reasonably~~
32 ~~expected to be used with or for the consumption of nicotine,~~ shall not
33 apply to any other business that owns or leases premises within any
34 building or other facility that also contains a pharmacy or a retail
35 establishment that contains a pharmacy operated as a department as
36 defined by paragraph f of subdivision two of section sixty-eight hundred
37 eight of the education law.

38 § 18. Subdivision 1 of section 1399-mm-3 of the public health law, as
39 added by section 1 of part EE of chapter 56 of the laws of 2020, is
40 amended to read as follows:

41 1. For the purposes of this section "carrier oils" shall mean any
42 ingredient of a vapor product intended to control the consistency or
43 other physical characteristics of such vapor product, to control the
44 consistency or other physical characteristics of vapor, or to facilitate
45 the production of vapor when such vapor product is used in an electronic
46 ~~[cigarette]~~ device. "Carrier oils" shall not include any product
47 approved by the United States ~~[food and drug administration]~~ Food and
48 Drug Administration as a drug or medical device or manufactured and
49 dispensed pursuant to title five-A of article thirty-three of this chap-
50 ter.

51 § 19. This act shall take effect September 1, 2023.

52 PART P

53 Section 1. The public health law is amended by adding a new section
54 2825-h to read as follows:

1 § 2825-h. Health care facility transformation program: statewide V.
2 1. A statewide health care facility transformation program is hereby
3 established within the department for the purpose of transforming, rede-
4 signing, and strengthening quality health care services in alignment
5 with statewide and regional health care needs, and in the ongoing
6 pandemic response. The program shall also provide funding, subject to
7 lawful appropriation, in support of capital projects that facilitate
8 furthering such transformational goals.

9 2. The commissioner shall enter into an agreement with the president
10 of the dormitory authority of the state of New York pursuant to section
11 sixteen hundred eighty-r of the public authorities law, which shall
12 apply to this agreement, subject to the approval of the director of the
13 division of the budget, for the purposes of the distribution and admin-
14 istration of available funds pursuant to such agreement, and made avail-
15 able pursuant to this section and appropriation. Such funds may be
16 awarded and distributed by the department for grants to health care
17 providers including but not limited to, hospitals, residential health
18 care facilities, adult care facilities licensed under title two of arti-
19 cle seven of the social services law, diagnostic and treatment centers
20 licensed or granted an operating certificate under this chapter, clin-
21 ics, including but not limited to those licensed or granted an operating
22 certificate under this chapter or the mental hygiene law, children's
23 residential treatment facilities licensed under article thirty-one of
24 the mental hygiene law, assisted living programs approved by the depart-
25 ment pursuant to section four hundred sixty-one-l of the social services
26 law, behavioral health facilities licensed or granted an operating
27 certificate pursuant to articles thirty-one and thirty-two of the mental
28 hygiene law, home care providers certified or licensed under article
29 thirty-six of this chapter, primary care providers, hospices licensed or
30 granted an operating certificate pursuant to article forty of this chap-
31 ter, community-based programs funded under the office of mental health,
32 the office of addiction services and supports, the office for people
33 with developmental disabilities, or through local governmental units as
34 defined under article forty-one of the mental hygiene law, independent
35 practice associations or organizations, and residential facilities or
36 day program facilities licensed or granted an operating certificate
37 under article sixteen of the mental hygiene law. A copy of such agree-
38 ment, and any amendments thereto, shall be provided by the department to
39 the chair of the senate finance committee, the chair of the assembly
40 ways and means committee, and the director of the division of the budget
41 no later than thirty days after such agreement is finalized. Projects
42 awarded, in whole or part, under sections twenty-eight hundred twenty-
43 five-a and twenty-eight hundred twenty-five-b of this article shall not
44 be eligible for grants or awards made available under this section.

45 3. Notwithstanding section one hundred sixty-three of the state
46 finance law, sections one hundred forty-two and one hundred forty-three
47 of the economic development law, or any inconsistent provision of law to
48 the contrary, up to five hundred million dollars of the funds appropri-
49 ated for this program shall be awarded, without a competitive bid or
50 request for proposal process, for grants to health care providers, as
51 defined in subdivision two of this section. Awards made pursuant to this
52 subdivision shall provide funding only for capital projects, to the
53 extent lawful appropriation and funding is available, to build innova-
54 tive, patient-centered models of care, increase access to care, to
55 improve the quality of care and to ensure financial sustainability of
56 health care providers.

1 4. Notwithstanding section one hundred sixty-three of the state
2 finance law, sections one hundred forty-two and one hundred forty-three
3 of the economic development law, or any inconsistent provision of law to
4 the contrary, up to five hundred million dollars of the funds appropri-
5 ated for this program shall be awarded, without a competitive bid or
6 request for proposal process, for technological and telehealth transfor-
7 mation projects.

8 5. Selection of awards made by the department pursuant to subdivisions
9 three and four of this section shall be contingent on an evaluation
10 process acceptable to the commissioner and approved by the director of
11 the division of the budget. Disbursement of awards may be contingent on
12 the health care provider as defined in subdivision two of this section
13 achieving certain process and performance metrics and milestones that
14 are structured to ensure that the goals of the project are achieved.

15 6. The department shall provide a report on a quarterly basis to the
16 chairs of the senate finance, assembly ways and means, and senate and
17 assembly health committees, until such time as the department determines
18 that the projects that receive funding pursuant to this section are
19 substantially complete. Such reports shall be submitted no later than
20 sixty days after the close of the quarter, and shall include, for each
21 award, the name of the health care provider as defined in subdivision
22 two of this section, a description of the project or purpose, the amount
23 of the award, disbursement date, and status of achievement of process
24 and performance metrics and milestones pursuant to subdivision five of
25 this section.

26 § 2. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 2023.

28 PART Q

29 Section 1. Subdivision 2 of section 365-a of the social services law
30 is amended by adding new paragraph (kk) to read as follows:

31 (kk) community health worker services for children under age twenty-
32 one, and for adults with health-related social needs, when such services
33 are recommended by a physician or other health care practitioner author-
34 ized under title eight of the education law, and provided by qualified
35 community health workers, as determined by the commissioner of health;
36 provided, however, that the provisions of this paragraph shall not take
37 effect unless all necessary approvals under federal law and regulation
38 have been obtained to receive federal financial participation in the
39 costs of health care services provided pursuant to this paragraph.
40 Nothing in this paragraph shall be construed to modify any licensure,
41 certification or scope of practice provision under title eight of the
42 education law.

43 § 2. Clause (C) of subparagraph (ii) of paragraph (f) of subdivision
44 2-a of section 2807 of the public health law, as amended by section 43
45 of part B of chapter 58 of the laws of 2010, is amended to read as
46 follows:

47 (C) [~~individual psychotherapy~~] services provided by licensed social
48 workers, licensed mental health counselors and licensed marriage and
49 family therapists, in accordance with licensing criteria set forth in
50 applicable regulations[, ~~to persons under the age of twenty one and to~~
51 ~~persons requiring such services as a result of or related to pregnancy~~
52 ~~or giving birth~~]; and

53 § 3. This act shall take effect January 1, 2024.

1

PART R

2 Section 1. Subdivision 2 of section 365-a of the social services law
3 is amended by adding two new paragraphs (kk) and (ll) to read as
4 follows:

5 (kk) care and services of nutritionists and dietitians certified
6 pursuant to article one hundred fifty-seven of the education law acting
7 within their scope of practice.

8 (ll) arthritis self-management training services for persons diagnosed
9 with osteoarthritis when such services are ordered by a physician,
10 registered physician's assistant, registered nurse practitioner, or
11 licensed midwife and provided by qualified educators, as determined by
12 the commissioner of health, provided, however, that the provisions of
13 this paragraph shall not apply unless all necessary approvals under
14 federal law and regulation have been obtained to receive federal finan-
15 cial participation in the costs of health care services provided pursu-
16 ant to this paragraph. Nothing in this paragraph shall be construed to
17 modify any licensure, certification or scope of practice provision under
18 title eight of the education law.

19 § 2. Clause (A) of subparagraph (ii) of paragraph (f) of subdivision
20 2-a of section 2807 of the public health law, as amended by section 43
21 of part B of chapter 58 of the laws of 2010, is amended to read as
22 follows:

23 (A) services provided in accordance with the provisions of paragraphs
24 (q) ~~[and]~~, (r), and (ll) of subdivision two of section three hundred
25 sixty-five-a of the social services law; and

26 § 3. This act shall take effect July 1, 2023; provided, however, that
27 paragraph (ll) of subdivision 2 of section 365-a of the social services
28 law added by section one of this act and section two of this act, shall
29 take effect October 1, 2023.

30

PART S

31 Section 1. Subdivision 1 of section 3001 of the public health law, as
32 amended by chapter 804 of the laws of 1992, is amended to read as
33 follows:

34 1. "Emergency medical service" means ~~[initial emergency medical~~
35 ~~assistance including, but not limited to, the treatment of trauma,~~
36 ~~burns, respiratory, circulatory and obstetrical emergencies]~~ a coordi-
37 nated system of healthcare delivery that responds to the needs of sick
38 and injured adults and children, by providing: essential care at the
39 scene of an emergency, non-emergency, specialty need or public event;
40 community education and prevention programs; mobile integrated health-
41 care programs; ground and air ambulance services; centralized access and
42 emergency medical dispatch; training for emergency medical services
43 practitioners; medical first response; mobile trauma care systems; mass
44 casualty management; medical direction; or quality control and system
45 evaluation procedures.

46 § 2. Section 3002 of the public health law is amended by adding a new
47 subdivision 1-a to read as follows:

48 1-a. The state emergency medical services council shall advise and
49 assist the commissioner on such issues as the commissioner may require
50 related to the provision of emergency medical service, specialty care,
51 designated facility care, and disaster medical care. This shall
52 include, but shall not be limited to, the recommendation, periodic
53 revision, and application of rules and regulations, appropriateness

review standards, treatment protocols, workforce development, and quality improvement standards. The state emergency medical services council shall meet at least three times per year or more frequently at the request of the chairperson or department and approved by the commissioner.

§ 2-a. Subdivision 1 of section 3002-a of the public health law, as amended by chapter 567 of the laws of 2011, is amended to read as follows:

1. There shall be a state emergency medical advisory committee of the state emergency medical services council consisting of thirty-one members. Twenty-three members shall be physicians appointed by the commissioner, including one ~~[nominated by]~~ member from each regional emergency medical services council, an additional physician from the city of New York, one pediatrician, one trauma surgeon, one ~~[psychiatrist]~~ physician at large and the chairperson. Each of the physicians shall have demonstrated knowledge and experience in emergency medical services. There shall be eight non-physician non-voting members appointed by the chairperson of the state council, at least five of whom shall be members of the state emergency medical services council at the time of their appointment. At least one of the eight shall be an emergency nurse, at least one shall be an advanced emergency medical technician, at least one shall be a basic emergency medical technician, and at least one shall be employed in a hospital setting with administrative responsibility for a hospital emergency department or service.

§ 3. Section 3003 of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-a. Each regional emergency medical services council shall advise the state emergency medical services council and department on such issues as the state emergency medical services council or department may require, related to the provision of emergency medical service, specialty care, designated facility care, and disaster medical care, and shall carry out duties to assist in the regional coordination of such, as outlined by the state emergency medical services council with approval of the department.

§ 4. The public health law is amended by adding a new section 3004 to read as follows:

§ 3004. Emergency medical services system and agency performance standards. 1. The state emergency medical services council, in collaboration and with final approval of the department, shall create an emergency medical services system and agency performance standards (hereinafter referred to as "performance standards") for the purpose of sustaining and evolving a reliable emergency medical services system including but not limited to emergency medical services agencies and any facility or agency that dispatches or accepts emergency medical services resources.

2. The performance standards may include but shall not be limited to: safety initiatives, emergency vehicle operations, operational competencies, planning, training, onboarding, workforce development and engagement, survey responses, leadership and other standards and metrics as determined by the state emergency medical services council, with approval of the department, to promote positive patient outcomes, safety, provider retention and emergency medical services system sustainability throughout the state.

3. The performance standards shall require each emergency medical services agency, dispatch agency or facility that accepts emergency medical services resources to perform regular and periodic review of the performance standards and its metrics, perform surveys, identification

1 of agency deficiencies and strengths, development of programs to improve
2 agency metrics, strengthen system sustainability and operations, and
3 improve the delivery of patient care.

4 4. The department, after consultation with the state emergency medical
5 services council, may contract for services with subject matter experts
6 to assist in the oversight of the performance standards statewide.

7 5. Emergency medical services agencies that do not meet the perform-
8 ance standards set forth in this section may be subject to enforcement
9 actions, including but not limited to revocation, suspension, perform-
10 ance improvement plans, or restriction from specific types of response
11 including but not limited to suspension of ability to respond to
12 requests for emergency medical assistance or to perform emergency
13 medical services.

14 § 5. The public health law is amended by adding a new section 3018 to
15 read as follows:

16 § 3018. Statewide comprehensive emergency medical service system plan.

17 1. The state emergency medical services council, in collaboration and
18 with final approval of the department, shall develop and maintain a
19 statewide comprehensive emergency medical service system plan that shall
20 provide for a coordinated emergency medical services system in New York
21 state, including but not limited to:

22 (a) establishing a comprehensive statewide emergency medical service
23 system, consisting of facilities, transportation, workforce, communi-
24 cations, and other components, to improve the delivery of emergency
25 medical services and thereby decrease morbidity, hospitalization, disa-
26 bility, and mortality;

27 (b) improving the accessibility of high-quality emergency medical
28 service;

29 (c) coordinating professional medical organizations, hospitals, and
30 other public and private agencies in developing alternative delivery
31 models whereby persons who are presently using the existing emergency
32 department for routine, nonurgent, and primary medical care will be
33 served appropriately; and

34 (d) conducting, promoting, and encouraging programs of education and
35 training designed to upgrade the knowledge and skills of emergency
36 medical service practitioners training throughout New York state with
37 emphasis on regions with limited access to emergency medical services
38 training.

39 2. The statewide comprehensive emergency medical service system plan
40 shall be reviewed, updated if necessary, and published every five years
41 on the department's website, or at such times as may be necessary to
42 improve the effectiveness and efficiency of the state's emergency
43 medical service system.

44 3. Each regional emergency medical services council shall develop and
45 maintain a comprehensive regional emergency medical service system plan
46 or adopt the statewide comprehensive emergency medical service system
47 plan, to provide for a coordinated emergency medical service system
48 within the region. Such plans shall be written in a format approved by
49 the state emergency medical services council. Further, such plans shall
50 be subject to review and approval by the state emergency medical
51 services council and final approval by the department.

52 4. Each county shall develop and maintain a comprehensive county emer-
53 gency medical service system plan that shall provide for a coordinated
54 emergency medical service system within the county, to provide essential
55 emergency medical services for all residents within the county. Such
56 plan shall be written in a format approved by the state emergency

1 medical services council. The county office of emergency medical
2 services shall be responsible for the development, implementation, and
3 maintenance of the comprehensive county emergency medical service system
4 plan. Such plans, as determined by the department and the state emer-
5 gency medical services council, may require review and approval by the
6 regional emergency medical services council, the state emergency medical
7 services council and the department. Such plan shall outline the
8 primary responding emergency medical services agency for requests for
9 service for each part of the county.

10 § 6. The public health law is amended by adding a new section 3019 to
11 read as follows:

12 § 3019. Emergency medical service training programs. 1. The state
13 emergency medical services council shall make recommendations to the
14 department for the department to implement standards related to the
15 establishment of training programs for emergency medical service systems
16 that includes but is not limited to students, emergency medical service
17 practitioners, emergency medical services agencies, approved educational
18 institutions, geographic areas, facilities, and personnel, and the
19 commissioner shall fund such training programs in full or in part based
20 on state appropriations. Until such time as the department announces the
21 standards for training programs pursuant to this section, all current
22 standards, curriculums, and requirements for students, emergency medical
23 service practitioners, agencies, facilities, and personnel shall remain
24 in effect.

25 2. The state emergency medical services council, with final approval
26 of the department, shall establish minimum education standards, curric-
27 ulums, performance metrics and requirements for all emergency medical
28 system educational institutions. No person or educational institution
29 shall profess to provide emergency medical services training without
30 meeting the requirements set forth in regulation and only after approval
31 of the department and in the geographical area determined by the depart-
32 ment.

33 3. The department is authorized to provide, either directly or through
34 contract, for local or statewide initiatives, emergency medical system
35 training for emergency medical service practitioners and emergency
36 medical services agency personnel, using funding including but not
37 limited to allocations to aid to localities for emergency medical
38 services training.

39 4. The department may visit and inspect any emergency medical system
40 training program or training center operating under this article to
41 ensure compliance with all applicable regulations and standards. The
42 department may request the state or regional emergency medical services
43 council's assistance to ensure the compliance, maintenance, and coordi-
44 nation of training programs. The department, in consultation with the
45 state emergency medical services council, may set standards and regu-
46 lations for emergency medical services educational institutions. Emer-
47 gency medical services educational institutions that fail to meet appli-
48 cable standards and regulations may be subject to enforcement action,
49 including but not limited to revocation, suspension, performance
50 improvement plans, or restriction from specific types of education.

51 5. Students of an emergency medical services educational institution
52 authorized pursuant to this section, shall be considered emergency
53 medical services students and subject to the standards established in
54 this article, regulations promulgated pursuant to this article and all
55 applicable standards, as if they were a licensed emergency medical
56 services practitioner and may be subject to enforcement action as such.

1 § 7. Section 3012 of the public health law is amended by adding a new
2 subdivision 5 to read as follows:

3 5. It shall be a violation of this chapter, subject to civil penal-
4 ties, for any person to hold themselves out as an emergency medical
5 services practitioner who is not designated by the department pursuant
6 to this article or otherwise lawfully authorized, to provide emergency
7 medical services, or to attempt to become an emergency medical practi-
8 tioner in an unlawful or unethical manner.

9 § 8. The public health law is amended by adding a new section 3020 to
10 read as follows:

11 § 3020. Recruitment and retention. 1. The commissioner shall estab-
12 lish and fund within amounts appropriated, a public service campaign to
13 recruit additional personnel into the emergency medical system fields.

14 2. The commissioner shall establish and fund within amounts appropri-
15 ated an emergency medical system mental health and wellness program that
16 provides resources to emergency medical service practitioners.

17 3. The commissioner may establish in regulation standards for the
18 licensure of emergency medical services practitioners by the department
19 of health.

20 4. The department, with the approval of the state emergency medical
21 services council, may create or adopt additional standards, training,
22 and criteria to become an emergency medical service practitioner creden-
23 tialed to provide specialized, advanced, or other services that further
24 support or advance the emergency medical system. The department, with
25 approval of the state emergency medical services council may also set
26 standards and requirements to require specialized credentials to perform
27 certain functions in the emergency medical services system.

28 5. The department, with approval of the state emergency medical
29 services council may also set standards for emergency medical system
30 agencies to become accredited in a specific area to increase system
31 performance and agency recognition.

32 § 9. Section 3008 of the public health law is REPEALED and a new
33 section 3008 is added to read as follows:

34 § 3008. Applications for new or modified operating authority. 1. Every
35 application for new or modified operating authority shall be made in
36 writing to the state emergency medical services council and shall speci-
37 fy the primary territory within which the applicant requests to operate,
38 be verified under oath, and shall be in such form and contain such
39 information as required by the rules and regulations promulgated pursu-
40 ant to this article.

41 2. Notice of the application shall be forwarded to the appropriate
42 regional emergency medical services council.

43 3. All determinations of new or modified operating authority shall be
44 made by the state emergency medical services council and shall be
45 consistent with the state emergency medical system plan, once estab-
46 lished pursuant to section three thousand eighteen of this article. The
47 department may promulgate regulations to provide for standards for eval-
48 uation of new or modified operating authority, and the process for
49 determination of operating authority shall be approved by the state
50 emergency medical services council and carried out thereafter.

51 4. The state emergency medical services council may create a new
52 committee to hear and make determinations on all requests for new or
53 modified operating authority. Such committee shall be comprised of one
54 state emergency medical council member from each regional emergency
55 medical services council.

1 5. If the state emergency medical services council proposes to disap-
2 prove an application under this section, it shall afford the applicant
3 an opportunity to request a public hearing. The state emergency medical
4 services council may hold a public hearing on the application on its own
5 motion. Any public hearing held pursuant to this subdivision may be
6 conducted by the state emergency medical services council, or by any
7 individual designated by the state emergency medical services council.

8 6. Notwithstanding the provisions of subdivisions one and three of
9 this section, during an emergency the commissioner may waive the
10 requirement for a determination of operating authority and issue a
11 temporary emergency medical system agency certificate.

12 7. Notwithstanding the provisions of subdivisions one and three of
13 this section, the commissioner may waive the requirement for a determi-
14 nation of operating authority and issue a municipality, special taxing
15 district, government agency or Native American tribal council, an emer-
16 gency medical system agency certificate, provided the issuance of such
17 certificate is financially supported by the municipality, special taxing
18 district, government agency or Native American tribal council.

19 § 10. Section 3032 of the public health law is REPEALED.

20 § 11. The public health law is amended by adding six new sections
21 3032, 3033, 3034, 3035, 3036 and 3037 to read as follows:

22 § 3032. Mobile integrated healthcare. 1. "Mobile integrated health-
23 care" means the provision of patient-centered mobile resources which
24 includes a well-organized system of services to address healthcare gaps
25 and decrease demand on portions of the healthcare system identified by a
26 community needs assessment, integrated into the local healthcare system
27 working in a collaborative manner as a patient care team that may
28 include, but not limited to, physicians, mid-level practitioners, nurs-
29 es, home care agencies, emergency medical services practitioners, emer-
30 gency medical services agencies and other community health team
31 colleagues, to meet the needs of the community.

32 2. Emergency medical service agencies may establish a mobile inte-
33 grated healthcare program, provided they meet all standards established
34 by the department, that the delivery of such services in full or in part
35 will not decrease the agency's ability to respond to requests for emer-
36 gency assistance and the agency receives express approval from the
37 department. The department may revoke or suspend an emergency medical
38 service agency's approval to provide a mobile integrated healthcare
39 program if the department finds that one or more standards established
40 by the department have not been met. The department, in collaboration
41 with the state emergency medical services council, shall establish
42 criteria and standards for the operation of mobile integrated healthcare
43 programs and mobile integrated healthcare programs shall adhere to such
44 criteria and standards.

45 3. Notwithstanding sections sixty-five hundred twenty-one and sixty-
46 nine hundred two of the education law, an emergency medical services
47 practitioner, licensed pursuant to this article, shall be authorized to
48 administer immunizations pursuant to a patient specific or non-patient
49 specific standing regimen ordered by a licensed physician and pursuant
50 to protocols adopted by the state emergency medical services council and
51 any standards established by the department.

52 4. Notwithstanding sections sixty-five hundred twenty-one and sixty-
53 nine hundred two of the education law, an emergency medical services
54 practitioner, licensed pursuant to this article, may be authorized by
55 the department to administer buprenorphine pursuant to a non-patient
56 specific standing regimen ordered by a licensed physician and pursuant

1 to protocols adopted by the state emergency medical services council and
2 any standards established by the department.

3 § 3033. Regional emergency medical service district. 1. A "regional
4 emergency medical service district" means a special district as defined
5 in subdivision sixteen of section one hundred two of the real property
6 tax law created for the purpose of ensuring the essential services of
7 emergency medical care, coordinating the emergency medical system within
8 the district and providing when needed emergency medical services on a
9 regional basis either directly or through contract with but not limited
10 to towns, counties, municipalities, licensed ambulance and first
11 response agencies, air medical providers and others as determined by the
12 district council. There shall be ten regional service districts which
13 will correspond to economic development regions as established in
14 section two hundred thirty of the economic development law that are
15 established in all areas of the state and operate under the direction of
16 the department.

17 2. A group of five emergency medical service providers in each region,
18 with nominations made from anyone in the district and appointment by the
19 commissioner, shall act as a council to direct the operations of the
20 emergency medical services system in their region. No less than one
21 member of the council shall be a licensed physician who is board certi-
22 fied in emergency medicine or emergency medical services and has experi-
23 ence working with emergency medical services organizations, unless
24 otherwise determined by the commissioner. The department shall establish
25 term limits in regulation.

26 3. An emergency medical service practitioner, nominated by the
27 regional emergency medical service district council and appointed by the
28 commissioner, shall be the regional emergency medical service district
29 director and shall be charged with carrying out the administration of
30 the regional emergency medical service district when the council is not
31 in session.

32 4. A physician board certified in emergency medicine or emergency
33 medical services and who has experience working with emergency medical
34 services organizations, nominated by the regional emergency medical
35 service district council and appointed by the commissioner, shall be the
36 regional emergency medical services medical director. The regional emer-
37 gency medical services medical director shall report to the district
38 director or their designee, and shall be charged with providing medical
39 direction oversight and quality assurance to the regional emergency
40 medical service district.

41 5. The regional emergency medical services districts shall operate
42 under the direction and oversight of the department to ensure the emer-
43 gency medical services system is reliable, sustainable and provides
44 quality care to the residents, commuters and visitors of the district.

45 § 3034. State emergency medical services task force. 1. The department
46 shall develop a state emergency medical services (EMS) task force, oper-
47 ated by the department, that may coordinate and operate resources that
48 are needed around the state in situations such as but not limited to a
49 disaster, large event, specialized response, community need, or other
50 need as determined by the commissioner.

51 2. The state EMS task force shall be made up of non-government and
52 government agencies, that are licensed to provide emergency medical
53 services in the state including but not limited to commercial agencies,
54 nonprofits, fire departments and third services.

55 3. The department will allocate funds to effectuate the delivery of
56 the state EMS task force that will allow for contracting with licensed

1 emergency medical services agencies, the purchase of specialized
2 response equipment, staff to carry out the daily functions of the state
3 EMS task force either directly or by contract and other functions as
4 determined by the department.

5 4. The state emergency medical services council shall make recommenda-
6 tions to the department to effectuate the development and delivery of
7 care by the state EMS task force.

8 5. The state EMS task force shall have the authority to operate
9 throughout New York state or outside of the state with prior permission
10 of the commissioner. Notwithstanding any law to the contrary, contracts
11 let by the state EMS task force shall be exempt from sections one
12 hundred twelve and one hundred sixty-three of the state finance law.

13 § 3035. Demonstration projects. The department, in consultation with
14 the state emergency medical services council, may allow demonstration
15 projects related to the emergency medical system. Such demonstration
16 projects may allow for waivers of certain parts of this article, article
17 thirty-A of this chapter, and applicable regulations, provided the
18 demonstration project meets any applicable standards set forth by the
19 department.

20 § 3036. Emergency medical system support services. The commissioner
21 may promulgate regulations, with the approval of the state emergency
22 medical services council, to set standards and criteria for basic life
23 support first response agencies, emergency medical dispatch, and special
24 event services, to strengthen the emergency medical service system.
25 These organizations shall not be required to meet the standards set for
26 determination of operating authority as outlined in section three thou-
27 sand eight of this article unless otherwise determined by the state
28 emergency medical services council and approved by the department.

29 § 3037. Rules and regulations. The commissioner, upon approval of the
30 state emergency medical services council, may promulgate rules and regu-
31 lations to effectuate the purposes of this article.

32 § 12. Section 6909 of the education law is amended by adding a new
33 subdivision 11 to read as follows:

34 11. A certified nurse practitioner may prescribe and order a non-pa-
35 tient specific regimen to an emergency medical services practitioner
36 licensed by the department of health pursuant to article thirty of the
37 public health law, pursuant to regulations promulgated by the commis-
38 sioner, and consistent with the public health law, for administering
39 immunizations. Nothing in this subdivision shall authorize unlicensed
40 persons to administer immunizations, vaccines or other drugs.

41 § 13. Section 6527 of the education law is amended by adding a new
42 subdivision 11 to read as follows:

43 11. A licensed physician may prescribe and order a non-patient specif-
44 ic regimen to an emergency medical services practitioner licensed by the
45 department of health pursuant to article thirty of the public health
46 law, pursuant to regulations promulgated by the commissioner, and
47 consistent with the public health law, for administering immunizations.
48 Nothing in this subdivision shall authorize unlicensed persons to admin-
49 ister immunizations, vaccines or other drugs.

50 § 14. This act shall take effect immediately; provided, however, that
51 section 3033 of the public health law, as added by section eleven of
52 this act, shall take effect on the ninetieth day after it shall have
53 become a law.

1 Section 1. The public health law is amended by adding a new section
2 1377 to read as follows:

3 § 1377. State rental registry and proactive inspections to identify
4 lead hazards. 1. The department shall develop a registry for all resi-
5 dential dwellings with two or more units built prior to nineteen hundred
6 eighty which, by virtue of their municipal zoning designation, are
7 potentially eligible for rental, lease, let or hiring out, and are
8 located within communities of concern as identified by the department.
9 Such registry shall only include qualifying residential dwellings
10 outside New York city.

11 2. All residential dwellings qualifying for registration in accord
12 with this section must be certified as free of lead paint hazards based
13 on inspections conducted on a tri-annual basis. Inspection certif-
14 ications must be submitted to the local health department or their
15 designee for recording in the rental registry.

16 3. The commissioner shall promulgate regulations as needed to adminis-
17 ter, coordinate, and enforce this section, including the establishment
18 of fines to be levied in the event of non-compliance with the require-
19 ments of this section.

20 4. Inspection requirements shall be based on regulation and guidance
21 from the department and may include qualifications for inspectors, mini-
22 mum requirements of a compliant inspection and a process for reporting
23 inspection results to local health departments. Minimum inspection
24 requirements may include visual inspections for deteriorated paint and
25 outdoor soil conditions, as well as the collection of dust wipe samples
26 obtained in accordance with United States Environmental Protection Agen-
27 cy protocols for such procedures.

28 5. Remediation of lead-based paint hazards must be conducted in
29 compliance with all municipal requirements and specific requirements
30 specified in regulation.

31 § 2. Paragraphs h and i of subdivision 1 of section 381 of the execu-
32 tive law, as added by chapter 560 of the laws of 2010, are amended and a
33 new paragraph j is added to read as follows:

34 h. minimum basic training and in-service training requirements for
35 personnel charged with administration and enforcement of the state ener-
36 gy conservation construction code; ~~and~~

37 i. standards and procedures for measuring the rate of compliance with
38 the state energy conservation construction code, and provisions requir-
39 ing that such rate of compliance be measured on an annual basis~~[-]~~; and

40 j. procedures requiring the documentation of compliance with regu-
41 lations adopted pursuant to section thirteen hundred seventy-seven of
42 the public health law as a condition to issuance of a certificate of
43 occupancy or certificate of compliance following a periodic fire safety
44 and property maintenance inspection for multiple dwellings.

45 § 3. This act shall take effect immediately; provided, however,
46 section one of this act shall take effect eighteen months after it shall
47 have become a law; and provided further, however, section two of this
48 act shall take effect two years after it shall have become a law.
49 Effective immediately, the addition, amendment, and/or repeal of any
50 rule or regulation necessary for the timely implementation of this act
51 on or before its effective date are authorized to be made and completed
52 on or before such effective date.

1 Section 1. The general business law is amended by adding a new
2 section 394-f to read as follows:

3 § 394-f. Warrants for reproductive health related electronic data. 1.
4 For the purposes of this section, the following terms shall have the
5 following meanings:

6 a. "Electronic communication" means any transfer of signs, signals,
7 writing, images, sounds, data, or intelligence of any nature transmitted
8 in whole or in part by a wire, radio, electromagnetic, photoelectronic
9 or photo-optical system; provided, however, such term shall not include:

10 i. any telephonic or telegraphic communication.

11 ii. any communication made through a tone only paging device.

12 iii. any communication made through a tracking device consisting of an
13 electronic or mechanical device which permits the tracking of the move-
14 ment of a person or object.

15 iv. any communication that is disseminated by the sender through a
16 method of transmission that is configured so that such communication is
17 readily accessible to the public.

18 b. "Electronic communication services" means any service which
19 provides to users thereof the ability to send or receive wire or elec-
20 tronic communications.

21 c. "Prohibited violation" means any civil or criminal offense defined
22 under the laws of another state that creates civil or criminal liability
23 or any theory of vicarious, joint, several or conspiracy liability for,
24 in whole or in part based on or arising out of, either of the following,
25 unless such out-of-state proceeding i. sounds in tort or contract; ii.
26 is actionable, in an equivalent or similar manner, under the laws of
27 this state; or iii. was brought by the patient who received reproductive
28 health care, or the patient's legal representative:

29 (1) providing, facilitating, or obtaining reproductive health care
30 services that are lawful under New York law; or

31 (2) intending or attempting to provide, facilitate, or obtain repro-
32 ductive health care services that are lawful under New York law.

33 d. "Reproductive health care services" means any services related to
34 the performance or aiding within the performance of an abortion
35 performed within this state that is performed in accordance with the
36 applicable law of this state, ending, seeking to end, or aiding another
37 in ending their pregnancy within this state, or procuring or aiding in
38 the procurement of an abortion within this state.

39 2. Any person or entity that is headquartered or incorporated in New
40 York that provides electronic communications services to the general
41 public, when served with a warrant issued by another state to produce
42 records that would reveal the identity of the customers using those
43 services, data stored by or on behalf of the customers, the customers'
44 usage of those services, the recipient or destination of communications
45 sent to or from those customers, or the content of those communications,
46 shall not produce those records when the corporation knows or should
47 know that the warrant relates to an investigation into, or enforcement
48 of, a prohibited violation.

49 3. Any person or entity that is headquartered or incorporated in New
50 York may comply with a warrant as described in subdivision two of this
51 section if the warrant is accompanied by an attestation made by the
52 entity seeking the records that the evidence sought is not related to an
53 investigation into, or enforcement of, a prohibited violation.

54 4. The attorney general may commence a civil action to compel any
55 corporation headquartered or incorporated in New York that provides

electronic communications services or remote computing services to the general public to comply with the provisions of this section.

§ 2. The general business law is amended by adding a new section 394-g to read as follows:

§ 394-g. Geofencing of health care facilities. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Digital advertisement" means any communication delivered by electronic means that is intended to be used for the purposes of marketing, solicitation, or dissemination of information related, directly or indirectly, to goods or services provided by the digital advertiser or a third party.

b. "Geofencing" means a technology that uses global positioning system coordinates, cell tower connectivity, cellular data, radio frequency identification, Wi-Fi data and/or any other form of location detection, to establish a virtual boundary or "geofence" around a particular location that allows a digital advertiser to track the location of an individual user and electronically deliver targeted digital advertisements directly to such user's mobile device upon such user's entry into the geofenced area.

c. "Health care facility" means any governmental or private agency, department, institution, clinic, laboratory, hospital, physician's office, nursing care facility, health maintenance organization, association or other similar entity that provides medical care or related services pursuant to the provisions of the public health law or the mental hygiene law, including the building or structure in which the facility is located.

d. "User" means a natural person who owns or uses a mobile device or any other connected electronic device capable of receiving digital advertisements.

2. It shall be unlawful for any person, corporation, partnership, or association to establish a geofence or similar virtual boundary around any health care facility, as defined pursuant to paragraph c of subdivision one of this section, for the purpose of delivering by electronic means a digital advertisement to a user at or within such health care facility, and it shall be unlawful for any person, corporation, partnership, or association to deliver by electronic means any digital advertisement to a user at or within any such health care facility through the use of geofencing or similar virtual boundary.

§ 3. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity thereof shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law.

PART V

Section 1. Section 6801 of the education law is amended by adding a new subdivision 9 to read as follows:

9. A licensed pharmacist within their lawful scope of practice may prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with standardized procedures or protocols developed and approved by the board of pharmacy in consultation with the department of health.

1 (a) The standardized procedure or protocol shall require that the
2 patient use a self-screening tool that will identify patient risk
3 factors for use of self-administered hormonal contraceptives and emer-
4 gency contraceptive drug therapy, based on the current United States
5 Medical Eligibility Criteria (USMEC) for Contraceptive Use developed by
6 the federal Centers for Disease Control and Prevention, and that the
7 pharmacist refer the patient to the patient's primary care provider or,
8 if the patient does not have a primary care provider, to nearby clinics,
9 upon furnishing a self-administered hormonal contraceptive or emergency
10 contraceptive drug therapy pursuant to this subdivision, or if it is
11 determined that use of a self-administered hormonal contraceptive or
12 emergency contraceptive drug therapy is not recommended.

13 (b) Prior to prescribing self-administered hormonal contraceptives or
14 emergency contraceptive drug therapy under this subdivision, a pharma-
15 cist shall complete a training program on self-administered hormonal
16 contraceptives or emergency contraceptive drug therapy, as applicable,
17 that consists of at least one hour of approved continuing education on
18 self-administered hormonal contraceptives or emergency contraceptive
19 drug therapy.

20 (c) A pharmacist, pharmacist's employer, or pharmacist's agent shall
21 not directly charge a patient a separate consultation fee for self-ad-
22 ministered hormonal contraceptives or emergency contraceptive drug ther-
23 apy services initiated pursuant to this subdivision, but may charge an
24 administrative fee not to exceed ten dollars above the retail cost of
25 the drug. Upon an oral, telephonic, electronic, or written request from
26 a patient or customer, a pharmacist or pharmacist's employee shall
27 disclose the total retail price that a consumer would pay for self-ad-
28 ministered hormonal contraceptives or emergency contraceptive drug ther-
29 apy. As used in this paragraph, total retail price includes providing
30 the consumer with specific information regarding the price of the self-
31 administered hormonal contraceptives or emergency contraceptive drug
32 therapy and the price of the administrative fee charged. This limitation
33 is not intended to interfere with other contractually agreed-upon terms
34 between a pharmacist, a pharmacist's employer, or a pharmacist's agent,
35 and a health care service plan or insurer. Patients who are insured or
36 covered and receive a pharmacy benefit that covers the cost of self-ad-
37 ministered hormonal contraceptives or emergency contraceptive drug ther-
38 apy shall not be required to pay an administrative fee. Such patients
39 shall be required to pay copayments pursuant to the terms and conditions
40 of their coverage. This paragraph shall not apply to dedicated emergency
41 contraceptive drugs classified as over-the-counter products by the
42 federal Food and Drug Administration.

43 (d) For each emergency contraceptive drug therapy or self-administered
44 hormonal contraceptive initiated pursuant to this subdivision, the phar-
45 macist shall provide the recipient of the drug with a standardized
46 factsheet that includes, but is not limited to, the indications and
47 contraindications for use of the drug, the appropriate method for using
48 the drug, the need for medical follow-up, and other appropriate informa-
49 tion. The board of pharmacy shall develop this form in consultation with
50 the department of health. This section does not preclude the use of
51 existing publications developed by nationally recognized medical organ-
52 izations.

53 § 2. This act shall take effect immediately.

1 Section 1. Subdivision 7-a of section 6527 of the education law, as
2 added by chapter 502 of the laws of 2016, is amended to read as follows:

3 7-a. A licensed physician may prescribe and order a patient specific
4 order or non-patient specific order to a licensed pharmacist, pursuant
5 to regulations promulgated by the commissioner in consultation with the
6 commissioner of health, and consistent with the public health law, for
7 dispensing up to a seven day starter pack of HIV post-exposure prophylaxis
8 for the purpose of preventing human immunodeficiency virus
9 infection following a potential human immunodeficiency virus exposure.
10 A licensed physician may also prescribe and order a patient specific or
11 non-patient specific order to a licensed pharmacist, pursuant to regu-
12 lations promulgated by the commissioner in consultation with the commis-
13 sioner of health, and consistent with the public health law and section
14 sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis,
15 provided, however, that the regulations promulgated pursuant to this
16 subdivision shall require that the HIV pre-exposure prophylaxis author-
17 ized to be dispensed by a licensed pharmacist shall provide for at least
18 a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

19 § 2. Subdivision 8 of section 6909 of the education law, as added by
20 chapter 502 of the laws of 2016, is amended to read as follows:

21 8. A certified nurse practitioner may prescribe and order a patient
22 specific order or non-patient specific order to a licensed pharmacist,
23 pursuant to regulations promulgated by the commissioner in consultation
24 with the commissioner of health, and consistent with the public health
25 law, for dispensing up to a seven day starter pack of HIV post-exposure
26 prophylaxis for the purpose of preventing human immunodeficiency virus
27 infection following a potential human immunodeficiency virus exposure.
28 A certified nurse practitioner may also prescribe and order a patient
29 specific or non-patient specific order to a licensed pharmacist, pursu-
30 ant to regulations promulgated by the commissioner in consultation with
31 the commissioner of health, and consistent with the public health law
32 and section sixty-eight hundred one of this title, for HIV pre-exposure
33 prophylaxis, provided, however, that the regulations promulgated pursu-
34 ant to this subdivision shall require that the HIV pre-exposure prophy-
35 laxis authorized to be dispensed by a licensed pharmacist shall provide
36 for at least a thirty-day, but no more than a sixty-day, supply of such
37 prophylaxis.

38 § 3. Subdivision 5 of section 6801 of the education law, as added by
39 chapter 502 of the laws of 2016, is amended and a new subdivision 9 is
40 added to read as follows:

41 5. A licensed pharmacist may execute a non-patient specific order, for
42 dispensing up to a seven day starter pack of HIV post-exposure prophylaxis
43 medications for the purpose of preventing human immunodeficiency
44 virus infection, by a physician licensed in this state or nurse practitioner
45 certified in this state, pursuant to rules and regulations
46 promulgated by the commissioner in consultation with the commissioner of
47 health following a potential human immunodeficiency virus exposure. The
48 pharmacist shall also inform the patient of the availability of pre-ex-
49 posure prophylaxis for persons who are at substantial risk of acquiring
50 HIV.

51 9. A licensed pharmacist may execute a non-patient specific order, for
52 dispensing HIV pre-exposure prophylaxis, pursuant to rules and regu-
53 lations promulgated by the commissioner in consultation with the commis-
54 sioner of health provided, however, that the rules and regulations
55 promulgated pursuant to this subdivision shall require that the HIV
56 pre-exposure prophylaxis authorized to be dispensed by a licensed phar-

1 macist shall provide for at least a thirty-day, but no more than a
2 sixty-day, supply of such prophylaxis. And provided further, that the
3 following conditions shall be met before a pharmacist may dispense pre-
4 exposure prophylaxis:

5 (a) The pharmacist has completed a training program created or
6 approved by the department of health on the use of pre-exposure prophylaxis.
7 The training program shall educate pharmacists about the require-
8 ments of this subdivision, the risks and side effects of the medication,
9 patient insurance and cost burdens, and any other information the
10 department of health deems necessary or important;

11 (b) The patient is HIV negative, as documented by a negative HIV test
12 result obtained within the previous seven days from an HIV
13 antigen/antibody test or antibody-only test or from a rapid, point-of-
14 care fingerstick blood test approved by the federal food and drug admin-
15 istration. If the patient does not provide evidence of a negative HIV
16 test in accordance with this paragraph, the pharmacist may recommend or
17 order an HIV test. If the patient tests positive for HIV infection, the
18 pharmacist shall direct the patient to a licensed physician and provide
19 the patient with a list of health care service providers and clinics
20 within the county where the pharmacist is located or adjacent counties;

21 (c) The patient does not report any signs or symptoms of acute HIV
22 infection on a self-reported checklist of acute HIV infection signs and
23 symptoms;

24 (d) The patient does not report taking any contraindicated medica-
25 tions;

26 (e) The pharmacist does not furnish more than a sixty-day supply of
27 pre-exposure prophylaxis to a single patient more than once every year,
28 unless directed otherwise by a prescriber;

29 (f) The pharmacist provides written information, published by the
30 department of health, to the patient on the ongoing use of pre-exposure
31 prophylaxis, which may include education about side effects, safety
32 during pregnancy and breastfeeding, adherence to recommended dosing, and
33 the importance of timely testing and treatment, as applicable, for HIV,
34 renal function, hepatitis B, hepatitis C, sexually transmitted diseases,
35 and pregnancy for individuals of child-bearing capacity. The pharmacist
36 shall notify the patient that the patient must be seen by a licensed
37 physician to receive subsequent prescriptions for pre-exposure prophylaxis; and

38 (g) The pharmacist provides information, developed by the commissioner
39 of health, to the patient, or when the patient lacks capacity to consent
40 to a person authorized to consent to health care for such individual, on
41 the importance of having a health care provider and if the patient does
42 not have a health care provider the pharmacist shall provide the patient
43 a list of licensed physicians, clinics, or other health care service
44 providers within the county where the pharmacist is located or adjacent
45 counties.

46
47 § 4. Subdivision 6 of section 571 of the public health law, as amended
48 by section 1 of part C of chapter 57 of the laws of 2022, is amended to
49 read as follows:

50 6. "Qualified health care professional" means a physician, dentist,
51 podiatrist, optometrist performing a clinical laboratory test that does
52 not use an invasive modality as defined in section seventy-one hundred
53 one of the education law, pharmacist administering [~~COVID-19 and influ-~~
54 ~~enza~~] tests pursuant to subdivision seven of section sixty-eight hundred
55 one of the education law, physician assistant, specialist assistant,

1 nurse practitioner, or midwife, who is licensed and registered with the
2 state education department.

3 § 5. Subdivision 7 of section 6801 of the education law, as amended by
4 section 2 of part C of chapter 57 of the laws of 2022, is amended to
5 read as follows:

6 7. A licensed pharmacist is a qualified health care professional under
7 section five hundred seventy-one of the public health law for the
8 purposes of directing a limited service laboratory and ordering and
9 administering [~~COVID-19 and influenza~~] tests authorized by the Food and
10 Drug Administration (FDA), subject to certificate of waiver requirements
11 established pursuant to the federal clinical laboratory improvement act
12 of nineteen hundred eighty-eight.

13 § 6. Section 8 of part C of chapter 57 of the laws of 2022 amending
14 the public health law and the education law relating to allowing pharma-
15 cists to direct limited service laboratories and order and administer
16 COVID-19 and influenza tests and modernizing nurse practitioners, is
17 amended to read as follows:

18 § 8. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2022; provided,
20 however, that sections [~~one, two,~~] three[,], and four[, ~~six and seven~~] of
21 this act shall expire and be deemed repealed two years after it shall
22 have become a law.

23 § 7. Section 6801 of the education law is amended by adding a new
24 subdivision 10 to read as follows:

25 10. A licensed pharmacist within their lawful scope of practice may
26 prescribe and order medications to treat nicotine dependence approved by
27 the federal food and drug administration for smoking cessation.

28 § 8. Section 6801 of the education law is amended by adding a new
29 subdivision 11 to read as follows:

30 11. A licensed pharmacist within their lawful scope of practice may
31 prescribe and order opioid antagonists, limited to naloxone and other
32 medications approved by the department of health for such purpose pursu-
33 ant to sections thirty-three hundred nine and thirty-three hundred
34 nine-b of the public health law.

35 § 9. Section 6801-a of the education law, as amended by chapter 238 of
36 the laws of 2015, is amended to read as follows:

37 § 6801-a. Collaborative drug therapy management [~~demonstration~~
38 ~~program~~]. 1. As used in this section, the following terms shall have
39 the following meanings:

40 a. "Board" shall mean the state board of pharmacy as established by
41 section sixty-eight hundred four of this article.

42 b. "Clinical services" shall mean the collection and interpretation of
43 patient data for the purpose of [~~initiating, modifying and~~] monitoring
44 drug therapy and prescribing in order to adjust or manage drug therapy
45 with associated accountability and responsibility for outcomes in a
46 direct patient care setting.

47 c. "Collaborative drug therapy management" shall mean the performance
48 of clinical services by a pharmacist relating to the review, evaluation
49 and management of drug therapy to a patient, who is being treated by a
50 physician or nurse practitioner for a specific disease or associated
51 disease states, in accordance with a written agreement or protocol with
52 a voluntarily participating physician [~~and in accordance with the poli-~~
53 ~~cies, procedures, and protocols of the facility~~] or nurse practitioner.
54 Such agreement or protocol as entered into by the physician or nurse
55 practitioner, and a pharmacist, may include[, ~~and shall be limited to~~]:

(i) ~~[adjusting or managing]~~ prescribing in order to adjust or manage a drug regimen of a patient, pursuant to a patient specific order or non-patient specific protocol made by the patient's physician, or nurse practitioner, which may include adjusting drug strength, frequency of administration or route of administration~~[Adjusting the drug regimen shall not include substituting]~~ or selecting a ~~[different]~~ drug which differs from that initially prescribed by the patient's physician ~~[unless such substitution is expressly]~~ or nurse practitioner as authorized in the written [order] agreement or protocol, provided, however, that the pharmacist shall appropriately consider clinical benefit and cost to the patient and/or payer in discharging these responsibilities.

The pharmacist shall be required to immediately document in the patient record changes made to the patient's drug therapy and shall use any reasonable means or method established by the facility or practice to notify the patient's other treating physicians ~~[with whom he or she does not have a written agreement or protocol regarding such changes. The patient's physician may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist]~~, physician assistants, nurse practitioners and other professionals as required by the facility or the collaborative practice agreement;

(ii) evaluating and~~[only if specifically]~~ as authorized by the written agreement or protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering disease state laboratory tests related to the drug therapy management for the specific disease or disease ~~[state]~~ states specified within the written agreement or protocol; and

(iii) ~~[only if specifically]~~ as authorized by the written agreement or protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering or performing routine patient monitoring functions as may be necessary in the drug therapy management~~[including the collecting and reviewing of patient histories, and ordering or checking patient vital signs, including pulse, temperature, blood pressure and respiration]~~.

d. "Facility" shall mean~~[-(i)]~~ a ~~[teaching hospital or]~~ general hospital, ~~[including any]~~ diagnostic center, treatment center, or hospital-based outpatient department as defined in section twenty-eight hundred one of the public health law~~[-or-(ii)]~~, a residential health care facility or a nursing home with an on-site pharmacy staffed by a licensed pharmacist or any facility as defined in section twenty-eight hundred one of the public health law or other entity that provides direct patient care under the auspices of a medical director; provided, however, for the purposes of this section the term "facility" shall not include dental clinics, dental dispensaries, ~~[residential health care facilities]~~ and rehabilitation centers.

For the purposes of this section, ~~[a "teaching hospital" shall mean a hospital licensed pursuant to article twenty-eight of the public health law that is eligible to receive direct or indirect graduate medical education payments pursuant to article twenty-eight of the public health law]~~ a "practice" shall mean a place or situation in which physicians, and nurse practitioners either alone or in group practices provide diagnostic and treatment care for patients.

e. ~~["Physician"]~~ "Physician or nurse practitioner" shall mean the physician or nurse practitioner selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient for the disease and associated disease states that are the subject of the collaborative drug therapy management.

f. "Written agreement or protocol" shall mean a written document, pursuant to and consistent with any applicable state or federal requirements, that addresses a specific disease or associated disease states and that describes the nature and scope of collaborative drug therapy management to be undertaken by the pharmacists, in collaboration with the participating physician, nurse practitioner or facility in accordance with the provisions of this section.

2. a. A pharmacist who meets the experience requirements of paragraph b of this subdivision and who is ~~[employed by or otherwise affiliated with a facility]~~ certified by the department to engage in collaborative drug therapy management and who is either employed by or otherwise affiliated with a facility or is participating with a practicing physician or nurse practitioner shall be permitted to enter into a written agreement or protocol with a physician, or nurse practitioner or facility authorizing collaborative drug therapy management, subject to the limitations set forth in this section, within the scope of such employment ~~[or]~~ affiliation or participation. Only pharmacists so certified may engage in collaborative drug therapy management as defined in this section.

b. A participating pharmacist must~~[-~~ +

~~(i)(A) have been awarded either a master of science in clinical pharmacy or a doctor of pharmacy degree;~~
~~(B)] maintain a current unrestricted license[+], and~~
~~[(C) have a minimum of two years experience, of which at least one year of such experience shall include clinical experience in a health facility, which involves consultation with physicians with respect to drug therapy and may include a residency at a facility involving such consultation; or~~
~~(ii)(A) have been awarded a bachelor of science in pharmacy;~~
~~(B) maintain a current unrestricted license; and~~
~~(C) within the last seven years, have a minimum of three years experience, of which at least one year of such experience shall include clinical experience in a health facility, which involves consultation with physicians with respect to drug therapy and may include a residency at a facility involving such consultation; and~~
~~(iii) meet any additional education, experience, or other requirements set forth by the department in consultation with the board]~~ shall satisfy any two of the following criteria:

(i) certification in a relevant area of practice including but not limited to ambulatory care, critical care, geriatric pharmacy, nuclear pharmacy, nutrition support pharmacy, oncology pharmacy, pediatric pharmacy, pharmacotherapy, or psychiatric pharmacy, from a national accrediting body as approved by the department;

(ii) postgraduate residency through an accredited postgraduate program requiring at least fifty percent of the experience be in direct patient care services with interdisciplinary terms; or

(iii) have provided clinical services to patients for at least one year either:

(A) under a collaborative practice agreement or protocol with a physician, nurse practitioner or facility; or

(B) have documented experience in provision of clinical services to patients for at least one year or one thousand hours, and deemed acceptable to the department upon recommendation of the board of pharmacy.

c. Notwithstanding any provision of law, nothing in this section shall prohibit a licensed pharmacist from engaging in clinical services associated with collaborative drug therapy management, in order to gain

1 experience necessary to qualify under [~~clause (C) of subparagraph (i) or~~
2 ~~(ii) of paragraph b~~] clause (B) of subparagraph (iii) of paragraph b of
3 this subdivision, provided that such practice is under the supervision
4 of a pharmacist that currently meets the referenced requirement, and
5 that such practice is authorized under the written agreement or protocol
6 with the physician or nurse practitioner or facility.

7 d. Notwithstanding any provision of this section, nothing herein shall
8 authorize the pharmacist to diagnose disease. In the event that a treat-
9 ing physician or nurse practitioner may disagree with the exercise of
10 professional judgment by a pharmacist, the judgment of the treating
11 physician or nurse practitioner shall prevail.

12 3. [~~The physician who is a party to a written agreement or protocol~~
13 ~~authorizing collaborative drug therapy management shall be employed by~~
14 ~~or otherwise affiliated with the same facility with which the pharmacist~~
15 ~~is also employed or affiliated.~~

16 4. ~~The existence of a written agreement or protocol on collaborative~~
17 ~~drug therapy management and the patient's right to choose to not partic-~~
18 ~~ipate in collaborative drug therapy management shall be disclosed to any~~
19 ~~patient who is eligible to receive collaborative drug therapy manage-~~
20 ~~ment. Collaborative drug therapy management shall not be utilized unless~~
21 ~~the patient or the patient's authorized representative consents, in~~
22 ~~writing, to such management. If the patient or the patient's authorized~~
23 ~~representative consents, it shall be noted on the patient's medical~~
24 ~~record. If the patient or the patient's authorized representative who~~
25 ~~consented to collaborative drug therapy management chooses to no longer~~
26 ~~participate in such management, at any time, it shall be noted on the~~
27 ~~patient's medical record. In addition, the existence of the written~~
28 ~~agreement or protocol and the patient's consent to such management shall~~
29 ~~be disclosed to the patient's primary physician and any other treating~~
30 ~~physician or healthcare provider.~~

31 5.] A pharmacist who is certified by the department to engage in
32 collaborative drug therapy management may enter into a written collabo-
33 rative practice agreement or protocol with a physician, nurse practi-
34 tioner or facility and may practice as an independent pharmacist or as
35 an employee of a pharmacy or other health care provider. In a facility,
36 the physician or nurse practitioner and the pharmacist who are parties
37 to a written agreement or protocol authorizing collaborative drug thera-
38 py management shall be employed by or be otherwise affiliated with the
39 facility.

40 4. Participation in a written agreement or protocol authorizing colla-
41 borative drug therapy management shall be voluntary, and no patient,
42 physician, nurse practitioner, pharmacist, or facility shall be required
43 to participate.

44 [~~6. Nothing in this section shall be deemed to limit the scope of~~
45 ~~practice of pharmacy nor be deemed to limit the authority of pharmacists~~
46 ~~and physicians to engage in medication management prior to the effective~~
47 ~~date of this section and to the extent authorized by law.]~~

48 § 10. Section 6601 of the education law, as amended by chapter 576 of
49 the laws of 2001, is amended to read as follows:

50 § 6601. Definition of practice of dentistry. The practice of the
51 profession of dentistry is defined as diagnosing, treating, operating,
52 or prescribing for any disease, pain, injury, deformity, or physical
53 condition of the oral and maxillofacial area related to restoring and
54 maintaining dental health. The practice of dentistry includes the
55 prescribing and fabrication of dental prostheses and appliances. The
56 practice of dentistry may include performing physical evaluations in

1 conjunction with the provision of dental treatment. The practice of
2 dentistry may also include ordering and administering HIV and hepatitis
3 C screening tests or diagnostic tests authorized by the Food and Drug
4 Administration (FDA) and subject to certificate of waiver requirements
5 established pursuant to the federal clinical laboratory improvement act
6 of nineteen hundred eighty-eight.

7 § 11. Subdivision 4 of section 6909 of the education law is amended by
8 adding four new paragraphs (i), (j), (k) and (l) to read as follows:

9 (i) the ordering of asthma self-management education and home-based
10 asthma services.

11 (j) the urgent or emergency treatment of asthma.

12 (k) providing stool tests to screen for colorectal cancer.

13 (l) the ordering of diabetes self-management education and support.

14 § 12. Subdivision 6 of section 6527 of the education law is amended by
15 adding four new paragraphs (i), (j), (k) and (l) to read as follows:

16 (i) the ordering of asthma self-management education and home-based
17 asthma services.

18 (j) the urgent or emergency treatment of asthma.

19 (k) providing stool tests to screen for colorectal cancer.

20 (l) the ordering of diabetes self-management education and support.

21 § 13. Section 6801 of the education law is amended by adding a new
22 subdivision 12 to read as follows:

23 12. A licensed pharmacist within their lawful scope of practice may
24 order diabetes self-management education and support and asthma self-
25 management education and home-based asthma services for patients, and
26 any other services authorized in regulation by the commissioner in
27 collaboration with the commissioner of health.

28 § 14. Paragraph (q) of subdivision 2 of section 365-a of the social
29 services law, as amended by section 35 of part B of chapter 58 of the
30 laws of 2010, is amended to read as follows:

31 (q) diabetes self-management training services for persons diagnosed
32 with diabetes when such services are ordered by a physician, registered
33 physician assistant, registered nurse practitioner, licensed pharmacist
34 or licensed midwife and provided by a licensed, registered, or certified
35 health care professional, as determined by the commissioner of health,
36 who is certified as a diabetes educator by the National Certification
37 Board for Diabetes Educators, or a successor national certification
38 board, or provided by such a professional who is affiliated with a
39 program certified by the American Diabetes Association, the American
40 Association of Diabetes Educators, the Indian Health Services, or any
41 other national accreditation organization approved by the federal
42 centers for medicare and medicaid services; provided, however, that the
43 provisions of this paragraph shall not take effect unless all necessary
44 approvals under federal law and regulation have been obtained to receive
45 federal financial participation in the costs of health care services
46 provided pursuant to this paragraph. Nothing in this paragraph shall be
47 construed to modify any licensure, certification or scope of practice
48 provision under title eight of the education law.

49 § 15. Paragraph (r) of subdivision 2 of section 365-a of the social
50 services law, as added by section 32 of part C of chapter 58 of the laws
51 of 2008, is amended to read as follows:

52 (r) asthma self-management training services for persons diagnosed
53 with asthma when such services are ordered by a physician, registered
54 physician's assistant, registered nurse practitioner, registered
55 professional nurse, licensed pharmacist or licensed midwife and provided
56 by a licensed, registered, or certified health care professional, as

determined by the commissioner of health, who is certified as an asthma educator by the National Asthma Educator Certification Board, or a successor national certification board; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of health care services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

§ 16. Paragraph (v) of subdivision 2 of section 365-a of the social services law, as added by section 4 of part B of chapter 58 of the laws of 2010, is amended to read as follows:

(v) ordering and administration of vaccinations ~~[in a pharmacy], medications, self-management education, and home-based services~~ by a ~~[certified]~~ licensed pharmacist within ~~[his or her]~~ their scope of practice.

§ 17. Section 6542 of the education law, as amended by chapter 48 of the laws of 2012, subdivisions 3 and 5 as amended by section 1 of part T of chapter 57 of the laws of 2013, is amended to read as follows:

§ 6542. Performance of medical services. 1. Notwithstanding any other provision of law, a physician assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are within the scope of practice of such supervising physician unless otherwise permitted by this section.

1-a. A physician assistant may practice without the supervision of a physician under the following circumstances:

a. Where the physician assistant, licensed under section sixty-five hundred forty-one of this article has practiced for more than eight thousand hours and:

(i) is practicing in primary care. For purposes of this paragraph, "primary care" shall mean non-surgical care in the fields of general pediatrics, general adult medicine, general geriatric medicine, general internal medicine, obstetrics and gynecology, family medicine, or such other related areas as determined by the commissioner of health; or

(ii) is employed by a health system or hospital established under article twenty-eight of the public health law, and the health system or hospital determines the physician assistant meets the qualifications of the medical staff bylaws and the health system or hospital gives the physician assistant privileges;

b. Where a physician assistant licensed under section sixty-five hundred forty-one of this article has completed a program approved by the department of health, in consultation with the department, when such services are performed within the scope of such program.

c. The department and the department of health are authorized to promulgate and update regulations pursuant to this section.

2. ~~[Supervision]~~ Where supervision is required by this section, it shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

3. ~~[No physician shall employ or supervise more than four physician assistants in his or her private practice.~~

~~4.] Nothing in this article shall prohibit a hospital from employing physician assistants provided they [work under the supervision of a physician designated by the hospital and not beyond the scope of practice of such physician. The numerical limitation of subdivision three of this section shall not apply to services performed in a hospital.~~

~~5. Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of corrections and community supervision under contract from supervising no more than six physician assistants in his or her practice for the department of corrections and community supervision.~~

~~6. Notwithstanding any other provision of law, a trainee in an approved program may perform medical services when such services are performed within the scope of such program.]~~ meet the qualifications of the medical staff bylaws and are given privileges and otherwise meet the requirements of this section.

4. A physician assistant shall be authorized to prescribe, dispense, order, administer, or procure items necessary to commence or complete a course of therapy.

5. A physician assistant may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist or registered professional nurse, pursuant to regulations promulgated by the commissioner of health, and consistent with the public health law, for administering immunizations. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

6. Where a physician assistant licensed under section sixty-five hundred forty-one of this article has completed a program approved by the department of health, in consultation with the department, when such services are performed within the scope of such program.

7. Nothing in this article, or in article thirty-seven of the public health law, shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under the public health law or this chapter.

§ 18. Subdivision 1 of section 3701 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

1. to promulgate regulations defining and restricting the duties ~~[which may be assigned to] of physician assistants [by their supervising physician, the degree of supervision required and the manner in which such duties may be performed]~~ consistent with section sixty-five hundred forty-two of the education law;

§ 19. Section 3702 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3702. Special provisions. 1. Inpatient medical orders. A licensed physician assistant employed or extended privileges by a hospital may, if permissible under the bylaws, rules and regulations of the hospital, write medical orders, including those for controlled substances and durable medical equipment, for inpatients ~~[under the care of the physician responsible for his or her supervision. Countersignature of such orders may be required if deemed necessary and appropriate by the supervising physician or the hospital, but in no event shall countersignature be required prior to execution].~~

2. Withdrawing blood. A licensed physician assistant or certified nurse practitioner acting within his or her lawful scope of practice may supervise and direct the withdrawal of blood for the purpose of determining the alcoholic or drug content therein under subparagraph one of paragraph (a) of subdivision four of section eleven hundred ninety-four of the vehicle and traffic law, notwithstanding any provision to the contrary in clause (ii) of such subparagraph.

3. Prescriptions for controlled substances. A licensed physician assistant, in good faith and acting within his or her lawful scope of

1 practice, and to the extent assigned by his or her supervising physician
2 as applicable by section sixty-five hundred forty-two of the education
3 law, may prescribe controlled substances as a practitioner under article
4 thirty-three of this chapter, to patients under the care of such physi-
5 cian responsible for his or her supervision. The commissioner, in
6 consultation with the commissioner of education, may promulgate such
7 regulations as are necessary to carry out the purposes of this section.

8 § 20. Section 3703 of the public health law, as amended by chapter 48
9 of the laws of 2012, is amended to read as follows:

10 § 3703. Statutory construction. A physician assistant may perform any
11 function in conjunction with a medical service lawfully performed by the
12 physician assistant, in any health care setting, that a statute author-
13 izes or directs a physician to perform and that is appropriate to the
14 education, training and experience of the licensed physician assistant
15 and within the ordinary practice of the supervising physician, as appli-
16 cable pursuant to section sixty-five hundred forty-two of the education
17 law. This section shall not be construed to increase or decrease the
18 lawful scope of practice of a physician assistant under the education
19 law.

20 § 21. Paragraph a of subdivision 2 of section 902 of the education
21 law, as amended by chapter 376 of the laws of 2015, is amended to read
22 as follows:

23 a. The board of education, and the trustee or board of trustees of
24 each school district, shall employ, at a compensation to be agreed upon
25 by the parties, a qualified physician, a physician assistant, or a nurse
26 practitioner to the extent authorized by the nurse practice act and
27 consistent with subdivision three of section six thousand nine hundred
28 two of this chapter, to perform the duties of the director of school
29 health services, including any duties conferred on the school physician
30 or school medical inspector under any provision of law, to perform and
31 coordinate the provision of health services in the public schools and to
32 provide health appraisals of students attending the public schools in
33 the city or district. The physicians, physicians assistants or nurse
34 practitioners so employed shall be duly licensed pursuant to applicable
35 law.

36 § 22. Subdivision 5 of section 6810 of the education law, as added by
37 chapter 881 of the laws of 1972, is amended to read as follows:

38 5. Records of all prescriptions filled or refilled shall be maintained
39 for a period of at least five years and upon request made available for
40 inspection and copying by a representative of the department. Such
41 records shall indicate date of filling or refilling, ~~[doctor's]~~
42 prescriber's name, patient's name and address and the name or initials
43 of the pharmacist who prepared, compounded, or dispensed the
44 prescription. Records of prescriptions for controlled substances shall
45 be maintained pursuant to requirements of article thirty-three of the
46 public health law.

47 § 23. Subdivision 27 of section 3302 of the public health law, as
48 amended by chapter 92 of the laws of 2021, is amended to read as
49 follows:

50 27. "Practitioner" means:

51 A physician, physician assistant, dentist, podiatrist, veterinarian,
52 scientific investigator, or other person licensed, or otherwise permit-
53 ted to dispense, administer or conduct research with respect to a
54 controlled substance in the course of a licensed professional practice
55 or research licensed pursuant to this article. Such person shall be
56 deemed a "practitioner" only as to such substances, or conduct relating

1 to such substances, as is permitted by [~~his~~] their license, permit or
2 otherwise permitted by law.

3 § 24. Paragraph b of subdivision 2 of section 6908 of the education
4 law, as added by chapter 471 of the laws of 2016, is amended to read as
5 follows:

6 b. provide that advanced tasks performed by advanced home health aides
7 may be performed only under the [~~direct~~] supervision of a registered
8 professional nurse licensed in New York state, as set forth in this
9 subdivision and subdivision eight of section sixty-nine hundred nine of
10 this article, where such nurse is employed by a home care services agen-
11 cy licensed or certified pursuant to article thirty-six of the public
12 health law, a hospice program certified pursuant to article forty of the
13 public health law, or an enhanced assisted living residence licensed
14 pursuant to article seven of the social services law and certified
15 pursuant to article forty-six-B of the public health law. Such nursing
16 supervision shall:

17 (i) include training and periodic assessment of the performance of
18 advanced tasks;

19 (ii) be determined by the registered professional nurse responsible
20 for supervising such advanced tasks based upon the complexity of such
21 advanced tasks, the skill and experience of the advanced home health
22 aide, and the health status of the individual for whom such advanced
23 tasks are being performed;

24 (iii) include a comprehensive initial and thereafter regular and ongoing
25 assessment of the individual's needs;

26 (iv) include as a requirement that the supervising registered profes-
27 sional nurse shall visit individuals receiving services for the purpose
28 of supervising the services provided by advanced home health aides [~~no~~
29 ~~less than once every two weeks~~] and include as a requirement that a
30 registered professional nurse shall be available by telephone to the
31 advanced home health aide twenty-four hours a day, seven days a week,
32 provided that a registered professional nurse shall be available to
33 visit an individual receiving services as necessary to protect the
34 health and safety of such individual; and

35 (v) as shall be specified by the commissioner, be provided in a manner
36 that takes into account individual care needs, case mix complexity and
37 geographic considerations and provide that the number of individuals
38 served by a supervising registered professional nurse is reasonable and
39 prudent.

40 § 25. Subparagraph (i) of paragraph (c) of subdivision 8 of section
41 6909 of the education law, as added by chapter 471 of the laws of 2016,
42 is amended to read as follows:

43 (i) visit individuals receiving services for the purpose of supervis-
44 ing the services provided by advanced home health aides [~~no less than~~
45 ~~once every two weeks~~]; and

46 § 26. Subdivision (b) of section 12 of chapter 471 of the laws of 2016
47 amending the education law and the public health law relating to author-
48 izing certain advanced home health aides to perform certain advanced
49 tasks, is amended to read as follows:

50 b. this act shall expire and be deemed repealed March 31, [~~2023~~] 2029.

51 § 27. Section 6908 of the education law is amended by adding a new
52 subdivision 3 to read as follows:

53 3. This article shall not be construed as prohibiting medication
54 related tasks provided by a certified medication aide in accordance with
55 regulations developed by the commissioner, in consultation with the
56 commissioner of health. At a minimum, such regulations shall:

1 a. specify the medication-related tasks that may be performed by
2 certified medication aides pursuant to this subdivision. Such tasks
3 shall include the administration of medications which are routine and
4 pre-filled or otherwise packaged in a manner that promotes relative ease
5 of administration, provided that administration of medications by
6 injection, sterile procedures, and central line maintenance shall be
7 prohibited. Provided, however, such prohibition shall not apply to
8 injections of insulin or other injections for diabetes care, to
9 injections of low molecular weight heparin, and to pre-filled auto-in-
10 jections of naloxone and epinephrine for emergency purposes, and
11 provided, further, that entities employing certified medication aides
12 pursuant to this subdivision shall establish a systematic approach to
13 address drug diversion;

14 b. provide that medication-related tasks performed by certified medi-
15 cation aides may be performed only under the supervision of a registered
16 professional nurse licensed in New York state, as set forth in this
17 subdivision and subdivision eleven of section sixty-nine hundred nine of
18 this article, where such nurse is employed by a residential health care
19 facility licensed pursuant to article twenty-eight of the public health
20 law;

21 c. establish a process by which a registered professional nurse may
22 assign medication-related tasks to a certified medication aide. Such
23 process shall include, but not be limited to:

24 (i) allowing assignment of medication-related tasks to a certified
25 medication aide only where such certified medication aide has demon-
26 strated to the satisfaction of the supervising registered professional
27 nurse competency in every medication-related task that such certified
28 medication aide is authorized to perform, a willingness to perform such
29 medication-related tasks, and the ability to effectively and efficiently
30 communicate with the individual receiving services and understand such
31 individual's needs;

32 (ii) authorizing the supervising registered professional nurse to
33 revoke any assigned medication-related task from a certified medication
34 aide for any reason; and

35 (iii) authorizing multiple registered professional nurses to jointly
36 agree to assign medication-related tasks to a certified medication aide,
37 provided further that only one registered professional nurse shall be
38 required to determine if the certified medication aide has demonstrated
39 competency in the medication-related task to be performed;

40 d. provide that medication-related tasks may be performed only in
41 accordance with and pursuant to an authorized health practitioner's
42 ordered care;

43 e. provide that only a certified nurse aide may perform medication-re-
44 lated tasks as a certified medication aide when such aide has:

45 (i) a valid New York state nurse aide certificate;

46 (ii) a high school diploma, GED or similar education credential;

47 (iii) evidence of being at least eighteen years old;

48 (iv) at least one year of experience providing nurse aide services in
49 an article twenty-eight residential health care facility;

50 (v) the ability to read, write, and speak English and to perform basic
51 math skills;

52 (vi) completed the requisite training and demonstrated competencies of
53 a certified medication aide as determined by the commissioner in consul-
54 tation with the commissioner of health;

55 (vii) successfully completed competency examinations satisfactory to
56 the commissioner in consultation with the commissioner of health; and

(viii) meets other appropriate qualifications as determined by the commissioner in consultation with the commissioner of health;

f. prohibit a certified medication aide from holding themselves out, or accepting employment as, a person licensed to practice nursing under the provisions of this article;

g. provide that a certified medication aide is not required nor permitted to assess the medication or medical needs of an individual;

h. provide that a certified medication aide shall not be authorized to perform any medication-related tasks or activities pursuant to this subdivision that are outside the scope of practice of a licensed practical nurse or any medication-related tasks that have not been appropriately assigned by the supervising registered professional nurse;

i. provide that a certified medication aide shall document all medication-related tasks provided to an individual, including medication administration to each individual through the use of a medication administration record; and

j. provide that the supervising registered professional nurse shall retain the discretion to decide whether to assign medication-related tasks to certified medication aides under this program and shall not be subject to coercion, retaliation, or the threat of retaliation.

§ 28. Section 6909 of the education law is amended by adding a new subdivision 11 to read as follows:

11. A registered professional nurse, while working for a residential health care facility licensed pursuant to article twenty-eight of the public health law, may, in accordance with this subdivision, assign certified medication aides to perform medication-related tasks for individuals pursuant to the provisions of subdivision three of section sixty-nine hundred eight of this article and supervise certified medication aides who perform assigned medication-related tasks.

§ 29. Paragraph (a) of subdivision 3 of section 2803-j of the public health law, as added by chapter 717 of the laws of 1989, is amended to read as follows:

(a) Identification of individuals who have successfully completed a nurse aide training and competency evaluation program, ~~or~~ a nurse aide competency evaluation program, or a medication aide program;

§ 30. The education law is amended by adding a new article 169 to read as follows:

ARTICLE 169

INTERSTATE MEDICAL LICENSURE COMPACT

Section 8860. Short title.

8861. Purpose.

8862. Definitions.

8863. Eligibility.

8864. Designation of state of principal license.

8865. Application and issuance of expedited licensure.

8866. Fees for expedited licensure.

8867. Renewal and continued participation.

8868. Coordinated information system.

8869. Joint investigations.

8870. Disciplinary actions.

8871. Interstate medical licensure compact commission.

8872. Powers and duties of the interstate commission.

8873. Finance powers.

8874. Organization and operation of the interstate commission.

8875. Rulemaking functions of the interstate commission.

8876. Oversight of interstate compact.

1 8877. Enforcement of interstate compact.

2 8878. Default procedures.

3 8879. Dispute resolution.

4 8880. Member states, effective date and amendment.

5 8881. Withdrawal.

6 8882. Dissolution.

7 8883. Severability and construction.

8 8884. Binding effect of compact and other laws.

9 § 8860. Short title. This article shall be known and may be cited as
10 the "interstate medical licensure compact".

11 § 8861. Purpose. In order to strengthen access to health care, and in
12 recognition of the advances in the delivery of health care, the member
13 states of the interstate medical licensure compact have allied in common
14 purpose to develop a comprehensive process that complements the existing
15 licensing and regulatory authority of state medical boards, provides a
16 streamlined process that allows physicians to become licensed in multi-
17 ple states, thereby enhancing the portability of a medical license and
18 ensuring the safety of patients. The compact creates another pathway
19 for licensure and does not otherwise change a state's existing medical
20 practice act. The compact also adopts the prevailing standard for licen-
21 sure and affirms that the practice of medicine occurs where the patient
22 is located at the time of the physician-patient encounter, and there-
23 fore, requires the physician to be under the jurisdiction of the state
24 medical board where the patient is located. State medical boards that
25 participate in the compact retain the jurisdiction to impose an adverse
26 action against a license to practice medicine in that state issued to a
27 physician through the procedures in the compact.

28 § 8862. Definitions. In this compact:

29 1. "Bylaws" means those bylaws established by the interstate commis-
30 sion pursuant to section eighty-eight hundred seventy-one of this arti-
31 cle for its governance, or for directing and controlling its actions and
32 conduct.

33 2. "Commissioner" means the voting representative appointed by each
34 member board pursuant to section eighty-eight hundred seventy-one of
35 this article.

36 3. "Conviction" means a finding by a court that an individual is guilt-
37 ty of a criminal offense through adjudication, or entry of a plea of
38 guilt or no contest to the charge by the offender. Evidence of an entry
39 of a conviction of a criminal offense by the court shall be considered
40 final for purposes of disciplinary action by a member board.

41 4. "Expedited license" means a full and unrestricted medical license
42 granted by a member state to an eligible physician through the process
43 set forth in the compact.

44 5. "Interstate commission" means the interstate commission created
45 pursuant to section eighty-eight hundred seventy-one of this article.

46 6. "License" means authorization by a state for a physician to engage
47 in the practice of medicine, which would be unlawful without the author-
48 ization.

49 7. "Medical practice act" means laws and regulations governing the
50 practice of allopathic and osteopathic medicine within a member state.

51 8. "Member board" means a state agency in a member state that acts in
52 the sovereign interests of the state by protecting the public through
53 licensure, regulation, and education of physicians as directed by the
54 state government.

55 9. "Member state" means a state that has enacted the compact.

1 10. "Practice of medicine" means the clinical prevention, diagnosis,
2 or treatment of human disease, injury, or condition requiring a physi-
3 cian to obtain and maintain a license in compliance with the medical
4 practice act of a member state.

5 11. "Physician" means any person who:

6 (a) Is a graduate of a medical school accredited by the Liaison
7 Committee on Medical Education, the Commission on Osteopathic College
8 Accreditation, or a medical school listed in the International Medical
9 Education Directory or its equivalent;

10 (b) Passed each component of the United States Medical Licensing Exam-
11 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-
12 ination (COMLEX-USA) within three attempts, or any of its predecessor
13 examinations accepted by a state medical board as an equivalent examina-
14 tion for licensure purposes;

15 (c) Successfully completed graduate medical education approved by the
16 Accreditation Council for Graduate Medical Education or the American
17 Osteopathic Association;

18 (d) Holds specialty certification or a time-unlimited specialty
19 certificate recognized by the American Board of Medical Specialties or
20 the American Osteopathic Association's Bureau of Osteopathic Special-
21 ists;

22 (e) Possesses a full and unrestricted license to engage in the prac-
23 tice of medicine issued by a member board;

24 (f) Has never been convicted, received adjudication, deferred adjudi-
25 cation, community supervision, or deferred disposition for any offense
26 by a court of appropriate jurisdiction;

27 (g) Has never held a license authorizing the practice of medicine
28 subjected to discipline by a licensing agency in any state, federal, or
29 foreign jurisdiction, excluding any action related to non-payment of
30 fees related to a license;

31 (h) Has never had a controlled substance license or permit suspended
32 or revoked by a state or the United States drug enforcement adminis-
33 tration; and

34 (i) Is not under active investigation by a licensing agency or law
35 enforcement authority in any state, federal, or foreign jurisdiction.

36 12. "Offense" means a felony, gross misdemeanor, or crime of moral
37 turpitude.

38 13. "Rule" means a written statement by the interstate commission
39 promulgated pursuant to section eighty-eight hundred seventy-two of this
40 article that is of general applicability, implements, interprets, or
41 prescribes a policy or provision of the compact, or an organizational,
42 procedural, or practice requirement of the interstate commission, and
43 has the force and effect of statutory law in a member state, and
44 includes the amendment, repeal, or suspension of an existing rule.

45 14. "State" means any state, commonwealth, district, or territory of
46 the United States.

47 15. "State of principal license" means a member state where a physi-
48 cian holds a license to practice medicine and which has been designated
49 as such by the physician for purposes of registration and participation
50 in the compact.

51 § 8863. Eligibility. 1. A physician must meet the eligibility require-
52 ments as defined in subdivision eleven of section eighty-eight hundred
53 sixty-two of this article to receive an expedited license under the
54 terms and provisions of the compact.

55 2. A physician who does not meet the requirements of subdivision elev-
56 en of section eighty-eight hundred sixty-two of this article may obtain

1 a license to practice medicine in a member state if the individual
2 complies with all laws and requirements, other than the compact, relat-
3 ing to the issuance of a license to practice medicine in that state.

4 § 8864. Designation of state of principal license. 1. A physician
5 shall designate a member state as the state of principal license for
6 purposes of registration for expedited licensure through the compact if
7 the physician possesses a full and unrestricted license to practice
8 medicine in that state, and the state is:

9 (a) the state of primary residence for the physician, or

10 (b) the state where at least twenty-five percent of the practice of
11 medicine occurs, or

12 (c) the location of the physician's employer, or

13 (d) if no state qualifies under paragraph (a), (b), or (c) of this
14 subdivision, the state designated as state of residence for purpose of
15 federal income tax.

16 2. A physician may redesignate a member state as state of principal
17 license at any time, as long as the state meets the requirements of
18 subdivision one of this section.

19 3. The interstate commission is authorized to develop rules to facili-
20 tate redesignation of another member state as the state of principal
21 license.

22 § 8865. Application and issuance of expedited licensure. 1. A physi-
23 cian seeking licensure through the compact shall file an application for
24 an expedited license with the member board of the state selected by the
25 physician as the state of principal license.

26 2. Upon receipt of an application for an expedited license, the member
27 board within the state selected as the state of principal license shall
28 evaluate whether the physician is eligible for expedited licensure and
29 issue a letter of qualification, verifying or denying the physician's
30 eligibility, to the interstate commission.

31 (a) Static qualifications, which include verification of medical
32 education, graduate medical education, results of any medical or licens-
33 ing examination, and other qualifications as determined by the inter-
34 state commission through rule, shall not be subject to additional prima-
35 ry source verification where already primary source verified by the
36 state of principal license.

37 (b) The member board within the state selected as the state of princi-
38 pal license shall, in the course of verifying eligibility, perform a
39 criminal background check of an applicant, including the use of the
40 results of fingerprint or other biometric data checks compliant with the
41 requirements of the Federal Bureau of Investigation, with the exception
42 of federal employees who have suitability determination in accordance
43 with U.S. C.F.R. § 731.202.

44 (c) Appeal on the determination of eligibility shall be made to the
45 member state where the application was filed and shall be subject to the
46 law of that state.

47 3. Upon verification under subdivision two of this section, physicians
48 eligible for an expedited license shall complete the registration proc-
49 ess established by the interstate commission to receive a license in a
50 member state selected pursuant to subdivision one of this section,
51 including the payment of any applicable fees.

52 4. After receiving verification of eligibility under subdivision two
53 of this section and any fees under subdivision three of this section, a
54 member board shall issue an expedited license to the physician. This
55 license shall authorize the physician to practice medicine in the issu-

1 ing state consistent with the medical practice act and all applicable
2 laws and regulations of the issuing member board and member state.

3 5. An expedited license shall be valid for a period consistent with
4 the licensure period in the member state and in the same manner as
5 required for other physicians holding a full and unrestricted license
6 within the member state.

7 6. An expedited license obtained through the compact shall be termi-
8 nated if a physician fails to maintain a license in the state of princi-
9 pal licensure for a non-disciplinary reason, without redesignation of a
10 new state of principal licensure.

11 7. The interstate commission is authorized to develop rules regarding
12 the application process, including payment of any applicable fees, and
13 the issuance of an expedited license.

14 § 8866. Fees for expedited licensure. 1. A member state issuing an
15 expedited license authorizing the practice of medicine in that state may
16 impose a fee for a license issued or renewed through the compact.

17 2. The interstate commission is authorized to develop rules regarding
18 fees for expedited licenses.

19 § 8867. Renewal and continued participation. 1. A physician seeking to
20 renew an expedited license granted in a member state shall complete a
21 renewal process with the interstate commission if the physician:

22 (a) Maintains a full and unrestricted license in a state of principal
23 license;

24 (b) Has not been convicted, received adjudication, deferred adjudi-
25 cation, community supervision, or deferred disposition for any offense
26 by a court of appropriate jurisdiction;

27 (c) Has not had a license authorizing the practice of medicine subject
28 to discipline by a licensing agency in any state, federal, or foreign
29 jurisdiction, excluding any action related to non-payment of fees
30 related to a license; and

31 (d) Has not had a controlled substance license or permit suspended or
32 revoked by a state or the United States drug enforcement administration.

33 2. Physicians shall comply with all continuing professional develop-
34 ment or continuing medical education requirements for renewal of a
35 license issued by a member state.

36 3. The interstate commission shall collect any renewal fees charged
37 for the renewal of a license and distribute the fees to the applicable
38 member board.

39 4. Upon receipt of any renewal fees collected in subdivision three of
40 this section, a member board shall renew the physician's license.

41 5. Physician information collected by the interstate commission during
42 the renewal process will be distributed to all member boards.

43 6. The interstate commission is authorized to develop rules to address
44 renewal of licenses obtained through the compact.

45 § 8868. Coordinated information system. 1. The interstate commission
46 shall establish a database of all physicians licensed, or who have
47 applied for licensure, under section eighty-eight hundred sixty-five of
48 this article.

49 2. Notwithstanding any other provision of law, member boards shall
50 report to the interstate commission any public action or complaints
51 against a licensed physician who has applied or received an expedited
52 license through the compact.

53 3. Member boards shall report disciplinary or investigatory informa-
54 tion determined as necessary and proper by rule of the interstate
55 commission.

1 4. Member boards may report any non-public complaint, disciplinary, or
2 investigatory information not required by subdivision three of this
3 section to the interstate commission.

4 5. Member boards shall share complaint or disciplinary information
5 about a physician upon request of another member board.

6 6. All information provided to the interstate commission or distrib-
7 uted by member boards shall be confidential, filed under seal, and used
8 only for investigatory or disciplinary matters.

9 7. The interstate commission is authorized to develop rules for
10 mandated or discretionary sharing of information by member boards.

11 § 8869. Joint investigations. 1. Licensure and disciplinary records of
12 physicians are deemed investigative.

13 2. In addition to the authority granted to a member board by its
14 respective medical practice act or other applicable state law, a member
15 board may participate with other member boards in joint investigations
16 of physicians licensed by the member boards.

17 3. A subpoena issued by a member state shall be enforceable in other
18 member states.

19 4. Member boards may share any investigative, litigation, or compli-
20 ance materials in furtherance of any joint or individual investigation
21 initiated under the compact.

22 5. Any member state may investigate actual or alleged violations of
23 the statutes authorizing the practice of medicine in any other member
24 state in which a physician holds a license to practice medicine.

25 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any
26 member board against a physician licensed through the compact shall be
27 deemed unprofessional conduct which may be subject to discipline by
28 other member boards, in addition to any violation of the medical prac-
29 tice act or regulations in that state.

30 2. If a license granted to a physician by the member board in the
31 state of principal license is revoked, surrendered or relinquished in
32 lieu of discipline, or suspended, then all licenses issued to the physi-
33 cian by member boards shall automatically be placed, without further
34 action necessary by any member board, on the same status. If the member
35 board in the state of principal license subsequently reinstates the
36 physician's license, a license issued to the physician by any other
37 member board shall remain encumbered until that respective member board
38 takes action to reinstate the license in a manner consistent with the
39 medical practice act of that state.

40 3. If disciplinary action is taken against a physician by a member
41 board not in the state of principal license, any other member board may
42 deem the action conclusive as to matter of law and fact decided, and:

43 (a) impose the same or lesser sanction or sanctions against the physi-
44 cian so long as such sanctions are consistent with the medical practice
45 act of that state; or

46 (b) pursue separate disciplinary action against the physician under
47 its respective medical practice act, regardless of the action taken in
48 other member states.

49 4. If a license granted to a physician by a member board is revoked,
50 surrendered, or relinquished in lieu of discipline, or suspended, then
51 any license or licenses issued to the physician by any other member
52 board or boards shall be suspended, automatically and immediately with-
53 out further action necessary by the other member board or boards, for
54 ninety days upon entry of the order by the disciplining board, to permit
55 the member board or boards to investigate the basis for the action under
56 the medical practice act of that state. A member board may terminate the

1 automatic suspension of the license it issued prior to the completion of
2 the ninety day suspension period in a manner consistent with the medical
3 practice act of that state.

4 § 8871. Interstate medical licensure compact commission. 1. The member
5 states hereby create the "interstate medical licensure compact commis-
6 sion".

7 2. The purpose of the interstate commission is the administration of
8 the interstate medical licensure compact, which is a discretionary state
9 function.

10 3. The interstate commission shall be a body corporate and joint agen-
11 cy of the member states and shall have all the responsibilities, powers,
12 and duties set forth in the compact, and such additional powers as may
13 be conferred upon it by a subsequent concurrent action of the respective
14 legislatures of the member states in accordance with the terms of the
15 compact.

16 4. The interstate commission shall consist of two voting represen-
17 tatives appointed by each member state who shall serve as commissioners.
18 In states where allopathic and osteopathic physicians are regulated by
19 separate member boards, or if the licensing and disciplinary authority
20 is split between multiple member boards within a member state, the
21 member state shall appoint one representative from each member board. A
22 commissioner shall be a or an:

23 (a) Allopathic or osteopathic physician appointed to a member board;

24 (b) Executive director, executive secretary, or similar executive of a
25 member board; or

26 (c) Member of the public appointed to a member board.

27 5. The interstate commission shall meet at least once each calendar
28 year. A portion of this meeting shall be a business meeting to address
29 such matters as may properly come before the commission, including the
30 election of officers. The chairperson may call additional meetings and
31 shall call for a meeting upon the request of a majority of the member
32 states.

33 6. The bylaws may provide for meetings of the interstate commission to
34 be conducted by telecommunication or electronic communication.

35 7. Each commissioner participating at a meeting of the interstate
36 commission is entitled to one vote. A majority of commissioners shall
37 constitute a quorum for the transaction of business, unless a larger
38 quorum is required by the bylaws of the interstate commission. A commis-
39 sioner shall not delegate a vote to another commissioner. In the absence
40 of its commissioner, a member state may delegate voting authority for a
41 specified meeting to another person from that state who shall meet the
42 requirements of subdivision four of this section.

43 8. The interstate commission shall provide public notice of all meet-
44 ings and all meetings shall be open to the public. The interstate
45 commission may close a meeting, in full or in portion, where it deter-
46 mines by a two-thirds vote of the commissioners present that an open
47 meeting would be likely to:

48 (a) Relate solely to the internal personnel practices and procedures
49 of the interstate commission;

50 (b) Discuss matters specifically exempted from disclosure by federal
51 statute;

52 (c) Discuss trade secrets, commercial, or financial information that
53 is privileged or confidential;

54 (d) Involve accusing a person of a crime, or formally censuring a
55 person;

1 (e) Discuss information of a personal nature where disclosure would
2 constitute a clearly unwarranted invasion of personal privacy;

3 (f) Discuss investigative records compiled for law enforcement
4 purposes; or

5 (g) Specifically relate to the participation in a civil action or
6 other legal proceeding.

7 9. The interstate commission shall keep minutes which shall fully
8 describe all matters discussed in a meeting and shall provide a full and
9 accurate summary of actions taken, including record of any roll call
10 votes.

11 10. The interstate commission shall make its information and official
12 records, to the extent not otherwise designated in the compact or by its
13 rules, available to the public for inspection.

14 11. The interstate commission shall establish an executive committee,
15 which shall include officers, members, and others as determined by the
16 bylaws. The executive committee shall have the power to act on behalf of
17 the interstate commission, with the exception of rulemaking, during
18 periods when the interstate commission is not in session. When acting on
19 behalf of the interstate commission, the executive committee shall over-
20 see the administration of the compact including enforcement and compli-
21 ance with the provisions of the compact, its bylaws and rules, and other
22 such duties as necessary.

23 12. The interstate commission may establish other committees for
24 governance and administration of the compact.

25 § 8872. Powers and duties of the interstate commission. The interstate
26 commission shall have the duty and power to:

27 1. Oversee and maintain the administration of the compact;

28 2. Promulgate rules which shall be binding to the extent and in the
29 manner provided for in the compact;

30 3. Issue, upon the request of a member state or member board, advisory
31 opinions concerning the meaning or interpretation of the compact, its
32 bylaws, rules, and actions;

33 4. Enforce compliance with compact provisions, the rules promulgated
34 by the interstate commission, and the bylaws, using all necessary and
35 proper means, including but not limited to the use of judicial process;

36 5. Establish and appoint committees including, but not limited to, an
37 executive committee as required by section eighty-eight hundred seven-
38 ty-one of this article, which shall have the power to act on behalf of
39 the interstate commission in carrying out its powers and duties;

40 6. Pay, or provide for the payment of the expenses related to the
41 establishment, organization, and ongoing activities of the interstate
42 commission;

43 7. Establish and maintain one or more offices;

44 8. Borrow, accept, hire, or contract for services of personnel;

45 9. Purchase and maintain insurance and bonds;

46 10. Employ an executive director who shall have such powers to employ,
47 select or appoint employees, agents, or consultants, and to determine
48 their qualifications, define their duties, and fix their compensation;

49 11. Establish personnel policies and programs relating to conflicts of
50 interest, rates of compensation, and qualifications of personnel;

51 12. Accept donations and grants of money, equipment, supplies, materi-
52 als and services, and to receive, utilize, and dispose of it in a manner
53 consistent with the conflict of interest policies established by the
54 interstate commission;

1 13. Lease, purchase, accept contributions or donations of, or other-
2 wise to own, hold, improve, or use, any property, real, personal, or
3 mixed;

4 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or
5 otherwise dispose of any property, real, personal, or mixed;

6 15. Establish a budget and make expenditures;

7 16. Adopt a seal and bylaws governing the management and operation of
8 the interstate commission;

9 17. Report annually to the legislatures and governors of the member
10 states concerning the activities of the interstate commission during the
11 preceding year. Such reports shall also include reports of financial
12 audits and any recommendations that may have been adopted by the inter-
13 state commission;

14 18. Coordinate education, training, and public awareness regarding the
15 compact, its implementation, and its operation;

16 19. Maintain records in accordance with the bylaws;

17 20. Seek and obtain trademarks, copyrights, and patents; and

18 21. Perform such functions as may be necessary or appropriate to
19 achieve the purposes of the compact.

20 § 8873. Finance powers. 1. The interstate commission may levy on and
21 collect an annual assessment from each member state to cover the cost of
22 the operations and activities of the interstate commission and its
23 staff. The total assessment must be sufficient to cover the annual budg-
24 et approved each year for which revenue is not provided by other sourc-
25 es. The aggregate annual assessment amount shall be allocated upon a
26 formula to be determined by the interstate commission, which shall
27 promulgate a rule binding upon all member states.

28 2. The interstate commission shall not incur obligations of any kind
29 prior to securing the funds adequate to meet the same.

30 3. The interstate commission shall not pledge the credit of any of the
31 member states, except by, and with the authority of, the member state.

32 4. The interstate commission shall be subject to a yearly financial
33 audit conducted by a certified or licensed public accountant and the
34 report of the audit shall be included in the annual report of the inter-
35 state commission.

36 § 8874. Organization and operation of the interstate commission. 1.
37 The interstate commission shall, by a majority of commissioners present
38 and voting, adopt bylaws to govern its conduct as may be necessary or
39 appropriate to carry out the purposes of the compact within twelve
40 months of the first interstate commission meeting.

41 2. The interstate commission shall elect or appoint annually from
42 among its commissioners a chairperson, a vice-chairperson, and a treas-
43 urer, each of whom shall have such authority and duties as may be speci-
44 fied in the bylaws. The chairperson, or in the chairperson's absence or
45 disability, the vice-chairperson, shall preside at all meetings of the
46 interstate commission.

47 3. Officers selected pursuant to subdivision two of this section shall
48 serve without remuneration from the interstate commission.

49 4. The officers and employees of the interstate commission shall be
50 immune from suit and liability, either personally or in their official
51 capacity, for a claim for damage to or loss of property or personal
52 injury or other civil liability caused or arising out of, or relating
53 to, an actual or alleged act, error, or omission that occurred, or that
54 such person had a reasonable basis for believing occurred, within the
55 scope of interstate commission employment, duties, or responsibilities;
56 provided that such person shall not be protected from suit or liability

1 for damage, loss, injury, or liability caused by the intentional or
2 willful and wanton misconduct of such person.

3 (a) The liability of the executive director and employees of the
4 interstate commission or representatives of the interstate commission,
5 acting within the scope of such person's employment or duties for acts,
6 errors, or omissions occurring within such person's state, may not
7 exceed the limits of liability set forth under the constitution and laws
8 of that state for state officials, employees, and agents. The interstate
9 commission is considered to be an instrumentality of the states for the
10 purposes of any such action. Nothing in this paragraph shall be
11 construed to protect such person from suit or liability for damage,
12 loss, injury, or liability caused by the intentional or willful and
13 wanton misconduct of such person.

14 (b) The interstate commission shall defend the executive director, its
15 employees, and subject to the approval of the attorney general or other
16 appropriate legal counsel of the member state represented by an inter-
17 state commission representative, shall defend such interstate commission
18 representative in any civil action seeking to impose liability arising
19 out of an actual or alleged act, error or omission that occurred within
20 the scope of interstate commission employment, duties or responsibil-
21 ities, or that the defendant had a reasonable basis for believing
22 occurred within the scope of interstate commission employment, duties,
23 or responsibilities, provided that the actual or alleged act, error, or
24 omission did not result from intentional or willful and wanton miscon-
25 duct on the part of such person.

26 (c) To the extent not covered by the state involved, member state, or
27 the interstate commission, the representatives or employees of the
28 interstate commission shall be held harmless in the amount of a settle-
29 ment or judgment, including attorney's fees and costs, obtained against
30 such persons arising out of an actual or alleged act, error, or omission
31 that occurred within the scope of interstate commission employment,
32 duties, or responsibilities, or that such persons had a reasonable basis
33 for believing occurred within the scope of interstate commission employ-
34 ment, duties, or responsibilities, provided that the actual or alleged
35 act, error, or omission did not result from intentional or willful and
36 wanton misconduct on the part of such persons.

37 § 8875. Rulemaking functions of the interstate commission. 1. The
38 interstate commission shall promulgate reasonable rules in order to
39 effectively and efficiently achieve the purposes of the compact.
40 Notwithstanding the foregoing, in the event the interstate commission
41 exercises its rulemaking authority in a manner that is beyond the scope
42 of the purposes of the compact, or the powers granted hereunder, then
43 such an action by the interstate commission shall be invalid and have no
44 force or effect.

45 2. Rules deemed appropriate for the operations of the interstate
46 commission shall be made pursuant to a rulemaking process that substan-
47 tially conforms to the federal Model State Administrative Procedure Act
48 of 2010, and subsequent amendments thereto.

49 3. Not later than thirty days after a rule is promulgated, any person
50 may file a petition for judicial review of the rule in the United States
51 District Court for the District of Columbia or the federal district
52 where the interstate commission has its principal offices, provided that
53 the filing of such a petition shall not stay or otherwise prevent the
54 rule from becoming effective unless the court finds that the petitioner
55 has a substantial likelihood of success. The court shall give deference
56 to the actions of the interstate commission consistent with applicable

1 law and shall not find the rule to be unlawful if the rule represents a
2 reasonable exercise of the authority granted to the interstate commis-
3 sion.

4 § 8876. Oversight of interstate compact. 1. The executive, legisla-
5 tive, and judicial branches of state government in each member state
6 shall enforce the compact and shall take all actions necessary and
7 appropriate to effectuate the compact's purposes and intent. The
8 provisions of the compact and the rules promulgated hereunder shall have
9 standing as statutory law but shall not override existing state authori-
10 ty to regulate the practice of medicine.

11 2. All courts shall take judicial notice of the compact and the rules
12 in any judicial or administrative proceeding in a member state pertain-
13 ing to the subject matter of the compact which may affect the powers,
14 responsibilities or actions of the interstate commission.

15 3. The interstate commission shall be entitled to receive all service
16 of process in any such proceeding, and shall have standing to intervene
17 in the proceeding for all purposes. Failure to provide service of proc-
18 ess to the interstate commission shall render a judgment or order void
19 as to the interstate commission, the compact, or promulgated rules.

20 § 8877. Enforcement of interstate compact. 1. The interstate commis-
21 sion, in the reasonable exercise of its discretion, shall enforce the
22 provisions and rules of the compact.

23 2. The interstate commission may, by majority vote of the commission-
24 ers, initiate legal action in the United States District Court for the
25 District of Columbia, or, at the discretion of the interstate commis-
26 sion, in the federal district where the interstate commission has its
27 principal offices, to enforce compliance with the provisions of the
28 compact, and its promulgated rules and bylaws, against a member state in
29 default. The relief sought may include both injunctive relief and
30 damages. In the event judicial enforcement is necessary, the prevailing
31 party shall be awarded all costs of such litigation including reasonable
32 attorney's fees.

33 3. The remedies herein shall not be the exclusive remedies of the
34 interstate commission. The interstate commission may avail itself of
35 any other remedies available under state law or the regulation of a
36 profession.

37 § 8878. Default procedures. 1. The grounds for default include, but
38 are not limited to, failure of a member state to perform such obli-
39 gations or responsibilities imposed upon it by the compact, or the rules
40 and bylaws of the interstate commission promulgated under the compact.

41 2. If the interstate commission determines that a member state has
42 defaulted in the performance of its obligations or responsibilities
43 under the compact, or the bylaws or promulgated rules, the interstate
44 commission shall:

45 (a) Provide written notice to the defaulting state and other member
46 states, of the nature of the default, the means of curing the default,
47 and any action taken by the interstate commission. The interstate
48 commission shall specify the conditions by which the defaulting state
49 must cure its default; and

50 (b) Provide remedial training and specific technical assistance
51 regarding the default.

52 3. If the defaulting state fails to cure the default, the defaulting
53 state shall be terminated from the compact upon an affirmative vote of a
54 majority of the commissioners and all rights, privileges, and benefits
55 conferred by the compact shall terminate on the effective date of termi-

1 nation. A cure of the default does not relieve the offending state of
2 obligations or liabilities incurred during the period of the default.

3 4. Termination of membership in the compact shall be imposed only
4 after all other means of securing compliance have been exhausted. Notice
5 of intent to terminate shall be given by the interstate commission to
6 the governor, the majority and minority leaders of the defaulting
7 state's legislature, and each of the member states.

8 5. The interstate commission shall establish rules and procedures to
9 address licenses and physicians that are materially impacted by the
10 termination of a member state, or the withdrawal of a member state.

11 6. The member state which has been terminated is responsible for all
12 dues, obligations, and liabilities incurred through the effective date
13 of termination including obligations, the performance of which extends
14 beyond the effective date of termination.

15 7. The interstate commission shall not bear any costs relating to any
16 state that has been found to be in default or which has been terminated
17 from the compact, unless otherwise mutually agreed upon in writing
18 between the interstate commission and the defaulting state.

19 8. The defaulting state may appeal the action of the interstate
20 commission by petitioning the United States District Court for the
21 District of Columbia or the federal district where the interstate
22 commission has its principal offices. The prevailing party shall be
23 awarded all costs of such litigation including reasonable attorney's
24 fees.

25 § 8879. Dispute resolution. 1. The interstate commission shall
26 attempt, upon the request of a member state, to resolve disputes which
27 are subject to the compact and which may arise among member states or
28 member boards.

29 2. The interstate commission shall promulgate rules providing for both
30 mediation and binding dispute resolution as appropriate.

31 § 8880. Member states, effective date and amendment. 1. Any state is
32 eligible to become a member state of the compact.

33 2. The compact shall become effective and binding upon legislative
34 enactment of the compact into law by no less than seven states. There-
35 after, it shall become effective and binding on a state upon enactment
36 of the compact into law by that state.

37 3. The governors of non-member states, or their designees, shall be
38 invited to participate in the activities of the interstate commission on
39 a non-voting basis prior to adoption of the compact by all states.

40 4. The interstate commission may propose amendments to the compact for
41 enactment by the member states. No amendment shall become effective and
42 binding upon the interstate commission and the member states unless and
43 until it is enacted into law by unanimous consent of the member states.

44 § 8881. Withdrawal. 1. Once effective, the compact shall continue in
45 force and remain binding upon each and every member state; provided that
46 a member state may withdraw from the compact by specifically repealing
47 the statute which enacted the compact into law.

48 2. Withdrawal from the compact shall be by the enactment of a statute
49 repealing the same, but shall not take effect until one year after the
50 effective date of such statute and until written notice of the with-
51 drawal has been given by the withdrawing state to the governor of each
52 other member state.

53 3. The withdrawing state shall immediately notify the chairperson of
54 the interstate commission in writing upon the introduction of legis-
55 lation repealing the compact in the withdrawing state.

1 4. The interstate commission shall notify the other member states of
2 the withdrawing state's intent to withdraw within sixty days of its
3 receipt of notice provided under subdivision three of this section.

4 5. The withdrawing state is responsible for all dues, obligations and
5 liabilities incurred through the effective date of withdrawal, including
6 obligations, the performance of which extend beyond the effective date
7 of withdrawal.

8 6. Reinstatement following withdrawal of a member state shall occur
9 upon the withdrawing state reenacting the compact or upon such later
10 date as determined by the interstate commission.

11 7. The interstate commission is authorized to develop rules to address
12 the impact of the withdrawal of a member state on licenses granted in
13 other member states to physicians who designated the withdrawing member
14 state as the state of principal license.

15 § 8882. Dissolution. 1. The compact shall dissolve effective upon the
16 date of the withdrawal or default of the member state which reduces the
17 membership in the compact to one member state.

18 2. Upon the dissolution of the compact, the compact becomes null and
19 void and shall be of no further force or effect, and the business and
20 affairs of the interstate commission shall be concluded and surplus
21 funds shall be distributed in accordance with the bylaws.

22 § 8883. Severability and construction. 1. The provisions of the
23 compact shall be severable, and if any phrase, clause, sentence, or
24 provision is deemed unenforceable, the remaining provisions of the
25 compact shall be enforceable.

26 2. The provisions of the compact shall be liberally construed to
27 effectuate its purposes.

28 3. Nothing in the compact shall be construed to prohibit the applica-
29 bility of other interstate compacts to which the states are members.

30 § 8884. Binding effect of compact and other laws. 1. Nothing contained
31 in this article shall prevent the enforcement of any other law of a
32 member state that is not inconsistent with the compact.

33 2. All laws in a member state in conflict with the compact are super-
34 seded to the extent of the conflict.

35 3. All lawful actions of the interstate commission, including all
36 rules and bylaws promulgated by the commission, are binding upon the
37 member states.

38 4. All agreements between the interstate commission and the member
39 states are binding in accordance with their terms.

40 5. In the event any provision of the compact exceeds the constitu-
41 tional limits imposed on the legislature of any member state, such
42 provision shall be ineffective to the extent of the conflict with the
43 constitutional provision in question in that member state.

44 § 31. Article 170 of the education law is renumbered article 171 and a
45 new article 170 is added to title 8 of the education law to read as
46 follows:

47 ARTICLE 170

48 NURSE LICENSURE COMPACT

49 Section 8900. Nurse licensure compact.

50 8901. Findings and declaration of purpose.

51 8902. Definitions.

52 8903. General provisions and jurisdiction.

53 8904. Applications for licensure in a party state.

54 8905. Additional authorities invested in party state licensing
55 boards.

8906. Coordinated licensure information system and exchange of information.

8907. Establishment of the interstate commission of nurse licensure compact administrators.

8908. Rulemaking.

8909. Oversight, dispute resolution and enforcement.

8910. Effective date, withdrawal and amendment.

8911. Construction and severability.

§ 8900. Nurse licensure compact. The nurse license compact as set forth in the article is hereby adopted and entered into with all party states joining therein.

§ 8901. Findings and declaration of purpose 1. Findings. The party states find that:

a. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

b. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

c. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

d. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

e. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

f. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

2. Declaration of purpose. The general purposes of this compact are to:

a. Facilitate the states' responsibility to protect the public's health and safety;

b. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

c. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

d. Promote compliance with the laws governing the practice of nursing in each jurisdiction;

e. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

f. Decrease redundancies in the consideration and issuance of nurse licenses; and

g. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

§ 8902. Definitions. 1. Definitions. As used in this compact:

a. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

1 b. "Alternative program" means a non-disciplinary monitoring program
2 approved by a licensing board.

3 c. "Coordinated licensure information system" means an integrated
4 process for collecting, storing and sharing information on nurse licen-
5 sure and enforcement activities related to nurse licensure laws that is
6 administered by a nonprofit organization composed of and controlled by
7 licensing boards.

8 d. "Commission" means the interstate commission of nurse licensure
9 compact administrators.

10 e. "Current significant investigative information" means:

11 1. Investigative information that a licensing board, after a prelimi-
12 nary inquiry that includes notification and an opportunity for the nurse
13 to respond, if required by state law, has reason to believe is not
14 groundless and, if proved true, would indicate more than a minor infrac-
15 tion; or

16 2. Investigative information that indicates that the nurse represents
17 an immediate threat to public health and safety regardless of whether
18 the nurse has been notified and had an opportunity to respond; or

19 3. Any information concerning a nurse reported to a licensing board by
20 a health care entity, health care professional, or any other person,
21 which indicates that the nurse demonstrated an impairment, gross incom-
22 petence, or unprofessional conduct that would present an imminent danger
23 to a patient or the public health, safety, or welfare.

24 f. "Encumbrance" means a revocation or suspension of, or any limita-
25 tion on, the full and unrestricted practice of nursing imposed by a
26 licensing board.

27 g. "Home state" means the party state which is the nurse's primary
28 state of residence.

29 h. "Licensing board" means a party state's regulatory body responsible
30 for issuing nurse licenses.

31 i. "Multistate license" means a license to practice as a registered
32 nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which
33 is issued by a home state licensing board, and which authorizes the
34 licensed nurse to practice in all party states under a multistate licen-
35 sure privilege.

36 j. "Multistate licensure privilege" means a legal authorization asso-
37 ciated with a multistate license permitting the practice of nursing as
38 either a RN or a LPN/VN in a remote state.

39 k. "Nurse" means RN or LPN/VN, as those terms are defined by each
40 party state's practice laws.

41 l. "Party state" means any state that has adopted this compact.

42 m. "Remote state" means a party state, other than the home state.

43 n. "Single-state license" means a nurse license issued by a party
44 state that authorizes practice only within the issuing state and does
45 not include a multistate licensure privilege to practice in any other
46 party state.

47 o. "State" means a state, territory or possession of the United States
48 and the District of Columbia.

49 p. "State practice laws" means a party state's laws, rules and regu-
50 lations that govern the practice of nursing, define the scope of nursing
51 practice, and create the methods and grounds for imposing discipline.
52 "State practice laws" shall not include requirements necessary to obtain
53 and retain a license, except for qualifications or requirements of the
54 home state.

55 § 8903. General provisions and jurisdiction. 1. General provisions and
56 jurisdiction. a. A multistate license to practice registered or licensed

1 practical/vocational nursing issued by a home state to a resident in
2 that state will be recognized by each party state as authorizing a nurse
3 to practice as a registered nurse (RN) or as a licensed
4 practical/vocational nurse (LPN/VN), under a multistate licensure privi-
5 lege, in each party state.

6 b. A state shall implement procedures for considering the criminal
7 history records of applicants for an initial multistate license or
8 licensure by endorsement. Such procedures shall include the submission
9 of fingerprints or other biometric-based information by applicants for
10 the purpose of obtaining an applicant's criminal history record informa-
11 tion from the federal bureau of investigation and the agency responsible
12 for retaining that state's criminal records.

13 c. Each party state shall require its licensing board to authorize an
14 applicant to obtain or retain a multistate license in the home state
15 only if the applicant:

16 i. Meets the home state's qualifications for licensure or renewal of
17 licensure, and complies with all other applicable state laws;

18 ii. (1) Has graduated or is eligible to graduate from a licensing
19 board-approved RN or LPN/VN prelicensure education program; or

20 (2) Has graduated from a foreign RN or LPN/VN prelicensure education
21 program that has been: (A) approved by the authorized accrediting body
22 in the applicable country, and (B) verified by an independent creden-
23 tials review agency to be comparable to a licensing board-approved pre-
24 licensure education program;

25 iii. Has, if a graduate of a foreign prelicensure education program
26 not taught in English or if English is not the individual's native
27 language, successfully passed an English proficiency examination that
28 includes the components of reading, speaking, writing and listening;

29 iv. Has successfully passed an NCLEX-RN or NCLEX-PN examination or
30 recognized predecessor, as applicable;

31 v. Is eligible for or holds an active, unencumbered license;

32 vi. Has submitted, in connection with an application for initial
33 licensure or licensure by endorsement, fingerprints or other biometric
34 data for the purpose of obtaining criminal history record information
35 from the federal bureau of investigation and the agency responsible for
36 retaining that state's criminal records;

37 vii. Has not been convicted or found guilty, or has entered into an
38 agreed disposition, of a felony offense under applicable state or feder-
39 al criminal law;

40 viii. Has not been convicted or found guilty, or has entered into an
41 agreed disposition, of a misdemeanor offense related to the practice of
42 nursing as determined on a case-by-case basis;

43 ix. Is not currently enrolled in an alternative program;

44 x. Is subject to self-disclosure requirements regarding current
45 participation in an alternative program; and

46 xi. Has a valid United States social security number.

47 d. All party states shall be authorized, in accordance with existing
48 state due process law, to take adverse action against a nurse's multi-
49 state licensure privilege such as revocation, suspension, probation or
50 any other action that affects a nurse's authorization to practice under
51 a multistate licensure privilege, including cease and desist actions. If
52 a party state takes such action, it shall promptly notify the adminis-
53 trator of the coordinated licensure information system. The administra-
54 tor of the coordinated licensure information system shall promptly noti-
55 fy the home state of any such actions by remote states.

1 e. A nurse practicing in a party state shall comply with the state
2 practice laws of the state in which the client is located at the time
3 service is provided. The practice of nursing is not limited to patient
4 care but shall include all nursing practice as defined by the state
5 practice laws of the party state in which the client is located. The
6 practice of nursing in a party state under a multistate licensure privi-
7 lege will subject a nurse to the jurisdiction of the licensing board,
8 the courts and the laws of the party state in which the client is
9 located at the time service is provided.

10 f. Individuals not residing in a party state shall continue to be able
11 to apply for a party state's single-state license as provided under the
12 laws of each party state. However, the single-state license granted to
13 these individuals will not be recognized as granting the privilege to
14 practice nursing in any other party state. Nothing in this compact shall
15 affect the requirements established by a party state for the issuance of
16 a single-state license.

17 g. Any nurse holding a home state multistate license, on the effective
18 date of this compact, may retain and renew the multistate license issued
19 by the nurse's then-current home state, provided that:

20 i. A nurse, who changes primary state of residence after this
21 compact's effective date, shall meet all applicable requirements set
22 forth in this article to obtain a multistate license from a new home
23 state.

24 ii. A nurse who fails to satisfy the multistate licensure requirements
25 set forth in this article due to a disqualifying event occurring after
26 this compact's effective date shall be ineligible to retain or renew a
27 multistate license, and the nurse's multistate license shall be revoked
28 or deactivated in accordance with applicable rules adopted by the
29 commission.

30 § 8904. Applications for licensure in a party state. 1. Applications
31 for licensure in a party state. a. Upon application for a multistate
32 license, the licensing board in the issuing party state shall ascertain,
33 through the coordinated licensure information system, whether the appli-
34 cant has ever held, or is the holder of, a license issued by any other
35 state, whether there are any encumbrances on any license or multistate
36 licensure privilege held by the applicant, whether any adverse action
37 has been taken against any license or multistate licensure privilege
38 held by the applicant and whether the applicant is currently participat-
39 ing in an alternative program.

40 b. A nurse may hold a multistate license, issued by the home state, in
41 only one party state at a time.

42 c. If a nurse changes primary state of residence by moving between two
43 party states, the nurse must apply for licensure in the new home state,
44 and the multistate license issued by the prior home state will be deac-
45 tivated in accordance with applicable rules adopted by the commission.

46 i. The nurse may apply for licensure in advance of a change in primary
47 state of residence.

48 ii. A multistate license shall not be issued by the new home state
49 until the nurse provides satisfactory evidence of a change in primary
50 state of residence to the new home state and satisfies all applicable
51 requirements to obtain a multistate license from the new home state.

52 d. If a nurse changes primary state of residence by moving from a
53 party state to a non-party state, the multistate license issued by the
54 prior home state will convert to a single-state license, valid only in
55 the former home state.

1 § 8905. Additional authorities invested in party state licensing
2 boards. 1. Licensing board authority. In addition to the other powers
3 conferred by state law, a licensing board shall have the authority to:

4 a. Take adverse action against a nurse's multistate licensure privi-
5 lege to practice within that party state.

6 i. Only the home state shall have the power to take adverse action
7 against a nurse's license issued by the home state.

8 ii. For purposes of taking adverse action, the home state licensing
9 board shall give the same priority and effect to reported conduct
10 received from a remote state as it would if such conduct had occurred
11 within the home state. In so doing, the home state shall apply its own
12 state laws to determine appropriate action.

13 b. Issue cease and desist orders or impose an encumbrance on a nurse's
14 authority to practice within that party state.

15 c. Complete any pending investigations of a nurse who changes primary
16 state of residence during the course of such investigations. The licens-
17 ing board shall also have the authority to take appropriate action or
18 actions and shall promptly report the conclusions of such investigations
19 to the administrator of the coordinated licensure information system.
20 The administrator of the coordinated licensure information system shall
21 promptly notify the new home state of any such actions.

22 d. Issue subpoenas for both hearings and investigations that require
23 the attendance and testimony of witnesses, as well as the production of
24 evidence. Subpoenas issued by a licensing board in a party state for the
25 attendance and testimony of witnesses or the production of evidence from
26 another party state shall be enforced in the latter state by any court
27 of competent jurisdiction, according to the practice and procedure of
28 that court applicable to subpoenas issued in proceedings pending before
29 it. The issuing authority shall pay any witness fees, travel expenses,
30 mileage and other fees required by the service statutes of the state in
31 which the witnesses or evidence are located.

32 e. Obtain and submit, for each nurse licensure applicant, fingerprint
33 or other biometric-based information to the federal bureau of investi-
34 gation for criminal background checks, receive the results of the feder-
35 al bureau of investigation record search on criminal background checks
36 and use the results in making licensure decisions.

37 f. If otherwise permitted by state law, recover from the affected
38 nurse the costs of investigations and disposition of cases resulting
39 from any adverse action taken against that nurse.

40 g. Take adverse action based on the factual findings of the remote
41 state, provided that the licensing board follows its own procedures for
42 taking such adverse action.

43 2. Adverse actions. a. If adverse action is taken by the home state
44 against a nurse's multistate license, the nurse's multistate licensure
45 privilege to practice in all other party states shall be deactivated
46 until all encumbrances have been removed from the multistate license.
47 All home state disciplinary orders that impose adverse action against a
48 nurse's multistate license shall include a statement that the nurse's
49 multistate licensure privilege is deactivated in all party states during
50 the pendency of the order.

51 b. Nothing in this compact shall override a party state's decision
52 that participation in an alternative program may be used in lieu of
53 adverse action. The home state licensing board shall deactivate the
54 multistate licensure privilege under the multistate license of any nurse
55 for the duration of the nurse's participation in an alternative program.

1 § 8906. Coordinated licensure information system and exchange of
2 information. 1. Coordinated licensure information system and exchange
3 of information. a. All party states shall participate in a coordinated
4 licensure information system of all licensed registered nurses (RNs) and
5 licensed practical/vocational nurses (LPNs/VNs). This system will
6 include information on the licensure and disciplinary history of each
7 nurse, as submitted by party states, to assist in the coordination of
8 nurse licensure and enforcement efforts.

9 b. The commission, in consultation with the administrator of the coor-
10 ordinated licensure information system, shall formulate necessary and
11 proper procedures for the identification, collection and exchange of
12 information under this compact.

13 c. All licensing boards shall promptly report to the coordinated
14 licensure information system any adverse action, any current significant
15 investigative information, denials of applications with the reasons for
16 such denials and nurse participation in alternative programs known to
17 the licensing board regardless of whether such participation is deemed
18 nonpublic or confidential under state law.

19 d. Current significant investigative information and participation in
20 nonpublic or confidential alternative programs shall be transmitted
21 through the coordinated licensure information system only to party state
22 licensing boards.

23 e. Notwithstanding any other provision of law, all party state licens-
24 ing boards contributing information to the coordinated licensure infor-
25 mation system may designate information that may not be shared with
26 non-party states or disclosed to other entities or individuals without
27 the express permission of the contributing state.

28 f. Any personally identifiable information obtained from the coordi-
29 nated licensure information system by a party state licensing board
30 shall not be shared with non-party states or disclosed to other entities
31 or individuals except to the extent permitted by the laws of the party
32 state contributing the information.

33 g. Any information contributed to the coordinated licensure informa-
34 tion system that is subsequently required to be expunged by the laws of
35 the party state contributing that information shall also be expunged
36 from the coordinated licensure information system.

37 h. The compact administrator of each party state shall furnish a
38 uniform data set to the compact administrator of each other party state,
39 which shall include, at a minimum:

40 i. Identifying information;
41 ii. Licensure data;
42 iii. Information related to alternative program participation; and
43 iv. Other information that may facilitate the administration of this
44 compact, as determined by commission rules.

45 i. The compact administrator of a party state shall provide all inves-
46 tigative documents and information requested by another party state.

47 § 8907. Establishment of the interstate commission of nurse licensure
48 compact administrators. 1. Commission of nurse licensure compact admin-
49 istrators. The party states hereby create and establish a joint public
50 entity known as the interstate commission of nurse licensure compact
51 administrators. The commission is an instrumentality of the party
52 states.

53 2. Venue. Venue is proper, and judicial proceedings by or against the
54 commission shall be brought solely and exclusively, in a court of compe-
55 tent jurisdiction where the principal office of the commission is
56 located. The commission may waive venue and jurisdictional defenses to

1 the extent it adopts or consents to participate in alternative dispute
2 resolution proceedings.

3 3. Sovereign immunity. Nothing in this compact shall be construed to
4 be a waiver of sovereign immunity.

5 4. Membership, voting and meetings. a. Each party state shall have and
6 be limited to one administrator. The head of the state licensing board
7 or designee shall be the administrator of this compact for each party
8 state. Any administrator may be removed or suspended from office as
9 provided by the law of the state from which the administrator is
10 appointed. Any vacancy occurring in the commission shall be filled in
11 accordance with the laws of the party state in which the vacancy exists.

12 b. Each administrator shall be entitled to one vote with regard to the
13 promulgation of rules and creation of bylaws and shall otherwise have an
14 opportunity to participate in the business and affairs of the commis-
15 sion. An administrator shall vote in person or by such other means as
16 provided in the bylaws. The bylaws may provide for an administrator's
17 participation in meetings by telephone or other means of communication.

18 c. The commission shall meet at least once during each calendar year.
19 Additional meetings shall be held as set forth in the bylaws or rules of
20 the commission.

21 d. All meetings shall be open to the public, and public notice of
22 meetings shall be given in the same manner as required under the rule-
23 making provisions in section eighty-nine hundred three of this article.

24 5. Closed meetings. a. The commission may convene in a closed, nonpub-
25 lic meeting if the commission shall discuss:

26 i. Noncompliance of a party state with its obligations under this
27 compact;

28 ii. The employment, compensation, discipline or other personnel
29 matters, practices or procedures related to specific employees or other
30 matters related to the commission's internal personnel practices and
31 procedures;

32 iii. Current, threatened or reasonably anticipated litigation;

33 iv. Negotiation of contracts for the purchase or sale of goods,
34 services or real estate;

35 v. Accusing any person of a crime or formally censuring any person;

36 vi. Disclosure of trade secrets or commercial or financial information
37 that is privileged or confidential;

38 vii. Disclosure of information of a personal nature where disclosure
39 would constitute a clearly unwarranted invasion of personal privacy;

40 viii. Disclosure of investigatory records compiled for law enforcement
41 purposes;

42 ix. Disclosure of information related to any reports prepared by or on
43 behalf of the commission for the purpose of investigation of compliance
44 with this compact; or

45 x. Matters specifically exempted from disclosure by federal or state
46 statute.

47 b. If a meeting, or portion of a meeting, is closed pursuant to this
48 paragraph the commission's legal counsel or designee shall certify that
49 the meeting may be closed and shall reference each relevant exempting
50 provision. The commission shall keep minutes that fully and clearly
51 describe all matters discussed in a meeting and shall provide a full and
52 accurate summary of actions taken, and the reasons therefor, including a
53 description of the views expressed. All documents considered in
54 connection with an action shall be identified in such minutes. All
55 minutes and documents of a closed meeting shall remain under seal,

1 subject to release by a majority vote of the commission or order of a
2 court of competent jurisdiction.

3 c. The commission shall, by a majority vote of the administrators,
4 prescribe bylaws or rules to govern its conduct as may be necessary or
5 appropriate to carry out the purposes and exercise the powers of this
6 compact, including but not limited to:

7 i. Establishing the fiscal year of the commission;

8 ii. Providing reasonable standards and procedures:

9 (1) For the establishment and meetings of other committees; and

10 (2) Governing any general or specific delegation of any authority or
11 function of the commission;

12 iii. Providing reasonable procedures for calling and conducting meet-
13 ings of the commission, ensuring reasonable advance notice of all meet-
14 ings and providing an opportunity for attendance of such meetings by
15 interested parties, with enumerated exceptions designed to protect the
16 public's interest, the privacy of individuals, and proprietary informa-
17 tion, including trade secrets. The commission may meet in closed session
18 only after a majority of the administrators vote to close a meeting in
19 whole or in part. As soon as practicable, the commission must make
20 public a copy of the vote to close the meeting revealing the vote of
21 each administrator, with no proxy votes allowed;

22 iv. Establishing the titles, duties and authority and reasonable
23 procedures for the election of the officers of the commission;

24 v. Providing reasonable standards and procedures for the establishment
25 of the personnel policies and programs of the commission. Notwithstand-
26 ing any civil service or other similar laws of any party state, the
27 bylaws shall exclusively govern the personnel policies and programs of
28 the commission; and

29 vi. Providing a mechanism for winding up the operations of the commis-
30 sion and the equitable disposition of any surplus funds that may exist
31 after the termination of this compact after the payment or reserving of
32 all of its debts and obligations.

33 6. General provisions. a. The commission shall publish its bylaws and
34 rules, and any amendments thereto, in a convenient form on the website
35 of the commission.

36 b. The commission shall maintain its financial records in accordance
37 with the bylaws.

38 c. The commission shall meet and take such actions as are consistent
39 with the provisions of this compact and the bylaws.

40 7. Powers of the commission. The commission shall have the following
41 powers:

42 a. To promulgate uniform rules to facilitate and coordinate implemen-
43 tation and administration of this compact. The rules shall have the
44 force and effect of law and shall be binding in all party states;

45 b. To bring and prosecute legal proceedings or actions in the name of
46 the commission, provided that the standing of any licensing board to sue
47 or be sued under applicable law shall not be affected;

48 c. To purchase and maintain insurance and bonds;

49 d. To borrow, accept or contract for services of personnel, including,
50 but not limited to, employees of a party state or nonprofit organiza-
51 tions;

52 e. To cooperate with other organizations that administer state
53 compacts related to the regulation of nursing, including but not limited
54 to sharing administrative or staff expenses, office space or other
55 resources;

1 f. To hire employees, elect or appoint officers, fix compensation,
2 define duties, grant such individuals appropriate authority to carry out
3 the purposes of this compact, and to establish the commission's person-
4 nel policies and programs relating to conflicts of interest, qualifica-
5 tions of personnel and other related personnel matters;

6 g. To accept any and all appropriate donations, grants and gifts of
7 money, equipment, supplies, materials and services, and to receive,
8 utilize and dispose of the same; provided that at all times the commis-
9 sion shall avoid any appearance of impropriety or conflict of interest;

10 h. To lease, purchase, accept appropriate gifts or donations of, or
11 otherwise to own, hold, improve or use, any property, whether real,
12 personal or mixed; provided that at all times the commission shall avoid
13 any appearance of impropriety;

14 i. To sell, convey, mortgage, pledge, lease, exchange, abandon or
15 otherwise dispose of any property, whether real, personal or mixed;

16 j. To establish a budget and make expenditures;

17 k. To borrow money;

18 l. To appoint committees, including advisory committees comprised of
19 administrators, state nursing regulators, state legislators or their
20 representatives, and consumer representatives, and other such interested
21 persons;

22 m. To provide and receive information from, and to cooperate with, law
23 enforcement agencies;

24 n. To adopt and use an official seal; and

25 o. To perform such other functions as may be necessary or appropriate
26 to achieve the purposes of this compact consistent with the state regu-
27 lation of nurse licensure and practice.

28 8. Financing of the commission. a. The commission shall pay, or
29 provide for the payment of, the reasonable expenses of its establish-
30 ment, organization and ongoing activities.

31 b. The commission may also levy on and collect an annual assessment
32 from each party state to cover the cost of its operations, activities
33 and staff in its annual budget as approved each year. The aggregate
34 annual assessment amount, if any, shall be allocated based upon a formu-
35 la to be determined by the commission, which shall promulgate a rule
36 that is binding upon all party states.

37 c. The commission shall not incur obligations of any kind prior to
38 securing the funds adequate to meet the same; nor shall the commission
39 pledge the credit of any of the party states, except by, and with the
40 authority of, such party state.

41 d. The commission shall keep accurate accounts of all receipts and
42 disbursements. The receipts and disbursements of the commission shall be
43 subject to the audit and accounting procedures established under its
44 bylaws. However, all receipts and disbursements of funds handled by the
45 commission shall be audited yearly by a certified or licensed public
46 accountant, and the report of the audit shall be included in and become
47 part of the annual report of the commission.

48 9. Qualified immunity, defense and indemnification. a. The administra-
49 tors, officers, executive director, employees and representatives of the
50 commission shall be immune from suit and liability, either personally or
51 in their official capacity, for any claim for damage to or loss of prop-
52 erty or personal injury or other civil liability caused by or arising
53 out of any actual or alleged act, error or omission that occurred, or
54 that the person against whom the claim is made had a reasonable basis
55 for believing occurred, within the scope of the commission's employment,
56 duties or responsibilities; provided that nothing in this paragraph

1 shall be construed to protect any such person from suit or liability for
2 any damage, loss, injury or liability caused by the intentional, willful
3 or wanton misconduct of that person.

4 b. The commission shall defend any administrator, officer, executive
5 director, employee or representative of the commission in any civil
6 action seeking to impose liability arising out of any actual or alleged
7 act, error or omission that occurred within the scope of the commis-
8 sion's employment, duties or responsibilities, or that the person
9 against whom the claim is made had a reasonable basis for believing
10 occurred within the scope of the commission's employment, duties or
11 responsibilities; provided that nothing herein shall be construed to
12 prohibit that person from retaining his or her own counsel; and provided
13 further that the actual or alleged act, error or omission did not result
14 from that person's intentional, willful or wanton misconduct.

15 c. The commission shall indemnify and hold harmless any administrator,
16 officer, executive director, employee or representative of the commis-
17 sion for the amount of any settlement or judgment obtained against that
18 person arising out of any actual or alleged act, error or omission that
19 occurred within the scope of the commission's employment, duties or
20 responsibilities, or that such person had a reasonable basis for believ-
21 ing occurred within the scope of the commission's employment, duties or
22 responsibilities, provided that the actual or alleged act, error or
23 omission did not result from the intentional, willful or wanton miscon-
24 duct of that person.

25 § 8908. Rulemaking. 1. Rulemaking. a. The commission shall exercise
26 its rulemaking powers pursuant to the criteria set forth in this article
27 and the rules adopted thereunder. Rules and amendments shall become
28 binding as of the date specified in each rule or amendment and shall
29 have the same force and effect as provisions of this compact.

30 b. Rules or amendments to the rules shall be adopted at a regular or
31 special meeting of the commission.

32 2. Notice. a. Prior to promulgation and adoption of a final rule or
33 rules by the commission, and at least sixty days in advance of the meet-
34 ing at which the rule will be considered and voted upon, the commission
35 shall file a notice of proposed rulemaking:

36 i. On the website of the commission; and
37 ii. On the website of each licensing board or the publication in which
38 each state would otherwise publish proposed rules.

39 b. The notice of proposed rulemaking shall include:

40 i. The proposed time, date and location of the meeting in which the
41 rule will be considered and voted upon;

42 ii. The text of the proposed rule or amendment, and the reason for the
43 proposed rule;

44 iii. A request for comments on the proposed rule from any interested
45 person; and

46 iv. The manner in which interested persons may submit notice to the
47 commission of their intention to attend the public hearing and any writ-
48 ten comments.

49 c. Prior to adoption of a proposed rule, the commission shall allow
50 persons to submit written data, facts, opinions and arguments, which
51 shall be made available to the public.

52 3. Public hearings on rules. a. The commission shall grant an opportu-
53 nity for a public hearing before it adopts a rule or amendment.

54 b. The commission shall publish the place, time and date of the sched-
55 uled public hearing.

1 i. Hearings shall be conducted in a manner providing each person who
2 wishes to comment a fair and reasonable opportunity to comment orally or
3 in writing. All hearings will be recorded, and a copy will be made
4 available upon request.

5 ii. Nothing in this section shall be construed as requiring a separate
6 hearing on each rule. Rules may be grouped for the convenience of the
7 commission at hearings required by this section.

8 c. If no one appears at the public hearing, the commission may proceed
9 with promulgation of the proposed rule.

10 d. Following the scheduled hearing date, or by the close of business
11 on the scheduled hearing date if the hearing was not held, the commis-
12 sion shall consider all written and oral comments received.

13 4. Voting on rules. The commission shall, by majority vote of all
14 administrators, take final action on the proposed rule and shall deter-
15 mine the effective date of the rule, if any, based on the rulemaking
16 record and the full text of the rule.

17 5. Emergency rules. Upon determination that an emergency exists, the
18 commission may consider and adopt an emergency rule without prior
19 notice, opportunity for comment or hearing, provided that the usual
20 rulemaking procedures provided in this compact and in this section shall
21 be retroactively applied to the rule as soon as reasonably possible, in
22 no event later than ninety days after the effective date of the rule.
23 For the purposes of this provision, an emergency rule is one that must
24 be adopted immediately in order to:

25 a. Meet an imminent threat to public health, safety or welfare;

26 b. Prevent a loss of the commission or party state funds; or

27 c. Meet a deadline for the promulgation of an administrative rule that
28 is required by federal law or rule.

29 6. Revisions. The commission may direct revisions to a previously
30 adopted rule or amendment for purposes of correcting typographical
31 errors, errors in format, errors in consistency or grammatical errors.
32 Public notice of any revisions shall be posted on the website of the
33 commission. The revision shall be subject to challenge by any person for
34 a period of thirty days after posting. The revision may be challenged
35 only on grounds that the revision results in a material change to a
36 rule. A challenge shall be made in writing, and delivered to the
37 commission, prior to the end of the notice period. If no challenge is
38 made, the revision will take effect without further action. If the
39 revision is challenged, the revision may not take effect without the
40 approval of the commission.

41 § 8909. Oversight, dispute resolution and enforcement. 1. Oversight.

42 a. Each party state shall enforce this compact and take all actions
43 necessary and appropriate to effectuate this compact's purposes and
44 intent.

45 b. The commission shall be entitled to receive service of process in
46 any proceeding that may affect the powers, responsibilities or actions
47 of the commission, and shall have standing to intervene in such a
48 proceeding for all purposes. Failure to provide service of process in
49 such proceeding to the commission shall render a judgment or order void
50 as to the commission, this compact or promulgated rules.

51 2. Default, technical assistance and termination. a. If the commission
52 determines that a party state has defaulted in the performance of its
53 obligations or responsibilities under this compact or the promulgated
54 rules, the commission shall:

1 i. Provide written notice to the defaulting state and other party
2 states of the nature of the default, the proposed means of curing the
3 default or any other action to be taken by the commission; and

4 ii. Provide remedial training and specific technical assistance
5 regarding the default.

6 b. If a state in default fails to cure the default, the defaulting
7 state's membership in this compact may be terminated upon an affirmative
8 vote of a majority of the administrators, and all rights, privileges and
9 benefits conferred by this compact may be terminated on the effective
10 date of termination. A cure of the default does not relieve the offend-
11 ing state of obligations or liabilities incurred during the period of
12 default.

13 c. Termination of membership in this compact shall be imposed only
14 after all other means of securing compliance have been exhausted. Notice
15 of intent to suspend or terminate shall be given by the commission to
16 the governor of the defaulting state and to the executive officer of the
17 defaulting state's licensing board and each of the party states.

18 d. A state whose membership in this compact has been terminated is
19 responsible for all assessments, obligations and liabilities incurred
20 through the effective date of termination, including obligations that
21 extend beyond the effective date of termination.

22 e. The commission shall not bear any costs related to a state that is
23 found to be in default or whose membership in this compact has been
24 terminated unless agreed upon in writing between the commission and the
25 defaulting state.

26 f. The defaulting state may appeal the action of the commission by
27 petitioning the U.S. District Court for the District of Columbia or the
28 federal district in which the commission has its principal offices. The
29 prevailing party shall be awarded all costs of such litigation, includ-
30 ing reasonable attorneys' fees.

31 3. Dispute resolution. a. Upon request by a party state, the commis-
32 sion shall attempt to resolve disputes related to the compact that arise
33 among party states and between party and non-party states.

34 b. The commission shall promulgate a rule providing for both mediation
35 and binding dispute resolution for disputes, as appropriate.

36 c. In the event the commission cannot resolve disputes among party
37 states arising under this compact:

38 i. The party states may submit the issues in dispute to an arbitration
39 panel, which will be comprised of individuals appointed by the compact
40 administrator in each of the affected party states, and an individual
41 mutually agreed upon by the compact administrators of all the party
42 states involved in the dispute.

43 ii. The decision of a majority of the arbitrators shall be final and
44 binding.

45 4. Enforcement. a. The commission, in the reasonable exercise of its
46 discretion, shall enforce the provisions and rules of this compact.

47 b. By majority vote, the commission may initiate legal action in the
48 U.S. District Court for the District of Columbia or the federal
49 district in which the commission has its principal offices against a
50 party state that is in default to enforce compliance with the provisions
51 of this compact and its promulgated rules and bylaws. The relief sought
52 may include both injunctive relief and damages. In the event judicial
53 enforcement is necessary, the prevailing party shall be awarded all
54 costs of such litigation, including reasonable attorneys' fees.

1 c. The remedies herein shall not be the exclusive remedies of the
2 commission. The commission may pursue any other remedies available under
3 federal or state law.

4 § 8910. Effective date, withdrawal and amendment. 1. Effective date.
5 a. This compact shall become effective and binding on the earlier of
6 the date of legislative enactment of this compact into law by no less
7 than twenty-six states or the effective date of the chapter of the laws
8 of two thousand twenty-three that enacted this compact. Thereafter, the
9 compact shall become effective and binding as to any other compacting
10 state upon enactment of the compact into law by that state. All party
11 states to this compact, that also were parties to the prior nurse licensure
12 compact, superseded by this compact, (herein referred to as "prior
13 compact"), shall be deemed to have withdrawn from said prior compact
14 within six months after the effective date of this compact.

15 b. Each party state to this compact shall continue to recognize a
16 nurse's multistate licensure privilege to practice in that party state
17 issued under the prior compact until such party state has withdrawn from
18 the prior compact.

19 2. Withdrawal. a. Any party state may withdraw from this compact by
20 enacting a statute repealing the same. A party state's withdrawal shall
21 not take effect until six months after enactment of the repealing stat-
22 ute.

23 b. A party state's withdrawal or termination shall not affect the
24 continuing requirement of the withdrawing or terminated state's licens-
25 ing board to report adverse actions and significant investigations
26 occurring prior to the effective date of such withdrawal or termination.

27 c. Nothing contained in this compact shall be construed to invalidate
28 or prevent any nurse licensure agreement or other cooperative arrange-
29 ment between a party state and a non-party state that is made in accord-
30 ance with the other provisions of this compact.

31 3. Amendment. a. This compact may be amended by the party states. No
32 amendment to this compact shall become effective and binding upon the
33 party states unless and until it is enacted into the laws of all party
34 states.

35 b. Representatives of non-party states to this compact shall be
36 invited to participate in the activities of the commission, on a nonvot-
37 ing basis, prior to the adoption of this compact by all states.

38 § 8911. Construction and severability. 1. Construction and severabil-
39 ity. This compact shall be liberally construed so as to effectuate the
40 purposes thereof. The provisions of this compact shall be severable, and
41 if any phrase, clause, sentence or provision of this compact is declared
42 to be contrary to the constitution of any party state or of the United
43 States, or if the applicability thereof to any government, agency,
44 person or circumstance is held to be invalid, the validity of the
45 remainder of this compact and the applicability thereof to any govern-
46 ment, agency, person or circumstance shall not be affected thereby. If
47 this compact shall be held to be contrary to the constitution of any
48 party state, this compact shall remain in full force and effect as to
49 the remaining party states and in full force and effect as to the party
50 state affected as to all severable matters.

51 § 32. Section 6501 of the education law is amended by adding a new
52 subdivision 3 to read as follows:

53 3. a. an applicant for licensure in a qualified high-need healthcare
54 profession who provides documentation and attestation that he or she
55 holds a license in good standing from another state, may request the
56 issuance of a temporary practice permit, which, if granted will permit

1 the applicant to work under the supervision of a New York state licensee
2 in accordance with regulations of the commissioner. The department may
3 grant such temporary practice permit when it appears based on the appli-
4 cation and supporting documentation received that the applicant will
5 meet the requirements for licensure in this state because he or she has
6 provided documentation and attestation that they hold a license in good
7 standing from another state with significantly comparable licensure
8 requirements to those of this state, except the department has not been
9 able to secure direct source verification of the applicant's underlying
10 credentials (e.g., license verification, receipt of original transcript,
11 experience verification). Such permit shall be valid for six months or
12 until ten days after notification that the applicant does not meet the
13 qualifications for licensure. An additional six months may be granted
14 upon a determination by the department that the applicant is expected to
15 qualify for the full license upon receipt of the remaining direct source
16 verification documents requested by the department in such time period
17 and that the delay in providing the necessary documentation for full
18 licensure was due to extenuating circumstances which the applicant could
19 not avoid.

20 b. a temporary practice permit issued under paragraph a of this subdivi-
21 vision shall be subject to the full disciplinary and regulatory authori-
22 ty of the board of regents and the department, pursuant to this title,
23 as if such authorization were a professional license issued under this
24 article.

25 c. for purposes of this subdivision "high-need healthcare profession"
26 means a licensed healthcare profession of which there are an insuffi-
27 cient number of licensees to serve in the state or a region of the
28 state, as determined by the commissioner of health, in consultation with
29 the commissioner of education. The commissioner of health shall main-
30 tain a list of such licensed professions, which shall be posted online
31 and updated from time to time as warranted.

32 § 33. This act shall take effect immediately; provided however, that:

33 a. section seven of this act shall take effect nine months after it
34 shall have become a law;

35 b. sections seventeen, eighteen, nineteen, twenty, twenty-one, twen-
36 ty-two and twenty-three of this act shall take effect one year after it
37 shall have become a law;

38 c. sections twenty-seven, twenty-eight and twenty-nine of this act
39 shall expire and be deemed repealed two years after they shall have
40 become a law;

41 d. sections thirty and thirty-one of this act shall be deemed to
42 have been in full force and effect on and after April 1, 2023;

43 e. section thirty-two of this act shall take effect on the ninetieth
44 day after it shall have become a law;

45 f. the amendments to section 6801-a of the education law made by
46 section nine of this act shall not affect the repeal of such section and
47 shall be deemed to be repealed therewith; and

48 g. the amendments to subdivision 2 of section 6908 of the education
49 law made by section twenty-four of this act shall not affect the repeal
50 of such subdivision and shall be deemed to be repealed therewith.

51 h. the amendments to subdivision 8 of section 6909 of the education
52 law made by section twenty-five of this act shall not affect the repeal
53 of such subdivision and shall be deemed repealed therewith.

54 Effective immediately, the addition, amendment and/or repeal of any
55 rule or regulation necessary for the implementation of this act on its

1 effective date are authorized and directed to be made and completed on
2 or before such effective date.

3 PART X

4 Section 1. The public health law is amended by adding a new article
5 29-K to read as follows:

6 ARTICLE 29-K

7 REGISTRATION OF TEMPORARY HEALTH CARE SERVICES AGENCIES

8 Section 2999-ii. Definitions.

9 2999-jj. Registration of temporary health care services agen-
10 cies; requirements.

11 2999-kk. Temporary health care services agencies; minimum stand-
12 ards.

13 2999-ll. Violations; penalties.

14 2999-mm. Rates for temporary health care services; reports.

15 § 2999-ii. Definitions. For the purposes of this article:

16 1. "Certified nurse aide" means a person included in the nursing home
17 nurse aide registry pursuant to section twenty-eight hundred three-j of
18 this chapter as added by chapter seven hundred seventeen of the laws of
19 nineteen hundred eighty-nine.

20 2. "Controlling person" means a person, officer, program administra-
21 tor, or director whose responsibilities include the direction of the
22 management or policies of a temporary health care services agency.
23 "Controlling person" also means an individual who, directly owns at
24 least ten percent voting interest in a corporation, partnership, or
25 other business entity that is a controlling person.

26 3. "Health care entity" means an agency, corporation, facility, or
27 individual providing medical or health care services.

28 4. "Health care personnel" means nurses, certified nurse aides and
29 licensed or unlicensed direct care workers employed by the temporary
30 health care services agency to provide temporary services in a health
31 care entity.

32 5. "Nurse" means a registered professional nurse, or a licensed prac-
33 tical nurse as defined by article one hundred thirty-nine of the educa-
34 tion law.

35 6. "Direct care worker" means an employee who is responsible for
36 patient/resident handling or patient/resident assessment as a regular or
37 incidental part of their employment, including any licensed or unli-
38 censed health care worker.

39 7. "Person" means an individual, firm, corporation, partnership, or
40 association.

41 8. "Temporary health care services agency" or "agency" means a person,
42 firm, corporation, partnership, association or other entity in the busi-
43 ness of providing or procuring temporary employment of health care
44 personnel for health care entities. Temporary health care services agen-
45 cy shall include a nurses' registry licensed under article eleven of the
46 general business law and entities that utilize apps or other technolo-
47 gy-based solutions to provide or procure temporary employment of health
48 care personnel in health care entities. Temporary health care services
49 agency shall not include: (a) an individual who only engages in provid-
50 ing the individual's own services on a temporary basis to health care
51 entities; or (b) a home care agency licensed under article thirty-six of
52 this chapter.

53 § 2999-jj. Registration of temporary health care services agencies;
54 requirements. 1. Any person who operates a temporary health care

1 services agency shall register the agency with the department. Each
2 separate location of the business of a temporary health care services
3 agency shall have a separate registration.

4 2. The commissioner shall publish guidelines establishing the forms
5 and procedures for applications for registration. Forms must include, at
6 a minimum all of the following:

7 (a) The names and addresses of the temporary health care services
8 agency controlling person or persons.

9 (b) The names and addresses of health care entities where the control-
10 ling person or persons or their family members:

11 (i) have an ownership relationship; or

12 (ii) direct the management or policies of such health care entities.

13 (c) A demonstration that the applicant is of good moral character and
14 able to comply with all applicable state laws and regulations relating
15 to the activities in which it intends to engage under the registration.

16 (d) Registration and registration annual renewal fees of one thousand
17 dollars and may only be used for the purpose of operating this registry.

18 (e) The state of incorporation of the agency.

19 (f) Any additional information that the commissioner determines is
20 necessary to properly evaluate an application for registration.

21 3. As a condition of registration, a temporary health care services
22 agency:

23 (a) Shall document that each temporary employee provided to health
24 care entities currently meets the minimum licensing, training, and
25 continuing education standards for the position in which the employee
26 will be working.

27 (b) Shall comply with all pertinent requirements and qualifications
28 for personnel employed in health care entities.

29 (c) Shall not restrict in any manner the employment opportunities of
30 its employees.

31 (d) Shall maintain insurance coverage for workers' compensation and
32 disability coverage for all health care personnel provided or procured
33 by the agency.

34 (e) Shall not require the payment of liquidated damages, employment
35 fees, or other compensation should the employee be hired as a permanent
36 employee of a health care entity in any contract with any employee or
37 health care entity or otherwise.

38 (f) Shall document that each temporary employee provided to health
39 care entities is jointly employed by the agency and the entity and is
40 not an independent contractor.

41 (g) Shall retain all records of employment for six calendar years and
42 make them available to the department upon request.

43 (h) Shall comply with any requests made by the department to examine
44 the books and records of the agency, subpoena witnesses and documents
45 and make such other investigation as is necessary in the event that the
46 department has reason to believe that the books or records do not accu-
47 ately reflect the financial condition or financial transactions of the
48 agency.

49 (i) Shall comply with any additional requirements the department may
50 deem necessary.

51 4. A registration issued by the commissioner according to this section
52 shall be effective for a period of one year, unless the registration is
53 revoked or suspended, or unless ownership interest of ten percent or
54 more, or management of the temporary health care services agency, is
55 sold or transferred. When ownership interest of ten percent or more, or
56 management of a temporary health care services agency is sold or trans-

ferred, the registration of the agency may be transferred to the new owner or operator for thirty days, or until the new owner or operator applies and is granted or denied a new registration, whichever is sooner.

5. The commissioner may, after appropriate notice and hearing, suspend, revoke, or refuse to issue or renew any registration or issue any fines established pursuant to section twenty-nine hundred ninety-nine-ll of this article if the applicant fails to comply with this article or any guidelines, rules and regulations promulgated thereunder.

6. The commissioner shall make available a list of temporary health care services agencies registered with the department on the department's public website.

7. The department shall publish a quarterly report containing aggregated and de-identified data collected pursuant to this article on the website of the department.

8. The department, in consultation with the department of labor, shall provide a report to the governor and legislature on or before March thirty-first, two thousand twenty-four, summarizing the key findings of the data collected pursuant to this article. The department shall further have authority to utilize any data collected pursuant to this article for additional purposes consistent with this chapter, including but not limited to determinations of whether an acute labor shortage exists, or any other purpose the department deems necessary for health care related data purposes.

9. The attorney general shall, upon the request of the department, bring an action for an injunction against any person who violates any provision of this article; provided, the department shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such action.

§ 2999-kk. Temporary health care services agencies; minimum standards.

1. A temporary health care services agency shall appoint an administrator qualified by training, experience or education to operate the agency. Each separate agency location shall have its own administrator.

2. A temporary health care services agency shall develop and maintain written employment policies and procedures. The agency shall inform its employees of the terms and conditions of employment by that agency at the time of hire, as well as no less than annually thereafter.

3. A temporary health care services agency shall maintain hours of operation at each of its locations sufficient to meet the obligations under its written agreements with health care entities.

4. A temporary health care services agency shall maintain a written agreement or contract with each health care entity, which shall include, at a minimum:

(a) The required minimum licensing, training, and continuing education requirements for each assigned health care personnel.

(b) Any requirement for minimum advance notice in order to ensure prompt arrival of assigned health care personnel.

(c) The maximum rates that can be billed or charged by the temporary health care services agency pursuant to section twenty-nine hundred ninety-nine-mm of this article and any applicable regulations.

(d) The rates to be charged by the temporary health care services agency.

(e) Procedures for the investigation and resolution of complaints about the performance of temporary health care services agency personnel.

1 (f) Procedures for notice from health care entities of failure of
2 medical personnel to report to assignments and for back-up staff in such
3 instances.

4 (g) Procedures for notice of actual or suspected abuse, theft, tamper-
5 ing or other diversion of controlled substances by medical personnel.

6 (h) The types and qualifications of health care personnel available
7 for assignment through the temporary health care services agency.

8 5. A temporary health care services agency shall submit to the depart-
9 ment copies of all contracts between the agency and a health care entity
10 to which it assigns or refers health care personnel, and copies of all
11 invoices to health care entities personnel. Executed contracts must be
12 sent to the department within five business days of their effective date
13 and are not subject to disclosure under article six of the public offi-
14 cers law.

15 6. The commissioner may promulgate regulations to implement the
16 requirements of this section and to establish additional minimum stand-
17 ards for the operation of temporary health care services agencies,
18 including but not limited to pricing, fees, administrative costs, and
19 business practices.

20 7. The commissioner may waive the requirements of this article during
21 a declared state or federal public health emergency.

22 § 2999-ll. Violations; penalties. In addition to other remedies avail-
23 able by law, violations of the provisions of this article and any regu-
24 lations promulgated thereunder shall be subject to penalties and fines
25 pursuant to section twelve of this chapter; provided, however, that each
26 violation committed by each individual employee of a temporary health
27 care services agency shall be considered a separate violation.

28 § 2999-mm. Rates for temporary health care services; reports. A tempo-
29 rary health care services agency shall report quarterly to the depart-
30 ment a full disclosure of charges and compensation, including a schedule
31 of all hourly bill rates per category of employee, a full description of
32 administrative charges, and a schedule of rates of all compensation per
33 category of employee, including, but not limited to:

34 1. hourly regular pay rate, shift differential, weekend differential,
35 hazard pay, charge nurse add-on, overtime, holiday pay, travel or mile-
36 age pay, and any health or other fringe benefits provided;

37 2. the percentage of health care entity dollars that the agency
38 expended on temporary personnel wages and benefits compared to the
39 temporary health care services agency's profits and other administrative
40 costs;

41 3. a list of the states and zip codes of their employees' primary
42 residences;

43 4. the names of all health care entities they have contracted within
44 New York state;

45 5. the number of employees of the temporary health care services agen-
46 cy working at each entity; and

47 6. any other information prescribed by the commissioner.

48 § 2. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after April 1, 2023.

50 PART Y

51 Section 1. This Part enacts into law major components of legislation
52 relating to medical debt and drug prices. Each component is wholly
53 contained within a Subpart identified as Subparts A through D. The
54 effective date for each particular provision contained within such

1 Subpart is set forth in the last section of such Subpart. Any provision
2 in any section contained within a Subpart, including the effective date
3 of the Subpart, which makes reference to a section "of this act", when
4 used in connection with that particular component, shall be deemed to
5 mean and refer to the corresponding section of the Subpart in which it
6 is found. Section three of this Part sets forth the general effective
7 date of this Part.

8 SUBPART A

9 Section 1. Subdivisions (f) and (j) of section 3215 of the civil prac-
10 tice law and rules, subdivision (f) as amended and subdivision (j) as
11 added by chapter 593 of the laws of 2021, subdivision (f) as separately
12 amended by chapter 831 of the laws of 2021, are amended to read as
13 follows:

14 (f) Proof. On any application for judgment by default, the applicant
15 shall file proof of service of the summons and the complaint, or a
16 summons and notice served pursuant to subdivision (b) of rule 305 or
17 subdivision (a) of rule 316 of this chapter, and proof of the facts
18 constituting the claim, the default and the amount due, including, if
19 applicable, a statement that the interest rate for consumer debt pursu-
20 ant to section five thousand four of this chapter applies, by affidavit
21 made by the party, or where the state of New York is the plaintiff, by
22 affidavit made by an attorney from the office of the attorney general
23 who has or obtains knowledge of such facts through review of state
24 records or otherwise. Where a verified complaint has been served, it may
25 be used as the affidavit of the facts constituting the claim and the
26 amount due; in such case, an affidavit as to the default shall be made
27 by the party or the party's attorney. In an action arising out of a
28 consumer credit transaction, if the plaintiff is not the original credi-
29 tor, the applicant shall include: (1) an affidavit by the original credi-
30 tor of the facts constituting the debt, the default in payment, the
31 sale or assignment of the debt, and the amount due at the time of sale
32 or assignment; (2) for each subsequent assignment or sale of the debt to
33 another entity, an affidavit of sale of the debt by the debt seller,
34 completed by the seller or assignor; and (3) an affidavit of a witness
35 of the plaintiff, which includes a chain of title of the debt, completed
36 by the plaintiff or plaintiff's witness. In an action arising from
37 medical debt, if the plaintiff is not a hospital licensed under article
38 twenty-eight of the public health law or a health care professional
39 authorized under title eight of the education law, the applicant shall
40 include: (1) an affidavit by the hospital or health care professional of
41 the facts constituting the medical debt, the default in payment, the
42 sale or assignment of the medical debt, and the amount due at the time
43 of sale or assignment; (2) for each subsequent assignment or sale of the
44 medical debt to another entity, an affidavit of sale of the medical debt
45 by the debt seller, completed by the seller or assignor; and (3) an
46 affidavit of a witness of the plaintiff, which includes a chain of title
47 of the medical debt, completed by the plaintiff or plaintiff's witness.
48 The chief administrative judge shall issue form affidavits to satisfy
49 the requirements of this subdivision for consumer credit transactions
50 and actions arising from medical debt. When jurisdiction is based on an
51 attachment of property, the affidavit must state that an order of
52 attachment granted in the action has been levied on the property of the
53 defendant, describe the property and state its value. Proof of mailing

the notice required by subdivision (g) of this section, where applicable, shall also be filed.

(j) Affidavit. A request for a default judgment entered by the clerk, must be accompanied by an affidavit by the plaintiff or plaintiff's attorney stating that after reasonable inquiry, he or she has reason to believe that the statute of limitations has not expired. The chief administrative judge shall issue form affidavits to satisfy the requirements of this subdivision for consumer credit transactions and actions arising from medical debt.

§ 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (cc) to read as follows:

(cc) Make available form affidavits required for a motion for default judgment in an action arising from medical debt as required by subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART B

Section 1. This act shall be known and may be cited as the "Prescription Drug Price and Supply Chain Transparency Act of 2023".

§ 2. Legislative intent. The state has a compelling interest in providing for transparency into the price of prescription drugs and the regulation of entities that play a role in the distribution of prescription drugs in this state. The impact of ever rising prescription drug costs impacts consumers in this state both at the pharmacy counter and in health plan premium costs. Prescription drug costs also have direct costs to the state fiscal, health insurance companies, pharmacies, pharmacy benefit managers, hospitals, employers, and unions.

§ 3. The insurance law is amended by adding a new article 30 to read as follows:

ARTICLE 30

PREScription DRUG PRICE AND SUPPLY CHAIN TRANSPARENCY

Section 3001. Definitions.

3002. Filing requirement.

3003. Special reports and other powers.

3004. Reporting of drug price increases.

3005. Reporting of pay for delay agreements.

3006. Registration of pharmacy services administrative organizations.

3007. Required disclosures by pharmacy services administrative organizations.

3008. Registration of pharmacy switch companies.

3009. Required disclosures by pharmacy switch companies.

3010. Registration of rebate aggregators.

3011. Required disclosures by rebate aggregators.

3012. Deposit of penalties and fees.

§ 3001. Definitions. (a) For the purposes of this article, the definitions contained in section two hundred eighty-a of the public health law shall apply to this article as if specifically set forth herein.

(b) The following words or phrases, as used in this article, shall have the following meanings, unless the context otherwise requires:

1 (1) "Manufacturer" means an entity engaged in the manufacture of
2 prescription drugs sold in this state.

3 (2) "Pharmacy services administrative organization" or "PSAO" means a
4 entity that is operating in this state and that contracts with a pharma-
5 cy for the purpose of conducting business on the pharmacy's behalf with
6 wholesalers, distributors, health plans or pharmacy benefit managers.

7 (3) "Rebate aggregator" means an entity that provides formulary rebate
8 administrative services for pharmacy benefit managers or otherwise nego-
9 tiates rebates with manufacturers on behalf of pharmacy benefit manag-
10 ers.

11 (4) "Switch company" means an entity that acts as an intermediary
12 between a pharmacy and a pharmacy benefit manager or health plan for the
13 purpose of routing insurance claims data to or from a pharmacy.

14 (5) "Wholesaler" means an entity that bottles, packs or purchases
15 drugs, devices or cosmetics for the purpose of selling or reselling to
16 pharmacies or to other channels.

17 § 3002. Filing requirement. Notwithstanding any law to the contrary,
18 any filing or submission required under this article shall be made elec-
19 tronically unless the entity required to make that filing or submission
20 demonstrates undue hardship, impracticability or good cause as required
21 by section three hundred sixteen of this chapter.

22 § 3003. Special reports and other powers. (a) The superintendent may
23 address to any entity required to register or report information under
24 this article, or its officers, or any agent or employee thereof any
25 inquiry in relation to its business or any matter connected therewith.
26 Every individual or entity so addressed shall reply in writing to such
27 inquiry promptly and truthfully, and such reply shall be, if required by
28 the superintendent, subscribed by such individual, or by such officer or
29 officers of the entity, or by such agent or employee of the entity as
30 the superintendent shall designate, and affirmed by them as true under
31 the penalties of perjury.

32 (b) In the event any individual or entity does not submit a good faith
33 response to an inquiry from the superintendent pursuant to subsection
34 (a) of this section within a time period specified by the superintendent
35 of not less than fifteen business days, the superintendent is authorized
36 to levy a civil penalty, after notice and hearing, against such person
37 not to exceed one thousand dollars per day for each day beyond the date
38 specified by the superintendent for response to the inquiry.

39 (c) In addition to all other powers granted by law, the superintendent
40 is hereby empowered to order any person or entity required to register
41 or report information under this article to cease and desist from
42 violations of this article and following issuance of such an order may
43 bring and maintain an action in any court of competent jurisdiction for
44 an injunction or other appropriate relief to enjoin threatened or exist-
45 ing violations of this article or of the superintendent's orders or
46 regulations, such action may specifically seek restitution on behalf of
47 persons aggrieved by a violation of this article or orders or regu-
48 lations of the superintendent.

49 (d) In addition to all other powers granted by law, whenever it shall
50 appear to the superintendent, either upon complaint or otherwise, that
51 in the course of its business within or from this state that any entity
52 shall have employed, or employs, or is about to employ any business
53 practice or shall have performed, or is performing, or is about to
54 perform any act in violation of this article or orders or regulations of
55 the superintendent, or the superintendent believes it to be in the
56 public interest that an investigation be made, the superintendent may,

1 in the superintendent's discretion, either require or permit such entity
2 or any agent or employee thereof, to file with the department a state-
3 ment in writing under oath or otherwise as to all the facts and circum-
4 stances concerning the subject matter that the superintendent believes
5 is in the public interest to investigate, and for that purpose may
6 prescribe forms upon which such statements shall be made. The super-
7 intendent may also require such other data and information as the super-
8 intendent may deem relevant and may make such special and independent
9 investigations as the superintendent may deem necessary in connection
10 with the matter. It shall be the duty of all public officers, their
11 deputies, assistants, subordinates, clerks or employees and all other
12 persons to render and furnish to the superintendent, when requested in
13 connection with an investigation under this subsection, all information
14 and assistance in their possession or within their power.

15 (e) Any entity who violates an order under subsection (c) or (d) of
16 this section shall be subject to a civil penalty, after notice and a
17 hearing, of not more than ten thousand dollars per act in violation, in
18 addition to any other penalty provided by law.

19 (f) Any communications or documents sent or received in connection
20 with an investigation under this article, and materials referring to
21 such information in the possession of the superintendent shall be confi-
22 dential and not subject to disclosure by the superintendent except where
23 and as the superintendent determines that disclosure is in the public
24 interest. This subsection shall not apply to information, documents and
25 materials in the possession and under the control of an entity other
26 than the superintendent.

27 § 3004. Reporting of drug price increases. (a)(1) No manufacturer or
28 wholesaler may charge any price for a drug based on an increase in
29 wholesale acquisition cost, average wholesale price, or any other metric
30 unless the manufacturer shall first report the price to the department.

31 (2) No entity may sell or distribute in this state any drug for which
32 a report was required to be made under this subsection until such report
33 is made.

34 (b) The report required by subsection (a) of this section shall be
35 made in a form and manner prescribed by the superintendent, shall be
36 made individually for each national drug code, and shall include the
37 following:

38 (1) the name or names of the drug;

39 (2) the national drug code for the drug;

40 (3) the price of the drug prior to the increase;

41 (4) the price of the drug following the increase;

42 (5) the effective date of the increase;

43 (6) the date on which the decision was made to increase the price; and

44 (7) the reason and justification for the increase.

45 (c) Not later than May first, two thousand twenty-five, the department
46 shall begin publishing reports received under this section on a publicly
47 accessible online database, which is searchable at least by manufacturer
48 name, drug name, and national drug code. Reports shall be posted not
49 later than fifteen business days after they are received and shall
50 remain on the database for not less than one hundred eighty days after
51 the effective date of the increase or the first date the report is post-
52 ed, whichever is later, provided, however, that the superintendent may
53 delay the posting of a report if posting within fifteen business days of
54 receipt is not feasible.

55 (d) Notwithstanding any law to the contrary, the information contained
56 in paragraphs six and seven of subsection (b) of this section or any

1 statement required under subsection (g) of this section, together with
2 any communications, documents, and materials referring to such informa-
3 tion in the possession of the superintendent, shall be confidential and
4 not subject to disclosure by the superintendent, except where the super-
5 intendent determines that disclosure is in the public interest. This
6 subsection shall not apply to information, documents and materials in
7 the possession and under the control of an entity other than the super-
8 intendent.

9 (e) No report shall be considered validly filed unless accompanied by
10 a filing fee in an amount set forth in this subsection.

11 (1) For any report involving an increase that will not take effect for
12 one hundred twenty days or more and for which the effective date of the
13 change is between the first of January and the thirty-first of January
14 and:

15 (A) for which the increase will result in a change of less than ten
16 percent per unit over the price of the same drug three hundred sixty-
17 five days before the effective date of the change, the fee shall be
18 twenty-five dollars;

19 (B) for which the increase will result in a change of less than twen-
20 ty-five percent per unit over the price of the same drug three hundred
21 sixty-five days before the effective date of the change, the fee shall
22 be twenty-five dollars;

23 (C) for which the increase will result in a change of less than fifty
24 percent per unit over the price of the same drug three hundred sixty-
25 five days before the effective date of the change, the fee shall be two
26 hundred fifty dollars; or

27 (D) for which the increase will result in a change of fifty percent or
28 greater per unit over the price of the same drug three hundred sixty-
29 five days before the effective date of the change, the fee shall be one
30 thousand dollars.

31 (2) For any report involving an increase that will not take effect for
32 one hundred twenty days or more and for which the effective date is
33 outside of the month of January and:

34 (A) for which the increase will result in a change of less than ten
35 percent per unit over the price of the same drug three hundred sixty-
36 five days before the effective date of the change, the fee shall be two
37 thousand five hundred dollars;

38 (B) for which the increase will result in a change of less than twen-
39 ty-five percent per unit over the price of the same drug three hundred
40 sixty-five days before the effective date of the change, the fee shall
41 be five thousand dollars;

42 (C) for which the increase will result in a change of less than fifty
43 percent per unit over the price of the same drug three hundred sixty-
44 five days before the effective date of the change, the fee shall be
45 seven thousand five hundred dollars; or

46 (D) for which the increase will result in a change of fifty percent or
47 greater per unit over the price of the same drug three hundred sixty-
48 five days before the effective date of the change, the fee shall be ten
49 thousand dollars.

50 (3) For any report involving an increase that will take effect in less
51 than one hundred twenty days and for which the effective date of the
52 change is between the first of January and the thirty-first of January
53 and:

54 (A) for which the increase will result in a change of less than ten
55 percent per unit over the price of the same drug three hundred sixty-

1 five days before the effective date of the change, the fee shall be two
2 thousand five hundred dollars;

3 (B) for which the increase will result in a change of less than twenty-
4 ty-five percent per unit over the price of the same drug three hundred
5 sixty-five days before the effective date of the change, the fee shall
6 be five thousand dollars;

7 (C) for which the increase will result in a change of less than fifty
8 percent per unit over the price of the same drug three hundred sixty-
9 five days before the effective date of the change, the fee shall be
10 seven thousand five hundred dollars; or

11 (D) for which the increase will result in a change of fifty percent or
12 greater per unit over the price of the same drug three hundred sixty-
13 five days before the effective date of the change, the fee shall be ten
14 thousand dollars.

15 (4) For any report involving an increase that will take effect in less
16 than one hundred twenty days and for which the effective date of the
17 change is outside of the month of January and:

18 (A) for which the increase will result in a change of less than ten
19 percent per unit over the price of the same drug three hundred sixty-
20 five days before the effective date of the change, the fee shall be
21 twenty-five thousand dollars;

22 (B) for which the increase will result in a change of less than twenty-
23 ty-five percent per unit over the price of the same drug three hundred
24 sixty-five days before the effective date of the change, the fee shall
25 be fifty thousand dollars;

26 (C) for which the increase will result in a change of less than fifty
27 percent per unit over the price of the same drug three hundred sixty-
28 five days before the effective date of the change, the fee shall be
29 seventy-five thousand dollars; or

30 (D) for which the increase will result in a change of fifty percent or
31 greater per unit over the price of the same drug three hundred sixty-
32 five days before the effective date of the change, the fee shall be one
33 hundred thousand dollars.

34 (5) For any report made after the effective date of the change, the
35 fee shall be one hundred thousand dollars plus ten thousand dollars for
36 each day after the effective date before the report is made.

37 (f) After notice and a hearing, the superintendent may impose a civil
38 penalty on any entity that violates subsection (a) of this section in an
39 amount not to exceed one million dollars per violation. In considering
40 the amount of any such civil penalty, the superintendent shall consider:

41 (1) the timing of the increase;

42 (2) the cost of the drug;

43 (3) the impact on consumers;

44 (4) whether such violation is a first offense; and

45 (5) remedial measures the entity has put in place to prevent future
46 violations.

47 (g) Whenever a report is made involving an increase that will take
48 effect in less than one hundred twenty days, the manufacturer of the
49 drug shall provide to the superintendent a statement of the reason that
50 the increase must take effect in less than one hundred twenty days. When
51 the superintendent believes it is in the public interest that an inves-
52 tigation be made, the superintendent may make independent and special
53 investigations into the matter as the superintendent deems appropriate.

54 § 3005. Reporting of pay for delay agreements. (a) Each manufacturer
55 doing business in this state that manufactures a brand name prescription
56 drug and enters into an arrangement, through agreement or otherwise,

1 with another pharmaceutical manufacturer that has the purpose or effect
2 of delaying or preventing such other manufacturer from introducing a
3 generic substitute for such drug into the marketplace shall, not later
4 than thirty days after entering into such arrangement, send notice to
5 the superintendent, in a form and manner prescribed by the superinten-
6 dent, disclosing the name of such drug, the wholesale price, the disease
7 or diseases such drug is commonly prescribed to treat, the manufacturer
8 of such drug, the name of the generic manufacturer, the length of the
9 delay, and such other information as the superintendent may require.

10 (b) The superintendent shall, no later than thirty days after receiv-
11 ing a notice pursuant to subsection (a) of this section, provide notice
12 of the filing to the drug accountability board, the drug utilization
13 review board established under section three hundred sixty-nine-bb of
14 the social services law and all Medicaid managed care plans, health
15 plans and pharmacy benefits managers. It shall be sufficient notice for
16 the superintendent to make available an email notification list to which
17 any of the aforementioned entities may elect to receive notice.

18 (c) No later than June first, two thousand twenty-four, the department
19 shall post on its website within thirty days of receipt thereof, all the
20 notices required pursuant to subsection (a) of this section in a format
21 and manner developed by the superintendent that is searchable by drug,
22 cost, disease, and manufacturer both for the brand and generic drug for
23 public review.

24 (d) Each notice required under subsection (a) of this section shall be
25 accompanied by a filing fee of one hundred dollars.

26 (e) For a violation by a manufacturer of a brand name drug who know-
27 ingly or negligently fails to notify the superintendent as required in
28 subsection (a) of this section, the superintendent shall fine such
29 manufacturer no less than five thousand dollars for each day such
30 manufacturer fails to properly notify the superintendent pursuant to the
31 requirements of this section for the first violation and no less than
32 ten thousand dollars for each day such manufacturer fails to properly
33 notify the superintendent pursuant to the requirements of this section
34 for each violation thereafter.

35 § 3006. Registration of pharmacy services administrative organiza-
36 tions. (a) No PSAO shall operate in this state after March thirty-
37 first, two thousand twenty-four without first registering with the
38 department.

39 (b) A PSAO seeking registration shall file, in a form and manner
40 determined by the superintendent, information that includes at a mini-
41 mum:

- 42 (1) the legal name of the entity;
- 43 (2) any trade or other names used by the entity;
- 44 (3) the organizational structure of the entity;
- 45 (4) the pharmacies located within this state with which the entity
46 provides services;
- 47 (5) the persons who exercise control of the entity;
- 48 (6) a primary point of contact for the entity;
- 49 (7) an agent for service of process;
- 50 (8) a set of audited financials for the prior fiscal year; and
- 51 (9) such other information as the superintendent shall require.

52 (c) The superintendent shall accept a registration only if the super-
53 intendent determines that all the required information has been provided
54 in a satisfactory form and has received payment of a nonrefundable
55 registration fee of five thousand dollars.

1 (d) If any of the information contained in the registration shall
2 change, the PSAO shall notify the department of the change in a form and
3 manner prescribed by the superintendent for such purpose within twenty-
4 one days of the change. The requirement to update shall include the
5 filing of a new set of audited financials upon adoption. For any change
6 other than new audited financials, the filing shall not be deemed
7 complete unless accompanied by a payment of a fee of fifty dollars.

8 (e) Every PSAO registration issued pursuant to this section shall
9 expire twelve months after the date of issue. A PSAO may renew its
10 registration for another twelve months upon the filing of an application
11 in conformity with this section.

12 (f) Before a PSAO registration shall be renewed, the PSAO shall file
13 an application for renewal in such form as the superintendent
14 prescribes, and pay a fee of five thousand dollars.

15 (g) If a PSAO files a renewal application with the superintendent at
16 least one month before its expiration, then the registration sought to
17 be renewed shall continue in full force and effect either until the
18 issuance by the superintendent of the renewal registration applied for
19 or until five days after the superintendent shall have refused to issue
20 such renewal registration and given notice of such refusal to the appli-
21 cant, otherwise the PSAO registration shall expire and the registrant
22 shall have no expectation of renewal.

23 § 3007. Required disclosures by pharmacy services administrative
24 organizations. (a) (1) Each PSAO shall at the time of registration
25 pursuant to section three thousand six of this article disclose to the
26 department the extent of any ownership or control of the PSAO or by the
27 PSAO of any parent company, subsidiary, or affiliate that:

28 (A) provides pharmacy services;
29 (B) provides prescription drug or device services; or
30 (C) manufactures, sells, or distributes prescription drugs, biolog-
31 icals, or medical devices.

32 (2) A PSAO shall furnish a copy of the disclosure made at the time of
33 registration to all pharmacies located in this state with which it has
34 contract in place at the time of the registration. A PSAO shall not
35 collect any fee for any services provided to a pharmacy for any period
36 beginning five days after the filing of a registration with the depart-
37 ment until the disclosure is sent to the pharmacy.

38 (3) Not later than April first, two thousand twenty-five, the depart-
39 ment shall publish all disclosures received under this subsection on a
40 publicly accessible online database, which is searchable at least by
41 PSAO name. All disclosures shall be posted not later than ten business
42 days after a registration is accepted and shall remain on the database
43 for the duration of the registration of the PSAO.

44 (b) (1) Prior to entering into any contract with any pharmacy located
45 in this state, including a contract with a group of pharmacies at least
46 one of which is in this state, a PSAO shall furnish to the pharmacy a
47 written disclosure of the information required to be disclosed in
48 subsection (a) of this section. No contract with a pharmacy shall be
49 enforceable against the pharmacy by a PSAO unless that PSAO makes this
50 disclosure prior to the agreement. In addition to any other power
51 conferred by law, the superintendent may prescribe the form and manner
52 of such disclosures.

53 (2) A PSAO that owns, is owned by, in whole or in part, or controls
54 any entity that manufactures, sells, or distributes prescription drugs,
55 biologicals, or medical devices shall not, as a condition of entering
56 into a contract with a pharmacy, require that the pharmacy purchase any

1 drugs or medical devices from an entity with which the PSAO has a finan-
2 cial interest, or an entity with an ownership interest in the PSAO.

3 (3) No PSAO shall enter into a contract with a pharmacy in this state
4 unless that contract shall provide that all remittances for claims
5 submitted by a pharmacy benefit manager or third-party payer on behalf
6 of a pharmacy to the PSAO shall be passed through by the PSAO to the
7 pharmacy within a reasonable amount of time, established in the
8 contract, after receipt of the remittance by the PSAO from the pharmacy
9 benefit manager or third-party payer.

10 (c) (1) A PSAO that provides, accepts, or processes a discount,
11 concession, or product voucher, to reduce, directly or indirectly, a
12 covered individual's out-of-pocket expense for the order, dispensing,
13 substitution, sale, or purchase of a prescription drug shall make avail-
14 able to each pharmacy in this state that it contracts with or which it
15 contracted with in the prior calendar year, an annual report that
16 includes:

17 (A) an aggregated total of all such transactions, by the pharmacy; and
18 (B) an aggregated total of any payments received by the PSAO itself
19 for providing, processing, or accepting any discount, concession, or
20 product voucher on behalf of a pharmacy.

21 (2) A pharmacy in this state that is a party to a contract with a PSAO
22 shall have a right to an accounting of the funds received by the PSAO
23 for goods or services provided by the pharmacy to patients and custom-
24 ers.

25 § 3008. Registration of pharmacy switch companies. (a) No switch
26 company may do business in this state after June thirtieth, two thousand
27 twenty-four without first registering with the department.

28 (b) A switch company seeking registration shall file with the depart-
29 ment, in a form and manner determined by the superintendent, information
30 including but not limited to:

31 (1) the legal name of the entity;
32 (2) any trade or other names used by the entity;
33 (3) the organizational structure of the entity;
34 (4) the pharmacies located within this state and the pharmacy benefit
35 managers licensed in this state with which the entity provides services;
36 (5) the persons who exercise control of the entity;
37 (6) a primary point of contact for the entity;
38 (7) an agent for service of process;
39 (8) a set of audited financials for the prior fiscal year; and
40 (9) such other information or documents as the superintendent shall
41 require.

42 (c) The superintendent shall accept a registration only if he or she
43 deems that all the required information has been provided in a satisfac-
44 tory form and has received payment of a nonrefundable registration fee
45 of one thousand dollars.

46 (d) If any of the information contained in the registration shall
47 change, the switch company shall notify the department of the change in
48 a form and manner prescribed by the superintendent for such purpose
49 within twenty-one days of the change. The requirement to update shall
50 include the filing of a new set of audited financials upon adoption. For
51 any change other than new audited financials, the filing shall not be
52 deemed complete unless accompanied by a payment of a fee of fifty
53 dollars.

54 (e) Every pharmacy switch company's registration shall expire twelve
55 months after the date of issue. Every registration issued pursuant to

1 this section may be renewed for the ensuing period of twelve months upon
2 the filing of an application in conformity with this subsection.

3 (f) Before a pharmacy switch company's registration shall be renewed,
4 the pharmacy switch company shall properly file in the office of the
5 superintendent an application for renewal in such form as the super-
6 intendent prescribes, and pay a fee of one thousand dollars.

7 (g) If an application for a renewal registration shall have been filed
8 with the superintendent at least one month before its expiration, then
9 the registration sought to be renewed shall continue in full force and
10 effect either until the issuance by the superintendent of the renewal
11 registration applied for or until five days after the superintendent
12 shall have refused to issue such renewal registration and given notice
13 of such refusal to the applicant, otherwise the registration shall
14 expire and the registrant shall have no expectation of renewal.

15 § 3009. Required disclosures by pharmacy switch companies. (a) Each
16 switch company shall annually disclose to the department, in a form and
17 manner prescribed by the superintendent, such information as the super-
18 intendent deems necessary for the proper supervision of the industry.
19 Such information shall include:

20 (1) a list of services the switch company provides and the industries
21 to which they are provided;

22 (2) information on electronic voucher services provided by the switch
23 company, including:

24 (A) a list of manufacturers that the switch company has contracts with
25 or for which it transmits electronic vouchers;

26 (B) a list of medications and the National Drug Codes (NDCs) for which
27 the switch company may apply electronic vouchers; and

28 (C) the total amount of money collected from manufacturers related to
29 transmission of electronic vouchers; and

30 (3) the number of transactions processed in this state and the total
31 amount of revenue attributable to those transactions.

32 (b) A switch company shall disclose to each pharmacy benefit manager
33 with which it does business any instance in which an electronic voucher
34 was applied in the course of routing the claim.

35 § 3010. Registration of rebate aggregators. (a) No rebate aggregator
36 may do business in this state after September thirtieth, two thousand
37 twenty-four without first registering with the department.

38 (b) A rebate aggregator seeking registration shall file, in a form and
39 manner determined by the superintendent, information including but not
40 limited to:

41 (1) the legal name of the entity;

42 (2) any trade or other names used by the entity;

43 (3) the organizational structure of the entity;

44 (4) the health plans and the pharmacy benefit managers licensed in
45 this state for which the entity provides services;

46 (5) the persons who exercise control of the entity;

47 (6) a primary point of contact for the entity;

48 (7) an agent for service of process;

49 (8) a set of audited financials for the prior fiscal year; and

50 (9) such other information or documents as the superintendent shall
51 require.

52 (c) The superintendent shall accept a registration only if he or she
53 deems that all the required information has been provided in a satisfac-
54 tory form and has received payment of a nonrefundable registration fee
55 of one thousand dollars.

1 (d) If any of the information contained in the registration shall
2 change the rebate aggregator shall notify the department of the change
3 in a form and manner prescribed by the superintendent for such purpose
4 within twenty-one days of the change. The requirement to update shall
5 include the filing of a new set of audited financials upon adoption. For
6 any change other than new audited financials, the filing shall not be
7 deemed complete unless accompanied by a payment of a fee of fifty
8 dollars.

9 (e) Every rebate aggregator's registration shall expire twelve months
10 after the date of issue. Every registration issued pursuant to this
11 section may be renewed for the ensuing period of twelve months upon the
12 filing of an application in conformity with this subsection.

13 (f) Before a rebate aggregator's registration shall be renewed, the
14 rebate aggregator shall properly file in the office of the superinten-
15 dent an application for renewal in such form as the superintendent
16 prescribes, and pay a fee of one thousand dollars.

17 (g) If an application for a renewal registration shall have been filed
18 with the superintendent at least one month before its expiration, then
19 the registration sought to be renewed shall continue in full force and
20 effect either until the issuance by the superintendent of the renewal
21 registration applied for or until five days after the superintendent
22 shall have refused to issue such renewal registration and given notice
23 of such refusal to the applicant, otherwise the registration shall
24 expire and the registrant shall have no expectation of renewal.

25 § 3011. Required disclosures by rebate aggregators. (a) Each rebate
26 aggregator that has a contract or arrangement with a pharmacy benefit
27 manager serving a health plan shall, on an annual basis, disclose in
28 writing to the health plan the following:

29 (1) fee structure provisions of any contract or arrangement between
30 the rebate aggregator and pharmacy benefit manager or drug manufacturer,
31 including:

32 (A) fees collected for aggregating rebates due to the health plan; and

33 (B) such other information as the superintendent may require by regu-
34 lation; and

35 (2) quantification of inflationary payments, credits, grants,
36 reimbursements, other financial or other reimbursements, incentives,
37 inducements, refunds or other benefits received by the rebate aggregator
38 from the drug manufacturer and retained by the rebate aggregator, wheth-
39 er referred to as a rebate, a discount, or otherwise.

40 (b) (1) Each rebate aggregator shall, at the time of registration,
41 disclose to the department the extent of any ownership or control of the
42 rebate aggregator or by the rebate aggregator of any parent company,
43 subsidiary, or other affiliated organizations that provides pharmacy
44 benefit management services.

45 (2) Each rebate aggregator shall on an annual basis disclose to the
46 department the information requested by the superintendent, including:

47 (A) any payments made to a rebate aggregator by a drug manufacturer
48 relating to a drug's utilization, including inflationary payments, cred-
49 its, grants, reimbursements, other financial or other reimbursements,
50 incentives, inducements, refunds or other benefits received by the
51 rebate aggregator, whether referred to as a rebate, a discount, or
52 otherwise;

53 (B) any payments made, including those described in subparagraph (A)
54 of this paragraph and subsequently retained by a rebate aggregator;

55 (C) any fees charged by the rebate aggregator to the pharmacy benefit
56 manager or drug manufacturer relating to a drug's utilization;

(D) any payments made to a rebate aggregator from a program administered by a drug manufacturer for the purpose of assisting patients with the cost of prescription drugs, including copayment assistance programs, discount cards, and coupons; and

(E) the terms and conditions of any contract or arrangement between the rebate aggregator and a pharmacy benefit manager or drug manufacturer.

§ 3012. Deposit of penalties and fees. Penalties and fees collected pursuant to this article shall be deposited into the pharmacy benefit manager regulatory fund established pursuant to section ninety-nine-oo of the state finance law.

§ 4. Subdivision 3 of section 99-oo of the state finance law, as added by chapter 128 of the laws of 2022, is amended to read as follows:

3. Such fund shall consist of money received by the state as fees under ~~[article]~~ articles twenty-nine and thirty of the insurance law or penalties ordered under ~~[article]~~ articles twenty-nine and thirty of the insurance law and all other monies appropriated, credited, or transferred thereto from any other fund or source pursuant to law. All monies shall remain in such fund unless and until directed by statute or appropriation.

§ 5. This act shall take effect on the one hundred fiftieth day after it shall have become a law.

SUBPART C

Section 1. Subdivision 9 of section 2807-k of the public health law, as amended by section 17 of part B of chapter 60 of the laws of 2014, is amended to read as follows:

9. In order for a general hospital to participate in the distribution of funds from the pool, the general hospital must implement minimum collection policies and procedures approved by the commissioner, utilizing only a uniform financial assistance form developed and provided by the department.

§ 2. This act shall take effect April 1, 2024.

SUBPART D

Section 1. Legislative findings. The legislature finds that it is in the best interest of the people of this state to expand article 77 of the insurance law to protect insureds and health care providers against the failure or inability of a health or property/casualty insurer writing health insurance to perform its contractual obligations due to financial impairment or insolvency. The superintendent of financial services has the right and responsibility to enforce the insurance law and the authority to seek redress against any person responsible for the impairment or insolvency of the insurer, and nothing in this act is intended to restrict or limit such right, responsibility, or authority.

§ 2. The article heading of article 77 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

THE LIFE AND HEALTH INSURANCE COMPANY
GUARANTY CORPORATION
OF NEW YORK ACT

§ 3. Section 7701 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

1 § 7701. Short title. This article shall be known and may be cited as
2 "The Life and Health Insurance Company Guaranty Corporation of New York
3 Act".

4 § 4. Section 7702 of the insurance law, as amended by chapter 454 of
5 the laws of 2014, is amended to read as follows:

6 § 7702. Purpose. The purpose of this article is to provide funds to
7 protect policy owners, insureds, health care providers, beneficiaries,
8 annuitants, payees and assignees of life insurance policies, health
9 insurance policies, annuity contracts, funding agreements and supple-
10 mental contracts issued by life insurance companies, health insurance
11 companies, and property/casualty insurance companies, subject to certain
12 limitations, against failure in the performance of contractual obli-
13 gations due to the impairment or insolvency of the insurer issuing such
14 policies, contracts, or funding agreements. In the judgment of the
15 legislature, the foregoing objects and purposes not being capable of
16 accomplishment by a corporation created under general laws, the creation
17 of a not-for-profit corporation of insurers is provided for by this
18 article to enable the guarantee of payment of benefits and of continua-
19 tion of coverages, and members of the corporation are subject to assess-
20 ment to carry out the purposes of this article.

21 § 5. Paragraphs 1 and 2 of subsection (a) of section 7703 of the
22 insurance law, as added by chapter 454 of the laws of 2014, are amended
23 to read as follows:

24 (1) This article shall apply to direct life insurance policies, health
25 insurance policies, annuity contracts, funding agreements, and supple-
26 mental contracts issued by a life insurance company, health insurance
27 company, or property/casualty insurance company licensed to transact
28 life or health insurance or annuities in this state at the time the
29 policy, contract, or funding agreement was issued or on the date of
30 entry of a court order of liquidation or rehabilitation with respect to
31 such a company that is an impaired or insolvent insurer, as the case may
32 be.

33 (2) Except as otherwise provided in this section, this article shall
34 apply to the policies, contracts, and funding agreements specified in
35 paragraph one of this subsection with regard to a person who is:

36 (A) an owner or certificate holder under a policy, contract, or fund-
37 ing agreement and in each case who:

38 (i) is a resident of this state; or

39 (ii) is not a resident of this state, but only under all of the
40 following conditions:

41 (I) (aa) the insurer that issued the policy, contract, or agreement is
42 domiciled in this state; or

43 (bb) the insurer that issued the policy, contract, or agreement is
44 domiciled outside this state and the insurer delivered or issued for
45 delivery the policy, contract, or agreement in this state; provided,
46 however, that for the purpose of this subitem, any certificate issued to
47 an individual under any group or blanket policy or contract delivered or
48 issued for delivery in this state shall be considered to have been
49 delivered or issued for delivery in this state;

50 (II) the state or states in which the person resides has or have a
51 guaranty entity similar to the corporation created by this article; and

52 (III) the person is not eligible for coverage by a guaranty entity in
53 any other state because the insurer was not licensed or authorized in
54 that state at the time specified in that state's guaranty entity law;

55 [~~or~~]

(B) the beneficiary, assignee, or payee of the person specified in subparagraph (A) of this paragraph, regardless of where the person resides; or

(C) a health care provider that has rendered services to a person specified in subparagraph (A) of this paragraph.

§ 6. Subsections (c), (d), (e), (h), and (i) of section 7705 of the insurance law, subsections (c), (e) and (i) as added by chapter 802 of the laws of 1985 and subsections (d) and (h) as amended by chapter 454 of the laws of 2014, are amended and a new subsection (m) is added to read as follows:

(c) "Corporation" means The Life and Health Insurance Company Guaranty Corporation of New York created under section seven thousand seven hundred six of this article unless the context otherwise requires.

(d) "Covered policy" means any of the kinds of insurance specified in paragraph one, two or three of subsection (a) of section one thousand one hundred thirteen of this chapter, any supplemental contract, or any funding agreement referred to in section three thousand two hundred twenty-two of this chapter, or any portion or part thereof, within the scope of this article under section seven thousand seven hundred three of this article, except that any certificate issued to an individual under any group or blanket policy or contract shall be considered to be a separate covered policy for purposes of section seven thousand seven hundred eight of this article.

(e) "Health insurance" means the kinds of insurance specified under items (i) and (ii) of paragraph three and paragraph thirty-one of subsection (a) of section one thousand one hundred thirteen of this chapter, and section one thousand one hundred seventeen of this chapter; medical expense indemnity, dental expense indemnity, hospital service, or health service under article forty-three of this chapter; and comprehensive health services under article forty-four of the public health law. "Health insurance" shall not include hospital, medical, surgical, prescription drug, or other health care benefits pursuant to: (1) part C of title XVIII of the social security act (42 U.S.C. § 1395w-21 et seq.) or part D of title XVIII of the social security act (42 U.S.C. § 1395w-101 et seq.), commonly known as Medicare parts C and D, or any regulations promulgated thereunder; (2) titles XIX and XXI of the social security act (42 U.S.C. § 1396 et seq.), commonly known as the Medicaid and child health insurance programs, or any regulations promulgated thereunder; or (3) the basic health program under section three hundred sixty-nine-gg of the social services law.

(h) (1) "Member insurer" means:

(A) any life insurance company licensed to transact in this state any kind of insurance to which this article applies under section seven thousand seven hundred three of this article; provided, however, that the term "member insurer" also means any life insurance company formerly licensed to transact in this state any kind of insurance to which this article applies under section seven thousand seven hundred three of this article; and

(B) an insurer licensed or formerly licensed to write accident and health insurance or salary protection insurance in this state, corporation organized pursuant to article forty-three of this chapter, reciprocal insurer organized pursuant to article sixty-one of this chapter, cooperative property/casualty insurance company operating under or subject to article sixty-six of this chapter, nonprofit property/casualty insurance company organized pursuant to article sixty-seven of this chapter, and health maintenance organization certi-

1 fied pursuant to article forty-four of the public health law, which is
2 not a member of, or participant in, the fund or corporation created
3 pursuant to article seventy-five or seventy-seven of this chapter.

4 (2) "Member insurer" shall not include a municipal cooperative health
5 benefit plan established pursuant to article forty-seven of this chap-
6 ter, an employee welfare fund registered under article forty-four of
7 this chapter, a fraternal benefit society organized under article
8 forty-five of this chapter, an institution of higher education with a
9 certificate of authority under section one thousand one hundred twenty-
10 four of this chapter, or a continuing care retirement community with a
11 certificate of authority under article forty-six or forty-six-A of the
12 public health law.

13 (i) "Premiums" means direct gross insurance premiums and annuity and
14 funding agreement considerations received on covered policies, less
15 return premiums and considerations thereon and dividends paid or credit-
16 ed to policyholders or contract holders on such direct business, subject
17 to such modifications as the superintendent may establish by regulation
18 or order as necessary to facilitate the equitable administration of this
19 article. Premiums do not include premiums and considerations on
20 contracts between insurers and reinsurers. For the purposes of determin-
21 ing the assessment for an insurer under this article, the term "premi-
22 ums", with respect to a group annuity contract (or portion of any such
23 contract) that does not guarantee annuity benefits to any specific indi-
24 vidual identified in the contract and with respect to any funding agree-
25 ment issued to fund benefits under any employee benefit plan, means the
26 lesser of one million dollars or the premium attributable to that
27 portion of such group contract that does not guarantee benefits to any
28 specific individuals or such agreements that fund benefits under any
29 employee benefit plan.

30 (m) "Long-term care insurance" means an insurance policy, rider, or
31 certificate advertised, marketed, offered, or designed to provide cover-
32 age, subject to eligibility requirements, for not less than twenty-four
33 consecutive months for each covered person on an expense incurred,
34 indemnity, prepaid or other basis and provides at least the benefits set
35 forth in part fifty-two of title eleven of the official compilation of
36 codes, rules and regulations of this state.

37 § 7. Subsection (a) of section 7706 of the insurance law, as added by
38 chapter 802 of the laws of 1985, is amended to read as follows:

39 (a) There is created a not-for-profit corporation to be known as "The
40 Life and Health Insurance Company Guaranty Corporation of New York". To
41 the extent that the provisions of the not-for-profit corporation law do
42 not conflict with the provisions of this article or the plan of opera-
43 tion of the corporation hereunder the not-for-profit corporation law
44 shall apply to the corporation and the corporation shall be a type C
45 corporation pursuant to the not-for-profit corporation law. If an appli-
46 cable provision of this article or the plan of operation of the corpo-
47 ration hereunder relates to a matter embraced in a provision of the
48 not-for-profit corporation law but is not in conflict therewith, both
49 provisions shall apply. All member insurers shall be and remain members
50 of the corporation as a condition of their authority to transact insur-
51 ance in this state. The corporation shall perform its functions under
52 the plan of operation established and approved under section seven thou-
53 sand seven hundred ten of this article and shall exercise its powers
54 through a board of directors established under section seven thousand
55 seven hundred seven of this article. For purposes of administration and
56 assessment the corporation shall maintain two accounts:

(1) the health insurance account; and
(2) the life insurance, annuity and funding agreement account.
§ 8. Subsection (d) of section 7707 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

(d) The superintendent shall be ex-officio ~~chairman~~ chair of the board of directors but shall not be entitled to vote.

§ 9. Paragraph 7 of subsection (h) of section 7708 of the insurance law, as amended by chapter 454 of the laws of 2014, is amended to read as follows:

(7) exercise, for the purposes of this article and to the extent approved by the superintendent, the powers of a domestic life, health, or property/casualty insurance company, but in no case may the corporation issue insurance policies or contracts or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer;

§ 10. Paragraph 2 of subsection (c) of section 7709 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

(2) The amount of any class B or class C assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies or contracts covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies. The amount of any class B or class C assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the superintendent. The methodology shall provide for fifty percent of the assessment to be allocated to a health insurance company member insurer and fifty percent to be allocated to a life insurance company member insurer; provided, however, that a property/casualty insurer that writes health insurance shall be considered a health insurance company member for this purpose.

Class B and class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the three calendar years preceding the assessment bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

§ 11. Subsection (a) of section 7712 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

(a) The superintendent shall annually, within six months following the close of each calendar year, furnish to the commissioner of taxation and finance and the director of the division of the budget a statement of operations for the life insurance guaranty corporation and the life and health insurance company guaranty corporation of New York. Such statement shall show the assessments, less any refunds or reimbursements thereof, paid by each insurance company pursuant to the provisions of article seventy-five or section seven thousand seven hundred nine of this article, for the purposes of meeting the requirements of this chapter. Each statement, starting with the statement furnished in the year nineteen hundred eighty-six and ending with the statement furnished in the year two thousand, shall show the annual activity for every year commencing from nineteen hundred eighty-five through the most recently completed year. Each statement furnished in each year after the year two

1 thousand shall reflect such assessments paid during the preceding
2 fifteen calendar years. The superintendent shall also furnish a copy of
3 such statement to each such insurance company.

4 § 12. Subsections (a), (d), and (g) of section 7719 of the insurance
5 law, as added by chapter 454 of the laws of 2014, are amended to read as
6 follows:

7 (a) The corporation may incorporate one or more not-for-profit corpo-
8 rations, known as a resolution facility, in connection with the liqui-
9 dation of an insolvent domestic life insurance company, health insurance
10 company, or property/casualty insurance company under article seventy-
11 four of this chapter for the purpose of administering and disposing of
12 the business of the insolvent [~~domestic life~~] insurance company.

13 (d) A resolution facility may:

14 (1) guarantee, assume, or reinsure, or cause to be guaranteed,
15 assumed, or reinsured, the covered policies, or arrange for replacement
16 by policies found by the superintendent to be substantially similar to
17 the covered policies;

18 (2) exercise, for the purposes of this article and to the extent
19 approved by the superintendent, the powers of a domestic life insurance
20 company, health insurance company, or property/casualty insurance compa-
21 ny but in no case may the resolution facility issue insurance policies,
22 annuity contracts, funding agreements, or supplemental contracts other
23 than those issued to perform the contractual obligations of the impaired
24 or insolvent insurer;

25 (3) assure payment of the contractual obligations of the insolvent
26 insurer; and

27 (4) provide such moneys, pledges, notes, guarantees, or other means as
28 are reasonably necessary to discharge its duties.

29 (g) (1) If the superintendent determines that the resolution facility
30 is not administering and disposing of the business of an insolvent
31 domestic life insurance company, health insurance company, or
32 property/casualty insurance company consistent with the resolution
33 facility's certificate of incorporation, plan of operation, or this
34 section, then the superintendent shall provide notice to the resolution
35 facility and the resolution facility shall have thirty days to respond
36 to the superintendent and cure the defect.

37 (2) If, after thirty days, the superintendent continues to believe
38 that the resolution facility is not administering and disposing of the
39 business of an insolvent domestic life insurance company, health insur-
40 ance company, or property/casualty insurance company consistent with the
41 resolution facility's certificate of incorporation, plan of operation,
42 or this section, then the superintendent may apply to the court for an
43 order directing the resolution facility to correct the defect or take
44 other appropriate actions.

45 § 13. The insurance law is amended by adding a new section 7720 to
46 read as follows:

47 § 7720. Penalties. (a) If any member insurer fails to make any payment
48 required by this article, or if the superintendent has cause to believe
49 that any other statement filed is false or inaccurate in any particular,
50 or that any payment made is incorrect, the superintendent may examine
51 all the books and records of the member insurer to ascertain the facts
52 and determine the correct amount to be paid. Based on such finding, the
53 corporation may proceed in any court of competent jurisdiction to
54 recover for the benefit of the fund any sums shown to be due upon such
55 examination and determination.

(b) Any member insurer that fails to make any such required statement, or to make any payment to the fund when due, shall forfeit to the corporation for deposit in the fund a penalty of five percent of the amount determined to be due plus one percent of such amount for each month of delay, or fraction thereof, after the expiration of the first month of such delay. If satisfied that the delay was excusable, the corporation may remit all or any part of the penalty.

(c) The superintendent, in the superintendent's discretion, may revoke the certificate of authority to do business in this state of any foreign member insurer that fails to comply with this article or to pay any penalty imposed hereunder.

§ 14. The insurance law is amended by adding a new section 3245 to read as follows:

§ 3245. Liability to providers in the event of an insolvency. In the event an insurance company authorized to do an accident and health insurance business in this state is deemed insolvent, as provided in section one thousand three hundred nine of this chapter, no insured covered under a policy delivered or issued for delivery in this state by the insurance company shall be liable to any provider of health care services for any covered services of the insolvent insurance company. No provider of health care services or any representative of such provider shall collect or attempt to collect from the insured sums owed by such insurance company, and no provider or representative of such provider may maintain any action at law against an insured to collect sums owed to such provider by such insurance company.

§ 15. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Subparts A through D of this act shall be as specifically set forth in the last section of such Subparts.

PART Z

Section 1. Subdivisions 7 and 8 of section 4656 of the public health law, as added by chapter 2 of the laws of 2004, are renumbered subdivisions 8 and 9 and a new subdivision 7 is added to read as follows:

7. Assisted living quality improvement standards. (a) All assisted living residences, as defined in subdivision one of section forty-six hundred fifty-one of this article, including those licensed and certified as an assisted living residence, special needs assisted living residence, or enhanced assisted living residence, shall:

(i) report annually on quality measures to be established by the department, in the form and format prescribed by the department, with the first report due no later than January thirty-first, two thousand twenty-four; and

(ii) post the monthly service rate, staffing complement, approved admission or residency agreement, and a consumer-friendly summary of all service fees in a conspicuous place on the facility's website and in a

1 public space within the facility. Such information shall be made avail-
2 able to the public on forms developed by the department. Beginning on
3 January first, two thousand twenty-four, this information shall also be
4 reported to the department.

5 (b) The department shall score the results of the assisted living
6 quality reporting obtained pursuant to paragraph (a) of this subdivi-
7 sion. Top scoring facilities shall be granted the classification of
8 advanced standing on their annual surveillance schedules.

9 (i) Notwithstanding subparagraph one of paragraph (a) of subdivision
10 two of section four hundred sixty-one-a of the social services law,
11 facilities achieving an advanced standing classification shall be
12 surveyed every twelve to eighteen months. All other facilities shall be
13 surveyed on an unannounced basis no less than annually; provided, howev-
14 er, that this shall not apply to surveys, inspections or investigations
15 based on complaints received by the department under any other provision
16 of law.

17 (ii) Facilities may remain on advanced standing classification
18 provided they meet the scoring requirements in assisted living quality
19 reporting.

20 (c) (i) Effective January thirty-first, two thousand twenty-four, the
21 department may post on its website the results of the assisted living
22 quality reporting, collected pursuant to subparagraph (i) of paragraph
23 (a) of this subdivision.

24 § 2. Subparagraph 1 of paragraph (a) of subdivision 2 of section 461-a
25 of the social services law, as amended by chapter 735 of the laws of
26 1994, is amended and a new subparagraph (1-a) is added to read as
27 follows:

28 (1) Such facilities receiving the department's highest rating shall be
29 inspected at least once every eighteen months on an unannounced basis.
30 Such rating determination shall be made pursuant to an evaluation of
31 quality indicators as developed by the department and published on the
32 department's website.

33 (1-a) (i) Adult care facilities dually licensed to provide assisted
34 living pursuant to the requirements specified in section forty-six
35 hundred fifty-three of the public health law may seek accreditation by
36 one or more nationally recognized accrediting agencies determined by the
37 commissioner.

38 (ii) Such accreditation agencies shall report data and information, in
39 a manner and form as determined by the department, pertaining to those
40 assisted living residences accredited by such agencies, those assisted
41 living residences that seek but do not receive such accreditation, and
42 those assisted living residences which obtain but lose such accredi-
43 tation.

44 (iii) Notwithstanding the provisions of subparagraph one of this para-
45 graph, or any other provision of law, assisted living residences which
46 have obtained accreditation from a nationally recognized accreditation
47 organization approved by the department and which meet eligibility
48 criteria, as determined by the department, may, at the discretion of the
49 commissioner, be exempt from department inspection required in this
50 subdivision for the duration they maintain their accreditation in good
51 standing. The operator of an adult care facility that obtains but subse-
52 quently loses accreditation shall report such loss to the department
53 within ten business days in a manner and form determined by the depart-
54 ment and will no longer be exempt from the department inspection
55 required in this subdivision. The department shall post on its website a
56 list of all accredited assisted living residences.

1 § 3. This act shall take effect on the one hundred twentieth day after
2 it shall have become a law.

3 PART AA

4 Section 1. Section 3 of chapter 425 of the laws of 2013, amending the
5 public health law relating to requiring hospitals to offer hepatitis C
6 testing, as amended by chapter 284 of the laws of 2019, is amended to
7 read as follows:

8 § 3. This act shall take effect on the first of January next succeed-
9 ing the date on which it shall have become a law [~~and shall expire and~~
10 ~~be deemed repealed January 1, 2026; provided, however, that the commis-~~
11 ~~sioner of health is authorized to adopt rules and regulations necessary~~
12 ~~to implement this act prior to such effective date~~].

13 § 2. Subdivisions 1 and 2 of section 2171 of the public health law, as
14 added by chapter 425 of the laws of 2013, are amended to read as
15 follows:

16 1. Every individual [~~born between the years of nineteen hundred~~
17 ~~forty-five and nineteen hundred sixty-five~~] age eighteen and older (or
18 younger than eighteen if there is evidence or indication of risk activ-
19 ity) who receives health services as an inpatient or in the emergency
20 department of a general hospital defined in subdivision ten of section
21 twenty-eight hundred one of this chapter or who receives primary care
22 services in an outpatient department of such hospital or in a diagnostic
23 and treatment center licensed under article twenty-eight of this chapter
24 or from a physician, physician assistant [~~or~~], nurse practitioner or
25 midwife providing primary care shall be offered a hepatitis C screening
26 test [~~or hepatitis C diagnostic test~~] unless the health care practition-
27 er providing such services reasonably believes that:

28 (a) the individual is being treated for a life threatening emergency;
29 or

30 (b) the individual has previously been offered or has been the subject
31 of a hepatitis C screening test (except that a test shall be offered if
32 otherwise indicated); or

33 (c) the individual lacks capacity to consent to a hepatitis C screen-
34 ing test.

35 2. If an individual accepts the offer of a hepatitis C screening test
36 and the screening test is reactive, [~~the~~] an HCV RNA test must be
37 performed, on the same specimen or a second specimen collected at the
38 same time as the initial HCV screening test specimen, to confirm diagno-
39 sis of current infection. The health care provider shall either offer
40 [~~the individual~~] all persons with a detectable HCV RNA test follow-up
41 HCV health care and treatment or refer the individual to a health care
42 provider who can provide follow-up HCV health care and treatment. [~~The~~
43 ~~follow-up health care shall include a hepatitis C diagnostic test.~~]

44 § 3. The public health law is amended by adding a new section 2500-l
45 to read as follows:

46 § 2500-l. Pregnant people, blood test for hepatitis C virus (HCV);
47 follow-up care. 1. Every physician or other authorized practitioner
48 attending a pregnant person in the state shall order a hepatitis C virus
49 (HCV) screening test and if the test is reactive, an HCV RNA test must
50 be performed on the same specimen, or a second specimen collected at the
51 same time as the initial HCV screening test specimen, to confirm diagno-
52 sis of current infection. The health care provider shall either offer
53 all persons with a detectable HCV RNA test follow-up HCV health care and

treatment or refer the individual to a health care provider who can provide follow-up HCV health care and treatment.

2. The physician or other authorized practitioner attending a pregnant person shall record the HCV test results prominently in the pregnant person's medical record at or before the time of hospital admission for delivery.

3. The commissioner may promulgate such rules and regulations as are necessary to carry out the requirements of this section.

§ 4. The section heading of section 2308 of the public health law, as amended by section 37 of part E of chapter 56 of the laws of 2013, is amended to read as follows:

Sexually transmitted disease; pregnant ~~[women]~~ persons; blood test for syphilis.

§ 5. Subdivision 1 of section 2308 of the public health law is amended to read as follows:

1. Every physician or other authorized practitioner attending pregnant ~~[women]~~ persons in the state shall in the case of every ~~[woman]~~ person so attended take or cause to be taken a sample of blood of such ~~[woman]~~ person at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis. In addition to testing at the time of first examination, every such physician or other authorized practitioner shall order a syphilis test during the third trimester of pregnancy consistent with any guidance and regulations issued by the commissioner.

§ 6. This act shall take effect immediately; provided, however that sections two, three, four and five shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART BB

Section 1. Paragraphs 59 and 61 of subdivision (b) of schedule I of section 3306 of the public health law, as added by section 2 of part CC of chapter 56 of the laws of 2020, are amended and 30 new paragraphs 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 are added to read as follows:

(59) ~~[N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenylpropionamide]~~ N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenyl propionamide. Other name: Beta-Hydroxythiofentanyl.

(61) ~~[3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide]~~ 3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide. Other name: U-47700.

(71) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide. Other name: Valeryl fentanyl.

(72) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Other name: para-methoxybutyryl fentanyl.

(73) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other name: para-chloroisobutyryl fentanyl.

(74) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide. Other name: isobutyryl fentanyl.

(75) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide. Other name: cyclopentyl fentanyl.

1 (76) (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide. Other
2 name: crotonyl fentanyl.

3 (77) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)
4 propionamide. Other names: 2'-fluoro ortho-fluorofentanyl; 2'-fluoro
5 2-fluorofentanyl.

6 (78) N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide. Other
7 names: ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl.

8 (79) N-(1-phenethylpiperidin-4-yl)-N, 3-diphenylpropanamide. Other
9 names: beta'-phenyl fentanyl; beta'-phenyl fentanyl; 3-phenylpropanoyl
10 fentanyl.

11 (80) N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide.
12 Other names: thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene
13 fentanyl.

14 (81) N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide. Other
15 names: beta-Methyl fentanyl; beta-methyl fentanyl.

16 (82) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.
17 Other names: ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl.

18 (83) N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide. Other
19 name: 4'-methyl acetyl fentanyl.

20 (84) 2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide.
21 Other names: ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl
22 fentanyl.

23 (85) N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide.
24 Other names: para-methylfentanyl; 4-methylfentanyl.

25 (86) N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide. Other names:
26 phenyl fentanyl; benzoyl fentanyl.

27 (87) ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate. Other name:
28 Fentanyl carbamate.

29 (88) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide.
30 Other name: ortho-fluoroacryl fentanyl.

31 (89) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.
32 Other name: ortho-fluoroisobutyryl fentanyl.

33 (90) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide.
34 Other name: para-fluoro furanyl fentanyl.

35 (91) N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)
36 ethan-1-amine. Other name: Isotonitazene.

37 (92) 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-
38 benzo[d]imidazol-2-one. Other names: Brorphine; 1-[1-(1-(4-bromophenyl)
39 ethyl]-4-piperidiny]-1,3-dihydro-2H-benzimidazol-2-one.

40 (93) 2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan
41 -1-amine. Other name: Butonitazene.

42 (94) 2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine.
43 Other names: Etodesnitazene; Etazene.

44 (95) N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-
45 1-amine. Other name: Flunitazene.

46 (96) N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-
47 amine. Other name: Metodesnitazene.

48 (97) N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)
49 ethan-1-amine. Other name: Metonitazene.

50 (98) 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-
51 benzimidazole. Other names: N-pyrrolidino etonitazene; Etonitazepyne.

52 (99) N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)
53 ethan-1-amine. Other name: Protonitazene.

54 (100) Fentanyl-related substances, their isomers, esters, ethers,
55 salts and salts of isomers, esters and ethers.

(i) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), that is structurally related to fentanyl by one or more of the following modifications:

(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(E) Replacement of the N-propionyl group by another acyl group.

(ii) This definition includes, but is not limited to, the following substances:

(A)-(B) [Reserved]

§ 2. Paragraph 3 of subdivision (g) of schedule II of section 3306 of the public health law, as added by section 7 of part C of chapter 447 of the laws of 2012, is amended to read as follows:

(3) Immediate precursor to fentanyl:

(i) ~~[4-anilino-N-phenethyl-4-piperidine (ANPP)]~~ 4-anilino-N-phenethylpiperidine (ANPP).

(ii) N-phenyl-N-(piperidin-4-yl)propionamide (Norfentanyl).

§ 3. Paragraph c of subdivision 1 of section 3383 of the public health law, as added by chapter 494 of the laws of 1982, is amended to read as follows:

c. "Imitation controlled substance" means: (1) a substance, other than a drug for which a prescription is required pursuant to article one hundred thirty-seven of the education law, that is not a controlled substance, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a controlled substance, as defined in the penal law; or (2) a controlled substance, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a different controlled substance, as defined in the penal law. Evidence of representations that the substance is a controlled substance may include but is not limited to oral or written representations by the manufacturer or seller, as the case may be, about the substance with regard to:

(i) its price, nature, use or effect as a controlled substance; or

(ii) its packaging in a manner normally used for illicit controlled substances; or

(iii) markings on the substance; or

(iv) having been prescribed or provided by a pharmacist or health care practitioner.

§ 4. Subdivision 7 of section 3383 of the public health law is REPEALED and subdivision 8 is renumbered subdivision 7.

§ 5. Subdivision 21 of section 10.00 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

21. "Drug trafficking felony" means any of the following offenses defined in article two hundred twenty of this chapter: violation of use of a child to commit a controlled substance offense as defined in section 220.28; criminal sale of a controlled substance in the fourth degree as defined in section 220.34; criminal sale of a controlled substance in the third degree as defined in section 220.39; criminal

1 sale of a controlled substance in the second degree as defined in
2 section 220.41; criminal sale of a controlled substance in the first
3 degree as defined in section 220.43; criminal sale of a controlled
4 substance in or near school grounds as defined in section 220.44; unlaw-
5 ful manufacture of methamphetamine in the second degree as defined in
6 section 220.74; unlawful manufacture of methamphetamine in the first
7 degree as defined in section 220.75; or operating as a major trafficker
8 as defined in section 220.77; criminal sale of an imitation controlled
9 substance in the fifth degree as defined in section 220.83; criminal
10 sale of an imitation controlled substance in the third degree as defined
11 in section 220.84; and criminal sale of an imitation controlled
12 substance in the first degree as defined in section 220.85.

13 § 6. Paragraphs (a) and (b) of subdivision 1 of section 460.10 of the
14 penal law, paragraph (a) as amended by chapter 134 of the laws of 2019
15 and paragraph (b) as amended by chapter 442 of the laws of 2006, are
16 amended to read as follows:

17 (a) Any of the felonies set forth in this chapter: sections 120.05,
18 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
19 ing to strangulation; sections 125.10 to 125.27 relating to homicide;
20 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
21 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to
22 labor trafficking; section 135.65 relating to coercion; sections 140.20,
23 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and
24 145.12 relating to criminal mischief; article one hundred fifty relating
25 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
26 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
27 care fraud; article one hundred sixty relating to robbery; sections
28 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
29 stolen property; sections 165.72 and 165.73 relating to trademark coun-
30 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
31 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
32 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
33 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
34 to criminal diversion of prescription medications and prescriptions;
35 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,
36 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56,
37 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15,
38 187.20 and 187.25 relating to residential mortgage fraud, sections
39 190.40 and 190.42 relating to criminal usury; section 190.65 relating to
40 schemes to defraud; any felony defined in article four hundred ninety-
41 six; sections 205.60 and 205.65 relating to hindering prosecution;
42 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;
43 section 215.40 relating to tampering with physical evidence; sections
44 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
45 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled
46 substances; sections 225.10 and 225.20 relating to gambling; sections
47 230.25, 230.30, and 230.32 relating to promoting prostitution; section
48 230.34 relating to sex trafficking; section 230.34-a relating to sex
49 trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22
50 relating to obscenity; sections 263.10 and 263.15 relating to promoting
51 a sexual performance by a child; sections 265.02, 265.03, 265.04,
52 265.11, 265.12, 265.13 and the provisions of section 265.10 which
53 constitute a felony relating to firearms and other dangerous weapons;
54 sections 265.14 and 265.16 relating to criminal sale of a firearm;
55 section 265.50 relating to the criminal manufacture, sale or transport
56 of an undetectable firearm, rifle or shotgun; section 275.10, 275.20,

1 275.30, or 275.40 relating to unauthorized recordings; sections 220.82,
2 220.83, 220.84 and 220.85 relating to imitation controlled substances;
3 and sections 470.05, 470.10, 470.15 and 470.20 relating to money laun-
4 dering; or

5 (b) Any felony set forth elsewhere in the laws of this state and
6 defined by the tax law relating to alcoholic beverage, cigarette, gaso-
7 line and similar motor fuel taxes; article seventy-one of the environ-
8 mental conservation law relating to water pollution, hazardous waste or
9 substances hazardous or acutely hazardous to public health or safety of
10 the environment; article twenty-three-A of the general business law
11 relating to prohibited acts concerning stocks, bonds and other securi-
12 ties, article twenty-two of the general business law concerning monop-
13 lies; article thirty-three of the public health law relating to
14 controlled substances or imitation controlled substances.

15 § 7. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
16 procedure law, as amended by chapter 92 of the laws of 2021, is amended
17 and a new paragraph (w) is added to read as follows:

18 (c) Criminal possession of a controlled substance in the seventh
19 degree as defined in section 220.03 of the penal law, criminal
20 possession of a controlled substance in the fifth degree as defined in
21 section 220.06 of the penal law, criminal possession of a controlled
22 substance in the fourth degree as defined in section 220.09 of the penal
23 law, criminal possession of a controlled substance in the third degree
24 as defined in section 220.16 of the penal law, criminal possession of a
25 controlled substance in the second degree as defined in section 220.18
26 of the penal law, criminal possession of a controlled substance in the
27 first degree as defined in section 220.21 of the penal law, criminal
28 sale of a controlled substance in the fifth degree as defined in section
29 220.31 of the penal law, criminal sale of a controlled substance in the
30 fourth degree as defined in section 220.34 of the penal law, criminal
31 sale of a controlled substance in the third degree as defined in section
32 220.39 of the penal law, criminal sale of a controlled substance in the
33 second degree as defined in section 220.41 of the penal law, criminal
34 sale of a controlled substance in the first degree as defined in section
35 220.43 of the penal law, criminally possessing a hypodermic instrument
36 as defined in section 220.45 of the penal law, criminal sale of a
37 prescription for a controlled substance or a controlled substance by a
38 practitioner or pharmacist as defined in section 220.65 of the penal
39 law, criminal possession of methamphetamine manufacturing material in
40 the second degree as defined in section 220.70 of the penal law, crimi-
41 nal possession of methamphetamine manufacturing material in the first
42 degree as defined in section 220.71 of the penal law, criminal
43 possession of precursors of methamphetamine as defined in section 220.72
44 of the penal law, unlawful manufacture of methamphetamine in the third
45 degree as defined in section 220.73 of the penal law, unlawful manufac-
46 ture of methamphetamine in the second degree as defined in section
47 220.74 of the penal law, unlawful manufacture of methamphetamine in the
48 first degree as defined in section 220.75 of the penal law, unlawful
49 disposal of methamphetamine laboratory material as defined in section
50 220.76 of the penal law, operating as a major trafficker as defined in
51 section 220.77 of the penal law, criminal possession of an imitation
52 controlled substance in the third degree as defined in section 220.82 of
53 the penal law, criminal sale of an imitation controlled substance in the
54 fifth degree as defined in section 220.83 of the penal law, criminal
55 sale of an imitation controlled substance in the third degree as defined
56 in section 220.84 of the penal law, criminal sale of an imitation

1 controlled substance in the first degree as defined in section 220.85 of
2 the penal law, promoting gambling in the second degree as defined in
3 section 225.05 of the penal law, promoting gambling in the first degree
4 as defined in section 225.10 of the penal law, possession of gambling
5 records in the second degree as defined in section 225.15 of the penal
6 law, possession of gambling records in the first degree as defined in
7 section 225.20 of the penal law, and possession of a gambling device as
8 defined in section 225.30 of the penal law;

9 (w) Any of the acts designated as felonies in article thirty-three of
10 the public health law.

11 § 8. Section 220.00 of the penal law is amended by adding a new subdivi-
12 sion 6 to read as follows:

13 6. "Imitation controlled substance" shall have the same meaning as
14 provided for in paragraph c of subdivision one of section thirty-three
15 hundred eighty-three of the public health law.

16 § 9. The penal law is amended by adding five new sections 220.81,
17 220.82, 220.83, 220.84 and 220.85 to read as follows:

18 § 220.81 Criminal possession of an imitation controlled substance in the
19 fifth degree.

20 A person is guilty of criminal possession of an imitation controlled
21 substance in the fifth degree when he or she knowingly and unlawfully
22 possesses an imitation controlled substance, as defined in subparagraph
23 one of paragraph c of subdivision one of section thirty-three hundred
24 eighty-three of the public health law, with the intent to sell it.

25 Criminal possession of an imitation controlled substance in the fifth
26 degree is a class A misdemeanor.

27 § 220.82 Criminal possession of an imitation controlled substance in the
28 third degree.

29 A person is guilty of criminal possession of an imitation controlled
30 substance in the third degree when he or she knowingly and unlawfully
31 possesses an imitation controlled substance, as defined in subparagraph
32 two of paragraph c of subdivision one of section thirty-three hundred
33 eighty-three of the public health law, with the intent to sell it.

34 Criminal possession of an imitation controlled substance in the third
35 degree is a class D felony.

36 § 220.83 Criminal sale of an imitation controlled substance in the fifth
37 degree.

38 A person is guilty of criminal sale of an imitation controlled
39 substance in the fifth degree when he or she knowingly and unlawfully
40 sells an imitation controlled substance, as defined in subparagraph one
41 of paragraph c of subdivision one of section thirty-three hundred eight-
42 y-three of the public health law.

43 Criminal sale of an imitation controlled substance in the fifth degree
44 is a class E felony.

45 § 220.84 Criminal sale of an imitation controlled substance in the third
46 degree.

47 A person is guilty of criminal sale of an imitation controlled
48 substance in the third degree when he or she knowingly and unlawfully
49 sells an imitation controlled substance, as defined in subparagraph two
50 of paragraph c of subdivision one of section thirty-three hundred eight-
51 y-three of the public health law.

52 Criminal sale of an imitation controlled substance in the third degree
53 is a class C felony.

54 § 220.85 Criminal sale of an imitation controlled substance in the first
55 degree.

A person is guilty of criminal sale of an imitation controlled substance in the first degree when he or she knowingly and unlawfully sells an imitation controlled substance and he or she knows or reasonably should know that the imitation controlled substance could cause the serious physical injury of another person, as defined by subdivision ten of section 10.00 of this chapter, or he or she knows or reasonably should know that the imitation controlled substance could cause the death of another person, and the imitation controlled substance causes the serious physical injury or death of another person.

Criminal sale of an imitation controlled substance in the first degree is a class A-1 felony.

§ 10. Section 220.25 of the penal law, as amended by chapter 276 of the laws of 1973, subdivision 1 as amended by chapter 278 of the laws of 1973 and subdivision 2 as amended by chapter 341 of the laws of 1985, is amended to read as follows:

§ 220.25 Criminal possession of a controlled substance or an imitation controlled substance; presumption.

1. The presence of a controlled substance or an imitation controlled substance in an automobile, other than a public omnibus, is presumptive evidence of knowing possession thereof by each and every person in the automobile at the time such controlled substance or imitation controlled substance was found; except that such presumption does not apply (a) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of his trade, or (b) to any person in the automobile if one of them, having obtained the controlled substance or imitation controlled substance and not being under duress, is authorized to possess it and such controlled substance or imitation controlled substance is in the same container as when he received possession thereof, or (c) when the controlled substance or imitation controlled substance is concealed upon the person of one of the occupants.

2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such controlled substance or imitation controlled substance is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance or imitation controlled substance at the time such controlled substance or imitation controlled substance was found; except that such presumption does not apply to any such persons if (a) one of them, having obtained such controlled substance or imitation controlled substance and not being under duress, is authorized to possess it and such controlled substance or imitation controlled substance is in the same container as when he received possession thereof, or (b) one of them has such controlled substance or imitation controlled substance upon his person.

§ 11. This act shall take effect immediately.

PART CC

Section 1. Articles 131, 131-A, 131-B, 131-C, 132, 133, 134, 136, 137, 137-A, 139, 140, 141, 143, 144, 153, 154, 155, 156, 157, 159, 160, 162, 163, 164, 165, 166, 167 and 168 of the education law are REPEALED.

§ 2. The public health law is amended by adding a new article 51 to read as follows:

ARTICLE 51
LICENSED HEALTHCARE PROFESSIONS
TITLE 1

LICENSED HEALTHCARE PROFESSIONS GENERAL PROVISIONS
SUBTITLE 1

INTRODUCTORY SUMMARY

Section 6500. Introduction.

6501. Admission to a profession (licensing).

6501-a. Affirmation of applications.

6502. Duration and registration of a license.

6502-a. Renewal of professional license, certification, or registration.

6503. Practice of a profession.

6503-a. Waiver for entities providing certain professional services.

6503-b. Waiver for certain special education schools and early intervention agencies.

6504. Regulation of the professions.

6505. Construction.

6505-a. Professional referrals.

6505-b. Course work or training in infection control practices.

6505-c. Articulation between military and civilian professional careers.

§ 6500. Introduction. This article provides for the regulation of the admission to and the practice of certain professions. This first title applies to all the professions included in this article, except that prehearing procedures and hearing procedures in connection with the regulation of professional conduct of the profession of medicine and physician's assistants and specialist's assistants shall be conducted pursuant to the provisions of title two-A of article two of this chapter. Each of the remaining titles applies to a particular profession.

§ 6501. Admission to a profession (licensing). 1. Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the health department. To qualify for a license an applicant shall meet the requirements prescribed in the title for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law.

2. a. Notwithstanding any provision of law to the contrary, any applicant seeking to qualify for a license pursuant to this article who is the spouse of an active duty member of the armed forces of the United States, national guard or reserves as defined in 10 U.S.C. sections 1209 and 1211, and such spouse is transferred by the military to this state shall be afforded an expedited review of his or her application for licensure. Such application shall be on a form prescribed by the department and shall include an attestation by the applicant of the military status of his or her spouse and any other such supporting documentation that the department may require. Upon review of such application, the department shall issue a license to the applicant if the applicant holds a license in good standing in another state and in the opinion of the department, the requirements for licensure of such other state are substantially equivalent to the requirements for licensure in this state.

b. In addition to the expedited review granted in paragraph a of this subdivision, an applicant who provides satisfactory documentation that he or she holds a license in good standing from another state, may request the issuance of a temporary practice permit, which, if granted

1 will permit the applicant to work under the supervision of a New York
2 state licensee in accordance with regulations of the commissioner. The
3 department may grant such temporary practice permit when it appears
4 based on the application and supporting documentation received that the
5 applicant will meet the requirements for licensure in this state because
6 he or she holds a license in good standing from another state with
7 significantly comparable licensure requirements to those of this state,
8 except the department has not been able to secure direct source verifi-
9 cation of the applicant's underlying credentials (e.g., receipt of
10 original transcript, experience verification). Such permit shall be
11 valid for six months or until ten days after notification that the
12 applicant does not meet the qualifications for licensure. An additional
13 six months may be granted upon a determination by the department that
14 the applicant is expected to qualify for the full license upon receipt
15 of the remaining direct source verification documents requested by the
16 department in such time period and that the delay in providing the
17 necessary documentation for full licensure was due to extenuating
18 circumstances which the military spouse could not avoid.

19 c. A temporary practice permit issued under paragraph b of this subdi-
20 vision shall be subject to the full disciplinary and regulatory authori-
21 ty of the department, pursuant to this article, as if such authorization
22 were a professional license issued under this article.

23 d. The department shall reduce the initial licensure application fee
24 by one-half for any application submitted by a military spouse under
25 this subdivision.

26 § 6501-a. Affirmation of applications. Notwithstanding any other
27 provision of law to the contrary, any application required by this arti-
28 cle to be filed with the department may, in lieu of being certified or
29 sworn under oath, be subscribed by the applicant and affirmed by the
30 applicant as true under penalties of perjury.

31 § 6502. Duration and registration of a license. 1. A license shall be
32 valid during the life of the holder unless revoked, annulled or
33 suspended by commissioner or in the case of physicians, physicians prac-
34 ticing under a limited permit, physician's assistants, specialist's
35 assistants and medical residents, the licensee is stricken from the
36 roster of such licensees by the commissioner on the order of the state
37 board for professional medical conduct. A licensee must register with
38 the department and meet the requirements prescribed in section 3-503 of
39 the general obligations law to practice in this state.

40 2. The department shall establish the beginning dates of the registra-
41 tion periods for each profession and mail an application for registra-
42 tion conforming to the requirements of section 3-503 of the general
43 obligations law to every licensee currently registered at least four
44 months prior to the beginning of the registration period for the respec-
45 tive profession.

46 3. An application for registration and the required registration fee
47 shall be submitted together with or as a part of the application for a
48 license. A person initially licensed or a licensee resuming practice
49 after a lapse of registration during the last two years of a triennial
50 registration period shall receive a prorated refund of one-third of the
51 total registration fee for each full year of the triennial period that
52 has elapsed prior to the date of registration. Except as provided in
53 subdivision three-a of this section, the department shall renew the
54 registration of each licensee upon receipt of a proper application, on a
55 form prescribed by the department and conforming to the requirements of
56 section 3-503 of the general obligations law, and the registration fee.

1 Any licensee who fails to register by the beginning of the appropriate
2 registration period shall be required to pay an additional fee for late
3 filing of ten dollars for each month that registration has been delayed.
4 No licensee resuming practice after a lapse of registration shall be
5 permitted to practice without actual possession of the registration
6 certificate.

7 3-a. Prior to issuing any registration pursuant to this section and
8 section sixty-five hundred twenty-four of this article, the department
9 shall request and review any information relating to an applicant which
10 reasonably appears to relate to professional misconduct in his or her
11 professional practice in this and any other jurisdiction. The department
12 shall advise the director of the office of professional medical conduct
13 in the department of any information about an applicant which reasonably
14 appears to be professional misconduct as defined in sections sixty-five
15 hundred thirty and sixty-five hundred thirty-one of this article, within
16 seven days of its discovery. The registration or re-registration of such
17 applicant shall not be delayed for a period exceeding thirty days unless
18 the director finds a basis for recommending summary action pursuant to
19 subdivision twelve of section two hundred thirty of this chapter after
20 consultation with a committee on professional conduct of the state board
21 for professional medical conduct, if warranted. Re-registration shall be
22 issued if the commissioner of health fails to issue a summary order
23 pursuant to subdivision twelve of section two hundred thirty of this
24 chapter within ninety days of notice by the department pursuant to this
25 subdivision. Re-registration shall be denied if the commissioner issues
26 a summary order pursuant to subdivision twelve of section two hundred
27 thirty of this chapter.

28 4. Any licensee who is not engaging in the practice of his profession
29 in this state and does not desire to register shall so advise the
30 department. Such licensee shall not be required to pay an additional fee
31 for failure to register at the beginning of the registration period.

32 5. Licensees shall notify the department of any change of name or
33 mailing address within thirty days of such change. Failure to register
34 or provide such notice within one hundred eighty days of such change
35 shall be willful failure under section sixty-five hundred thirty of this
36 article.

37 6. The fee for replacement of a lost registration certificate or
38 license or for registration of an additional office shall be ten
39 dollars.

40 7. An additional fee of twenty-five dollars shall be charged for the
41 licensure or registration of any applicant who submits a bad check to
42 the department.

43 § 6502-a. Renewal of professional license, certification, or registra-
44 tion. 1. This section shall apply to healthcare professionals licensed,
45 certified, registered or authorized pursuant to this article other than
46 those licensed or registered pursuant to title two of this article.

47 2. In conjunction with and as a condition of each registration
48 renewal, the professionals described in subdivision one of this section
49 shall provide to the department, and the department shall collect, such
50 information and documentation required by the department as is necessary
51 to enable the department to evaluate access to needed services in this
52 state, including, but not limited to, the location and type of setting
53 in which the professional practices and other relevant information. The
54 department shall make such data available in aggregate, de-identified
55 form on a publicly accessible website.

1 3. The dates by which the professionals described in subdivision one
2 of this section must comply with the requirements of subdivision two of
3 this section shall be determined by the department and may vary by
4 profession, to allow the development and refinement of necessary program
5 features and to allow sufficient advanced notice to be provided to
6 affected professionals. The provisions of this section shall be effec-
7 tive only if and for so long as an appropriation is made for the
8 purposes of its implementation.

9 § 6503. Practice of a profession. Admission to the practice of a
10 profession entitles the licensee to: 1. practice the profession as
11 defined in the title for the particular profession;

12 2. entitles the individual licensee to use the professional title as
13 provided in the title for the particular profession; and

14 3. subjects the licensee to the procedures and penalties for profes-
15 sional misconduct as prescribed in this article.

16 § 6503-a. Waiver for entities providing certain professional services.

17 1. a. Notwithstanding any laws to the contrary, except as provided in
18 subdivision two of this section, a not-for-profit corporation formed for
19 charitable, educational, or religious purposes or other similar purposes
20 deemed acceptable by the department; or an education corporation as
21 defined in subdivision one of section two hundred sixteen-a of the
22 education law may provide the following services, provided that, except
23 as otherwise provided in paragraph b of this subdivision, the entity was
24 in existence prior to the effective date of this section and has applied
25 to the department for a waiver pursuant to this section by no later than
26 February first, two thousand twenty-four:

27 (i) services provided under title eighteen, twenty-five or twenty-nine
28 of this article for which licensure would be required, or

29 (ii) services constituting the provision of psychotherapy as defined
30 in subdivision two of section eighty-four hundred one of this article
31 and authorized and provided under title two, twelve, or seventeen of
32 this article.

33 Such services may be provided either directly through the entity's
34 employees or indirectly by contract with individuals or professional
35 entities duly licensed, registered, or authorized to provide such
36 services.

37 b. The department may issue a waiver on or after July first, two thou-
38 sand twenty-four to an entity which was created before, on, or after the
39 effective date of this section if there is a demonstration of need of
40 the entity's services satisfactory to the department.

41 c. After the commissioner prescribes the application form and posts
42 notice of its availability on the department's website, any entity
43 described in paragraph a of this subdivision providing services on the
44 effective date of this section, must apply for a waiver no later than
45 February first, two thousand twenty-four. Upon submission of an applica-
46 tion, an entity may continue to operate and provide services until the
47 department shall either deny or approve the entity's application. After
48 the department renders a timely initial determination that the applicant
49 has submitted the information necessary to verify that the requirements
50 of paragraphs d, e, and f of this subdivision are satisfied, applica-
51 tions for waivers shall be approved or denied within ninety days;
52 provided however, that if the waiver application is denied the entity
53 shall cease providing professional services, pursuant to paragraph a of
54 this subdivision, in the state of New York.

55 d. Such waiver shall provide that services rendered pursuant to this
56 section, directly or indirectly, shall be provided only by a person

1 appropriately licensed to provide such services pursuant to title two,
2 twelve, seventeen, eighteen or twenty-five of this article, or by a
3 person otherwise authorized to provide such services under such titles,
4 or by a professional entity authorized by law to provide such services.

5 e. An application for a waiver to provide professional services pursu-
6 ant to this section shall be on a form prescribed by the commissioner.
7 Such application shall include:

8 (i) the name of the entity,

9 (ii) the names of the directors and officers of such entity,

10 (iii) a listing of any other jurisdictions where the entity may
11 provide services, and

12 (iv) an attestation made by an officer authorized by the entity to
13 make such attestation that identifies the scope of services to be
14 provided; includes a list of professions under this article in which
15 professional services will be provided by such entity; includes a state-
16 ment that, unless otherwise authorized by law, the entity shall only
17 provide professional services authorized under this section; includes a
18 statement that only a licensed professional, a person otherwise author-
19 ized to provide such services, or a professional entity authorized by
20 law to provide such services shall provide such professional services as
21 authorized under this section; and attests to the adequacy of the enti-
22 ty's fiscal and financial resources to provide such services. Such
23 application shall also include any other information related to the
24 application as may be required by the department.

25 f. Each officer and director of such entity shall provide an attesta-
26 tion regarding his or her good moral character as required pursuant to
27 paragraph h of this subdivision. The commissioner shall be further
28 authorized to promulgate rules or regulations relating to the standards
29 of the waiver for entities pursuant to this section. Such regulations
30 shall include standards relating to the entity's ability to provide
31 services, the entity's maintenance of patient and business records, the
32 entity's fiscal policies, and such other standards as may be prescribed
33 by the commissioner.

34 g. The entity operating pursuant to a waiver shall display, at each
35 site where professional services are provided to the public, a certifi-
36 cate of such waiver issued by the department pursuant to this section,
37 which shall contain the name of the entity and the address of the site.
38 Such entities shall obtain from the department additional certificates
39 for each site at which professional services are provided to the public.
40 Each entity shall be required to re-apply for a waiver every three
41 years. If any information supplied to the department regarding the enti-
42 ty shall change, the entity shall be required to provide such updated
43 information to the department within sixty days.

44 h. Entities operating under a waiver pursuant to this section shall be
45 under the supervision of the department and shall be subject to disci-
46 plinary proceedings and penalties. The waivers for such entities shall
47 be subject to suspension, revocation or annulment for cause in the same
48 manner and to the same extent as individuals and professional services
49 corporations with respect to their licenses, certificates, and registra-
50 tions, as applicable, as provided in this article relating to the appli-
51 cable profession. All officers and directors of such entities shall be
52 of good moral character. Entities operating pursuant to a waiver and
53 their officers and directors shall be entitled to the same due process
54 procedures as are provided to such individuals and professional services
55 corporations. No waiver issued under this section shall be transferable

1 or assignable, as such terms are defined in the regulations of the
2 commissioner.

3 i. An entity operating pursuant to a waiver shall not practice any
4 profession licensed pursuant to this article or hold itself out to the
5 public as authorized to provide professional services pursuant to this
6 article except as specifically authorized by this section or as other-
7 wise authorized by law.

8 2. No waiver pursuant to this section shall be required of:

9 a. any entity operated under an operating certificate appropriately
10 issued in accordance with article sixteen, thirty-one or thirty-two of
11 the mental hygiene law, article twenty-eight of this chapter, or compa-
12 rable procedures by a New York state or federal agency, political subdivi-
13 vision, municipal corporation, or local government agency or unit, in
14 accordance with the scope of the authority of such operating certif-
15 icate; or

16 b. a university faculty practice corporation duly incorporated pursu-
17 ant to the not-for-profit corporation law; or

18 c. an institution of higher education authorized to provide a program
19 leading to licensure in a profession defined under title two, twelve,
20 seventeen, eighteen, or twenty-five of this article, to the extent that
21 the scope of such services is limited to the services authorized to be
22 provided within such registered program; or

23 d. an institution of higher education providing counseling only to the
24 students, staff, or family members of students and staff of such insti-
25 tution; or

26 e. any other entity as may be defined in the regulations of the
27 commissioner, provided that such entity is otherwise authorized to
28 provide such services pursuant to law and only to the extent such
29 services are authorized under any certificates of incorporation or such
30 other organizing documents as may be applicable.

31 3. Nothing in this section shall be construed to limit the authority
32 of another state agency to certify, license, contract or otherwise
33 authorize an entity applying for a waiver pursuant to this section, if
34 such state agency is otherwise authorized under another provision of law
35 to certify, license, contract or authorize such an entity, nor shall a
36 waiver pursuant to this section be construed to provide an exemption of
37 such entity from any certification, licensure, need to contract or any
38 other such requirement established by such state agency or under any
39 other provision of law. If a state agency determines that such certif-
40 ication, licensure, contract or other authorization is required, a waiv-
41 er pursuant to this section shall not have the effect of authorizing the
42 provision of professional services under the jurisdiction of such agency
43 in the absence of certification, licensure, a contract or other authori-
44 zation from such state agency, and the department shall consult with
45 such agency regarding the need for licensure, contracting, certification
46 or authorization. In determining an application for a waiver pursuant to
47 this section, the department shall consider as a factor in such determi-
48 nation any denial of an operating certificate or other authority to
49 provide the services authorized pursuant to this section by a New York
50 state or federal agency, political subdivision, municipal corporation,
51 or local government agency or unit, and shall not approve a waiver
52 application authorizing an entity to provide a program or services where
53 the entity operated such a program or provided such services for which
54 an operating certificate or license is pending, was disapproved or was
55 revoked, or a written authorization or contract was terminated for
56 cause, by one of such agencies, except upon approval of such action by

1 the appropriate state agency. Such state agencies shall notify the
2 department, upon request and within a fifteen day period, whether a
3 waiver applicant has been subject to such disapproval, revocation or
4 termination for cause or has a pending application for a license or
5 operating certificate.

6 4. Nothing in this section shall be construed to limit the authority
7 of the following entities to provide professional services they are
8 authorized by law to provide:

9 a. any appropriately organized professional entity, including, but not
10 limited to, those established under the business corporation law, the
11 limited liability company law or the partnership law; or

12 b. any entity operated by a New York state or federal agency, poli-
13 tical subdivision, municipal corporation, or local government agency or
14 unit pursuant to authority granted by law, including but not limited to
15 any entity operated by the office of mental health, the office for
16 people with developmental disabilities, or the office of alcoholism and
17 substance abuse services under articles seven, thirteen, and nineteen of
18 the mental hygiene law, respectively.

19 5. For the purposes of this section, "professional entity" shall mean
20 and include sole proprietorships and any professional services organiza-
21 tion established pursuant to article fifteen of the business corporation
22 law, article twelve of the limited liability company law and section two
23 and article eight-B of the partnership law.

24 § 6503-b. Waiver for certain special education schools and early
25 intervention agencies. 1. Definitions. As used in this section the
26 following terms shall have the following meanings:

27 a. "Special education school" means an approved program as defined in
28 paragraph b of subdivision one of section forty-four hundred ten of the
29 education law that meets the requirements of paragraph b of subdivision
30 six of such section; an approved private non-residential or residential
31 school for the education of students with disabilities that is located
32 within the state; a child care institution as defined in section four
33 thousand one of the education law that operates a private school for the
34 education of students with disabilities or an institution for the deaf
35 or blind operating pursuant to article eighty-five of the education law
36 that either: (i) conducts a multi-disciplinary evaluation for purposes
37 of articles eighty-one or eighty-nine of the education law that involves
38 the practice of one or more professions for which a license is required
39 pursuant to this article and no exception from corporate practice
40 restrictions applies, or

41 (ii) provides related services to students enrolled in the school or
42 approved program that involves the practice of one or more professions
43 for which a license is required pursuant to this article and no excep-
44 tion from practice restrictions applies. Such term shall not include a
45 school district, board of cooperative educational services, munici-
46 pality, state agency or other public entity. Nothing in this section
47 shall be construed to require a child care institution that conducts
48 multi-disciplinary evaluations or provides related services through an
49 approved private nonresidential school operated by such child care
50 institution to obtain a waiver, provided that such school obtains a
51 waiver pursuant to this section.

52 b. "Early intervention agency" means an agency which is approved or is
53 seeking approval in accordance with title two-A of article twenty-five
54 of this chapter to deliver early intervention program multi-disciplinary
55 evaluations, service coordination services and early intervention
56 program services, and is lawfully operated as a sole proprietorship or

1 by a partnership, not-for-profit corporation, education corporation,
2 business corporation, a limited liability company or professional
3 services organization established pursuant to article fifteen of the
4 business corporation law, article twelve or thirteen of the limited
5 liability company law or article eight-B of the partnership law.

6 c. "Early intervention program services" means early intervention
7 services as defined in subdivision seven of section twenty-five hundred
8 forty-one of this chapter that are provided under the early intervention
9 program and authorized in an eligible child's individualized family
10 services plan.

11 d. "Multi-disciplinary evaluation" for purposes of a special education
12 school means a multi-disciplinary evaluation of a preschool child
13 suspected of having a disability or a preschool child with a disability
14 that is conducted pursuant to section forty-four hundred ten of the
15 education law or an evaluation of a school-age child suspected of having
16 a disability or with a disability which is conducted by a child care
17 institution that operates a special education school or the special
18 education school operated by such institution pursuant to subdivision
19 three of section four thousand two of the education law or by an insti-
20 tution for the deaf or blind operating pursuant to article eighty-five
21 of the education law or an evaluation of a school-age child suspected of
22 having a disability or with a disability that is authorized to be
23 conducted by a special education school pursuant to any other provision
24 of the education law and the regulations of the commissioner of educa-
25 tion for purposes of identification of the child as a child with a disa-
26 bility or the development of an individualized education program for the
27 child.

28 e. "Multi-disciplinary evaluation" for purposes of the early inter-
29 vention program means a professional, objective assessment conducted by
30 appropriately qualified personnel in accordance with section twenty-five
31 hundred forty-four of this chapter and its implementing regulations to
32 determine a child's eligibility for early intervention program services.

33 f. "Related services" means related services as defined in paragraph g
34 of subdivision two of section four thousand two, paragraph k of subdivi-
35 sion two of section forty-four hundred one, or paragraph j of subdivi-
36 sion one of section forty-four hundred ten of the education law provided
37 to a child with a disability pursuant to such child's individualized
38 education program.

39 2. Waiver. a. No special education school may employ individuals
40 licensed pursuant to this title to conduct components of a multi-disci-
41 plinary evaluation of a child with a disability or a child suspected of
42 having a disability or to provide related services to children with
43 disabilities enrolled in the school, and no special education school may
44 provide such an evaluation component or related services by contract
45 with an individual licensed or otherwise authorized to practice pursuant
46 to this title or with an entity authorized by law to provide such
47 professional services, unless such school obtains a waiver pursuant to
48 this section. All special education schools approved by the commissioner
49 as of the effective date of this section shall be deemed operating under
50 a waiver pursuant to this section for a period commencing on such effec-
51 tive date and ending on July first, two thousand thirteen.

52 b. No early intervention agency may employ or contract with individ-
53 uals licensed pursuant to this title or with a not-for-profit corpo-
54 ration, education corporation, business corporation, limited liability
55 company, or a professional services organization established pursuant to
56 article fifteen of the business corporation law, article twelve or thir-

1 teen of the limited liability company law or article eight-B of the
2 partnership law, to conduct an early intervention program multi-disci-
3 plinary evaluation, provide service coordination services or early
4 intervention program services unless such agency has obtained a waiver
5 pursuant to this section and has been approved in accordance with title
6 two-A of article twenty-five of this chapter as an early intervention
7 program provider. All early intervention agencies approved as of the
8 effective date of this section shall be deemed to be operating under a
9 waiver pursuant to this section for a period commencing on such effec-
10 tive date and ending on July first, two thousand thirteen. Nothing in
11 this section shall be construed to require an early intervention agency
12 to operate under a waiver in accordance with this section provided that
13 it is otherwise authorized by law to provide the applicable professional
14 services.

15 3. Obtaining a waiver. a. A special education school and early inter-
16 vention agency shall obtain an application for a waiver on a form
17 prescribed by the department. The department may issue a waiver on or
18 after July first, two thousand thirteen to an entity which was created
19 before, on or after the effective date of this section if there is
20 demonstration of need of the entity's services satisfactory to the
21 department. The application for an initial waiver shall be accompanied
22 by a fee of three hundred forty-five dollars. Where the applicant simul-
23 taneously applies for a waiver as a special education school and early
24 intervention agency the total waiver fee shall be three hundred forty-
25 five dollars.

26 b. Within one hundred twenty days after the commissioner prescribes
27 the application form and posts notice of its availability on the depart-
28 ment's website, a special education school or early intervention agency
29 must apply for a waiver. Upon submission of such application, the school
30 or agency may continue to operate and provide services until the depart-
31 ment shall either deny or approve the application. After the department
32 renders a timely initial determination that the applicant has submitted
33 the information necessary to verify that the requirements of paragraphs
34 c, d and e of this subdivision are satisfied, applications for waivers
35 shall be approved or denied within ninety days, provided however that if
36 the waiver application is denied the school or agency shall cease
37 providing services pursuant to this subdivision in the state of New
38 York.

39 c. Such waiver shall provide that services rendered pursuant to this
40 section, directly or indirectly, shall be provided only by a person
41 appropriately licensed to provide such services, except as otherwise
42 provided in law, to provide such services or by a professional services
43 entity authorized by law to provide such services.

44 d. An application for a waiver to provide professional services pursu-
45 ant to this section shall be on a form prescribed by the commissioner.
46 Such application shall include: (i) the name of the special education
47 school or early intervention agency; (ii) the names of the directors or
48 trustees and officers of such school or agency; (iii) a listing of any
49 other jurisdictions where such school or agency may provide services;
50 and (iv) an attestation made by an officer authorized by such school or
51 agency to make such attestation that identifies the scope of services to
52 be provided; includes a list of professions under this article in which
53 professional services will be provided by such school or agency;
54 includes a statement that, unless otherwise authorized by law, the
55 school or agency shall only provide services authorized under this
56 section; includes a statement that only a licensed professional, a

1 person otherwise authorized to provide such services, or a professional
2 services entity authorized by law to provide such services shall provide
3 such services as authorized under this section; and attests to the
4 adequacy of the school's or agency's fiscal and financial resources to
5 provide such services. Such application shall also include any other
6 information related to the application as may be required by the depart-
7 ment. A school or agency with an approved waiver may apply, on a form
8 prescribed by the commissioner, to amend the waiver to add additional
9 professional services.

10 e. Each officer, trustee and director of such school or agency shall
11 provide an attestation regarding his or her good moral character as
12 required pursuant to paragraph g of this subdivision. The commissioner
13 shall be further authorized to promulgate rules or regulations relating
14 to the standards of the waiver for special education schools and early
15 intervention agencies pursuant to this section. Such regulations shall
16 include standards relating to the school's or agency's ability to
17 provide services, the school's or agency's maintenance of student or
18 client and business records, the school's or agency's fiscal policies,
19 and such other standards as may be prescribed by the commissioner.

20 f. The special education school or early intervention agency operating
21 pursuant to a waiver shall display, at each site where services are
22 provided to the public, a certificate of such waiver issued by the
23 department pursuant to this section, which shall contain the name of the
24 school or agency and the address of the site. Such schools or agencies
25 shall obtain from the department additional certificates for each site
26 at which professional services are provided to the public. Each school
27 or agency shall be required to re-apply for a waiver every three years.
28 An early intervention agency's waiver shall not be renewed unless the
29 agency is approved to provide early intervention program multi-discipli-
30 nary evaluations, service coordination or early intervention program
31 services in accordance with title two-A of article twenty-five of this
32 chapter. Except as otherwise provided in subdivision four of this
33 section, if any information supplied to the department regarding the
34 school or agency shall change, the school or agency shall be required to
35 provide such updated information to the department within sixty days.

36 g. All officers, trustees and directors of such schools or agencies
37 shall be of good moral character. Schools or agencies operating pursuant
38 to a waiver and their officers and directors shall be entitled to the
39 same due process procedures as are provided to such individuals and
40 professional services corporations. No waiver issued under this section
41 shall be transferable or assignable; as such terms are defined in the
42 regulations of the commissioner.

43 4. Renewal of waiver. All special education school and early inter-
44 vention agency waivers shall be renewed on dates set by the department.
45 The triennial waiver fee shall be two hundred sixty dollars or a pro-
46 rated portion thereof as determined by the department. An early inter-
47 vention agency's waiver shall not be renewed unless the agency is
48 approved to provide early intervention program multi-disciplinary evalu-
49 ations, service coordination nor early intervention program services in
50 accordance with title two-A of article twenty-five of this chapter.

51 5. Change of location. In the event that a change in the location of
52 the chief administrative offices of a special education school or early
53 intervention agency is contemplated, the owner shall notify the office
54 of professions of the department of the change of location at least
55 thirty days prior to relocation.

1 6. Professional practice. a. Notwithstanding any other provision of
2 law to the contrary, a special education school operating under a waiver
3 may employ individuals licensed or otherwise authorized to practice any
4 profession pursuant to this title to conduct components of a multi-dis-
5 ciplinary evaluation of a child with a disability or a child suspected
6 of having a disability or to provide related services to children with
7 disabilities enrolled in the school or may provide components of such an
8 evaluation or such related services by contract with an individual
9 licensed or otherwise authorized to practice pursuant to this title or a
10 not-for-profit corporation, education corporation, business corporation,
11 limited liability company or professional services organization estab-
12 lished pursuant to article fifteen of the business corporation law,
13 article twelve or thirteen of the limited liability company law or arti-
14 cle eight-B of the partnership law authorized by law to provide the
15 applicable professional services.

16 b. Notwithstanding any other provision of law to the contrary, an
17 early intervention agency operating under a waiver that is approved in
18 accordance with title two-A of article twenty-five of this chapter may
19 employ or contract with individuals licensed or otherwise authorized to
20 practice any profession pursuant to this title or with a not-for-profit
21 corporation, education corporation, business corporation, limited
22 liability company or professional services organization established
23 pursuant to article fifteen of the business corporation law, article
24 twelve or thirteen of the limited liability company law or article
25 eight-B of the partnership law authorized to conduct early intervention
26 program multi-disciplinary evaluations, provide service coordination
27 services and early intervention program services.

28 c. A special education school or early intervention agency operating
29 under a waiver shall not practice any profession licensed pursuant to
30 this article or hold itself out to the public as authorized to provide
31 professional services pursuant to this article except as authorized by
32 this section or otherwise authorized by law.

33 7. Supervision of professional practice. A special education school or
34 early intervention agency shall be under the supervision of the depart-
35 ment and be subject to disciplinary proceedings and penalties. A special
36 education school or early intervention agency operating under a waiver
37 shall be subject to suspension, revocation or annulment of the waiver
38 for cause, in the same manner and to the same extent as is provided with
39 respect to individuals and their licenses, certificates, and registra-
40 tions in the provisions of this article relating to the applicable
41 profession. Notwithstanding the provisions of this subdivision, a
42 special education school or early intervention agency that conducts or
43 contracts for a component of a multi-disciplinary evaluation that
44 involves the practice of medicine shall be subject to the pre-hearing
45 procedures and hearing procedures as is provided with respect to indi-
46 vidual physicians and their licenses in title two-A of article two of
47 this chapter. Notwithstanding any other provision of law to the contra-
48 ry, upon revocation or other termination by the commissioner of approval
49 of the special education school pursuant to article eighty-nine of the
50 education law and the regulations of the commissioner implementing such
51 article or termination of the early intervention agency pursuant to
52 title two-A of article twenty-five of this chapter and implementing
53 regulations by the commissioner pursuant to subdivision eighteen of
54 section forty-four hundred three of the education law, the school's or
55 early intervention agency's waiver pursuant to this section shall be
56 deemed revoked and annulled.

1 § 6504. Regulation of the professions. Admission to the practice of
2 the professions, licensing and regulation of such practice shall be
3 supervised and administered by the department, assisted by a state board
4 for each profession.

5 § 6505. Construction. No definition of the practice of a profession
6 shall be construed to restrain or restrict the performance of similar
7 acts authorized in the definition of other professions.

8 § 6505-a. Professional referrals. There shall be no monetary liability
9 on the part of, and no cause of action for damages shall arise against,
10 any association or society of professionals authorized to practice under
11 this article, or any employee, agent, or member thereof, for referring
12 any person to a member of the profession represented by such association
13 or society provided that such referral was made without charge as a
14 service to the public, and without malice, and in the reasonable belief
15 that such referral was warranted, based upon the facts disclosed.

16 § 6505-b. Course work or training in infection control practices. 1.
17 Every dentist, registered nurse, licensed practical nurse, podiatrist,
18 optometrist and dental hygienist practicing in the state shall, on or
19 before July first, nineteen hundred ninety-four and every four years
20 thereafter, complete course work or training appropriate to the profes-
21 sional's practice approved by the department regarding infection
22 control, which shall include sepsis, and barrier precautions, including
23 engineering and work practice controls, in accordance with regulatory
24 standards promulgated by the department, in consultation with the
25 department of education, which shall be consistent, as far as appropri-
26 ate, with such standards adopted by the department pursuant to section
27 two hundred thirty-nine of this chapter to prevent the transmission of
28 HIV, HBV, HCV and infections that could lead to sepsis in the course of
29 professional practice. Each such professional shall document to the
30 department at the time of registration commencing with the first regis-
31 tration after July first, nineteen hundred ninety-four that the profes-
32 sional has completed course work or training in accordance with this
33 section, provided, however that a professional subject to the provisions
34 of paragraph (f) of subdivision one of section twenty-eight hundred
35 five-k of this chapter shall not be required to so document. The
36 department shall provide an exemption from this requirement to anyone
37 who requests such an exemption and who:

38 a. clearly demonstrates to the department's satisfaction that there
39 would be no need for him or her to complete such course work or training
40 because of the nature of his or her practice; or

41 b. that he or she has completed course work or training deemed by the
42 department to be equivalent to the course work or training approved by
43 the department pursuant to this section.

44 2. The department shall consult with organizations representative of
45 professions, institutions and those with expertise in infection control
46 and HIV, HBV, HCV and infections that could lead to sepsis with respect
47 to the regulatory standards promulgated pursuant to this section.

48 § 6505-c. Articulation between military and civilian professional
49 careers. 1. The commissioner shall develop, jointly with the director of
50 the division of veterans' services, a program to facilitate articulation
51 between participation in the military service of the United States or
52 the military service of the state and admission to practice of a profes-
53 sion. The commissioner and the director of the division of veterans'
54 services shall identify, review and evaluate professional training
55 programs offered through either the military service of the United
56 States or the military service of the state which may, where applicable,

1 be accepted by the department as equivalent education and training in
2 lieu of all or part of an approved program. Particular emphasis shall
3 be placed on the identification of military programs which have previ-
4 ously been deemed acceptable by the department as equivalent education
5 and training, programs which may provide, where applicable, equivalent
6 education and training for those professions which are critical to
7 public health and safety and programs which may provide, where applica-
8 ble, equivalent education and training for those professions for which
9 shortages exist in the state of New York.

10 2. The commissioner and the director of the division of veterans'
11 services shall prepare a list of those military programs which have
12 previously been deemed acceptable by the department as equivalent educa-
13 tion and training in lieu of all or part of an approved program no later
14 than the thirtieth of August, two thousand three. On and after such
15 date, such list shall be made available to the public and applicants for
16 admission to practice of a profession.

17 3. The commissioner and the director of the division of veterans'
18 services shall prepare a list of those military programs which may
19 provide, where applicable, equivalent education and training for those
20 professions which are critical to public health and safety, programs
21 which may provide, where applicable, equivalent education and training
22 for those professions for which shortages exist in the state of New York
23 and any other military programs which may, where applicable, be accepted
24 by the department as equivalent education and training in lieu of all or
25 part of an approved program no later than the thirty-first of October,
26 two thousand three. On and after such date, such list shall be made
27 available to the public and applicants for admission to practice of a
28 profession.

29 4. Such lists shall be prepared annually no later than the thirtieth
30 of June thereafter with additions and deletions made jointly by the
31 commissioner and the director of the division of veterans' services and
32 made available to the public and applicants for admission to practice of
33 a profession on such date.

34 SUBTITLE 2

35 STATE MANAGEMENT

36 Section 6506. Supervision by the department.

37 6507. Administration.

38 6507-a. Registration fee surcharge.

39 6508. Assistance by state boards for the professions.

40 § 6506. Supervision by the department. The department shall supervise
41 the admission to and the practice of the professions. In supervising,
42 the department may:

43 1. Promulgate rules, except that no rule shall be promulgated concern-
44 ing title three of this article;

45 2. Establish by rule, high school, preprofessional, professional and
46 other educational qualifications required for licensing in the
47 professions regulated by this article;

48 3. Appoint such committees as it deems necessary and compensate
49 members of such committees who are not members of the department up to
50 one hundred dollars per day for each day devoted to committee functions,
51 together with their necessary expenses;

52 4. Waive education, experience and examination requirements for a
53 professional license prescribed in the title relating to the profession,
54 provided the department shall be satisfied that the requirements of such
55 title have been substantially met;

1 5. Indorse a license issued by a licensing board of another state or
2 country upon the applicant fulfilling the following requirements:

3 a. Application: file an application with the department;

4 b. Education: meet educational requirements in accordance with the
5 commissioner's regulations;

6 c. Experience: have experience satisfactory to the state boards for
7 the professions as prescribed in the title relating to the profession
8 and in accordance with the commissioner's regulations;

9 d. Examination: pass an examination satisfactory to the state boards
10 for the professions as prescribed in the title relating to the profes-
11 sion and in accordance with the commissioner's regulations;

12 e. Age: be at least twenty-one years of age;

13 f. Citizenship or immigration status: be a United States citizen or an
14 alien lawfully admitted for permanent residence in the United States;

15 g. Character: be of good moral character as determined by the depart-
16 ment; and

17 h. Prior professional conduct: where an application is submitted for
18 licensure endorsement in any profession regulated by this article and
19 the department determines that while engaged in practice in another
20 jurisdiction the applicant: (i) has been subject to disciplinary action
21 by a duly authorized professional disciplinary agency of such other
22 jurisdiction, where the conduct upon which the disciplinary action was
23 based would, if committed in New York state, constitute practicing the
24 profession beyond its authorized scope, with gross incompetence, with
25 gross negligence on a particular occasion, or with negligence or incom-
26 petence on more than one occasion under the laws of New York state, or
27 (ii) has voluntarily or otherwise surrendered his or her professional
28 license in another jurisdiction after a disciplinary action was insti-
29 tuted by a duly authorized professional disciplinary agency of such
30 other jurisdiction, based on conduct that would, if committed in New
31 York state, constitute practicing the profession beyond its authorized
32 scope, with gross incompetence, with gross negligence on a particular
33 occasion, or with negligence or incompetence on more than one occasion
34 under the laws of New York state, the department shall evaluate the
35 conduct and may deny licensure endorsement to the applicant based on
36 such conduct;

37 6. Direct the department to remedy any error, omission, delay or other
38 circumstance in the issuance or registration of a license;

39 7. Designate a professional conduct officer, who shall be the chief
40 administrative officer of the office of the professions, or his or her
41 designee, in connection with professional licensing and misconduct
42 proceedings and criminal matters, such officer to be empowered to issue
43 subpoenas and administer oaths in connection with such proceedings;

44 8. Establish by rule, standards of conduct with respect to advertis-
45 ing, fee splitting, practicing under a name other than that of the indi-
46 vidual licensee (when not specifically authorized), proper use of
47 academic or professional degrees or titles tending to imply professional
48 status, and such other ethical practices as such board shall deem neces-
49 sary, except that no rule shall be established concerning title two of
50 this article; and

51 9. Delegate to department officers the disposition of any licensing
52 matters pursuant to rules.

53 § 6507. Administration. 1. The commissioner and department shall
54 administer the admission to and the practice of the professions.

55 2. In administering, the commissioner may:

1 a. Promulgate regulations, except that no regulations shall be promul-
2 gated concerning title three of this chapter;
3 b. Conduct investigations;
4 c. Issue subpoenas;
5 d. Grant immunity from prosecution in accordance with section 50.20 of
6 the criminal procedure law to anyone subpoenaed in any investigation or
7 hearing conducted pursuant to this article; and

8 e. Excuse, for cause acceptable to the commissioner, the failure to
9 register with the department. Such excuse shall validate and authorize
10 such practitioner's right to practice pending registration.

11 3. The department assisted by the board for each profession, shall:

12 a. Establish standards for pre-professional and professional educa-
13 tion, experience and licensing examinations as required to implement the
14 title for each profession. Notwithstanding any other provision of law,
15 the commissioner shall establish standards requiring that all persons
16 applying, on or after January first, nineteen hundred ninety-one,
17 initially, or for the renewal of, a license, registration or limited
18 permit to be a physician, chiropractor, dentist, registered nurse,
19 podiatrist, optometrist, psychiatrist, psychologist, licensed master
20 social worker, licensed clinical social worker, licensed creative arts
21 therapist, licensed marriage and family therapist, licensed mental
22 health counselor, licensed psychoanalyst, dental hygienist, licensed
23 behavior analyst, or certified behavior analyst assistant shall, in
24 addition to all the other licensure, certification or permit require-
25 ments, have completed two hours of coursework or training regarding the
26 identification and reporting of child abuse and maltreatment. The
27 coursework or training shall be obtained from an institution or provider
28 which has been approved by the department to provide such coursework or
29 training. The coursework or training shall include information regarding
30 the physical and behavioral indicators of child abuse and maltreatment
31 and the statutory reporting requirements set out in sections four
32 hundred thirteen through four hundred twenty of the social services law,
33 including but not limited to, when and how a report must be made, what
34 other actions the reporter is mandated or authorized to take, the legal
35 protections afforded reporters, and the consequences for failing to
36 report. Such coursework or training may also include information regard-
37 ing the physical and behavioral indicators of the abuse of individuals
38 with mental retardation and other developmental disabilities and volun-
39 tary reporting of abused or neglected adults to the office for people
40 with developmental disabilities or the local adult protective services
41 unit. Each applicant shall provide the department with documentation
42 showing that he or she has completed the required training. The depart-
43 ment shall provide an exemption from the child abuse and maltreatment
44 training requirements to any applicant who requests such an exemption
45 and who shows, to the department's satisfaction, that there would be no
46 need because of the nature of his or her practice for him or her to
47 complete such training;

48 b. Review qualifications in connection with licensing requirements;
49 and

50 c. Provide for licensing examinations and reexaminations.

51 4. The department shall:

52 a. Register or approve educational programs designed for the purpose
53 of providing professional preparation which meet standards established
54 by the department.

55 b. Issue licenses, registrations, and limited permits to qualified
56 applicants;

1 c. (i) Issue a certificate of authority to a qualified professional
2 service corporation being organized under section fifteen hundred three
3 of the business corporation law or to a university faculty practice
4 corporation being organized under section fourteen hundred twelve of the
5 not-for-profit corporation law on payment of a fee of ninety dollars,
6 (ii) require such corporations to file a certified copy of each certifi-
7 cate of incorporation and amendment thereto within thirty days after
8 the filing of such certificate or amendment on payment of a fee of twenty
9 dollars, (iii) require such corporations to file a triennial state-
10 ment required by section fifteen hundred fourteen of the business corpo-
11 ration law on payment of a fee of one hundred five dollars.

12 d. Revoke limited permits on the recommendation of the committee on
13 professional conduct for the profession concerned, except for limited
14 permits issued to physicians, physician's assistants and specialist's
15 assistants which shall be subject to sections two hundred thirty, two
16 hundred thirty-a, two hundred thirty-b and two hundred thirty-c of this
17 chapter;

18 e. Maintain public records of licenses issued and retain in its files
19 identifying data concerning each person to whom a license has been
20 issued;

21 f. Collect the fees prescribed by this article or otherwise provided
22 by law;

23 g. Prepare an annual report for the legislature, the governor and
24 other executive offices, the state boards for the professions, profes-
25 sional societies, consumer agencies and other interested persons. Such
26 report shall include but not be limited to a description and analysis of
27 the administrative procedures and operations of the department based
28 upon a statistical summary relating to (i) new licensure, (ii) disci-
29 pline, (iii) complaint, investigation, and hearing backlog, (iv) budget,
30 and (v) the state boards for the professions. Information provided shall
31 be enumerated by profession; and

32 h. Establish an administrative unit which shall be responsible for the
33 investigation, prosecution and determination of alleged violations of
34 professional conduct.

35 5. Where an application is submitted for licensure or a limited permit
36 in any profession regulated by this article and the commissioner deter-
37 mines that while engaged in practice in another jurisdiction: (i) the
38 applicant has been subject to disciplinary action by a duly authorized
39 professional disciplinary agency of such other jurisdiction, where the
40 conduct upon which the disciplinary action was based would, if committed
41 in New York state, constitute practicing the profession beyond its
42 authorized scope, with gross incompetence, with gross negligence on a
43 particular occasion, or with negligence or incompetence on more than one
44 occasion under the laws of New York state, or (ii) the applicant has
45 voluntarily or otherwise surrendered his or her professional license in
46 another jurisdiction after a disciplinary action was instituted by a
47 duly authorized professional disciplinary agency of such other jurisdic-
48 tion based on conduct that would, if committed in New York state,
49 constitute practicing the profession beyond its authorized scope, with
50 gross incompetence, with gross negligence on a particular occasion, or
51 with negligence or incompetence on more than one occasion under the laws
52 of New York state, the department shall evaluate the conduct and the
53 commissioner may deny licensure or issuance of a limited permit to the
54 applicant based on such conduct.

55 6. The commissioner and the department shall perform any other func-
56 tions necessary to implement this article.

1 § 6507-a. Registration fee surcharge. The commissioner is hereby
2 authorized to impose and collect a fifteen percent surcharge, rounded
3 upward to the nearest dollar, on any professional registration fee
4 imposed under this article that is subject to deposit in the office of
5 the professions account established pursuant to section ninety-seven-ann
6 of the state finance law. Such surcharge shall not be imposed on any
7 such fee dedicated for deposit in the professional medical conduct
8 account.

9 § 6508. Assistance by state boards for the professions. 1. A board for
10 each profession shall be appointed by the department on the recommenda-
11 tion of the commissioner for the purpose of assisting the department on
12 matters of professional licensing, practice, and conduct. The composi-
13 tion of each board shall be as prescribed in the title relating to each
14 profession. Within each board a committee on licensing may be appointed
15 by the board chairman. Except as provided in paragraph a of this subdivi-
16 sion, the membership of each professional licensing board shall be
17 increased by one member, and each such board shall have at least one
18 public representative who shall be selected by the department from the
19 general public.

20 a. The membership of the professional licensing boards created under
21 sections sixty-five hundred twenty-three, sixty-eight hundred four and
22 sixty-nine hundred three of this article, and section seventy-four
23 hundred three of the education law shall be increased by two members,
24 and each such board shall have at least two public representatives, who
25 shall be selected by the department from the general public.

26 b. For the purposes of this article, a "public representative" shall
27 be a person who is a consumer of services provided by those licensed or
28 otherwise supervised or regulated by the boards created hereunder, and
29 shall not be, nor within five years immediately preceding appointment
30 have been:

31 (i) a licensee or person otherwise subject to the supervision or regu-
32 lation of the board to which appointed; or

33 (ii) a person maintaining a contractual relationship with a licensee
34 of such board, which would constitute more than two percentum of the
35 practice or business of any such licensee, or an officer, director, or
36 representative of such person or group of persons.

37 2. Each state board for the professions as prescribed in the title
38 relating to each profession board, or its committee on licensing, shall
39 select or prepare examinations, may conduct oral and practical examina-
40 tions and reexaminations, shall fix passing grades, and assist the
41 department in other licensing matters as prescribed by the department.

42 3. Each board shall conduct disciplinary proceedings as prescribed in
43 this article and shall assist in other professional conduct matters as
44 prescribed by the department.

45 4. Members of each board shall be appointed by the department for
46 five-year terms except that the terms of those first appointed shall be
47 arranged so that as nearly as possible an equal number shall terminate
48 annually. A vacancy occurring during a term shall be filled by an
49 appointment by the department for the unexpired term. Each state profes-
50 sional association or society may nominate one or more candidates for
51 each appointment to be made to the board for its profession, but the
52 department shall not be required to appoint candidates so nominated.
53 Former members of a board may be re-appointed by the department, on the
54 recommendation of the commissioner, to serve as members of the board
55 solely for the purposes of disciplinary proceedings, proceedings relat-
56 ing to the moral character of an applicant for licensure, and

proceedings relating to applications for the restoration of a professional license. In addition, each board shall establish a roster of auxiliary members from candidates nominated by professional associations or societies for appointment by the department, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license.

5. Each member of a board shall receive a certificate of appointment, shall before beginning his or her term of office file a constitutional oath of office with the secretary of state, shall receive up to one hundred dollars as prescribed by the department for each day devoted to board work, and shall be reimbursed for his necessary expenses. Any member may be removed from a board by the department for misconduct, incapacity or neglect of duty.

6. Each board shall elect from its members a chairman and vice-chairman annually, shall meet upon call of the chairman or the department, and may adopt bylaws consistent with this article and approved by the department. A quorum for the transaction of business by the board shall be a majority of members but not less than five members.

7. An executive secretary to each board shall be appointed by the department on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the department.

SUBTITLE 3

PROFESSIONAL MISCONDUCT

Section 6509. Definitions of professional misconduct.

6509-a. Additional definition of professional misconduct; limited application.

6509-b. Additional definition of professional misconduct; arrears in payment of support; limited application.

6509-c. Additional definition of professional misconduct; failure to comply in paternity or child support proceedings; limited application.

6509-d. Limited exemption from professional misconduct.

6509-e. Additional definition of professional misconduct; mental health professionals.

6510. Proceedings in cases of professional misconduct.

6510-a. Temporary surrender of licenses during treatment for drug or alcohol abuse.

6510-b. Nurse peer assistance programs.

6510-c. Voluntary non-disciplinary surrender of a license.

6510-d. Nurses' refusal of overtime work.

6511. Penalties for professional misconduct.

§ 6509. Definitions of professional misconduct. Each of the following is professional misconduct, and any licensee found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of this subtitle shall be subject to the penalties prescribed in section sixty-five hundred eleven of this subtitle:

1. Obtaining the license fraudulently,

2. Practicing the profession fraudulently, beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion,

1 3. Practicing the profession while the ability to practice is impaired
2 by alcohol, drugs, physical disability, or mental disability,

3 4. Being habitually drunk or being dependent on, or a habitual user of
4 narcotics, barbiturates, amphetamines, hallucinogens, or other drugs
5 having similar effects,

6 5. a. Being convicted of committing an act constituting a crime under:

7 (i) New York state law or,

8 (ii) Federal law or,

9 (iii) The law of another jurisdiction and which, if committed within
10 this state, would have constituted a crime under New York state law;

11 b. Having been found guilty of improper professional practice or
12 professional misconduct by a duly authorized professional disciplinary
13 agency of another state where the conduct upon which the finding was
14 based would, if committed in New York state, constitute professional
15 misconduct under the laws of New York state;

16 c. Having been found by the commissioner to be in violation of article
17 thirty-three this chapter.

18 d. Having his or her license to practice medicine revoked, suspended
19 or having other disciplinary action taken, or having his or her applica-
20 tion for a license refused, revoked or suspended or having voluntarily
21 or otherwise surrendered his or her license after a disciplinary action
22 was instituted by a duly authorized professional disciplinary agency of
23 another state, where the conduct resulting in the revocation, suspension
24 or other disciplinary action involving the license or refusal, revoca-
25 tion or suspension of an application for a license or the surrender of
26 the license would, if committed in New York state, constitute profes-
27 sional misconduct under the laws of New York state.

28 6. Refusing to provide professional service to a person because of
29 such person's race, creed, color, or national origin,

30 7. Permitting, aiding or abetting an unlicensed person to perform
31 activities requiring a license,

32 8. Practicing the profession while the license is suspended, or will-
33 fully failing to register or notify the department of any change of name
34 or mailing address, or, if a professional service corporation willfully
35 failing to comply with sections fifteen hundred three and fifteen
36 hundred fourteen of the business corporation law or, if a university
37 faculty practice corporation willfully failing to comply with paragraphs
38 (b), (c) and (d) of section fifteen hundred three and section fifteen
39 hundred fourteen of the business corporation law,

40 9. Committing unprofessional conduct, as defined by the department in
41 its rules or by the commissioner in regulations approved by the depart-
42 ment,

43 10. A violation of section twenty-eight hundred three-d or twenty-
44 eight hundred five-k of this chapter,

45 11. A violation of section sixty-five hundred five-b of the education
46 law by a professional other than a professional subject to the
47 provisions of paragraph (f) of subdivision one of section twenty-eight
48 hundred five-k of this chapter,

49 12. In the event that the department of environmental conservation has
50 reported to the department alleged misconduct by an architect or profes-
51 sional engineer in making a certification under section nineteen of the
52 tax law, relating to the green building tax credit, the department, upon
53 a hearing and a finding of willful misconduct, may revoke the license of
54 such professional or prescribe such other penalty as it determines to be
55 appropriate, or

1 13. In the event that any agency designated pursuant to title four-B
2 of article four of the real property tax law, relating to the green roof
3 tax abatement, has reported to the department alleged misconduct by an
4 architect or engineer in making a certification under such title, the
5 department, upon a hearing and a finding of willful misconduct, may
6 revoke the license of such professional or prescribe such other penalty
7 as it determines to be appropriate.

8 14. In the event that any agency designated pursuant to title four-C
9 of article four of the real property tax law, relating to the solar
10 electric generating system tax abatement, has reported to the department
11 alleged misconduct by an architect or engineer in making a certification
12 under such title, the department, upon a hearing and a finding of will-
13 ful misconduct, may revoke the license of such professional or prescribe
14 such other penalty as it determines to be appropriate.

15 § 6509-a. Additional definition of professional misconduct; limited
16 application. Notwithstanding any inconsistent provision of this article
17 or of any other provision of law to the contrary, the license or regis-
18 tration of a person subject to the provisions of titles six, seven,
19 nine, ten, twelve, fourteen, fifteen, and twenty-six of this article may
20 be revoked, suspended or annulled or such person may be subject to any
21 other penalty provided in section sixty-five hundred eleven of this
22 subtitle in accordance with the provisions and procedure of this subti-
23 tle for the following: That any person subject to the above enumerated
24 titles, has directly or indirectly requested, received or participated
25 in the division, transference, assignment, rebate, splitting or refund-
26 ing of a fee for, or has directly requested, received or profited by
27 means of a credit or other valuable consideration as a commission,
28 discount or gratuity in connection with the furnishing of professional
29 care, or service, including x-ray examination and treatment, or for or
30 in connection with the sale, rental, supplying or furnishing of clinical
31 laboratory services or supplies, x-ray laboratory services or supplies,
32 inhalation therapy service or equipment, ambulance service, hospital or
33 medical supplies, physiotherapy or other therapeutic service or equip-
34 ment, artificial limbs, teeth or eyes, orthopedic or surgical appliances
35 or supplies, optical appliances, supplies or equipment, devices for aid
36 of hearing, drugs, medication or medical supplies or any other goods,
37 services or supplies prescribed for medical diagnosis, care or treatment
38 under this chapter, except payment, not to exceed thirty-three and one-
39 third per centum of any fee received for x-ray examination, diagnosis or
40 treatment, to any hospital furnishing facilities for such examination,
41 diagnosis or treatment. Nothing contained in this section shall prohibit
42 such persons from practicing as partners, in groups or as a professional
43 corporation or as a university faculty practice corporation nor from
44 pooling fees and moneys received, either by the partnerships, profes-
45 sional corporations, university faculty practice corporations or groups
46 by the individual members thereof, for professional services furnished
47 by any individual professional member, or employee of such partnership,
48 corporation or group, nor shall the professionals constituting the part-
49 nerships, corporations or groups be prohibited from sharing, dividing or
50 apportioning the fees and moneys received by them or by the partnership,
51 corporation or group in accordance with a partnership or other agree-
52 ment; provided that no such practice as partners, corporations or in
53 groups or pooling of fees or moneys received or shared, division or
54 apportionment of fees shall be permitted with respect to care and treat-
55 ment under the workers' compensation law except as expressly authorized
56 by the workers' compensation law. Nothing contained in this chapter

1 shall prohibit a medical or dental expense indemnity corporation pursu-
2 ant to its contract with the subscriber from prorationing a medical or
3 dental expense indemnity allowance among two or more professionals in
4 proportion to the services rendered by each such professional at the
5 request of the subscriber, provided that prior to payment thereof such
6 professionals shall submit both to the medical or dental expense indem-
7 nity corporation and to the subscriber statements itemizing the services
8 rendered by each such professional and the charges therefor.

9 § 6509-b. Additional definition of professional misconduct; arrears in
10 payment of support; limited application. 1. The provisions of this
11 section shall apply in all cases of licensee or registrant arrears in
12 payment of child support or combined child and spousal support referred
13 to the department by a court pursuant to the requirements of section two
14 hundred forty-four-c of the domestic relations law or pursuant to
15 section four hundred fifty-eight-b of the family court act.

16 2. Upon receipt of an order from the court pursuant to one of the
17 foregoing provisions of law, the department, if it finds such person to
18 be so licensed or registered, shall within thirty days of receipt of
19 such order from the court, provide notice to the licensee or registrant
20 of, and cause the regents review committee to initiate, a hearing which
21 shall be held at least twenty days and no more than thirty days after
22 the sending of such notice to the licensee or registrant. The hearing
23 shall be held solely for the purpose of determining whether there exists
24 as of the date of the hearing proof that full payment of all arrears of
25 support established by the order of the court to be due from the licen-
26 see or registrant have been paid. Proof of such payment shall be a
27 certified check showing full payment of established arrears or a notice
28 issued by the court or by the support collection unit where the order is
29 payable to the support collection unit designated by the appropriate
30 social services district. Such notice shall state that full payment of
31 all arrears of support established by the order of the court to be due
32 have been paid. The licensee or registrant shall be given full opportu-
33 nity to present such proof of payment at the hearing in person or by
34 counsel. The only issue to be determined by the regents review committee
35 as a result of the hearing is whether the arrears have been paid. No
36 evidence with respect to the appropriateness of the court order or abil-
37 ity of the respondent party in arrears to comply with such order shall
38 be received or considered by the committee.

39 3. Notwithstanding any inconsistent provision of this article or of
40 any other provision of law to the contrary, the license or registration
41 of a person subject to the provisions of this article and/or subject to
42 the provisions of title two-A of article two of this chapter shall be
43 suspended if, at the hearing provided for by subdivision two of this
44 section, the licensee or registrant fails to present proof of payment as
45 required by such subdivision. Such suspension shall not be lifted unless
46 the court or the support collection unit, where the court order is paya-
47 ble to the support collection unit designated by the appropriate social
48 services district, issues notice to the regents review committee that
49 full payment of all arrears of support established by the order of the
50 court to be due have been paid.

51 4. The department shall inform the court of all actions taken here-
52 under as required by law.

53 5. This section shall apply to support obligations paid pursuant to
54 any order of child support or child and spousal support issued under
55 provisions of section two hundred thirty-six or two hundred forty of the

1 domestic relations law, or article four, five or five-A of the family
2 court act.

3 6. Notwithstanding any inconsistent provision of this article or of
4 any other provision of law to the contrary, the provisions of this
5 section shall apply to the exclusion of any other requirements of this
6 article and to the exclusion of any other requirement of law to the
7 contrary.

8 § 6509-c. Additional definition of professional misconduct; failure to
9 comply in paternity or child support proceedings; limited application.

10 1. The provisions of this section shall apply in all cases of licensee
11 or registrant failure after receiving appropriate notice, to comply with
12 a summons, subpoena or warrant relating to a paternity or child support
13 proceeding referred to the department by a court pursuant to the
14 requirements of section two hundred forty-four-c of the domestic
15 relations law or pursuant to section four hundred fifty-eight-b or five
16 hundred forty-eight-b of the family court act.

17 2. Upon receipt of an order from the court pursuant to one of the
18 foregoing provisions of law, the department, if it finds such person to
19 be so licensed or registered, shall within thirty days of receipt of
20 such order from the court, provide notice to the licensee or registrant
21 that his or her license or registration shall be suspended in sixty days
22 unless the conditions as set forth in subdivision three of this section
23 are met.

24 3. Notwithstanding any inconsistent provision of this article or of
25 any other provision of law to the contrary, the license or registration
26 of a person subject to the provisions of this article and/or subject to
27 the provisions of title two-A of article two of this chapter shall be
28 suspended unless the court terminates its order to commence suspension
29 proceedings. Such suspension shall not be lifted unless the court issues
30 an order to the department terminating its order to commence suspension
31 proceedings.

32 4. The department shall inform the court of all actions taken here-
33 under as required by law.

34 5. This section applies to paternity or child support proceedings
35 commenced under, and support obligations paid pursuant to any order of
36 child support or child and spousal support issued under provisions of
37 section two hundred thirty-six or two hundred forty of the domestic
38 relations law, or article four, five, five-A or five-B of the family
39 court act.

40 6. Notwithstanding any inconsistent provision of this article or of
41 any other provision of law to the contrary, the provisions of this
42 section shall apply to the exclusion of any other requirements of this
43 article and to the exclusion of any other requirement of law to the
44 contrary.

45 § 6509-d. Limited exemption from professional misconduct. Notwith-
46 standing any other provision of law to the contrary, it shall not be
47 considered professional misconduct pursuant to this subtitle for any
48 person who is licensed under this chapter and who would otherwise be
49 prohibited from prescribing or administering drugs pursuant to the title
50 that licenses such individual, to administer an opioid antagonist in the
51 event of an emergency.

52 § 6509-e. Additional definition of professional misconduct; mental
53 health professionals.

54 1. For the purposes of this section:

55 a. "Mental health professional" means a person subject to the
56 provisions of title seventeen, eighteen, or twenty-five of this article;

1 or any other person designated as a mental health professional pursuant
2 to law, rule or regulation.

3 b. "Sexual orientation change efforts" (i) means any practice by a
4 mental health professional that seeks to change an individual's sexual
5 orientation, including, but not limited to, efforts to change behaviors,
6 gender identity, or gender expressions, or to eliminate or reduce sexual
7 or romantic attractions or feelings towards individuals of the same sex
8 and (ii) shall not include counseling for a person seeking to transition
9 from one gender to another, or psychotherapies that: (A) provide accept-
10 ance, support and understanding of patients or the facilitation of
11 patients' coping, social support and identity exploration and develop-
12 ment, including sexual orientation-neutral interventions to prevent or
13 address unlawful conduct or unsafe sexual practices; and (B) do not seek
14 to change sexual orientation.

15 2. It shall be professional misconduct for a mental health profes-
16 sional to engage in sexual orientation change efforts upon any patient
17 under the age of eighteen years, and any mental health professional
18 found guilty of such misconduct under the procedures prescribed in
19 section sixty-five hundred ten of this subtitle shall be subject to the
20 penalties prescribed in section sixty-five hundred eleven of this subti-
21 tle.

22 § 6510. Proceedings in cases of professional misconduct. In cases of
23 professional misconduct the proceedings shall be as follows:

24 1. Preliminary procedures.

25 a. Complaint. A complaint of a licensee's professional misconduct may
26 be made by any person to the education department.

27 b. Investigation. The department shall investigate each complaint
28 which alleges conduct constituting professional misconduct. The results
29 of the investigation shall be referred to the professional conduct offi-
30 cer designated by the department pursuant to section sixty-five hundred
31 six of this subtitle. If such officer decides that there is not substan-
32 tial evidence of professional misconduct or that further proceedings are
33 not warranted, no further action shall be taken. If such officer, after
34 consultation with a professional member of the applicable state board
35 for the profession, determines that there is substantial evidence of
36 professional misconduct, and that further proceedings are warranted,
37 such proceedings shall be conducted pursuant to this section. If the
38 complaint involves a question of professional expertise, then such offi-
39 cer may seek, and if so shall obtain, the concurrence of at least two
40 members of a panel of three members of the applicable board. The depart-
41 ment shall cause a preliminary review of every report made to the
42 department pursuant to section twenty-eight hundred three-e of this
43 chapter, as added by chapter eight hundred sixty-six of the laws of
44 nineteen hundred eighty, section forty-four hundred five-b of this chap-
45 ter and section three hundred fifteen of the insurance law, to determine
46 if such report reasonably appears to reflect conduct warranting further
47 investigation pursuant to this subdivision.

48 c. Charges. In all disciplinary proceedings other than those termi-
49 nated by an administrative warning pursuant to paragraph a of subdivi-
50 sion two of this section, the department shall prepare the charges. The
51 charges shall state the alleged professional misconduct and shall state
52 concisely the material facts but not the evidence by which the charges
53 are to be proved.

54 d. Records and reports as public information. In all disciplinary
55 proceedings brought pursuant to this section or in any voluntary settle-
56 ment of a complaint between the licensee and the department, the depart-

1 ment shall notify the licensee in writing that the record and reports of
2 such disciplinary proceeding or of such voluntary settlement shall be
3 considered matters of public information unless specifically excepted in
4 this title, or in any other law or applicable rule or regulation.

5 e. Service of charges and notice of hearing. In order to commence
6 disciplinary proceedings under this article, service of a copy of the
7 charges and notice of hearing must be completed twenty days before the
8 date of the hearing if by personal delivery, and must be completed twen-
9 ty-five days before the date of the hearing if by any other method.

10 f. Service of charges and of notice of hearing upon a natural person.
11 Personal service of the charges and notice of any hearing pursuant to
12 subdivision two or three of this section upon a natural person shall be
13 made by any of the following methods:

14 (i) by delivery within the state to the person to be served;

15 (ii) by delivery within the state to a person of suitable age and
16 discretion at the actual place of business, dwelling place or usual
17 place of abode of the person to be served and either: (A) by mailing by
18 certified mail, return receipt requested, to the person to be served at
19 his or her last known residence, or (B) by mailing by certified mail,
20 return receipt requested, to the person to be served at his or her last
21 address on file with the division of licensing services of the depart-
22 ment in an envelope bearing the legend "personal and confidential,"
23 provided that, in either case: such delivery and mailing shall be
24 effected within twenty days of each other; service pursuant to this
25 subparagraph shall be complete ten days after either the delivery, or
26 the mailing, whichever is later; and proof of service shall, among other
27 things, identify such person of suitable age and discretion and state
28 the date, time and place of such service; or

29 (iii) where service under subparagraphs (i) and (ii) of this paragraph
30 cannot be made with due diligence, a copy of the charges and the notice
31 of hearing shall be served by certified mail, return receipt requested,
32 to the person's last known address on file with the division of licens-
33 ing services of the department or by affixing the changes and the notice
34 of hearing to the door of either the actual place of business, dwelling
35 place or usual place of abode of the person to be served; provided that:
36 service pursuant to this subparagraph shall be complete ten days after
37 such mailing, and proof of service shall set forth the department's
38 efforts of due diligence.

39 g. Service of charges and notice of hearing outside of the state. A
40 natural person subject to the jurisdiction of the department may be
41 served with a copy of the charges and the notice of hearing outside of
42 the state in the same manner as service is made within the state, by any
43 person authorized to make service within the state of New York or by any
44 person authorized to make service by the laws of the state, territory,
45 possession or country in which service is made or by any duly qualified
46 attorney or equivalent in such jurisdiction.

47 2. Expedited procedures.

48 a. Violations. Violations involving professional misconduct of a minor
49 or technical nature may be resolved by expedited procedures as provided
50 in paragraph b or c of this subdivision. For purposes of this subdivi-
51 sion, violations of a minor or technical nature shall include, but shall
52 not be limited to, isolated instances of violations concerning profes-
53 sional advertising or record keeping, and other isolated violations
54 which do not directly affect or impair the public health, welfare or
55 safety. The department shall make recommendations to the legislature on
56 or before June first, nineteen hundred eighty-one, for the further defi-

1 nition of violations of a minor or technical nature. The initial
2 instance of any violation of a minor or technical nature may be resolved
3 by the issuance of an administrative warning pursuant to paragraph b of
4 this subdivision. Subsequent instances of similar violations of a minor
5 or technical nature within a period of three years may be resolved by
6 the procedure set forth in paragraph c of this subdivision.

7 b. Administrative warning. If a professional conduct officer, after
8 consultation with a professional member of the state board, determines
9 that there is substantial evidence of professional misconduct but that
10 it is an initial violation of a minor or technical nature which would
11 not justify the imposition of a more severe disciplinary penalty, the
12 matter may be terminated by the issuance of an administrative warning.
13 Such warnings shall be confidential and shall not constitute an adjudi-
14 cation of guilt or be used as evidence that the licensee is guilty of
15 the alleged misconduct. However, in the event of a further allegation of
16 similar misconduct by the same licensee, the matter may be reopened and
17 further proceedings instituted as provided in this section.

18 c. Determination of penalty on uncontested minor violations. If a
19 professional conduct officer, after consultation with a professional
20 member of the state board, determines that there is substantial evidence
21 of a violation of a minor or technical nature, and of a nature justify-
22 ing a penalty as specified in this paragraph, the department may prepare
23 and serve charges either by personal service or by certified mail,
24 return receipt requested. Such charges shall include a statement that
25 unless an answer is received within twenty days denying the charges, the
26 matter shall be referred to a violations committee consisting of at
27 least three members of the state board for the profession, at least one
28 of whom shall be a public representative, for determination. The
29 violations panel shall be appointed by the executive secretary of the
30 state board. The licensee shall be given at least fifteen days notice of
31 the time and place of the meeting of the violations committee and shall
32 have the right to appear in person and by an attorney and to make a
33 statement to the committee in mitigation or explanation of the miscon-
34 duct. The department may appear and make a statement in support of its
35 position. The violations committee may issue a censure and reprimand,
36 and in addition, or in the alternative, may impose a fine not to exceed
37 five hundred dollars for each specification of minor, or technical
38 misconduct. If the fine is not paid within three months the matter may
39 be reopened and shall be subject to the hearing and regents decision
40 procedures of this section. The determination of the panel shall be
41 final and shall not be subject to the regents decision procedures of
42 this section. If an answer is filed denying the charges, the matter
43 shall be processed as provided in subdivision three of this section.

44 d. Convictions of crimes or administrative violations. In cases of
45 professional misconduct based solely upon a violation of subdivision
46 five of section sixty-five hundred nine of this subtitle, the profes-
47 sional conduct officer may prepare and serve the charges and may refer
48 the matter directly to a regents review committee for its review and
49 report of its findings, determination as to guilt, and recommendation as
50 to the measure of discipline to be imposed. In such cases the notice of
51 hearing shall state that the licensee may file a written answer, brief
52 and affidavits; that the licensee may appear personally before the
53 regents review committee, may be represented by counsel and may present
54 evidence or sworn testimony on behalf of the licensee, and the notice
55 may contain such other information as may be considered appropriate by
56 the department. The department may also present evidence or sworn testi-

1 mony at the hearing. A stenographic record of the hearing shall be made.
2 Such evidence or sworn testimony offered at the meeting of the regents
3 review committee shall be limited to evidence and testimony relating to
4 the nature and severity of the penalty to be imposed upon the licensee.
5 The presiding officer at the meeting of the regents review committee
6 may, in his or her discretion, reasonably limit the number of witnesses
7 whose testimony will be received and the length of time any witness will
8 be permitted to testify. In lieu of referring the matter to the depart-
9 ment, the regents review committee may refer any such matter for further
10 proceedings pursuant to paragraph b or c of this subdivision or subdivi-
11 sion three of this section.

12 3. Adversary proceedings. Contested disciplinary proceedings and other
13 disciplinary proceedings not resolved pursuant to subdivision two of
14 this section shall be tried before a hearing panel of the appropriate
15 state board as provided in this subdivision.

16 a. Notice of hearing. The department shall set the time and place of
17 the hearing and shall prepare the notice of hearing. The notice of hear-
18 ing shall state (i) the time and place of the hearing, (ii) that the
19 licensee may file a written answer to the charges prior to the hearing,
20 (iii) that the licensee may appear personally at the hearing and may be
21 represented by counsel, (iv) that the licensee shall have the right to
22 produce witnesses and evidence in his behalf, to cross-examine witnesses
23 and examine evidence produced against him, and to issue subpoenas in
24 accordance with the provisions of the civil practice law and rules, (v)
25 that a stenographic record of the hearing will be made, and (vi) such
26 other information as may be considered appropriate by the department.

27 b. Hearing panel. The hearing shall be conducted by a panel of three
28 or more members, at least two of whom shall be members of the applicable
29 state board for the profession, and at least one of whom shall be a
30 public representative who is a member of the applicable state board or
31 of the state board for another profession licensed pursuant to this
32 article. The executive secretary for the applicable state board shall
33 appoint the panel and shall designate its chairperson. After the
34 commencement of a hearing, no panel member shall be replaced. A determi-
35 nation by the administrative officer of a need to disqualify or remove
36 any panel member will result in the disqualification or removal of the
37 panel and cause a new panel to be appointed. In addition to said panel
38 members, the department shall designate an administrative officer,
39 admitted to practice as an attorney in the state of New York, who shall
40 have the authority to rule on all motions, procedures and other legal
41 objections and shall draft a report for the hearing panel which shall be
42 subject to the approval of and signature by the panel chairperson on
43 behalf of the panel. The administrative officer shall not be entitled to
44 a vote.

45 c. Conduct of hearing. The evidence in support of the charges shall be
46 presented by an attorney for the department. The licensee shall have the
47 rights required to be stated in the notice of hearing. The panel shall
48 not be bound by the rules of evidence, but its determination of guilt
49 shall be based on a preponderance of the evidence. A hearing which has
50 been initiated shall not be discontinued because of the death or inca-
51 pacity to serve of one member of the hearing panel.

52 d. Results of hearing. The hearing panel shall render a written report
53 which shall include (i) findings of fact, (ii) a determination of guilty
54 or not guilty on each charge, and (iii) in the event of a determination
55 of guilty, a recommendation of the penalty to be imposed. For the panel
56 to make a determination of guilty, a minimum of two of the voting

1 members of the panel must vote for such a determination. A copy of the
2 report of the hearing panel shall be transmitted to the licensee.

3 4. Regents decision procedures.

4 a. Regents review committee. The transcript and report of the hearing
5 panel shall be reviewed at a meeting by a regents review committee
6 appointed by the department. The regents review committee shall consist
7 of three members, at least one of whom shall be a regent pursuant to
8 section two hundred two of the education law.

9 b. Regents review committee meetings. The review shall be based on the
10 transcript and the report of the hearing panel. The licensee may appear
11 at the meeting, and the regents review committee may require the licen-
12 see to appear. The licensee may be represented by counsel. The depart-
13 ment shall notify the licensee at least seven days before the meeting
14 (i) of the time and place of the meeting, (ii) of his right to appear,
15 (iii) of his or her right to be represented by counsel, (iv) whether or
16 not he or she is required to appear, and (v) of such other information
17 as may be considered appropriate. After the meeting, the regents review
18 committee shall transmit a written report of its review to the depart-
19 ment. In cases referred directly to the regents review committee pursu-
20 ant to paragraph d of subdivision two of this section, the review shall
21 be based upon the charges, the documentary evidence submitted by the
22 department, any answer, affidavits or brief the licensee may wish to
23 submit, and any evidence or sworn testimony presented by the licensee or
24 the department at the hearing, pursuant to the procedures described by
25 paragraph d of subdivision two of this section.

26 c. Regents decision and order. The department (i) shall consider the
27 transcript, the report of the hearing panel, and the report of the
28 regents review committee, (ii) shall decide whether the licensee is
29 guilty or not guilty on each charge, (iii) shall decide what penalties,
30 if any, to impose as prescribed in section sixty-five hundred eleven of
31 this subtitle, and (iv) shall issue an order to carry out its decisions.
32 Such decisions shall require the affirmative vote of a majority of the
33 members of the department. If the department disagrees with the hearing
34 panel's determination of not guilty, it shall remand the matter to the
35 original panel for reconsideration or to a new panel for a new hearing.
36 The panel's determination of not guilty on reconsideration or a new
37 hearing shall be final. The order shall be served upon the licensee
38 personally or by certified mail to the licensee's last known address and
39 such service shall be effective as of the date of the personal service
40 or five days after mailing by certified mail. The licensee shall deliver
41 to the department the license and registration certificate which has
42 been revoked, annulled, suspended, or surrendered within five days after
43 the effective date of the service of the order. If the license or regis-
44 tration certificate is lost, misplaced or its whereabouts is otherwise
45 unknown, the licensee shall submit an affidavit to that effect, and
46 shall deliver such license or certificate to the department when
47 located.

48 5. Court review procedures. The decisions of the department may be
49 reviewed pursuant to the proceedings under article seventy-eight of the
50 civil practice law and rules. Such proceedings shall be returnable
51 before the appellate division of the third judicial department, and such
52 decisions shall not be stayed or enjoined except upon application to
53 such appellate division after notice to the department and to the attor-
54 ney general and upon a showing that the petitioner has a substantial
55 likelihood of success.

1 5-a. At any time, if the professional conduct officer or his or her
2 designee designated to investigate a complaint of professional miscon-
3 duct of a licensed health care provider or licensed mental health care
4 provider determines that there is a reasonable belief that an act that
5 constitutes a sex offense identified in paragraph (h) of subdivision
6 three of section 130.05 of the penal law has been committed by the
7 licensee against a client or patient during a treatment session, consul-
8 tation, interview, or examination, the professional conduct officer or
9 the office of professional discipline shall notify the appropriate law
10 enforcement official or authority.

11 6. The provisions of subdivisions one, two, three and four of this
12 section shall not be applicable to proceedings in cases of professional
13 misconduct involving the medical profession, except as provided in para-
14 graph (m) of subdivision ten of section two hundred thirty of this chap-
15 ter.

16 7. Notwithstanding any other provision of law, persons who assist the
17 department as consultants or expert witnesses in the investigation or
18 prosecution of alleged professional misconduct, licensure matters,
19 restoration proceedings, or criminal prosecutions for unauthorized prac-
20 tice, shall not be liable for damages in any civil action or proceeding
21 as a result of such assistance, except upon proof of actual malice. The
22 attorney general shall defend such persons in any such action or
23 proceeding, in accordance with section seventeen of the public officers
24 law.

25 8. The files of the department relating to the investigation of possi-
26 ble instances of professional misconduct, or the unlawful practice of
27 any profession licensed by the department, or the unlawful use of a
28 professional title or the moral fitness of an applicant for a profes-
29 sional license or permit, shall be confidential and not subject to
30 disclosure at the request of any person, except upon the order of a
31 court in a pending action or proceeding. The provisions of this subdi-
32 vision shall not apply to documents introduced in evidence at a hearing
33 held pursuant to this chapter and shall not prevent the department from
34 sharing information concerning investigations with other duly authorized
35 public agencies responsible for professional regulation or criminal
36 prosecution.

37 9. A disciplinary proceeding under subdivision three or four of this
38 section shall be treated in the same manner as an action or proceeding
39 in supreme court for the purpose of any claim by counsel of actual
40 engagement.

41 § 6510-a. Temporary surrender of licenses during treatment for drug or
42 alcohol abuse. 1. The license and registration of a licensee who may be
43 temporarily incapacitated for the active practice of a profession
44 licensed pursuant to this article, except professionals licensed pursu-
45 ant to title two or four of this article, and whose alleged incapacity
46 is the result of a problem of drug or alcohol abuse which has not
47 resulted in harm to a patient or client, may be voluntarily surrendered
48 to the department, which may accept and hold such license during the
49 period of such alleged incapacity or the department may accept the
50 surrender of such license after agreement to conditions to be met prior
51 to the restoration of the license. The department shall give written
52 notification of such surrender to the licensing authorities of any other
53 state or country in which the licensee is authorized to practice. In
54 addition to the foregoing, the department shall also give written
55 notification of such surrender, for professionals licensed pursuant to
56 titles six, seven, ten, or twelve of this article to the commissioner or

1 his or her designee, and where appropriate to each hospital at which the
2 professional has privileges, is affiliated, or is employed. The licensee
3 whose license is so surrendered shall notify all persons who request
4 professional services that he or she has temporarily withdrawn from the
5 practice of the profession. The department may provide for similar
6 notification of patients or clients and of other interested parties, as
7 appropriate under the circumstances of the professional practice and
8 responsibilities of the licensee. The licensure status of such licensee
9 shall be "inactive" and he or she shall not be authorized to practice
10 the profession and shall refrain from practice in this state or in any
11 other state or country. The voluntary surrender shall not be deemed to
12 be an admission of disability or of professional misconduct and shall
13 not be used as evidence of a violation of subdivision three or four of
14 section sixty-five hundred nine of this subtitle, unless the licensee
15 practices while the license is "inactive"; and any such practice shall
16 constitute a violation of subdivision eight of such section. The surren-
17 der of a license under this subdivision shall not bar any disciplinary
18 action except action based solely upon the provisions of subdivision
19 three or four of section sixty-five hundred nine of this subtitle, and
20 only if no harm to a patient has resulted; and shall not bar any civil
21 or criminal action or proceeding which might be brought without regard
22 to such surrender. A surrendered license shall be restored upon a show-
23 ing to the satisfaction of the department that the licensee is not inca-
24 pacitated for the active practice of the profession, provided that the
25 department may, by order of the commissioner, impose reasonable condi-
26 tions on the licensee, if it determines that because of the nature and
27 extent of the licensee's former incapacity, such conditions are neces-
28 sary to protect the health, safety and welfare of the public. Prompt
29 written notification of such restoration shall be given to all licensing
30 bodies which were notified of the temporary surrender of the license.

31 2. There shall be appointed within the department, by the department,
32 a committee on drug and alcohol abuse, which shall advise the department
33 on matters relating to practice by professional licensees with drug or
34 alcohol abuse problems, and which shall administer the provisions of
35 this section. The department shall determine the size, composition, and
36 terms of office of such committee, a majority of the members of which
37 shall be persons with expertise in problems of drug or alcohol abuse.
38 The committee shall recommend to the department such rules as are neces-
39 sary to carry out the purposes of this section, including but not limit-
40 ed to procedures for the submission of applications for the surrender of
41 a license and for the referral of cases for investigation or prosecution
42 pursuant to section sixty-five hundred ten of this subtitle if a licen-
43 see fails to comply with the conditions of an approved program of treat-
44 ment. There shall be an executive secretary appointed by the department
45 to assist the committee. The executive secretary shall employ, or other-
46 wise retain, the services of a registered professional nurse with appro-
47 priate qualifications in substance abuse and addiction to assist in the
48 implementation of the program authorized by section six thousand five
49 hundred ten-c of this subtitle. Determinations by the committee relating
50 to licensees shall be made by panels of at least three members of the
51 committee designated by the executive secretary, who shall also desig-
52 nate a member of the state board for the licensee's profession as the
53 ex-officio non-voting member of each panel. In the case of a determi-
54 nation relating to a licensed nurse, at least one panel member must be a
55 registered professional nurse licensed by the state.

1 3. Application for the surrender of a license pursuant to this section
2 shall be submitted to the committee, and shall identify a proposed
3 treatment or rehabilitation program, and shall include a consent to the
4 release of all information concerning the licensee's treatment to the
5 committee. All information concerning an application, other than the
6 fact of the surrender of the license and the participation in the
7 program and the successful completion or failure of or withdrawal from
8 the program, shall be strictly confidential, and may not be released by
9 the committee to any person or body without the consent of the licensee.
10 The immunity from disciplinary action conferred by this section shall be
11 conditioned upon the approval of the treatment or rehabilitation program
12 by the committee and its successful completion by the applicant and the
13 elimination of the incapacity to practice. Approval of a treatment or
14 rehabilitation program by the committee shall not constitute a represen-
15 tation as to the probability of success of the program or any assumption
16 of financial responsibility for its costs.

17 4. The immunity from disciplinary action conferred by this section may
18 be revoked by the committee upon a finding that the licensee has failed
19 to successfully complete the program or that the incapacity to practice
20 has not been eliminated. Such revocation shall be made only after notice
21 and an opportunity to be heard, but no adjudicatory hearing shall be
22 required. The matter shall be referred for appropriate proceedings
23 pursuant to section sixty-five hundred ten of this subtitle. The license
24 shall be returned unless charges are served pursuant to section sixty-
25 five hundred ten of this subtitle within thirty days after the revoca-
26 tion of the approval of the special treatment afforded by this section.

27 5. The commissioner is authorized to adopt regulations to carry out
28 the purposes of this section, including but not limited to the notice of
29 temporary inactive status to be required in different professions and
30 practice situations and the measures required upon temporary withdrawal
31 from practice.

32 6. No individual who serves as a member of a committee whose purpose
33 is to confront and refer either to treatment or to the department licen-
34 sees who are thought to be suffering from alcoholism or drug abuse shall
35 be liable for damages to any person for any action taken by such indi-
36 vidual provided such action was taken without malice and within the
37 scope of such individual's function as a member of such committee, and
38 provided further that such committee has been established by and func-
39 tions under the auspices of an association or society of professionals
40 authorized to practice under this article.

41 7. In addition to the provisions of section two thousand eight hundred
42 three-e of this chapter, any entity licensed pursuant to articles thir-
43 ty-six, forty and forty-four of this chapter, and any mental hygiene
44 facilities, and correctional, occupational, school and college health
45 services shall provide a report to the office of professional discipline
46 when there is a suspension, restriction, termination, curtailment or
47 resignation of employment or privileges in any way related to a licensed
48 nurse that is impaired when the impairment is alleged to have been
49 caused by a drug-related problem. Any person, facility, or corporation
50 which makes a report pursuant to this section in good faith shall have
51 immunity from any liability, civil or criminal, for having made such a
52 report except where the conduct constitutes negligence, gross negligence
53 or intentional misconduct. For the purpose of any proceeding, civil or
54 criminal, the good faith of any person, facility or corporation required
55 to make a report shall be presumed. Such presumption may be rebutted by
56 any competent evidence.

1 8. Notwithstanding any other provision of law, the license and regis-
2 tration of a licensed dentist or pharmacist who may be temporarily inca-
3 pacitated for the active practice of their profession licensed pursuant
4 to titles seven and ten of this article and whose alleged incapacity is
5 the result of a problem of drug or alcohol abuse which has not resulted
6 in harm to a patient or client, may be voluntarily surrendered to, or
7 voluntarily offered for any alternative disposition with the department,
8 which may accept and hold such license or make any other disposition
9 regarding such license deemed appropriate under the circumstances, if
10 the department determines the health and safety of the public will be
11 adequately protected thereby, during the period of such alleged incapac-
12 ity. The department may accept the surrender of such license after
13 agreement to conditions to be met prior to the restoration of the
14 license or the department may treat the license as not surrendered and
15 may impose conditions to allow the licensee to retain the license. All
16 other provisions of this section shall be applied to the professions of
17 dentistry and pharmacy in conformity with this subdivision.

18 § 6510-b. Nurse peer assistance programs. 1. As used in this section:

19 a. "Drug-related problem" means a problem or problems that are related
20 to the use, misuse or addiction to drugs or alcohol.

21 b. "Participant" means an individual licensed pursuant to title twelve
22 of this article who has or may have a drug-related problem.

23 c. "Approved nurse peer assistance program" means a program operated
24 by the New York state nurses association or a statewide professional
25 association of nurses which has experience in providing peer assistance
26 services to nurses who have drug-related problems which are designed to
27 help a participant or a licensee's employer and has been approved by the
28 department in accordance with criteria established in regulations of the
29 commissioner.

30 d. "Peer assistance services" includes assessing the needs of a
31 participant, including early identification of drug-related problems,
32 and providing information, support, and advice as requested by a partic-
33 ipant.

34 2. a. The department shall provide funds, including but not limited to
35 a portion of the funds made available pursuant to the provisions of this
36 section, for services provided by an approved nurse peer assistance
37 program. Funds used to provide services shall not be used for the treat-
38 ment of participants. Funded services shall include, but not be limited
39 to:

40 (i) providing peer assistance services for nurses with drug-related
41 problems;

42 (ii) maintaining a toll-free telephone information line for anonymous
43 nurses, their employers, and others to provide assistance in the iden-
44 tification of services and information for nurses dealing with drug-re-
45 lated problems;

46 (iii) training monitors for the professional assistance program;

47 (iv) arranging for mental health consultants to assess nurses for the
48 professional assistance program, as needed; and

49 (v) preparing written assessments of nurses who have been referred
50 from the professional assistance program.

51 b. An additional fee of fifteen dollars shall be paid at the time of
52 application for licensure and first registration and every registration
53 by those licensed pursuant to title twelve of this article for the
54 purpose of implementing this program. The funds made available under
55 this provision shall be deposited in the office of professions special
56 revenue account for its purposes in implementing this section. The

1 department may use a portion of this amount for its administrative
2 expenses incurred in implementing this program including, but not limit-
3 ed to, employment of personnel, the costs of approving and contracting
4 with a peer assistance program as required by this section and outreach
5 activities to promote this program.

6 3. No approved nurse peer assistance program or individual who serves
7 in an approved nurse peer assistance program shall be liable in damages
8 to any person for any action taken or not taken or recommendations made
9 unless, based on the facts disclosed by a participant, the conduct of
10 the program or person with respect to the person asserting liability
11 constituted negligence, gross negligence, or intentional misconduct.

12 4. All information concerning a participant gathered by the approved
13 nurse peer assistance program shall be strictly confidential and may not
14 be released to any person or body without the consent of the partic-
15 ipant, except upon the order of a court in a pending action or proceed-
16 ing. Aggregate data may be released to the committee on drug and alcohol
17 abuse.

18 § 6510-c. Voluntary non-disciplinary surrender of a license. A profes-
19 sional who is licensed pursuant to title twelve of this article may
20 voluntarily surrender a license to the committee on drug and alcohol
21 abuse when such licensee requests to be monitored and/or receive peer
22 support services in relation to the use, misuse or addiction to drugs.
23 The committee shall accept such voluntary non-disciplinary surrender of
24 a license and provide for expedited reinstatement of the license if the
25 licensee meets criteria set by the committee. Such criteria will
26 include, but not be limited to, confidence that the licensee's use of
27 drugs and/or alcohol has not resulted in harm to a patient or client and
28 the licensee is not incapacitated, unfit for practice or a threat to the
29 health, safety and welfare of the public. Such voluntary surrender, if
30 accepted by the committee, shall result in an immediate reinstatement of
31 the license and shall provide immunity from a violation of subdivision
32 three or four of section sixty-five hundred nine of this subtitle and
33 cannot be deemed an admission or used as evidence in professional
34 misconduct. Acceptance by the committee shall not require a report to
35 the department of health or to any employer or licensing authority of
36 another jurisdiction, nor require any disclosure to patients or to the
37 public that such license has been temporarily surrendered, except if it
38 is subsequently determined by the department that a participant being
39 monitored by the department is found to have used drugs and/or alcohol
40 which has resulted in harm to a patient or client.

41 § 6510-d. Nurses' refusal of overtime work. The refusal of a licensed
42 practical nurse or a registered professional nurse to work beyond said
43 nurse's regularly scheduled hours of work shall not solely constitute
44 patient abandonment or neglect except under the circumstances provided
45 for under subdivision three of section one hundred sixty-seven of the
46 labor law.

47 § 6511. Penalties for professional misconduct. The penalties which may
48 be imposed by the department on a present or former licensee found guil-
49 ty of professional misconduct, pursuant to the definitions and
50 proceedings prescribed in sections sixty-five hundred nine and sixty-
51 five hundred ten of this subtitle, are:

52 1. censure and reprimand;

53 2. suspension of license: (a) wholly, for a fixed period of time; (b)
54 partially, until the licensee successfully completes a course of
55 retraining in the area to which the suspension applies; or (c) wholly,

1 until the licensee successfully completes a course of therapy or treat-
2 ment prescribed by the regents;
3 3. revocation of license;
4 4. annulment of license or registration;
5 5. limitation on registration or issuance of any further license;
6 6. a fine not to exceed ten thousand dollars, upon each specification
7 of charges of which the respondent is determined to be guilty;
8 7. a requirement that a licensee pursue a course of health or train-
9 ing; and
10 8. a requirement that a licensee perform up to one hundred hours of
11 public service, in a manner and at a time and place as directed by the
12 state board for the professions as prescribed in the title relating to
13 each profession.

14 The department may stay such penalties in whole or in part, may place
15 the licensee on probation and may restore a license which has been
16 revoked, provided, in the case of licensees subject to section two
17 hundred thirty of this chapter, notice that such state board for the
18 profession as prescribed in the title relating to such profession is
19 considering such restoration is given to the office of professional
20 medical conduct at least thirty days before the date on which such
21 restoration shall be considered. Upon the recommendation of the office
22 of professional medical conduct, the department may deny such restora-
23 tion. Any fine imposed pursuant to this section or pursuant to subdivi-
24 sion two of section sixty-five hundred ten of this subtitle may be sued
25 for and recovered in the name of the people of the state of New York in
26 an action brought by the attorney general. In such action the findings
27 and determination of the department or of the violations committee shall
28 be admissible evidence and shall be conclusive proof of the violation
29 and the penalty assessed.

30 SUBTITLE 4

31 UNAUTHORIZED ACTS

32 Section 6512. Unauthorized practice a crime.

33 6513. Unauthorized use of a professional title a crime.

34 6514. Criminal proceedings.

35 6515. Restraint of unlawful acts.

36 6516. Civil enforcement proceedings and civil penalties.

37 § 6512. Unauthorized practice a crime. 1. Anyone not authorized to
38 practice under this article who practices or offers to practice or holds
39 himself or herself out as being able to practice in any profession in
40 which a license is a prerequisite to the practice of the acts, or who
41 practices any profession as an exempt person during the time when his or
42 her professional license is suspended, revoked or annulled, or who aids
43 or abets an unlicensed person to practice a profession, or who fraudu-
44 lently sells, files, furnishes, obtains, or who attempts fraudulently to
45 sell, file, furnish or obtain any diploma, license, record or permit
46 purporting to authorize the practice of a profession, shall be guilty of
47 a class E felony.

48 2. Anyone who knowingly aids or abets three or more unlicensed persons
49 to practice a profession or employs or holds such unlicensed persons out
50 as being able to practice in any profession in which a license is a
51 prerequisite to the practice of the acts, or who knowingly aids or abets
52 three or more persons to practice any profession as exempt persons
53 during the time when the professional licenses of such persons are
54 suspended, revoked or annulled, shall be guilty of a class E felony.

1 § 6513. Unauthorized use of a professional title a crime. 1. Anyone
2 not authorized to use a professional title regulated by this article,
3 and who uses such professional title, shall be guilty of a class A
4 misdemeanor.

5 2. Anyone who knowingly aids or abets three or more persons not
6 authorized to use a professional title regulated by this article, to use
7 such professional title, or knowingly employs three or more persons not
8 authorized to use a professional title regulated by this article, who
9 use such professional title in the course of such employment, shall be
10 guilty of a class E felony.

11 § 6514. Criminal proceedings. 1. All alleged violations of sections
12 sixty-five hundred twelve or sixty-five hundred thirteen of this subti-
13 tle shall be reported to the department which shall cause an investi-
14 gation to be instituted. All alleged violations of section sixty-five
15 hundred thirty-one of this article shall be reported to the department
16 which shall cause an investigation to be instituted. If the investi-
17 gation substantiates that violations exist, such violations shall be
18 reported to the attorney general with a request for prosecution.

19 2. The attorney general shall prosecute such alleged offenses in the
20 name of the state.

21 3. All criminal courts having jurisdiction over misdemeanors are here-
22 by empowered to hear, try and determine alleged violations under this
23 article, which constitute misdemeanors, without indictment and to impose
24 applicable punishment of fines or imprisonments or both. It shall be
25 necessary to prove in any prosecution under this title only a single
26 prohibited act or a single holding out without proving a general course
27 of conduct.

28 4. A proceeding before a committee on professional conduct shall not
29 be deemed to be a criminal proceeding within the meaning of this
30 section.

31 § 6515. Restraint of unlawful acts. Where a violation of this article
32 is alleged to have occurred, the attorney general, the department or, in
33 the event of alleged violations of title nineteen of this article occur-
34 ring in cities having a population of one million or more, the corpo-
35 ration counsel may apply to the supreme court within the judicial
36 district in which such violation is alleged to have occurred for an
37 order enjoining or restraining commission or continuance of the unlawful
38 acts complained of. The remedy provided in this section shall be in
39 addition to any other remedy provided by law or to the proceedings
40 commenced against a licensee under this article.

41 § 6516. Civil enforcement proceedings and civil penalties. 1. Issu-
42 ance of cease and desist order. Whenever the department has reasonable
43 cause to believe that any person has violated any provision of section
44 sixty-five hundred twelve or sixty-five hundred thirteen of this subti-
45 tle, the department may issue and serve upon such person a notice to
46 cease and desist from such violation. Such cease and desist order shall
47 be served personally by the department. If personal service cannot be
48 made after due diligence and such fact is certified under oath, a copy
49 of the order shall be made by certified mail, return receipt requested,
50 to the person's last known address by the department.

51 2. Contents of cease and desist order. The cease and desist order
52 shall be in writing and shall describe with particularity the nature of
53 the violation, including a reference of the specific provision or
54 provisions of law alleged to have been violated and an order to the
55 respondent to cease any unlawful activity. The cease and desist order
56 shall advise the respondent:

1 a. of the right to contest the order by requesting a hearing within
2 thirty days of the service of the cease and desist order before a hear-
3 ing officer designated by the department;

4 b. of the right to request a stay of the cease and desist order at the
5 time a hearing is requested; and

6 c. shall set forth the respondent's rights at such a hearing pursuant
7 to subdivision five of this section.

8 3. Civil penalties. Civil penalties up to five thousand dollars may be
9 imposed for each violation and the respondent may be ordered to make
10 restitution to any person who has an interest in any money or property,
11 either real or personal, acquired by the respondent as a result of a
12 violation. Whenever the department concludes that civil penalties and/or
13 restitution may be warranted because of the egregiousness of the unlaw-
14 ful activity, it may serve, along with the cease and desist order, a
15 notice of a hearing on the allegations of unlawful activity and the
16 department's intention to order the respondent to make restitution
17 and/or impose a civil penalty. The notice should specify the civil
18 penalty sought for each violation.

19 4. Request for hearing. If the respondent to a cease and desist order
20 contests the cease and desist order, the respondent shall request a
21 hearing conducted by the department within thirty days of the receipt of
22 the cease and desist order. Such a hearing shall be scheduled, and the
23 requesting party notified of the date, within fifteen days of the
24 receipt of the request for a hearing. If the respondent requests a stay
25 of the cease and desist order, the hearing officer shall determine
26 whether the cease and desist order should be stayed in whole or in part
27 within five working days of the request for a stay. The respondent may
28 file a written answer to the cease and desist order prior to the hear-
29 ing. A stenographic record of the hearing shall be made.

30 5. Conduct of hearing. The evidence in support of the cease and desist
31 order shall be presented by an attorney for the department. The respond-
32 ent may appear personally and may be represented by counsel at the hear-
33 ing, may produce witnesses and evidence in his or her behalf at the
34 hearing, may cross-examine witnesses and examine evidence produced
35 against him or her at the hearing, and may issue subpoenas in accordance
36 with section three hundred four of the state administrative procedure
37 act. The hearing officer shall not be bound by the rules of evidence,
38 but his or her determination that a violation of section sixty-five
39 hundred twelve or sixty-five hundred thirteen of this subtitle has
40 occurred shall be based on a preponderance of the evidence. A hearing
41 which has been initiated shall not be discontinued because of the death
42 or incapacity of the hearing officer. In the event of a hearing offi-
43 cer's death or incapacity to serve, a new hearing officer shall be
44 designated by the department to continue the hearing. The new hearing
45 officer shall affirm in writing that he or she has read and considered
46 evidence and transcripts of the prior proceedings.

47 6. Results of hearing. The hearing officer designated by the depart-
48 ment shall render a written report which shall include:

49 a. findings of fact;

50 b. a determination on each violation alleged in the cease and desist
51 order;

52 c. a determination as to whether to accept, reject, or modify any of
53 the terms of the cease and desist order in whole or in part; and

54 d. the civil penalty imposed, if any. A copy of the hearing officer's
55 written report shall be served upon the respondent with a notice setting

1 forth the respondent's rights to an administrative appeal within ten
2 days of the conclusion of the hearing.

3 7. Appeals. a. The decision of the hearing officer shall be final,
4 except that it may be appealed to a regents review committee within
5 twenty days of the receipt of the hearing officer's report. The initi-
6 ation of an appeal shall not in and of itself affect the validity or
7 terms of the cease and desist order. The regents review committee shall
8 consist of three members, at least one of whom shall be a regent. The
9 review shall be based on the transcript and the report of the hearing
10 officer. The respondent may appear at the meeting, and the regents
11 review committee may require the respondent to appear. The respondent
12 may be represented by counsel. The department shall notify the respond-
13 ent at least ten days before the meeting (i) of the time and place of
14 the meeting, (ii) of the right to appear; (iii) of the right to be
15 represented by counsel; (iv) whether or not the respondent is required
16 to appear; and (iii) of such other information as may be considered
17 appropriate.

18 b. After the meeting, the regents review committee shall transmit a
19 written report of its review to the department. The department (i) shall
20 consider the transcript, the report of the hearing officer, and the
21 report of the regents review committee, (ii) shall decide whether the
22 respondent has violated each charge in the cease and desist order, (iii)
23 shall decide what penalties, if any, to impose as prescribed in this
24 section, and (iv) shall issue an order to carry out its decisions. Such
25 decisions shall require the affirmative vote of a majority of the
26 members of the department. The order shall be served upon the respondent
27 personally or by certified mail to the respondent's last known address
28 and such service shall be effective as of the date of the personal
29 service or five days after mailing by certified mail. The decisions of
30 the department under this section may be reviewed in a proceeding pursu-
31 ant to article seventy-eight of the civil practice law and rules brought
32 in the supreme court, Albany county. Such decisions shall not be stayed
33 or enjoined except upon application to such supreme court pursuant to
34 article sixty-three of the civil practice law and rules with notice to
35 the department and to the attorney general.

36 8. General enforcement of cease and desist order. In any case where
37 the cease and desist order is confirmed by the department or where the
38 respondent does not request an administrative hearing within the allot-
39 ted time or does not appeal the decision of the hearing officer within
40 the allotted time, an action or proceeding may be filed in the name of
41 the state of New York seeking a restraining order, injunction, appropri-
42 ate writ, or judgment against any person who violates the terms of the
43 cease and desist order.

44 9. a. Special enforcement of civil monetary penalties. Provided that
45 no appeal is pending on the imposition of such civil penalty, in the
46 event such civil penalty imposed by the department remains unpaid, in
47 whole or in part, more than forty-five days after written demand for
48 payment has been sent by first class mail to the address of the respond-
49 ent, a notice of impending default judgment shall be sent by first class
50 mail to the respondent. The notice of impending default judgment shall
51 advise the respondent:

52 (i) that a civil penalty was imposed on the respondent;
53 (ii) the date the penalty was imposed;
54 (iii) the amount of the civil penalty;
55 (iv) the amount of the civil penalty that remains unpaid as of the
56 date of the notice;

(v) the violations for which the civil penalty was imposed; and
(vi) that a judgment by default will be entered in the supreme court, Albany county unless the department receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment.

b. If full payment shall not have been received by the department within thirty days of mailing of the notice of impending default judgment, the department shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law.

TITLE 2 MEDICINE

Section 6520. Introduction.

6521. Definition of practice of medicine.

6522. Practice of medicine and use of title "physician".

6523. State board for medicine.

6524. Requirements for a professional license.

6525. Limited permits.

6526. Exempt persons.

6527. Special provisions.

6528. Qualification of certain applicants for licensure.

6529. Power of department regarding certain physicians.

§ 6520. Introduction. This title applies to the profession of medicine. The general provisions for all professions contained in Title one of this article apply to this title.

§ 6521. Definition of practice of medicine. The practice of the profession of medicine is defined as diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition.

§ 6522. Practice of medicine and use of title "physician". Only a person licensed or otherwise authorized under this title shall practice medicine or use the title "physician".

§ 6523. State board for medicine. A state board for medicine shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department and the commissioner on matters of professional licensing in accordance with section sixty-five hundred eight of this article. The state board of medicine shall be composed of not less than twenty physicians licensed in this state for at least five years, two of whom shall be doctors of osteopathy. To the extent such physician appointees are available for appointment, at least one of the physician appointees to the state board for medicine shall be an expert on reducing health disparities among demographic subgroups, and one shall be an expert on women's health. The state board for medicine shall also consist of not less than two physician's assistants licensed to practice in this state. The participation of physician's assistant members shall be limited to matters relating to title four of this article. An executive secretary to the state board of medicine shall be

1 appointed by the department on recommendation of the commissioner and
2 shall be either a physician licensed in this state or a non-physician,
3 deemed qualified by the commissioner and department.

4 § 6524. Requirements for a professional license. To qualify for a
5 license as a physician, an applicant shall fulfill the following
6 requirements:

7 1. Application: file an application with the department;

8 2. Education: have received an education, including a degree of doctor
9 of medicine, "M.D.", or doctor of osteopathy, "D.O.", or equivalent
10 degree in accordance with the commissioner's regulations;

11 3. Experience: have experience satisfactory to the state board of
12 medicine and in accordance with the commissioner's regulations;

13 4. Examination: pass an examination satisfactory to the state board of
14 medicine and in accordance with the commissioner's regulations;

15 5. Age: be at least twenty-one years of age; however, the commissioner
16 may waive the age requirement for applicants who have attained the age
17 of eighteen and will be in a residency program until the age of twenty-
18 one;

19 6. Citizenship or immigration status: be a United States citizen or an
20 alien lawfully admitted for permanent residence in the United States;
21 provided, however that the department may grant a three year waiver for
22 an alien physician to practice in an area which has been designated by
23 the department as medically underserved, except that the department may
24 grant an additional extension not to exceed six years to an alien physi-
25 cian to enable him or her to secure citizenship or permanent resident
26 status, provided such status is being actively pursued; and provided
27 further that the department may grant an additional three year waiver,
28 and at its expiration, an extension for a period not to exceed six addi-
29 tional years, for the holder of an H-1b visa, an O-1 visa, or an equiv-
30 alent or successor visa thereto;

31 7. Character: be of good moral character as determined by the depart-
32 ment; and

33 8. Fees: pay a fee of two hundred sixty dollars to the department for
34 admission to a department conducted examination and for an initial
35 license, a fee of one hundred seventy-five dollars for each reexamina-
36 tion, a fee of one hundred thirty-five dollars for an initial license
37 for persons not requiring admission to a department conducted examina-
38 tion, a fee of five hundred seventy dollars for any biennial registra-
39 tion period commencing August first, nineteen hundred ninety-six and
40 thereafter. The comptroller is hereby authorized and directed to deposit
41 the fee for each biennial registration period into the special revenue
42 funds-other entitled "professional medical conduct account" for the
43 purpose of offsetting any expenditures made pursuant to section two
44 hundred thirty of this chapter in relation to the operation of the
45 office of professional medical conduct within the department, provided
46 that for each biennial registration fee paid by the licensee using a
47 credit card, the amount of the administrative fee incurred by the
48 department in processing such credit card transaction shall be deposited
49 by the comptroller in the office of the professions account established
50 by section ninety-seven-nnn of the state finance law. The amount of the
51 funds expended as a result of such increase shall not be greater than
52 such fees collected over the registration period.

53 9. For every license or registration issued after the effective date
54 of this subdivision, an additional fee of thirty dollars shall be paid
55 and deposited in the special revenue fund entitled "the professional
56 medical conduct account" for the purpose of offsetting any expenditures

1 made pursuant to subdivision fifteen of section two hundred thirty of
2 this chapter. The amount of such funds expended for such purpose shall
3 not be greater than such additional fees collected over the licensure
4 period or for the duration of such program if less than the licensure
5 period.

6 10. A physician shall not be required to pay any fee under this
7 section if he or she certifies to the department that for the period of
8 registration or licensure, he or she shall only practice medicine with-
9 out compensation or the expectation or promise of compensation. The
10 following shall not be considered compensation for the purposes of this
11 subdivision:

12 a. nominal payment solely to enable the physician to be considered an
13 employee of a health care provider; or

14 b. providing liability coverage to the physician relating to the
15 services provided.

16 11. No physician may be re-registered unless he or she, as part of the
17 re-registration application, includes an attestation made under penalty
18 of perjury, in a form prescribed by the commissioner, that he or she
19 has, within the six months prior to submission of the re-registration
20 application, updated his or her physician profile in accordance with
21 subdivision four of section twenty-nine hundred ninety-five-a of this
22 chapter.

23 § 6525. Limited permits. Permits limited as to eligibility, practice
24 and duration, shall be issued by the department to eligible applicants,
25 as follows:

26 1. Eligibility: The following persons shall be eligible for a limited
27 permit:

28 a. A person who fulfills all requirements for a license as a physician
29 except those relating to the examination and citizenship or permanent
30 residence in the United States;

31 b. A foreign physician who holds a standard certificate from the
32 educational council for foreign medical graduates or who has passed an
33 examination satisfactory to the state board for medicine and in accord-
34 ance with the commissioner's regulations; or

35 c. A foreign physician or a foreign intern who is in this country on a
36 non-immigration visa for the continuation of medical study, pursuant to
37 the exchange student program of the United States department of state.

38 2. Limit of practice. A permittee shall be authorized to practice
39 medicine only under the supervision of a licensed physician and only in
40 a public, voluntary, or proprietary hospital.

41 3. Duration. A limited permit shall be valid for two years. It may be
42 renewed biennially at the discretion of the department.

43 4. Fees. The fee for each limited permit and for each renewal shall be
44 one hundred five dollars.

45 § 6526. Exempt persons. The following persons under the following
46 limitations may practice medicine within the state without a license:

47 1. Any physician who is employed as a resident in a public hospital,
48 provided such practice is limited to such hospital and is under the
49 supervision of a licensed physician;

50 2. Any physician who is licensed in a bordering state and who resides
51 near a border of this state, provided such practice is limited in this
52 state to the vicinity of such border and provided such physician does
53 not maintain an office or place to meet patients or receive calls within
54 this state;

1 3. Any physician who is licensed in another state or country and who
2 is meeting a physician licensed in this state, for purposes of consulta-
3 tion, provided such practice is limited to such consultation;

4 4. Any physician who is licensed in another state or country, who is
5 visiting a medical school or teaching hospital in this state to receive
6 medical instruction for a period not to exceed six months or to conduct
7 medical instruction, provided such practice is limited to such instruc-
8 tion and is under the supervision of a licensed physician;

9 5. Any physician who is authorized by a foreign government to practice
10 in relation to its diplomatic, consular or maritime staffs, provided
11 such practice is limited to such staffs;

12 6. Any commissioned medical officer who is serving in the United
13 States armed forces or public health service or any physician who is
14 employed in the United States Veterans Administration, provided such
15 practice is limited to such service or employment;

16 7. Any intern who is employed by a hospital and who is a graduate of a
17 medical school in the United States or Canada, provided such practice is
18 limited to such hospital and is under the supervision of a licensed
19 physician;

20 8. Any medical student who is performing a clinical clerkship or simi-
21 lar function in a hospital and who is matriculated in a medical school
22 which meets standards satisfactory to the department, provided such
23 practice is limited to such clerkship or similar function in such hospi-
24 tal;

25 9. Any dentist or dental school graduate eligible for licensure in the
26 state who administers anesthesia as part of a hospital residency program
27 established for the purpose of training dentists in anesthesiology; or

28 10. a. Any physician who is licensed and in good standing in another
29 state or territory, and who has a written agreement to provide medical
30 services to athletes and team personnel of a United States sports team
31 recognized by the United States Olympic committee or an out-of-state
32 secondary school, institution of postsecondary education, or profes-
33 sional athletic organization sports team, may provide medical services
34 to such athletes and team personnel at a discrete sanctioned team sport-
35 ing event in this state as defined by the commissioner in regulations,
36 provided such services are provided only to such athletes and team
37 personnel at the discrete sanctioned team sporting event. Any such
38 medical services shall be provided only five days before through three
39 days after each discrete sanctioned team sporting event.

40 b. Any person practicing as a physician in New York state pursuant to
41 this subdivision shall be subject to the personal and subject matter
42 jurisdiction and disciplinary and regulatory authority of the department
43 and the state board for professional medical conduct established pursu-
44 ant to section two hundred thirty of this chapter as if he or she is a
45 licensee and as if the exemption pursuant to this subdivision is a
46 license. Such individual shall comply with applicable provisions of this
47 article, this chapter, the rules of the department, the state board for
48 professional medical conduct established pursuant to section two hundred
49 thirty of this chapter, and the regulations of the commissioner and the
50 commissioner of health, relating to professional misconduct, discipli-
51 nary proceedings and penalties for professional misconduct.

52 § 6527. Special provisions. 1. A not-for-profit medical or dental
53 expense indemnity corporation or a hospital service corporation organ-
54 ized under the insurance law may employ licensed physicians and enter
55 into contracts with partnerships or medical corporations organized under
56 article forty-four of this chapter, health maintenance organizations

1 possessing a certificate of authority pursuant to article forty-four of
2 this chapter, professional corporations organized under article fifteen
3 of the business corporation law or other groups of physicians to prac-
4 tice medicine on its behalf for persons insured under its contracts or
5 policies.

6 2. Notwithstanding any inconsistent provision of any general, special
7 or local law, any licensed physician who voluntarily and without the
8 expectation of monetary compensation renders first aid or emergency
9 treatment at the scene of an accident or other emergency, outside a
10 hospital, doctor's office or any other place having proper and necessary
11 medical equipment, to a person who is unconscious, ill or injured, shall
12 not be liable for damages for injuries alleged to have been sustained by
13 such person or for damages for the death of such person alleged to have
14 occurred by reason of an act or omission in the rendering of such first
15 aid or emergency treatment unless it is established that such injuries
16 were or such death was caused by gross negligence on the part of such
17 physician. Nothing in this subdivision shall be deemed or construed to
18 relieve a licensed physician from liability for damages for injuries or
19 death caused by an act or omission on the part of a physician while
20 rendering professional services in the normal and ordinary course of his
21 practice.

22 3. No individual who serves as a member of:

23 a. a committee established to administer a utilization review plan of
24 a hospital, including a hospital as defined in article twenty-eight of
25 this chapter or a hospital as defined in subdivision ten of section 1.03
26 of the mental hygiene law;

27 b. a committee having the responsibility of the investigation of an
28 incident reported pursuant to section 29.29 of the mental hygiene law or
29 the evaluation and improvement of the quality of care rendered in a
30 hospital as defined in article twenty-eight of this chapter or a hospi-
31 tal as defined in subdivision ten of section 1.03 of the mental hygiene
32 law;

33 c. any medical review committee or subcommittee thereof of a local,
34 county or state medical, dental, podiatry or optometrical society, any
35 such society itself, a professional standards review organization or an
36 individual when such committee, subcommittee, society, organization or
37 individual is performing any medical or quality assurance review func-
38 tion including the investigation of an incident reported pursuant to
39 section 29.29 of the mental hygiene law, either described in paragraphs
40 a and b of this subdivision, required by law, or involving any contro-
41 versy or dispute between (i) a physician, dentist, podiatrist or optome-
42 trist or hospital administrator and a patient concerning the diagnosis,
43 treatment or care of such patient or the fees or charges therefor or
44 (ii) a physician, dentist, podiatrist or optometrist or hospital admin-
45 istrator and a provider of medical, dental, podiatric or optometrical
46 services concerning any medical or health charges or fees of such physi-
47 cian, dentist, podiatrist or optometrist;

48 d. a committee appointed pursuant to section twenty-eight hundred
49 five-j of this chapter to participate in the medical and dental malprac-
50 tice prevention program;

51 e. any individual who participated in the preparation of incident
52 reports required by the department of health pursuant to section twen-
53 ty-eight hundred five-l of this chapter; or

54 f. a committee established to administer a utilization review plan, or
55 a committee having the responsibility of evaluation and improvement of
56 the quality of care rendered, in a health maintenance organization

1 organized under article forty-four of this chapter or article forty-
2 three of the insurance law, including a committee of an individual prac-
3 tice association or medical group acting pursuant to a contract with
4 such a health maintenance organization, shall be liable in damages to
5 any person for any action taken or recommendations made, by him or her
6 within the scope of his or her function in such capacity provided that
7 (i) such individual has taken action or made recommendations within the
8 scope of his or her function and without malice, and (ii) in the reason-
9 able belief after reasonable investigation that the act or recommenda-
10 tion was warranted, based upon the facts disclosed.

11 Neither the proceedings nor the records relating to performance of a
12 medical or a quality assurance review function or participation in a
13 medical and dental malpractice prevention program nor any report
14 required by the department pursuant to section twenty-eight hundred
15 five-1 of this chapter described herein, including the investigation of
16 an incident reported pursuant to section 29.29 of the mental hygiene
17 law, shall be subject to disclosure under article thirty-one of the
18 civil practice law and rules except as hereinafter provided or as
19 provided by any other provision of law. No person in attendance at a
20 meeting when a medical or a quality assurance review or a medical and
21 dental malpractice prevention program or an incident reporting function
22 described herein was performed, including the investigation of an inci-
23 dent reported pursuant to section 29.29 of the mental hygiene law, shall
24 be required to testify as to what transpired thereat. The prohibition
25 relating to discovery of testimony shall not apply to the statements
26 made by any person in attendance at such a meeting who is a party to an
27 action or proceeding the subject matter of which was reviewed at such
28 meeting.

29 4. This title shall not be construed to affect or prevent the follow-
30 ing:

- 31 a. The furnishing of medical assistance in an emergency;
- 32 b. The practice of the religious tenets of any church;
- 33 c. A physician from refusing to perform an act constituting the prac-
34 tice of medicine to which he or she is conscientiously opposed by reason
35 of religious training and belief;
- 36 d. The organization of a medical corporation under article forty-four
37 of this chapter, the organization of a university faculty practice
38 corporation under section fourteen hundred twelve of the not-for-profit
39 corporation law or the organization of a professional service corpo-
40 ration under article fifteen of the business corporation law; or
- 41 e. The physician's use of whatever medical care, conventional or non-
42 conventional, which effectively treats human disease, pain, injury,
43 deformity or physical condition.

44 5. There shall be no monetary liability on the part of, and no cause
45 of action for damages shall arise against, any person, partnership,
46 corporation, firm, society, or other entity on account of the communi-
47 cation of information in the possession of such person or entity, or on
48 account of any recommendation or evaluation, regarding the qualifica-
49 tions, fitness, or professional conduct or practices of a physician, to
50 any governmental agency, medical or specialists society, a hospital as
51 defined in article twenty-eight of the public health law, a hospital as
52 defined in subdivision ten of section 1.03 of the mental hygiene law, or
53 a health maintenance organization organized under article forty-four of
54 this chapter or article forty-three of the insurance law, including a
55 committee of an individual practice association or medical group acting
56 pursuant to a contract with a health maintenance organization. The fore-

1 going shall not apply to information which is untrue and communicated
2 with malicious intent.

3 6. A licensed physician may prescribe and order a non-patient specific
4 regimen to a registered professional nurse, pursuant to regulations
5 promulgated by the commissioner, and consistent with this chapter, for:

6 a. administering immunizations.

7 b. the emergency treatment of anaphylaxis.

8 c. administering purified protein derivative (PPD) tests or other
9 tests to detect or screen for tuberculosis infections.

10 d. administering tests to determine the presence of the human immuno-
11 deficiency virus.

12 e. administering tests to determine the presence of the hepatitis C
13 virus.

14 f. the urgent or emergency treatment of opioid related overdose or
15 suspected opioid related overdose.

16 g. screening of persons at increased risk of syphilis, gonorrhea and
17 chlamydia.

18 7. A licensed physician may prescribe and order a patient specific
19 order or non-patient specific regimen to a licensed pharmacist, pursuant
20 to regulations promulgated by the commissioner, and consistent with this
21 chapter, for:

22 a. administering immunizations to prevent influenza to patients two
23 years of age or older;

24 b. administering immunizations to prevent pneumococcal, acute herpes
25 zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,
26 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or
27 pertussis disease and medications required for emergency treatment of
28 anaphylaxis to patients eighteen years of age or older; and

29 c. administering other immunizations recommended by the advisory
30 committee on immunization practices of the centers for disease control
31 and prevention for patients eighteen years of age or older if the
32 commissioner determines that an immunization: (i) (A) may be safely
33 administered by a licensed pharmacist within their lawful scope of prac-
34 tice; and (B) is needed to prevent the transmission of a reportable
35 communicable disease that is prevalent in New York state; or (ii) is a
36 recommended immunization for such patients who: (A) meet age require-
37 ments, (B) lack documentation of such immunization, (C) lack evidence of
38 past infection, or (D) have an additional risk factor or another indi-
39 cation as recommended by the advisory committee on immunization prac-
40 tices of the centers for disease control and prevention. Nothing in this
41 subdivision shall authorize unlicensed persons to administer immuniza-
42 tions, vaccines or other drugs.

43 8. A licensed physician may prescribe and order a patient specific
44 order or non-patient specific order to a licensed pharmacist, pursuant
45 to regulations promulgated by the commissioner, and consistent with this
46 chapter, for dispensing up to a seven day starter pack of HIV post-expo-
47 sure prophylaxis for the purpose of preventing human immunodeficiency
48 virus infection following a potential human immunodeficiency virus expo-
49 sure.

50 9. Nothing in this title shall prohibit the provision of psychotherapy
51 as defined in subdivision two of section eighty-four hundred one of this
52 article to the extent permissible within the scope of practice of medi-
53 cine, by any not-for-profit corporation or education corporation provid-
54 ing services within the state of New York and operating under a waiver
55 pursuant to section sixty-five hundred three-a of this article, provided
56 that such entities offering such psychotherapy services shall only

1 provide such services through an individual appropriately licensed or
2 otherwise authorized to provide such services or a professional entity
3 authorized by law to provide such services.

4 10. a. Nothing in this title shall be construed to affect or prevent a
5 person in training or trained and deemed qualified by a supervising
6 licensed physician, to assist the licensed physician in the care of a
7 patient for the purpose of instilling mydriatic or cycloplegic eye drops
8 and anesthetic eye drops in conjunction with such dilating drops to the
9 surface of the eye of a patient, provided that the person instilling
10 such eye drops is:

11 (i) under the on-site supervision of a supervising licensed physician;

12 (ii) at least eighteen years of age; and

13 (iii) complies with standards issued by the department.

14 b. The supervising licensed physician shall submit a form prescribed
15 by the department detailing the identity of each person instilling
16 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-
17 tion with such dilating drops to the surface of the eye of a patient,
18 under his or her supervision, attesting to compliance with the above
19 requirements.

20 c. The supervising licensed physician's use of any such person pursu-
21 ant to the terms of this subdivision shall be undertaken with profes-
22 sional judgment in order to ensure the safety and well-being of the
23 patient. Such use shall subject the licensed physician to the full
24 disciplinary and regulatory authority of the office of professional
25 medical conduct and the department. The licensed physician must notify
26 the patient or the patient's designated health care surrogate that the
27 licensed physician may utilize the services of an individual to adminis-
28 ter certain eye drops and must provide the patient or the patient's
29 designated health care surrogate the opportunity to refuse the licensed
30 physician's plan to utilize such person.

31 11. A licensed physician may prescribe and order a non-patient-specif-
32 ic regimen to a licensed pharmacist, for insulin and related supplies
33 pursuant to section sixty-eight hundred one of this article.

34 § 6528. Qualification of certain applicants for licensure. 1.
35 Notwithstanding any other provisions of this title or any law to the
36 contrary, an individual who at the time of his or her enrollment in a
37 medical school outside the United States is a resident of the United
38 States shall be eligible for licensure in this state if he or she has
39 satisfied the requirements of subdivisions one, five, six, seven and
40 eight of section sixty-five hundred twenty-four of this title and:

41 a. has studied medicine in a medical school located outside the United
42 States which is recognized by the World Health Organization;

43 b. has completed all of the formal requirements of the foreign medical
44 school except internship and/or social service;

45 c. has attained a score satisfactory to a medical school approved by
46 the Liaison Committee on Medical Education on a qualifying examination
47 acceptable to the state board for medicine, and has satisfactorily
48 completed one academic year of supervised clinical training under the
49 direction of such medical school;

50 d. has completed the post-graduate hospital training required by the
51 state board of medicine of all applicants for licensure; and

52 e. has passed the examination required by the state board of medicine
53 of all applicants for licensure.

54 2. Satisfaction of the requirements of paragraphs a, b and c of subdi-
55 vision one of this section shall be in lieu of the completion of any
56 foreign internship and/or social service requirements, and no such

1 requirements shall be a condition of licensure as a physician in this
2 State.

3 3. Satisfaction of the requirements of paragraphs a, b and c of subdivi-
4 vision one of this section shall be in lieu of certification by the
5 Educational Council for Foreign Medical Graduates, and such certif-
6 ication shall not be a condition of licensure as a physician in this
7 State for candidates who have completed the requirements of subdivision
8 one of this section.

9 4. No hospital licensed by this state, or operated by the state or a
10 political subdivision thereof, or which receives state financial assist-
11 ance, directly or indirectly, shall require an individual who has satis-
12 fied the requirements of paragraphs a, b and c of subdivision one of
13 this section, and who at the time of his or her enrollment in a medical
14 school outside the United States is a resident of the United States, to
15 satisfy any further education or examination requirements prior to
16 commencing an internship or residency.

17 5. A document granted by a medical school located outside the United
18 States which is recognized by the World Health Organization issued after
19 the completion of all the formal requirements of such foreign medical
20 school except internship and/or social service shall, upon certification
21 by the medical school in which such training was received of satisfac-
22 tory completion by the person to whom such document was issued of the
23 requirements listed in paragraph c of subdivision one of this section,
24 be deemed the equivalent of a degree of doctor of medicine for purposes
25 of licensure and practice as a physician in this State.

26 § 6529. Power of department regarding certain physicians. Notwith-
27 standing any provision of law to the contrary, the department is author-
28 ized, in its discretion, to confer the degree of doctor of medicine
29 (M.D.) upon physicians who are licensed pursuant to section sixty-five
30 hundred twenty-four or sixty-five hundred twenty-eight of this article.
31 Each applicant shall pay a fee of three hundred dollars to the depart-
32 ment for the issuance of such degree.

33 TITLE 3

34 DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO PHYSICIANS, 35 PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS

36 Section 6530. Definitions of professional misconduct.

37 6531. Additional definition of professional misconduct, limit-
38 ed application.

39 6531-a. Additional definition of professional misconduct; mental
40 health professionals.

41 6532. Enforcement, administration and interpretation of this
42 title.

43 § 6530. Definitions of professional misconduct. Each of the following
44 is professional misconduct, and any licensee found guilty of such
45 misconduct under the procedures prescribed in section two hundred thirty
46 of this chapter shall be subject to penalties as prescribed in section
47 two hundred thirty-a of this chapter except that the charges may be
48 dismissed in the interest of justice:

49 1. Obtaining the license fraudulently;

50 2. Practicing the profession fraudulently or beyond its authorized
51 scope;

52 3. Practicing the profession with negligence on more than one occa-
53 sion;

54 4. Practicing the profession with gross negligence on a particular
55 occasion;

1 5. Practicing the profession with incompetence on more than one occa-
2 sion;

3 6. Practicing the profession with gross incompetence;

4 7. Practicing the profession while impaired by alcohol, drugs, phys-
5 ical disability, or mental disability;

6 8. Being a habitual abuser of alcohol, or being dependent on or a
7 habitual user of narcotics, barbiturates, amphetamines, hallucinogens,
8 or other drugs having similar effects, except for a licensee who is
9 maintained on an approved therapeutic regimen which does not impair the
10 ability to practice, or having a psychiatric condition which impairs the
11 licensee's ability to practice;

12 9. a. Being convicted of committing an act constituting a crime under:

13 (i) New York state law or,

14 (ii) federal law or,

15 (iii) the law of another jurisdiction and which, if committed within
16 this state, would have constituted a crime under New York state law;

17 b. Having been found guilty of improper professional practice or
18 professional misconduct by a duly authorized professional disciplinary
19 agency of another state where the conduct upon which the finding was
20 based would, if committed in New York state, constitute professional
21 misconduct under the laws of New York state;

22 c. Having been found guilty in an adjudicatory proceeding of violating
23 a state or federal statute or regulation, pursuant to a final decision
24 or determination, and when no appeal is pending, or after resolution of
25 the proceeding by stipulation or agreement, and when the violation would
26 constitute professional misconduct pursuant to this section;

27 d. Having his or her license to practice medicine revoked, suspended
28 or having other disciplinary action taken, or having his or her applica-
29 tion for a license refused, revoked or suspended or having voluntarily
30 or otherwise surrendered his or her license after a disciplinary action
31 was instituted by a duly authorized professional disciplinary agency of
32 another state, where the conduct resulting in the revocation, suspension
33 or other disciplinary action involving the license or refusal, revoca-
34 tion or suspension of an application for a license or the surrender of
35 the license would, if committed in New York state, constitute profes-
36 sional misconduct under the laws of New York state; or

37 e. Having been found by the commissioner to be in violation of article
38 thirty-three of this chapter;

39 10. Refusing to provide professional service to a person because of
40 such person's race, creed, color or national origin;

41 11. Permitting, aiding or abetting an unlicensed person to perform
42 activities requiring a license;

43 12. Practicing the profession while the license is suspended or inac-
44 tive as defined in subdivision thirteen of section two hundred thirty of
45 this chapter, or willfully failing to register or notify the department
46 of health of any change of name or mailing address, or, if a profes-
47 sional service corporation, willfully failing to comply with sections
48 fifteen hundred three and fifteen hundred fourteen of the business
49 corporation law or, if a university faculty practice corporation wilful-
50 ly failing to comply with paragraphs (b), (c) and (d) of section fifteen
51 hundred three and section fifteen hundred fourteen of the business
52 corporation law;

53 13. A willful violation by a licensee of subdivision eleven of section
54 two hundred thirty of this chapter;

1 14. A violation of section twenty-eight hundred three-d, twenty-eight
2 hundred five-k or subparagraph (ii) of paragraph (h) of subdivision ten
3 of section two hundred thirty of this chapter;

4 15. Failure to comply with an order issued pursuant to subdivision
5 seven, paragraph a of subdivision ten, and subdivision seventeen of
6 section two hundred thirty of this chapter;

7 16. A willful or grossly negligent failure to comply with substantial
8 provisions of federal, state, or local laws, rules, or regulations
9 governing the practice of medicine;

10 17. Exercising undue influence on the patient, including the promotion
11 of the sale of services, goods, appliances, or drugs in such manner as
12 to exploit the patient for the financial gain of the licensee or of a
13 third party;

14 18. Directly or indirectly offering, giving, soliciting, or receiving
15 or agreeing to receive, any fee or other consideration to or from a
16 third party for the referral of a patient or in connection with the
17 performance of professional services;

18 19. Permitting any person to share in the fees for professional
19 services, other than: a partner, employee, associate in a professional
20 firm or corporation, professional subcontractor or consultant authorized
21 to practice medicine, or a legally authorized trainee practicing under
22 the supervision of a licensee. This prohibition shall include any
23 arrangement or agreement whereby the amount received in payment for
24 furnishing space, facilities, equipment or personnel services used by a
25 licensee constitutes a percentage of, or is otherwise dependent upon,
26 the income or receipts of the licensee from such practice, except as
27 otherwise provided by law with respect to a facility licensed pursuant
28 to article twenty-eight of this chapter or article thirteen of the
29 mental hygiene law;

30 20. Conduct in the practice of medicine which evidences moral unfit-
31 ness to practice medicine;

32 21. Willfully making or filing a false report, or failing to file a
33 report required by law or by the department of health or the education
34 department, or willfully impeding or obstructing such filing, or induc-
35 ing another person to do so;

36 22. Failing to make available to a patient, upon request, copies of
37 documents in the possession or under the control of the licensee which
38 have been prepared for and paid for by the patient or client;

39 23. Revealing of personally identifiable facts, data, or information
40 obtained in a professional capacity without the prior consent of the
41 patient, except as authorized or required by law;

42 24. Practicing or offering to practice beyond the scope permitted by
43 law, or accepting and performing professional responsibilities which the
44 licensee knows or has reason to know that he or she is not competent to
45 perform, or performing without adequate supervision professional
46 services which the licensee is authorized to perform only under the
47 supervision of a licensed professional, except in an emergency situation
48 where a person's life or health is in danger;

49 25. Delegating professional responsibilities to a person when the
50 licensee delegating such responsibilities knows or has reason to know
51 that such person is not qualified, by training, by experience, or by
52 licensure, to perform them;

53 25-a. With respect to any non-emergency treatment, procedure or
54 surgery which is expected to involve local or general anesthesia, fail-
55 ing to disclose to the patient the identities of all physicians, except
56 medical residents in certified training programs, podiatrists and

1 dentists, reasonably anticipated to be actively involved in such treat-
2 ment, procedure or surgery and to obtain such patient's informed consent
3 to said practitioners' participation;

4 26. Performing professional services which have not been duly author-
5 ized by the patient or his or her legal representative;

6 27. Advertising or soliciting for patronage that is not in the public
7 interest. a. Advertising or soliciting not in the public interest shall
8 include, but not be limited to, advertising or soliciting that: (i) is
9 false, fraudulent, deceptive, misleading, sensational, or flamboyant;

10 (ii) represents intimidation or undue pressure;

11 (iii) uses testimonials;

12 (iv) guarantees any service;

13 (v) makes any claim relating to professional services or products or
14 the costs or price therefor which cannot be substantiated by the licen-
15 see, who shall have the burden of proof;

16 (vi) makes claims of professional superiority which cannot be substan-
17 tiated by the licensee, who shall have the burden of proof; or

18 (vii) offers bonuses or inducements in any form other than a discount
19 or reduction in an established fee or price for a professional service
20 or product.

21 b. The following shall be deemed appropriate means of informing the
22 public of the availability of professional services: (i) informational
23 advertising not contrary to the foregoing prohibitions; and

24 (ii) the advertising in a newspaper, periodical or professional direc-
25 tory or on radio or television of fixed prices, or a stated range of
26 prices, for specified routine professional services, provided that if
27 there is an additional charge for related services which are an integral
28 part of the overall service being provided by the licensee, the adver-
29 tisement shall so state, and provided further that the advertisement
30 indicates the period of time for which the advertised prices shall be in
31 effect.

32 c. (i) All licensees placing advertisements shall maintain, or cause
33 to be maintained, an exact copy of each advertisement, transcript, tape
34 or video tape thereof as appropriate for the medium used, for a period
35 of one year after its last appearance. This copy shall be made available
36 for inspection upon demand of the department;

37 (ii) A licensee shall not compensate or give anything of value to
38 representatives of the press, radio, television or other communications
39 media in anticipation of or in return for professional publicity in a
40 news item;

41 d. No demonstrations, dramatizations or other portrayals of profes-
42 sional practice shall be permitted in advertising on radio or tele-
43 vision;

44 28. Failing to respond within thirty days to written communications
45 from the department of health and to make available any relevant records
46 with respect to an inquiry or complaint about the licensee's profes-
47 sional misconduct. The period of thirty days shall commence on the date
48 when such communication was delivered personally to the licensee. If
49 the communication is sent from the department by registered or certified
50 mail, with return receipt requested, to the address appearing in the
51 last registration, the period of thirty days shall commence on the date
52 of delivery to the licensee, as indicated by the return receipt;

53 29. Violating any term of probation or condition or limitation imposed
54 on the licensee pursuant to section two hundred thirty of this chapter;

55 30. Abandoning or neglecting a patient under and in need of immediate
56 professional care, without making reasonable arrangements for the

1 continuation of such care, or abandoning a professional employment by a
2 group practice, hospital, clinic or other health care facility, without
3 reasonable notice and under circumstances which seriously impair the
4 delivery of professional care to patients or clients;

5 31. Willfully harassing, abusing, or intimidating a patient either
6 physically or verbally;

7 32. Failing to maintain a record for each patient which accurately
8 reflects the evaluation and treatment of the patient, provided, however,
9 that a physician who transfers an original mammogram to a medical insti-
10 tution, or to a physician or health care provider of the patient, or to
11 the patient directly, as otherwise provided by law, shall have no obli-
12 gation under this section to maintain the original or a copy thereof.
13 Unless otherwise provided by law, all patient records must be retained
14 for at least six years. Obstetrical records and records of minor
15 patients must be retained for at least six years, and until one year
16 after the minor patient reaches the age of eighteen years;

17 33. Failing to exercise appropriate supervision over persons who are
18 authorized to practice only under the supervision of the licensee;

19 34. Guaranteeing that satisfaction or a cure will result from the
20 performance of professional services;

21 35. Ordering of excessive tests, treatment, or use of treatment facil-
22 ities not warranted by the condition of the patient;

23 36. Claiming or using any secret or special method of treatment which
24 the licensee refused to divulge to the department of health;

25 37. Failing to wear an identifying badge, which shall be conspicuously
26 displayed and legible, indicating the practitioner's name and profes-
27 sional title authorized pursuant to this chapter, while practicing as an
28 employee or operator of a hospital, clinic, group practice or multi-pro-
29 fessional facility, or at a commercial establishment offering health
30 services to the public;

31 38. Entering into an arrangement or agreement with a pharmacy for the
32 compounding and/or dispensing of coded or specially marked
33 prescriptions;

34 39. With respect to all professional practices conducted under an
35 assumed name, other than facilities licensed pursuant to article twen-
36 ty-eight of this chapter or article thirteen of the mental hygiene law,
37 failing to post conspicuously at the site of such practice the name and
38 licensure field of all of the principal professional licensees engaged
39 in the practice at that site (i.e., principal partners, officers or
40 principal shareholders);

41 40. Failing to provide access by qualified persons to patient informa-
42 tion in accordance with the standards set forth in section eighteen of
43 this chapter, as added by chapter four hundred ninety-seven of the laws
44 of nineteen hundred eighty-six;

45 41. Knowingly or willfully performing a complete or partial autopsy on
46 a deceased person without lawful authority;

47 42. Failing to comply with a signed agreement to practice medicine in
48 New York state in an area designated by the commissioner as having a
49 shortage of physicians or refusing to repay medical education costs in
50 lieu of such required service, or failing to comply with any provision
51 of a written agreement with the state or any municipality within which
52 the licensee has agreed to provide medical service, or refusing to repay
53 funds in lieu of such service as consideration of awards made by the
54 state or any municipality thereof for his or her professional education
55 in medicine, or failing to comply with any agreement entered into to aid
56 his or her medical education;

1 43. Failing to complete forms or reports required for the reimburse-
2 ment of a patient by a third party. Reasonable fees may be charged for
3 such forms or reports, but prior payment for the professional services
4 to which such forms or reports relate may not be required as a condition
5 for making such forms or reports available;

6 44. In the practice of psychiatry:

7 a. any physical contact of a sexual nature between licensee and
8 patient except the use of films and/or other audiovisual aids with indi-
9 viduals or groups in the development of appropriate responses to over-
10 come sexual dysfunction; and

11 b. in therapy groups, activities which promote explicit physical sexu-
12 al contact between group members during sessions;

13 45. In the practice of ophthalmology, failing to provide a patient,
14 upon request, with the patient's prescription including the name,
15 address, and signature of the prescriber and the date of the
16 prescription;

17 46. A violation of section two hundred thirty-nine of this chapter by
18 a professional;

19 47. Failure to use scientifically accepted barrier precautions and
20 infection control practices as established by the department of health
21 pursuant to section two hundred thirty-a of this chapter;

22 48. A violation of section two hundred thirty-d of this chapter or the
23 regulations of the commissioner enacted thereunder;

24 49. Except for good cause shown, failing to provide within one day any
25 relevant records or other information requested by the state or local
26 department of health with respect to an inquiry into a report of a
27 communicable disease as defined in the state sanitary code, or HIV/AIDS;
28 and

29 50. Performing a pelvic examination or supervising the performance of
30 a pelvic examination in violation of subdivision seven of section twen-
31 ty-five hundred four of this chapter.

32 § 6531. Additional definition of professional misconduct, limited
33 application. Notwithstanding any inconsistent provision of this title
34 or any other provisions of law to the contrary, the license or registra-
35 tion of a person subject to the provisions of this title and title four
36 of this article may be revoked, suspended, or annulled or such person
37 may be subject to any other penalty provided in section two hundred
38 thirty-a of this chapter in accordance with the provisions and proce-
39 dures of this title for the following:

40 That any person subject to section sixty-five hundred thirty of this
41 title that has directly or indirectly requested, received or partic-
42 ipated in the division, transference, assignment, rebate, splitting, or
43 refunding of a fee for, or has directly requested, received or profited
44 by means of a credit or other valuable consideration as a commission,
45 discount or gratuity, in connection with the furnishing of professional
46 care or service, including x-ray examination and treatment, or for or in
47 connection with the sale, rental, supplying, or furnishing of clinical
48 laboratory services or supplies, x-ray laboratory services or supplies,
49 inhalation therapy service or equipment, ambulance service, hospital or
50 medical supplies, physiotherapy or other therapeutic service or equip-
51 ment, artificial limbs, teeth or eyes, orthopedic or surgical appliances
52 or supplies, optical appliances, supplies, or equipment, devices for aid
53 of hearing, drugs, medication, or medical supplies, or any other goods,
54 services, or supplies prescribed for medical diagnosis, care, or treat-
55 ment under this chapter, except payment, not to exceed thirty-three and
56 one-third percent of any fee received for x-ray examination, diagnosis,

1 or treatment, to any hospital furnishing facilities for such examina-
2 tion, diagnosis, or treatment. Nothing contained in this section shall
3 prohibit such persons from practicing as partners, in groups or as a
4 professional corporation or as a university faculty practice corpo-
5 ration, nor from pooling fees and moneys received, either by the part-
6 nerships, professional corporations, or university faculty practice
7 corporations or groups by the individual members thereof, for profes-
8 sional services furnished by an individual professional member, or
9 employee of such partnership, corporation, or group, nor shall the
10 professionals constituting the partnerships, corporations or groups be
11 prohibited from sharing, dividing, or apportioning the fees and moneys
12 received by them or by the partnership, corporation, or group in accord-
13 ance with a partnership or other agreement; provided that no such prac-
14 tice as partners, corporations, or groups, or pooling of fees or moneys
15 received or shared, division or apportionment of fees shall be permitted
16 with respect to and treatment under the workers' compensation law. Noth-
17 ing contained in this chapter shall prohibit a corporation licensed
18 pursuant to article forty-three of the insurance law pursuant to its
19 contract with the subscriber from prorationing a medical or dental
20 expenses indemnity allowance among two or more professionals in propor-
21 tion to the services rendered by each such professional at the request
22 of the subscriber, provided that prior to payment thereof such profes-
23 sionals shall submit both to the corporation licensed pursuant to arti-
24 cle forty-three of the insurance law and to the subscriber statements
25 itemizing the services rendered by each such professional and the charg-
26 es therefor.

27 § 6531-a. Additional definition of professional misconduct; mental
28 health professionals.

29 1. Definitions. For the purposes of this section:

30 a. "Mental health professional" means a person subject to the
31 provisions of title two of this article.

32 b. "Sexual orientation change efforts" (i) means any practice by a
33 mental health professional that seeks to change an individual's sexual
34 orientation, including, but not limited to, efforts to change behaviors,
35 gender identity, or gender expressions, or to eliminate or reduce sexual
36 or romantic attractions or feelings towards individuals of the same sex;
37 and (ii) shall not include counseling for a person seeking to transition
38 from one gender to another, or psychotherapies that: (A) provide accept-
39 ance, support and understanding of patients or the facilitation of
40 patients' coping, social support, and identity exploration and develop-
41 ment, including sexual orientation-neutral interventions to prevent or
42 address unlawful conduct or unsafe sexual practices; and (B) do not seek
43 to change sexual orientation.

44 2. It shall be professional misconduct for a mental health profes-
45 sional to engage in sexual orientation change efforts upon any patient
46 under the age of eighteen years, and any mental health professional
47 found guilty of such misconduct under the procedures prescribed in title
48 two-A of article two of this chapter shall be subject to the penalties
49 prescribed in section two hundred thirty-a of this chapter, as added by
50 chapter six hundred six of the laws of nineteen hundred ninety-one.

51 § 6532. Enforcement, administration and interpretation of this title.
52 The board of professional medical conduct and the department shall
53 enforce, administer and interpret this title. The commissioner may not
54 promulgate any rules or regulations concerning this title.

TITLE 4
PHYSICIAN ASSISTANTS

Section 6540. Definitions.

6541. Requirements for license.

6542. Performance of medical services.

6543. Construction.

6544. Regulations.

6545. Emergency services rendered by physician assistant.

6546. Limited permits.

§ 6540. Definitions. As used in this title: 1. The term "physician assistant" means a person who is licensed as a physician assistant pursuant to this title.

2. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to title two of this article.

3. The term "approved program" means a program for the education of physician assistants which has been formerly approved by the department.

4. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of this chapter and authorized to employ physician assistants in accordance with rules and regulations of the department and health planning council.

§ 6541. Requirements for license. 1. To qualify for a license as a physician assistant, each person shall pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination, a fee of forty-five dollars for each reexamination and a fee of seventy dollars for persons not requiring admission to a department conducted examination and shall also submit satisfactory evidence, verified by oath or affirmation, that he or she:

a. at the time of application is at least twenty-one years of age;

b. is of good moral character;

c. has received an education including a bachelor's or equivalent degree in accordance with the commissioner's regulations;

d. has satisfactorily completed an approved program for the training of physician assistants. The approved program for the training of physician assistants shall include not less than forty weeks of supervised clinical training and thirty-two credit hours of classroom work. Applicants for a license as a physician assistant who have completed an approved program leading to a bachelor's degree or equivalent in physician assistant studies shall be deemed to have satisfied this paragraph. The commissioner is empowered to determine whether an applicant possesses equivalent education and training, such as experience as a nurse or military corpsman, which may be accepted in lieu of all or part of an approved program; and

e. in the case of an applicant for a license as a physician assistant, has obtained a passing score on an examination acceptable to the department.

2. The department shall furnish to each person applying for a license pursuant to this section an application form calling for such information as the department deems necessary and shall issue to each applicant who satisfies the requirements of subdivision one of this section a license as a physician assistant in a particular medical specialty for the period expiring December thirty-first of the first odd-numbered year terminating subsequent to the issuance of such license.

3. Every licensee shall apply to the department for a renewal of his or her license. The department shall mail to every licensed physician assistant an application form for renewal, addressed to the licensee's

1 post office address on file with the department. Upon receipt of such
2 application properly executed, together with evidence of satisfactory
3 completion of such continuing education requirements as may be estab-
4 lished by the commissioner pursuant to section thirty-seven hundred one
5 of this chapter, the department shall issue a renewal. Renewal periods
6 shall be triennial and the renewal fee shall be forty-five dollars.

7 § 6542. Performance of medical services. 1. Notwithstanding any other
8 provision of law, a physician assistant may perform medical services,
9 but only when under the supervision of a physician and only when such
10 acts and duties as are assigned to him or her are within the scope of
11 practice of such supervising physician.

12 2. Supervision shall be continuous but shall not be construed as
13 necessarily requiring the physical presence of the supervising physician
14 at the time and place where such services are performed.

15 3. No physician shall employ or supervise more than four physician
16 assistants in his or her private practice.

17 4. Nothing in this title shall prohibit a hospital from employing
18 physician assistants provided they work under the supervision of a
19 physician designated by the hospital and not beyond the scope of prac-
20 tice of such physician. The numerical limitation of subdivision three of
21 this section shall not apply to services performed in a hospital.

22 5. Notwithstanding any other provision of this title, nothing shall
23 prohibit a physician employed by or rendering services to the department
24 of corrections and community supervision under contract from supervising
25 no more than six physician assistants in his or her practice for the
26 department of corrections and community supervision.

27 6. Notwithstanding any other provision of law, a trainee in an
28 approved program may perform medical services when such services are
29 performed within the scope of such program.

30 7. Nothing in this title or in article thirty-seven of this chapter
31 shall be construed to authorize physician assistants to perform those
32 specific functions and duties specifically delegated by law to those
33 persons licensed as allied health professionals under this chapter.

34 § 6543. Construction. Only a person licensed as a physician assistant
35 by the department may use the title "physician assistant" or the letters
36 "P.A." after his or her name.

37 § 6544. Regulations. The commissioner may promulgate such other regu-
38 lations as are necessary to carry out the purposes of this title.

39 § 6545. Emergency services rendered by physician assistant. Notwith-
40 standing any inconsistent provision of any general, special or local
41 law, any physician assistant properly licensed in this state who volun-
42 tarily and without the expectation of monetary compensation renders
43 first aid or emergency treatment at the scene of an accident or other
44 emergency, outside a hospital, doctor's office or any other place having
45 proper and necessary medical equipment, to a person who is unconscious,
46 ill or injured, shall not be liable for damages for injuries alleged to
47 have been sustained by such person or for damages for the death of such
48 person alleged to have occurred by reason of an act or omission in the
49 rendering of such first aid or emergency treatment unless it is estab-
50 lished that such injuries were or such death was caused by gross negli-
51 gence on the part of such physician assistant. Nothing in this section
52 shall be deemed or construed to relieve a licensed physician assistant
53 from liability for damages for injuries or death caused by an act or
54 omission on the part of a physician assistant while rendering profes-
55 sional services in the normal and ordinary course of his or her prac-
56 tice.

§ 6546. Limited permits. Permits limited as to eligibility, practice and duration, shall be issued by the department to eligible applicants, as follows:

1. Eligibility. A person who fulfills all requirements to be licensed as a physician assistant except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a physician assistant only under the direct supervision of a physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for a license has been denied. A limited permit shall be extended upon application for one additional year, provided that the permittee's request for such extension is endorsed by a physician who either has supervised or will supervise the permittee, except that such extension may be denied by the department for cause which shall be stated in writing. If the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be one hundred five dollars.

TITLE 5
SPECIALIST ASSISTANTS

Section 6547. Definitions.

6548. Registration.

6549. Performance of medical services.

6549-a. Construction.

6549-b. Regulations.

§ 6547. Definitions. As used in this title:

1. The term "specialist assistant" means a person who is registered pursuant to this title as a specialist assistant for a particular medical specialty as defined by regulations promulgated by the commissioner of health pursuant to section thirty-seven hundred eleven of this chapter.

2. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to title two of this article.

3. The term "approved program" means a program for the education of specialist assistants which has been approved by the department.

4. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of this chapter and authorized to employ specialist assistants in accordance with rules and regulations of the department and the health planning council.

§ 6548. Registration. 1. To qualify for registration as a specialist assistant, each person shall pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination, a fee of forty-five dollars for each reexamination and a fee of seventy dollars for persons not requiring admission to a department conducted examination and shall also submit satisfactory evidence, verified by oath or affirmation, that he or she:

a. at the time of application is at least twenty-one years of age;

b. is of good moral character;

c. has successfully completed a four-year course of study in a secondary school approved by the department or has passed an equivalency test; and

1 d. has satisfactorily completed an approved program for the training
2 of specialist assistants.

3 2. The department shall furnish to each person applying for registra-
4 tion hereunder an application form calling for such information as the
5 department deems necessary and shall issue to each applicant who satis-
6 fies the requirements of subdivision one of this section a certificate
7 of registration as specialist assistant in a particular medical special-
8 ty for the period expiring December thirty-first of the first odd-num-
9 bered year terminating subsequent to such registration.

10 3. Every registrant shall apply to the department for a certificate of
11 registration. The department shall mail to every registered specialist
12 assistant an application form for registration, addressed to the regis-
13 trant's post office address on file with the department. Upon receipt of
14 such application properly executed, together with evidence of satisfac-
15 tory completion of such continuing education requirements as may be
16 established by the commissioner pursuant to section thirty-seven hundred
17 eleven of this chapter, the department shall issue a certificate of
18 registration. Registration periods shall be triennial and the registra-
19 tion fee shall be forty-five dollars.

20 § 6549. Performance of medical services. 1. Notwithstanding any other
21 provision of law, a specialist assistant may perform medical services,
22 but only when under the supervision of a physician and only when such
23 acts and duties as are assigned to him or her are related to the desig-
24 nated medical specialty for which he or she is registered and are within
25 the scope of practice of his or her supervising physician.

26 2. Supervision shall be continuous but shall not be construed as
27 necessarily requiring the physical presence of the supervising physician
28 at the time and place where such services are performed.

29 3. No physician shall employ or supervise more than two specialist
30 assistants in his or her private practice.

31 4. Nothing in this title shall prohibit a hospital from employing
32 specialist assistants provided they work under the supervision of a
33 physician designated by the hospital and not beyond the scope of prac-
34 tice of such physician. The numerical limitation of subdivision three of
35 this section shall not apply to services performed in a hospital.

36 5. Notwithstanding any other provision of this title, nothing shall
37 prohibit a physician employed by or rendering services to the department
38 of correctional services under contract from supervising no more than
39 four specialist assistants in his or her practice for the department of
40 corrections and community supervision.

41 6. Notwithstanding any other provision of law, a trainee in an
42 approved program may perform medical services when such services are
43 performed within the scope of such program.

44 7. Nothing in this title or in article thirty-seven-A of this chapter,
45 shall be construed to authorize specialist assistants to perform those
46 specific functions and duties specifically delegated by law to those
47 persons licensed as allied health professionals under this chapter.

48 § 6549-a. Construction. Only a person registered as a specialist
49 assistant by the department may use the title "registered specialist
50 assistant" or the letters "R.S.A." after his or her name.

51 § 6549-b. Regulations. The commissioner may promulgate such other
52 regulations as are necessary to carry out the purposes of this title.

53 **TITLE 6**
54 **CHIROPRACTIC**

1 Section 6550. Introduction.

2 6551. Definition of practice of chiropractic.

3 6552. Practice of chiropractic and use of title "chiroprac-
4 tor".

5 6553. State board for chiropractic.

6 6554. Requirements for a professional license.

7 6554-a. Mandatory continuing education for chiropractors.

8 6555. Exempt persons.

9 6556. Special provisions.

10 § 6550. Introduction. This title applies to the profession of chirop-
11 ractic. The general provisions for all professions contained in title
12 one of this article apply to this title.

13 § 6551. Definition of practice of chiropractic. 1. The practice of the
14 profession of chiropractic is defined as detecting and correcting by
15 manual or mechanical means structural imbalance, distortion, or subluxa-
16 tions in the human body for the purpose of removing nerve interference
17 and the effects thereof, where such interference is the result of or
18 related to distortion, misalignment or subluxation of or in the verte-
19 bral column.

20 2. a. A license to practice as a chiropractor shall not permit the
21 holder thereof to use radio-therapy, fluoroscopy, or any form of ioniz-
22 ing radiation except x-ray which shall be used for the detection of
23 structural imbalance, distortion, or subluxations in the human body.

24 b. The requirements and limitations with respect to the use of x-ray
25 by chiropractors shall be enforced by the commissioner and he or she is
26 authorized to promulgate rules and regulations after conferring with the
27 board to carry out the purposes of this subdivision.

28 c. Chiropractors shall retain, for a period of three years, all x-ray
29 films taken in the course of their practice, together with the records
30 pertaining thereto, and shall make such films and records available to
31 the commissioner or his or her representative on demand.

32 3. A license to practice chiropractic shall not permit the holder
33 thereof to treat for any infectious diseases such as pneumonia, any
34 communicable diseases listed in the sanitary code of the state of New
35 York, any of the cardio-vascular-renal or cardio-pulmonary diseases, any
36 surgical condition of the abdomen such as acute appendicitis, or
37 diabetes, or any benign or malignant neoplasms; to operate; to reduce
38 fractures or dislocations; to prescribe, administer, dispense or use in
39 his or her practice drugs or medicines; or to use diagnostic or thera-
40 peutic methods involving chemical or biological means except diagnostic
41 services performed by clinical laboratories which services shall be
42 approved by the board as appropriate to the practice of chiropractic; or
43 to utilize electrical devices except those devices approved by the board
44 as being appropriate to the practice of chiropractic. Nothing herein
45 shall be construed to prohibit a licensed chiropractor who has success-
46 fully completed a registered doctoral program in chiropractic, which
47 contains courses of study in nutrition satisfactory to the department,
48 from using nutritional counseling, including the dispensing of food
49 concentrates, food extracts, vitamins, minerals, and other nutritional
50 supplements approved by the board as being appropriate to, and as a part
51 of, his or her practice of chiropractic. Nothing herein shall be
52 construed to prohibit an individual who is not subject to regulation in
53 this state as a licensed chiropractor from engaging in nutritional coun-
54 seling.

1 § 6552. Practice of chiropractic and use of title "chiropractor".
2 Only a person licensed or exempt under this title shall practice chirop-
3 ractic or use the title "chiropractor".

4 § 6553. State board for chiropractic. A state board for chiropractic
5 shall be appointed by the department on recommendation of the commis-
6 sioner for the purpose of assisting the department on matters of profes-
7 sional licensing and professional conduct in accordance with section
8 sixty-five hundred eight of this article. The board shall be composed of
9 not less than seven members, including at least four licensed chiroprac-
10 tors, one licensed physician who is a doctor of medicine, one licensed
11 physician who is a doctor of osteopathy, and one educator who holds a
12 doctorate or equivalent degree in either anatomy, physiology, pathology,
13 chemistry or microbiology. An executive secretary to the board shall be
14 appointed by the department on recommendation of the commissioner.

15 § 6554. Requirements for a professional license. To qualify for a
16 license as a chiropractor, an applicant shall fulfill the following
17 requirements:

- 18 1. Application: file an application with the department;
- 19 2. Education: have received an education, including two years of
20 preprofessional college study and completion of a four-year resident
21 program in chiropractic, in accordance with the commissioner's regu-
22 lations;
- 23 3. Experience: have experience satisfactory to the board and in
24 accordance with the commissioner's regulations;
- 25 4. Examination: pass examinations satisfactory to the board and in
26 accordance with the commissioner's regulations, in clinical chiropractic
27 analysis, the practice of chiropractic, x-ray as it relates to chirop-
28 ractic analysis, and examinations satisfactory to the department in
29 anatomy, physiology, pathology, chemistry, microbiology, diagnosis, and
30 the use and effect of x-ray;

- 31 5. Age: be at least twenty-one years of age;
- 32 6. Citizenship or immigration status: be a United States citizen or an
33 alien lawfully admitted for permanent residence in the United States;
- 34 7. Character: be of good moral character as determined by the depart-
35 ment; and
- 36 8. Fees: pay a fee of one hundred seventy-five dollars to the depart-
37 ment for admission to a department conducted examination and for an
38 initial license, a fee of eighty-five dollars for each reexamination, a
39 fee of one hundred fifteen dollars for an initial license for persons
40 not requiring admission to a department conducted examination, and a fee
41 of one hundred fifty-five dollars for each triennial registration peri-
42 od.

43 § 6554-a. Mandatory continuing education for chiropractors. 1. a. Each
44 chiropractor licensed pursuant to this title, required to register
45 triennially with the department to practice in this state, shall comply
46 with the provisions of the mandatory continuing education requirements,
47 except as set forth in paragraphs b and c of this subdivision. Chiro-
48 practors who do not satisfy the mandatory continuing education require-
49 ments shall not practice until they have met such requirements and have
50 been issued a registration or conditional registration certificate.

51 b. Chiropractors shall be exempt from the mandatory continuing educa-
52 tion requirement for the triennial registration period during which they
53 are first licensed. In accordance with the intent of this section,
54 adjustments to the mandatory continuing education requirement may be
55 granted by the department for reasons of health, certified by an appro-
56 priate health care professional, for extended active duty with the armed

1 forces of the United States, or for other good cause acceptable to the
2 department which may prevent compliance.

3 c. A licensed chiropractor not engaged in chiropractic practice as an
4 individual practitioner, a partner or a partnership, a shareholder of a
5 professional service corporation, as an employee of such practice units,
6 or as an employee of a facility operating pursuant to article twenty-
7 eight of this chapter, or as otherwise determined by the department,
8 shall be exempt from the mandatory continuing education requirement upon
9 the filing of a statement with the department declaring such status.
10 Any licensee who returns to the public practice of chiropractic during
11 the triennial registration period shall notify the department prior to
12 reentering the profession and shall meet such mandatory continuing
13 education requirements as shall be promulgated by regulation of the
14 commissioner in consultation with the board.

15 d. Nothing in this section shall be construed as enabling or authoriz-
16 ing the department or state board for chiropractic to require or imple-
17 ment continuing competency testing or continued competency certification
18 for chiropractors.

19 2. During each triennial registration period an applicant for regis-
20 tration shall complete thirty-six hours of acceptable formal continuing
21 education, a maximum of twelve hours of which may be self-instructional
22 coursework as approved by the department in consultation with the board.
23 Any chiropractor whose first registration date following the effective
24 date of this section occurs less than three years from such effective
25 date, but on or after January first, two thousand four, shall complete
26 continuing education hours on a prorated basis at the rate of one hour
27 per month for the period beginning January first, two thousand four up
28 to the first registration date thereafter. A licensee who has not satis-
29 fied the mandatory continuing education requirements shall not be issued
30 a triennial registration certificate by the department and shall not
31 practice unless and until a conditional registration certificate is
32 issued as provided in subdivision three of this section. The individual
33 licensee shall determine the selection of courses or programs of study
34 pursuant to subdivision four of this section. Continuing education hours
35 taken during one triennium may not be carried over or otherwise credited
36 or transferred to a subsequent triennium.

37 3. The department, in its discretion, may issue a conditional regis-
38 tration to a licensee who fails to meet the continuing education
39 requirements established in subdivision two of this section but who
40 agrees to make up any deficiencies and take any additional education
41 which the department may require. The fee for such a conditional regis-
42 tration shall be the same as, and in addition to, the fee for the trien-
43 nal registration. The duration of such conditional registration shall
44 be determined by the department but shall not exceed one year. Any
45 licensee who is notified of the denial of registration for failure to
46 complete the required continued education and who continues to practice
47 chiropractic without such registration may be subject to disciplinary
48 proceedings pursuant to section sixty-five hundred ten of this article.

49 4. As used in this section, "acceptable formal continuing education"
50 shall mean formal programs of learning which are sponsored or presented
51 by a New York state chiropractic professional organization, national
52 chiropractic professional organization or higher educational institu-
53 tion, and which meet the following requirements: contain subject matter
54 which contributes to the enhancement of professional and clinical skills
55 of the chiropractor and is approved as acceptable continuing education
56 by a chiropractic college recognized by the Commission on Accreditation

1 of the Council of Chiropractic Education to fulfill the mandatory
2 continuing education requirements, and which meets the standards
3 prescribed by regulations of the commissioner in consultation with the
4 board to fulfill the mandatory continuing education requirement.

5 5. Chiropractors shall certify at each triennial registration as to
6 having satisfied the mandatory continuing education requirements of this
7 section, shall maintain adequate documentation of completion of accepta-
8 ble formal continuing education to support such certification and shall
9 provide such documentation to the department upon request. Failure to
10 provide such documentation upon request of the department shall be an
11 act of misconduct subject to disciplinary proceedings pursuant to
12 section sixty-five hundred ten of this article.

13 6. The mandatory continuing education fee shall be forty-five dollars,
14 shall be payable on or before the first day of each triennial registra-
15 tion period, and shall be in addition to the triennial registration fee
16 required by section sixty-five hundred fifty-four of this title.

17 § 6555. Exempt persons. Nothing in this title shall be construed to
18 affect or prevent a student enrolled in a college of chiropractic in
19 this state from engaging in all phases of clinical practice under super-
20 vision of a licensed chiropractor or physician in a curriculum regis-
21 tered by the department.

22 § 6556. Special provisions. 1. Any chiropractor who holds a license
23 stating that the holder is not authorized to use x-ray in his or her
24 practice shall, on each registration, continue to obtain a license so
25 marked. Any chiropractor holding such a license may obtain a license
26 permitting the use of x-ray provided he or she first passes an examina-
27 tion in the use and effect of x-ray satisfactory to the board and the
28 department.

29 2. An applicant who graduated from a school of chiropractic prior to
30 January first, nineteen hundred sixty-eight need not meet the two-year
31 preprofessional college study requirement provided for in subdivision
32 two of section sixty-five hundred fifty-four of this title.

33 TITLE 7

34 DENTISTRY, DENTAL HYGIENE, AND REGISTERED DENTAL ASSISTING

35 Section 6600. Introduction.

36 6601. Definition of practice of dentistry.

37 6602. Practice of dentistry and use of title "dentist".

38 6603. State board for dentistry.

39 6604. Requirements for a license as a dentist.

40 6604-a. Mandatory continuing education for dentists.

41 6604-b. Restricted dental faculty license.

42 6605. Limited permits.

43 6605-a. Dental anesthesia certificate.

44 6605-b. Dental hygiene restricted local infiltration
45 anesthesia/nitrous oxide analgesia certificate.

46 6606. Definition of practice of dental hygiene.

47 6607. Practice of dental hygiene and use of title "dental
48 hygienist".

49 6608. Definition of practice of registered dental assisting.

50 6608-a. Practice of registered dental assisting and use of title
51 "registered dental assistant".

52 6608-b. Requirements for certification as a registered dental
53 assistant.

54 6608-c. Exempt persons; registered dental assistant.

55 6608-d. Limited permits.

1 6609. Requirements for a license as a dental hygienist.

2 6609-a. Mandatory continuing education for dental hygienists.

3 6609-b. Limited permit to practice dental hygiene.

4 6610. Exempt persons; practice of dental hygiene.

5 6611. Special provisions.

6 6612. Identification of removable full or partial prosthetic
7 devices.

8 6613. Nitrous oxide equipment.

9 § 6600. Introduction. This title applies to the professions of dentis-
10 try, dental hygiene, and registered dental assisting. The general
11 provisions for all professions contained in title one of this article
12 apply to this title.

13 § 6601. Definition of practice of dentistry. The practice of the
14 profession of dentistry is defined as diagnosing, treating, operating,
15 or prescribing for any disease, pain, injury, deformity, or physical
16 condition of the oral and maxillofacial area related to restoring and
17 maintaining dental health. The practice of dentistry includes the
18 prescribing and fabrication of dental prostheses and appliances. The
19 practice of dentistry may include performing physical evaluations in
20 conjunction with the provision of dental treatment.

21 § 6602. Practice of dentistry and use of title "dentist". Only a
22 person licensed or otherwise authorized to practice under this title
23 shall practice dentistry or use the title "dentist".

24 § 6603. State board for dentistry. A state board for dentistry shall
25 be appointed by the department on recommendation of the commissioner for
26 the purpose of assisting the department on matters of professional
27 licensing and professional conduct in accordance with section sixty-five
28 hundred eight of this article. The board shall be composed of not less
29 than thirteen dentists licensed in this state for at least five years,
30 not less than three dental hygienists licensed in this state for at
31 least five years, and not less than one registered dental assistant
32 licensed in this state for at least one year. An executive secretary to
33 the board shall be appointed by the department on recommendation of the
34 commissioner and shall be a dentist licensed in this state.

35 § 6604. Requirements for a license as a dentist. To qualify for a
36 license as a dentist, an applicant shall fulfill the following require-
37 ments:

38 1. Application: file an application with the department;

39 2. Education: have received an education, including a doctoral degree
40 in dentistry, in accordance with the commissioner's regulations;

41 3. Experience: have experience satisfactory to the board and in
42 accordance with the commissioner's regulations, provided that such expe-
43 rience shall consist of satisfactory completion of a clinically-based
44 postdoctoral general practice or specialty dental residency program, of
45 at least one year's duration, in a hospital or dental facility accred-
46 ited for teaching purposes by a national accrediting body approved by
47 the department, provided, further that any such residency program shall
48 include a formal outcome assessment evaluation of the resident's compe-
49 tence to practice dentistry acceptable to the department;

50 4. Examination: pass a written examination satisfactory to the board
51 and in accordance with the commissioner's regulations;

52 5. Age: be at least twenty-one years of age;

53 6. Citizenship or immigration status: be a United States citizen or an
54 alien lawfully admitted for permanent residence in the United States;
55 provided, however, that the department may grant a three-year waiver for
56 an alien to practice in an area which has been designated a federal

1 dental health professions shortage area, except that the department may
2 grant an additional extension not to exceed six years to an alien to
3 enable him or her to secure citizenship or permanent resident status,
4 provided such status is being actively pursued;

5 7. Character: be of good moral character as determined by the depart-
6 ment; and

7 8. Fees: pay a fee of two hundred twenty dollars to the department for
8 admission to a department conducted examination and for an initial
9 license, a fee of one hundred fifteen dollars for each reexamination, a
10 fee of one hundred thirty-five dollars for an initial license for
11 persons not requiring admission to a department conducted examination,
12 and a fee of two hundred ten dollars for each triennial registration
13 period.

14 § 6604-a. Mandatory continuing education for dentists. 1. a. Each
15 dentist, licensed pursuant to this title, required to register trienni-
16 ally with the department to practice in this state shall comply with the
17 provisions of the mandatory continuing education requirements, except as
18 set forth in paragraphs b and c of this subdivision. Dentists who do not
19 satisfy the mandatory continuing education requirements shall not prac-
20 tice until they have met such requirements and have been issued a regis-
21 tration or conditional registration certificate.

22 b. Dentists shall be exempt from the mandatory continuing education
23 requirement for the triennial registration period during which they are
24 first licensed. In accordance with the intent of this section, adjust-
25 ments to the mandatory continuing education requirement may be granted
26 by the department for reasons of health, certified by a physician, for
27 extended active duty with the armed forces of the United States, or for
28 other good cause acceptable to the department which may prevent compli-
29 ance.

30 c. A licensed dentist not engaged in public practice as an individual
31 practitioner, a partner of a partnership, a shareholder of a profes-
32 sional service corporation, or an employee of such practice units, shall
33 be exempt from the mandatory continuing education requirement upon the
34 filing of a statement with the department declaring such status. Any
35 licensee who returns to the public practice of dentistry during the
36 triennial registration period shall notify the department prior to reen-
37 tering the profession and shall meet such mandatory continuing education
38 requirements as shall be prescribed by regulation of the commissioner.

39 2. During each triennial registration period an applicant for regis-
40 tration shall complete a minimum of sixty hours of acceptable formal
41 continuing education, a maximum of eighteen hours of which may be self-
42 instructional coursework as approved by the department. Beginning with
43 the first registration renewal period for any dentist occurring on or
44 after January first, two thousand two, and before the occurrence of the
45 second registration renewal period following that date, a dentist shall
46 have completed on a one-time basis, as part of the sixty hours of
47 acceptable formal continuing education required by this section, no
48 fewer than two hours of coursework and training regarding the chemical
49 and related effects and usage of tobacco and tobacco products and the
50 recognition, diagnosis, and treatment of the oral health effects,
51 including but not limited to cancers and other diseases, caused by
52 tobacco and tobacco products, provided that any dentist who provides
53 written proof satisfactory to the department that the dentist has
54 completed, at any time subsequent to the effective date of this section,
55 an approved mandatory continuing education course of not less than two
56 hours in the same or substantially similar subject matter shall be

1 deemed to have met this requirement, and further provided that dentists
2 who are exempt from the mandatory continuing education requirement for
3 the triennial registration period during which they are first licensed
4 shall also be exempt from this requirement for that period. Any dentist
5 whose first registration date following the effective date of this
6 section occurs less than three years from such effective date, but on or
7 after January first, nineteen hundred ninety-eight and before July
8 first, two thousand eight, shall complete continuing education hours on
9 a prorated basis at the rate of one and one-quarter hours per month for
10 the period beginning January first, nineteen hundred ninety-seven up to
11 the first registration date thereafter. For any registration period
12 beginning before July first, two thousand eight and ending on or after
13 such date, each dentist shall complete continuing education hours on a
14 pro rata basis at a rate of one and one-quarter hours per month for the
15 period ending June thirtieth, two thousand eight and at a rate of one
16 and two-thirds hours per month for the period beginning July first, two
17 thousand eight up to the first registration date thereafter. A licensee
18 who has not satisfied the mandatory continuing education requirements
19 shall not be issued a triennial registration certificate by the depart-
20 ment and shall not practice unless and until a conditional registration
21 certificate is issued as provided in subdivision three of this section.
22 The individual licensee shall determine the selection of courses or
23 programs of study pursuant to subdivision four of this section.

24 3. The department, in its discretion, may issue a conditional regis-
25 tration to a licensee who fails to meet the continuing education
26 requirements established in subdivision two of this section but who
27 agrees to make up any deficiencies and take any additional education
28 which the department may require. The fee for such a conditional regis-
29 tration shall be the same as, and in addition to, the fee for the trien-
30 niennial registration. The duration of such conditional registration shall
31 be determined by the department. Any licensee who is notified of the
32 denial of registration for failure to submit evidence, satisfactory to
33 the department, of completion of required continuing education and who
34 practices dentistry without such registration, may be subject to disci-
35 plinary proceedings pursuant to section sixty-five hundred ten of this
36 article.

37 4. As used in this section, "acceptable formal continuing education"
38 shall mean formal programs of learning which contribute to professional
39 practice and which meet the standards prescribed by regulations of the
40 commissioner. To fulfill the mandatory continuing education requirement,
41 programs must be taken from sponsors having at least one full-time
42 employee and the facilities, equipment, and financial and physical
43 resources to provide continuing education courses, approved by the
44 department, pursuant to the regulations of the commissioner.

45 5. The mandatory continuing education fee shall be forty-five dollars,
46 shall be payable on or before the first day of each triennial registra-
47 tion period, and shall be paid in addition to the triennial registration
48 fee required by section sixty-six hundred four of this title.

49 6. On or after the effective date of this subdivision, and no later
50 than the end of the first registration period commencing on or after
51 such date during which he or she is required to comply with the continu-
52 ing education requirements of this section, each dentist shall have
53 completed on a one-time basis, as part of the mandatory hours of accept-
54 able formal continuing education required by this section, no fewer than
55 three hours in a course approved by the department in dental jurispru-
56 dence and ethics, which shall include the laws, rules, regulations and

ethical principles relating to the practice of dentistry in New York state, provided that postgraduate dental students enrolled in New York state dental residency programs may satisfy the requirements of this subdivision by taking such an approved course during the period of their dental residency prior to their initial licensure.

§ 6604-b. Restricted dental faculty license. 1. The department may issue a restricted dental faculty license to a full-time faculty member employed at an approved New York state school of dentistry. The holder of such restricted dental faculty license shall have the authority to practice dentistry, as defined in this title, but such practice of dentistry shall be limited to the school's facilities or the school's clinics, or facilities or clinics with relationships to the school confirmed by formal affiliation agreements. Nothing in this section shall be construed to authorize such holder of a restricted dental faculty license to engage in the private practice of dentistry at any other site.

2. To qualify for a restricted dental faculty license the applicant shall present satisfactory evidence of the following:

a. The completion of a total of no less than six academic years of pre-professional and professional education, including:

(i) courses in general chemistry, organic chemistry, biology or zoology and physics; and

(ii) not less than four academic years of professional dental education satisfactory to the department culminating in a degree, diploma or certificate in dentistry recognized by the appropriate civil authorities of the jurisdiction in which the school is located as acceptable for entry into practice in the jurisdiction in which the school is located.

b. Within the last five years, have two years of satisfactory practice as a dentist or have satisfactorily completed an advanced education program in general dentistry or in a dental specialty, provided such program is accredited by an organization accepted by the department as a reliable authority for the purpose of accrediting such programs (such as the commission on dental accreditation); and

c. Possesses good moral character as determined by the department.

3. The dean of the dental school shall notify the department in writing upon the submission of an initial license application and yearly thereafter that the holder of the dental faculty license is employed full-time at the dental school. Full-time employment means the holder of such dental faculty license devotes at least four full working days per week in teaching or patient care, research or administrative duties at the dental school where employed. The dean of the dental school and the holder of such dental faculty license shall each notify the department in writing within thirty days of the termination of full-time employment.

4. In order to continue to practice dentistry, the holder of a restricted dental faculty license shall apply for and hold a current triennial registration which shall be subject to the same registration requirements as apply to holders of unrestricted dental licenses, except that such registration shall be issued only upon the submission of documentation satisfactory to the department of the holder's continued status as a full-time dental faculty member, provided that such registration shall immediately terminate and the holder shall no longer be authorized to practice if the holder ceases to be a full-time dental faculty member at an approved New York state school of dentistry.

5. The holder of this restricted dental faculty license shall be subject to the professional misconduct provisions set forth in subtitle

1 three of title one of this article and in the regulations and rules of
2 the department.

3 6. The fee for each restricted dental faculty license shall be three
4 hundred dollars, and the fee for initial registration and each subse-
5 quent re-registration shall be three hundred dollars.

6 7. In order to be eligible for a restricted dental faculty license an
7 applicant must be a United States citizen or an alien lawfully admitted
8 for permanent residence in the United States; provided, however, that
9 the department may grant a three-year waiver for an alien who otherwise
10 meets all other requirements for a restricted dental faculty license
11 except that the department may grant an additional extension not to
12 exceed six years to an alien to enable him or her to secure citizenship
13 or permanent resident status, provided such status is being actively
14 pursued. No current faculty member shall be displaced by the holder of a
15 restricted dental faculty license.

16 § 6605. Limited permits. 1. On recommendation of the board, the
17 department may issue a limited permit to a graduate of a dental college
18 who meets the educational qualifications for admission to the licensing
19 examination in dentistry for employment in a hospital or dental facility
20 approved by an appropriate agency, while under the direction or super-
21 vision of a licensed dentist. No such permit shall be issued or renewed
22 unless such graduate has a bona fide offer of a position in such a
23 hospital or dental facility.

24 2. On recommendation of the board, the department may issue a limited
25 permit for instructing in dentistry to a dentist not licensed under this
26 title to be employed by a registered school of dentistry or dental
27 hygiene to instruct and supervise clinical dentistry or dental hygiene
28 for students in such a registered school in the state, and in so doing
29 to practice dentistry as defined in this title, but only on the premises
30 of such registered school or such other premises as may be used for
31 instruction in the program of health conducted by such institution. No
32 person shall be permitted or authorized to instruct and supervise clin-
33 ical dentistry for students unless such person is licensed in this state
34 or holds the foregoing limited permit for instructing in dentistry.

35 3. The holder of a limited permit under this section may practice
36 dentistry, as defined in this title, but only in the performance of
37 duties required by the position for which the limited permit is issued.
38 Nothing in this section shall be construed to authorize such unlicensed
39 dentist to engage in the private practice of dentistry.

40 4. A limited permit under this section shall be valid for one year or
41 until ten days after notification of denial of an application for
42 license. A limited permit may be renewed for one year, except if the
43 applicant is serving in a residency program in a hospital or school of
44 dentistry in this state. A limited permit may be renewed annually for
45 the duration of such residency program. The fee for each limited permit
46 and for each renewal shall be one hundred five dollars.

47 5. Notwithstanding subdivision one of this section, dental school
48 graduates who meet the license requirement for education pursuant to
49 subdivision two of section sixty-six hundred four of this title shall be
50 deemed to be exempt persons pursuant to section sixty-six hundred ten of
51 this title and shall not be required to obtain a limited permit,
52 provided that they are employed in an approved residency program for the
53 purpose of fulfilling initial licensure requirements pursuant to section
54 sixty-six hundred four of this title. Not later than sixty days after
55 entry into an approved residency program, the dental resident shall
56 register on a form acceptable to the commissioner and pay to the depart-

1 ment a residency registration fee established by the department, which
2 residency registration fee shall be reasonable and shall not exceed the
3 limited permit fee specified in subdivision four of this section. All
4 persons deemed exempt pursuant to this section shall be subject to all
5 provisions of title one of this article, including but not limited to
6 having disciplinary action taken against their residency registration
7 status.

8 § 6605-a. Dental anesthesia certificate. 1. A licensed dentist shall
9 not employ conscious sedation, deep sedation or general anesthesia in
10 the practice of dentistry, at any location other than a general hospi-
11 tal, without a dental anesthesia certificate issued by the department.

12 2. The commissioner shall promulgate regulations, establishing stand-
13 ards and procedures for the issuance of certificates. Such standards
14 shall require completion of an educational program and/or course of
15 training or experience sufficient to ensure that a dentist is specif-
16 ically trained in the use and administration of conscious sedation, deep
17 sedation or general anesthesia and in the possible effects of such use,
18 and in the recognition of and response to possible emergency situations.
19 Such regulations may also establish standards and safeguards for the use
20 of conscious sedation, deep sedation or general anesthesia.

21 3. Nothing in this section shall limit a dentist's use of local anes-
22 thesia, a dentist's use of nitrous oxide, or a dentist's use of any
23 other substance or agent for a purpose other than achieving deep
24 sedation, conscious sedation, or general anesthesia.

25 4. The fee for a dental anesthesia certificate shall be one hundred
26 dollars and shall be paid on a triennial basis upon renewal of such
27 certificate. A certificate may be suspended or revoked in the same
28 manner as a license to practice dentistry.

29 § 6605-b. Dental hygiene restricted local infiltration
30 anesthesia/nitrous oxide analgesia certificate. 1. A dental hygienist
31 shall not administer or monitor nitrous oxide analgesia or local infil-
32 tration anesthesia in the practice of dental hygiene without a dental
33 hygiene restricted local infiltration anesthesia/nitrous oxide analgesia
34 certificate and except under the personal supervision of a dentist and
35 in conjunction with the performance of dental hygiene procedures author-
36 ized by law and in accordance with regulations promulgated by the
37 commissioner. Personal supervision, for purposes of this section, means
38 that the supervising dentist remains in the dental office where the
39 local infiltration anesthesia or nitrous oxide analgesia services are
40 being performed, personally authorizes and prescribes the use of local
41 infiltration anesthesia or nitrous oxide analgesia for the patient and,
42 before dismissal of the patient, personally examines the condition of
43 the patient after the use of local infiltration anesthesia or nitrous
44 oxide analgesia is completed. It is professional misconduct for a
45 dentist to fail to provide the supervision required by this section, and
46 any dentist found guilty of such misconduct under the procedures
47 prescribed in section sixty-five hundred ten of this article shall be
48 subject to the penalties prescribed in section sixty-five hundred eleven
49 of this article.

50 2. The commissioner shall promulgate regulations establishing stand-
51 ards and procedures for the issuance of such certificate. Such standards
52 shall require completion of an educational program and/or course of
53 training or experience sufficient to ensure that a dental hygienist is
54 specifically trained in the administration and monitoring of nitrous
55 oxide analgesia and local infiltration anesthesia, the possible effects

1 of such use, and in the recognition of and response to possible emergen-
2 cy situations.

3 3. The fee for a dental hygiene restricted local infiltration
4 anesthesia/nitrous oxide analgesia certificate shall be twenty-five
5 dollars and shall be paid on a triennial basis upon renewal of such
6 certificate. A certificate may be suspended or revoked in the same
7 manner as a license to practice dental hygiene.

8 § 6606. Definition of practice of dental hygiene. 1. The practice of
9 the profession of dental hygiene is defined as the performance of dental
10 services which shall include removing calcareous deposits, accretions
11 and stains from the exposed surfaces of the teeth which begin at the
12 epithelial attachment and applying topical agents indicated for a
13 complete dental prophylaxis, removing cement, placing or removing rubber
14 dam, removing sutures, placing matrix band, providing patient education,
15 applying topical medication, placing and exposing diagnostic dental
16 x-ray films, performing topical fluoride applications and topical anes-
17 thetic applications, polishing teeth, taking medical history, charting
18 caries, taking impressions for study casts, placing and removing tempo-
19 rary restorations, administering and monitoring nitrous oxide analgesia
20 and administering and monitoring local infiltration anesthesia, subject
21 to certification in accordance with section sixty-six hundred five-b of
22 this title, and any other function in the definition of the practice of
23 dentistry as may be delegated by a licensed dentist in accordance with
24 regulations promulgated by the commissioner. The practice of dental
25 hygiene may be conducted in the office of any licensed dentist or in any
26 appropriately equipped school or public institution but must be done
27 either under the supervision of a licensed dentist or, in the case of a
28 registered dental hygienist working for a hospital as defined in article
29 twenty-eight of this chapter, pursuant to a collaborative arrangement
30 with a licensed and registered dentist who has a formal relationship
31 with the same hospital in accordance with regulations promulgated by the
32 department. Such collaborative arrangement shall not obviate or super-
33 sede any law or regulation which requires identified services to be
34 performed under the personal supervision of a dentist. When dental
35 hygiene services are provided pursuant to a collaborative agreement,
36 such dental hygienist shall instruct individuals to visit a licensed
37 dentist for comprehensive examination or treatment.

38 2. The commissioner shall promulgate regulations defining the func-
39 tions a dental hygienist may perform that are consistent with the train-
40 ing and qualifications for a license as a dental hygienist.

41 § 6607. Practice of dental hygiene and use of title "dental hygien-
42 ist". Only a person licensed under section sixty-six hundred nine of
43 this title or exempt shall practice dental hygiene or use the title
44 "dental hygienist".

45 § 6608. Definition of practice of registered dental assisting. The
46 practice of registered dental assisting is defined as providing support-
47 ive services to a dentist in his or her performance of dental services
48 authorized under this title. Such support shall include providing
49 patient education, taking preliminary medical histories and vital signs
50 to be reviewed by the dentist, placing and removing rubber dams, select-
51 ing and prefitting provisional crowns, selecting and prefitting ortho-
52 dontic bands, removing orthodontic arch wires and ligature ties, placing
53 and removing matrix bands, taking impressions for study casts or diag-
54 nostic casts, removing periodontal dressings, and such other dental
55 supportive services authorized by the dentist consistent with regu-
56 lations promulgated by the commissioner, provided that such functions

1 are performed under the direct personal supervision of a licensed
2 dentist in the course of the performance of dental services. Such
3 services shall not include diagnosing and/or performing surgical proce-
4 dures, irreversible procedures or procedures that would alter the hard
5 or soft tissue of the oral and maxillofacial area or any other proce-
6 dures determined by the department. The practice of registered dental
7 assisting may be conducted in the office of any licensed dentist or in
8 any appropriately equipped school or public institution but must be done
9 under the direct personal supervision of a licensed dentist. Direct
10 personal supervision, for purposes of this section, means supervision of
11 dental procedures based on instructions given by a licensed dentist in
12 the course of a procedure who remains in the dental office where the
13 supportive services are being performed, personally diagnoses the condi-
14 tion to be treated, personally authorizes the procedures, and before
15 dismissal of the patient, who remains the responsibility of the licensed
16 dentist, evaluates the services performed by the registered dental
17 assistant. Nothing herein authorizes a registered dental assistant to
18 perform any of the services or functions defined as part of the practice
19 of dental hygiene in accordance with the provisions of subdivision one
20 of section sixty-six hundred six of this title, except those functions
21 authorized pursuant to this section. All dental supportive services
22 provided in this section may be performed by currently registered dental
23 hygienists either under a dentist's supervision, as defined in regu-
24 lations of the commissioner, or, in the case of a registered dental
25 hygienist working for a hospital as defined in article twenty-eight of
26 this chapter, pursuant to a collaborative arrangement with a licensed
27 dentist in accordance with subdivision one of section sixty-six hundred
28 six of this title. Such collaborative arrangement shall not obviate or
29 supersede any law or regulation which requires identified services to be
30 performed under the personal supervision of a dentist.

31 § 6608-a. Practice of registered dental assisting and use of title
32 "registered dental assistant". Only a person certified under section
33 sixty-six hundred eight-b of this title or exempt pursuant to section
34 sixty-six hundred ten of this title shall practice registered dental
35 assisting. Only a person certified pursuant to section sixty-six hundred
36 eight-b of this title shall use the title "registered dental assistant".

37 § 6608-b. Requirements for certification as a registered dental
38 assistant. To qualify for certification as a registered dental assist-
39 ant, an applicant shall fulfill the following requirements:

- 40 1. Application: file an application with the department;
- 41 2. Age: be at least eighteen years of age;
- 42 3. Fees: pay a fee of forty-five dollars to the department for initial
43 certification and a fee of fifty dollars for each triennial registration
44 period;
- 45 4. Education and experience: a. have received a high school diploma,
46 or its equivalent, and b. have successfully completed, in accordance
47 with the commissioner's regulations: (i) an approved one-year course of
48 study in dental assisting in a degree-granting institution or a board of
49 cooperative educational services program which includes at least two
50 hundred hours of clinical experience, or an equivalent approved course
51 of study in dental assisting in a non-degree granting institution which
52 shall not be a professional association or professional organization, or
53 (ii) an alternate course of study in dental assisting acceptable to the
54 department which shall be provided by a degree-granting institution or a
55 board of cooperative educational services program which includes at
56 least one thousand hours of relevant work experience;

1 5. Examination: pass an examination in dental assisting given by an
2 organization which administers such examinations and which is acceptable
3 to the department; and

4 6. Character: be of good moral character as determined by the depart-
5 ment.

6 § 6608-c. Exempt persons; registered dental assistant. Nothing in this
7 title shall be construed to affect or prevent a student from engaging in
8 any procedure authorized under section sixty-six hundred eight of this
9 title in clinical practice as part of a course of study approved by the
10 department pursuant to subdivision four of section sixty-six hundred
11 eight-b of this title.

12 § 6608-d. Limited permits. The department shall issue a limited permit
13 to an applicant who meets all requirements for admission to the licens-
14 ing examination. All practice under a limited permit shall be under the
15 direct personal supervision of a licensed dentist. Limited permits shall
16 be for one year and may be renewed at the discretion of the department
17 for one additional year. The fee for each limited permit and for each
18 renewal shall be forty dollars.

19 § 6609. Requirements for a license as a dental hygienist. To qualify
20 for a license as a dental hygienist, an applicant shall fulfill the
21 following requirements:

22 1. Application: file an application with the department;

23 2. Education: have received an education, including high school gradu-
24 ation and completion of a program in dental hygiene, in accordance with
25 the commissioner's regulations;

26 3. Experience: have experience satisfactory to the board and in
27 accordance with the commissioner's regulations;

28 4. Examination: pass an examination satisfactory to the board and in
29 accordance with the commissioner's regulations;

30 5. Age: be at least seventeen years of age;

31 6. Citizenship or immigration status: be a United States citizen or an
32 alien lawfully admitted for permanent residence in the United States;
33 provided, however, that the department may grant a three-year waiver for
34 an alien to practice in an area which has been designated a federal
35 dental health professions shortage area, except that the department may
36 grant an additional extension not to exceed six years to an alien to
37 enable him or her to secure citizenship or permanent resident status,
38 provided such status is being actively pursued;

39 7. Character: be of good moral character as determined by the depart-
40 ment; and

41 8. Fees: pay a fee of one hundred fifteen dollars to the department
42 for admission to a department conducted examination and for an initial
43 license, a fee of fifty dollars for each reexamination, a fee of seventy
44 dollars for an initial license for persons not requiring admission to a
45 department conducted examination, and a fee of fifty dollars for each
46 triennial registration period.

47 § 6609-a. Mandatory continuing education for dental hygienists. 1. a.
48 Each dental hygienist, licensed pursuant to this title and required to
49 register triennially with the department to practice in this state shall
50 comply with the provisions of the mandatory continuing education
51 requirements, except as set forth in paragraphs b and c of this subdivi-
52 sion. Dental hygienists who do not satisfy the mandatory continuing
53 education requirements shall not practice until they have met such
54 requirements and have been issued a registration or conditional regis-
55 tration certificate.

1 b. Dental hygienists shall be exempt from the mandatory continuing
2 education requirement for the triennial registration period during which
3 they are first licensed. In accordance with the intent of this section,
4 adjustments to the mandatory continuing education requirement may be
5 granted by the department for reasons of health, certified by a physi-
6 cian, for extended active duty with the Armed Forces of the United
7 States, or for other good cause acceptable to the department which may
8 prevent compliance.

9 c. A licensed dental hygienist not engaged in the practice of dental
10 hygiene shall be exempt from the mandatory continuing education require-
11 ment upon the filing of a statement with the department declaring such
12 status. Any licensee who returns to the practice of dental hygiene
13 during the triennial registration period shall notify the department
14 prior to reentering the profession and shall meet such mandatory contin-
15 uing education requirements as shall be prescribed by regulation of the
16 commissioner.

17 2. During each triennial registration period an applicant for regis-
18 tration shall complete a minimum of twenty-four hours of acceptable
19 formal continuing education including currently mandated child abuse
20 reporting instruction and infection control training as approved by the
21 department. Of these twenty-four hours a maximum of ten hours may be
22 self-instructional coursework as approved by the department. Any dental
23 hygienist whose first registration date following the effective date of
24 this section occurs less than three years from such effective date, but
25 on or after January first, nineteen hundred ninety-eight, shall complete
26 continuing education hours on a prorated basis at the rate of one and
27 one-quarter hours per month for the period beginning January first,
28 nineteen hundred ninety-seven up to the first registration date there-
29 after. A licensee who has not satisfied the mandatory continuing educa-
30 tion requirements shall not be issued a triennial registration certif-
31 icate by the department and shall not practice unless and until a
32 conditional registration certificate is issued as provided in subdivi-
33 sion three of this section. The individual licensee shall determine the
34 selection of courses or programs of study pursuant to subdivision four
35 of this section.

36 3. The department, in its discretion, may issue a conditional regis-
37 tration to a licensee who fails to meet the continuing education
38 requirements established in subdivision two of this section but who
39 agrees to make up any deficiencies and take any additional education
40 which the department may require. The fee for such a conditional regis-
41 tration shall be the same as, and in addition to, the fee for the trien-
42 nial registration. The duration of such conditional registration shall
43 be determined by the department. Any licensee who is notified of the
44 denial of registration for failure to submit evidence, satisfactory to
45 the department, of completion of required continuing education and who
46 practices dental hygiene without such registration, may be subject to
47 disciplinary proceedings pursuant to section sixty-five hundred ten of
48 this article.

49 4. As used in this section, "acceptable formal continuing education"
50 shall mean formal programs of learning which contribute to professional
51 practice and which meet the standards prescribed by regulations of the
52 commissioner. To fulfill the mandatory continuing education requirement,
53 programs must be taken from sponsors approved by the department, pursu-
54 ant to the regulations of the commissioner.

55 5. The mandatory continuing education fee of thirty dollars shall be
56 payable on or before the first day of each triennial registration peri-

1 od, and shall be paid in addition to the triennial registration fee
2 required by section sixty-six hundred nine of this title.

3 § 6609-b. Limited permit to practice dental hygiene. 1. A limited
4 permit to practice dental hygiene may be granted to an individual who
5 has, to the satisfaction of the department, met all the requirements of
6 section sixty-six hundred nine of this title, but has not yet passed the
7 examination required by subdivision four of such section.

8 2. A limited permit shall authorize the holder to practice dental
9 hygiene as defined in section sixty-six hundred six of this title, but
10 only under the personal supervision of a licensed dentist, as defined in
11 regulations promulgated by the commissioner.

12 3. Limited permits shall be issued for a period of one year and may be
13 renewed at the discretion of the department for one additional year.

14 4. The fee for a limited permit and for each renewal shall be fifty
15 dollars.

16 § 6610. Exempt persons; practice of dental hygiene. Nothing in this
17 title shall be construed to affect or prevent:

18 1. An unlicensed person from performing solely mechanical work upon
19 inert matter in a dental office or on a dental laboratory prescription
20 of a dentist holding a license or limited permit.

21 2. A student from engaging in clinical practice as part of a regis-
22 tered program operated by a school of dentistry under supervision of a
23 dentist holding a license or limited permit for instructing in dentistry
24 in a school of dentistry.

25 3. A student from engaging in any procedure authorized under section
26 sixty-six hundred six of this title in clinical practice as part of a
27 registered program in dental hygiene under supervision of a dentist
28 holding a license or a limited permit for instructing in dentistry in a
29 school of dental hygiene.

30 4. An employee of a federal agency from using the title of and prac-
31 ticing as a dentist or dental hygienist insofar as such activities are
32 required by his salaried position.

33 5. A dentist or a dental hygienist licensed in some other state or
34 country from making a teaching clinical demonstration before a regularly
35 organized dental or medical society or group, or from meeting licensed
36 dentists in this state for consultation, provided such activities are
37 limited to such demonstration or consultation.

38 6. A dentist licensed in another state or country who is employed on a
39 full-time basis by a registered dental school as a faculty member with
40 the rank of assistant professor or higher from conducting research and
41 clinical demonstrations as a part of such employment, under the super-
42 vision of a licensed dentist and on the premises of the school. No fee
43 may be charged for the practice of dentistry authorized by this subdivi-
44 sion.

45 7. A dentist licensed in another state or country who is visiting an
46 approved dental school or any other entity operating a residency program
47 that has been accredited by a national accrediting body approved by the
48 department to receive dental instruction for a period not to exceed
49 ninety days from engaging in clinical practice, provided such practice
50 is limited to such instruction and is under the direct supervision of a
51 licensed dentist.

52 8. Any student matriculated in an accredited dental school located
53 outside New York state from engaging in appropriately supervised clin-
54 ical practice as part of the school's dental program in a teaching
55 hospital which has a teaching affiliation agreement with the student's
56 dental school.

1 § 6611. Special provisions. 1. Except upon the written dental labora-
2 tory prescription of a licensed dentist and except by the use of
3 impressions or casts made by a licensed dentist, no dental laboratory
4 shall furnish, supply, construct, reproduce, place, adjust, or repair
5 any dental prosthesis, device, or appliance. A dental laboratory
6 prescription shall be made out in duplicate. It shall contain such data
7 as may be prescribed by the commissioner's regulations. One copy shall
8 be retained by the practitioner of dentistry for a period of one year.
9 The other copy shall be issued to the person, firm or corporation
10 engaged in filling dental laboratory prescriptions, who or which shall
11 each retain and file in their respective offices or places of business
12 their respective copies for a period of one year.

13 2. The department is empowered to inspect and to have access to all
14 places, including the office or offices of a licensed dentist, where
15 copies of dental laboratory prescriptions issued by him or her are
16 retained as required by this section, and to all places where dental
17 laboratory prescriptions are filled or to any workroom or workrooms in
18 which prosthetic restorations, prosthetic dentures, bridges, orthodontic
19 or other appliances or structures to be used as substitutes for natural
20 teeth or tissue or for the correction of malocclusion or deformities are
21 made, repaired or altered, with power to subpoena and examine records of
22 dental laboratory prescriptions. A person who fails to grant access to
23 such places or who fails to maintain prescriptions as required by this
24 section shall be guilty of a class A misdemeanor.

25 3. The department may arrange for the conduct of clinical examinations
26 in the clinic of any school of dentistry or dental hygiene within or
27 outside the state for dental or dental hygiene candidates.

28 4. A not-for-profit dental or medical expense indemnity corporation or
29 hospital service corporation organized under the insurance law or pursu-
30 ant to special legislation may enter into contracts with dentists or
31 partnerships of dentists to provide dental care on its behalf for
32 persons insured under its contracts or policies.

33 5. Legally incorporated dental corporations existing and in operation
34 prior to January first, nineteen hundred sixteen, may continue to oper-
35 ate through licensed dentists while conforming to the provisions of this
36 title. Any such corporation which shall be dissolved or cease to exist
37 or operate for any reason whatsoever shall not be permitted to resume
38 operations. No such corporation shall change its name or sell its fran-
39 chise or transfer its corporate rights directly or indirectly, by trans-
40 fer of capital stock control or otherwise, to any person or to another
41 corporation without permission from the department, and any corporation
42 so changing its name or so transferring its franchise or corporate
43 rights without such permission shall be deemed to have forfeited its
44 rights to exist and may be dissolved by an action brought by the attor-
45 ney general.

46 6. Notwithstanding any inconsistent provision of any general, special
47 or local law, any licensed dentist who voluntarily and without the
48 expectation of monetary compensation renders first aid or emergency
49 treatment at the scene of an accident or other emergency, outside of a
50 hospital or any other place having proper and necessary medical equip-
51 ment, to a person who is unconscious, ill or injured shall not be liable
52 for damages for injuries alleged to have been sustained by such person
53 or for damages for the death of such person alleged to have occurred by
54 reason of an act or omission in the rendering of such first aid or emer-
55 gency treatment unless it is established that such injuries were or such
56 death was caused by gross negligence on the part of such dentist. Noth-

1 ing in this subdivision shall be deemed or construed to relieve a
2 licensed dentist from liability for damages for injuries or death caused
3 by an act or omission on the part of a dentist while rendering profes-
4 sional services in the normal and ordinary course of practice.

5 7. Any dentist or dental hygienist, who in the performance of dental
6 services, x-rays the mouth or teeth of a patient shall during the
7 performance of such x-rays shield the torso and thyroid area of such
8 patient including but not limited to the gonads and other reproductive
9 organs with a lead apron thyroid collar, or other similar protective
10 garment or device. Notwithstanding the provisions of this subdivision,
11 if in the dentist's professional judgment the use of a thyroid collar
12 would be inappropriate under the circumstances, because of the nature of
13 the patient, the type of x-ray being taken, or other factors, the
14 dentist or dental hygienist need not shield the thyroid area.

15 8. An unlicensed person may provide supportive services to a dentist
16 incidental to and concurrent with such dentist personally performing a
17 service or procedure. Nothing in this subdivision shall be construed to
18 allow an unlicensed person to provide any service which constitutes the
19 practice of dentistry or dental hygiene as defined in this title.

20 9. There shall be no monetary liability on the part of, and no cause
21 of action for damages shall arise against, any person, partnership,
22 corporation, firm, society, or other entity on account of the communi-
23 cation of information in the possession of such person or entity, or on
24 account of any recommendation or evaluation, regarding the qualifica-
25 tions, fitness, or professional conduct or practices of a dentist, to
26 any governmental agency, dental or specialists society, or hospital as
27 defined in article twenty-eight of this chapter. The foregoing shall
28 not apply to information which is untrue and communicated with malicious
29 intent.

30 10. Each dentist and registered dental hygienist working for a hospi-
31 tal as defined in article twenty-eight of this chapter who practices in
32 collaboration with a licensed dentist shall become certified in cardiop-
33 ulmonary resuscitation (CPR) from an approved provider and thereafter
34 maintain current certification, which shall be included in the mandatory
35 hours of continuing education acceptable for dentists to the extent
36 provided in the commissioner's regulations. In the event the dentist or
37 registered dental hygienist cannot physically perform CPR, the commis-
38 sioner's regulations shall allow the dentist or registered dental
39 hygienist to make arrangements for another individual in the office to
40 administer CPR. All dental facilities shall have an automatic external
41 defibrillator or other defibrillator at the facility.

42 § 6612. Identification of removable full or partial prosthetic
43 devices. 1. Except as provided herein, every dentist licensed in this
44 state making or directing to be made a removable prosthetic denture,
45 bridge, appliance or other structure to be used and worn as a substitute
46 for natural teeth, shall offer to the patient for whom the prosthesis is
47 intended the opportunity to have such prosthesis marked with the
48 patient's name or initials. Such markings shall be accomplished at the
49 time the prosthesis is made and the location and methods used to apply
50 or implant them shall be determined by the dentist or the person acting
51 on behalf of the dentist. Such marking shall be permanent, legible and
52 cosmetically acceptable.

53 2. Notwithstanding the foregoing, if in the judgment of the dentist or
54 the person making the prosthesis, such identification is not practicable
55 or clinically safe, the identification marks may be omitted entirely.

1 3. The commissioner shall adopt rules and regulations and provide
2 standards necessary to carry out the provisions of this section.
3 § 6613. Nitrous oxide equipment. Any machine used in a dental office
4 for the administration of nitrous oxide to a patient shall be equipped
5 with a scavenging system that appropriately minimizes leakage of nitrous
6 oxide.

7 TITLE 8
8 LICENSED PERFUSIONISTS

9 Section 6630. Definitions.

10 6631. Practice of perfusion and use of title "licensed perfu-
11 sionist".

12 6632. Requirements for licensure as a perfusionist.

13 6633. Special provisions.

14 6634. State committee for perfusion.

15 6635. Limited permits.

16 6636. Exempt persons.

17 § 6630. Definitions. As used in this title: 1. The term "perfusionist"
18 means a person who is licensed to practice perfusion pursuant to this
19 title.

20 2. The term "registered program" means a program for the education of
21 perfusionists which has been registered by the department or determined
22 by the department to be the substantial equivalent.

23 3. a. The term "perfusion" means the provision of extracorporeal or
24 intracorporeal patient care services to support or replace the circula-
25 tory or respiratory function of a patient, including the administration
26 of pharmacological and therapeutic agents, and blood products, and the
27 management, treatment and monitoring of the physiological status of a
28 patient during the operation of extracorporeal circulation equipment or
29 intracorporeal equipment that replaces or support circulatory or respir-
30 atory functions.

31 b. All perfusion services shall be pursuant to the order and direction
32 of a physician. Perfusion services may be performed in a general hospi-
33 tal licensed pursuant to article twenty-eight of this chapter or during
34 the transport of patients or organs supported by extracorporeal or
35 intracorporeal equipment.

36 4. The term "committee" means the state committee for perfusion
37 created by section sixty-six hundred thirty-four of this title.

38 § 6631. Practice of perfusion and use of title "licensed perfusion-
39 ist". Only a person licensed or exempt under this title shall practice
40 perfusion. Only persons licensed as perfusionists may use the title
41 "licensed perfusionist".

42 § 6632. Requirements for licensure as a perfusionist. To qualify for
43 licensure as a "licensed perfusionist", an applicant shall fulfill the
44 following requirements:

45 1. Application: file an application with the department;

46 2. Education:

47 a. has successfully completed a baccalaureate or higher degree in
48 perfusion registered by the department, or the substantial equivalent as
49 determined by the department; or

50 b. has completed a baccalaureate or higher degree and a credit bearing
51 certificate program in perfusion acceptable to the department; or

52 c. until two years from the effective date of this title, has
53 completed a baccalaureate or higher degree and an accredited training
54 program in perfusion acceptable to the department pursuant to regu-
55 lations.

1 3. Examination: has obtained a passing score on an examination accept-
2 able to the department;

3 4. Age: at the time of application is at least twenty-one years of
4 age;

5 5. Character: be of good moral character as determined by the depart-
6 ment; and

7 6. Fee: pay a fee determined by the department for an initial license
8 and for each triennial registration period.

9 § 6633. Special provisions. An individual who meets the requirements
10 for a license as a licensed perfusionist except for examination, experi-
11 ence and education and who meets the requirements enumerated under
12 subdivisions one or two of this section may be licensed without meeting
13 additional requirements provided that such individual submits an appli-
14 cation to the department within two years of the effective date of this
15 section.

16 1. Applicants may be licensed if they have been practicing as a perfu-
17 sionist for five years in the past ten years in an inpatient unit that
18 provides cardiac surgery services in a hospital approved by the depart-
19 ment or a substantially equivalent accrediting body acceptable to the
20 committee and the department at least three of such years of experience
21 having occurred during the past five years.

22 2. Applicants who possess certification from a national certification
23 organization acceptable to the committee and the department may be
24 licensed if they have been employed as a perfusionist for three of the
25 past five years.

26 § 6634. State committee for perfusion. 1. A state committee for perfu-
27 sion shall be appointed by the department upon the recommendation of the
28 commissioner as a committee of the board for medicine to advise solely
29 in matters relating to perfusion and shall assist on matters of licen-
30 sure and professional conduct.

31 2. The committee shall consist of no fewer than eight individuals, to
32 be composed of a minimum of the following:

33 a. four licensed perfusionists;

34 b. two licensed physicians; and

35 c. two representatives of the public at large.

36 § 6635. Limited permits. 1. Eligibility. A person who fulfills all
37 requirements for licensure as a perfusionist except that relating to the
38 examination shall be eligible for a limited permit.

39 2. Limit of practice. A permittee shall be authorized to practice as a
40 perfusionist only under the supervision of a licensed perfusionist and
41 pursuant to the order and direction of a physician.

42 3. Duration. A limited permit shall expire one year from the date of
43 issuance. A limited permit may be extended for one additional year for
44 good cause as determined by the department.

45 4. Fees. The fee for each limited permit shall be one hundred five
46 dollars.

47 § 6636. Exempt persons. This title shall not prohibit:

48 1. The practice of perfusion by any student who is engaged in clinical
49 training in a general hospital licensed pursuant to article twenty-eight
50 of this chapter or during the transport of patients or organs supported
51 by extracorporeal or intracorporeal equipment and who is enrolled in a
52 perfusion program approved by the department, provided such practice is
53 limited to such clinical training which shall be carried out under the
54 direct supervision of a licensed perfusionist and pursuant to the order
55 and direction of a physician; or

2. The performance of any of the tasks or responsibilities included in the definition of perfusion by any other person licensed under this article, provided that such tasks or responsibilities are authorized by the title governing the profession pursuant to which said person is licensed; or

3. The practice of perfusion by any legally qualified perfusionist of any other state or territory who is serving in the armed forces or the public health service of the United States or who is employed by the veterans administration, while engaged in the performance of his or her duties.

TITLE 9

PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS

Section 6730. Introduction.

6731. Definition of physical therapy.

6732. Practice of physical therapy and the use of title "physical therapist".

6733. State board for physical therapy.

6734. Requirements for a professional license.

6735. Limited permits; physical therapist.

6736. Exempt persons.

6737. Non-liability of licensed physical therapists for first aid or emergency treatment.

6738. Definition of physical therapist assistant.

6739. Duties of physical therapist assistants and the use of title "physical therapist assistant".

6740. Requirements for certification as a physical therapist assistant.

6741. Exemption.

6741-a. Limited permits; physical therapist assistant.

6742. Special provisions.

6742-a. Mandatory continuing education.

6743. Validity of existing licenses.

§ 6730. Introduction. This title applies to the profession of physical therapy and provides for the licensing of physical therapists and for the certification of physical therapist assistants. The general provisions for all professions contained in title one of this article apply to this title.

§ 6731. Definition of physical therapy. Physical therapy is defined as:

1. The evaluation, treatment or prevention of disability, injury, disease, or other condition of health using physical, chemical, and mechanical means including, but not limited to heat, cold, light, air, water, sound, electricity, massage, mobilization, and therapeutic exercise with or without assistive devices, and the performance and interpretation of tests and measurements to assess pathophysiological, pathomechanical, and developmental deficits of human systems to determine treatment, and assist in diagnosis and prognosis.

2. The use of roentgen rays or radium, or the use of electricity for surgical purposes such as cauterization shall not be included in the practice of physical therapy.

3. Such treatment shall be rendered pursuant to a referral which may be directive as to treatment by a licensed physician, dentist, podiatrist, nurse practitioner or licensed midwife, each acting within his or her lawful scope of practice, and in accordance with their diagnosis, except as provided in subdivision four of this section.

1 4. Such treatment may be rendered by a licensed physical therapist for
2 ten visits or thirty days, whichever shall occur first, without a refer-
3 ral from a physician, dentist, podiatrist, nurse practitioner or
4 licensed midwife provided that:

5 a. The licensed physical therapist has practiced physical therapy on a
6 full-time basis equivalent to not less than three years.

7 b. Each physical therapist licensed pursuant to this title shall
8 provide written notice to each patient receiving treatment absent a
9 referral from a physician, dentist, podiatrist, nurse practitioner or
10 licensed midwife that physical therapy may not be covered by the
11 patient's health care plan or insurer without such a referral and that
12 such treatment may be a covered expense if rendered pursuant to a refer-
13 ral. The physical therapist shall keep on file with the patient's
14 records a form attesting to the patient's notice of such advice. Such
15 form shall be in duplicate, with one copy to be retained by the patient,
16 signed and dated by both the physical therapist and the patient in such
17 form as prescribed pursuant to regulations promulgated by the commis-
18 sioner.

19 § 6732. Practice of physical therapy and the use of title "physical
20 therapist". Only a person licensed or otherwise authorized under this
21 title shall practice physical therapy or use the title "physical thera-
22 pist", "physiotherapist" or "mechanotherapist" or the abbreviation of
23 "P.T." in connection with his or her name or with any trade name in the
24 conduct of his or her profession. Only a person licensed or otherwise
25 authorized under this title to practice physical therapy, and who has
26 obtained a doctorate in physical therapy may use the title "doctor of
27 physical therapy" or abbreviation "D.P.T." in connection with his or her
28 name or with any trade name to indicate or imply that the person is
29 licensed or otherwise authorized to practice physical therapy.

30 § 6733. State board for physical therapy. A state board for physical
31 therapy shall be appointed by the department on recommendation of the
32 commissioner for the purpose of assisting the department on matters of
33 professional licensing and professional conduct in accordance with
34 section sixty-five hundred eight of this article. The board shall be
35 composed of not less than eight licensed physical therapists and not
36 less than one public representative. An executive secretary to the board
37 shall be appointed by the department on recommendation of the commis-
38 sioner.

39 § 6734. Requirements for a professional license. To qualify for a
40 license as a physical therapist, an applicant shall fulfill the follow-
41 ing requirements:

42 1. Application: file an application with the department;

43 2. Education: have received an education, including completion of a
44 master's degree or higher in physical therapy or determined to be equiv-
45 alent, in accordance with the commissioner's regulations;

46 3. Experience: have experience satisfactory to the board in accordance
47 with the commissioner's regulations;

48 4. Examination: pass an examination satisfactory to the board and in
49 accordance with the commissioner's regulations;

50 5. Age: be at least twenty-one years of age;

51 6. Character: be of good moral character as determined by the depart-
52 ment; and

53 7. Fees: pay a fee of one hundred seventy-five dollars to the depart-
54 ment for admission to a department conducted examination and for an
55 initial license; a fee of eighty-five dollars for each reexamination; a
56 fee of one hundred fifteen dollars for an initial license for persons

1 not requiring admission to a department conducted examination; and a fee
2 of one hundred fifty-five dollars for each triennial registration peri-
3 od.

4 § 6735. Limited permits; physical therapist. 1. The department shall
5 issue a limited permit to an applicant who meets all requirements for
6 admission to the licensing examination.

7 2. All practice under a limited permit shall be under the supervision
8 of a licensed physical therapist in a public hospital, an incorporated
9 hospital or clinic, a licensed proprietary hospital, a licensed nursing
10 home, a public health agency, a recognized public or non-public school
11 setting, the office of a licensed physical therapist, or in the civil
12 service of the state or political subdivision thereof.

13 3. Limited permits shall be for six months and the department may for
14 justifiable cause renew a limited permit provided that no applicant
15 shall practice under any limited permit for more than a total of one
16 year.

17 4. Supervision of a permittee by a licensed physical therapist shall
18 be on-site supervision and not necessarily direct personal supervision
19 except that such supervision need not be on-site when the supervising
20 physical therapist has determined, through evaluation, the setting of
21 goals and the establishment of a treatment plan, that the program is one
22 of maintenance as defined pursuant to title XVIII of the federal social
23 security act.

24 5. The fee for each limited permit and for each renewal shall be
25 seventy dollars.

26 § 6736. Exempt persons. 1. This title shall not be construed to affect
27 or prevent the administration of physical therapy or the use of modali-
28 ties by a person employed by a licensed physician or physical therapist
29 in his or her office, or in the civil service of the state or any poli-
30 tical subdivision thereof, or in a hospital or clinic, or in an infir-
31 mary maintained by a person, firm or corporation employing one or more
32 full-time licensed physicians or physical therapists, provided that such
33 person was so employed for a period of at least two years prior to April
34 tenth, nineteen hundred fifty, and has been issued a written authori-
35 zation by the department.

36 2. This title shall not be construed to affect or prevent:

37 a. a physical therapy student from engaging in clinical practice under
38 the supervision of a licensed physical therapist as part of a program
39 conducted in an approved school of physical therapy or in a clinical
40 facility or health care agency affiliated with the school of physical
41 therapy and supervision of a physical therapy student by a licensed
42 physical therapist shall be on-site supervision and not necessarily
43 direct personal supervision;

44 b. a physical therapist graduate of an approved program from engaging
45 in clinical practice under the on-site, but not necessarily direct
46 personal supervision of a licensed physical therapist provided the grad-
47 uate has: (i) applied and paid a fee for the licensing and examination,
48 (ii) applied and paid a fee for the temporary permit. This exemption
49 shall not extend beyond ninety days after graduation;

50 c. a physical therapist licensed in another state or country from
51 conducting a teaching clinical demonstration in connection with a
52 program of basic clinical education, graduate education, or post-gradu-
53 ate education in an approved school of physical therapy or in its affil-
54 iated clinical facility or health care agency, or before a group of
55 licensed physical therapists who are members of a professional society;

1 d. a physical therapist who is serving in the armed forces or the
2 public health service of the United States or is employed by the veter-
3 ans administration from practicing the profession of physical therapy,
4 provided such practice is limited to such service or employment.

5 § 6737. Non-liability of licensed physical therapists for first aid or
6 emergency treatment. Notwithstanding any inconsistent provision of any
7 general, special or local law, any licensed physical therapist who
8 voluntarily and without the expectation of monetary compensation renders
9 first aid or emergency treatment at the scene of an accident or other
10 emergency, outside a hospital, doctor's office or any other place having
11 proper and necessary physical therapy equipment, to a person who is
12 unconscious, ill or injured, shall not be liable for damages for inju-
13 ries alleged to have been sustained by such person or for damages for
14 the death of such person alleged to have occurred by reason of an act or
15 omission in the rendering of such first aid or emergency treatment
16 unless it is established that such injuries were or such death was
17 caused by gross negligence on the part of such physical therapist. Noth-
18 ing in this section shall be deemed or construed to relieve a licensed
19 physical therapist from liability for damages for injuries or death
20 caused by an act or omission on the part of a physical therapist while
21 rendering professional services in the normal and ordinary course of his
22 or her practice.

23 § 6738. Definition of physical therapist assistant. 1. A "physical
24 therapist assistant" means a person certified in accordance with this
25 title who works under the supervision of a licensed physical therapist
26 performing such patient related activities as are assigned by the super-
27 vising physical therapist. Duties of physical therapist assistants shall
28 not include evaluation, testing, interpretation, planning or modifica-
29 tion of patient programs. Supervision of a physical therapist assistant
30 by a licensed physical therapist shall be on-site supervision, but not
31 necessarily direct personal supervision. The number of physical thera-
32 pist assistants supervised by one licensed physical therapist shall not
33 exceed the ratio of four physical therapist assistants to one licensed
34 physical therapist as shall be determined by the commissioner's regu-
35 lations insuring that there be adequate supervision in the best interest
36 of public health and safety. Nothing in this section shall prohibit a
37 hospital from employing physical therapist assistants, provided they
38 work under the supervision of physical therapists designated by the
39 hospital and not beyond the scope of practice of a physical therapist
40 assistant. The numerical limitation of this section shall not apply to
41 work performed in a hospital, provided that there be adequate super-
42 vision in the best interest of public health and safety.

43 2. Notwithstanding the provisions of subdivision one of this section,
44 supervision of a physical therapist assistant by a licensed physical
45 therapist, a. in a residential health care facility, as defined in arti-
46 cle twenty-eight of this chapter, b. in a diagnostic and treatment
47 center licensed under article twenty-eight of this chapter that
48 provides, as its principal mission, services to individuals with devel-
49 opmental disabilities, c. in a facility, as defined in section 1.03 of
50 the mental hygiene law, or d. under a monitored program of the office
51 for people with developmental disabilities as defined in subdivision (a)
52 of section 13.15 of the mental hygiene law, shall be continuous but not
53 necessarily on site when the supervising physical therapist has deter-
54 mined, through evaluation, the setting of goals and the establishment of
55 a treatment plan, that the program is one of maintenance as defined
56 pursuant to title XVIII of the federal social security act. The

1 provisions of this subdivision shall not apply to the provision of phys-
2 ical therapy services when the condition requires multiple adjustments
3 of sequences and procedures due to rapidly changing physiological status
4 and/or response to treatment, or to children under five years of age.

5 3. For the purposes of the provision of physical therapist assistant
6 services in a home care services setting, as such services are defined
7 in article thirty-six of this chapter, except that the home care
8 services setting shall not include early intervention services as
9 defined in title two-A of article twenty-five of this chapter, whether
10 such services are provided by a home care services agency or under the
11 supervision of a physical therapist licensed pursuant to this title,
12 continuous supervision of a physical therapist assistant, who has had
13 direct clinical experience for a period of not less than two years, by a
14 licensed physical therapist shall not be construed as requiring the
15 physical presence of such licensed physical therapist at the time and
16 place where such services are performed. For purposes of this subdivi-
17 sion "continuous supervision" shall be deemed to include: a. the
18 licensed physical therapist's setting of goals, establishing a plan of
19 care and determining whether the patient is appropriate to receive the
20 services of a physical therapist assistant subject to the licensed phys-
21 ical therapist's evaluation; b. an initial joint visit with the patient
22 by the supervising licensed physical therapist and the physical thera-
23 pist assistant; c. periodic treatment and evaluation of the patient by
24 the supervising licensed physical therapist, as indicated in the plan of
25 care and as determined in accordance with patient need, but in no
26 instance shall the interval between such treatment exceed every six
27 patient visits or thirty days, whichever occurs first; and d. a final
28 evaluation by the supervising licensed physical therapist to determine
29 if the plan of care shall be terminated. For purposes of this subdivi-
30 sion, the number of physical therapist assistants supervised in the home
31 care services setting by a licensed physical therapist shall not exceed
32 the ratio of two physical therapist assistants to one licensed physical
33 therapist.

34 4. a. For purposes of the provision of physical therapist assistant
35 services in public primary or private primary or secondary schools and
36 for preschool children, as that term is defined in paragraph i of subdi-
37 vision one of section forty-four hundred ten of the education law, and
38 receiving services thereunder, continuous supervision of a physical
39 therapist assistant, who has direct clinical experience providing age
40 appropriate physical therapy services for a period of not less than two
41 years, by a licensed physical therapist shall not be construed as
42 requiring the physical presence of such licensed physical therapist at
43 the time and place where such services are performed. For purposes of
44 this subdivision "continuous supervision" shall be deemed to include:

45 (i) the licensed physical therapist's setting of the goals, establish-
46 ing a plan of care, determining on an initial and ongoing basis whether
47 the patient is appropriate to receive the services of a physical thera-
48 pist assistant, determining the frequency of joint visits with the
49 patient by both the supervising licensed physical therapist and the
50 physical therapist assistant, except that in no instance shall the
51 interval between joint visits, be more than every ninety calendar days,
52 subject to the licensed physical therapist's evaluation;

53 (ii) an initial joint visit with the patient by the supervising
54 licensed physical therapist and physical therapist assistant;

55 (iii) periodic treatment and evaluation of the patient by the super-
56 vising licensed physical therapist as indicated in the plan of care and

1 as determined in accordance with patient need, except that in no
2 instance shall the interval between such treatment exceed every twelfth
3 visit or thirty days, whichever occurs first; and

4 (iv) notification of the supervising licensed physical therapist by
5 the physical therapist assistant whenever there is a change in status,
6 condition or performance of the patient.

7 b. This subdivision shall not apply to the provision of physical ther-
8 apy services when a child's condition requires multiple adjustments of
9 sequences and procedures due to rapidly changing physiologic status
10 and/or response to treatment.

11 § 6739. Duties of physical therapist assistants and the use of title
12 "physical therapist assistant". Only a person certified or otherwise
13 authorized under this title shall participate in the practice of phys-
14 ical therapy as a physical therapist assistant and only a person certi-
15 fied under this section shall use the title "physical therapist assist-
16 ant".

17 § 6740. Requirements for certification as a physical therapist assist-
18 ant. 1. Application: file an application with the department;

19 2. Education: have received an education including completion of a
20 two-year college program in a physical therapist assistant program or
21 equivalent in accordance with the commissioner's regulations;

22 3. Experience: have experience satisfactory to the state board for
23 physical therapy in accordance with the commissioner's regulations;

24 4. Examination: pass an examination satisfactory to the board and in
25 accordance with the commissioner's regulations;

26 5. Age: be at least eighteen years of age;

27 6. Character: be of good moral character as determined by the depart-
28 ment;

29 7. Registration: all certified physical therapist assistants shall
30 register triennially with the department in accordance with the regu-
31 lations of the commissioner; and

32 8. Fees: pay a fee for an initial certificate of forty-five dollars,
33 and for the biennial registration period ending December thirty-first,
34 nineteen hundred eighty-two a fee of twenty dollars and a fee of fifty
35 dollars for each triennial registration period.

36 § 6741. Exemption. 1. This title shall not be construed to affect or
37 prevent a physical therapist assistant student from engaging in clinical
38 assisting under the supervision of a licensed physical therapist as part
39 of a program conducted in an approved program for physical therapist
40 assistants or in a clinical facility or health care agency affiliated
41 with the program for physical therapist assistants.

42 2. Supervision of a physical therapist assistant student by a licensed
43 physical therapist shall be on-site supervision and not necessarily
44 direct personal supervision.

45 3. Nothing in this title is intended to affect the overall medical
46 direction by a licensed physician of a physical therapist assistant.

47 § 6741-a. Limited permits; physical therapist assistant. 1. The
48 department shall issue a limited permit to an applicant who meets all
49 requirements for admission to the certification examination.

50 2. All practice under a limited permit shall be under the supervision
51 of a licensed physical therapist in a public hospital, an incorporated
52 hospital or clinic, a licensed proprietary hospital, a licensed nursing
53 home, a public health agency, a recognized public or non-public school
54 setting, the office of a licensed physical therapist, or in the civil
55 service of the state or political subdivision thereof.

1 3. Limited permits shall be for six months and the department may for
2 justifiable cause renew a limited permit provided that no applicant
3 shall practice under any limited permit for more than a total of one
4 year.

5 4. Supervision of a permittee by a licensed physical therapist shall
6 be on-site supervision and not necessarily direct personal supervision.

7 5. The fee for each limited permit and for each renewal shall be fifty
8 dollars.

9 § 6742. Special provisions. 1. Any person who is employed as a phys-
10 ical therapist assistant in a facility satisfactory to the state board
11 for a period of not less than two years prior to the effective date of
12 this title and who does not qualify for certification under subdivision
13 two of section sixty-seven hundred forty of this title may be certified
14 as a physical therapist assistant upon successful completion of an exam-
15 ination approved by the state board of physical therapy in accordance
16 with the commissioner's regulations.

17 2. Application for examination for certification pursuant to this
18 section must be submitted not later than January first, nineteen hundred
19 eighty-five. The department shall provide a total of three such exam-
20 inations. The third examination shall be given not later than April
21 first, nineteen hundred eighty-five. The fee for examination or reexam-
22 ination shall be twenty-five dollars for each examination. Any person
23 who qualifies for admission to an examination pursuant to this section
24 may practice as a physical therapist assistant in the course of his or
25 her employment in a facility satisfactory to the state board until thir-
26 ty days after notification of failure to qualify pursuant to this
27 section.

28 3. Any person who was employed as a physical therapist assistant for
29 at least two years prior to April first, nineteen hundred eighty-one,
30 and who had attained permanent civil service status as a physical thera-
31 pist assistant prior to that date, shall be issued written authorization
32 from the department to continue working in that capacity without exam-
33 ination. This authorization shall remain in effect until the person
34 leaves the position in which the civil service status had been granted.

35 § 6742-a. Mandatory continuing education. 1. a. Each licensed physical
36 therapist and certified physical therapist assistant required under this
37 title to register triennially with the department to practice in the
38 state shall comply with the provisions of the mandatory continuing
39 education requirements prescribed in subdivision two of this section
40 except as set forth in paragraphs b and c of this subdivision. Licensed
41 physical therapist and certified physical therapist assistants who do
42 not satisfy the mandatory continuing education requirements shall not
43 practice until they have met such requirements, and they have been
44 issued a registration certificate, except that a licensed physical ther-
45 apist or certified physical therapist assistant may practice without
46 having met such requirements if he or she is issued a conditional regis-
47 tration certificate pursuant to subdivision three of this section.

48 b. Each licensed physical therapist and certified physical therapist
49 assistant shall be exempt from the mandatory continuing education
50 requirement for the triennial registration period during which they are
51 first licensed. In accordance with the intent of this section, adjust-
52 ment to the mandatory continuing education requirement may be granted by
53 the department for reasons of health certified by an appropriate health
54 care professional, for extended active duty with the armed forces of the
55 United States, or for other good cause acceptable to the department
56 which may prevent compliance.

1 c. A licensed physical therapist and certified physical therapist
2 assistant not engaged in practice, as determined by the department,
3 shall be exempt from the mandatory continuing education requirement upon
4 the filing of a statement with the department declaring such status. Any
5 licensee who returns to the practice of physical therapy during the
6 triennial registration period shall notify the department prior to reen-
7 tering the profession and shall meet such mandatory education require-
8 ments as shall be prescribed by regulations of the commissioner.

9 2. During each triennial registration period an applicant for regis-
10 tration as a licensed physical therapist or certified physical therapist
11 assistant shall complete a minimum of thirty-six hours of acceptable
12 formal continuing education, as specified in subdivision four of this
13 section. Any licensed physical therapist or certified physical therapist
14 assistant whose first registration date following the effective date of
15 this section occurs less than three years from such effective date, but
16 on or after January first, two thousand ten, shall complete continuing
17 education hours on a prorated basis at the rate of one-half hour per
18 month for the period beginning January first, two thousand ten up to the
19 first registration date thereafter. A licensee who has not satisfied the
20 mandatory continuing education requirements shall not be issued a trien-
21 nal registration certificate by the department and shall not practice
22 unless and until a conditional registration certificate is issued as
23 provided for in subdivision three of this section. Continuing education
24 hours taken during one triennium may not be transferred to a subsequent
25 triennium.

26 3. The department, in its discretion, may issue a conditional regis-
27 tration to a licensee who fails to meet the continuing education
28 requirements established in subdivision two of this section but who
29 agrees to make up any deficiencies and complete any additional education
30 which the department may require. The fee for such a conditional regis-
31 tration shall be the same as, and in addition to, the fee for the trien-
32 nal registration. The duration of such conditional registration shall
33 be determined by the department but shall not exceed one year. Any
34 licensee who is notified of the denial of registration for failure to
35 submit evidence, satisfactory to the department, of required continuing
36 education and who practices without such registration may be subject to
37 disciplinary proceedings pursuant to section sixty-five hundred ten of
38 this article.

39 4. As used in subdivision two of this section, "acceptable formal
40 education" shall mean formal courses of learning which contribute to
41 professional practice in physical therapy and which meet the standards
42 prescribed by regulations of the commissioner. Such formal courses of
43 learning shall include, but not be limited to, collegiate level credit
44 and non-credit courses, professional development programs and technical
45 sessions offered by national, state and local professional associations
46 and other organizations acceptable to the department, and any other
47 organized educational and technical programs acceptable to the depart-
48 ment. The department may, in its discretion and as needed to contribute
49 to the health and welfare of the public, require the completion of
50 continuing education courses in specific subjects to fulfill this manda-
51 tory continuing education requirement. Courses must be taken from a
52 sponsor approved by the department, pursuant to the regulations of the
53 commissioner.

54 5. Licensed physical therapist or certified physical therapist assist-
55 ant shall maintain adequate documentation of completion of acceptable
56 formal continuing education and shall provide such documentation at the

request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-seven hundred thirty-four of this title.

§ 6743. Validity of existing licenses. This title shall not be construed to affect the validity of existing licenses and permits or the continuation of any administrative actions or proceedings commenced prior to the effective date of this title.

TITLE 10

PHARMACY

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6829. Interpretation and translation requirements for prescription drugs and standardized medication labeling.

6830. Standardized patient-centered data elements.

6831. Special provisions relating to outsourcing facilities.

6832. Limitations on assistance of an unlicensed person.

1 § 6800. Introduction. This title applies to the profession of pharma-
2 cy. The general provisions for all professions contained in title one of
3 this article apply to this title.

4 § 6801. Definition of practice of pharmacy. 1. The practice of the
5 profession of pharmacy is defined as the administering, preparing,
6 compounding, preserving, or the dispensing of drugs, medicines and ther-
7 apeutic devices on the basis of prescriptions or other legal authority,
8 and collaborative drug therapy management in accordance with the
9 provisions of section sixty-eight hundred one-a of this title.

10 2. A licensed pharmacist may execute a non-patient specific regimen
11 prescribed or ordered by a physician licensed in this state or nurse
12 practitioner certified in this state, pursuant to rules and regulations
13 promulgated by the commissioner. When a licensed pharmacist administers
14 an immunizing agent, he or she shall:

15 a. report such administration by electronic transmission or facsimile
16 to the patient's attending primary health care practitioner or practi-
17 tioners, if any, and, to the extent practicable, make himself or herself
18 available to discuss the outcome of such immunization, including any
19 adverse reactions, with the attending primary health care practitioner,
20 and to the statewide immunization registry or the citywide immunization
21 registry, as established pursuant to and to the extent permitted by
22 section twenty-one hundred sixty-eight of this chapter; and

23 b. provide information to the patient or, where applicable, the person
24 legally responsible for the patient, on the importance of having a
25 primary health care practitioner, developed by the commissioner; and

26 c. report such administration, absent of any individually identifiable
27 health information, to the department in a manner required by the
28 commissioner; and

29 d. prior to administering the immunization, inform the patient or,
30 where applicable, the person legally responsible for the patient, of the
31 total cost of the immunization or immunizations, subtracting any health
32 insurance subsidization, if applicable. In the case the immunization is
33 not covered, the pharmacist must inform the patient or, where applica-
34 ble, the person legally responsible for the patient, of the possibility
35 that the immunization may be covered when administered by a primary care
36 physician or practitioner; and

37 e. administer the immunization or immunizations according to the most
38 current recommendations by the advisory committee for immunization prac-
39 tices (ACIP), provided however, that a pharmacist may administer any
40 immunization authorized under this section when specified by a patient
41 specific order.

42 3. No pharmacist shall administer immunizing agents without receiving
43 training satisfactory to the commissioner which shall include, but not
44 be limited to, techniques for screening individuals and obtaining
45 informed consent; techniques of administration; indications, precautions
46 and contraindications in the use of agent or agents; record keeping of
47 immunization and information; and handling emergencies, including
48 anaphylaxis and needlesticks.

49 4. When administering an immunization in a pharmacy, the licensed
50 pharmacist shall provide an area for the immunization that provides for
51 a patient's privacy. The privacy area should include:

52 a. a clearly visible posting of the most current "Recommended Adult
53 Immunization Schedule" published by the advisory committee for immuniza-
54 tion practices (ACIP); and

55 b. education materials on influenza vaccinations for children as
56 determined by the commissioner.

1 5. A licensed pharmacist may execute a non-patient specific order, for
2 dispensing up to a seven-day starter pack of HIV post-exposure prophylaxis
3 medications for the purpose of preventing human immunodeficiency
4 virus infection, by a physician licensed in this state or nurse practitioner
5 certified in this state, pursuant to rules and regulations promulgated by the
6 commissioner following a potential human immunodeficiency virus exposure.

8 6. A licensed pharmacist may execute a non-patient-specific regimen of
9 insulin and related supplies to an individual who has a valid
10 prescription for insulin and related supplies which has since expired
11 within the last twelve months. The valid prescription must have been
12 prescribed or ordered by a physician licensed in this state or nurse
13 practitioner certified in this state. Execution of a non-patient-specific
14 regimen shall be on an emergency basis provided the pharmacist:

15 a. first attempts to obtain an authorization from the prescriber of
16 the patient-specific prescription and cannot obtain the authorization,
17 and the prescriber does not object to dispensing to the patient under
18 the non-patient-specific regimen;

19 b. provides a refill of the patient-specific prescription and the
20 quantity of that refill is in conformity with the directions for use
21 under the patient-specific prescription, but limited to an amount not to
22 exceed a thirty-day emergency supply; and

23 c. notifies, within seventy-two hours of dispensing the refill or
24 refills, the prescriber of the patient-specific prescription whose
25 authorization could not be obtained, that an emergency prescription of
26 insulin has been dispensed.

27 § 6801-a. Collaborative drug therapy management demonstration program.

28 1. As used in this section, the following terms shall have the following
29 meanings:

30 a. "Board" shall mean the state board of pharmacy as established by
31 section sixty-eight hundred four of this title.

32 b. "Clinical services" shall mean the collection and interpretation of
33 patient data for the purpose of initiating, modifying and monitoring
34 drug therapy with associated accountability and responsibility for
35 outcomes in a direct patient care setting.

36 c. "Collaborative drug therapy management" shall mean the performance
37 of clinical services by a pharmacist relating to the review, evaluation
38 and management of drug therapy to a patient, who is being treated by a
39 physician for a specific disease or associated disease states, in
40 accordance with a written agreement or protocol with a voluntarily
41 participating physician and in accordance with the policies, procedures,
42 and protocols of the facility. Such agreement or protocol as entered
43 into by the physician and a pharmacist, may include, and shall be limit-
44 ed to:

45 (i) adjusting or managing a drug regimen of a patient, pursuant to a
46 patient specific order or protocol made by the patient's physician,
47 which may include adjusting drug strength, frequency of administration
48 or route of administration. Adjusting the drug regimen shall not
49 include substituting or selecting a different drug which differs from
50 that initially prescribed by the patient's physician unless such substi-
51 tution is expressly authorized in the written order or protocol. The
52 pharmacist shall be required to immediately document in the patient
53 record changes made to the patient's drug therapy and shall use any
54 reasonable means or method established by the facility to notify the
55 patient's other treating physicians with whom he or she does not have a
56 written agreement or protocol regarding such changes. The patient's

1 physician may prohibit, by written instruction, any adjustment or change
2 in the patient's drug regimen by the pharmacist;

3 (ii) evaluating and, only if specifically authorized by the protocol
4 and only to the extent necessary to discharge the responsibilities set
5 forth in this section, ordering disease state laboratory tests related
6 to the drug therapy management for the specific disease or disease state
7 specified within the written agreement or protocol; and

8 (iii) only if specifically authorized by the written agreement or
9 protocol and only to the extent necessary to discharge the responsibil-
10 ities set forth in this section, ordering or performing routine patient
11 monitoring functions as may be necessary in the drug therapy management,
12 including the collecting and reviewing of patient histories, and order-
13 ing or checking patient vital signs, including pulse, temperature, blood
14 pressure and respiration.

15 d. "Facility" shall mean: (i) a teaching hospital or general hospital,
16 including any diagnostic center, treatment center, or hospital-based
17 outpatient department as defined in section twenty-eight hundred one of
18 this chapter; or (ii) a nursing home with an on-site pharmacy staffed by
19 a licensed pharmacist; provided, however, for the purposes of this
20 section the term "facility" shall not include dental clinics, dental
21 dispensaries, residential health care facilities and rehabilitation
22 centers. For the purposes of this section, a "teaching hospital" shall
23 mean a hospital licensed pursuant to article twenty-eight of this chap-
24 ter that is eligible to receive direct or indirect graduate medical
25 education payments pursuant to article twenty-eight of this chapter.

26 e. "Physician" shall mean the physician selected by or assigned to a
27 patient, who has primary responsibility for the treatment and care of
28 the patient for the disease and associated disease states that are the
29 subject of the collaborative drug therapy management.

30 f. "Written agreement or protocol" shall mean a written document,
31 pursuant to and consistent with any applicable state or federal require-
32 ments, that addresses a specific disease or associated disease states
33 and that describes the nature and scope of collaborative drug therapy
34 management to be undertaken by the pharmacists, in collaboration with
35 the participating physician in accordance with the provisions of this
36 section.

37 2. a. A pharmacist who meets the experience requirements of paragraph
38 b of this subdivision and who is employed by or otherwise affiliated
39 with a facility shall be permitted to enter into a written agreement or
40 protocol with a physician authorizing collaborative drug therapy manage-
41 ment, subject to the limitations set forth in this section, within the
42 scope of such employment or affiliation.

43 b. A participating pharmacist must:

44 (i) (A) have been awarded either a master of science in clinical phar-
45 macy or a doctor of pharmacy degree;

46 (B) maintain a current unrestricted license; and

47 (C) have a minimum of two years experience, of which at least one year
48 of such experience shall include clinical experience in a health facili-
49 ty, which involves consultation with physicians with respect to drug
50 therapy and may include a residency at a facility involving such consul-
51 tation; or

52 (ii) (A) have been awarded a bachelor of science in pharmacy;

53 (B) maintain a current unrestricted license; and

54 (C) within the last seven years, have a minimum of three years experi-
55 ence, of which at least one year of such experience shall include clin-
56 ical experience in a health facility, which involves consultation with

1 physicians with respect to drug therapy and may include a residency at a
2 facility involving such consultation; and

3 (iii) meet any additional education, experience, or other requirements
4 set forth by the department in consultation with the board.

5 c. Notwithstanding any provision of law, nothing in this section shall
6 prohibit a licensed pharmacist from engaging in clinical services asso-
7 ciated with collaborative drug therapy management, in order to gain
8 experience necessary to qualify under clause (C) of subparagraph (i) or
9 (ii) of paragraph b of this subdivision, provided that such practice is
10 under the supervision of a pharmacist that currently meets the refer-
11 enced requirement, and that such practice is authorized under the writ-
12 ten agreement or protocol with the physician.

13 d. Notwithstanding any provision of this section, nothing herein shall
14 authorize the pharmacist to diagnose disease. In the event that a treat-
15 ing physician may disagree with the exercise of professional judgment by
16 a pharmacist, the judgment of the treating physician shall prevail.

17 3. The physician who is a party to a written agreement or protocol
18 authorizing collaborative drug therapy management shall be employed by
19 or otherwise affiliated with the same facility with which the pharmacist
20 is also employed or affiliated.

21 4. The existence of a written agreement or protocol on collaborative
22 drug therapy management and the patient's right to choose to not partic-
23 ipate in collaborative drug therapy management shall be disclosed to any
24 patient who is eligible to receive collaborative drug therapy manage-
25 ment. Collaborative drug therapy management shall not be utilized unless
26 the patient or the patient's authorized representative consents, in
27 writing, to such management. If the patient or the patient's authorized
28 representative consents, it shall be noted on the patient's medical
29 record. If the patient or the patient's authorized representative who
30 consented to collaborative drug therapy management chooses to no longer
31 participate in such management, at any time, it shall be noted on the
32 patient's medical record. In addition, the existence of the written
33 agreement or protocol and the patient's consent to such management shall
34 be disclosed to the patient's primary physician and any other treating
35 physician or healthcare provider.

36 5. Participation in a written agreement or protocol authorizing colla-
37 borative drug therapy management shall be voluntary, and no patient,
38 physician, pharmacist, or facility shall be required to participate.

39 6. Nothing in this section shall be deemed to limit the scope of prac-
40 tice of pharmacy nor be deemed to limit the authority of pharmacists and
41 physicians to engage in medication management prior to the effective
42 date of this section and to the extent authorized by law.

43 § 6802. Definitions. 1. "Pharmacy" means any place in which drugs,
44 prescriptions or poisons are possessed for the purpose of compounding,
45 preserving, dispensing or retailing, or in which drugs, prescriptions or
46 poisons are compounded, preserved, dispensed or retailed, or in which
47 such drugs, prescriptions or poisons are by advertising or otherwise
48 offered for sale at retail.

49 3. "Formulary" means the latest edition of the official national
50 formulary, and its supplement.

51 4. "Pharmacopeia", when not otherwise limited, means the latest
52 edition of the official United States pharmacopeia, and its supplement.

53 5. "Homeopathic pharmacopeia" means the official homeopathic pharma-
54 copeia of the United States, and its supplement.

1 6. "Official compendium" means the official United States pharmacop-
2 eia, official homeopathic pharmacopeia of the United States, official
3 national formulary, or their supplements.

4 7. "Drugs" means:

5 a. Articles recognized in the official United States pharmacopeia,
6 official homeopathic pharmacopeia of the United States, or official
7 national formulary.

8 b. Articles intended for use in the diagnosis, cure, mitigation,
9 treatment or prevention of disease in man or animals.

10 c. Articles (other than food) intended to affect the structure or any
11 function of the body of man or animals.

12 d. Articles intended for use as a component of any article specified
13 in paragraph a, b, or c of this subdivision; but does not include
14 devices or their components, parts or accessories.

15 8. "Cosmetics" means:

16 a. Articles intended to be rubbed, poured, sprinkled or sprayed on,
17 introduced into or otherwise applied to the human body for cleansing,
18 beautifying, promoting attractiveness, or altering the appearance.

19 b. Articles intended for use as a component of any such articles;
20 except that the term shall not include soap.

21 9. "Poison", where not otherwise limited, means any drug, chemical or
22 preparation likely to be destructive to adult human life in quantity of
23 sixty grains or less.

24 10. "Label" means a display of written, printed or pictorial matter
25 upon the immediate container of any drug, device or cosmetic. Any
26 requirement made by or under authority of this title, that any word,
27 statement, or other information appear on the label shall not be consid-
28 ered to be complied with unless such word, statement or other informa-
29 tion also appears on the outside container or wrapper, if there be any,
30 of the retail package of such drug, device or cosmetic or is easily
31 legible through the outside container or wrapper.

32 11. "Immediate container" does not include package liners.

33 12. "Labeling" means all labels and other written, printed or pictori-
34 al matter:

35 a. Upon any drug, device or cosmetic or any of its containers or wrap-
36 pers, or

37 b. Accompanying such drug, device or cosmetic.

38 13. "Misbranding". If a drug, device or cosmetic is alleged to be
39 misbranded because the labeling is misleading, or if an advertisement is
40 alleged to be false because it is misleading then in determining whether
41 the labeling or advertisement is misleading there shall be taken into
42 account (among other things) not only representations made or suggested
43 by statement, word, design, device, sound or any combination thereof,
44 but also the extent to which the labeling fails to reveal facts material
45 in the light of such representations or material with respect to conse-
46 quences which may result from the use of the drug, device, or cosmetic
47 to which the labeling or advertising relates under the conditions of use
48 prescribed in the labeling or advertising thereof or under such condi-
49 tions of use as are customary or usual. No drug, device or cosmetic
50 which is subject to, and complies with regulations promulgated under the
51 provisions of the Federal Food, Drug, and Cosmetic Act, relating to
52 adulteration and misbranding shall be deemed to be adulterated or
53 misbranded in violation of the provisions of this title because of its
54 failure to comply with the board's regulations, or the rules of the
55 state board of pharmacy, insofar as the regulations are in conflict with

1 regulations relating to adulteration and misbranding under the Federal
2 Food, Drug and Cosmetic Act.

3 14. "Antiseptic". The representation of a drug, device or cosmetic in
4 its labeling, as an antiseptic, shall be considered to be a represen-
5 tation that it is a germicide, except in the case of a drug purporting
6 to be, or represented as, an antiseptic for inhibitory use as a wet
7 dressing, ointment, dusting powder, or such other use as involves
8 prolonged contact with the body.

9 15. "New drug" means:

10 a. Any drug not generally recognized, among experts qualified by
11 scientific training and experience to evaluate the safety and effective-
12 ness of drugs, as safe and effective for use under the conditions
13 prescribed, recommended or suggested by the drug's labeling, except that
14 such a drug not so recognized shall not be deemed to be a "new drug" if
15 at any time prior to September first, nineteen hundred thirty-nine it
16 was subject to the former federal food and drug act of June thirtieth,
17 nineteen hundred six, as amended, and if at such time its labeling
18 contained the same representations concerning the conditions of its use;

19 b. Any drug, the composition of which is such that the drug, as a
20 result of investigations to determine its safety and effectiveness for
21 use under such conditions, has become recognized, but which has not
22 otherwise than in such investigations been used to a material extent or
23 for a material time under such conditions.

24 16. "Device" means instruments, apparatus, and contrivances, including
25 their components, parts and accessories, intended:

26 a. For use in the diagnosis, cure, mitigation, treatment, or
27 prevention of disease in man or animals; or

28 b. To affect the structure or any function of the body of man or
29 animals.

30 17. The term "Federal Food, Drug and Cosmetic Act" means the Federal
31 Food, Drug, and Cosmetic Act of the United States of America, approved
32 June twenty-fifth, nineteen hundred thirty-eight, officially cited as
33 public document number seven hundred seventeen--seventy-fifth congress
34 (chapter six hundred seventy-five--third session), and all its amend-
35 ments now or hereafter enacted.

36 18. "Wholesaler" means a person who bottles, packs or purchases drugs,
37 devices or cosmetics for the purpose of selling or reselling to pharma-
38 cies or to other channels as provided in this title.

39 19. "Advertisement" means all representations disseminated in any
40 manner or by any means, other than by labeling, for the purpose of
41 inducing, or which are likely to induce, directly or indirectly, the
42 purchase of drugs, devices or cosmetics.

43 20. "Controlled substance" means any drug defined as a controlled
44 substance by article thirty-three of this chapter.

45 21. "Manufacturer" means a person who compounds, mixes, prepares,
46 produces, and bottles or packs drugs, cosmetics or devices for the
47 purpose of distributing or selling to pharmacies or to other channels of
48 distribution.

49 22. "Administer", for the purpose of section sixty-eight hundred one
50 of this title, means:

51 a. the direct application of an immunizing agent to adults, whether by
52 injection, ingestion, inhalation or any other means, pursuant to a
53 patient specific order or non-patient specific regimen prescribed or
54 ordered by a physician or certified nurse practitioner, for: immuniza-
55 tions to prevent influenza, pneumococcal, acute herpes zoster, hepatitis
56 A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicel-

1 la, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease
2 and medications required for emergency treatment of anaphylaxis; and
3 other immunizations recommended by the advisory committee on immuniza-
4 tion practices of the centers for disease control and prevention for
5 patients eighteen years of age or older if the commissioner of education
6 in consultation with the commissioner determines that an immunization:

7 (i) (A) may be safely administered by a licensed pharmacist within
8 their lawful scope of practice; and (B) is needed to prevent the trans-
9 mission of a reportable communicable disease that is prevalent in New
10 York state; or (ii) is a recommended immunization for such patients who:
11 (A) meet age requirements, (B) lack documentation of such immunization,
12 (C) lack evidence of past infection, or (D) have an additional risk
13 factor or another indication as recommended by the advisory committee on
14 immunization practices of the centers for disease control and
15 prevention. If the commissioner determines that there is an outbreak of
16 disease, or that there is the imminent threat of an outbreak of disease,
17 then the commissioner may issue a non-patient specific regimen applica-
18 ble statewide.

19 b. the direct application of an immunizing agent to children between
20 the ages of two and eighteen years of age, whether by injection, inges-
21 tion, inhalation or any other means, pursuant to a patient specific
22 order or non-patient specific regimen prescribed or ordered by a physi-
23 cian or certified nurse practitioner, for immunization to prevent influ-
24 enza and medications required for emergency treatment of anaphylaxis
25 resulting from such immunization. If the commissioner determines that
26 there is an outbreak of influenza, or that there is the imminent threat
27 of an outbreak of influenza, then the commissioner may issue a non-pa-
28 tient specific regimen applicable statewide.

29 23. "Electronic prescription" means a prescription created, recorded,
30 or stored by electronic means; issued with an electronic signature; and
31 transmitted by electronic means, in accordance with regulations of the
32 commissioner and federal regulations; provided, however, that an
33 original hard copy prescription that is created electronically or other-
34 wise may be transmitted from the prescriber to the pharmacist by facsim-
35 ile and must be manually signed. "Electronic" means of or relating to
36 technology having electrical, digital, magnetic, wireless, optical,
37 electromagnetic, or similar capabilities. "Electronic signature" means
38 an electronic sound, symbol, or process, attached to or logically asso-
39 ciated with an electronic prescription and executed or adopted by a
40 person with the intent to sign the prescription, in accordance with
41 regulations of the commissioner and federal regulations.

42 24. "Compounding" means the combining, admixing, mixing, diluting,
43 pooling, reconstituting, or otherwise altering of a drug or bulk drug
44 substance to create a drug with respect to an outsourcing facility under
45 section 503B of the Federal Food, Drug and Cosmetic Act and further
46 defined in this section.

47 25. "Outsourcing facility" means a facility that:
48 a. is engaged in the compounding of sterile drugs;
49 b. is currently registered as an outsourcing facility with the
50 Secretary of Health and Human Services; and
51 c. complies with all applicable requirements of federal and state law,
52 including the Federal Food, Drug and Cosmetic Act.

53 26. "Sterile drug" means a drug that is intended for parenteral admin-
54 istration, an ophthalmic or oral inhalation drug in aqueous format, or a
55 drug that is required to be sterile under federal or state law.

1 27. "Biological product" means a biological product as defined in
2 subsection (i) of section 351 of the Public Health Service Act, 42
3 U.S.C. Section 262(i).

4 28. "Interchangeable biological product" means a biological product
5 licensed by the United States Food and Drug Administration pursuant to
6 42 U.S.C. Section 262(k)(4) as set forth in the latest edition or
7 supplement of the United States Food and Drug Administration Lists of
8 Licensed Biological Products with Reference Product Exclusivity and
9 Biosimilarity or Interchangeability Evaluations, sometimes referred to
10 as the "Purple Book", or a biological product determined by the United
11 States Food and Drug Administration to be therapeutically equivalent as
12 set forth in the latest edition or supplement of the United States Food
13 and Drug Administration Approved Drug Products with Therapeutic Equiv-
14 alence Evaluations, sometimes referred to as the "Orange Book".

15 § 6803. Practice of pharmacy and use of title "pharmacist". Only a
16 person licensed or otherwise authorized under this title shall practice
17 pharmacy or use the title "pharmacist" or any derivative.

18 § 6804. State board of pharmacy. A state board of pharmacy shall be
19 appointed by the regents on recommendation of the commissioner for the
20 purpose of assisting the regents and the department on matters of
21 professional licensing and professional conduct in accordance with
22 section sixty-five hundred eight of this article. The board shall be
23 composed of not less than nine pharmacists licensed in this state for at
24 least five years and two registered pharmacy technicians. The initial
25 registered pharmacy technician members of the state board of pharmacy
26 need not be licensed prior to their appointment but shall have met all
27 other requirements of licensure pursuant to section sixty-eight hundred
28 forty-four of this article except for filing an application and paying a
29 fee. An executive secretary to the board shall be appointed by the
30 regents on recommendation of the commissioner and shall be a pharmacist
31 licensed in this state for at least five years. The board shall provide
32 assistance to the department:

33 1. To regulate the practice of pharmacy, registered pharmacy techni-
34 cians and the employment of interns and employees in pharmacies,

35 2. To regulate and control the sale, distribution, character and stan-
36 dard of drugs, poisons, cosmetics, devices and new drugs,

37 3. To prevent the sale or distribution of such drugs, poisons, cosmet-
38 ics, devices and new drugs as do not conform to the provisions of this
39 chapter,

40 4. To investigate alleged violations of the provisions of this title,
41 and

42 5. To issue limited permits or registrations.

43 § 6805. Requirements for a professional license. 1. To qualify for a
44 pharmacist's license, an applicant shall fulfill the following require-
45 ments:

46 a. Application: file an application with the department;

47 b. Education: have received an education, including a bachelor's or
48 equivalent degree in pharmacy, in accordance with the commissioner's
49 regulations;

50 c. Experience: have experience satisfactory to the board and in
51 accordance with the commissioner's regulations;

52 d. Examination: pass an examination satisfactory to the board and in
53 accordance with the commissioner's regulations;

54 e. Age: be at least twenty-one years of age;

55 f. Citizenship or immigration status: be a United States citizen or an
56 alien lawfully admitted for permanent residence in the United States;

1 g. Character: be of good moral character as determined by the depart-
2 ment; and

3 h. Fees: pay a fee of one hundred seventy-five dollars to the depart-
4 ment for admission to a department conducted examination and for an
5 initial license, a fee of eighty-five dollars for each re-examination, a
6 fee of one hundred fifteen dollars for an initial license for persons
7 not requiring admission to a department conducted examination, and a fee
8 of one hundred fifty-five dollars for each triennial registration peri-
9 od.

10 2. On or before April first, nineteen hundred seventy-two, any person
11 who holds a valid license as "druggist" in this state shall make appli-
12 cation and on the payment of fees specified in this title be licensed by
13 the department as a pharmacist. Such person shall have all of the
14 rights, privileges, duties and responsibilities of a pharmacist.

15 § 6806. Limited permits. 1. The department may issue a limited permit
16 for employment as a "pharmacy intern" to:

17 a. A student enrolled in the last two years of a registered program in
18 pharmacy, or

19 b. A graduate of a program in pharmacy which meets standards estab-
20 lished by the commissioner's regulations who is engaged in meeting the
21 experience requirements or whose application for initial licensure is
22 pending with the department.

23 2. A pharmacy intern may, as determined by the commissioner's regu-
24 lations, practice as a pharmacist under the immediate personal super-
25 vision of a licensed pharmacist. A pharmacy intern may also receive a
26 certificate of administration if he or she provides satisfactory
27 evidence to the commissioner that he or she meets the requirements of
28 subdivision three of this section.

29 3. No pharmacy intern shall administer immunizing agents without
30 receiving training satisfactory to the commissioner, as prescribed in
31 regulations of the commissioner, which shall include, but not be limited
32 to: techniques for screening individuals and obtaining informed consent;
33 techniques of administration; indications, precautions and contraindica-
34 tions in the use of an agent or agents; recordkeeping of immunization
35 and information; and handling emergencies, including anaphylaxis and
36 needlestick injuries. To receive a certification to administer immuniza-
37 tions, the pharmacy intern shall provide documentation, on a form
38 prescribed by the department, from the dean or other appropriate offi-
39 cial of the registered program that the intern has completed the
40 required training, pursuant to regulations of the commissioner.

41 4. A limited permit issued to a pharmacy intern shall have an expira-
42 tion date of five years from the date of issue. Limited permits may be
43 renewed once for a period not to exceed two years.

44 5. The fee for each limited permit issued to a pharmacy intern shall
45 be seventy dollars.

46 6. In the case of a pharmacy intern, certified to administer immuniza-
47 tions, administration must be conducted under the immediate personal
48 supervision of a licensed pharmacist certified to administer vaccines. A
49 person receiving a vaccine must be informed that a pharmacy intern,
50 certified to administer immunizations, will be administering the vaccine
51 and of the option to receive the vaccination from a certified pharma-
52 cist.

53 § 6807. Exempt persons; special provisions. 1. This title shall not be
54 construed to affect or prevent:

55 a. Unlicensed assistants from being employed in licensed pharmacies
56 for purposes other than the practice of pharmacy;

1 b. Any physician, dentist, veterinarian or other licensed health care
2 provider legally authorized to prescribe drugs under this title who is
3 not the owner of a pharmacy or who is not in the employ of such owner,
4 from supplying his patients with such drugs as the physician, dentist,
5 veterinarian or other licensed health care provider legally authorized
6 to prescribe drugs under this title deems proper in connection with his
7 practice, provided, however, that all such drugs shall be dispensed in a
8 container labeled with the name and address of the dispenser and
9 patient, directions for use, and date of delivery, and in addition, such
10 drug shall bear a label containing the proprietary or brand name of the
11 drug and, if applicable, the strength of the contents, unless the person
12 issuing the prescription specifically states on the prescription in his
13 own handwriting, that the name of the drug and the strength thereof
14 should not appear on the label; provided further that if such drugs are
15 controlled substances, they shall be dispensed pursuant to the require-
16 ments of article thirty-three of this chapter;

17 c. Any merchant from selling proprietary medicines, except those which
18 are poisonous, deleterious or habit forming, or materials and devices
19 specifically exempted by regulations of the department or by provisions
20 of this chapter;

21 d. Any personnel in an institution of higher learning from using pres-
22 cription-required drugs on the premises for authorized research, exper-
23 iments or instruction, in accordance with the department's regulations
24 and, if such drugs are controlled substances, in accordance with title
25 three of article thirty-three of this chapter; or

26 e. The necessary and ordinary activities of manufacturers and whole-
27 salers, subject to the provisions of article thirty-three of this chap-
28 ter.

29 2. a. Notwithstanding the provisions of paragraph b of subdivision one
30 of this section, no prescriber who is not the owner of a pharmacy or who
31 is not in the employ of such owner, may dispense more than a seventy-
32 two-hour supply of drugs, except for:

33 (i) persons practicing in hospitals as defined in section twenty-eight
34 hundred one of this chapter;

35 (ii) the dispensing of drugs at no charge to their patients;

36 (iii) persons whose practices are situated ten miles or more from a
37 registered pharmacy;

38 (iv) the dispensing of drugs in a clinic, infirmary or health service
39 that is operated by or affiliated with a post-secondary institution;

40 (v) persons licensed pursuant to title eight of this article;

41 (vi) the dispensing of drugs in a medical emergency as defined in
42 subdivision six of section sixty-eight hundred ten of this title;

43 (vii) the dispensing of drugs that are diluted, reconstituted or
44 compounded by a prescriber;

45 (viii) the dispensing of allergenic extracts; or

46 (ix) the dispensing of drugs pursuant to an oncological or AIDS proto-
47 col.

48 b. The commissioner may promulgate regulations to implement this
49 subdivision and may, by regulation, establish additional renewable
50 exemptions for a period not to exceed one year from the provisions of
51 paragraph a of this subdivision.

52 3. A pharmacist may dispense drugs and devices to a registered profes-
53 sional nurse, and a registered professional nurse may possess and admin-
54 ister, drugs and devices, pursuant to a non-patient specific regimen
55 prescribed or ordered by a licensed physician or certified nurse practi-

1 tioner, pursuant to regulations promulgated by the commissioner and by
2 provisions of this chapter.

3 § 6808. Registering and operating establishments. 1. Registration
4 requirement. No person, firm, corporation or association shall possess
5 drugs, prescriptions or poisons for the purpose of compounding, dispens-
6 ing, retailing, wholesaling, or manufacturing, or shall offer drugs,
7 prescriptions or poisons for sale at retail or wholesale unless regis-
8 tered by the department as a pharmacy, wholesaler, manufacturer or
9 outsourcing facility.

10 2. Pharmacies. a. Obtaining a registration. A pharmacy shall be
11 registered as follows:

12 (i) The application shall be made on a form prescribed by the depart-
13 ment.

14 (ii) The application shall be accompanied by a fee of three hundred
15 forty-five dollars.

16 (iii) To secure and retain a registration, a pharmacy must be equipped
17 with facilities, apparatus, utensils and stocks of drugs and medicines
18 sufficient to permit the prompt and efficient compounding and dispensing
19 of prescriptions, as prescribed by regulation.

20 b. Renewal of registration. All pharmacy registrations shall be
21 renewed on dates set by the department. The triennial registration fee
22 shall be two hundred sixty dollars, or a prorated portion thereof as
23 determined by the department. At the time of renewal, the owner of every
24 pharmacy shall report under oath to the department any facts required by
25 the state board of pharmacy.

26 c. Display of registration. The registration shall be conspicuously
27 displayed at all times in the pharmacy. The names of the owner or owners
28 of a pharmacy shall be conspicuously displayed upon the exterior of such
29 establishment. The names so displayed shall be presumptive evidence of
30 ownership of such pharmacy by such person or persons. In the event that
31 the owner of a licensed pharmacy is not a licensed pharmacist, the phar-
32 macy registration issued shall also bear the name of the licensed phar-
33 macist having personal supervision of the pharmacy. In the event that
34 such licensed pharmacist shall no longer have personal supervision of
35 the pharmacy, the owner shall notify the department of such fact and of
36 the name of the licensed pharmacist replacing the pharmacist named on
37 the license and shall apply for an amended registration showing the
38 change. The amended registration must be attached to the original regis-
39 tration and displayed in the same manner. Both the owner and the super-
40 vising pharmacist shall be responsible for carrying out the provisions
41 of this title.

42 d. Change of location. In the event that the location of a pharmacy
43 shall be changed, the owner shall apply to the department for inspection
44 of the new location and endorsement of the registration for the new
45 location. The fee for inspection and endorsement shall be fifty dollars,
46 unless it appears to the satisfaction of the department that the change
47 in location is of temporary nature due to fire, flood or other disaster.

48 e. Conduct of a pharmacy. Every owner of a pharmacy is responsible for
49 the strength, quality, purity and the labeling thereof of all drugs,
50 toxic substances, devices and cosmetics, dispensed or sold, subject to
51 the guaranty provisions of this title and this chapter. Every owner of a
52 pharmacy or every pharmacist in charge of a pharmacy shall be responsi-
53 ble for the proper conduct of their pharmacy. Every pharmacy shall be
54 under the immediate supervision and management of a licensed pharmacist
55 at all hours when open. No pharmacist shall have personal supervision
56 of more than one pharmacy at the same time.

1 f. A pharmacy as a department. When a pharmacy is operated as a
2 department of a larger commercial establishment, the area comprising the
3 pharmacy shall be physically separated from the rest of the establish-
4 ment, so that access to the pharmacy and drugs is not available when a
5 pharmacist is not on duty. Identification of the area within the pharma-
6 cy by use of the words "drugs", "medicines", "drug store", or "pharmacy"
7 or similar terms shall be restricted to the area licensed by the depart-
8 ment as a pharmacy.

9 g. Limited pharmacy registration. (i) When, in the opinion of the
10 department, a high standard of patient safety, consistent with good
11 patient care, can be provided by the registering of a pharmacy within a
12 hospital, nursing home or extended care facility which does not meet all
13 of the requirements for registration as a pharmacy, the department may
14 waive any requirements pertaining to full-time operation by a licensed
15 pharmacist, minimum equipment, minimum space and waiting area, provided
16 that when the waiver of any of the above requirements is granted by the
17 board, the pharmaceutical services to be rendered by the pharmacy shall
18 be limited to furnishing drugs to patients registered for treatment by
19 the hospital, and to in-patients for treatment by the nursing home or
20 extended care facility.

21 (ii) When in the opinion of the department, a high standard of patient
22 safety, consistent with good patient care, can be provided by the regis-
23 tering of a pharmacy within a facility distributing dialysis solutions
24 for patients suffering from end stage renal disease and where the phar-
25 maceutical services to be rendered by the pharmacy shall be limited to
26 furnishing dialysis solutions to patients for whom such has been
27 prescribed by a duly authorized prescriber, the department may waive
28 certain requirements, including, but not limited to, full-time operation
29 by a licensed pharmacist, minimum equipment, and minimum space and wait-
30 ing area. Such solutions shall only be dispensed by employees who have
31 completed an approved training program and who have demonstrated profi-
32 ciency to perform the task or tasks of assembling, labeling or deliver-
33 ing a patient order and who work under the general supervision of a
34 licensed pharmacist who shall be responsible for the distribution,
35 record keeping, labeling and delivery of all dialysis solutions
36 dispensed by the distributor as required by the department.

37 (iii) The department shall promulgate such rules or regulations
38 consistent with this paragraph as are necessary to ensure the safe
39 distribution of such dialysis solutions, including establishment regis-
40 tration and proper record keeping, storage, and labeling.

41 (iv) The initial registration fee and renewal fee for a limited phar-
42 macy shall be three hundred forty-five dollars for each triennial regis-
43 tration period.

44 h. Applicant registration. An applicant for registration as a pharmacy
45 shall be of good moral character, as determined by the department. In
46 the case of a corporate applicant, the requirement shall extend to all
47 officers and directors and to stockholders having a ten percent or
48 greater interest in the corporation.

49 3. Wholesaler's or manufacturer's registration. a. Obtaining a regis-
50 tration. A wholesaler or manufacturer shall be registered as follows:

51 (i) The application shall be made on a form prescribed by the depart-
52 ment.

53 (ii) The application shall be accompanied by a fee of eight hundred
54 twenty-five dollars.

55 b. Renewal of registration. All wholesalers' and manufacturers' regis-
56 trations shall be renewed on dates set by the department. The triennial

1 registration fee shall be five hundred twenty dollars, or a prorated
2 portion thereof as determined by the department.

3 c. Display of registration. The registration shall be displayed
4 conspicuously at all times in the place of business.

5 d. Change of location. In the event that the location of such place of
6 business shall be changed, the owner shall apply to the department for
7 inspection of the new location and endorsement of the registration for
8 the new location. The fee for inspection and endorsement shall be one
9 hundred seventy dollars, unless it appears to the satisfaction of the
10 department that the change in location is of a temporary nature due to
11 fire, flood or other disaster.

12 4. Outsourcing facility's registration. a. Obtaining a registration.
13 An outsourcing facility shall be registered as follows:

14 (i) An application for initial registration or renewal of registration
15 shall be made on a form prescribed by the department.

16 (ii) An application for initial registration shall be accompanied by a
17 fee of eight hundred twenty-five dollars.

18 b. Renewal of registration. All outsourcing facilities' registrations
19 shall be renewed on a date set by the department. The triennial regis-
20 tration fee shall be five hundred twenty dollars, or a prorated portion
21 thereof as determined by the department.

22 c. Display of registration. The registration shall be displayed
23 conspicuously in the place of business.

24 d. Change of location. In the event that the location of such place of
25 business shall be changed, the owner shall apply to the department for
26 inspection of the new location and endorsement of the registration for
27 the new location. The fee for inspection and endorsement shall be one
28 hundred seventy-five dollars, unless it appears to the satisfaction of
29 the department that the change in location is of a temporary nature due
30 to fire, flood or other disaster.

31 e. Report. Upon initially registering as an outsourcing facility and
32 every six months thereafter, each outsourcing facility shall submit to
33 the executive secretary of the state board of pharmacy a report:

34 (i) identifying the drugs compounded by such outsourcing facility
35 during the previous six-month period; and

36 (ii) with respect to each drug identified under subparagraph (i) of
37 this paragraph, providing the active ingredient; the source of such
38 active ingredient; the National Drug Code number of the source drug or
39 bulk active ingredient, if available; the strength of the active ingre-
40 dient per unit; the dosage form and route of administration; the package
41 description; the number of individual units produced; and the National
42 Drug Code number of the final product, if assigned.

43 f. Conduct of outsourcing facility. Every owner of an outsourcing
44 facility is responsible for the strength, quality, purity and labeling
45 thereof of all compounded drugs, subject to the guaranty provisions of
46 this title and this chapter. Every outsourcing facility shall be under
47 the immediate supervision and management of a pharmacist licensed to
48 practice in New York state.

49 g. Applicant for registration. An applicant for registration of an
50 outsourcing facility shall be of good moral character, as determined by
51 the department. In the case of a corporate applicant, the requirement
52 shall extend to all officers and directors and stakeholders having a ten
53 percent or greater interest in the corporation.

54 5. Inspection. The state board of pharmacy and the department, and
55 their employees designated by the commissioner, shall have the right to
56 enter any pharmacy, wholesaler, manufacturer, outsourcing facility or

1 vehicle and to inspect, at reasonable times, such factory, warehouse,
2 establishment or vehicle and all records required by this title, perti-
3 nent equipment, finished and unfinished materials, containers, and
4 labels.

5 6. Penalties. A pharmacy, wholesaler, manufacturer or outsourcing
6 facility registered under this section shall be under the supervision of
7 the department and shall be subject to disciplinary proceedings and
8 penalties in accordance with subtitle three of title one of this article
9 in the same manner and to the same extent as individuals and profes-
10 sional service corporations with respect to their licenses and registra-
11 tions, provided that failure to comply with the requirements of this
12 section shall constitute professional misconduct.

13 7. Sale of drugs at auction. No controlled substance or substances and
14 no poisonous or deleterious drugs or drugs in bulk or in opened contain-
15 ers shall be sold at auction unless the place where such drugs are sold
16 at auction shall have been registered by the board, and unless such sale
17 shall be under the personal supervision of a licensed pharmacist. Drugs
18 in open containers shall not be sold at auction unless the seller shall
19 have in his or her possession a certificate of the board showing that
20 such drugs have been inspected and meet the requirements of this title.
21 In the event that the drug so sold is one as to which this title or any
22 federal statute or any regulation adopted pursuant to this title or an
23 applicable federal statute require that the expiration date be stated on
24 each package, such drug may not be sold at auction after such expiration
25 date or when such expiration date will occur within a period of thirty
26 days or less from the date of sale.

27 § 6809. Identification of pharmacists. Every pharmacist on duty shall
28 be identified by a badge designed by the state board of pharmacy, which
29 shall contain his or her name and title.

30 § 6809-a. Registration of nonresident establishments. 1. Definition.
31 The term "nonresident establishment" shall mean any pharmacy, manufac-
32 turer, wholesaler, or outsourcing facility located outside of the state
33 that ships, mails or delivers prescription drugs or devices to other
34 establishments, authorized prescribers and/or patients residing in this
35 state. Such establishments shall include, but not be limited to, pharma-
36 cies that transact business through the use of the internet.

37 2. Registration. All nonresident establishments that ship, mail, or
38 deliver prescription drugs and/or devices to other registered establish-
39 ments, authorized prescribers, and/or patients into this state shall be
40 registered with the department; except that such registration shall not
41 apply to intra-company transfers between any division, affiliate,
42 subsidiaries, parent or other entities under complete common ownership
43 and control. The provisions of this subdivision shall apply solely to
44 nonresident establishments and shall not affect any other provision of
45 this title.

46 3. Agent of record. Each nonresident establishment that ships, mails
47 or delivers drugs and/or devices into this state shall designate a resi-
48 dent agent in this state for service of process pursuant to rule three
49 hundred eighteen of the civil practice law and rules.

50 4. Conditions of registration. As a condition of registration, a
51 nonresident establishment shall comply with the following requirements:

52 a. Be licensed and/or registered and in good standing with the state
53 of residence;

54 b. Maintain, in readily retrievable form, records of drugs and/or
55 devices shipped into this state;

1 c. Supply, upon request, all information needed by the department to
2 carry out the department's responsibilities under the laws and rules and
3 regulations pertaining to nonresident establishments;

4 d. Comply with all statutory and regulatory requirements of the state
5 where the nonresident establishment is located, for prescription drugs
6 or devices shipped, mailed or delivered into this state, except that for
7 controlled substances shipped, mailed or delivered into this state, the
8 nonresident pharmacy shall follow federal law and New York law relating
9 to controlled substances;

10 e. The application shall be made in the manner and form prescribed by
11 the department;

12 f. The application of establishments to be registered as a manufactur-
13 er, wholesaler or outsourcing facility of drugs and/or devices shall be
14 accompanied by a fee as provided in section sixty-eight hundred eight of
15 this title; and

16 g. The application of establishments to be registered as a nonresident
17 pharmacy shall be accompanied by a fee of three hundred forty-five
18 dollars and shall be renewed triennially at a fee of two hundred sixty
19 dollars.

20 5. Additional requirements. Nonresident pharmacies registered pursuant
21 to this section shall:

22 a. Provide a toll-free telephone number that is available during
23 normal business hours and at least forty hours per week, to enable
24 communication between a patient in this state and a pharmacist at the
25 pharmacy who has access to the patient's records; and

26 b. Place such toll-free telephone number on a label affixed to each
27 drug or device container.

28 6. Disciplinary action. Except in emergencies that constitute an imme-
29 diat threat to public health, the department shall not prosecute a
30 complaint or otherwise take formal action against a nonresident estab-
31 lishment based upon delivery of a drug into this state or a violation of
32 law, rule, or regulation of this state if the agency having jurisdiction
33 in the state where the nonresident establishment is based commences
34 action on the violation complained of within one hundred twenty days
35 from the date that the violation was reported; provided however, that
36 the department may prosecute a complaint or take formal action against a
37 nonresident establishment if it determines that the agency having juris-
38 isdiction in the state where the nonresident establishment is based has
39 unreasonably delayed or otherwise failed to take prompt and appropriate
40 action on a reported violation.

41 7. Revocation or suspension. A nonresident establishment that fails to
42 comply with the requirements of this section shall be subject to revoca-
43 tion or suspension of its registration and other applicable penalties in
44 accordance with the provisions of subtitle three of title one of this
45 article.

46 8. Exception. The department may grant an exception from the registra-
47 tion requirements of this section on the application of a nonresident
48 establishment that restricts its sale or dispensing of drugs and/or
49 devices to residents of this state to isolated transactions.

50 9. Rules and regulations. The department shall promulgate rules and
51 regulations to implement the provisions of this section.

52 § 6810. Prescriptions. 1. No drug for which a prescription is required
53 by the provisions of the Federal Food, Drug and Cosmetic Act or by the
54 commissioner shall be distributed or dispensed to any person except upon
55 a prescription written by a person legally authorized to issue such
56 prescription. Such drug shall be compounded or dispensed by a licensed

1 pharmacist, and no such drug shall be dispensed without affixing to the
2 immediate container in which the drug is sold or dispensed a label bear-
3 ing the name and address of the owner of the establishment in which it
4 was dispensed, the date compounded, the number of the prescription under
5 which it is recorded in the pharmacist's prescription files, the name of
6 the prescriber, the name and address of the patient, and the directions
7 for the use of the drug by the patient as given upon the prescription.
8 All labels shall conform to such rules and regulations as promulgated by
9 the commissioner pursuant to section sixty-eight hundred twenty-nine of
10 this title. The prescribing and dispensing of a drug which is a
11 controlled substance shall be subject to additional requirements
12 provided in article thirty-three of this chapter. The words "drug" and
13 "prescription required drug" within the meaning of this title shall not
14 be construed to include soft or hard contact lenses, eyeglasses, or any
15 other device for the aid or correction of vision. Nothing in this subdi-
16 vision shall prevent a pharmacy from furnishing a drug to another phar-
17 macy which does not have such drug in stock for the purpose of filling a
18 prescription.

19 2. a. A prescription may not be refilled unless it bears a contrary
20 instruction and indicates on its face the number of times it may be
21 refilled. A prescription may not be refilled more times than allowed on
22 the prescription. The date of each refilling must be indicated on the
23 original prescription. Prescriptions for controlled substances shall be
24 refilled only pursuant to article thirty-three of this chapter.

25 b. A pharmacy registered with the department pursuant to section
26 sixty-eight hundred eight or sixty-eight hundred nine-a of this title
27 may not deliver a new or refilled prescription off premises without the
28 consent of the patient or an individual authorized to consent on the
29 patient's behalf. For the purposes of this section, consent may be
30 obtained in the same manner and process by which consent is deemed
31 acceptable under the federal Medicare Part D program.

32 c. Pharmacy providers who deliver medication without patient or
33 authorized individual consent will be required to accept the return of
34 the medication from the patient, provide that patient credit for any
35 charges they may have paid, and will be required to destroy those medi-
36 cations sent without consent on delivery in accordance with applicable
37 state and federal law. Nothing in this section shall be deemed to inter-
38 fere with the requirements for refill reminder or medication adherence
39 programs. Nothing in this section is intended to apply to long-term
40 care pharmacy dispensing and delivery.

41 3. A copy of a prescription for a controlled substance shall not be
42 furnished to the patient but may be furnished to any licensed practi-
43 tioner authorized to write such prescription. Copies of other
44 prescriptions shall be furnished to the patient at his or her request,
45 but such copies are issued for the informational purposes of the pres-
46 cribers only, and shall be so worded.

47 4. a. Oral prescriptions for controlled substances shall be filled
48 pursuant to article thirty-three of this chapter. A pharmacist may fill
49 an oral prescription for a drug, other than a controlled substance, made
50 by a practitioner legally authorized to prescribe drugs. An oral
51 authorization for the refill of a prescription, other than a
52 prescription for a controlled substance, may be made by a practitioner
53 legally authorized to prescribe drugs. The pharmacist receiving such
54 oral authorization for the refill of a prescription shall write on the
55 reverse side of the original prescription the date, time, and name of
56 the practitioner authorizing the refill of the prescription. An oral

1 prescription or an oral authorization for the refill of a prescription
2 for the drug, other than a controlled substance, may be communicated by
3 an employee of the prescribing practitioner; provided, however, the
4 pharmacist shall:

- 5 (i) contemporaneously reduce such prescription to writing;
- 6 (ii) dispense the substance in conformity with the labeling require-
7 ments applicable to a written prescription; and
- 8 (iii) make a good faith effort to verify the employee's identity if
9 the employee is unknown to the pharmacist.

10 b. Oral prescriptions for patients in general hospitals, nursing
11 homes, residential health care facilities as defined in section twenty-
12 eight hundred one of this chapter, hospitals as defined in subdivision
13 ten of section 1.03 of the mental hygiene law, or facilities operated by
14 the office for people with developmental disabilities, may be communi-
15 cated to a pharmacist serving as a vendor of pharmaceutical services
16 based upon a contractual arrangement by an agent designated by and under
17 the direction of the prescriber or the institution. Such agent shall be
18 a health care practitioner currently licensed and registered under this
19 article.

20 5. Records of all prescriptions filled or refilled shall be maintained
21 for a period of at least five years and upon request made available for
22 inspection and copying by a representative of the department. Such
23 records shall indicate date of filling or refilling, doctor's name,
24 patient's name and address and the name or initials of the pharmacist
25 who prepared, compounded, or dispensed the prescription. Records of
26 prescriptions for controlled substances shall be maintained pursuant to
27 requirements of article thirty-three of this chapter.

28 6. a. Every prescription written in this state by a person authorized
29 to issue such prescription shall be on prescription forms containing one
30 line for the prescriber's signature. The prescriber's signature shall
31 validate the prescription. Every electronic prescription shall provide
32 for the prescriber's electronic signature, which shall validate the
33 electronic prescription. Imprinted conspicuously on every prescription
34 written in this state in eight-point upper case type immediately below
35 the signature line shall be the words: "THIS PRESCRIPTION WILL BE
36 FILLED GENERICALLY UNLESS PRESCRIBER WRITES 'd a w' IN THE BOX BELOW".
37 Unless the prescriber writes d a w in such box in the prescriber's own
38 handwriting or, in the case of electronic prescriptions, inserts an
39 electronic direction to dispense the drug as written, the prescriber's
40 signature or electronic signature shall designate approval of substi-
41 tution by a pharmacist of a drug product pursuant to paragraph (o) of
42 subdivision one of section two hundred six of this chapter. No other
43 letters or marks in such box shall prohibit substitution. No
44 prescription forms used or intended to be used by a person authorized to
45 issue a prescription shall have 'd a w' preprinted in such box. Such box
46 shall be placed directly under the signature line and shall be three-
47 quarters inch in length and one-half inch in height, or in comparable
48 form for an electronic prescription as may be specified by regulation of
49 the commissioner. Immediately below such box shall be imprinted in six
50 point type the words "Dispense As Written". Notwithstanding any other
51 provision of law, no state official, agency, board or other entity shall
52 promulgate any regulation or guideline modifying those elements of the
53 prescription form's contents specified in this subdivision. To the
54 extent otherwise permitted by law, a prescriber may modify only those
55 elements of the prescription form's contents not specified in this
56 subdivision. Notwithstanding any other provision of this section or any

1 other law, when a generic drug is not available and the brand name drug
2 originally prescribed is available and the pharmacist agrees to dispense
3 the brand name product for a price that will not exceed the price that
4 would have been charged for the generic substitute had it been avail-
5 able, substitution of a generic drug product will not be required. If
6 the generic drug product is not available and a medical emergency situ-
7 ation, which for purposes of this section is defined as any condition
8 requiring alleviation of severe pain or which threatens to cause disa-
9 bility or take life if not promptly treated, exists, then the pharmacist
10 may dispense the brand name product at his or her regular price. In such
11 instances the pharmacist must record the date, hour and nature of the
12 medical emergency on the back of the prescription and keep a copy of all
13 such prescriptions.

14 b. The prescriber shall inform the patient whether he or she has
15 prescribed a brand name or its generic equivalent drug product.

16 c. The provisions of this subdivision shall not apply to a hospital as
17 defined in article twenty-eight of this chapter.

18 d. No prescriber shall be subjected to civil liability arising solely
19 from authorizing, in accordance with this subdivision, the substitution
20 by a pharmacist of a drug product pursuant to paragraph (o) of subdivi-
21 sion one of section two hundred six of this chapter.

22 7. a. No prescription for a drug written in this state by a person
23 authorized to issue such prescription shall be on a prescription form
24 which authorizes the dispensing or compounding of any other drug. No
25 drug shall be dispensed by a pharmacist when such prescription form
26 includes any other drug.

27 b. With respect to drugs other than controlled substances, the
28 provisions of this subdivision shall not apply to pharmacists employed
29 by or providing services under contract to general hospitals, nursing
30 homes, residential health care facilities as defined in section twenty-
31 eight hundred one of this chapter, hospitals as defined in subdivision
32 ten of section 1.03 of the mental hygiene law, or facilities operated by
33 the office for people with developmental disabilities, who dispense
34 drugs in the course of said employment or in the course of providing
35 such services under contract. With respect to such pharmacists, each
36 prescription shall be transcribed on a patient specific prescription
37 form.

38 8. Every prescription, whether or not for a controlled substance,
39 written in this state by a person authorized to issue such prescription
40 and containing the prescriber's signature shall, in addition to such
41 signature, be imprinted or stamped legibly and conspicuously with the
42 printed name of the prescriber who has signed the prescription. The
43 imprinted or stamped name of the signing prescriber shall appear in an
44 appropriate location on the prescription form and shall not be entered
45 in or upon any space or line reserved for the prescriber's signature.
46 The imprinted or stamped name shall not be employed as a substitute for,
47 or fulfill any legal requirement otherwise mandating that the
48 prescription be signed by the prescriber.

49 9. No person, corporation, association or other entity, not licensed
50 to issue a prescription pursuant to this article, shall willfully cause
51 prescription forms, blanks or facsimiles thereof to be disseminated to
52 any person other than a person who is licensed to issue a prescription
53 pursuant to this article. A violation of this subdivision shall be a
54 class B misdemeanor punishable in accordance with the provisions of the
55 penal law.

1 10. Notwithstanding any other provision of this section or any other
2 law to the contrary, effective three years subsequent to the date on
3 which regulations establishing standards for electronic prescriptions
4 are promulgated by the commissioner pursuant to subdivision three of
5 section two hundred eighty-one of this chapter, no practitioner shall
6 issue any prescription in this state, unless such prescription is made
7 by electronic prescription from the practitioner to a pharmacy, except
8 for prescriptions: a. issued by veterinarians; b. issued or dispensed in
9 circumstances where electronic prescribing is not available due to
10 temporary technological or electrical failure, as set forth in regu-
11 lation; c. issued by practitioners who have received a waiver or a
12 renewal thereof for a specified period determined by the commissioner,
13 not to exceed one year, from the requirement to use electronic prescrib-
14 ing, pursuant to a process established in regulation by the commissioner
15 due to economic hardship, technological limitations that are not reason-
16 ably within the control of the practitioner, or other exceptional
17 circumstance demonstrated by the practitioner; d. issued by a practi-
18 tioner under circumstances where, notwithstanding the practitioner's
19 present ability to make an electronic prescription as required by this
20 subdivision, such practitioner reasonably determines that it would be
21 impractical for the patient to obtain substances prescribed by electron-
22 ic prescription in a timely manner, and such delay would adversely
23 impact the patient's medical condition, provided that if such
24 prescription is for a controlled substance, the quantity that does not
25 exceed a five-day supply if the controlled substance was used in accord-
26 ance with the directions for use; or e. issued by a practitioner to be
27 dispensed by a pharmacy located outside the state, as set forth in regu-
28 lation.

29 10-a. A pharmacy that receives an electronic prescription from the
30 person issuing the prescription may, if the prescription has not been
31 dispensed and at the request of the patient or a person authorized to
32 make the request on behalf of the patient, immediately transfer or
33 forward such prescription to an alternative pharmacy designated by the
34 requesting party.

35 11. In the case of a prescription issued by a practitioner under para-
36 graph b of subdivision ten of this section, the practitioner shall be
37 required to indicate in the patient's health record that the
38 prescription was issued other than electronically due to temporary tech-
39 nological or electrical failure.

40 12. In the case of a prescription issued by a practitioner under para-
41 graph d or e of subdivision ten of this section, the practitioner shall,
42 upon issuing such prescription, indicate in the patient's health record
43 either that the prescription was issued other than electronically
44 because it: a. was impractical to issue an electronic prescription in a
45 timely manner and such delay would have adversely impacted the patient's
46 medical condition, or b. was to be dispensed by a pharmacy located
47 outside the state.

48 13. The waiver process established in regulation pursuant to paragraph
49 c of subdivision ten of this section shall provide that a practitioner
50 prescribing under a waiver must notify the department in writing prompt-
51 ly upon gaining the capability to use electronic prescribing, and that a
52 waiver shall terminate within a specified period of time after the prac-
53 titioner gains such capability.

54 14. Notwithstanding any other provision of law to the contrary, no
55 outsourcing facility may distribute or dispense any drug to any person
56 pursuant to a prescription unless it is also registered as a pharmacy in

1 this state and meets all other applicable requirements of federal and
2 state law.

3 15. Notwithstanding any other provisions of this section or any other
4 law to the contrary, a practitioner shall not be required to issue
5 prescriptions electronically if he or she certifies to the department,
6 in a manner specified by the department, that he or she will not issue
7 more than twenty-five prescriptions during a twelve-month period.
8 Prescriptions in both oral and written form for both controlled
9 substances and non-controlled substances shall be included in determin-
10 ing whether the practitioner will reach the limit of twenty-five
11 prescriptions.

12 a. A certification shall be submitted in advance of the twelve-month
13 certification period, except that a twelve-month certification submitted
14 on or before July first, two thousand sixteen, may begin March twenty-
15 seventh, two thousand sixteen.

16 b. A practitioner who has made a certification under this subdivision
17 may submit an additional certification on or before the expiration of
18 the current twelve-month certification period, for a maximum of three
19 twelve-month certifications.

20 c. A practitioner may make a certification under this subdivision
21 regardless of whether he or she has previously received a waiver under
22 paragraph c of subdivision ten of this section.

23 § 6811. Misdemeanors. It shall be a class A misdemeanor for:

24 1. Any person knowingly or intentionally to prevent or refuse to
25 permit any board member or department representative to enter a pharmacy
26 or any other establishment for the purpose of lawful inspection;

27 2. Any person whose license has been revoked to refuse to deliver the
28 license;

29 3. Any pharmacist to display his or her license or permit it to be
30 displayed in a pharmacy of which he or she is not the owner or in which
31 he or she is not employed, or any owner to fail to display in his or her
32 pharmacy the license of the pharmacist employed in such pharmacy;

33 4. Any holder of a license to fail to display the license;

34 5. Any owner of a pharmacy to display or permit to be displayed in his
35 or her pharmacy the license of any pharmacist not employed in such phar-
36 macy;

37 6. Any person to carry on, conduct or transact business under a name
38 which contains as a part thereof the words "drugs", "medicines", "drug
39 store", "apothecary", or "pharmacy", or similar terms or combination of
40 terms, or in any manner by advertisement, circular, poster, sign or
41 otherwise describe or refer to the place of business conducted by such
42 person, or describe the type of service or class of products sold by
43 such person, by the terms "drugs", "medicine", "drug store", "apothecary",
44 or "pharmacy", unless the place of business so conducted is a
45 pharmacy licensed by the department;

46 7. Any person to enter into an agreement with a physician, dentist,
47 podiatrist or veterinarian for the compounding or dispensing of secret
48 formula (coded) prescriptions;

49 8. Any person to manufacture, sell, deliver for sale, hold for sale or
50 offer for sale of any drug, device or cosmetic that is adulterated or
51 misbranded;

52 9. Any person to adulterate or misbrand any drug, device or cosmetic;

53 10. Any person to receive in commerce any drug, device or cosmetic
54 that is adulterated or misbranded, and to deliver or proffer delivery
55 thereof for pay or otherwise;

1 11. Any person to sell, deliver for sale, hold for sale, or offer for
2 sale any drug, device or cosmetic in violation of this title;

3 12. Any person to disseminate any false advertisement;

4 13. Any person to refuse to permit entry or inspection as authorized
5 by this title;

6 14. Any person to forge, counterfeit, simulate, or falsely represent,
7 or without proper authority using any mark, stamp, tag, label or other
8 identification device authorized or required by rules and regulations
9 promulgated under the provisions of this title;

10 15. Any person to use for his or her own advantage, or reveal, other
11 than to the commissioner or his or her duly authorized representative,
12 or to the courts when relevant in any judicial proceedings under this
13 title, any information acquired under authority of this title or
14 concerning any method or process, which is a trade secret;

15 16. Any person to alter, mutilate, destroy, obliterate or remove the
16 whole or any part of the labeling of, or the doing of any other act with
17 respect to a drug, device, or cosmetic, if such act is done while such
18 article is held for sale and results in such article being misbranded;

19 17. Any person to violate any of the provisions of section sixty-eight
20 hundred ten of this title;

21 18. Any person to violate any of the provisions of section sixty-eight
22 hundred sixteen of this title;

23 19. Any person, to sell at retail or give away in tablet form bichlo-
24 ride of mercury, mercuric chloride or corrosive sublimate, unless such
25 bichloride of mercury, mercuric chloride or corrosive sublimate, when so
26 sold, or given away, shall conform to the provisions of national formu-
27 lary XII. Nothing contained in this paragraph shall be construed to
28 prohibit the sale and dispensing of bichloride of mercury in any form,
29 shape, or color, when combined or compounded with one or more other
30 drugs or excipients, for the purposes of internal medication only, or
31 when sold in bulk in powder form, or to any preparation containing one-
32 tenth of a grain or less of bichloride of mercury;

33 20. Any pharmacy to fail to properly post the list required by section
34 sixty-eight hundred twenty-six of this title;

35 21. Any pharmacy to change its current selling price without changing
36 the listed price as provided by section sixty-eight hundred twenty-six
37 of this title;

38 22. Any person to refuse to permit access to or copying of any record
39 as required by this title;

40 23. Any manufacturer to sell or offer for sale any drug not manufac-
41 tured, prepared or compounded under the personal supervision of a chem-
42 ist or licensed pharmacist or not labeled with the full name of the
43 manufacturer or seller; or

44 24. Any outsourcing facility to sell or offer to sell any drug that is
45 not both compounded under the personal supervision of a licensed pharma-
46 cist and labeled with the full name of the outsourcing facility.

47 § 6812. Special provisions. 1. Where any pharmacy, manufacturer,
48 wholesaler or outsourcing facility registered by the department is
49 damaged by fire the board shall be notified within a period of forty-
50 eight hours, and the board shall have power to impound all drugs for
51 analysis and condemnation, if found unfit for use. Where a pharmacy is
52 discontinued, the owner of its prescription records shall notify the
53 department as to the disposition of said prescription records, and in no
54 case shall records be sold or given away to a person who does not
55 currently possess a registration to operate a pharmacy.

1 2. Nothing in this title shall be construed as requiring the prose-
2 cution or the institution of injunction proceedings for minor violations
3 of this title whenever the public interest will be adequately served by
4 a suitable written notice of warning.

5 3. The executive secretary of the state board of pharmacy is author-
6 ized to conduct examinations and investigations for the purposes of this
7 title through officers and employees of the United States, or through
8 any health, food, or drug officer or employee of any city, county or
9 other political subdivision of this state.

10 § 6813. Seizure. 1. Any drug, device or cosmetic that is adulterated,
11 misbranded or may not be sold under the provisions of this chapter, may
12 be seized on petition or complaint of the board and condemned in the
13 supreme court of any county in which it is found. Seizure shall be made:

14 a. by process pursuant to the petition or complaint, or
15 b. if the secretary or other officer designated by him or her has
16 probable cause to believe that the article:

17 (i) is adulterated; or
18 (ii) is so misbranded as to be dangerous to health. The article shall
19 be seized by order of such officer. The order shall describe the article
20 to be seized, the place where the article is located, and the officer or
21 employee making the seizure. The officer, in lieu of taking actual
22 possession, may affix a tag or other appropriate marking to the article
23 giving notice that the article has been quarantined and warning all
24 persons not to remove or dispose of it by sale or otherwise until
25 permission for removal or disposal is given by the officer or the court.
26 In case of seizures or quarantine, pursuant to such order, the jurisdic-
27 tion of such court shall attach upon such seizure or quarantine, and a
28 petition or complaint for condemnation shall be filed promptly.

29 2. The procedure for cases under this section shall conform as much as
30 possible to the procedure for attachment. Any issue of fact joined in
31 any case under this section shall be tried by jury on the demand of
32 either party. The court at any time after seizure and up to the time of
33 trial shall allow by order any party or his or her agent or attorney to
34 obtain a representative sample of the condemned material, a true copy of
35 the analysis on which the proceeding was based, and the identifying
36 marks or numbers, if any, on the packages from which the samples
37 analyzed were obtained.

38 3. Any drug, device or cosmetic condemned under this section shall be
39 disposed of by destruction or sale as the court may direct after the
40 decree in accordance with the provisions of this section. The proceeds
41 of the sale, if any, shall be paid into the state treasury after
42 deduction for legal costs and charges. However, the drug, device or
43 cosmetic shall not be sold contrary to the provisions of this title.
44 After entry of the decree, if the owner of the condemned articles pays
45 the costs of the proceeding and posts a sufficient bond as security that
46 the articles will not be disposed of contrary to the provisions of this
47 title, the court may by order direct that the seized articles be deliv-
48 ered to the owner to be destroyed or brought into conformance with this
49 title under supervision of the secretary. The expenses of the super-
50 vision shall be borne by the person obtaining the release under bond.
51 Any drug condemned by reason of its being a new drug which may not be
52 sold under this title shall be disposed of by destruction.

53 4. When the decree of condemnation is entered, court costs and fees,
54 storage and other expense shall be awarded against the person, if any,
55 intervening as claimant of the condemned articles.

1 5. In any proceeding against the board, or the secretary, or an agent
2 of either, because of seizure, or quarantine, under this section, the
3 board, or the secretary, or such agent shall not be liable if the court
4 finds that there was probable cause for the acts done by them.

5 § 6814. Records of shipment. For the purpose of enforcing provisions
6 of this title, carriers engaged in commerce, and persons receiving
7 drugs, devices or cosmetics in commerce or holding such articles so
8 received, shall, upon the request of an officer duly assigned by the
9 secretary, permit such officer, at reasonable times, to have access to
10 and to copy all records showing the movement in commerce of any drug,
11 device or cosmetic, or the holding thereof during or after such move-
12 ment, and the quantity, shipper, and consignee thereof; and it shall be
13 unlawful for any such carrier or person to fail to permit such access to
14 and copying of any such record so requested when such request is accom-
15 panied by a statement in writing specifying the nature or kind of drug,
16 device or cosmetic to which such request relates; provided, that
17 evidence obtained under this section shall not be used in a criminal
18 prosecution of the person from whom obtained; provided further, that
19 carriers shall not be subject to the other provisions of this title by
20 reason of their receipt, carriage, holding or delivery of drugs, devices
21 or cosmetics in the usual course of business as carriers.

22 § 6815. Adulterating, misbranding and substituting. 1. Adulterated
23 drugs. A drug or device shall be deemed to be adulterated:

24 a. (i) If it consists in whole or in part of any filthy, putrid, or
25 decomposed substance; or (ii) if it has been prepared, packed, or held
26 under insanitary conditions whereby it may have been contaminated with
27 filth, or whereby it may have been rendered injurious to health; or
28 (iii) if it is a drug and its container is composed, in whole or in
29 part, of any poisonous or deleterious substance which may render the
30 contents injurious to health; or (iv) if it is a drug and it bears or
31 contains, for purposes of coloring only, a coal-tar color other than one
32 from a batch that has been certified in accordance with regulations
33 provided in this title.

34 b. If it purports to be, or is represented as, a drug the name of
35 which is recognized in an official compendium, and its strength differs
36 from, or its quality or purity falls below, the standard set forth in
37 such compendium. Such determination as to strength, quality or purity
38 shall be made in accordance with the tests or methods of assay set forth
39 in such compendium, or, in the absence or inadequacy of such tests or
40 methods of assay, then in accordance with tests or methods of assay
41 prescribed by regulations of the board of pharmacy as promulgated under
42 this title. Deviations from the official assays may be made in the quan-
43 tities of samples and reagents employed, provided they are in proportion
44 to the quantities stated in the official compendium. No drug defined in
45 an official compendium shall be deemed to be adulterated under this
46 paragraph because (i) it exceeds the standard of strength therefor set
47 forth in such compendium, if such difference is plainly stated on its
48 label; or (ii) it falls below the standard of strength, quality, or
49 purity therefor set forth in such compendium if such difference is
50 plainly stated on its label, except that this subparagraph shall apply
51 only to such drugs, or classes of drugs, as are specified in regulations
52 which the board shall promulgate when, as applied to any drug, or class
53 of drugs, the prohibition of such difference is not necessary for the
54 protection of the public health. Whenever a drug is recognized in both
55 the United States pharmacopoeia and the homeopathic pharmacopoeia of the
56 United States, it shall be subject to the requirements of the United

1 States pharmacopoeia unless it is labeled and offered for sale as a
2 homeopathic drug, in which case it shall be subject to the provisions of
3 the homeopathic pharmacopoeia of the United States and not to those of
4 the United States pharmacopoeia.

5 c. If it is not subject to the provisions of paragraph b of this
6 subdivision and its strength differs from, or its purity or quality
7 falls below, that which it purports or is represented to possess.

8 d. If it is a drug and any substance has been (i) mixed or packed
9 therewith so as to reduce its quality or strength or (ii) substituted
10 wholly or in part therefor.

11 e. If it is sold under or by a name not recognized in or according to
12 a formula not given in the United States pharmacopoeia or the national
13 formulary but that is found in some other standard work on pharmacology
14 recognized by the board, and it differs in strength, quality or purity
15 from the strength, quality or purity required, or the formula prescribed
16 in, the standard work.

17 2. Misbranded and substituted drugs and devices. A drug or device
18 shall be deemed to be misbranded:

19 a. If its labeling is false or misleading in any particular.

20 b. If in package form, unless it bears a label containing: (i) the
21 name and place of business of the manufacturer, packer, or distributor,
22 and (ii) an accurate statement of the quantity of the contents in terms
23 of weight, measure, or numerical count; provided, that under subpara-
24 graph (ii) of this paragraph the board may establish reasonable vari-
25 ations as to quantity and exemptions as to small packages.

26 c. If any word, statement, or other information required by or under
27 authority of this title to appear on the label or labeling is not promi-
28 nently placed thereon with such conspicuousness, as compared with other
29 words, statements, designs, or devices, in the labeling, and in such
30 terms as to render it likely to be read and understood by the ordinary
31 individual under customary conditions of purchase and use.

32 d. If it is for use by man and contains any quantity of the narcotic
33 or hypnotic substance alpha eucaïne, barbituric acid, beta eucaïne,
34 bromal, cannabis, carbomal, chloral, coca, cocaine, codeine, heroin,
35 marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or
36 any chemical derivative of such substance, which derivative has been by
37 the secretary, after investigation, found to be, and by regulations
38 under this title, or by regulations promulgated by the board, designated
39 as, habit forming; unless its label bears the name and quantity, or
40 proportion, of such substance or derivative and in juxtaposition there-
41 with the statement "Warning--May be habit forming".

42 e. If it is a drug and is not designated solely by a name recognized
43 in an official compendium unless its label bears: (i) the common or
44 usual name of the drug, if such there be, and (ii) in case it is fabri-
45 cated from two or more ingredients, the common or usual name of each
46 active ingredient, including the kind and quantity by percentage or
47 amount of any alcohol, and also including, whether active or not, the
48 name and quantity or proportion of any bromides, ether, chloroform,
49 acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscyne,
50 hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain,
51 strophanthin, strychnine, thyroid, or any derivative or preparation of
52 any such substances, contained therein; provided that, to the extent
53 that compliance with the requirements of subparagraph (ii) of this para-
54 graph is impracticable, exemptions shall be established by regulations
55 promulgated by the board.

56 f. Unless its labeling bears: (i) adequate directions for use, and

1 (ii) such adequate warnings against use in those pathological condi-
2 tions or by children where its use may be dangerous to health, or
3 against unsafe dosage or methods or duration of administration or appli-
4 cation, in such manner and form, as are necessary for the protection of
5 users; provided, that, where any requirement of subparagraph (i) of this
6 paragraph, as applied to any drug or device, is not necessary for the
7 protection of the public health, the board shall promulgate regulations
8 exempting such drug or device from such requirement.

9 g. If it purports to be a drug the name of which is recognized in an
10 official compendium, unless it is packaged and labeled as prescribed
11 therein; provided, that, the method of packing may be modified with the
12 consent of the secretary in accordance with regulations promulgated by
13 the board. Whenever a drug is recognized in both the United States phar-
14 macopoeia and the homeopathic pharmacopoeia of the United States, it
15 shall be subject to the requirements of the United States pharmacopoeia
16 with respect to packaging and labeling unless it is labeled and offered
17 for sale as a homeopathic drug, in which case it shall be subject to the
18 provisions of the homeopathic pharmacopoeia of the United States, and
19 not to those of the United States pharmacopoeia.

20 h. (i) If it is a drug and its container is so made, formed or filled
21 as to be misleading; (ii) if it is an imitation of another drug; (iii)
22 if it is offered for sale under the name of another drug; or (iv) if it
23 bears a copy, counterfeit, or colorable imitation of the trademark,
24 label, container or identifying name or design of another drug.

25 i. If it is dangerous to health when used in the dosage, or with the
26 frequency or duration prescribed, recommended or suggested in the label-
27 ing thereof.

28 j. Except as required by article thirty-three of this chapter, the
29 labeling provisions of this title shall not apply to the compounding and
30 dispensing of drugs on the written prescription of a physician, a
31 dentist, a podiatrist or a veterinarian, which prescription when filled
32 shall be kept on file for at least five years by the pharmacist or drug-
33 gist. Such drug shall bear a label containing the name and place of
34 business of the dispenser, the serial number and date of the
35 prescription, directions for use as may be stated in the prescription,
36 name and address of the patient and the name of the physician or other
37 practitioner authorized by law to issue the prescription. In addition,
38 such label shall contain the proprietary or brand name of the drug and,
39 if applicable, the strength of the contents, unless the person issuing
40 the prescription explicitly states on the prescription, in his or her
41 own handwriting, that the name of the drug and the strength thereof
42 should not appear on the label.

43 § 6816. Omitting to label drugs, or labeling them wrongly. 1. a. Any
44 person, who, in putting up any drug, medicine, or food or preparation
45 used in medical practice, or making up any prescription, or filling any
46 order for drugs, medicines, food or preparation puts any untrue label,
47 stamp or other designation of contents upon any box, bottle or other
48 package containing a drug, medicine, food or preparation used in medical
49 practice, or substitutes or dispenses a different article for or in lieu
50 of any article prescribed, ordered, or demanded, except where required
51 pursuant to section sixty-eight hundred sixteen-a of this title, or puts
52 up a greater or lesser quantity of any ingredient specified in any such
53 prescription, order or demand than that prescribed, ordered or demanded,
54 except where required pursuant to paragraph (g) of subdivision two of
55 section three hundred sixty-five-a of the social services law, or other-
56 wise deviates from the terms of the prescription, order or demand by

1 substituting one drug for another, except where required pursuant to
2 section sixty-eight hundred sixteen-a of this title, is guilty of a
3 misdemeanor; provided, however, that except in the case of physicians'
4 prescriptions, nothing herein contained shall be deemed or construed to
5 prevent or impair or in any manner affect the right of an apothecary,
6 druggist, pharmacist or other person to recommend the purchase of an
7 article other than that ordered, required or demanded, but of a similar
8 nature, or to sell such other article in place or in lieu of an article
9 ordered, required or demanded, with the knowledge and consent of the
10 purchaser. Upon a second conviction for a violation of this section the
11 offender must be sentenced to the payment of a fine not to exceed one
12 thousand dollars and may be sentenced to imprisonment for a term not to
13 exceed one year. The third conviction of a violation of any of the
14 provisions of this section, in addition to rendering the offender liable
15 to the penalty prescribed by law for a second conviction, shall forfeit
16 any right which he or she may possess under the law of this state at the
17 time of such conviction, to engage as proprietor, agent, employee or
18 otherwise, in the business of an apothecary, pharmacist, or druggist, or
19 to compound, prepare or dispense prescriptions or orders for drugs,
20 medicines or foods or preparations used in medical practice; and the
21 offender shall be by reason of such conviction disqualified from engag-
22 ing in any such business as proprietor, agent, employee or otherwise or
23 compounding, preparing or dispensing medical prescriptions or orders for
24 drugs, medicines, or foods or preparations used in medical practice.

25 b. The provisions of this section shall not apply to the practice of a
26 practitioner who is not the proprietor of a store for the dispensing or
27 retailing of drugs, medicines and poisons, or who is not in the employ
28 of such a proprietor, and shall not prevent practitioners from supplying
29 their patients with such articles as they may deem proper, and except as
30 to the labeling of poisons shall not apply to the sale of medicines or
31 poisons at wholesale when not for the use or consumption by the purchas-
32 er; provided, however, that the sale of medicines or poisons at whole-
33 sale shall continue to be subject to such regulations as from time to
34 time may be lawfully made by the board of pharmacy or by any competent
35 board of health.

36 c. The provisions of this section shall not apply to a limited pharma-
37 cy which prepares a formulary containing the brand names and the generic
38 names of drugs and of manufacturers which it stocks, provided that it
39 furnishes a copy of such formulary to each physician on its staff and
40 the physician signs a statement authorizing the hospital to supply the
41 drug under any generic or non-proprietary name listed therein and in
42 conformity with the regulations of the commissioner.

43 2. For the purposes set forth in this section, the terms prescription,
44 order or demand shall apply only to those items subject to provisions of
45 subdivision one of section sixty-eight hundred ten of this title. The
46 written order of a physician for items not subject to provisions of
47 subdivision one of section sixty-eight hundred ten of this title shall
48 be construed to be a direction, a fiscal order or a voucher.

49 § 6816-a. When substitution is required. 1. A pharmacist shall substi-
50 tute a less expensive drug product containing the same active ingredi-
51 ents, dosage form and strength as the drug product prescribed, ordered
52 or demanded, provided that the following conditions are met:

53 a. The prescription is written on a form which meets the requirements
54 of subdivision six of section sixty-eight hundred ten of this title and
55 the prescriber does not prohibit substitution, or in the case of oral
56 prescriptions, the prescriber must expressly state whether substitution

1 is to be permitted or prohibited. Any oral prescription that does not
2 include such an express statement shall not be filled; and

3 b. The substituted drug product is contained in the list of drug
4 products established pursuant to paragraph (o) of subdivision one of
5 section two hundred six of this chapter; and

6 c. The pharmacist shall indicate on the label affixed to the immediate
7 container in which the drug is sold or dispensed the name and strength
8 of the drug product and its manufacturer unless the prescriber specif-
9 ically states otherwise. The pharmacist shall record on the prescription
10 form the brand name or the name of the manufacturer of the drug product
11 dispensed.

12 2. In the event a patient chooses to have a prescription filled by an
13 out of state dispenser, the laws of that state shall prevail.

14 3. A pharmacist shall substitute a less expensive biological product
15 for a prescribed biological product provided that all of the following
16 conditions are met:

17 a. the substituted biological product is either an interchangeable
18 biological product for the prescribed product or the substituted biolog-
19 ical product is one for which the prescribed product is an interchangea-
20 ble biological product;

21 b. the prescriber does not designate that a substitution is prohibited
22 as described in subdivision six of section sixty-eight hundred ten of
23 this title; and

24 c. the pharmacist indicates on the label affixed to the immediate
25 container in which the biological product is sold or distributed the
26 name and strength of the product and its manufacturer unless the pres-
27 criber specifically states otherwise.

28 4. a. Within five business days following the dispensing of a substi-
29 tuted biological product, the dispensing pharmacist or the pharmacist's
30 designee shall communicate to the prescriber the specific product
31 provided to the patient, including the name of the product and the
32 manufacturer. The communication shall be conveyed to the prescriber (i)
33 by making an entry that is electronically accessible to the prescriber
34 through an interoperable electronic medical records system, an electron-
35 ic prescribing technology or a pharmacy record; or (ii) by using facsim-
36 ile, electronic transmission or other electronic means. If an electronic
37 means described in this paragraph is not available to the pharmacist at
38 the time of communication, the dispensing pharmacist or the pharmacist's
39 designee may communicate the information by telephone.

40 b. Communication under paragraph a of this subdivision shall not be
41 required where:

42 (i) there is no FDA-approved interchangeable biological product for
43 the product prescribed; or

44 (ii) a refill prescription is not changed from the product dispensed
45 on the prior filling of the prescription.

46 5. The department shall maintain a link on its web site to the current
47 list of all biological products determined by the Federal Food and Drug
48 Administration to be an interchangeable biological product for a specif-
49 ic biological product.

50 § 6819. Regulations making exceptions. The board shall promulgate
51 regulations exempting from any labeling requirement of this title drugs,
52 devices and cosmetics which are, in accordance with the practice of the
53 trade, to be processed, labeled, or repacked in substantial quantities
54 at establishments other than those where originally processed or packed,
55 on condition that such drugs, devices and cosmetics are not adulterated

1 or misbranded under the provisions of this title upon removal from such
2 processing, labeling, or repacking establishment.

3 § 6820. Certification of coal-tar colors for drugs and cosmetics. The
4 board shall promulgate regulations providing for the listing of coal-tar
5 colors which are harmless and suitable for use in drugs for purposes of
6 coloring only and for use in cosmetics and for the certification of
7 batches of such colors, with or without harmless diluents.

8 § 6821. Poison schedules; register. 1. The following schedules shall
9 remain in force until revised by the board and approved by the depart-
10 ment.

11 Schedule A. Arsenic, atropine, corrosive sublimate, potassium cyanide,
12 chloral hydrate, hydrocyanic acid, strychnine and all other poisonous
13 vegetable alkaloids and their salts and oil of bitter almond containing
14 hydrocyanic acid.

15 Schedule B. Aconite, belladonna, cantharides, colchicum, conium cotton
16 root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus,
17 oil of savin, oil of tansy, veratrum viride and their pharmaceutical
18 preparations, arsenical solutions, carbolic acid, chloroform, creosote,
19 croton oil, white precipitate, methyl or wood alcohol, mineral acids,
20 oxalic acid, paris green, salts of lead, salts of zinc, or any drug,
21 chemical or preparation which is liable to be destructive to adult human
22 life in quantities of sixty grains or less.

23 2. It shall be unlawful for any person to sell at retail or to furnish
24 any of the poisons of schedules A and B without affixing or causing to
25 be affixed to the bottle, box, vessel or package, a label with the name
26 of the article and the word "poison" distinctly shown and with the name
27 and place of business of the seller all printed in red ink together with
28 the name of such poisons printed or written thereupon in plain, legible
29 characters.

30 3. Manufacturers and wholesale dealers in drugs, medicines, pharmaceu-
31 tical preparations, chemicals or poisons shall affix or cause to be
32 affixed to every bottle, box, parcel or outer enclosure of any original
33 package containing any of the articles of schedule A, a suitable label
34 or brand in red ink with the word "poison" upon it.

35 4. Every person who disposes of or sells at retail or furnishes any
36 poisons included in schedule A shall, before delivering the same, enter
37 in a book kept for that purpose the date of sale, the name and address
38 of the purchaser, the name and the quantity of the poison, the purpose
39 for which it is purchased and the name of the dispenser. The poison
40 register shall be always open for inspection by the proper authorities
41 and shall be preserved for at least five years after the last entry.
42 Such person shall not deliver any of the poisons of schedule A or sched-
43 ule B until he or she has satisfied himself or herself that the purchas-
44 er is aware of its poisonous character and that the poison is to be used
45 for a legitimate purpose. The provisions of this subdivision do not
46 apply to the dispensing of drugs or poisons on a doctor's prescription.

47 5. The board may add to or may delete from any of the schedules from
48 time to time as such action becomes necessary for the protection of the
49 public.

50 § 6822. Examinations and investigations. The secretary is authorized
51 to conduct examinations and investigations for the purposes of this
52 title through officers and employees of the United States, or through
53 any health, food, or drug officer or employee of any city, county or
54 other political subdivision of this state, duly commissioned by the
55 secretary as an officer of the board.

1 § 6823. Factory inspection. For purposes of enforcement of this title,
2 officers duly designated by the secretary are authorized:

3 1. to enter, at reasonable times, any factory, warehouse or establish-
4 ment in which drugs, devices or cosmetics are manufactured, processed,
5 packed, or held, for introduction into commerce or are held after such
6 introduction, or to enter any vehicle being used to transport or hold
7 such drugs, devices or cosmetics in commerce; and

8 2. to inspect, at reasonable times, such factory, warehouse, estab-
9 lishment or vehicle and all pertinent equipment, finished and unfinished
10 materials, containers, and labeling therein.

11 § 6824. Injunction proceedings. In addition to the remedies hereinaft-
12 er provided, the secretary is hereby authorized to apply to the court of
13 the proper venue for an injunction to restrain any person from:

14 1. introducing or causing to be introduced into commerce any adulter-
15 ated or misbranded drug, device or cosmetic; or

16 2. from introducing or causing to be introduced in commerce any new
17 drug which does not comply with the provisions of this title; or

18 3. from disseminating or causing to be disseminated a false advertise-
19 ment, without being compelled to allege or prove that an adequate remedy
20 at law does not exist.

21 § 6825. Proof required in prosecution for certain violations. 1. In an
22 action or proceeding, civil or criminal, against a person for violating
23 such provisions of this title which relate to the possession of,
24 compounding, retailing or dispensing of misbranded, substituted or
25 imitated drugs, poisons or cosmetics, when it shall be necessary that an
26 analysis be made for the purpose of establishing the quality of such
27 drug, poison or cosmetic so as to determine the fact of misbranding,
28 substituting or imitating, then it shall be required to prove at the
29 trial or hearing of such action or proceeding, that the person, taking
30 the same for analysis separated it into two representative parts,
31 hermetically or otherwise effectively and completely sealed, delivered
32 one such sealed part to the seller, manufacturer, wholesaler, pharma-
33 cist, or druggist from whose premises such sample was taken and deliv-
34 ered the other part so sealed to the chemist designated by the state
35 board of pharmacy; and the facts herein required to be proven shall be
36 alleged in the complaint or information by which such action or proceed-
37 ing was begun. The rules of the board shall be proven prima facie by the
38 certificate of the secretary.

39 2. Any person accused of violation of any of the provisions of this
40 title relating to adulterating, misbranding, substitution or imitation
41 shall not be prosecuted or convicted or suffer any of the penalties,
42 finest or forfeitures for such violation, if he or she establishes upon
43 the hearing or trial that the drug, device or cosmetic alleged to be
44 adulterated, misbranded, substituted or imitated was purchased by him or
45 her under a written guaranty of the manufacturer or seller to the effect
46 that said drug, device or cosmetic was not adulterated or misbranded,
47 within the meaning of this title and proves that he or she has not adul-
48 terated, misbranded, substituted or imitated the same, provided the
49 seller has taken due precaution to maintain the standard set for the
50 drug, device or cosmetic. A guaranty, in order to be a defense to a
51 prosecution or to prevent conviction or to afford protection, must state
52 that the drug, device or cosmetic to which it refers is not adulterated,
53 misbranded, substituted or imitated within the meaning of the provisions
54 of this title and must state also the full name and place of business of
55 the manufacturer, wholesaler, jobber or other person from whom the drug,
56 device or cosmetic was purchased, and the date of purchase. The act,

1 omission or failure of any officer, agent or other employee acting for
2 or employed by any person within the scope of his or her authority or
3 employment shall in every case be the act, omission or failure of such
4 person as well as that of the officer, agent or other employee, and such
5 person shall be equally liable for violations of this title by a part-
6 nership, association or corporation, and every member of the partnership
7 or association and the directors and general officers of the corporation
8 and the general manager of the partnership, association or corporation
9 shall be individually liable and any action, prosecution or proceeding
10 authorized by this title may be brought against any or all of such
11 persons. When any prosecution under this title is made on the complaint
12 of the board, any fines collected shall be paid into the state treasury
13 as provided by this title.

14 3. No publisher, radio-broadcast licensee, advertising agency, or
15 agency or medium for the dissemination of advertising, except the
16 manufacturer, packer, distributor, or seller of the commodity to which
17 the false advertisement relates, shall be subject to the penalties
18 provided by this title by reason of the dissemination by him or her of
19 any false advertisement, unless he or she has refused, on the request of
20 the secretary, to furnish the secretary the name and post-office address
21 of the manufacturer, packer, distributor, seller or advertising agency,
22 who caused him or her to disseminate such advertisement.

23 § 6826. Drug retail price lists. 1. Every pharmacy shall compile a
24 drug retail price list, which shall contain the names of the drugs on
25 the list provided by the board, and the pharmacy's corresponding retail
26 prices for each drug. Every pharmacy shall update its drug retail list
27 at least weekly and provide the time and date that the list was updated.
28 Every pharmacy shall provide the drug retail price list to any person
29 upon request.

30 2. a. The list provided by the board shall be prepared at least annu-
31 ally by the board and distributed to each pharmacy in the state. The
32 list shall be a compendium of the one hundred fifty most frequently
33 prescribed drugs together with their usual dosages for which a
34 prescription is required by the provisions of the "Federal Food, Drug,
35 and Cosmetic Act" (21 U.S.C. 301, et seq.; 52 Stat. 1040, et seq.), as
36 amended, or by the commissioner. The board shall make the compendium
37 list available to each pharmacy free of charge, both in printed form and
38 in an electronic form that can be used to produce the pharmacy's drug
39 retail list. The board shall provide the compendium list to the depart-
40 ment.

41 b. The drug retail price list shall contain an advisory statement by
42 the department alerting consumers to the need to tell their health care
43 practitioner and pharmacist about all the medications they may be taking
44 and to ask them how to avoid harmful interactions between drugs, if any.
45 A pharmacy may include on its drug retail price list a statement: (i)
46 concerning discounts from its listed retail prices that may be available
47 to consumers and (ii) any limitations that the pharmacy may have as to
48 what group or groups of customers it serves.

49 3. The pharmacy's corresponding retail price means the actual price to
50 be paid by a retail purchaser to the pharmacy for any listed drug at the
51 listed dosage. However, upon implementation of the prescription drug
52 retail price list database by the department under this section, the
53 pharmacy's corresponding retail price shall mean the price sent to it by
54 the department under such section.

55 4. Pharmacies shall have a sign notifying people of the availability
56 of the drug retail price list and the availability of the department

1 prescription drug retail price list database and the web address of that
2 database, conspicuously posted at or adjacent to the place in the phar-
3 macy where prescriptions are presented for compounding and dispensing,
4 in the waiting area for customers, or in the area where prescribed drugs
5 are delivered.

6 5. Nothing contained herein shall prevent a pharmacy from changing and
7 charging the current retail price at any time, provided that the listed
8 price is updated at least weekly to reflect the new retail price.

9 6. The commissioner shall make regulations necessary to implement this
10 section, including how this section is applied to mail-order and inter-
11 net pharmacies.

12 § 6826-a. Reducing certain copayments. 1. Where an insured's copayment
13 for a drug exceeds the corresponding retail price for the same drug on
14 the pharmacy's drug retail price list, the pharmacist shall notify the
15 insured of this occurrence and charge no greater than the pharmacy's
16 corresponding retail price.

17 2. Where the drug being purchased is not on the drug retail price
18 list, and the copayment for the drug exceeds the pharmacy's usual and
19 customary price for that drug, the pharmacist shall notify the insured
20 of this occurrence and charge the lesser of the insured's copayment and
21 the pharmacy's usual and customary price for that drug.

22 § 6827. Mandatory continuing education. 1. a. Each licensed pharmacist
23 required under this title to register triennially with the department to
24 practice in the state shall comply with provisions of the mandatory
25 continuing education requirements prescribed in subdivision two of this
26 section except as set forth in paragraphs b and c of this subdivision.
27 Pharmacists who do not satisfy the mandatory continuing education
28 requirements shall not practice until they have met such requirements,
29 and they have been issued a registration certificate, except that a
30 pharmacist may practice without having met such requirements if he or
31 she is issued a conditional registration certificate pursuant to subdi-
32 vision three of this section.

33 b. In accord with the intent of this section, adjustment to the manda-
34 tory continuing education requirement may be granted by the department
35 for reasons of health certified by an appropriate health care profes-
36 sional, for extended active duty with the armed forces of the United
37 States, or for other good cause acceptable to the department which may
38 prevent compliance.

39 c. A licensed pharmacist not engaged in practice as determined by the
40 department, shall be exempt from the mandatory continuing education
41 requirement upon the filing of a statement with the department declaring
42 such status. Any licensee who returns to the practice of pharmacy during
43 the triennial registration period shall notify the department prior to
44 reentering the profession and shall meet such mandatory education
45 requirements as shall be prescribed by regulations of the commissioner.

46 2. During each triennial registration period an applicant for regis-
47 tration shall complete a minimum of forty-five hours of acceptable
48 formal continuing education, as specified in subdivision four of this
49 section, provided that no more than twenty-two hours of such continuing
50 education shall consist of self-study courses. Any pharmacist whose
51 first registration date following the effective date of this section
52 occurs less than three years from such effective date, but on or after
53 January first, nineteen hundred ninety-eight, shall complete continuing
54 education hours on a prorated basis at the rate of one and one-quarter
55 hours per month for the period beginning January first, nineteen hundred
56 ninety-seven up to the first registration date thereafter. A licensee

1 who has not satisfied the mandatory continuing education requirements
2 shall not be issued a triennial registration certificate by the depart-
3 ment and shall not practice unless and until a conditional registration
4 certificate is issued as provided for in subdivision three of this
5 section. Continuing education hours taken during one triennium may not
6 be transferred to a subsequent triennium.

7 3. The department, in its discretion, may issue a conditional regis-
8 tration to a licensee who fails to meet the continuing education
9 requirements established in subdivision two of this section but who
10 agrees to make up any deficiencies and complete any additional education
11 which the department may require. The fee for such a conditional regis-
12 tration shall be the same as, and in addition to, the fee for the trien-
13 ennial registration. The duration of such conditional registration shall
14 be determined by the department but shall not exceed one year. Any
15 licensee who is notified of the denial of registration for failure to
16 submit evidence, satisfactory to the department, of required continuing
17 education and who practices pharmacy without such registration, may be
18 subject to disciplinary proceedings pursuant to section sixty-five
19 hundred ten of this article.

20 4. As used in subdivision two of this section, "acceptable formal
21 continuing education" shall mean formal courses of learning which
22 contribute to professional practice in pharmacy and which meet the stan-
23 dards prescribed by regulations of the commissioner. The department
24 may, in its discretion and as needed to contribute to the health and
25 welfare of the public, require the completion of continuing education
26 courses in specific subjects. To fulfill this mandatory continuing
27 education requirement, courses must be taken from a sponsor approved by
28 the department, pursuant to the regulations of the commissioner.

29 5. Pharmacists shall maintain adequate documentation of completion of
30 acceptable formal continuing education and shall provide such documenta-
31 tion at the request of the department. Failure to provide such documen-
32 tation upon the request of the department shall be an act of misconduct
33 subject to disciplinary proceedings pursuant to section sixty-five
34 hundred ten of this article.

35 6. The mandatory continuing education fee shall be forty-five dollars,
36 shall be payable on or before the first day of each triennial registra-
37 tion period, and shall be paid in addition to the triennial registration
38 fee required by section sixty-eight hundred five of this title.

39 § 6828. Certificates of administration. 1. No pharmacist shall admin-
40 ister immunizing agents without a certificate of administration issued
41 by the department pursuant to regulations of the commissioner.

42 2. The fee for a certificate of administration shall be one hundred
43 dollars and shall be paid on a triennial basis. A certificate may be
44 suspended or revoked in the same manner as a license to practice pharma-
45 cy.

46 § 6829. Interpretation and translation requirements for prescription
47 drugs and standardized medication labeling. 1. For the purposes of this
48 section, the following terms shall have the following meanings:

49 a. "Covered pharmacy" means any pharmacy that is part of a group of
50 eight or more pharmacies, located within New York state and owned by the
51 same corporate entity. For purposes of this section, "corporate entity"
52 shall include related subsidiaries, affiliates, successors, or assignees
53 doing business as or operating under a common name or trading symbol.

54 b. "Limited English proficient individual" or "LEP individual" means
55 an individual who identifies as being, or is evidently, unable to speak,
56 read or write English at a level that permits such individual to under-

1 stand health-related and pharmaceutical information communicated in
2 English.

3 c. "Translation" shall mean the conversion of a written text from one
4 language into an equivalent written text in another language by an indi-
5 vidual competent to do so and utilizing all necessary pharmaceutical and
6 health-related terminology. Such translation may occur, where appropri-
7 ate, in a separate document provided to an LEP individual that accompa-
8 nies his or her medication.

9 d. "Competent oral interpretation" means oral communication in which a
10 person acting as an interpreter comprehends a message and re-expresses
11 that message accurately in another language, utilizing all necessary
12 pharmaceutical and health-related terminology, so as to enable an LEP
13 individual to receive all necessary information in the LEP individual's
14 preferred pharmacy primary language.

15 e. "Pharmacy primary languages" shall mean those languages spoken by
16 one percent or more of the population, as determined by the U.S. Census,
17 for each region, as established by regulations promulgated pursuant to
18 this section, provided, however, that the regulations shall not require
19 translation or competent oral interpretation of more than seven
20 languages in any region.

21 f. "Mail order pharmacy" shall mean a pharmacy that dispenses most of
22 its prescriptions through the United States postal service or other
23 delivery system.

24 2. a. Every covered pharmacy shall provide free, competent oral inter-
25 pretation services and translation services to each LEP individual
26 requesting such services or filling a prescription that indicates that
27 the individual is limited English proficient at such covered pharmacy in
28 the LEP individual's preferred pharmacy primary language for the
29 purposes of counseling such individual about his or her prescription
30 medications or when soliciting information necessary to maintain a
31 patient medication profile, unless the LEP individual is offered and
32 refuses such services.

33 b. Every covered pharmacy shall provide free, competent oral interpre-
34 tation services and translation services of prescription medication
35 labels, warning labels and other written material to each LEP individual
36 filling a prescription at such covered pharmacy, unless the LEP individ-
37 ual is offered and refuses such services or the medication label, warn-
38 ing labels and other written materials have already been translated into
39 the language spoken by the LEP individual.

40 c. The services required by this section may be provided by a staff
41 member of the pharmacy or a third-party contractor. Such services must
42 be provided on an immediate basis but need not be provided in-person or
43 face-to-face in order to meet the requirements of this section.

44 3. Every covered pharmacy shall conspicuously post, at or adjacent to
45 each counter over which prescription drugs are sold, a notification of
46 the right to free, competent oral interpretation services and trans-
47 lation services for limited English proficient individuals as provided
48 for in subdivision two of this section. Such notifications shall be
49 provided in the pharmacy primary languages. The size, style and place-
50 ment of such notice shall be determined in accordance with rules promul-
51 gated pursuant to this section.

52 4. The commissioner shall promulgate regulations requiring that mail
53 order pharmacies conducting business in the state provide free, compe-
54 tent oral interpretation services and translation services to persons
55 filling a prescription through such mail order pharmacies whom are iden-
56 tified as LEP individuals. Such regulations shall take effect one year

1 after the effective date of this section; provided, however, that they
2 shall be promulgated pursuant to the requirements of the state adminis-
3 trative procedure act, address the concerns of affected stakeholders,
4 and reflect the findings of a thorough analysis of issues including:

5 a. how persons shall be identified as an LEP individual, in light of
6 the manner by which prescriptions are currently received by such mail
7 order pharmacies;

8 b. which languages shall be considered;

9 c. the manner and circumstances in which competent oral interpretation
10 services and translation services shall be provided;

11 d. the information for which competent oral interpretation services
12 and translation services shall be provided;

13 e. anticipated utilization, available resources, and cost consider-
14 ations; and

15 f. standards for monitoring compliance with regulations and ensuring
16 the delivery of quality competent oral interpretation services and
17 translation services.

18 The commissioner shall provide a report on implementation, utiliza-
19 tion, unanticipated problems, and corrective actions undertaken and
20 planned to the temporary president of the senate and the speaker of the
21 assembly no later than two years after the effective date of this
22 section.

23 5. Covered pharmacies shall not be liable for injuries resulting from
24 the actions of third-party contractors taken pursuant to and within the
25 scope of the contract with the covered pharmacy as long as the covered
26 pharmacy entered into such contract reasonably and in good faith to
27 comply with this section, and was not negligent with regard to the
28 alleged misconduct of the third-party contractor.

29 6. The regulations promulgated pursuant to this section shall estab-
30 lish a process by which covered pharmacies may apply and receive a waiv-
31 er from compliance with subdivisions two and three of this section upon
32 a showing that implementation would be unnecessarily burdensome when
33 compared to the need for such services.

34 7. The commissioner shall promulgate regulations to effectuate the
35 requirements of this section.

36 § 6830. Standardized patient-centered data elements. 1. The commis-
37 sioner shall develop rules and regulations requiring standardized
38 patient-centered data elements consistent with existing technology and
39 equipment to be used on all prescription medicine dispensed to patients
40 in this state.

41 2. When developing the requirements for patient-centered data elements
42 on prescription drug labels, the commissioner shall consider:

43 a. medical literacy research that identifies factors that improve
44 understandability of labels and promotes increased compliance with a
45 drug's intended use;

46 b. factors that improve the clarity of directions for use;

47 c. font types and sizes;

48 d. inclusion of only patient-centered information; and

49 e. the needs of special populations. To ensure public input, the
50 commissioner shall solicit input from the state board of pharmacy and
51 the state board of medicine, consumer groups, advocates for special
52 populations, pharmacists, physicians, other health care professionals
53 authorized to prescribe, and other interested parties.

54 § 6831. Special provisions relating to outsourcing facilities. 1.
55 Registration. Any outsourcing facility that is engaged in the compound-
56 ing of sterile drugs in this state shall be registered as an outsourcing

1 facility under the Federal Food, Drug and Cosmetic Act and be registered
2 as an outsourcing facility pursuant to this title.

3 2. New drugs. Sections 502(f)(1), 505 and 582 of the Federal Food,
4 Drug and Cosmetic Act shall not apply to a drug compounded in an
5 outsourcing facility registered under the Federal Food, Drug and Cosmet-
6 ic Act.

7 3. Prescriptions. Notwithstanding any other provision of law to the
8 contrary, no outsourcing facility may distribute or dispense any drug to
9 any person pursuant to a prescription unless it is also registered as a
10 pharmacy in this state and meets all other applicable requirements of
11 federal and state law.

12 4. Restrictions. Any drugs compounded in an outsourcing facility
13 registered pursuant to this title shall be compounded in accordance with
14 all applicable federal and state laws.

15 5. Labeling. Notwithstanding any other provision of law to the contra-
16 ry, the label of any drug compounded by an outsourcing facility shall
17 include, but not be limited to the following:

18 a. a statement that the drug is a compounded drug or a reasonable
19 comparable alternative statement that prominently identifies the drug as
20 a compounded drug;

21 b. the name, address, and phone number of the applicable outsourcing
22 facility; and

23 c. with respect to the drug:

24 (i) the lot or batch number;

25 (ii) the established name of the drug;

26 (iii) the dosage form and strength;

27 (iv) the statement of quantity or volume, as appropriate;

28 (v) the date that the drug was compounded;

29 (vi) the expiration date;

30 (vii) storage and handling instructions;

31 (viii) the National Drug Code number, if available;

32 (ix) the statement that the drug is not for resale, and the statement
33 "Office Use Only"; and

34 (x) a list of the active and inactive ingredients, identified by
35 established name, and the quantity or proportion of each ingredient.

36 6. Container. The container from which the individual units of the
37 drug are removed for dispensing or for administration, such as a plastic
38 bag containing individual product syringes, shall include:

39 a. a list of active and inactive ingredients, identified by estab-
40 lished name, and the quantity or proportion of each ingredient; and

41 b. any other information required by regulations promulgated by the
42 commissioner to facilitate adverse event reporting in accordance with
43 the requirements established in section 310.305 of title 21 of the code
44 of federal regulations.

45 7. Bulk drugs. A drug may only be compounded in an outsourcing facili-
46 ty that does not compound using bulk drug substances as defined in
47 section 207.3(a)(4) of title 21 of the code of federal regulations or
48 any successor regulation unless:

49 a. the bulk drug substance appears on a list established by the secre-
50 tary of health and human services identifying bulk drug substances for
51 which there is a clinical need;

52 b. the drug is compounded from a bulk drug substance that appears on
53 the federal drug shortage list in effect at the time of compounding,
54 distributing, and dispensing;

55 c. if an applicable monograph exists under the United States Pharma-
56 copeia, the national formulary, or another compendium or pharmacopeia

1 recognized by the secretary of health and human services and the bulk
2 drug substances each comply with the monograph;

3 d. the bulk drug substances are each manufactured by an establishment
4 that is registered with the federal government.

5 8. Ingredients. If an outsourcing facility uses ingredients, other
6 than bulk drug substances, such ingredients must comply with the stand-
7 ards of the applicable United States pharmacopeia or national formulary
8 monograph, if such monograph exists, or of another compendium or pharma-
9 copeia recognized by the secretary of health and human services for
10 purposes of this subdivision, if any.

11 9. Unsafe or ineffective drugs. No outsourcing facility may compound a
12 drug that appears on a list published by the secretary of health and
13 human services that has been withdrawn or removed from the market
14 because such drugs or components of such drugs have been found to be
15 unsafe or not effective.

16 10. Prohibition on wholesaling. No compounded drug will be sold or
17 transferred by any entity other than the outsourcing facility that
18 compounded such drug. This does not prohibit the administration of a
19 drug in a health care setting or dispensing a drug pursuant to a proper-
20 ly executed prescription.

21 11. Prohibition against copying an approved drug. No outsourcing
22 facility may compound a drug that is essentially a copy of one or more
23 approved drugs.

24 12. Prohibition against compounding drugs presenting demonstrable
25 difficulties. No outsourcing facility may compound a drug:

26 a. that is identified, directly or as part of a category of drugs, on
27 a list published by the secretary of health and human services that
28 present demonstrable difficulties for compounding that are reasonably
29 likely to lead to an adverse effect on the safety or effectiveness of
30 the drug or category of drugs, taking into account the risks and bene-
31 fits to patients; or

32 b. that is compounded in accordance with all applicable conditions
33 identified on the drug list as conditions that are necessary to prevent
34 the drug or category of drugs from presenting demonstrable difficulties.

35 13. Adverse event reports. Outsourcing facilities shall submit a copy
36 of all adverse event reports submitted to the secretary of health and
37 human services in accordance with the content and format requirements
38 established in section 310.305 of title 21 of the code of federal regu-
39 lations, or any successor regulation, to the executive secretary for the
40 state board of pharmacy.

41 14. Reports. The commissioner shall prepare and submit a report to the
42 governor and the legislature, due eighteen months from the effective
43 date of this section, evaluating the effectiveness of the registration
44 and oversight of outsourcing facilities related to compounding.

45 § 6832. Limitations on assistance of an unlicensed person. 1. Subject
46 to the limitations set forth in subdivision two of this section, an
47 unlicensed person may assist a licensed pharmacist in the dispensing of
48 drugs by:

49 a. receiving written or electronically transmitted prescriptions,
50 except that in the case of electronically transmitted prescriptions the
51 licensed pharmacist or pharmacy intern shall review the prescription to
52 determine whether in his or her professional judgment it shall be
53 accepted by the pharmacy, and if accepted, the licensed pharmacist or
54 pharmacy intern shall enter his or her initials into the records of the
55 pharmacy;

56 b. typing prescription labels;

1 c. keying prescription data for entry into a computer-generated file
2 or retrieving prescription data from the file, provided that such compu-
3 ter-generated file shall provide for verification of all information
4 needed to fill the prescription by a licensed pharmacist prior to the
5 dispensing of the prescription, meaning that the licensed pharmacist
6 shall review and approve such information and enter his or her initials
7 or other personal identifier into the recordkeeping system prior to the
8 dispensing of the prescription or of the prescription refill;

9 d. getting drugs from stock and returning them to stock;

10 e. getting prescription files and other manual records from storage
11 and locating prescriptions;

12 f. counting dosage units of drugs;

13 g. placing dosage units of drugs in appropriate containers;

14 h. affixing the prescription label to the containers;

15 i. preparing manual records of dispensing for the signature or
16 initials of the licensed pharmacist;

17 j. handing or delivering completed prescriptions to the patient or the
18 person authorized to act on behalf of the patient and, in accordance
19 with the relevant commissioner's regulations, advising the patient or
20 person authorized to act on behalf of the patient of the availability of
21 counseling to be conducted by the licensed pharmacist or pharmacy
22 intern; and

23 k. performing other functions as defined by the commissioner's regu-
24 lations.

25 2. Except for a licensed pharmacist employed by a facility licensed in
26 accordance with article twenty-eight of this chapter or a pharmacy owned
27 and operated by such a facility, no licensed pharmacist shall obtain the
28 assistance of more than four unlicensed persons, in the performance of
29 the activities that do not require licensure, the total of such persons
30 shall not exceed four individuals at any one time. Pharmacy interns
31 shall be exempt from such ratios, but shall be supervised in accordance
32 with the commissioner's regulations. Individuals who are responsible for
33 the act of placing drugs which are in unit-dose packaging into medica-
34 tion carts as part of an approved unit-dose drug distribution system for
35 patients in institutional settings shall be exempt from such ratio,
36 provided that such individuals are not also engaged in performing the
37 activities set forth in paragraph b, c, d, e, f, g, h or i of subdivi-
38 sion one of this section. The licensed pharmacist shall provide the
39 degree of supervision of such persons as may be appropriate to ensure
40 compliance with the relevant provisions of regulations of the commis-
41 sioner.

42 TITLE 11

43 REGISTERED PHARMACY TECHNICIANS

44 Section 6840. Introduction.

45 6841. Definition of the practice of registered pharmacy techni-
46 cian.

47 6842. Definitions.

48 6843. Practice of registered pharmacy technician and use of the
49 title "registered pharmacy technician".

50 6844. Requirements for licensure as a registered pharmacy tech-
51 nician.

52 § 6840. Introduction. This title applies to the profession of regis-
53 tered pharmacy technician. The general provisions for all professions
54 contained in title one of this article shall apply to this title.

§ 6841. Definition of the practice of registered pharmacy technician.

1. A registered pharmacy technician may, under the direct personal supervision of a licensed pharmacist, assist such licensed pharmacist, as directed, in compounding, preparing, labeling, or dispensing of drugs used to fill valid prescriptions or medication orders or in compounding, preparing, and labeling in anticipation of a valid prescription or medication order for a patient to be served by the facility, in accordance with title ten of this article where such tasks require no professional judgment. Such professional judgment shall only be exercised by a licensed pharmacist. A registered pharmacy technician may only practice in a facility licensed in accordance with article twenty-eight of the public health law, or a pharmacy owned and operated by such a facility, under the direct personal supervision of a licensed pharmacist employed in such a facility or pharmacy. Such facility shall be responsible for ensuring that the registered pharmacy technician has received appropriate training to ensure competence before he or she begins assisting a licensed pharmacist in compounding, preparing, labeling, or dispensing of drugs, in accordance with this title and title ten of this article. For the purposes of this title, direct personal supervision means supervision of procedures based on instructions given directly by a supervising licensed pharmacist who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the registered pharmacy technicians and a supervising licensed pharmacist shall approve all work performed by the registered pharmacy technician prior to the actual dispensing of any drug.

2. In addition to the registered pharmacy technician services included in subdivision one of this section, registered pharmacy technicians may also assist a licensed pharmacist in the dispensing of drugs by performing the following functions that do not require a license under this title:

- a. receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;
- b. typing prescription labels;
- c. keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;
- d. getting drugs from stock and returning them to stock;
- e. getting prescription files and other manual records from storage and locating prescriptions;
- f. counting dosage units of drugs;
- g. placing dosage units of drugs in appropriate containers;
- h. affixing the prescription label to the containers;
- i. preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

1 j. handing or delivering completed prescriptions to the patient or the
2 person authorized to act on behalf of the patient and, in accordance
3 with the relevant commissioner's regulations, advising the patient or
4 person authorized to act on behalf of the patient of the availability of
5 counseling to be conducted by the licensed pharmacist or pharmacy
6 intern; or

7 k. performing other functions as defined by the commissioner's regu-
8 lations.

9 3. Under the direct personal supervision of a licensed pharmacist,
10 unlicensed persons who are not registered pharmacy technicians may
11 assist licensed pharmacists in performing tasks that do not require
12 licensure in accordance with regulations promulgated by the commissioner
13 and are also described in subdivision two of this section. Unlicensed
14 persons who are not registered pharmacy technicians shall not engage in
15 or assist in compounding.

16 4. No licensed pharmacist shall obtain the assistance of more than two
17 registered pharmacy technicians in the performance of licensed tasks
18 within their scope of practice or four unlicensed persons, in the
19 performance of the activities that do not require licensure, the total
20 of such persons shall not exceed four individuals at any one time. Phar-
21 macy interns shall be exempt from such ratios, but shall be supervised
22 in accordance with commissioner's regulations. Individuals who are
23 responsible for the act of placing drugs which are in unit-dose packag-
24 ing into medication carts as part of an approved unit-dose drug distrib-
25 ution system for patients in institutional settings shall be exempt from
26 such ratio, provided that such individuals are not also engaged in
27 performing the activities set forth in subdivision one or paragraph b,
28 c, d, e, f, g, h, or i of subdivision two of this section. The licensed
29 pharmacist shall provide the degree of supervision of such persons as
30 may be appropriate to ensure compliance with the relevant provisions of
31 regulations of the commissioner.

32 § 6842. Definitions. As used in this title:

33 1. "Licensed pharmacist" means a person licensed to practice pharmacy
34 pursuant to title ten of this article.

35 2. "Pharmacy intern" means a person practicing under a limited permit
36 pursuant to section sixty-eight hundred six of this article.

37 3. "Professional judgment" means professional decision-making by a
38 licensed pharmacist, including, but not limited to, such activities as:

39 a. interpreting a prescription or medication order for therapeutic
40 acceptability and appropriateness or engaging in the calculations behind
41 any such formulations;

42 b. interpreting and evaluating a prescription or medication order for
43 conformance with legal requirements, authenticity, accuracy and inter-
44 action of the prescribed drug with other known prescribed and over-the
45 -counter drugs;

46 c. receiving oral prescriptions from prescribers; or

47 d. counseling patients.

48 4. "Compounding" means the combining, admixing, mixing, diluting,
49 pooling, reconstituting, or otherwise altering of a drug or bulk drug
50 substance to create a drug.

51 5. "Drugs", "pharmacopeia", "labeling" and "sterile drug" shall have
52 the same definitions as set forth in section sixty-eight hundred two of
53 this article.

54 § 6843. Practice of registered pharmacy technician and use of the
55 title "registered pharmacy technician". Only a person licensed to prac-
56 tice as a registered pharmacy technician under this title or otherwise

1 authorized shall practice as a registered pharmacy technician or use the
2 title "registered pharmacy technician."

3 § 6844. Requirements for licensure as a registered pharmacy techni-
4 cian. To qualify for licensure as a "registered pharmacy technician", an
5 applicant shall fulfill the following requirements:

6 1. Application: file an application with the department;

7 2. Education: have received an education, including high school gradu-
8 ation or its equivalent, as determined by the department;

9 3. Certification from a nationally accredited pharmacy technician
10 certification program acceptable to the department;

11 4. Age: at the time of application be at least eighteen years of age;

12 5. Character: be of good moral character as determined by the depart-
13 ment; and

14 6. Fee: pay a fee determined by the department for initial license and
15 for each triennial registration period.

16 TITLE 12

17 NURSING

18 Section 6900. Introduction.

19 6901. Definitions.

20 6902. Definition of practice of nursing.

21 6903. Practice of nursing and use of title "registered profes- 22 sional nurse" or "licensed practical nurse".

23 6904. State board for nursing.

24 6905. Requirements for a license as a registered professional 25 nurse.

26 6906. Requirements for a license as a licensed practical nurse.

27 6907. Limited permits.

28 6908. Exempt persons.

29 6909. Special provision.

30 6910. Certificates for nurse practitioner practice.

31 6911. Certification as a clinical nurse specialist (CNS).

32 § 6900. Introduction. This title applies to the profession of nursing.
33 The general provisions for all professions contained in title one of
34 this article apply to this title.

35 § 6901. Definitions. As used in section sixty-nine hundred two of this
36 title:

37 1. "Diagnosing" in the context of nursing practice means that iden-
38 tification of and discrimination between physical and psychosocial signs
39 and symptoms essential to effective execution and management of the
40 nursing regimen. Such diagnostic privilege is distinct from a medical
41 diagnosis.

42 2. "Treating" means selection and performance of those therapeutic
43 measures essential to the effective execution and management of the
44 nursing regimen, and execution of any prescribed medical regimen.

45 3. "Human Responses" means those signs, symptoms and processes which
46 denote the individual's interaction with an actual or potential health
47 problem.

48 § 6902. Definition of practice of nursing. 1. The practice of the
49 profession of nursing as a registered professional nurse is defined as
50 diagnosing and treating human responses to actual or potential health
51 problems through such services as casefinding, health teaching, health
52 counseling, and provision of care supportive to or restorative of life
53 and well-being, and executing medical regimens prescribed by a licensed
54 physician, dentist or other licensed health care provider legally

1 authorized under this title and in accordance with the commissioner's
2 regulations. A nursing regimen shall be consistent with and shall not
3 vary any existing medical regimen.

4 2. The practice of nursing as a licensed practical nurse is defined as
5 performing tasks and responsibilities within the framework of casefind-
6 ing, health teaching, health counseling, and provision of supportive and
7 restorative care under the direction of a registered professional nurse
8 or licensed physician, dentist or other licensed health care provider
9 legally authorized under this article and in accordance with the commis-
10 sioner's regulations.

11 3. a. (i) The practice of registered professional nursing by a nurse
12 practitioner, certified under section six thousand nine hundred ten of
13 this title, may include the diagnosis of illness and physical conditions
14 and the performance of therapeutic and corrective measures within a
15 specialty area of practice, in collaboration with a licensed physician
16 qualified to collaborate in the specialty involved, provided such
17 services are performed in accordance with a written practice agreement
18 and written practice protocols except as permitted by paragraph b of
19 this subdivision. The written practice agreement shall include explicit
20 provisions for the resolution of any disagreement between the collab-
21 orating physician and the nurse practitioner regarding a matter of diag-
22 nosis or treatment that is within the scope of practice of both. To the
23 extent the practice agreement does not so provide, then the collaborat-
24 ing physician's diagnosis or treatment shall prevail.

25 (ii) Prescriptions for drugs, devices and immunizing agents may be
26 issued by a nurse practitioner, under this paragraph and section six
27 thousand nine hundred ten of this title, in accordance with the practice
28 agreement and practice protocols except as permitted by paragraph b of
29 this subdivision. The nurse practitioner shall obtain a certificate from
30 the department upon successfully completing a program including an
31 appropriate pharmacology component, or its equivalent, as established by
32 the commissioner's regulations, prior to prescribing under this para-
33 graph. The certificate issued under section six thousand nine hundred
34 ten of this title shall state whether the nurse practitioner has
35 successfully completed such a program or equivalent and is authorized to
36 prescribe under this paragraph.

37 (iii) Each practice agreement shall provide for patient records review
38 by the collaborating physician in a timely fashion but in no event less
39 often than every three months. The names of the nurse practitioner and
40 the collaborating physician shall be clearly posted in the practice
41 setting of the nurse practitioner.

42 (iv) The practice protocol shall reflect current accepted medical and
43 nursing practice. The protocols shall be filed with the department with-
44 in ninety days of the commencement of the practice and may be updated
45 periodically. The commissioner shall make regulations establishing the
46 procedure for the review of protocols and the disposition of any issues
47 arising from such review.

48 (v) No physician shall enter into practice agreements with more than
49 four nurse practitioners who are not located on the same physical prem-
50 ises as the collaborating physician.

51 b. Notwithstanding subparagraph (i) of paragraph a of this subdivi-
52 sion, a nurse practitioner, certified under section sixty-nine hundred
53 ten of this title and practicing for more than three thousand six
54 hundred hours may comply with this paragraph in lieu of complying with
55 the requirements of paragraph a of this subdivision relating to collab-
56 oration with a physician, a written practice agreement and written prac-

1 tice protocols. A nurse practitioner complying with this paragraph shall
2 have collaborative relationships with one or more licensed physicians
3 qualified to collaborate in the specialty involved or a hospital,
4 licensed under article twenty-eight of this chapter, that provides
5 services through licensed physicians qualified to collaborate in the
6 specialty involved and having privileges at such institution. As
7 evidence that the nurse practitioner maintains collaborative relation-
8 ships, the nurse practitioner shall complete and maintain a form,
9 created by the department, to which the nurse practitioner shall attest,
10 that describes such collaborative relationships. For purposes of this
11 paragraph, "collaborative relationships" shall mean that the nurse prac-
12 titioner shall communicate, whether in person, by telephone or through
13 written (including electronic) means, with a licensed physician quali-
14 fied to collaborate in the specialty involved or, in the case of a
15 hospital, communicate with a licensed physician qualified to collaborate
16 in the specialty involved and having privileges at such hospital, for
17 the purposes of exchanging information, as needed, in order to provide
18 comprehensive patient care and to make referrals as necessary. Such
19 form shall also reflect the nurse practitioner's acknowledgement that if
20 reasonable efforts to resolve any dispute that may arise with the
21 collaborating physician or, in the case of a collaboration with a hospi-
22 tal, with a licensed physician qualified to collaborate in the specialty
23 involved and having privileges at such hospital, about a patient's care
24 are not successful, the recommendation of the physician shall prevail.
25 Such form shall be updated as needed and may be subject to review by the
26 department. The nurse practitioner shall maintain documentation that
27 supports such collaborative relationships. Failure to comply with the
28 requirements found in this paragraph by a nurse practitioner who is not
29 complying with such provisions of paragraph a of this subdivision, shall
30 be subject to professional misconduct provisions as set forth in title
31 one of this article.

32 c. Nothing in this subdivision shall be deemed to limit or diminish
33 the practice of the profession of nursing as a registered professional
34 nurse under this title or any other law, rule, regulation or certif-
35 ication, nor to deny any registered professional nurse the right to do
36 any act or engage in any practice authorized by this title or any other
37 law, rule, regulation or certification.

38 d. The provisions of this subdivision shall not apply to any activity
39 authorized, pursuant to statute, rule or regulation, to be performed by
40 a registered professional nurse in a hospital as defined in article
41 twenty-eight of this chapter.

42 § 6903. Practice of nursing and use of title "registered professional
43 nurse" or "licensed practical nurse". Only a person licensed or other-
44 wise authorized under this title shall practice nursing and only a
45 person licensed under section sixty-nine hundred five of this title
46 shall use the title "registered professional nurse" and only a person
47 licensed under section sixty-nine hundred six of this title shall use
48 the title "licensed practical nurse". No person shall use the title
49 "nurse" or any other title or abbreviation that would represent to the
50 public that the person is authorized to practice nursing unless the
51 person is licensed or otherwise authorized under this title.

52 § 6904. State board for nursing. A state board for nursing shall be
53 appointed by the department on recommendation of the commissioner for
54 the purpose of assisting the department on matters of professional
55 licensing and professional conduct in accordance with section sixty-five
56 hundred eight of this article. The board shall be composed of not less

1 than fifteen members, eleven of whom shall be registered professional
2 nurses and four of whom shall be licensed practical nurses all licensed
3 and practicing in this state for at least five years. An executive
4 secretary to the board shall be appointed by the department on recommen-
5 dation of the commissioner and shall be a registered professional nurse
6 registered in this state.

7 § 6905. Requirements for a license as a registered professional nurse.
8 To qualify for a license as a registered professional nurse, an appli-
9 cant shall fulfill the following requirements:

10 1. Application: file an application with the department;

11 2. Education: have received an education, and a diploma or degree in
12 professional nursing, in accordance with the commissioner's regulations,
13 and in order to continue to maintain registration as a registered
14 professional nurse in New York state, have attained a baccalaureate
15 degree or higher in nursing within ten years of initial licensure in
16 accordance with the commissioner's regulations. The department, in its
17 discretion, may issue a conditional registration to a licensee who fails
18 to complete the baccalaureate degree but who agrees to meet the addi-
19 tional requirement within one year. The fee for such a conditional
20 registration shall be the same as, and in addition to, the fee for the
21 triennial registration. The duration of such conditional registration
22 shall be for one year and may be extended, with the payment of a fee,
23 for no more than one additional year, unless the applicant can show good
24 cause for non-compliance acceptable to the department. The department,
25 in its discretion, may issue a temporary educational exemption to a
26 licensee who is unable to complete the baccalaureate degree due to a
27 lack of access to educational programs. Licensees seeking a temporary
28 educational exemption shall provide evidence of applying on at least two
29 occasions to a baccalaureate degree program or programs and subsequently
30 being denied access to such program or programs on at least two occa-
31 sions due to there being a limited number of seats. Such denials shall
32 also be corroborated by the higher education institution or institutions
33 that the licensee applied to. Temporary educational exemptions issued
34 pursuant to this subdivision shall be for a single two-year period.
35 Licensees shall only be eligible for either a conditional registration
36 or a temporary educational exemption. The fee for such a temporary
37 educational exemption shall be the same as, and in addition to, the fee
38 for the triennial registration. Any licensee who is notified of the
39 denial of a registration for failure to complete the additional educa-
40 tional requirements and who practices as a registered professional nurse
41 without such registration may be subject to disciplinary proceedings
42 pursuant to section sixty-five hundred ten of this article;

43 3. Experience: meet no requirement as to experience;

44 4. Examination: pass an examination satisfactory to the board and in
45 accordance with the commissioner's regulations;

46 5. Age: be at least eighteen years of age;

47 6. Citizenship: meet no requirement as to United States citizenship;

48 7. Character: be of good moral character as determined by the depart-
49 ment; and

50 8. Fees: pay a fee of one hundred fifteen dollars to the department
51 for admission to a department conducted examination and for an initial
52 license, a fee of forty-five dollars for each reexamination, a fee of
53 seventy dollars for an initial license for persons not requiring admis-
54 sion to a department conducted examination, and a fee of fifty dollars
55 for each triennial registration period.

§ 6906. Requirements for a license as a licensed practical nurse. To qualify for a license as a licensed practical nurse, an applicant shall fulfill these requirements:

1. Application: file an application with the department;

2. Education: have received an education including completion of high school or its equivalent, and have completed a program in practical nursing, in accordance with the commissioner's regulations, or completion of equivalent study satisfactory to the department in a program conducted by the armed forces of the United States or in an approved program in professional nursing;

3. Experience: meet no requirement as to experience;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations, provided, however, that the educational requirements set forth in subdivision two of this section are met prior to admission for the licensing examination;

5. Age: be at least seventeen years of age;

6. Citizenship: meet no requirements as to United States citizenship;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

9. In conjunction with and as a condition of each triennial registration, the department shall ask and a licensed practical nurse shall indicate whether the licensed practical nurse is or has previously been authorized as an advanced home health aide pursuant to subdivision two of section sixty-nine hundred eight of this title. The department shall include such information in reports related to advanced home health aides.

§ 6907. Limited permits. 1. A permit to practice as a registered professional nurse or a permit to practice as a licensed practical nurse may be issued by the department upon the filing of an application for a license as a registered professional nurse or as a licensed practical nurse and submission of such other information as the department may require to:

a. graduates of schools of nursing registered by the department;

b. graduates of schools of nursing approved in another state, province, or country; or

c. applicants for a license in practical nursing whose preparation is determined by the department to be the equivalent of that required in this state.

2. Such limited permit shall expire one year from the date of issuance or upon notice to the applicant by the department that the application for license has been denied, or ten days after notification to the applicant of failure on the professional licensing examination, whichever shall first occur. Notwithstanding the foregoing provisions of this subdivision, if the applicant is waiting the result of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the applicant of the results of such examination.

3. A limited permit shall entitle the holder to practice nursing only under the supervision of a nurse currently registered in this state and with the endorsement of the employing agency.

1 4. Fees. The fee for each limited permit shall be thirty-five dollars.

2 5. Graduates of schools of nursing registered by the department may be
3 employed to practice nursing under supervision of a professional nurse
4 currently registered in this state and with the endorsement of the
5 employing agency for ninety days immediately following graduation from a
6 program in nursing and pending receipt of a limited permit for which an
7 application has been filed as provided in this section.

8 § 6908. Exempt persons. 1. This title shall not be construed:

9 a. As prohibiting (i) the domestic care of the sick, disabled or
10 injured by any family member, household member or friend, or person
11 employed primarily in a domestic capacity who does not hold himself or
12 herself out, or accept employment as a person licensed to practice nurs-
13 ing under the provision of this title; provided that if such person is
14 remunerated, the person does not hold himself or herself out as one who
15 accepts employment for performing such care; or the administration of
16 medications or treatment by child day care providers or employees or
17 caregivers of child day care programs where such providers, employees or
18 caregivers are acting under the direction and authority of a parent of a
19 child, legal guardian, legal custodian, or an adult in whose care a
20 child has been entrusted and who has been authorized by the parent to
21 consent to any health care for the child and in compliance with the
22 regulations of the office of children and family services pertaining to
23 the administration of medications and treatment; or

24 (ii) any person from the domestic administration of family remedies;
25 or

26 (iii) the providing of care by a person acting in the place of a
27 person exempt under subparagraph (i) of this paragraph, but who does
28 hold himself or herself out as one who accepts employment for performing
29 such care, where nursing services are under the instruction of a
30 licensed nurse, or under the instruction of a patient or family or
31 household member determined by a registered professional nurse to be
32 self-directing and capable of providing such instruction, and services
33 are provided under section three hundred sixty-five-f of the social
34 services law; or

35 (iv) the furnishing of nursing assistance in case of an emergency; or

36 (v) tasks provided by a direct support staff in programs certified or
37 approved by the office for people with developmental disabilities, when
38 performed under the supervision of a registered professional nurse and
39 pursuant to a memorandum of understanding between the office for people
40 with developmental disabilities and the department, in accordance with
41 and pursuant to an authorized practitioner's ordered care, provided
42 that: (1) a registered professional nurse determines, in his or her
43 professional judgment, which tasks are to be performed based upon the
44 complexity of the tasks, the skill and experience of the direct support
45 staff, and the health status of the individual being cared for; (2) only
46 a direct support staff who has completed training as required by the
47 commissioner of the office for people with developmental disabilities
48 may perform tasks pursuant to this subparagraph; (3) appropriate proto-
49 cols shall be established to ensure safe administration of medications;
50 (4) a direct support staff shall not assess the medication needs of an
51 individual; (5) adequate nursing supervision is provided, including
52 training and periodic inspection of performance of the tasks. The amount
53 and type of nursing supervision shall be determined by the registered
54 professional nurse responsible for supervising such task based upon the
55 complexity of the tasks, the skill and experience of the direct support
56 staff, and the health status of the individual being cared for; (6) a

1 direct support staff shall not be authorized to perform any tasks or
2 activities pursuant to this subparagraph that are outside the scope of
3 practice of a licensed practical nurse; (7) a direct support staff shall
4 not represent himself or herself, or accept employment, as a person
5 licensed to practice nursing under the provisions of this title; (8)
6 direct support staff providing medication administration, tube feeding,
7 or diabetic care shall be separately certified, and shall be recertified
8 on an annual basis; (9) the registered professional nurse shall ensure
9 that there is a consumer specific medication sheet for each medication
10 that is administered; and (10) appropriate staffing ratios shall be
11 determined by the office for people with developmental disabilities and
12 the department to ensure adequate nursing supervision. No direct support
13 staff shall perform tasks under this subparagraph until the office for
14 people with developmental disabilities and the department have entered
15 into a memorandum of understanding to effectuate the provisions of this
16 subparagraph. The office for people with developmental disabilities
17 shall complete a criminal background check pursuant to section 16.33 of
18 the mental hygiene law and an agency background check pursuant to
19 section 16.34 of the mental hygiene law on the direct support staff
20 prior to the commencement of any provision of service provided under
21 this subparagraph if such direct support staff is a new hire. Individ-
22 uals providing supervision or direct support tasks pursuant to this
23 subparagraph shall have protection pursuant to sections seven hundred
24 forty and seven hundred forty-one of the labor law, where applicable;

25 b. As including services given by attendants in institutions under the
26 jurisdiction of or subject to the visitation of the state department of
27 mental hygiene if adequate medical and nursing supervision is provided;

28 c. As prohibiting such performance of nursing service by students
29 enrolled in registered schools or programs as may be incidental to their
30 course of study;

31 d. As prohibiting or preventing the practice of nursing in this state
32 by any legally qualified nurse or practical nurse of another state,
33 province, or country whose engagement requires him or her to accompany
34 and care for a patient temporarily residing in this state during the
35 period of such engagement provided such person does not represent or
36 hold himself or herself out as a nurse or practical nurse registered to
37 practice in this state;

38 e. As prohibiting or preventing the practice of nursing in this state
39 during an emergency or disaster by any legally qualified nurse or prac-
40 tical nurse of another state, province, or country who may be recruited
41 by the American National Red Cross or pursuant to authority vested in
42 the state civil defense commission for such emergency or disaster
43 service, provided such person does not represent or hold himself or
44 herself out as a nurse or practical nurse registered to practice in this
45 state;

46 f. As prohibiting or preventing the practice of nursing in this state,
47 in obedience to the requirements of the laws of the United States, by
48 any commissioned nurse officer in the armed forces of the United States
49 or by any nurse employed in the United States veterans administration or
50 United States public health service while engaged in the performance of
51 the actual duties prescribed for him or her under the United States
52 statutes, provided such person does not represent or hold himself or
53 herself out as a nurse registered to practice in this state;

54 g. As prohibiting the care of the sick when done in connection with
55 the practice of the religious tenets of any church; or

1 h. As prohibiting the provision of psychotherapy as defined in subdivi-
2 vision two of section eighty-four hundred one of this article to the
3 extent permissible within the scope of practice of nursing as defined in
4 this title, by any not-for-profit corporation or education corporation
5 providing services within the state and operating under a waiver pursu-
6 ant to section sixty-five hundred three-a of this article, provided that
7 such entities offering such psychotherapy services shall only provide
8 such services through an individual appropriately licensed or otherwise
9 authorized to provide such services or a professional entity authorized
10 by law to provide such services.

11 2. This title shall not be construed as prohibiting advanced tasks
12 provided by an advanced home health aide in accordance with regulations
13 developed by the commissioner, in consultation with the commissioner of
14 health. At a minimum, such regulations shall:

15 a. specify the advanced tasks that may be performed by advanced home
16 health aides pursuant to this subdivision. Such tasks shall include the
17 administration of medications which are routine and prefilled or other-
18 wise packaged in a manner that promotes relative ease of administration,
19 provided that administration of medications by injection, sterile proce-
20 dures, and central line maintenance shall be prohibited. Provided,
21 however, such prohibition shall not apply to injections of insulin or
22 other injections for diabetes care, to injections of low molecular
23 weight heparin, and to pre-filled auto-injections of naloxone and
24 epinephrine for emergency purposes, and provided, further, that entities
25 employing advanced home health aides pursuant to this subdivision shall
26 establish a systematic approach to address drug diversion;

27 b. provide that advanced tasks performed by advanced home health aides
28 may be performed only under the direct supervision of a registered
29 professional nurse licensed in New York state, as set forth in this
30 subdivision and subdivision eight of section sixty-nine hundred nine of
31 this title, where such nurse is employed by a home care services agency
32 licensed or certified pursuant to article thirty-six of this chapter, a
33 hospice program certified pursuant to article forty of this chapter, or
34 an enhanced assisted living residence licensed pursuant to article seven
35 of the social services law and certified pursuant to article forty-six-B
36 of this chapter. Such nursing supervision shall:

37 (i) include training and periodic assessment of the performance of
38 advanced tasks;

39 (ii) be determined by the registered professional nurse responsible
40 for supervising such advanced tasks based upon the complexity of such
41 advanced tasks, the skill and experience of the advanced home health
42 aide, and the health status of the individual for whom such advanced
43 tasks are being performed;

44 (iii) include a comprehensive initial and thereafter regular and ongo-
45 ing assessment of the individual's needs;

46 (iv) include as a requirement that the supervising registered profes-
47 sional nurse shall visit individuals receiving services for the purpose
48 of supervising the services provided by advanced home health aides no
49 less than once every two weeks and include as a requirement that a
50 registered professional nurse shall be available by telephone to the
51 advanced home health aide twenty-four hours a day, seven days a week,
52 provided that a registered professional nurse shall be available to
53 visit an individual receiving services as necessary to protect the
54 health and safety of such individual; and

55 (v) as shall be specified by the commissioner, be provided in a manner
56 that takes into account individual care needs, case mix complexity and

1 geographic considerations and provide that the number of individuals
2 served by a supervising registered professional nurse is reasonable and
3 prudent.

4 c. establish a process by which a registered professional nurse may
5 assign advanced tasks to an advanced home health aide. Such process
6 shall include, but not be limited to:

7 (i) allowing assignment of advanced tasks to an advanced home health
8 aide only where such advanced home health aide has demonstrated to the
9 satisfaction of the supervising registered professional nurse competency
10 in every advanced task that such advanced home health aide is authorized
11 to perform, a willingness to perform such advanced tasks, and the ability
12 to effectively and efficiently communicate with the individual
13 receiving services and understand such individual's needs;

14 (ii) prohibiting assignment of advanced tasks to an advanced home
15 health aide if the individual receiving services declines to be served
16 by an advanced home health aide;

17 (iii) authorizing the supervising registered professional nurse to
18 revoke any assigned advanced task from an advanced home health aide for
19 any reason; and

20 (iv) authorizing multiple registered professional nurses to jointly
21 agree to assign advanced tasks to an advanced home health aide, provided
22 further that only one registered professional nurse shall be required to
23 determine if the advanced home health aide has demonstrated competency
24 in the advanced task to be performed;

25 d. provide that advanced tasks may be performed only in accordance
26 with and pursuant to an authorized health practitioner's ordered care;

27 e. provide that only a certified home health aide may perform advanced
28 tasks as an advanced home health aide when such aide has:

29 (i) at least one year of experience providing either home health or
30 personal care services, or a combination of the same;

31 (ii) completed the requisite training and demonstrated competencies of
32 an advanced home health aide as determined by the commissioner;

33 (iii) successfully completed competency examinations satisfactory to
34 the commissioner; and

35 (iv) meets other appropriate qualifications as determined by the
36 commissioner in consultation with the commissioner of health;

37 f. provide that only an individual who is listed in the home care
38 services registry maintained by the department pursuant to section thirty-
39 six hundred thirteen of this chapter as having satisfied all applica-
40 ble training requirements and having passed the applicable competency
41 examinations and who meets other requirements as set forth in regu-
42 lations issued by the commissioner pursuant to subdivision seventeen of
43 section thirty-six hundred two of this chapter may perform advanced
44 tasks pursuant to this subdivision and may hold himself or herself out
45 as an advanced home health aide;

46 g. establish minimum standards of training for the performance of
47 advanced tasks by advanced home health aides, including didactic train-
48 ing, clinical training, and a supervised clinical practicum with stand-
49 ards set forth by the commissioner;

50 h. provide that advanced home health aides shall receive case-specific
51 training on the advanced tasks to be assigned by the supervising nurse,
52 provided that additional training shall take place whenever additional
53 advanced tasks are assigned;

54 i. prohibit an advanced home health aide from holding himself or
55 herself out, or accepting employment as, a person licensed to practice
56 nursing under the provisions of this title;

1 j. provide that an advanced home health aide is not required nor
2 permitted to assess the medication or medical needs of an individual;

3 k. provide that an advanced home health aide shall not be authorized
4 to perform any advanced tasks or activities pursuant to this subdivision
5 that are outside the scope of practice of a licensed practical nurse or
6 any advanced tasks that have not been appropriately assigned by the
7 supervising registered professional nurse;

8 l. provide that an advanced home health aide shall document all
9 advanced tasks provided to an individual, including medication adminis-
10 tration to each individual through the use of a medication adminis-
11 tration record; and

12 m. provide that the supervising registered professional nurse shall
13 retain the discretion to decide whether to assign advanced tasks to
14 advanced home health aides under this program and shall not be subject
15 to coercion, retaliation, or the threat of retaliation; in developing
16 such regulations, the commissioner shall take into account the recommen-
17 dations of a workgroup of stakeholders convened by the commissioner for
18 the purpose of providing guidance on the foregoing.

19 § 6909. Special provision. 1. Notwithstanding any inconsistent
20 provision of any general, special, or local law, any licensed registered
21 professional nurse or licensed practical nurse who voluntarily and with-
22 out the expectation of monetary compensation renders first aid or emer-
23 gency treatment at the scene of an accident or other emergency, outside
24 a hospital, doctor's office or any other place having proper and neces-
25 sary medical equipment, to a person who is unconscious, ill or injured
26 shall not be liable for damages for injuries alleged to have been
27 sustained by such person or for damages for the death of such person
28 alleged to have occurred by reason of an act or omission in the render-
29 ing of such first aid or emergency treatment unless it is established
30 that such injuries were or such death was caused by gross negligence on
31 the part of such registered professional nurse or licensed practical
32 nurse. Nothing in this subdivision shall be deemed or construed to
33 relieve a licensed registered professional nurse or licensed practical
34 nurse from liability for damages for injuries or death caused by an act
35 or omission on the part of such nurse while rendering professional
36 services in the normal and ordinary course of her practice.

37 2. Nothing in this title shall be construed to confer the authority to
38 practice medicine or dentistry.

39 3. An applicant for a license as a registered professional nurse or
40 licensed practical nurse by endorsement of a license of another state,
41 province or country whose application was filed with the department
42 under the laws in effect prior to August thirty-first, nineteen hundred
43 seventy-one shall be licensed only upon successful completion of the
44 appropriate licensing examination unless satisfactory evidence of the
45 completion of all educational requirements is submitted to the depart-
46 ment prior to September one, nineteen hundred seventy-seven.

47 4. A certified nurse practitioner may prescribe and order a non-pa-
48 tient specific regimen to a registered professional nurse, pursuant to
49 regulations promulgated by the commissioner, consistent with subdivision
50 three of section six thousand nine hundred two of this title, and
51 consistent with this chapter, for:

52 a. administering immunizations;

53 b. the emergency treatment of anaphylaxis;

54 c. administering purified protein derivative (PPD) tests or other
55 tests to detect or screen for tuberculosis infections;

1 d. administering tests to determine the presence of the human immuno-
2 deficiency virus;

3 e. administering tests to determine the presence of the hepatitis C
4 virus;

5 f. the urgent or emergency treatment of opioid related overdose or
6 suspected opioid related overdose; or

7 g. screening of persons at increased risk for syphilis, gonorrhea and
8 chlamydia.

9 5. A registered professional nurse may execute a non-patient specific
10 regimen prescribed or ordered by a licensed physician or certified nurse
11 practitioner, pursuant to regulations promulgated by the commissioner.

12 6. A registered professional nurse defined under subdivision one of
13 section sixty-nine hundred two of this title may use accepted classi-
14 fications of signs, symptoms, dysfunctions and disorders, including, but
15 not limited to, classifications used in the practice setting for the
16 purpose of providing mental health services.

17 7. A certified nurse practitioner may prescribe and order a patient
18 specific order or non-patient specific regimen to a licensed pharmacist,
19 pursuant to regulations promulgated by the commissioner, and consistent
20 with this chapter, for:

21 a. administering immunizations to prevent influenza to patients two
22 years of age or older;

23 b. administering immunizations to prevent pneumococcal, acute herpes
24 zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,
25 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or
26 pertussis disease and medications required for emergency treatment of
27 anaphylaxis to patients eighteen years of age or older; and

28 c. administering other immunizations recommended by the advisory
29 committee on immunization practices of the centers for disease control
30 and prevention for patients eighteen years of age or older if the
31 commissioner determines that an immunization: (i) (1) may be safely
32 administered by a licensed pharmacist within their lawful scope of prac-
33 tice; and (2) is needed to prevent the transmission of a reportable
34 communicable disease that is prevalent in New York state; or (ii) is a
35 recommended immunization for such patients who: (1) meet age require-
36 ments, (2) lack documentation of such immunization, (3) lack evidence of
37 past infection, or (4) have an additional risk factor or another indi-
38 cation as recommended by the advisory committee on immunization prac-
39 tices of the centers for disease control and prevention. Nothing in this
40 subdivision shall authorize unlicensed persons to administer immuniza-
41 tions, vaccines or other drugs.

42 8. A registered professional nurse, while working for a home care
43 services agency licensed or certified pursuant to article thirty-six of
44 this chapter, a hospice program certified pursuant to article forty of
45 this chapter, or an enhanced assisted living residence licensed pursuant
46 to article seven of the social services law and certified pursuant to
47 article forty-six-B of this chapter may, in accordance with this subdi-
48 vision, assign advanced home health aides to perform advanced tasks for
49 individuals pursuant to the provisions of subdivision two of section
50 sixty-nine hundred eight of this title and supervise advanced home
51 health aides who perform assigned advanced tasks.

52 a. Prior to assigning or modifying an assignment to perform an
53 advanced task, the registered professional nurse shall:

54 (i) complete a nursing assessment to ascertain the client's current
55 health status and care needs; and

1 (ii) provide to the advanced home health aide written, individual-spe-
2 cific instructions for performing the advanced task and criteria for
3 identifying, reporting and responding to problems or complications.

4 b. The registered professional nurse shall not assign an advanced task
5 unless:

6 (i) the advanced task to be assigned is consistent with an authorized
7 health practitioner's ordered care;

8 (ii) the registered professional nurse provides case specific training
9 to the advanced home health aide and personally verifies that the
10 advanced home health aide can safely and competently perform the
11 advanced task;

12 (iii) the registered professional nurse determines that the advanced
13 home health aide is willing to perform such advanced task; and

14 (iv) the registered professional nurse determines that the advanced
15 home health aide is able to effectively and efficiently communicate with
16 the individual receiving services and understand such individual's
17 needs.

18 c. The supervising registered professional nurse shall:

19 (i) visit individuals receiving services for the purpose of supervis-
20 ing the services provided by advanced home health aides no less than
21 once every two weeks; and

22 (ii) conduct regular and ongoing assessment of the individual's needs.

23 9. A certified nurse practitioner may prescribe and order a patient
24 specific order or non-patient specific order to a licensed pharmacist,
25 pursuant to regulations promulgated by the commissioner of health, and
26 consistent with this chapter, for dispensing up to a seven day starter
27 pack of HIV post-exposure prophylaxis for the purpose of preventing
28 human immunodeficiency virus infection following a potential human immu-
29 nodeficiency virus exposure.

30 10. A registered professional nurse may execute a standing order for
31 newborn care in a hospital established under section twenty-eight
32 hundred three-v of this chapter, as provided in that section. The
33 commissioner may make regulations relating to implementation of this
34 subdivision.

35 11. A certified nurse practitioner may prescribe and order a non-pa-
36 tient-specific regimen to a licensed pharmacist, for insulin and related
37 supplies pursuant to section sixty-eight hundred one of this article.

38 § 6910. Certificates for nurse practitioner practice. 1. For issuance
39 of a certificate to practice as a nurse practitioner under subdivision
40 three of section six thousand nine hundred two of this title, the appli-
41 cant shall fulfill the following requirements:

42 a. Application: file an application with the department;

43 b. License: be licensed as a registered professional nurse in the
44 state;

45 c. Education: (i) have satisfactorily completed educational prepara-
46 tion for provision of these services in a program registered by the
47 department or in a program determined by the department to be the equiv-
48 alent; or

49 (ii) submit evidence of current certification by a national certifying
50 body, recognized by the department; or

51 (iii) meet such alternative criteria as established by the commission-
52 er's regulations;

53 d. Fees: pay a fee to the department of fifty dollars for each initial
54 certificate authorizing nurse practitioner practice in a specialty area
55 and a triennial registration fee of thirty dollars. Registration under

1 this section shall be coterminous with the nurse practitioner's regis-
2 tration as a professional nurse.

3 2. Only a person certified under this section shall use the title
4 "nurse practitioner".

5 3. The provisions of this section shall not apply to any act or prac-
6 tice authorized by any other law, rule, regulation or certification.

7 4. The provisions of this section shall not apply to any activity
8 authorized, pursuant to statute, rule or regulation, to be performed by
9 a registered professional nurse in a hospital as defined in article
10 twenty-eight of this chapter.

11 5. The commissioner is authorized to promulgate regulations to imple-
12 ment the provisions of this section.

13 § 6911. Certification as a clinical nurse specialist (CNS). 1. For
14 issuance of a certificate to practice as a clinical nurse specialist
15 under section six thousand nine hundred two of this title, the applicant
16 shall fulfill the following requirements:

17 a. file an application with the department;
18 b. be licensed as a registered professional nurse in this state;
19 c. (i) have satisfactorily completed an educational program registered
20 by the department including a master's or doctoral degree, or a post-
21 master's certificate from a program acceptable to the department which
22 prepares graduates to practice as CNSs and which is accredited by a
23 national nursing accredited body acceptable to the department, and (ii)
24 meets all other requirements established by the department to practice
25 as a clinical nurse specialist, or (iii) have received educational prep-
26 aration determined by the department to be the substantial equivalent of
27 subparagraphs (i) and (ii) of this paragraph; and

28 d. pay a fee to the department of fifty dollars for each initial
29 certificate authorizing clinical nurse specialist practice and a trien-
30 nial registration fee of thirty dollars. Registration under this
31 section shall be coterminous with the clinical nurse specialist's regis-
32 tration as a professional nurse.

33 2. Only a person certified under this section shall use the title
34 "clinical nurse specialist" or the designation "CNS".

35 TITLE 13

36 PROFESSIONAL MIDWIFERY PRACTICE ACT

37 Section 6950. Introduction.

38 6951. Definition of practice of midwifery.

39 6952. Practice of midwifery.

40 6953. Use of title "midwife".

41 6954. State board of midwifery.

42 6955. Requirements for a professional license.

43 6956. Prior nurse-midwifery certification.

44 6957. Exempt persons.

45 6958. Limited permit.

46 § 6950. Introduction. This title applies to the profession of midwif-
47 ery. The general provisions for all professions contained in title one
48 of this article apply to this title.

49 § 6951. Definition of practice of midwifery. 1. The practice of the
50 profession of midwifery is defined as the management of normal pregnan-
51 cies, child birth and postpartum care as well as primary preventive
52 reproductive health care of essentially healthy women, and shall include
53 newborn evaluation, resuscitation and referral for infants. A midwife
54 shall have collaborative relationships with (i) a licensed physician who

1 is board certified as an obstetrician-gynecologist by a national certi-
2 fying body, or (ii) a licensed physician who practices obstetrics and
3 has obstetric privileges at a general hospital licensed under article
4 twenty-eight of this chapter, or (iii) a hospital, licensed under arti-
5 cle twenty-eight of this chapter, that provides obstetrics through a
6 licensed physician having obstetrical privileges at such institution,
7 that provide for consultation, collaborative management and referral to
8 address the health status and risks of his or her patients and that
9 include plans for emergency medical gynecological and/or obstetrical
10 coverage. A midwife shall maintain documentation of such collaborative
11 relationships and shall make information about such collaborative
12 relationships available to his or her patients. Failure to comply with
13 the requirements found in this subdivision shall be subject to profes-
14 sional misconduct provisions as set forth in title one of this article.

15 2. A licensed midwife shall have the authority, as necessary, and
16 limited to the practice of midwifery, to prescribe and administer drugs,
17 immunizing agents, diagnostic tests and devices, and to order laboratory
18 tests, as established by the board in accordance with the commissioner's
19 regulations. A midwife shall obtain a certificate from the department
20 upon successfully completing a program including a pharmacology compo-
21 nent, or its equivalent, as established by the commissioner's regu-
22 lations prior to prescribing under this section.

23 3. Any reference to midwifery, midwife, certified nurse-midwifery or
24 certified nurse-midwife, nurse-midwifery or nurse-midwife under the
25 provisions of this title, this chapter or any other law, shall refer to
26 and include the profession of midwifery and a licensed midwife, unless
27 the context clearly requires otherwise.

28 § 6952. Practice of midwifery. Only a person licensed or exempt under
29 this title or authorized by any other section of law shall practice
30 midwifery.

31 § 6953. Use of title "midwife". Only a person licensed or exempt under
32 this title shall use the title "midwife". Only a person licensed under
33 both this title and title twelve of this article may use the title
34 "nurse-midwife".

35 § 6954. State board of midwifery. 1. The state board of midwifery
36 shall be appointed by the department on recommendation of the commis-
37 sioner for the purpose of assisting the department on matters of profes-
38 sional licensing and professional conduct in accordance with section
39 sixty-five hundred eight of this article. The board shall be composed of
40 thirteen individuals. Initial appointments to the board shall be such
41 that the terms shall be staggered. However, no members shall serve more
42 than two terms.

43 2. a. (i) Seven members of the board shall be persons licensed or
44 exempt under this section.

45 (ii) One member of the board shall be an educator of midwifery.

46 b. Two members of the board shall be individuals who are licensed
47 physicians who are also certified as obstetrician/gynecologists by a
48 national certifying body.

49 c. One member of the board shall be an individual licensed as a physi-
50 cian who practices family medicine including obstetrics.

51 d. One member of the board shall be an individual licensed as a physi-
52 cian who practices pediatrics.

53 e. One member of the board shall be an individual not possessing
54 either licensure or training in medicine, midwifery, pharmacology or
55 nursing and shall represent the public at large.

1 3. For purposes of this title, "board" means the state board of
2 midwifery created under this section unless the context clearly indi-
3 cates otherwise.

4 § 6955. Requirements for a professional license. To qualify for a
5 license as a midwife, an applicant shall fulfill the following require-
6 ments:

7 1. Application: file an application with the department.

8 2. Education: satisfactorily;

9 a. complete educational preparation (degree or diploma granting) for
10 the practice of nursing, followed by or concurrently with educational
11 preparation for the practice of midwifery in accordance with the commis-
12 sioner's regulations, or

13 b. submit evidence of license or certification, the educational prepa-
14 ration for which is determined by the department to be equivalent to the
15 foregoing, from any state or country, satisfactory to the department and
16 in accordance with the commissioner's regulations, or

17 c. complete a program determined by the department to be equivalent to
18 the foregoing and in accordance with the commissioner's regulations.

19 3. Examination: pass an examination satisfactory to the department and
20 in accordance with the commissioner's regulations.

21 4. Age: be at least twenty-one years of age.

22 5. Character: be of good moral character as determined by the depart-
23 ment.

24 6. Citizenship or immigration status: be a United States citizen or an
25 alien lawfully admitted for permanent residence in the United States.

26 7. Fee: pay a fee of one hundred ninety dollars to the department for
27 admission to a department conducted examination for an initial license,
28 a fee of one hundred dollars for each re-examination, a fee of one
29 hundred fifteen dollars for an initial license for persons not requiring
30 admission to a department conducted examination, a fee of one hundred
31 eighty dollars for each triennial registration period and a fee of
32 seventy dollars for a limited permit.

33 § 6956. Prior nurse-midwifery certification. Any individual who is
34 certified as a nurse-midwife shall not practice pursuant to this title
35 until after receiving approval from the commissioner and submitting the
36 fee required by subdivision seven of section sixty-nine hundred fifty-
37 five of this title.

38 § 6957. Exempt persons. Nothing in this title shall be construed to
39 affect, prevent or in any manner expand or limit any duty or responsi-
40 bility of a licensed physician from practicing midwifery or affect or
41 prevent a medical student or midwifery student in clinical practice
42 under the supervision of a licensed physician or board certified
43 obstetrician/gynecologist or licensed midwife practicing in pursuance of
44 an educational program registered by the department from engaging in
45 such practice.

46 § 6958. Limited permit. 1. A limited permit to practice midwifery may
47 be granted for a period not to exceed twelve months to an individual who
48 has to the satisfaction of the department met all the requirements of
49 section sixty-nine hundred fifty-five of this title, but has not yet
50 passed the examination required by subdivision three of such section.

51 2. A limited permit shall entitle the holder to practice midwifery
52 only under the direct supervision of a licensed physician who is author-
53 ized under section sixty-nine hundred fifty-one of this title or a
54 licensed midwife.

TITLE 14
PODIATRY

Section 7000. Introduction.

7001. Definition of practice of podiatry.

7002. Practice of podiatry and use of title "podiatrist".

7003. State board for podiatry.

7004. Requirements for a professional license.

7005. Exempt persons.

7006. Special provision.

7007. Limited permits.

7008. Limited residency permits and limited fellowship permits.

7009. Podiatric ankle surgery privileges.

7010. Ankle surgery limited permits.

§ 7000. Introduction. This title applies to the profession of podiatry. The general provisions for all professions contained in title one of this article apply to this title.

§ 7001. Definition of practice of podiatry. 1. The practice of the profession of podiatry is defined as diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the foot, and may include performing physical evaluations in conjunction with the provision of podiatric treatment. For the purposes of wound care however, the practice of podiatry shall include the treatment of such wounds if they are contiguous with wounds relating, originating or in the course of treatment of a wound on the foot within the podiatric scope of practice. Wound care shall not, however, extend beyond the level ending at the distal tibial tuberosity. The practice of podiatry may also include diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the ankle and soft tissue of the leg below the tibial tuberosity if the podiatrist has obtained an issuance of a privilege to perform podiatric standard ankle surgery or advanced ankle surgery in accordance with section seven thousand nine of this title. Podiatrists may treat traumatic open wound fractures only in hospitals, as defined in article twenty-eight of this chapter. For the purposes of this title, the term "ankle" shall be defined as the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and talus, and the portions of skin, subcutaneous tissue, fascia, muscles, tendons, ligaments and nerves at or below the level of the myotendinous junction of the triceps surae.

2. The practice of podiatry shall not include treating any part of the human body other than the foot, nor treating fractures of the malleoli or cutting operations upon the malleoli unless the podiatrist obtains an issuance of a privilege to perform podiatric standard ankle surgery or podiatric advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric standard ankle surgery may perform surgery on the ankle which may include soft tissue and osseous procedures except those procedures specifically authorized for podiatrists who have obtained an issuance of a privilege for advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric advanced ankle surgery may perform surgery on the ankle which may include ankle fracture fixation, ankle fusion, ankle arthroscopy, insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae, and insertion and removal of retrograde tibiotalo-

1 calcaneal intramedullary rods and locking screws up to the level of the
2 myotendinous junction of the triceps surae, but does not include the
3 surgical treatment of complications within the tibial diaphysis related
4 to the use of such external fixation pins. Podiatrists licensed to prac-
5 tice, but not authorized to prescribe or administer narcotics prior to
6 the effective date of this subdivision, may do so only after certifi-
7 cation by the department in accordance with the qualifications estab-
8 lished by the commissioner. The practice of podiatry shall include
9 administering only local anesthetics for therapeutic purposes as well as
10 for anesthesia and treatment under general anesthesia administered by
11 authorized persons. The practice of podiatry by any licensee shall not
12 include partial or total ankle replacements nor the treatment of pilon
13 fractures.

14 3. a. The department shall conduct a study to determine whether to
15 make available to the public profiles on podiatrists who have obtained
16 an issuance of a privilege to perform podiatric standard or advanced
17 ankle surgery pursuant to subdivisions one and two of section seven
18 thousand nine of this title. Such study shall include consideration of
19 whether it would be appropriate and feasible for the department to make
20 publicly available profiles for such podiatrists in a manner similar to
21 physician profiles made available on the department's website in accord-
22 ance with section twenty-nine hundred ninety-five-a of this chapter. The
23 department shall consult with other departments as necessary on matters
24 related to the operation of the department's physician profiles estab-
25 lished pursuant to section twenty-nine hundred ninety-five-a of this
26 chapter in conducting its study.

27 b. If the department determines that making podiatrist profiles avail-
28 able is appropriate and feasible, the department shall outline in such
29 study an appropriate and cost-effective method of presenting relevant
30 and appropriate podiatric profiling information to the general public.
31 The department shall submit such study to the governor, the temporary
32 president of the senate, the speaker of the assembly, the minority lead-
33 er of the senate and the minority leader of the assembly on or before
34 November first, two thousand sixteen.

35 c. If the department makes podiatrist profiles available as set forth
36 in paragraph b of this subdivision, the department shall include on its
37 website containing the physician profiles established pursuant to
38 section twenty-nine hundred ninety-five-a of this chapter a link to the
39 website on which such podiatrist profiles may be accessed and a state-
40 ment describing the purpose of such link.

41 § 7002. Practice of podiatry and use of title "podiatrist". Only a
42 person licensed or exempt under this title shall practice podiatry or
43 use the title "podiatrist" or "chiropodist".

44 § 7003. State board for podiatry. A state board for podiatry shall be
45 appointed by the commissioner for the purpose of assisting the depart-
46 ment on matters of professional licensing and professional conduct in
47 accordance with section sixty-five hundred eight of this article. The
48 board shall be composed of not less than seven podiatrists licensed in
49 this state. An executive secretary to the board shall be appointed by
50 the commissioner.

51 § 7004. Requirements for a professional license. To qualify for a
52 license as a podiatrist, an applicant shall fulfill the following
53 requirements:

- 54 1. Application: file an application with the department;
55 2. Education: have received an education, including a doctoral degree
56 in podiatry, in accordance with the commissioner's regulations;

1 3. Experience: have experience satisfactory to the board and in
2 accordance with the commissioner's regulations;

3 4. Examination: pass an examination satisfactory to the board and in
4 accordance with the commissioner's regulations;

5 5. Age: be at least twenty-one years of age;

6 6. Citizenship: meet no requirements as to United States citizenship;

7 7. Character: be of good moral character as determined by the depart-
8 ment; and

9 8. Fees: pay a fee of two hundred twenty dollars to the department for
10 admission to a department conducted examination and for an initial
11 license, a fee of one hundred fifteen dollars for each reexamination, a
12 fee of one hundred thirty-five dollars for an initial license for
13 persons not requiring admission to a department conducted examination,
14 and a fee of two hundred ten dollars for each triennial registration
15 period.

16 9. Continuing education: In accordance with the requirements of
17 section sixty-five hundred two of this article, at the time of re-regis-
18 tration with the department, each applicant shall present satisfactory
19 evidence to the state board for podiatry that in the years prior to the
20 filing for re-registration he or she attended the education programs
21 conducted by the podiatry society of the state of New York or the equiv-
22 alent of such educational programs as approved by the state board for
23 podiatry in accordance with the commissioner's regulations.

24 § 7005. Exempt persons. Nothing in this title shall be construed to
25 affect or prevent a student from engaging in clinical practice under
26 supervision of a licensed podiatrist as part of the program of an
27 approved school of podiatry.

28 § 7006. Special provision. 1. No corporation, except a hospital corpo-
29 ration authorized under article forty-three of the insurance law or a
30 corporation organized and existing under the laws of the state of New
31 York which, on or before the first day of March, nineteen hundred
32 forty-two, was legally incorporated to practice podiatry, shall practice
33 podiatry, and then only through licensed podiatrists and shall conform
34 to department rules. No corporation organized to practice podiatry shall
35 change its name or sell its franchise or transfer its corporate rights
36 directly or indirectly, by transfer of capital stock control or other-
37 wise, to any person or to another corporation without permission from
38 the department and any corporation so changing its name or so trans-
39 ferring its franchise or corporate rights without such permission or
40 found guilty of violating a department rule shall be deemed to have
41 forfeited its right to exist and shall be dissolved by a proceeding
42 brought by the attorney general.

43 2. Any manufacturer or merchant may sell, advertise, fit, or adjust
44 proprietary foot remedies, arch supports, corrective foot appliances or
45 shoes.

46 3. Notwithstanding any inconsistent provision of any general, special
47 or local law, any licensed podiatrist who voluntarily and without the
48 expectation of monetary compensation renders first aid or emergency
49 treatment at the scene of an accident or other emergency, outside of a
50 hospital or any other place having proper and necessary medical equip-
51 ment, to a person who is unconscious, ill or injured shall not be liable
52 for damages for injuries alleged to have been sustained by such person
53 or for damages for the death of such person alleged to have occurred by
54 reason of an act or omission in the rendering of such first aid or emer-
55 gency treatment unless it is established that such injuries were or such
56 death was caused by gross negligence on the part of such podiatrist.

1 Nothing in this subdivision shall be deemed or construed to relieve a
2 licensed podiatrist from liability for damages for injuries or death
3 caused by an act or omission on the part of a podiatrist while rendering
4 professional services in the normal and ordinary course of practice.

5 4. An unlicensed person may provide supportive services to a podia-
6 trist incidental to and concurrent with such podiatrist personally
7 performing a service or procedure. Nothing in this subdivision shall be
8 construed to allow an unlicensed person to provide any service which
9 constitutes the practice of podiatry as defined in this title. An unli-
10 censed person providing supportive services to a podiatrist may operate
11 radiographic equipment under direct supervision for the sole purpose of
12 foot radiography provided that such person completes a course of study
13 acceptable to the department.

14 § 7007. Limited permits. 1. Limited permits to practice podiatry may
15 be issued by the department to graduates of a program of professional
16 education in podiatry registered by the department or accredited by an
17 accrediting agency acceptable to the department. Such permits shall
18 authorize the practice of podiatry only under the supervision of a
19 licensed podiatrist and only in:

20 a. a hospital or health facility licensed pursuant to article twenty-
21 eight of this chapter; or

22 b. a clerkship for a period of two years or less conducted by a
23 licensed podiatrist designated as a member of the faculty of an approved
24 school of podiatry for purposes of a preceptorship program.

25 2. Limited permits shall be issued for a period of one year, and may
26 be renewed at the discretion of the department for one additional year.

27 3. The fee for a limited permit shall be one hundred five dollars and
28 the fee for a renewal shall be fifty dollars.

29 § 7008. Limited residency permits and limited fellowship permits. 1.
30 Limited residency permits and limited fellowship permits may be issued
31 by the department to graduates of a program of professional education in
32 podiatry registered by the department or accredited by an accrediting
33 agency acceptable to the department.

34 2. Such permits shall allow a resident or fellow in podiatric medicine
35 participating in an approved post-graduate residency or fellowship
36 program to perform such duties, tasks and functions that are required
37 for successful completion of such program under the administrative
38 supervision of a licensed podiatrist serving as the residency or fellow-
39 ship director, as applicable, in a hospital or health care facility
40 licensed pursuant to article twenty-eight of this chapter. At any time
41 during the residency or fellowship, a licensed physician or a licensed
42 podiatrist may provide direct personal supervision of activities which
43 he or she is authorized and competent to provide in the approved facili-
44 ty; provided, however, when the resident's or fellow's training involves
45 practice beyond that authorized in section seven thousand one of this
46 title, a licensed physician shall provide direct personal supervision.
47 For the purposes of this section, "direct personal supervision" means
48 supervision of procedures based on instructions given directly by a
49 licensed physician or licensed podiatrist, as applicable, who remains in
50 the immediate area where the procedures are being performed, authorizes
51 the procedures and evaluates the procedures performed by the podiatric
52 resident or fellow.

53 3. Such permit shall be issued for three years and may be renewed at
54 the discretion of the department for additional one-year periods when
55 necessary to permit the completion of an approved post-graduate residen-
56 cy or fellowship in podiatric medicine.

1 4. The fee for a limited residency permit or a limited fellowship
2 permit shall be one hundred five dollars and the fee for a renewal shall
3 be fifty dollars.

4 § 7009. Podiatric ankle surgery privileges. 1. For issuance of a priv-
5 ilege to perform podiatric standard ankle surgery, as that term is used
6 in subdivision two of section seven thousand one of this title, the
7 applicant shall fulfill the following requirements:

8 a. Application: file an application with the department;

9 b. License: be licensed as a podiatrist in the state;

10 c. Training and certification: either:

11 (i) have graduated on or after June first, two thousand six from a
12 three-year residency program in podiatric medicine and surgery that was
13 accredited by an accrediting agency acceptable to the department, and be
14 certified in reconstructive rearfoot and ankle surgery by a national
15 certifying board having certification standards acceptable to the
16 department; or

17 (ii) have graduated on or after June first, two thousand six from a
18 three-year residency program in podiatric medicine and surgery that was
19 accredited by an accrediting agency acceptable to the department, be
20 board qualified but not yet certified in reconstructive rearfoot and
21 ankle surgery by a national certifying board having certification stand-
22 ards acceptable to the department, and provide documentation that he or
23 she has acceptable training and experience in standard or advanced
24 midfoot, rearfoot and ankle procedures that has been approved by the
25 department; or

26 (iii) have graduated before June first, two thousand six from a two-
27 year residency program in podiatric medicine and surgery that was
28 accredited by an accrediting agency acceptable to the department, be
29 certified in reconstructive rearfoot and ankle surgery by a national
30 certifying board having certification standards acceptable to the
31 department, and provide documentation that he or she has acceptable
32 training and experience in standard or advanced midfoot, rearfoot and
33 ankle procedures that has been approved by the department;

34 d. Fees: pay a fee to the department of two hundred twenty dollars for
35 the issuance of a privilege to perform podiatric standard ankle surgery.

36 2. For issuance of a privilege to perform podiatric advanced ankle
37 surgery, as that term is used in subdivision two of section seven thou-
38 sand one of this title, the applicant shall fulfill the following
39 requirements:

40 a. Application: file an application with the department;

41 b. License: be licensed as a podiatrist in the state;

42 c. Experience and certification: either:

43 (i) have graduated on or after June first, two thousand six from a
44 three-year residency program in podiatric medicine and surgery that was
45 accredited by an accrediting agency acceptable to the department, be
46 certified in reconstructive rearfoot and ankle surgery by a national
47 certifying board having certification standards acceptable to the
48 department, and provide documentation that he or she has acceptable
49 training and experience in advanced midfoot, rearfoot and ankle proce-
50 dures that has been approved by the department; or

51 (ii) have graduated before June first, two thousand six from a two-
52 year residency program in podiatric medicine and surgery that was
53 accredited by an accrediting agency acceptable to the department, be
54 certified in reconstructive rearfoot and ankle surgery, by a national
55 certifying board having certification standards acceptable to the
56 department, and provide documentation that he or she has acceptable

1 training and experience in advanced midfoot, rearfoot and ankle proce-
2 dures that has been approved by the department.

3 d. Fees: pay a fee to the department of two hundred twenty dollars for
4 the issuance of a privilege to perform podiatric advanced ankle surgery.

5 3. Duration and registration of privileges. A privilege issued under
6 this section shall be valid for the life of the holder, unless revoked,
7 annulled, or suspended by the department. Such a privilege shall be
8 subject to the same oversight and disciplinary provisions as licenses
9 issued under this title. The holder of a privilege issued under this
10 section shall register with the department as a privilege holder in the
11 same manner and subject to the same provisions as required of a licensee
12 pursuant to section six thousand five hundred two of this article,
13 provided that, at the time of each registration, the privilege holder
14 shall certify that he or she continues to meet the requirements for the
15 privilege set forth in this section. The fee for such registration shall
16 be two hundred ten dollars. The registration period for a privilege
17 holder shall be coterminous with his or her registration as a podia-
18 trist.

19 § 7010. Ankle surgery limited permits. A limited permit to perform
20 podiatric standard ankle surgery, as described in subdivision two of
21 section seven thousand one of this title, may be issued by the depart-
22 ment to a podiatrist who is licensed pursuant to this title and who has
23 met the residency and board qualification/certification requirements set
24 forth in subdivision one of section seven thousand nine of this title in
25 order to authorize such podiatrist to obtain the training and experience
26 required for the issuance of a podiatric standard ankle surgery privi-
27 lege pursuant to subdivision one of section seven thousand nine of this
28 title. Such permits shall authorize the performance of podiatric stand-
29 ard ankle surgery only under the direct personal supervision of a
30 licensed podiatrist holding a podiatric standard ankle surgery privilege
31 or a podiatric advanced ankle surgery privilege issued pursuant to
32 section seven thousand nine of this title or of a physician licensed
33 pursuant to title two of this article and certified in orthopedic
34 surgery by a national certifying board having certification standards
35 acceptable to the department.

36 2. A limited permit to perform podiatric advanced ankle surgery, as
37 described in subdivision two of section seven thousand one of this
38 title, may be issued by the department to a podiatrist who is licensed
39 pursuant to this title and who has met the residency and board certif-
40 ication requirements set forth in subdivision two of section seven thou-
41 sand nine of this title in order to authorize such podiatrist to obtain
42 the training and experience required for the issuance of a podiatric
43 advanced ankle surgery privilege pursuant to subdivision two of section
44 seven thousand nine of this title. Such permits shall authorize the
45 performance of podiatric advanced ankle surgery only under the direct
46 personal supervision of a licensed podiatrist holding a podiatric
47 advanced ankle surgery privilege issued pursuant to subdivision two of
48 section seven thousand nine of this title or of a physician licensed
49 pursuant to title two of this article and certified in orthopedic
50 surgery by a national certifying board having certification standards
51 acceptable to the department.

52 3. For the purposes of this section, direct personal supervision means
53 supervision of procedures based on instructions given directly by the
54 supervising podiatrist or physician who remains in the immediate area
55 where the procedures are being performed, authorizes the procedures and
56 evaluates the procedures performed by the holder of the limited permit.

1 4. The holder of a limited permit issued pursuant to this section
2 shall perform podiatric ankle surgery only in a hospital or health
3 facility licensed pursuant to article twenty-eight of this chapter and
4 appropriately authorized to provide such surgery.

5 5. Limited permits shall be issued for a period of one year, and may
6 be renewed for additional one year periods when necessary to permit the
7 completion of the training and experience required to obtain a podiatric
8 standard ankle surgery privilege or podiatric advanced ankle surgery
9 privilege, as applicable, provided that no permit may be renewed more
10 than four times for each such privilege.

11 6. The fee for a limited permit shall be one hundred five dollars and
12 the fee for a renewal shall be fifty dollars.

13 TITLE 15
14 OPTOMETRY

15 Section 7100. Introduction.

16 7101. Definition of the practice of optometry.

17 7101-a. Certification to use therapeutic drugs.

18 7102. Practice of optometry and use of title "optometrist".

19 7103. State board for optometry.

20 7104. Requirements for a professional license.

21 7105. Exempt persons.

22 7106. Special provisions.

23 7107. Advertising of non-prescription ready-to-wear magnifying
24 spectacles or glasses.

25 § 7100. Introduction. This title applies to the profession of optome-
26 try. The general provisions for all professions contained in title one
27 of this article apply to this title.

28 § 7101. Definition of the practice of optometry. The practice of the
29 profession of optometry is defined as diagnosing and treating optical
30 deficiency, optical deformity, visual anomaly, muscular anomaly or
31 disease of the human eye and adjacent tissue by prescribing, providing,
32 adapting or fitting lenses or by prescribing, providing, adapting or
33 fitting non-corrective contact lenses, or by prescribing or providing
34 orthoptics or vision training, or by prescribing and using drugs. The
35 practice of optometry shall not include any injection or invasive modal-
36 ity. For purposes of this section invasive modality means any procedure
37 in which human tissue is cut, altered, or otherwise infiltrated by
38 mechanical or other means. Invasive modality includes surgery, lasers,
39 ionizing radiation, therapeutic ultrasound and the removal of foreign
40 bodies from within the tissue of the eye. Nothing in this section or
41 section seventy-one hundred one-a of this title shall be construed to
42 limit the scope of optometric practice as authorized prior to January
43 first, nineteen hundred ninety-five. The use of drugs by optometrists is
44 authorized only in accordance with the provisions of this title and
45 regulations promulgated by the commissioner.

46 § 7101-a. Certification to use therapeutic drugs. 1. Definitions. As
47 used in this section, the following terms shall have the following mean-
48 ings:

49 a. Clinical training. Clinical training shall mean the diagnosis,
50 treatment and management of patients with ocular disease and shall be
51 comparable to that acquired by a current graduate of the State Universi-
52 ty College of Optometry.

b. Consultation. Consultation shall mean a confirmation of the diagnosis, a plan of co-management of the patient, and a periodic review of the patient's progress.

c. Education review committee. Education review committee shall mean the committee established pursuant to subdivision nine of this section.

d. Diagnostic pharmaceuticals. Diagnostic pharmaceuticals shall mean those drugs which shall be limited to topical applications to the surface of the eye for the purpose of diagnostic examination of the eye and shall be limited to:

(i) Anesthetic agents;

(ii) Mydriatics;

(iii) Cycloplegics;

(iv) Miotics;

(v) Disclosing agents and other substances used in conjunction with these drugs as part of a diagnostic procedure.

e. Topical therapeutic pharmaceutical agents. Topical therapeutic pharmaceutical agents shall mean those drugs which shall be limited to topical application to the surface of the eye for therapeutic purposes and shall be limited to:

(i) antibiotic/antimicrobials;

(ii) decongestants/anti-allergens;

(iii) non-steroidal anti-inflammatory agents;

(iv) steroidal anti-inflammatory agents;

(v) antiviral agents;

(vi) hyperosmotic/hypertonic agents;

(vii) cycloplegics;

(viii) artificial tears and lubricants; and

(ix) immunosuppressive agents.

f. Therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. Therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension shall mean those drugs which shall be limited to topical application to the surface of the eye and shall be limited to:

(i) beta blockers;

(ii) alpha agonists;

(iii) direct acting cholinergic agents;

(iv) prostaglandin analogs; and

(v) carbonic anhydrase inhibitors.

g. Oral therapeutic pharmaceutical agents. Oral therapeutic pharmaceutical agents shall mean those orally administered drugs used for therapeutic purposes solely for the treatment of diseases of the eye and adnexa and shall be limited to:

(i) the following antibiotics:

(1) amoxicillin/clavulanate potassium;

(2) cephalexin;

(3) azithromycin;

(4) sulfamethoxazole/trimethoprim;

(5) doxycycline; and

(6) tetracycline;

(ii) the following antiglaucoma agents used for the management of acute increases in intraocular pressure; provided, however, an optometrist may use or prescribe a maximum of one twenty-four hour prescription and shall immediately refer the patient to a licensed physician specializing in diseases of the eye:

(1) acetazolamide; and

(2) methazolamide; and

(iii) the following antiviral agents used for herpes zoster ophthalmicus; provided an optometrist shall use or prescribe in maximum, one seven-day prescription; provided, however, if a patient is diagnosed with herpes zoster ophthalmicus and has not already been examined by a primary care physician or other appropriate physician for such viral condition, an optometrist shall refer the patient to a licensed primary care physician, licensed physician specializing in diseases of the eye, or other appropriate physician within three days of such diagnosis:

(1) valacyclovir; and

(2) acyclovir.

2. Standard of care. An optometrist authorized to use pharmaceutical agents for use in the diagnosis, treatment or prevention of ocular disease shall be held to the same standard of care in diagnosis, use of such agents, and treatment as that degree of skill and proficiency commonly exercised by a physician in the same community.

3. Certificate. The commissioner shall issue appropriate certificates to use therapeutic pharmaceutical agents in accordance with the provisions of this section to those optometrists who have satisfactorily completed a curriculum in general and ocular pharmacology at a college of optometry with didactic and supervised clinical programs approved by the department are eligible to apply for the certificate issued pursuant to this section.

4. Topical therapeutic pharmaceutical agents. a. Before using or prescribing topical therapeutic pharmaceutical agents, each optometrist shall have completed at least three hundred hours of clinical training in the diagnosis, treatment and management of patients with ocular disease other than glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to June thirtieth, nineteen hundred ninety-three and additionally shall either have taken and successfully passed the treatment and management of ocular diseases portion of the National Board of Examiners in Optometry test or have taken and successfully passed an examination acceptable to the board.

b. Before using or prescribing therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, an optometrist must be certified for diagnostic and topical therapeutic agents and have completed an additional one hundred hours of clinical training in the diagnosis, treatment and management of patients with glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to July first, nineteen hundred ninety-four, and shall have taken and successfully passed an oral or written examination acceptable by the board.

c. Before using or prescribing oral therapeutic pharmaceutical agents, an optometrist must be certified to prescribe diagnostic pharmaceutical agents and topical therapeutic and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, have completed an oral therapeutic pharmaceutical agent certification course and have passed an examination within five years of the department's approval of the initial certification course or the initial examination, whichever is later provided, however, an optometrist who has commenced the oral therapeutic pharmaceutical agent certification course within the five year time period but has not yet passed an examination shall be allowed to take such examination and become certified after the five year time period provided for in this paragraph has ended.

(i) The curriculum for the oral therapeutic pharmaceutical agent certification course shall include, but not be limited to, instruction

1 in pharmacology and drug interaction in treating ocular disease and be
2 taught through clinical case scenarios and emphasize clinical decision
3 making and shall be no less than forty hours, of which no less than
4 twenty-four hours shall be live instruction.

5 (ii) Such course shall qualify towards meeting the continuing educa-
6 tion per triennial registration requirement pursuant to subdivision
7 seven of this section.

8 (iii) The examination shall assess the knowledge of materials in the
9 curriculum and reflect the oral therapeutic pharmaceutical agents
10 described in paragraph g of subdivision one of this section, and shall
11 be acceptable to the department.

12 (iv) The initial, and any subsequent, curriculum and examination shall
13 be subject to review and approval by the department.

14 (v) The requirement for the oral therapeutic pharmaceutical agent
15 certification course and examination shall not apply to those optome-
16 trists who graduated from an accredited college of optometry subsequent
17 to January first, two thousand twenty-two and have taken and successful-
18 ly passed the National Board of Examiners in Optometry examination or an
19 examination acceptable to the department.

20 d. The clinical training required by this section may have been
21 acquired prior to the enactment of this section not inconsistent with
22 paragraphs a and b of this subdivision. Approval of the pre-acquired
23 clinical training shall be in accordance with subdivision nine-a of this
24 section.

25 e. The provisions of paragraphs a and b of this subdivision shall not
26 apply to (i) graduates of an appropriate program approved by the depart-
27 ment who have successfully passed the examination on the use of diagnos-
28 tic and therapeutic drugs and who graduated subsequent to January first,
29 nineteen hundred ninety-three; or (ii) optometrists who have been certi-
30 fied for at least five years to use phase one and phase two drugs in
31 another jurisdiction, have demonstrated such use in independently
32 managed patients, and have been licensed in accordance with section
33 seventy-one hundred four of this title. Provided, however, no optome-
34 trist exempt under this paragraph shall be permitted to use phase one
35 therapeutic pharmaceutical agents or phase two therapeutic pharmaceu-
36 tical agents prior to the general authorization provided to optometrists
37 licensed in this state.

38 5. Suspension of certification. The department shall suspend the
39 certification for the use and prescribing of topical therapeutic agents
40 of any optometrist who fails to receive certification for therapeutic
41 pharmaceutical agents for treatment of glaucoma and ocular hypertension
42 within three years of having been certified for topical therapeutic
43 pharmaceutical agents.

44 6. Consultation with use of certain topical therapeutic pharmaceutical
45 agents for treatment of glaucoma and ocular hypertension. a. After the
46 initial diagnosis of glaucoma or ocular hypertension and before initiat-
47 ing treatment of any patient, an optometrist shall engage in a written
48 consultation with a licensed physician specializing in diseases of the
49 eye.

50 b. A consultation shall be required for a period of three years or
51 until the optometrist has examined and diagnosed seventy-five patients
52 having glaucoma or ocular hypertension which examinations require a
53 written consultation in accordance with paragraph a of this subdivision,
54 whichever occurs later.

55 c. The consultation provisions shall not apply to a graduate of an
56 appropriate program approved by the department who successfully passed

1 an examination in the use of diagnostic and therapeutic pharmaceutical
2 agents approved by the department and graduated such school subsequent
3 to January first, nineteen hundred ninety-nine and who has had at least
4 seventy-five documented examinations and diagnosis of patients with
5 glaucoma or ocular hypertension which examinations were part of their
6 training and were under physician supervision.

7 7. Continuing education. a. Each optometrist certified to use topical
8 therapeutic pharmaceutical agents and therapeutic pharmaceutical agents
9 for treatment of glaucoma and ocular hypertension, shall complete a
10 minimum of thirty-six hours of continuing education in the area of
11 ocular disease and pharmacology per triennial registration period. Each
12 optometrist certified to use oral therapeutic pharmaceutical agents
13 shall, in addition to the minimum thirty-six hours of continuing educa-
14 tion provided for in this subdivision, complete an additional minimum of
15 eighteen hours of continuing education related to systemic disease and
16 therapeutic treatment per triennial registration period. Such educa-
17 tional programs may include both didactic and clinical components and
18 shall be approved in advance by the department. Beginning on January
19 first, two thousand twenty-four, all sponsors of continuing education
20 courses seeking advanced approval from the department shall file an
21 application and pay a fee determined by the department in accordance
22 with the regulations of the commissioner. An optometrist subject to the
23 provisions of this subdivision whose first registration date following
24 the effective date of this section occurs less than three years from
25 such effective date, but on or after January first, two thousand twen-
26 ty-four, shall complete continuing education hours on a prorated basis
27 at the rate of one hour per month for the period beginning January
28 first, two thousand twenty-four up to the first registration date there-
29 after. An optometrist who has not satisfied the mandatory continuing
30 education requirement pursuant to this subdivision shall not be issued a
31 triennial registration certificate by the department and shall not prac-
32 tice unless and until a conditional registration is issued as provided
33 for in paragraph b of this subdivision. Continuing education hours taken
34 during one triennium may not be transferred to the subsequent triennium.

35 b. The department, in its discretion, may issue a conditional regis-
36 tration to an optometrist who fails to meet the continuing education
37 requirements established in paragraph a of this subdivision, but who
38 agrees to make up any deficiencies and complete any additional education
39 which the department may require. The fee for such a conditional regis-
40 tration shall be the same as, and in addition to, the fee for the trien-
41 nial registration. The duration of such conditional registration shall
42 be determined by the department, but shall not exceed one year. Any
43 optometrist who is notified of the denial of registration for failure to
44 submit evidence, satisfactory to the department, of required continuing
45 education and who practices without such registration may be subject to
46 disciplinary proceedings pursuant to section sixty-five hundred ten of
47 this article.

48 c. In accordance with the intent of this section, adjustment to the
49 mandatory continuing education requirement may be granted by the depart-
50 ment for reasons of health that are certified by an appropriate health
51 care professional, for extended active duty with the armed forces of the
52 United States, or for other good cause acceptable to the department
53 which may prevent compliance.

54 d. An optometrist not engaged in practice, as determined by the
55 department, shall be exempt from the mandatory continuing education
56 requirement upon the filing of a statement with the department declaring

1 such status. Any licensee who returns to the practice of optometry
2 during the triennial registration period shall notify the department
3 prior to reentering the profession and shall meet such continuing educa-
4 tion requirements as shall be prescribed by regulations of the commis-
5 sioner.

6 e. Optometrists subject to the provisions of this subdivision shall
7 maintain adequate documentation of completion of acceptable continuing
8 education credits and shall provide such documentation at the request of
9 the department. Failure to provide such documentation upon the request
10 of the department shall be an act of misconduct subject to disciplinary
11 proceedings pursuant to section sixty-five hundred ten of this article.

12 f. The mandatory continuing education fee shall be determined by the
13 department. Such fee shall be payable on or before the first day of each
14 triennial registration period, and shall be paid in addition to the
15 triennial registration fee required by subdivision eight of section
16 seventy-one hundred four of this title.

17 8. Notice to patient with the use or prescription of topical therapeutic
18 pharmaceutical agents and therapeutic pharmaceutical agents for
19 treatment of glaucoma and ocular hypertension. a. (i) An optometrist
20 prescribing topical steroids or antiviral medication shall inform each
21 patient that in the event the condition does not improve within five
22 days, a physician of the patient's choice will be notified.

23 (ii) An optometrist engaged in a written consultation with an ophthal-
24 mo-ologist shall inform a patient diagnosed with glaucoma that the optome-
25 trist will have the diagnosis confirmed and co-managed with an ophthal-
26 mo-ologist of the patient's choice, or one selected by the optometrist.

27 b. In addition, each optometrist certified to prescribe and use thera-
28 peutic drugs shall have posted conspicuously in the office reception
29 area the following notice:

30 "Dr. (Name), O.D. is certified by New York State to use drugs to diag-
31 nose and treat diseases of the eye. In the event your condition requires
32 the use of steroids or antiviral medication and your condition does not
33 improve within five days, a physician of your choice will be notified.

34 In the event you are diagnosed with glaucoma, the optometrist will
35 have your diagnosis confirmed and treatment co-managed with an ophthal-
36 mo-ologist (MD) of your choice, or if you wish, one selected by Dr.
37 (Name)."

38 The second paragraph of such notice shall only be required to be
39 included during the period when the optometrist is engaged in a written
40 consultation pursuant to subdivision six of this section.

41 9. Education review committee. An education review committee is hereby
42 created to advise and assist the commissioner in evaluating pre-acquired
43 clinical training. The members of the committee shall be appointed by
44 the commissioner in consultation with the chancellor of the state
45 university of New York. The committee shall consist of five members, two
46 of whom shall be optometrists on the faculty of the SUNY college of
47 optometry, two of whom shall be ophthalmologists who, in addition to
48 being members of the faculty of any approved medical school in this
49 state and not also faculty members of SUNY college of optometry, have
50 surgical privileges at a New York state hospital. The fifth member who
51 shall be designated as chair shall be an expert in the field of public
52 health and shall be neither an ophthalmologist nor an optometrist.

53 The commissioner shall submit each application to the committee for
54 its review and recommendation. In making such recommendation, the
55 committee shall advise as to the number of hours of pre-acquired clin-
56 ical training, if any, to be approved, based upon the information

1 submitted with the application. In evaluating such training, the commit-
2 tee shall be authorized to require the submission of such reasonable
3 documentation needed to facilitate the committee's review of the adequa-
4 cy and relevance of such training.

5 9-a. Pre-acquired clinical training. a. Each optometrist requesting
6 approval of pre-acquired clinical training shall submit a written appli-
7 cation to the department. The commissioner, in consultation with the
8 education review committee may provide credit for the following:

9 (i) clinical training acquired at an institution accredited by a
10 regional or professional accreditation organization which is recognized
11 or approved by the United States Department of Education and the depart-
12 ment;

13 (ii) clinical training acquired at a facility licensed by the state of
14 New York in accordance with article twenty-eight of this chapter or at a
15 comparable facility located in another state or country provided the
16 licensing requirements or accreditation requirements of such institution
17 are comparable to those of New York state;

18 (iii) hospital affiliations, including rounds and patient management
19 for applicants having staff privileges at such facility;

20 (iv) consultation and co-management with ophthalmologists of patients
21 with ocular disease and post-surgery recovery;

22 (v) postdoctoral accredited residency or fellowship programs;

23 (vi) experience at an accredited educational institution as a faculty
24 instructor in clinical practice, ocular disease management and pharma-
25 cology;

26 (vii) experience in other states in which the applicant has been
27 certified to use therapeutic pharmaceutical agents.

28 b. Any optometrist disagreeing with the recommendation of the educa-
29 tion review committee shall have a right to appeal in writing to the
30 commissioner. The decision of the commissioner shall be final and bind-
31 ing on all parties.

32 10. Pharmaceutical agents. Optometrists who have been approved and
33 certified by the department shall be permitted to use the following
34 drugs:

35 a. Diagnostic pharmaceuticals.

36 b. Those optometrists having been certified for topical therapeutic
37 pharmaceutical agents shall be authorized to use and prescribe all
38 topical therapeutic pharmaceutical agents specified in paragraph e of
39 subdivision one of this section, which are FDA approved and commercially
40 available for topical use.

41 In the event an optometrist treats a patient with topical antiviral or
42 steroidal drugs and the patient's condition either fails to improve or
43 worsens within five days, the optometrist shall notify a physician
44 designated by the patient or, if none, by the treating optometrist.

45 c. Those optometrists having been certified for therapeutic pharmaceu-
46 tical agents for treatment of glaucoma and ocular hypertension shall be
47 authorized to use and prescribe therapeutic pharmaceutical agents for
48 treatment of glaucoma and ocular hypertension specified in paragraph f
49 of subdivision one of this section, which are FDA approved and commer-
50 cially available.

51 d. Those optometrists having been certified for oral therapeutic phar-
52 maceutical agents shall be authorized to use and prescribe oral thera-
53 peutic pharmaceutical agents specified in paragraph g of subdivision one
54 of this section, which are FDA approved and commercially available and
55 shall comply with all safety information and side-effect and warning
56 advisories contained in the most current physicians' desk reference.

1 e. Those optometrists having been certified for topical therapeutic
2 pharmaceutical agents, therapeutic pharmaceutical agents for treatment
3 of glaucoma and ocular hypertension or oral therapeutic pharmaceutical
4 agents shall be authorized to use and recommend all nonprescription
5 medications, whether intended for topical or oral use, appropriate for
6 the treatment of the eye and adnexa.

7 11. Responsibilities of the commissioner. The commissioner shall adopt
8 regulations a. providing for the certification of graduates of an appro-
9 priate program approved by the department who have successfully passed
10 the examination on the use of diagnostic and therapeutic pharmaceutical
11 agents and who have graduated subsequent to January first, nineteen
12 hundred ninety-three; and b. providing for the certification of optome-
13 trists who have graduated from other accredited colleges of optometry or
14 who are licensed to practice in other jurisdictions, have demonstrated
15 such use in independently managed patients and are seeking licensure and
16 certification in New York.

17 12. Responsibilities of the commissioner. The commissioner may recom-
18 mend additions or deletions to the department's regulations relating to
19 optometric use of drugs except that such recommendations shall be limit-
20 ed only to additions which have been determined to be equivalent to
21 those drugs already authorized or deletions based upon a finding that
22 the drugs are no longer appropriate for their current use or for other
23 similar reasons.

24 § 7102. Practice of optometry and use of title "optometrist". Only a
25 person licensed or exempt under this title shall practice optometry or
26 use the title "optometrist".

27 § 7103. State board for optometry. A state board for optometry shall
28 be appointed by the commissioner for the purpose of assisting the
29 department on matters of professional licensing and professional conduct
30 in accordance with section sixty-five hundred eight of this article. The
31 board shall be composed of not less than seven optometrists who shall
32 have been residents of this state engaged in the practice of optometry
33 for at least five years in this state. An executive secretary to the
34 board shall be appointed by the commissioner.

35 § 7104. Requirements for a professional license. To qualify for a
36 license as an optometrist, an applicant shall fulfill the following
37 requirements:

- 38 (1) Application: file an application with the department;
39 (2) Education: have received an education, including a degree of
40 doctor of optometry or equivalent degree, in accordance with the commis-
41 sioner's regulations;
42 (3) Experience: have experience satisfactory to the board and in
43 accordance with the commissioner's regulations;
44 (4) Examination: pass an examination satisfactory to the board and in
45 accordance with the commissioner's regulations;
46 (5) Age: be at least twenty-one years of age;
47 (6) Citizenship: meet no requirement as to United States citizenship;
48 (7) Character: be of good moral character as determined by the depart-
49 ment; and

50 (8) Fees: pay a fee of two hundred twenty dollars to the department
51 for admission to a department conducted examination and for an initial
52 license, a fee of one hundred fifteen dollars for each reexamination, a
53 fee of one hundred thirty-five dollars for an initial license for
54 persons not requiring admission to a department conducted examination, a
55 fee of two hundred ten dollars for each triennial registration period,
56 for additional authorization for the purpose of utilizing diagnostic

1 pharmaceutical agents, a fee of sixty dollars, and for certification to
2 use or prescribe oral therapeutic pharmaceutical agents, a fee of two
3 hundred fifty dollars.

4 § 7105. Exempt persons. Nothing in this title shall be construed to
5 affect or prevent:

6 1. A student from engaging in clinical practice under supervision of a
7 licensed optometrist or physician in a school of optometry in this state
8 registered by the department; or

9 2. A person licensed to practice optometry from using a degree
10 conferred in course after resident study by an educational institution
11 lawfully authorized by the state in which it is located to confer such a
12 degree.

13 3. An optometrist licensed in another state or country who is employed
14 on a full-time basis by a registered school of optometry as a faculty
15 member with the rank of assistant professor or higher from conducting
16 research and clinical demonstrations as part of such employment, under
17 the supervision of a licensed optometrist and on the premises of the
18 school. No fee may be charged for the practice of optometry authorized
19 by this subdivision.

20 4. a. A person in training or appropriately trained and deemed quali-
21 fied by the supervising licensed optometrist, to assist a licensed opto-
22 metrist in the care of a patient for the purpose of instilling mydriatic
23 or cycloplegic eye drops and anesthetic eye drops in conjunction with
24 such dilating drops to the surface of the eye of a patient, provided
25 that the person instilling such eye drops is:

26 (i) under the on-site supervision of a supervising licensed optome-
27 trist;

28 (ii) at least eighteen years of age; and

29 (iii) complies with standards issued by the department.

30 b. The supervising licensed optometrist shall submit a form prescribed
31 by the department, detailing the identity of each person instilling
32 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-
33 tion with such dilating drops to the surface of the eye of a patient,
34 under his or her supervision, attesting to compliance with the above
35 requirements.

36 c. The supervising licensed optometrist's use of any such person
37 pursuant to the terms of this subdivision shall be undertaken with
38 professional judgment in order to ensure the safety and well-being of
39 the patient. Such use shall subject the licensed optometrist to the
40 full disciplinary and regulatory authority of the department pursuant to
41 this title. The licensed optometrist must notify the patient or the
42 patient's designated health care surrogate that the licensed optometrist
43 may utilize the services of an individual to administer certain eye
44 drops and must provide the patient or the patient's designated health
45 care surrogate the opportunity to refuse the licensed optometrist's plan
46 to utilize such person.

47 § 7106. Special provisions. 1. The testimony and reports of a licensed
48 optometrist shall be received by any official, board, commission or
49 other agency of the state or of any of its subdivisions or municipi-
50 palities as qualified evidence with respect to any matter defined in
51 section seventy-one hundred one of this title; and no official, board,
52 commission, or other agency of the state or any of its subdivisions or
53 municipalities shall discriminate among the practitioners of optometry
54 and any other ocular practitioners.

55 2. Eyeglasses or lenses for the correction of vision or non-corrective
56 contact lenses may be sold by any person, firm or corporation at retail,

1 only on prescription of a licensed physician or licensed optometrist and
2 only if a licensed physician, optometrist or ophthalmic dispenser is in
3 charge of and in personal attendance at the place of sale. This title
4 shall not apply to binoculars, telescopes, or other lenses used for
5 simple magnification; except, that a seller of non-prescription ready-
6 to-wear magnifying spectacles or glasses shall have the following
7 language attached to each pair of glasses or spectacles displayed or
8 offered for sale and in at least ten point bold type permanently affixed
9 in plain view to the top of any point of sale display or, if there is no
10 display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION
11 GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR
12 EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE
13 NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used
14 in this subdivision "non-prescription, ready to wear magnifying specta-
15 cles or glasses" means spherical convex lenses, uniform in each meridi-
16 an, which are encased in eyeglass frames and intended to ameliorate the
17 symptoms of presbyopia. The lenses in such glasses shall be of uniform
18 focus power in each eye and shall not exceed 2.75 diopters.

19 3. It shall be a class A misdemeanor to practice any fraud, deceit or
20 misrepresentation in any advertising related to optometric services.

21 § 7107. Advertising of non-prescription ready-to-wear magnifying spec-
22 tacles or glasses. 1. Any printed advertising for non-prescription read-
23 y-to-wear magnifying spectacles or glasses to be sold through the mail
24 also shall include the statement, "ATTENTION; READY-TO-WEAR NON-PRES-
25 SCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENS-
26 ES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE
27 CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION
28 NEEDS." As used in this section, "non-prescription, ready to wear magni-

29 fying spectacles or glasses" means spherical convex lenses, uniform in
30 each meridian, which are encased in eyeglass frames and intended to
31 ameliorate the symptoms of presbyopia. The lenses in such glasses shall
32 be of uniform focus power in each eye and shall not exceed 2.75 diop-
33 ters.

34 2. Any person, his or her agent or employee who shall violate any
35 provision of this section shall be subject to a civil penalty of not
36 less than twenty-five dollars nor more than two hundred fifty dollars
37 for each violation. For purposes of this section, the sale or offer for
38 sale of each pair of non-prescription ready-to-wear magnifying specta-
39 cles or glasses which fail to meet the standards of this section shall
40 constitute a violation.

41 TITLE 16

42 OPHTHALMIC DISPENSING

43 Section 7120. Introduction.

44 7121. Definition of practice of ophthalmic dispensing.

45 7122. Practice of ophthalmic dispensing and use of title
46 "ophthalmic dispenser" or "optician".

47 7123. State board for ophthalmic dispensing.

48 7124. Requirements for a professional license.

49 7125. Exemptions.

50 7126. Special provisions.

51 7127. Advertising of non-prescription ready-to-wear magnifying
52 spectacles or glasses.

53 7128. Mandatory continuing education.

1 § 7120. Introduction. This title shall apply to the profession of
2 ophthalmic dispensing. The general provisions for all professions
3 contained in title one of this article shall apply to this title.

4 § 7121. Definition of practice of ophthalmic dispensing. The practice
5 of the profession of "ophthalmic dispensing", for the purposes of this
6 chapter, is defined as adapting and fitting lenses, for the correction
7 of deficiencies, deformities, or anomalies, of the human eyes, or adapt-
8 ing and fitting non-corrective contact lenses, on written prescriptions
9 from a licensed physician or optometrist. Replacements or duplicates of
10 such lenses may be adapted and dispensed without prescription. Contact
11 lenses may be fitted by an ophthalmic dispenser only under the personal
12 supervision of a licensed physician or optometrist.

13 § 7122. Practice of ophthalmic dispensing and use of title "ophthalmic
14 dispenser" or "optician". Only a person licensed or exempt under this
15 title or a corporation, partnership, or persons doing business under an
16 assumed name and either composed of licensed ophthalmic dispensers or
17 employing licensed ophthalmic dispensers shall practice ophthalmic
18 dispensing or use the title "ophthalmic dispenser", "optician", "optical
19 technician", "dispensing optician", or "optical dispenser".

20 § 7123. State board for ophthalmic dispensing. A state board for
21 ophthalmic dispensing shall be appointed by the commissioner for the
22 purpose of assisting the department on matters of professional licensing
23 and professional conduct in accordance with section sixty-five hundred
24 eight of this article. Such board shall be composed of not less than
25 seven licensed ophthalmic dispensers who shall have been residents of
26 this state engaged in the practice of ophthalmic dispensing for at least
27 five years in this state. An executive secretary to such board shall be
28 appointed by the commissioner. As used in this title, the term "the
29 board" shall mean the state board for ophthalmic dispensing appointed
30 pursuant to this section.

31 § 7124. Requirements for a professional license. 1. To qualify for a
32 license as an ophthalmic dispenser, an applicant shall fulfill the
33 following requirements:

34 a. Application: file an application with the department;

35 b. Education: have received an education, including high school gradu-
36 ation and completion, in accordance with the commissioner's regulations,
37 of either (i) a two-year program in ophthalmic dispensing; or (ii) two
38 years of training and experience in ophthalmic dispensing under the
39 supervision of a licensed ophthalmic dispenser, optometrist, or physi-
40 cian;

41 c. Experience: have experience satisfactory to the board and in
42 accordance with the commissioner's regulations;

43 d. Examination: pass an examination satisfactory to the board and in
44 accordance with the commissioner's regulations;

45 e. Age: be at least eighteen years of age;

46 f. Citizenship: meet no requirement as to United States citizenship;

47 g. Character: be of good moral character as determined by the depart-
48 ment; and

49 h. Fees: pay a fee of one hundred fifteen dollars to the department
50 for admission to a department-conducted examination and for an initial
51 license, a fee of forty-five dollars for each reexamination, a fee of
52 fifty dollars for an initial license for persons not requiring admission
53 to a department conducted examination, and a fee of fifty dollars for
54 each triennial registration period.

55 2. A person licensed after July first, nineteen hundred seventy-three
56 shall be permitted to fit contact lenses only if the licensee, in addi-

tion to the requirements of subdivision a of this section, shall (1) pass a separate examination satisfactory to the board and in accordance with the commissioner's regulations; and (2) have the requisite experience in the fitting of contact lenses satisfactory to the board and in accordance with the commissioner's regulations.

§ 7125. Exemptions. Nothing in this title shall be construed to affect or prevent:

1. An unlicensed person from performing merely mechanical work upon inert matter in an optical office, laboratory, or shop;

2. A student from engaging in clinical practice, under the supervision of a licensed ophthalmic dispenser or licensed optometrist, or licensed physician, in an ophthalmic dispensing school or college registered by the department; or

3. The department from issuing a limited permit to an applicant who meets all requirements for admission to the licensing examination required under section seventy-one hundred twenty-four of this title, provided, however, that:

a. Practice under a limited permit shall be under the supervision of a licensed physician, optometrist or ophthalmic dispenser.

b. A limited permit shall expire after two years, or upon notice to the applicant that the application for licensure has been denied, or ten days after notification to the applicant of failure on the professional licensing examination, whichever shall first occur. Notwithstanding the foregoing provisions of this subdivision, if the applicant is waiting for the result of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the applicant of the results of such examination. A limited permit which has not expired as a result of notice of denial of licensure or of failure on the licensing examination may be renewed for a period of not more than one additional year, upon a showing satisfactory to the department that the applicant could not obtain a license within two years.

c. Supervision of a permittee by a licensed physician, optometrist, or ophthalmic dispenser shall be on-site supervision but not necessarily direct personal supervision.

d. The fee for each limited permit and for each renewal shall be thirty-five dollars. The fee for issuance of a training permit shall be thirty dollars.

§ 7126. Special provisions. 1. Eyeglasses or lenses for the correction of vision or non-corrective contact lenses may be sold by any person, firm or corporation at retail, only on prescription of a licensed physician or licensed optometrist and only if a licensed physician, optometrist, or ophthalmic dispenser is in charge of and in personal attendance at the place of such sale. This title shall not apply to binoculars, telescopes, or other lenses used for simple magnification, except that a seller of non-prescription ready-to-wear magnifying spectacles or glasses shall have the following language attached to each pair of glasses or spectacles displayed or offered for sale and in at least ten-point bold type permanently affixed in plain view to the top of any point of sale display, or, if there is no display, in the area of sale: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivision, "non-prescription, ready-to-wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are

1 encased in eyeglass frames and intended to ameliorate the symptoms of
2 presbyopia. The lenses in such glasses shall be of uniform focus power
3 in each eye and shall not exceed 2.75 diopters.

4 2. It shall be a class A misdemeanor to practice any fraud, deceit or
5 misrepresentation in any advertising related to ophthalmic dispensing.

6 § 7127. Advertising of non-prescription ready-to-wear magnifying spec-
7 tacles or glasses. 1. Any printed advertising for non-prescription read-
8 y-to-wear magnifying spectacles or glasses to be sold through the mail
9 shall include the statement: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION
10 GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR
11 EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE
12 NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used
13 in this section, "non-prescription, ready-to-wear magnifying spectacles
14 or glasses" means spherical convex lenses, uniform in each meridian,
15 which are encased in eyeglass frames and intended to ameliorate the
16 symptoms of presbyopia. The lenses in such glasses shall be of uniform
17 focus power in each eye and shall not exceed 2.75 diopters.

18 2. Any person or his or her agent or employee who violates any
19 provision of this section shall be subject to a civil penalty of not
20 less than twenty-five dollars nor more than two hundred fifty dollars
21 for each such violation. For purposes of this section, the sale or offer
22 for sale of each pair of non-prescription ready-to-wear magnifying spec-
23 tacles or glasses that fail to meet the standards of this section shall
24 constitute a violation of this section.

25 § 7128. Mandatory continuing education. 1. a. Each licensed ophthalmic
26 dispenser required under this title to register triennially with the
27 department to practice in the state shall comply with the provisions of
28 the mandatory continuing education requirements prescribed in subdivi-
29 sion two of this section, except as otherwise set forth in paragraphs a
30 and c of this subdivision. Ophthalmic dispensers who do not satisfy such
31 mandatory continuing education requirements shall not practice until
32 they have met such requirements, and they have been issued a registra-
33 tion certificate, except that an ophthalmic dispenser may practice with-
34 out having met such requirements if he or she is issued a conditional
35 registration certificate pursuant to subdivision three of this section.

36 b. Ophthalmic dispensers shall be exempt from the mandatory continuing
37 education requirement for the triennial registration period during which
38 they are first licensed. In accord with the intent of this section,
39 adjustment to the mandatory continuing education requirement may be
40 granted by the department for reasons of health certified by an appro-
41 priate health care professional, for extended active duty with the armed
42 forces of the United States, or for other good cause acceptable to the
43 department which may prevent compliance.

44 c. A licensed ophthalmic dispenser not engaged in practice, as deter-
45 mined by the department, shall be exempt from the mandatory continuing
46 education requirement upon the filing of a statement with the department
47 declaring such status. Any licensee who returns to the practice of
48 ophthalmic dispensing during the triennial registration period shall
49 notify the department prior to reentering the profession and shall meet
50 such mandatory education requirements as shall be prescribed by regu-
51 lations of the commissioner.

52 2. During each triennial registration period an applicant for regis-
53 tration as an ophthalmic dispenser shall complete a minimum of eighteen
54 hours of acceptable formal continuing education, as specified in subdivi-
55 sion four of this section; provided that three hours may be in recog-
56 nized areas of study pertinent to the dispensing and fitting of contact

1 lenses. During each triennial registration period an applicant for
2 registration as an ophthalmic dispenser and certified to fit contact
3 lenses shall complete twenty hours of acceptable formal continuing
4 education, as specified in subdivision four of this section; provided
5 that ten hours shall be in recognized areas of study pertinent to the
6 dispensing and fitting of contact lenses. Any ophthalmic dispenser whose
7 first registration date following the effective date of this section
8 occurs less than three years from such effective date, but on or after
9 January first, nineteen hundred ninety-nine, shall complete continuing
10 education hours on a prorated basis at the rate of one-half hour per
11 month for the period beginning January first, nineteen hundred ninety-
12 eight up to the first registration date thereafter. A licensee who has
13 not satisfied the mandatory continuing education requirements shall not
14 be issued a triennial registration certificate by the department and
15 shall not practice unless and until a conditional registration certif-
16 icate is issued as provided for in subdivision three of this section.
17 Continuing education hours taken during one triennium may not be trans-
18 ferred to a subsequent triennium.

19 3. The department, in its discretion, may issue a conditional regis-
20 tration to a licensee who fails to meet the continuing education
21 requirements established in subdivision two of this section but who
22 agrees to make up any deficiencies and complete any additional education
23 which the department may require the fee for such a conditional regis-
24 tration shall be the same as, and in addition to, the fee for the trien-
25 niel registration. The duration of such conditional registration shall
26 be determined by the department but shall not exceed one year. Any
27 licensee who is notified of the denial of registration for failure to
28 submit evidence, satisfactory to the department, of required continuing
29 education and who practices without such registration, may be subject to
30 disciplinary proceedings pursuant to section sixty-five hundred ten of
31 this article.

32 4. As used in subdivision two of this section, "acceptable formal
33 education" shall mean formal courses of learning which contribute to
34 professional practice in ophthalmic dispensing and which meet the stand-
35 ards prescribed by regulations of the commissioner. Such formal courses
36 of learning shall include, but not be limited to, collegiate level cred-
37 it and non-credit courses. Professional development programs and techni-
38 cal sessions offered by national, state, and local professional associ-
39 ations and other organizations acceptable to the department, and any
40 other organized educational and technical programs acceptable to the
41 department. The department, in its discretion and as needed to contrib-
42 ute to the health and welfare of the public, may require the completion
43 of continuing education courses in specific subjects to fulfill such
44 mandatory continuing education requirement. Courses must be taken from
45 a sponsor approved by the department, pursuant to the regulations of the
46 commissioner.

47 5. Ophthalmic dispensers shall maintain adequate documentation of
48 completion of acceptable formal continuing education and shall provide
49 such documentation at the request of the department. Failure to provide
50 such documentation upon the request of the department shall be an act of
51 misconduct subject to disciplinary proceedings pursuant to section
52 sixty-five hundred ten of this article.

53 6. The mandatory continuing education fee shall be forty-five dollars,
54 shall be payable on or before the first day of each triennial registra-
55 tion period, and shall be paid in addition to the triennial registration
56 fee required by section seventy-one hundred twenty-four of this title.

TITLE 17
PSYCHOLOGY

Section 7600. Introduction.

7601. Practice of psychology and use of the title "psychologist".

7601-a. Definition of the practice of psychology.

7602. State board for psychology.

7603. Requirements for a professional license.

7604. Limited permits.

7605. Exempt persons.

7606. Prohibitions.

7607. Mandatory continuing education.

§ 7600. Introduction. This title applies to the profession and practice of psychology and to the use of the title "psychologist". The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7601. Practice of psychology and use of the title "psychologist". Only a person licensed or otherwise authorized under this title shall be authorized to practice psychology or to use the title "psychologist" or to describe his or her services by use of the words "psychologist", "psychology", or "psychological" in connection with his or her practice.

§ 7601-a. Definition of the practice of psychology. 1. As used in this chapter, the practice of "psychology" shall mean the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior; enhancing interpersonal relationships, personal, group, or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive, or behavioral disorders, disabilities, ailments, or illnesses, alcoholism, substance use, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); and the use of accepted classification systems.

2. As used in this title, the term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling, psychotherapy, marital or family therapy, psychoanalysis, and other psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner.

§ 7602. State board for psychology. A state board for psychology shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than eleven psychologists licensed in this state. An executive secretary to the board shall be appointed by the commissioner and shall be a psychologist, licensed in this state. As used in this title, the term "the board" shall mean the state board for psychology appointed pursuant to this section.

§ 7603. Requirements for a professional license. To qualify for a license as a psychologist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

1 2. Education: have received an education, including a doctoral degree
2 in psychology, granted on the basis of completion of a program of
3 psychology registered with the department or the substantial equivalent
4 thereof, in accordance with the commissioner's regulations;

5 3. Experience: have two years of supervised employment or engagement
6 in appropriate psychology activities satisfactory to the board and in
7 accordance with the commissioner's regulations. Satisfactory experience
8 obtained in an entity operating pursuant to a waiver issued by the
9 department pursuant to section sixty-five hundred three-a of this arti-
10 cle may be accepted by the department, notwithstanding that such experi-
11 ence may have been obtained prior to the effective date of such section
12 sixty-five hundred three-a and/or prior to the entity having obtained a
13 waiver. The department may, for good cause shown, accept satisfactory
14 experience that was obtained in a setting that would have been eligible
15 for a waiver but which has not obtained a waiver with the department or
16 experience that was obtained in good faith by the applicant under the
17 belief that appropriate authorization had been obtained for the experi-
18 ence, provided that such experience meets all other requirements for
19 acceptable experience;

20 4. Examination: pass an examination satisfactory to the board and in
21 accordance with the commissioner's regulations;

22 5. Age: be at least twenty-one years of age;

23 6. Citizenship: meet no requirement as to United States citizenship;

24 7. Character: be of good moral character as determined by the depart-
25 ment; and

26 8. Fees: pay a fee of one hundred seventy dollars to the department
27 for admission to a department-conducted examination and for an initial
28 license, a fee of eighty-five dollars for each reexamination, a fee of
29 one hundred fifteen dollars for an initial license for persons not
30 requiring admission to a department-conducted examination, and a fee of
31 one hundred fifty-five dollars for each triennial registration period.

32 § 7604. Limited permits. 1. On recommendation of the board, the
33 department may issue a limited permit to practice as psychologist to an
34 applicant holding a certificate or license to practice psychology issued
35 by another state or country, and whose qualifications have been approved
36 for admission to the examination for a license as psychologist and who
37 has resided in this state for a period of not more than six months prior
38 to the filing of such application. Such limited permit shall be valid
39 for a period of not more than twelve months, or until ten days after
40 notification to the applicant of failure of the professional licensing
41 examination, or until the results of a licensing examination for which
42 the applicant is eligible are officially released, whichever comes
43 first.

44 2. On the recommendation of the board, the department may issue a
45 limited permit valid for an aggregate of three years to a person who has
46 completed the doctoral dissertation and other doctoral degree require-
47 ments and is gaining supervised experience to meet the experience
48 requirements for licensure. Such permit may be re-issued for a maximum
49 period of one year for good cause, as determined by the department.

50 3. Fees. The fee for each limited permit shall be seventy dollars.

51 § 7605. Exempt persons. Nothing in this title shall be construed to
52 affect or prevent:

53 1. The activities, services, and use of the title of psychologist, or
54 any derivation thereof, on the part of a person in the employ of a
55 federal, state, county or municipal agency, or other political subdivi-
56 sion, or a chartered elementary or secondary school or degree-granting

1 educational institution insofar as such activities and services are a
2 part of the duties of his or her salaried position; or on the part of a
3 person in the employ as a certified school psychologist on a full-time
4 or part-time salary basis, which may include on an hourly, weekly, or
5 monthly basis, or on a fee for evaluation services basis provided that
6 such person employed as a certified school psychologist is employed by
7 and under the dominion and control of a preschool special education
8 program approved pursuant to paragraph b of subdivision nine or subdivi-
9 sion nine-a of section forty-four hundred ten of the education law to
10 provide activities, services and to use the title "certified school
11 psychologist", so long as this shall not be construed to permit the use
12 of the title "licensed psychologist", to students enrolled in such
13 approved program or to conduct a multidisciplinary evaluation of a
14 preschool child having or suspected of having a disability; or on the
15 part of a person in the employ as a certified school psychologist on a
16 full-time or part-time salary basis, which may include on an hourly,
17 weekly or monthly basis, or on a fee for evaluation services basis
18 provided that such person employed as a certified school psychologist is
19 employed by and under the dominion and control of an agency approved in
20 accordance with title two-A of article twenty-five of this chapter to
21 deliver early intervention program multidisciplinary evaluations,
22 service coordination services and early intervention program services,
23 each in the course of their employment. Nothing in this subdivision
24 shall be construed to authorize a certified school psychologist or group
25 of such school psychologists to engage in independent practice or prac-
26 tice outside of an employment relationship.

27 2. The activities and services required of a student, intern, or resi-
28 dent in psychology, pursuing a course of study leading to a doctoral
29 degree in psychology in an institution approved by the department,
30 provided that such activities and services constitute a part of his or
31 her supervised course of study in psychology. Such persons shall be
32 designated by the titles "psychological intern", "psychological train-
33 ee", or other such title which clearly indicates his or her training
34 status.

35 3. The practice, conduct, activities or services by any person
36 licensed or otherwise authorized to practice medicine within the state
37 pursuant to title two of this article or by any person registered to
38 perform services as a physician assistant within the state pursuant to
39 title three of this article.

40 4. The practice, conduct, activities, or services by any person
41 licensed or otherwise authorized to practice nursing as a registered
42 professional nurse or nurse practitioner within the state pursuant to
43 title twelve of this article or by any person licensed or otherwise
44 authorized to practice social work within the state pursuant to title
45 eighteen of this article, or by any person licensed or otherwise author-
46 ized to practice mental health counseling, marriage and family therapy,
47 creative arts therapy, or psychoanalysis within the state pursuant to
48 title twenty-five of this article, or any person licensed or otherwise
49 authorized to practice applied behavior analysis within the state pursu-
50 ant to title twenty-nine of this article or any individual who is
51 credentialed under any law, including attorneys, rape crisis counselors,
52 certified alcoholism counselors, and certified substance abuse counse-
53 lors from providing mental health services within their respective
54 established authorities.

55 5. The conduct, activities, or services of any member of the clergy or
56 Christian Science practitioner, in the provision of pastoral counseling

1 services within the context of his or her ministerial charge or obli-
2 gation.

3 6. The conduct, activities, or services of individuals, churches,
4 schools, teachers, organizations, or not-for-profit businesses in
5 providing instruction, advice, support, encouragement, or information to
6 individuals, families, and relational groups.

7 7. The practice, conduct, activities, or services of an occupational
8 therapist from performing work consistent with title twenty of this
9 article.

10 8. The representation as a psychologist and the rendering of services
11 as such in this state for a temporary period of a person who resides
12 outside the state of New York and who engages in practice as a psychol-
13 ogist and conducts the major part of his or her practice as such outside
14 this state, provided such person has filed with the department evidence
15 that he or she has been licensed or certified in another state or has
16 been admitted to the examination in this state pursuant to section
17 seventy-six hundred three of this title. Such temporary period shall
18 not exceed ten consecutive business days in any period of ninety consec-
19 utive days or in the aggregate exceed more than fifteen business days in
20 any such ninety-day period.

21 9. The provision of psychotherapy as defined in subdivision two of
22 section eighty-four hundred one of this article to the extent permissi-
23 ble within the scope of practice of psychology, by any not-for-profit
24 corporation or education corporation providing services within the state
25 of New York and operating under a waiver pursuant to section sixty-five
26 hundred three-a of this article, provided that such entities offering
27 psychology services shall only provide such services through an individ-
28 ual appropriately licensed or otherwise authorized to provide such
29 services or a professional entity authorized by law to provide such
30 services.

31 10. a. A person without a license from: performing assessments includ-
32 ing but not limited to basic information collection, gathering of demo-
33 graphic data, and informal observations, screening and referral used for
34 general eligibility for a program or service and determining the func-
35 tional status of an individual for the purpose of determining need for
36 services; advising individuals regarding the appropriateness of benefits
37 they are eligible for; providing general advice and guidance and assist-
38 ing individuals or groups with difficult day-to-day problems such as
39 finding employment, locating sources of assistance, and organizing
40 community groups to work on a specific problem; providing peer services;
41 selecting for suitability and providing substance abuse treatment
42 services or group re-entry services to incarcerated individuals in state
43 correctional facilities; or providing substance abuse treatment services
44 or re-entry services to incarcerated individuals in local correctional
45 facilities.

46 b. A person without a license from creating, developing or implement-
47 ing a service plan or recovery plan that is not a behavioral health
48 diagnosis or treatment plan. Such service or recovery plans shall
49 include, but are not limited to, coordinating, evaluating or determining
50 the need for, or the provision of the following services: job training
51 and employability; housing; homeless services and shelters for homeless
52 individuals and families; refugee services; residential, day or communi-
53 ty habilitation services; general public assistance; in-home services
54 and supports or home-delivered meals; recovery supports; adult or child
55 protective services including investigations; detention as defined in
56 section five hundred two of the executive law; prevention and residen-

1 tial services for victims of domestic violence; services for runaway and
2 homeless youth; foster care, adoption, preventive services or services
3 in accordance with an approved plan pursuant to section four hundred
4 four of the social services law, including, adoption and foster home
5 studies and assessments, family service plans, transition plans, perman-
6 ency planning activities, and case planning or case management as such
7 terms are defined in the regulations of the office of children and fami-
8 ly services; residential rehabilitation; home and community based
9 services; and de-escalation techniques, peer services or skill develop-
10 ment.

11 c. (i) A person without a license from participating as a member of a
12 multi-disciplinary team to assist in the development of or implementa-
13 tion of a behavioral health services or treatment plan; provided that
14 such team shall include one or more professionals licensed under this
15 title or titles two, twelve, eighteen or twenty-five of this article;
16 and provided, further, that the activities performed by members of the
17 team shall be consistent with the scope of practice for each team member
18 licensed or authorized under title eight of this article, and those who
19 are not so authorized may not engage in the following restricted prac-
20 tices: the diagnosis of mental, emotional, behavioral, addictive and
21 developmental disorders and disabilities; patient assessment and evalu-
22 ating; the provision of psychotherapeutic treatment; the provision of
23 treatment other than psychotherapeutic treatment; or independently
24 developing and implementing assessment-based treatment plans as defined
25 in section seventy-seven hundred one of this article.

26 (ii) For the purposes of this paragraph, "assist" shall include, but
27 not be limited to, the provision or performance of the following tasks,
28 services, or functions by an individual who has obtained the training
29 and experience required by the applicable state oversight agency to
30 perform such task, service or function in facilities or programs operat-
31 ing pursuant to article nineteen-G of the executive law; articles seven,
32 sixteen, thirty-one or thirty-two of the mental hygiene law; or title
33 three of article seven of the social services law:

34 (1) helping an individual with the completion of forms or question-
35 naires;

36 (2) reviewing existing case records and collecting background informa-
37 tion about an individual which may be used by the licensed professional
38 or multi-disciplinary team;

39 (3) gathering and reporting information about previous behavioral
40 health interventions, hospitalizations, documented diagnosis, or prior
41 treatment for review by the licensed professional and multi-disciplinary
42 team;

43 (4) discussing with the individual his or her situation, needs,
44 concerns, and thoughts in order to help identify services that support
45 the individual's goals, independence, and quality of life;

46 (5) providing advice, information, and assistance to individuals and
47 family members to identify needs and available resources in the communi-
48 ty to help meet the needs of the individual or family member;

49 (6) engaging in immediate and long-term problem solving, engaging in
50 the development of social skills, or providing general help in areas
51 including, but not limited to, housing, employment, child care, parent-
52 ing, community-based services, and finances;

53 (7) distributing paper copies of self-administered tests for the indi-
54 vidual to complete when such tests do not require the observation and
55 judgment of a licensed professional;

1 (8) monitoring treatment by the collection of written and/or observa-
2 tional data in accordance with the treatment plan and providing verbal
3 or written reports to the multi-disciplinary team;

4 (9) identifying gaps in services and coordinating access to or arrang-
5 ing services for individuals such as home care, community-based
6 services, housing, employment, transportation, child care, vocational
7 training, or health care;

8 (10) offering education programs that provide information about
9 disease identification and recommended treatments that may be provided,
10 and how to access such treatment;

11 (11) reporting on behavior, actions, and responses to treatment by
12 collecting written and/or observational data as part of a multi-disci-
13 plinary team;

14 (12) using de-escalation techniques consistent with appropriate train-
15 ing;

16 (13) performing assessments using standardized, structured interview
17 tools or instruments;

18 (14) directly delivering services outlined in the service plan that
19 are not clinical in nature but have been tailored to an individual based
20 on any diagnoses such individual may have received from a licensed
21 professional; and

22 (15) advocating with educational, judicial or other systems to protect
23 an individual's rights and access to appropriate services.

24 d. Provided, further, that nothing in this subdivision shall be
25 construed as requiring a license for any particular activity or function
26 based solely on the fact that the activity or function is not listed in
27 this subdivision.

28 11. a. The conduct, activities, or services of a technician to admin-
29 ister and score standardized objective (non-projective) psychological or
30 neuropsychological tests that have specific predetermined and manualized
31 administrative procedures which entail observing and describing test
32 behavior and test responses, and which do not require evaluation, inter-
33 pretation or other judgments; provided, however, that such technician
34 shall:

35 (i) hold no less than a bachelor's degree in psychology or a related
36 field;

37 (ii) undergo a process of regular training by a licensed psychologist,
38 which shall include, but not be limited to a minimum of eighty total
39 hours of (1) professional ethics, (2) studying and mastering information
40 from test manuals, and (3) direct observation of a licensed psychologist
41 or trained technician administering and scoring tests, in addition to a
42 minimum of forty total hours of administering and scoring tests in the
43 presence of a licensed psychologist or trained technician, provided such
44 interaction with the licensed psychologist equals or exceeds fifty
45 percent of the total training time;

46 (iii) be under the direct and ongoing supervision of a licensed
47 psychologist in no greater than a three-to-one ratio or the part time
48 equivalent thereto;

49 (iv) not be employed within a school setting; and

50 (v) not select tests, analyze patient data, or communicate results to
51 patients.

52 b. The supervising licensed psychologist must submit, pursuant to a
53 form to be prescribed and developed within ninety days of the effective
54 date of this subdivision by the department, a sworn statement detailing
55 compliance with the above requirements. The licensed psychologist's use
56 of such individual pursuant to the terms of this subdivision shall be

1 undertaken only with special care and professional judgment in order to
2 ensure the safety and well-being of the patient considering the severity
3 of the symptoms, the age of the patient and the length of the examina-
4 tion process, and shall include appropriate ongoing contact with the
5 licensed psychologist at appropriate intervals. Such use shall be
6 subject to the full disciplinary and regulatory authority of the depart-
7 ment pursuant to this title. The licensed psychologist shall notify the
8 patient or designated health care surrogate that the licensed psychol-
9 ogist may utilize the services of a technician to administer certain
10 exams, and shall provide the patient or designated health care surrogate
11 the opportunity to object to the licensed psychologist's plan to utilize
12 a technician.

13 12. Notwithstanding any other provision of law to the contrary, noth-
14 ing in this title shall be construed to prohibit or limit the activities
15 or services provided under this title by any person who is employed or
16 who commences employment in a program or service operated, regulated,
17 funded, or approved by the department of mental hygiene, the office of
18 children and family services, or a local governmental unit as that term
19 is defined in section 41.03 of the mental hygiene law or a social
20 services district as defined in section sixty-one of the social services
21 law on or before two years from the date that the regulations issued in
22 accordance with section six of part Y of chapter fifty-seven of the laws
23 of two thousand eighteen appear in the state register or are adopted,
24 whichever is later. Such prohibitions or limitations shall not apply to
25 such employees for as long as they remain employed by such programs or
26 services and whether they remain employed by the same or other employers
27 providing such programs or services. Provided, however, that any person
28 who commences employment in such program or service after such date and
29 performs services that are restricted under this title shall be appro-
30 priately licensed or authorized under this title. Each state oversight
31 agency shall create and maintain a process to verify employment history
32 of individuals exempt under this subdivision.

33 13. The activities or services provided by a person with a master's
34 level degree in psychology or its equivalent, working under the super-
35 vision of a licensed psychologist in a program or service operated,
36 regulated, funded, or approved by the department of mental hygiene, the
37 office of children and family services, or a local government unit as
38 such term is defined in section 41.03 of the mental hygiene law or a
39 social services district as defined in section sixty-one of the social
40 services law.

41 § 7606. Prohibitions. Any individual whose license or authority to
42 practice derives from the provisions of this title shall be prohibited
43 from:

44 1. prescribing or administering drugs as defined in this chapter as a
45 treatment, therapy, or professional service in the practice of his or
46 her profession; or

47 2. using invasive procedures as a treatment, therapy, or professional
48 service in the practice of his or her profession. For purposes of this
49 subdivision, "invasive procedure" means any procedure in which human
50 tissue is cut, altered, or otherwise infiltrated by mechanical or other
51 means. Invasive procedure includes surgery, lasers, ionizing radiation,
52 therapeutic ultrasound, or electroconvulsive therapy.

53 § 7607. Mandatory continuing education. 1. a. Each psychologist
54 required under this title to register triennially with the department to
55 practice in this state, shall comply with the provisions for mandatory
56 continuing education prescribed in subdivision two of this section,

1 except as set forth in paragraphs b and c of this subdivision. Psychol-
2 ogists who do not satisfy the mandatory continuing education require-
3 ments shall not practice until they have met such requirements and they
4 have been issued a registration certificate, except that a psychologist
5 may practice without having met such requirements if he or she is issued
6 a conditional registration certificate pursuant to subdivision three of
7 this section.

8 b. Each psychologist shall be exempt from the mandatory continuing
9 education requirements for the triennial registration period during
10 which they are first licensed. In accordance with the intent of this
11 section, adjustment to the mandatory continuing education requirement
12 may be granted by the department for reasons of health that are certi-
13 fied by an appropriate health care professional, for extended active
14 duty with the armed forces of the United States, or for other good cause
15 acceptable to the department which may prevent compliance.

16 c. A psychologist not engaged in practice, as determined by the
17 department, shall be exempt from the mandatory continuing education
18 requirement upon the filing of a statement with the department declaring
19 such status. Any licensee who returns to the practice of psychology
20 during the triennial registration period shall notify the department
21 prior to reentering the profession and shall meet such continuing educa-
22 tion requirements as shall be prescribed by regulations of the commis-
23 sioner.

24 2. During each triennial registration period, an applicant for regis-
25 tration as a psychologist shall complete a minimum of thirty-six hours
26 of acceptable learning activities, a minimum of three hours of which
27 shall be course work in the area of professional ethics, including the
28 laws, rules and regulations for practice in New York. Any psychologist
29 whose first registration date following the effective date of this
30 section occurs less than three years from such effective date, but on or
31 after January first, two thousand twenty-one, shall complete continuing
32 education hours on a prorated basis at the rate of one hour per month
33 for the period beginning January first, two thousand twenty-one up to
34 the first registration date thereafter. A psychologist who has not
35 satisfied the mandatory continuing education requirement shall not be
36 issued a triennial registration certificate by the department and shall
37 not practice unless and until a conditional registration is issued as
38 provided for in subdivision three of this section. Continuing education
39 hours taken during one triennium shall not be transferred to the subse-
40 quent triennium.

41 3. a. The department, in its discretion, may issue a conditional
42 registration to a psychologist who fails to meet the continuing educa-
43 tion requirements established in subdivision two of this section, but
44 who agrees to make up any deficiencies and complete any additional
45 education which the department may require. The fee for such a condi-
46 tional registration shall be the same as, and in addition to, the fee
47 for the triennial registration. The duration of such conditional regis-
48 tration shall be determined by the department, but shall not exceed one
49 year. Any psychologist who is notified of the denial of registration for
50 failure to submit evidence, satisfactory to the department, of required
51 continuing education and who practices without such registration may be
52 subject to disciplinary proceedings pursuant to section sixty-five
53 hundred ten of this article.

54 b. For purposes of this section:

55 (i) "acceptable learning activities" shall include, but not be limited
56 to, formal courses of learning which contribute to professional practice

in psychology and/or self-study activities; independent study; formal mentoring activities; publication in professional journals; or lectures, which meet the standards prescribed by regulations of the commissioner; and

(ii) "formal courses of learning" shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state, and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Formal courses shall be taken from a sponsor approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner.

c. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education credits in specific subjects to fulfill this mandatory continuing education requirement.

d. Psychologists shall maintain adequate documentation of completion of acceptable continuing education credits and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

e. The mandatory continuing education fee shall be determined by the department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by subdivision eight of section seventy-six hundred three of this title.

TITLE 18 SOCIAL WORK

Section 7700. Introduction.

7701. Definitions.

7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker".

7703. State board for social work.

7704. Requirements for a license.

7705. Limited permits.

7706. Exempt persons.

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7708. Boundaries of professional practice.

7709. Hospital privileges.

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§ 7700. Introduction. This title applies to the profession and practice of social work, the practice of licensed master social work, and the practice of clinical social work, and to the use of the titles "licensed master social worker", and "licensed clinical social worker". The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7701. Definitions. 1. Practice of licensed master social work.

a. The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness

1 and injury experienced by individuals, couples, families, groups, commu-
2 nities, organizations, and society.

3 b. Licensed master social workers engage in the administration of
4 tests and measures of psychosocial functioning, social work advocacy,
5 case management, counseling, consultation, research, administration and
6 management, and teaching.

7 c. Licensed master social workers provide all forms of supervision
8 other than supervision of the practice of licensed clinical social work
9 as defined in subdivision two of this section.

10 d. Licensed master social workers practice licensed clinical social
11 work in facility settings or other supervised settings approved by the
12 department under supervision in accordance with the commissioner's regu-
13 lations.

14 2. Practice of clinical social work. a. The practice of clinical
15 social work encompasses the scope of practice of licensed master social
16 work and, in addition, includes the diagnosis of mental, emotional,
17 behavioral, addictive and developmental disorders and disabilities and
18 of the psychosocial aspects of illness, injury, disability and impair-
19 ment undertaken within a psychosocial framework; administration and
20 interpretation of tests and measures of psychosocial functioning; devel-
21 opment and implementation of appropriate assessment-based treatment
22 plans; and the provision of crisis oriented psychotherapy and brief,
23 short-term and long-term psychotherapy and psychotherapeutic treatment
24 to individuals, couples, families and groups, habilitation, psychoanal-
25 ysis and behavior therapy; all undertaken for the purpose of preventing,
26 assessing, treating, ameliorating and resolving psychosocial dysfunction
27 with the goal of maintaining and enhancing the mental, emotional, behav-
28 ioral, and social functioning and well-being of individuals, couples,
29 families, small groups, organizations, communities and society.

30 b. Diagnosis in the context of licensed clinical social work practice
31 is the process of distinguishing, beyond general social work assessment,
32 between similar mental, emotional, behavioral, developmental and addic-
33 tive disorders, impairments and disabilities within a psychosocial
34 framework on the basis of their similar and unique characteristics
35 consistent with accepted classification systems.

36 c. Psychotherapy in the context of licensed clinical social work prac-
37 tice is the use of verbal methods in interpersonal relationships with
38 the intent of assisting a person or persons to modify attitudes and
39 behavior which are intellectually, socially, or emotionally maladaptive.

40 d. Development of assessment-based treatment plans in the context of
41 licensed clinical social work practice refers to the development of an
42 integrated plan of prioritized interventions, that is based on the diag-
43 nosis and psychosocial assessment of the client, to address mental,
44 emotional, behavioral, developmental and addictive disorders, impair-
45 ments and disabilities, reactions to illnesses, injuries, disabilities
46 and impairments, and social problems.

47 § 7702. Authorized practice and the use of the titles "licensed master
48 social worker" and "licensed clinical social worker". 1. In addition to
49 the licensed social work services included in subdivisions one and two
50 of section seventy-seven hundred one of this title, licensed master
51 social workers and licensed clinical social workers may perform the
52 following social work functions that do not require a license under this
53 title, including but not limited to:

54 a. Serve as a community organizer, planner, or administrator for
55 social service programs in any setting.

1 b. Provide supervision and/or consultation to individuals, groups,
2 institutions and agencies.
3 c. Serve as a faculty member or instructor in an educational setting.
4 d. Plan and/or conduct research projects and program evaluation
5 studies.
6 e. Maintain familiarity with both professional and self-help systems
7 in the community in order to assist the client in such services when
8 necessary.
9 f. Provide advice and guidance and assist individuals or groups with
10 difficult day-to-day problems such as finding employment, locating
11 sources of assistance, and organizing community groups to work on a
12 specific problem.
13 g. Consult with other agencies on problems and cases served in common
14 and coordinating services among agencies or providing case management.
15 h. Conduct data gathering on social problems.
16 i. Serve as an advocate for clients or groups of clients whose needs
17 are not being met by available programs or by a specific agency.
18 j. Assess, evaluate, and formulate a plan of action based on client
19 need.
20 k. Provide training to community groups, agencies, and other profes-
21 sionals.
22 l. Provide administrative supervision.
23 m. Provide peer services.
24 n. Collect basic information, gathering of demographic data, and
25 informal observations, screening and referral used for general eligibil-
26 ity for a program or service and determining the functional status of an
27 individual for the purpose of determining the need for services.
28 2. a. Only a person licensed or exempt under this title shall practice
29 "licensed master social work" as defined in subdivision one of section
30 seventy-seven hundred one of this title.
31 b. Only a person licensed pursuant to subdivision one of section
32 seventy-seven hundred four of this title shall use the title "licensed
33 master social worker" or the designation "LMSW".
34 3. a. Only a person licensed or exempt under this title shall practice
35 "licensed clinical social work" as defined in subdivision two of section
36 seventy-seven hundred one of this title.
37 b. Only a person licensed pursuant to subdivision two of section
38 seventy-seven hundred four of this title shall use the title "licensed
39 clinical social worker" or the designation "LCSW".
40 § 7703. State board for social work. A state board for social work
41 shall be appointed by the commissioner for the purpose of assisting the
42 department on matters of professional licensing, practice, and conduct
43 in accordance with section sixty-five hundred eight of this article. The
44 board shall be composed of not less than twelve members, of which five
45 shall be licensed clinical social workers, five shall be licensed master
46 social workers and two members of the public. Members of the first board
47 need not be licensed prior to their appointment to the board. The terms
48 of the first appointed members shall be staggered so that four are
49 appointed for three years, four are appointed for four years, and four
50 are appointed for five years. An executive secretary to the board shall
51 be appointed by the commissioner and shall be licensed pursuant to this
52 title. As used in this title, "the board" shall mean the state board for
53 social work as appointed pursuant to this section.
54 § 7704. Requirements for a license. 1. To qualify for a license as a
55 "licensed master social worker" an applicant shall fulfill the following
56 requirements:

1 a. Application: file an application with the department;
2 b. Education: have received an education, including a master's of
3 social work degree from a program registered by the department, or
4 determined by the department to be the substantial equivalent, in
5 accordance with the commissioner's regulations;
6 c. Experience: meet no requirement as to experience;
7 d. Examination: pass an examination satisfactory to the board and in
8 accordance with the commissioner's regulations;
9 e. Age: be at least twenty-one years of age;
10 f. Character: be of good moral character as determined by the depart-
11 ment; and
12 g. Fees: pay a fee of one hundred fifteen dollars to the department
13 for an initial license, and a fee of one hundred fifty-five dollars for
14 each triennial registration period. An additional surcharge in the
15 amount of five dollars shall be paid with each triennial registration
16 fee and shall be used for the marketing and evaluation of the regents
17 licensed social worker loan forgiveness program established by section
18 six hundred five of the education law.
19 2. To qualify for a license as a "licensed clinical social worker", an
20 applicant shall fulfill the following requirements:
21 a. Application: file an application with the department;
22 b. Education: have received an education, including a master's of
23 social work degree from a program registered by the department, or
24 determined by the department to be the substantial equivalent, that
25 includes completion of a core curriculum which includes at least twelve
26 credit hours of clinical courses, in accordance with the commissioner's
27 regulations; a person who has received a master's, or equivalent degree
28 in social work, during which they did not complete a core curriculum
29 which includes clinical courses, may satisfy this requirement by
30 completing equivalent post-graduate clinical coursework, in accordance
31 with the commissioner's regulations;
32 c. Experience: have at least three years full-time supervised post-
33 graduate clinical social work experience in diagnosis, psychotherapy,
34 and assessment-based treatment plans, or its part-time equivalent,
35 obtained over a continuous period not to exceed six years, under the
36 supervision, satisfactory to the department, of a psychiatrist, a
37 licensed psychologist, or a licensed clinical social worker in a facili-
38 ty setting or other supervised settings approved by the department.
39 Satisfactory experience obtained in an entity operating under a waiver
40 issued by the department pursuant to section sixty-five hundred three-a
41 of this article may be accepted by the department, notwithstanding that
42 such experience may have been obtained prior to the effective date of
43 such section sixty-five hundred three-a and/or prior to the entity
44 having obtained a waiver. The department may, for good cause shown,
45 accept satisfactory experience that was obtained in a setting that would
46 have been eligible for a waiver but which has not obtained a waiver from
47 the department or experience that was obtained in good faith by the
48 applicant under the belief that appropriate authorization had been
49 obtained for the experience, provided that such experience meets all
50 other requirements for acceptable experience;
51 d. Examination: pass an examination satisfactory to the board and in
52 accordance with the commissioner's regulations;
53 e. Age: be at least twenty-one years of age;
54 f. Character: be of good moral character as determined by the depart-
55 ment; and

1 g. Fees: pay a fee of one hundred fifteen dollars to the department
2 for an initial license and a fee of one hundred fifty-five dollars for
3 each triennial registration period.

4 § 7705. Limited permits. 1. On recommendation of the board, the
5 department may issue a limited permit to practice licensed clinical
6 social work and use the title licensed clinical social worker, or to
7 practice licensed master social work and use the title licensed master
8 social worker to an applicant who has met all requirements for licensure
9 as a licensed master social worker or a licensed clinical social worker
10 except those relating to the examination and provided that the individ-
11 ual is under the general supervision of a licensed master social worker
12 or a licensed clinical social worker, as determined by the department.
13 This limited permit shall be valid for a period of not more than twelve
14 months.

15 2. The fee for each limited permit shall be seventy dollars.

16 § 7706. Exempt persons. Nothing contained in this title shall be
17 construed to:

18 1. Apply to the practice, conduct, activities, services or use of any
19 title by any person licensed or otherwise authorized to practice medi-
20 cine within the state pursuant to title two of this article or by any
21 person registered to perform services as a physician assistant within
22 the state pursuant to title four of this article or by any person
23 licensed or otherwise authorized to practice psychology within this
24 state pursuant to title seventeen of this article or by any person
25 licensed or otherwise authorized to practice nursing as a registered
26 professional nurse or nurse practitioner within this state pursuant to
27 title twelve of this article or by any person licensed or otherwise
28 authorized to practice occupational therapy within this state pursuant
29 to title twenty of this article or by any person licensed or otherwise
30 authorized to practice mental health counseling, marriage and family
31 therapy, creative arts therapy, or psychoanalysis within the state
32 pursuant to title twenty-five of this article or by any person licensed
33 or otherwise authorized to practice applied behavior analysis within the
34 state pursuant to title twenty-nine of this article; provided, however,
35 that no physician, physician assistant, registered professional nurse,
36 nurse practitioner, psychologist, occupational therapist, licensed
37 mental health counselor, licensed marriage and family therapist,
38 licensed creative arts therapist, licensed psychoanalyst, licensed
39 behavior analyst or certified behavior analyst assistant may use the
40 titles "licensed clinical social worker" or "licensed master social
41 worker", unless licensed under this title.

42 2. Prevent or prohibit an individual possessing a baccalaureate of
43 social work degree or its equivalent from the performance of activities
44 and services within the scope of practice of licensed master social work
45 as defined in paragraphs a and b of subdivision one of section seventy-
46 seven hundred one of this title under supervision by a licensed master
47 social worker, a licensed clinical social worker or in accordance with
48 the commissioner's regulations.

49 3. Prevent or prohibit a licensed master social worker from the
50 performance of activities and services within the scope of practice of
51 licensed clinical social work as defined in subdivision two of section
52 seventy-seven hundred one of this title in a facility setting and under
53 supervision in accordance with the commissioner's regulations.

54 4. Prevent or prohibit the performance of activities and services
55 within the scope of practice of licensed master social work as defined
56 in subdivision one of section seventy-seven hundred one of this title by

1 individuals, churches, schools, teachers, organizations, or not-for-pro-
2 fit businesses which are providing instruction, advice, support, encour-
3 agement or information to individuals, families, and relational groups.

4 5. Prevent or prohibit the performance of activities and services
5 within the scope of practice of licensed master social work or licensed
6 clinical social work as defined in section seventy-seven hundred one of
7 this title by the following:

8 a. any individual who is credentialed under any law, including attor-
9 neys, rape crisis counselors, credentialed alcoholism and substance
10 abuse counselors whose scope of practice includes the practices defined
11 in section seventy-seven hundred one of this title from performing or
12 claiming to perform work authorized by applicable provisions of this
13 chapter and the mental hygiene law;

14 b. provision of pastoral counseling services by any member of the
15 clergy or Christian science practitioner, from providing pastoral coun-
16 seling services within the context of his or her ministerial charge or
17 obligation;

18 c. students who are enrolled in a baccalaureate of social work or
19 professional graduate level social work program of study, and which are
20 required to perform as part of the field work component of such program,
21 services provided under the supervision of a field work supervisor
22 approved by the program;

23 d. on the part of a student or trainee who is enrolled in an institu-
24 tion or program registered by the department or accredited by an accred-
25 iting organization acceptable to the department to provide training in a
26 discipline or profession, other than social work or clinical social
27 work, that is licensed pursuant to this title, where such activities and
28 services are authorized within the definition of the scope of practice
29 of the profession, or discipline in which he or she is being trained as
30 set forth in the education law or the commissioner's regulations,
31 provided that such services are performed under the regular and ongoing
32 supervision of a licensee in the profession or discipline in which he or
33 she is being trained who assumes professional responsibility for the
34 services performed under his or her supervision and that such activities
35 and the provision of such services are a formal part of the professional
36 training program in which he or she is enrolled;

37 e. any federal, state, county or municipal employee performing clin-
38 ical social work services upon the effective date of this section for
39 the period during which they maintain such employment with such govern-
40 mental unit within the context of such employment and shall be limited
41 to the services provided upon such effective date; and

42 f. any employee performing clinical social work services on the effec-
43 tive date of this section for the period during which they maintain such
44 employment with such entity within the context of such employment, and
45 shall be limited to the services provided prior to such effective date.

46 6. Prohibit the practice of licensed master social work or licensed
47 clinical social work, to the extent permissible within the scope of
48 practice of such professions, by any not-for-profit corporation or
49 education corporation providing services within the state of New York
50 and operating under a waiver pursuant to section sixty-five hundred
51 three-a of this article, provided that such entities offering licensed
52 master social work or licensed clinical social work services shall only
53 provide such services through an individual appropriately licensed or
54 otherwise authorized to provide such services or a professional entity
55 authorized by law to provide such services.

1 7. a. Prevent a person without a license from: performing assessments
2 including but not limited to basic information collection, gathering of
3 demographic data, and informal observations, screening and referral used
4 for general eligibility for a program or service and determining the
5 functional status of an individual for the purpose of determining need
6 for services; advising individuals regarding the appropriateness of
7 benefits they are eligible for; providing general advice and guidance
8 and assisting individuals or groups with difficult day to day problems
9 such as finding employment, locating sources of assistance, and organiz-
10 ing community groups to work on a specific problem; providing peer
11 services; selecting for suitability and providing substance abuse treat-
12 ment services or group re-entry services to incarcerated individuals in
13 state correctional facilities; or providing substance abuse treatment
14 services or re-entry services to incarcerated individuals in local
15 correctional facilities.

16 b. Prevent a person without a license from creating, developing or
17 implementing a service plan or recovery plan that is not a behavioral
18 health diagnosis or treatment plan. Such service or recovery plans
19 shall include, but are not limited to, coordinating, evaluating or
20 determining the need for, or the provision of the following services:
21 job training and employability; housing; homeless services and shelters
22 for homeless individuals and families; refugee services; residential,
23 day or community habilitation services; general public assistance;
24 in-home services and supports or home-delivered meals; recovery
25 supports; adult or child protective services including investigations;
26 detention as defined in section five hundred two of the executive law;
27 prevention and residential services for victims of domestic violence;
28 services for runaway and homeless youth; foster care, adoption, preven-
29 tive services or services in accordance with an approved plan pursuant
30 to section four hundred four of the social services law, including,
31 adoption and foster home studies and assessments, family service plans,
32 transition plans, permanency planning activities, and case planning or
33 case management as such terms are defined in the regulations of the
34 office of children and family services; residential rehabilitation; home
35 and community based services; and de-escalation techniques, peer
36 services or skill development.

37 c. (i) Prevent a person without a license from participating as a
38 member of a multi-disciplinary team to assist in the development of or
39 implementation of a behavioral health services or treatment plan;
40 provided that such team shall include one or more professionals licensed
41 under this title or titles two, twelve, seventeen or twenty-five of this
42 article; and provided, further, that the activities performed by members
43 of the team shall be consistent with the scope of practice for each team
44 member licensed or authorized under title eight of this article, and
45 those who are not so authorized may not engage in the following
46 restricted practices: the diagnosis of mental, emotional, behavioral,
47 addictive and developmental disorders and disabilities; patient assess-
48 ment and evaluating; the provision of psychotherapeutic treatment; the
49 provision of treatment other than psychotherapeutic treatment; or inde-
50 pendently developing and implementing assessment-based treatment plans
51 as defined in section seventy-seven hundred one of this title.

52 (ii) For the purposes of this paragraph, "assist" shall include, but
53 not be limited to, the provision or performance of the following tasks,
54 services, or functions by an individual who has obtained the training
55 and experience required by the applicable state oversight agency to
56 perform such task, service or function in facilities or programs operat-

1 ing pursuant to article nineteen-G of the executive law; articles seven,
2 sixteen, thirty-one or thirty-two of the mental hygiene law; or title
3 three of article seven of the social services law:

4 (1) helping an individual with the completion of forms or question-
5 naires;

6 (2) reviewing existing case records and collecting background informa-
7 tion about an individual which may be used by the licensed professional
8 or multi-disciplinary team;

9 (3) gathering and reporting information about previous behavioral
10 health interventions, hospitalizations, documented diagnosis, or prior
11 treatment for review by the licensed professional and multi-disciplinary
12 team;

13 (4) discussing with the individual his or her situation, needs,
14 concerns, and thoughts in order to help identify services that support
15 the individual's goals, independence, and quality of life;

16 (5) providing advice, information, and assistance to individuals and
17 family members to identify needs and available resources in the communi-
18 ty to help meet the needs of the individual or family member;

19 (6) engaging in immediate and long-term problem solving, engaging in
20 the development of social skills, or providing general help in areas
21 including, but not limited to, housing, employment, child care, parent-
22 ing, community-based services, and finances;

23 (7) distributing paper copies of self-administered tests for the indi-
24 vidual to complete when such tests do not require the observation and
25 judgment of a licensed professional;

26 (8) monitoring treatment by the collection of written and/or observa-
27 tional data in accordance with the treatment plan and providing verbal
28 or written reports to the multi-disciplinary team;

29 (9) identifying gaps in services and coordinating access to or arrang-
30 ing services for individuals such as home care, community-based
31 services, housing, employment, transportation, child care, vocational
32 training, or health care;

33 (10) offering education programs that provide information about
34 disease identification and recommended treatments that may be provided,
35 and how to access such treatment;

36 (11) reporting on behavior, actions, and responses to treatment by
37 collecting written and/or observational data as part of a multi-disci-
38 plinary team;

39 (12) using de-escalation techniques consistent with appropriate train-
40 ing;

41 (13) performing assessments using standardized, structured interview
42 tools or instruments;

43 (14) directly delivering services outlined in the service plan that
44 are not clinical in nature but have been tailored to an individual based
45 on any diagnoses such individual may have received from a licensed
46 professional; and

47 (15) advocating with educational, judicial or other systems to protect
48 an individual's rights and access to appropriate services.

49 d. Provided, further, that nothing in this subdivision shall be
50 construed as requiring a license for any particular activity or function
51 based solely on the fact that the activity or function is not listed in
52 this subdivision.

53 8. Notwithstanding any other provision of law to the contrary, nothing
54 in this title shall be construed to prohibit or limit the activities or
55 services provided under this title by any person who is employed or who
56 commences employment in a program or service operated, regulated, fund-

1 ed, or approved by the department of mental hygiene, the office of chil-
2 dren and family services, the department of corrections and community
3 supervision, the office of temporary and disability assistance, the
4 state office for the aging and the department of health or a local
5 governmental unit as that term is defined in section 41.03 of the mental
6 hygiene law or a social services district as defined in section sixty-
7 one of the social services law on or before two years from the date that
8 the regulations issued in accordance with section six of part Y of chap-
9 ter fifty-seven of the laws of two thousand eighteen appear in the state
10 register or are adopted, whichever is later. Such prohibitions or limi-
11 tations shall not apply to such employees for as long as they remain
12 employed by such programs or services and whether they remain employed
13 by the same or other employers providing such programs or services.
14 Provided however, that any person who commences employment in such
15 program or service after such date and performs services that are
16 restricted under this title shall be appropriately licensed or author-
17 ized under this title. Each state oversight agency shall create and
18 maintain a process to verify employment history of individuals exempt
19 under this subdivision.

20 § 7707. Special provisions. 1. Any person who is licensed as a certi-
21 fied social worker on the effective date of this title shall be licensed
22 as a licensed master social worker without meeting any additional
23 requirements.

24 2. Any person who possesses a master's of social work degree on the
25 effective date of this section, who has five years of post-graduate
26 social work employment and meets the requirements for a license pursuant
27 to this title, except for examination, and who files with the department
28 within one year of the effective date of this section shall be licensed
29 as a licensed master social worker.

30 3. Any person who is licensed as a certified social worker on the
31 effective date of this section and who has been authorized pursuant to
32 section three thousand two hundred twenty-one or section four thousand
33 three hundred three of the insurance law shall be licensed as a licensed
34 clinical social worker without meeting any additional requirements.

35 4. Any person who is licensed as a certified social worker on the
36 effective date of this section, but who has not received authorization
37 pursuant to section three thousand two hundred twenty-one or four thou-
38 sand three hundred three of the insurance law, who files with the
39 department within one year of the effective date of this section an
40 application pursuant to subdivision two of section seventy-seven hundred
41 four of this title, who demonstrates to the satisfaction of the depart-
42 ment that they meet the experience requirements for authorization pursu-
43 ant to section three thousand two hundred twenty-one or four thousand
44 three hundred three of the insurance law, shall be licensed as a
45 licensed clinical social worker without meeting any further require-
46 ments.

47 5. Licensed master social workers and licensed clinical social workers
48 may use accepted classifications of signs, symptoms, dysfunctions and
49 disorders, including, but not limited to, classifications used in the
50 practice setting for the purpose of providing mental health services.

51 § 7708. Boundaries of professional practice. Any individual whose
52 license or authority to practice derives from the provisions of this
53 title shall be prohibited from:

54 1. Prescribing or administering drugs as defined in this chapter or as
55 a treatment, therapy, or professional service in the practice of his or
56 her profession; or

1 2. Using invasive procedures as a treatment, therapy, or professional
2 service in the practice of his or her profession. For purposes of this
3 subdivision, "invasive procedure" means any procedure in which human
4 tissue is cut, altered, or otherwise infiltrated by mechanical or other
5 means. Invasive procedure includes surgery, lasers, ionizing radiation,
6 therapeutic ultrasound, or electroconvulsive therapy.

7 § 7709. Hospital privileges. Nothing in this title shall be deemed to
8 authorize, grant, or extend hospital privileges to individuals licensed
9 under this title.

10 § 7710. Mandatory continuing education. 1. a. Each licensed master
11 social worker or licensed clinical social worker required under this
12 title to register triennially with the department to practice in this
13 state, shall comply with the provisions of mandatory continuing educa-
14 tion requirements prescribed in subdivision two of this section, except
15 as set forth in paragraphs b and c of this subdivision. Licensed master
16 social workers or licensed clinical social workers who do not satisfy
17 the mandatory continuing education requirements shall not practice until
18 they have met such requirements and they have been issued a registration
19 certificate, except that a licensed master social worker or licensed
20 clinical social worker may practice without having met such requirements
21 if he or she is issued a conditional registration certificate pursuant
22 to subdivision three of this section.

23 b. Each licensed master social worker or licensed clinical social
24 worker shall be exempt from the mandatory continuing education require-
25 ments for the triennial registration period during which they are first
26 licensed. In accordance with the intent of this section, adjustment to
27 the mandatory continuing education requirement may be granted by the
28 department for reasons of health that are certified by an appropriate
29 health care professional, for extended active duty with the armed forces
30 of the United States, or for other good cause acceptable to the depart-
31 ment which may prevent compliance.

32 c. A licensed master social worker or a licensed clinical social work-
33 er not engaged in practice, as determined by the department, shall be
34 exempt from the mandatory continuing education requirement upon the
35 filing of a statement with the department declaring such status. Any
36 licensee who returns to the practice of social work during the triennial
37 registration period shall notify the department prior to reentering the
38 profession and shall meet such mandatory education requirements as shall
39 be prescribed by regulations of the commissioner.

40 d. A licensed clinical social worker who is also licensed and regis-
41 tered to practice as a licensed master social worker in the same trien-
42 niel registration period, shall not be required to complete more than
43 thirty-six hours of continuing education in the triennial registration
44 period, or one hour per month for a registration period other than thir-
45 ty-six months.

46 2. During each triennial registration period an applicant for regis-
47 tration as a licensed master social worker or licensed clinical social
48 worker shall complete a minimum of thirty-six hours of acceptable formal
49 continuing education. Any licensed master social worker or licensed
50 clinical social worker whose first registration date following the
51 effective date of this section occurs less than three years from such
52 effective date, but on or after January first, two thousand fifteen,
53 shall complete continuing education hours on a prorated basis at the
54 rate of one hour per month for the period beginning January first, two
55 thousand fifteen up to the first registration date thereafter. A licen-
56 see who has not satisfied the mandatory continuing education requirement

1 shall not be issued a triennial registration certificate by the depart-
2 ment and shall not practice unless and until a conditional registration
3 is issued as provided for in subdivision three of this section. Contin-
4 uing education hours taken during one triennium shall not be transferred
5 to the subsequent triennium.

6 3. a. The department, in its discretion, may issue a conditional
7 registration to a licensee who fails to meet the continuing education
8 requirements established in subdivision two of this section but who
9 agrees to make up any deficiencies and complete any additional education
10 which the department may require. The fee for such a conditional regis-
11 tration shall be the same as, and in addition to, the fee for the trien-
12 cial registration. The duration of such conditional registration shall
13 be determined by the department but shall not exceed one year. Any
14 licensee who is notified of the denial of registration for failure to
15 submit evidence, satisfactory to the department, of required continuing
16 education and who practices without such registration may be subject to
17 disciplinary proceedings pursuant to section sixty-five hundred ten of
18 this article.

19 b. For purposes of this section "acceptable formal education" shall
20 mean formal courses of learning which contribute to professional prac-
21 tice in social work and which meet the standards prescribed by regu-
22 lations of the commissioner. Such formal courses of learning shall
23 include, but not be limited to, collegiate level credit and non-credit
24 courses, professional development programs and technical sessions
25 offered by national, state and local professional associations and other
26 organizations acceptable to the department, and any other organized
27 educational and technical programs acceptable to the department.
28 Continuing education courses shall be taken from a provider who has been
29 approved by the department, based upon an application and fee, pursuant
30 to the regulations of the commissioner. The department may, in its
31 discretion and as needed to contribute to the health and welfare of the
32 public, require the completion of continuing education courses in
33 specific subjects to fulfill this mandatory continuing education
34 requirement. Licensed master social workers or licensed clinical social
35 workers shall maintain adequate documentation of completion of accepta-
36 ble formal continuing education and shall provide such documentation at
37 the request of the department. Failure to provide such documentation
38 upon the request of the department shall be an act of misconduct subject
39 to disciplinary proceedings pursuant to section sixty-five hundred ten
40 of this article.

41 c. The mandatory continuing education fee shall be determined by the
42 department. Such fee shall be payable on or before the first day of
43 each triennial registration period and shall be paid in addition to the
44 triennial registration fee required by paragraph g of subdivision one
45 and paragraph g of subdivision two of section seventy-seven hundred four
46 of this title.

47 TITLE 19
48 MASSAGE THERAPY

49 Section 7800. Introduction.

50 7801. Definition of practice of massage therapy.

51 7802. Practice of massage therapy and use of title "masseur",
52 "masseuse" or "massage therapist" or the term "massage"
53 or "massage therapy".

54 7803. State board for massage therapy.

55 7804. Requirements for a professional license.

7805. Exempt persons.

7806. Limited permits.

7807. Mandatory continuing education.

§ 7800. Introduction. This title applies to the profession of massage therapy. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7801. Definition of practice of massage therapy. As used in this chapter, the practice of the profession of massage therapy is defined as engaging in applying a scientific system of activity to the muscular structure of the human body by means of stroking, kneading, tapping and vibrating with the hands or vibrators for the purpose of improving muscle tone and circulation.

§ 7802. Practice of massage therapy and use of title "masseur", "masseuse" or "massage therapist" or the term "massage" or "massage therapy". Only a person licensed or authorized pursuant to this title shall practice massage therapy and only a person licensed under this title shall use the title "masseur", "masseuse" or "massage therapist". No person, firm, partnership or corporation claiming to be engaged in the practice of massage or massage therapy shall in any manner describe, advertise, or place any advertisement for services as defined in section seventy-eight hundred one of this title unless such services are performed by a person licensed or authorized pursuant to this chapter.

§ 7803. State board for massage therapy. A state board for massage therapy shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven persons, four of whom shall have been engaged in the teaching, research, or practice of massage therapy for at least three years. The remaining three members of the board shall be physicians licensed in this state. An executive secretary to the board shall be appointed by the commissioner. As used in this title, "the board" shall mean the state board for massage therapy as appointed pursuant to this section.

§ 7804. Requirements for a professional license. To qualify for a license as a massage therapist, masseur or masseuse, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school graduation and graduation from a school or institute of massage therapy with a program registered by the department, or its substantial equivalent in both subject matter and extent of training, provided that the program in such school or institute shall consist of classroom instruction of a total of not less than five hundred hours in subjects satisfactory to the department;

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department-conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission

1 to a department-conducted examination, and a fee of fifty dollars for
2 each triennial registration period.

3 § 7805. Exempt persons. Nothing contained in this title shall be
4 construed to prohibit:

5 1. The practice of massage therapy by any person who is authorized to
6 practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or
7 podiatry in accordance with the provisions of this article.

8 2. The practice of a massage which is customarily given in barber
9 shops or beauty parlors for the purpose of beautification by any
10 licensed barber or beauty culturist.

11 3. The practice of massage therapy by any person employed in a medical
12 institution licensed or chartered by the state of New York, provided
13 that such person is under the on-site supervision of a person licensed
14 to practice massage therapy or authorized to practice massage therapy by
15 subdivision one of this section, or by any person enrolled in a program
16 of a school or institute of massage therapy registered by the depart-
17 ment, or enrolled in a program which satisfies the requirements of
18 section seventy-eight hundred four of this title, provided that such
19 person is under the on-site supervision of a person licensed to practice
20 massage therapy or authorized to practice massage therapy by subdivision
21 one of this section.

22 4. The practice of massage therapy by any person duly employed as a
23 trainer by a professional athletic association, club or team, or as a
24 member of the physical education department of an accredited university,
25 college or high school.

26 5. The practice of massage therapy by any person employed by a corpo-
27 ration or association organized exclusively for the moral or mental
28 improvement of men, women, or children.

29 6. A massage therapist licensed and in good standing in another state
30 or country from conducting a teaching demonstration of modalities and
31 techniques that are within the practice of massage therapy in connection
32 with a program of continuing education that is conducted by approved
33 sponsors of continuing education by the department. Any massage thera-
34 pist conducting a teaching demonstration of modalities and techniques in
35 New York state pursuant to this subdivision shall be subject to the
36 personal and subject matter jurisdiction and disciplinary and regulatory
37 authority of the department as if he or she is a licensee and as if the
38 exemption pursuant to this subdivision is a license. Such massage thera-
39 pist shall comply with the provisions of this title, the rules of the
40 department, and the regulations of the commissioner, relating to profes-
41 sional misconduct, disciplinary proceedings and penalties for profes-
42 sional misconduct.

43 § 7806. Limited permits. 1. The department may issue a limited permit
44 to practice massage therapy as a licensed massage therapist, masseur or
45 masseuse to a person who has not previously held such a permit and who
46 fulfills all except the examination and citizenship requirements for a
47 license, provided however that a permit shall not be issued to a person
48 who has failed the state licensing examination.

49 2. The limited permit shall be valid for a period of not more than
50 twelve months or until the results of the next licensing examination for
51 which the person is eligible are officially available, whichever comes
52 first.

53 3. A limited permit shall entitle the holder to practice massage ther-
54 apy only under the personal supervision of a person currently licensed
55 and registered to practice massage therapy in this state.

56 4. The fee for a limited permit shall be thirty-five dollars.

1 § 7807. Mandatory continuing education. 1. a. Each massage therapist
2 licensed pursuant to this title required to register triennially with
3 the department to practice in the state shall comply with the provisions
4 of the mandatory continuing education requirements prescribed in subdivi-
5 sion two of this section except as set forth in paragraphs b and c of
6 this subdivision. Massage therapists who do not satisfy the mandatory
7 continuing education requirements shall not practice until they have met
8 such requirements, and they have been issued a registration certificate,
9 except that a massage therapist may practice without having met such
10 requirements if he or she is issued a conditional registration certif-
11 icate pursuant to subdivision three of this section.

12 b. Massage therapists shall be exempt from the mandatory continuing
13 education requirement for the triennial registration period during which
14 they are first licensed. In accordance with the intent of this section,
15 adjustments to the mandatory continuing education requirement may be
16 granted by the department for reasons of health certified by an appro-
17 priate health care professional, for extended active duty with the armed
18 forces of the United States, or for other good cause acceptable to the
19 department which may prevent compliance.

20 c. A licensed massage therapist not engaged in professional practice,
21 as determined by the department, shall be exempt from the mandatory
22 continuing education requirement upon the filing of a statement with the
23 department declaring such status. Any licensee who returns to the prac-
24 tice of massage therapy during the triennial registration period shall
25 notify the department prior to reentering the profession and shall meet
26 such mandatory education requirements as shall be prescribed by regu-
27 lations of the commissioner.

28 2. During each triennial registration period an applicant for regis-
29 tration as a massage therapist shall complete a minimum of thirty-six
30 hours of acceptable formal continuing education, a maximum of twelve
31 hours of which may be self-instructional course work acceptable to the
32 department. Any massage therapist whose first registration date follow-
33 ing the effective date of this section occurs less than three years from
34 such effective date, shall complete continuing education hours on a
35 prorated basis at the rate of one hour per month for the period begin-
36 ning January first, two thousand twelve up to the first registration
37 date thereafter. A licensee who has not satisfied the mandatory continu-
38 ing education requirements shall not be issued a triennial registration
39 certificate by the department and shall not practice unless and until a
40 conditional registration certificate is issued as provided for in subdivi-
41 sion three of this section, or until he or she has otherwise met the
42 requirements of this section.

43 3. The department, in its discretion, may issue a conditional regis-
44 tration to a licensee who fails to meet the continuing education
45 requirements established in subdivision two of this section but who
46 agrees to make up any deficiencies and complete any additional education
47 which the department may require. The fee for such a conditional regis-
48 tration shall be the same as, and in addition to, the fee for the trien-
49 nal registration. The duration of such conditional registration shall
50 be determined by the department but shall not exceed one year. Any
51 licensee who is notified of the denial of registration for failure to
52 submit evidence, satisfactory to the department, of required continuing
53 education and who practices without such registration, may be subject to
54 disciplinary proceedings pursuant to section sixty-five hundred ten of
55 this article.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice in massage therapy which are offered by sponsors of massage therapy continuing education approved by the department in consultation with the state board for massage therapy, to fulfill the mandatory continuing education requirement. Sponsors of massage therapy continuing education may include, but are not limited to, state or national professional associations established to further the massage therapy profession, and may include any affiliates of international massage therapy conferences at which professional continuing education is a major component of such conferences, as well as programs registered as licensure-qualifying for the profession of massage therapy by the department. Sponsors of massage therapy shall file an application with the department and pay a fee of nine hundred dollars. While presenters of didactic instruction may be provided by persons who are not licensed by the state of New York as massage therapists, the practical application of such modalities and techniques shall be done by licensed massage therapists, or those otherwise authorized, when such continuing education occurs in the state of New York.

5. Massage therapists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-one hundred twenty-four of this article.

TITLE 20

OCCUPATIONAL THERAPY

Section 7900. Introduction.

7901. Definition.

7902. Practice of occupational therapy and use of title "occupational therapist".

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7903. State board for occupational therapy.

7904. Requirements for a professional license.

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7905. Limited permits.

7906. Exempt persons.

7907. Special conditions.

7908. Mandatory continuing competency.

§ 7900. Introduction. This title applies to the profession of occupational therapy. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7901. Definition. The practice of the profession of occupational therapy is defined as the functional evaluation of the client, the planning and utilization of a program of purposeful activities, the development and utilization of a treatment program, and/or consultation with the client, family, caregiver or organization in order to restore, develop or maintain adaptive skills, and/or performance abilities designed to achieve maximal physical, cognitive and mental functioning

1 of the client associated with his or her activities of daily living and
2 daily life tasks. A treatment program designed to restore function,
3 shall be rendered on the prescription or referral of a physician, nurse
4 practitioner, or other health care provider acting within his or her
5 scope of practice pursuant to this title. However, nothing contained in
6 this title shall be construed to permit any licensee under this title to
7 practice medicine or psychology, including psychotherapy, or to other-
8 wise expand such licensee's scope of practice beyond what is authorized
9 by this article.

10 § 7902. Practice of occupational therapy and use of title "occupa-
11 tional therapist". Only a person licensed or otherwise authorized to
12 practice under this title shall practice occupational therapy or use the
13 title "occupational therapist".

14 § 7902-a. Practice of occupational therapy assistant and use of the
15 title "occupational therapy assistant". Only a person licensed or other-
16 wise authorized under this title shall participate in the practice of
17 occupational therapy as an occupational therapy assistant or use the
18 title "occupational therapy assistant". Practice as an occupational
19 therapy assistant shall include the providing of occupational therapy
20 and client-related services under the direction and supervision of an
21 occupational therapist or licensed physician in accordance with the
22 commissioner's regulations.

23 § 7903. State board for occupational therapy. A state board for occu-
24 pational therapy shall be appointed by the board of regents on the
25 recommendation of the commissioner for the purpose of assisting the
26 board of regents and the department on matters of professional licensing
27 and professional conduct in accordance with section sixty-five hundred
28 eight of this article. The board shall be composed of not less than six
29 licensed occupational therapists, one licensed occupational therapy
30 assistant, one physician, and two members of the public who are not
31 licensed under this title. An executive secretary to the board shall be
32 appointed by the board of regents on recommendation of the commissioner.
33 As used in this title, "the board" shall mean the state board for occu-
34 pational therapy appointed pursuant to this section.

35 § 7904. Requirements for a professional license. To qualify for a
36 license as an occupational therapist, an applicant shall fulfill the
37 following requirements:

- 38 1. File an application with the department.
- 39 2. Have satisfactorily completed an approved occupational therapy
40 curriculum in at least a baccalaureate or masters program, or its equiv-
41 alent, as determined by the department in accordance with the commis-
42 sioner's regulations.
- 43 3. Have a minimum of six months of supervised occupational therapy
44 experience which supervision and experience shall be satisfactory to the
45 board and in accordance with the commissioner's regulations.
- 46 4. Pass an examination satisfactory to the board and in accordance
47 with the commissioner's regulations.
- 48 5. Be at least twenty-one years of age.
- 49 6. Meet no requirements as to United States citizenship.
- 50 7. Be of good moral character as determined by the department.
- 51 8. Pay a fee of one hundred forty dollars to the department for admis-
52 sion to a department-conducted examination and for an initial license, a
53 fee of seventy dollars for each re-examination, a fee of one hundred
54 fifteen dollars for an initial license for persons not requiring admis-
55 sion to a department-conducted examination, and a fee of one hundred
56 fifty-five dollars for each triennial registration period.

1 § 7904-a. Requirements for license as an occupational therapy assist-
2 ant. To qualify for a license as an occupational therapy assistant an
3 applicant shall fulfill the following requirements:

- 4 1. file an application with the department;
- 5 2. have received an education as follows: completion of at least a
6 two-year associate degree program for occupational therapy assistants
7 registered by the department or accredited by a national accreditation
8 agency which is satisfactory to the department, or its equivalent, as
9 determined by the department in accordance with the commissioner's regu-
10 lations;
- 11 3. have a minimum of sixteen weeks of clinical experience satisfactory
12 to the board and in accordance with standards established by a national
13 accreditation agency which is satisfactory to the department;
- 14 4. be at least eighteen years of age;
- 15 5. be of good moral character as determined by the department;
- 16 6. pay a fee for an initial license and a fee for each triennial
17 registration period that shall be one-half of the fee for initial
18 license and for each triennial registration period established for occu-
19 pational therapists; and
- 20 7. except as otherwise provided by subdivision two of section seven-
21 ty-nine hundred seven of this title, pass an examination acceptable to
22 the department.

23 § 7905. Limited permits. Permits limited as to eligibility, practice,
24 and duration, shall be issued by the department to eligible applicants,
25 as follows:

- 26 1. The following persons shall be eligible for a limited permit:
 - 27 a. An occupational therapist who has graduated from an occupational
28 therapy curriculum with a baccalaureate degree or certificate in occupa-
29 tional therapy which is substantially equivalent to a baccalaureate
30 degree satisfactory to the board and in accordance with the commis-
31 sioner's regulations; or
 - 32 b. A foreign occupational therapist who is in this country on a non-
33 immigration visa for the continuation of occupational therapy study,
34 pursuant to the exchange student program of the United States department
35 of state.
 - 36 c. An occupational therapy assistant who has graduated from an accred-
37 ited occupational therapy assistant curriculum with an associate's
38 degree satisfactory to the board of occupational therapy and in accord-
39 ance with the commissioner's regulations.
- 40 2. A limited permittee shall be authorized to practice occupational
41 therapy, or in the case of a limited permit issued pursuant to paragraph
42 c of subdivision one of this section, only under the direct supervision
43 of a licensed occupational therapist or a licensed physician and shall
44 practice only in a public, voluntary, or proprietary hospital, health
45 care agency or in a preschool or an elementary or secondary school for
46 the purpose of providing occupational therapy as a related service for a
47 handicapped child. For purposes of this subdivision, supervision of an
48 individual with a limited permit to practice occupational therapy issued
49 by the department shall be direct supervision as defined by the commis-
50 sioner's regulations.
- 51 3. A limited permit shall be valid for one year. A limited permit may
52 be renewed once for a period not to exceed one additional year, at the
53 discretion of the department, upon the submission of an explanation
54 satisfactory to the department for an applicant's failure to become
55 licensed within the original one-year period.
- 56 4. The fee for a limited permit shall be seventy dollars.

1 § 7906. Exempt persons. This title shall not be construed to affect or
2 prevent the following, provided that no title, sign, card or device
3 shall be used in such manner as to tend to convey the impression that
4 the person rendering such service is a licensed occupational therapist:

5 1. A licensed physician from practicing his or her profession under
6 title one and title two of this article.

7 2. Qualified members of other licensed or legally recognized
8 professions from performing work incidental to the practice of their
9 profession, except that such persons may not hold themselves out under
10 the title occupational therapist or as performing occupational therapy.

11 3. A student from engaging in clinical practice as part of an accred-
12 ited program in occupational therapy, pursuant to subdivision three of
13 section seventy-nine hundred four of this title.

14 4. An occupational therapy assistant student from engaging in clinical
15 practice under the direction and supervision of an occupational thera-
16 pist or an occupational therapy assistant who is under the supervision
17 of an occupational therapist, as part of an accredited occupational
18 therapy assistant program, as defined by the commissioner and in accord-
19 ance with the commissioner's regulations.

20 5. The care of the sick by any person, provided such person is
21 employed primarily in a domestic capacity. This shall not authorize the
22 treatment of patients in a home care service of any hospital, clinic,
23 institution or agency.

24 6. An employee of a federal agency from using the title or practicing
25 as an occupational therapist insofar as such activities are required by
26 his or her salaried position and the use of such title shall be limited
27 to such employment.

28 7. The following people from working under the direct supervision of a
29 licensed occupational therapist: An individual employed by the state or
30 municipal government upon the effective date of this section who
31 performs supportive services in occupational therapy solely for the time
32 such person continues in such employment.

33 8. Any occupational therapist who is licensed in another state, United
34 States possession or country or who has received at least a baccalau-
35 reate degree or its equivalent in occupational therapy and who is either
36 in this state for the purposes of:

37 a. consultation, provided such practice is limited to such consulta-
38 tion;

39 b. an occupational therapist authorized to practice in another state
40 or country from conducting a teaching clinical demonstration in
41 connection with a program of basic clinical education, graduate educa-
42 tion or post graduate education in an approved school of occupational
43 therapy or its affiliated clinical facility or health care agency or
44 before a group of licensed occupational therapists; or

45 c. because he or she resides near a border of this state, provided
46 such practice is limited in this state to the vicinity of such border
47 and said occupational therapist does not maintain an office or place to
48 meet patients or receive calls in this state.

49 § 7907. Special conditions. 1. A person who upon the effective date of
50 this title:

51 a. submits evidence of a minimum of three years of experience with
52 training satisfactory to the board in occupational therapy and in
53 accordance with the regulations of the commissioner; or

54 b. a baccalaureate degree or its equivalent in occupational therapy,
55 shall be licensed upon the filing of an application with the department
56 within six months of the effective date of this title.

1 2. A person who on the effective date of this subdivision has a
2 current registration with the department as an occupational therapy
3 assistant, if such person meets the requirements for a license estab-
4 lished within this title, except for examination, the department shall
5 issue a license without examination.

6 § 7908. Mandatory continuing competency. 1. a. Each licensed occupa-
7 tional therapist and occupational therapy assistant required under this
8 title to register triennially with the department to practice in the
9 state shall comply with the provisions of the mandatory continuing
10 competency requirements prescribed in subdivision two of this section,
11 except as provided in paragraphs b and c of this subdivision. Occupa-
12 tional therapists and occupational therapy assistants who do not satisfy
13 the mandatory continuing competency requirements shall not be authorized
14 to practice until they have met such requirements, and they have been
15 issued a registration certificate, except that an occupational therapist
16 or occupational therapy assistant may practice without having met such
17 requirements if he or she is issued a conditional registration pursuant
18 to subdivision three of this section.

19 b. Occupational therapists and occupational therapy assistants shall
20 be exempt from the mandatory continuing competency requirement for the
21 triennial registration period during which they are first licensed.
22 Adjustment to the mandatory continuing competency requirements may be
23 granted by the department for reasons of health of the licensee where
24 certified by an appropriate health care professional, for extended
25 active duty with the armed forces of the United States, or for other
26 good cause acceptable to the department which may prevent compliance.

27 c. A licensed occupational therapist or occupational therapy assistant
28 not engaged in practice, as determined by the department, shall be
29 exempt from the mandatory continuing competency requirement upon the
30 filing of a statement with the department declaring such status. Any
31 licensee who returns to the practice of occupational therapy during the
32 triennial registration period shall notify the department prior to reen-
33 tering the profession and shall meet such mandatory continuing competen-
34 cy requirements as shall be prescribed by regulations of the commission-
35 er.

36 2. a. During each triennial registration period an applicant for
37 registration as an occupational therapist shall complete a minimum of
38 thirty-six hours of learning activities which contribute to continuing
39 competence, as specified in subdivision four of this section, provided
40 further that at least twenty-four hours shall be in areas of study
41 pertinent to the scope of practice of occupational therapy. With the
42 exception of continuing education hours taken during the registration
43 period immediately preceding the effective date of this section, contin-
44 uing education hours taken during one triennium shall not be transferred
45 to a subsequent triennium.

46 b. During each triennial registration period an applicant for regis-
47 tration as an occupational therapy assistant shall complete a minimum of
48 thirty-six hours of learning activities which contribute to continuing
49 competence as specified in subdivision four of this section, provided
50 further that at least twenty-four hours shall be in recognized areas of
51 study pertinent to the licensee's professional scope of practice of
52 occupational therapy. With the exception of continuing education hours
53 taken during the registration period immediately preceding the effective
54 date of this section, continuing education hours taken during one trien-
55 nium shall not be transferred to a subsequent triennium.

1 c. Any occupational therapist or occupational therapy assistant whose
2 first registration date following the effective date of this section
3 occurs less than three years from such effective date but on or after
4 January first, two thousand thirteen, shall complete continuing compe-
5 tency hours on a prorated basis at the rate of one-half hour per month
6 for the period beginning January first, two thousand thirteen up to the
7 first registration date.

8 d. Thereafter, a licensee who has not satisfied the mandatory continu-
9 ing competency requirements shall not be issued a triennial registration
10 certificate by the department and shall not practice unless and until a
11 conditional registration certificate is issued as provided for in subdivi-
12 vision three of this section.

13 3. The department, in its discretion, may issue a conditional regis-
14 tration to a licensee who fails to meet the continuing competency
15 requirements established in subdivision two of this section, but who
16 agrees to make up any deficiencies and complete any additional learning
17 activities which the department may require. The fee for such a condi-
18 tional registration shall be the same as, and in addition to, the fee
19 for the triennial registration. The duration of such conditional regis-
20 tration shall be determined by the department but shall not exceed one
21 year. Any licensee who is notified of the denial of registration for
22 failure to submit evidence, satisfactory to the department, of required
23 continuing competency learning activities and who practices without such
24 registration, may be subject to disciplinary proceedings pursuant to
25 section sixty-five hundred ten of this article.

26 4. As used in subdivision two of this section, "acceptable learning
27 activities" shall mean activities which contribute to professional prac-
28 tice in occupational therapy, and which meet the standards prescribed in
29 the regulations of the commissioner. Such learning activities shall
30 include, but not be limited to, collegiate level credit and non-credit
31 courses, self-study activities, independent study, formal mentoring
32 activities, publications in professional journals, professional develop-
33 ment programs and technical sessions; such learning activities may be
34 offered and sponsored by national, state and local professional associ-
35 ations and other organizations or parties acceptable to the department,
36 and any other organized educational and technical learning activities
37 acceptable to the department. The department may, in its discretion and
38 as needed to contribute to the health and welfare of the public, require
39 the completion of continuing competency learning activities in specific
40 subjects to fulfill this mandatory continuing competency requirement.
41 Learning activities shall be taken from a sponsor approved by the
42 department, pursuant to the regulations of the commissioner.

43 5. Occupational therapists and occupational therapy assistants shall
44 maintain adequate documentation of completion of a. a learning plan that
45 shall record current and anticipated roles and responsibilities but
46 shall not require the records of peer review or self-assessment of
47 competencies, and b. acceptable continuing competency learning activi-
48 ties and shall provide such documentation at the request of the depart-
49 ment. Failure to provide such documentation upon request of the depart-
50 ment shall be an act of misconduct subject to the disciplinary
51 proceedings pursuant to section sixty-five hundred ten of this title.

52 6. The mandatory continuing competency fee shall be forty-five dollars
53 for occupational therapists and twenty-five dollars for occupational
54 therapy assistants, shall be payable on or before the first day of each
55 triennial registration period, and shall be paid in addition to the

1 triennial registration fee required by section seventy-nine hundred four
2 of this title.

3 TITLE 21

4 DIETETICS AND NUTRITION

5 Section 8000. Introduction.

6 8001. Definitions.

7 8002. Use of titles.

8 8003. State board for dietetics and nutrition.

9 8004. Requirements for certification.

10 8005. Special provisions.

11 8006. Special conditions.

12 § 8000. Introduction. This title applies to the use of the titles
13 "certified dietitian" and "certified nutritionist". The general
14 provision for all professions contained in title one of this article
15 shall apply to this title.

16 § 8001. Definitions. 1. Dietetics and nutrition are each defined in
17 this section as the integration and application of principles derived
18 from the sciences of nutrition, biochemistry, physiology, food manage-
19 ment and behavioral and social sciences to achieve and maintain people's
20 health.

21 2. Where the title "certified dietitian" or "certified nutritionist"
22 is used in this article it shall mean "certified dietitian", "certified
23 dietician", or "certified nutritionist".

24 3. A certified dietitian or certified nutritionist is one who engages
25 in the integration and application of principles derived from the
26 sciences of nutrition, biochemistry, physiology, food management and
27 behavioral and social sciences to achieve and maintain people's health,
28 and who is certified as such by the department pursuant to section eight
29 thousand four of this title. The primary function of a certified dieti-
30 tian or certified nutritionist is the provision of nutrition care
31 services that shall include:

32 a. Assessing nutrition needs and food patterns;

33 b. Planning for and directing the provision of food appropriate for
34 physical and nutrition needs; and

35 c. Providing nutrition counseling.

36 § 8002. Use of titles. Only a person certified under this title shall
37 be authorized to use the title "certified dietitian", "certified dieti-
38 cian", or "certified nutritionist".

39 § 8003. State board for dietetics and nutrition. 1. A state board for
40 dietetics and nutrition shall be appointed by the commissioner, for the
41 purpose of assisting the department on matters of certification and
42 professional conduct in accordance with section sixty-five hundred eight
43 of this article.

44 2. The board shall consist of not less than thirteen members, ten of
45 whom shall be certified dietitians or certified nutritionists, except
46 that the members of the first board need not be certified but shall be
47 persons who are eligible for certification under the provisions of this
48 title prior to their appointment to the board. The first board, with
49 respect to members representing the profession, shall consist of five
50 members registered by a national dietetic association having registra-
51 tion standards acceptable to the department and five members who are
52 members of or registered by a national nutritional association having
53 membership and/or registration standards acceptable to the department.
54 Thereafter, members of the profession appointed to such board shall be
55 certified pursuant to this title. To the extent reasonable, the depart-

1 ment should insure the state board is broadly representative of various
2 professional interests within the dietetic and nutritional community.
3 Three members shall be representatives of the general public. An execu-
4 tive secretary to the board shall be appointed by the commissioner.

5 § 8004. Requirements for certification. To qualify for certification,
6 an applicant shall fulfill the following requirements:

7 1. File an application with the department;

8 2. a. (i) Have received an education including a bachelor's degree, or
9 its equivalent as determined by the department, in dietetics/nutrition
10 or an equivalent major course of study which shall include appropriate
11 core curriculum courses in dietetics/nutrition from an accredited
12 college or university as approved by the department, in accordance with
13 the commissioner's regulations; and

14 (ii) Have completed a planned, continuous, experience component, in
15 accordance with the commissioner's regulations, in dietetic or nutrition
16 practice under the supervision of a certified dietitian or certified
17 nutritionist or a dietitian or nutritionist who is registered by or is a
18 member of a national dietetic association or national nutrition associ-
19 ation having registration or membership standards acceptable to the
20 department; such experience shall be satisfactory to the board and in
21 accordance with the commissioner's regulations; or

22 b. (i) Have received an education including an associates degree in
23 dietetics or nutrition acceptable to the department;

24 (ii) In the last fifteen years have completed ten years of experience
25 and education in the field of dietetics or nutrition satisfactory to the
26 board in accordance with the commissioner's regulations. These ten years
27 must be the full time equivalent of any combination of post secondary
28 dietetic or nutrition education and dietetic or nutrition work experi-
29 ence satisfactory to the board in accordance with the commissioner's
30 regulations; and

31 (iii) Have obtained the endorsement of three dietitians or nutrition-
32 ists acceptable to the department;

33 3. Pass an examination satisfactory to the board and in accordance
34 with the commissioner's regulations; provided that such examination
35 shall test a level of knowledge and experience equivalent to that
36 obtained by an individual satisfactorily meeting the requirements of
37 paragraph a of subdivision two of this section;

38 4. Pay a fee of one hundred seventy-five dollars to the department for
39 admission to a department conducted examination and for initial certif-
40 ication, a fee of eighty-five dollars for each reexamination, a fee of
41 one hundred fifteen dollars for an initial certification for persons not
42 requiring admission to a department conducted examination, a fee of one
43 hundred fifty-five dollars for each triennial registration period; and

44 5. Be at least eighteen years of age.

45 § 8005. Special provisions. Nothing contained in this title shall be
46 deemed to alter, modify or impair any conditions of employment relating
47 to service in the federal government, the state of New York, its poli-
48 tical subdivisions, including school districts, or special districts and
49 authorities or any facilities or institutions under the jurisdiction of
50 or subject to the certification of any agency of the state of New York
51 or its political subdivisions.

52 § 8006. Special conditions. A person shall be certified without exam-
53 ination provided that, within three years of the effective date of this
54 title, the individual:

55 1. files an application and pays the appropriate fees to the depart-
56 ment; and

1 2. a. is registered as a dietitian or nutritionist by a national diet-
2 etic or national nutrition association having registration standards
3 acceptable to the department;

4 b. meets the requirements of subparagraph one of paragraph a of subdi-
5 vision two and subdivision five of section eight thousand four of this
6 title and has been actively engaged in the provision of nutrition care
7 services for a minimum of three years during the five years immediately
8 preceding the effective date of this title; or

9 c. meets all the requirements of paragraph b of subdivision two and
10 subdivision five of section eight thousand four of this title.

11 TITLE 22

12 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

13 Section 8100. Introduction.

14 8101. Definition of practice of speech-language pathology.

15 8102. Practice of speech-language pathology.

16 8103. Definition of practice of audiology.

17 8104. Practice of audiology.

18 8105. State board for speech-language pathology and audiology.

19 8106. Requirements for a professional license.

20 8106-a. Limited license.

21 8107. Exempt persons.

22 8108. Special provisions.

23 8109. Mandatory continuing competency.

24 § 8100. Introduction. This title applies to the professions of speech-
25 language pathology and audiology. The general provisions for all
26 professions contained in title one of this article apply to this title.

27 § 8101. Definition of practice of speech-language pathology. The prac-
28 tice of the profession of speech-language pathology shall mean the
29 application of principles, methods and procedures of measurement,
30 prediction, non-medical diagnosis, testing, counselling, consultation,
31 rehabilitation and instruction related to the development and disorders
32 of speech, voice, swallowing, and/or language for the purpose of
33 preventing, ameliorating or modifying such disorder conditions in indi-
34 viduals and/or groups of individuals.

35 § 8102. Practice of speech-language pathology. Only a person licensed
36 or otherwise authorized under this title shall practice speech-language
37 pathology or use the title of speech-language pathologist.

38 § 8103. Definition of practice of audiology. The practice of the
39 profession of audiology shall mean the application of principles, meth-
40 ods and procedures of measurement, testing, evaluation, consultation,
41 counselling, instruction and habilitation or rehabilitation related to
42 hearing and its disorders, related communication impairments and vesti-
43 bular disorders for the purpose of non-medical diagnosis, prevention,
44 identification, amelioration or modification of such disorders and
45 conditions in individuals and/or groups of individuals.

46 § 8104. Practice of audiology. Only a person licensed or otherwise
47 authorized under this title shall practice audiology or use the title
48 audiologist.

49 § 8105. State board for speech-language pathology and audiology. A
50 state board for speech-language pathology and audiology shall be
51 appointed by the commissioner for the purpose of assisting the depart-
52 ment on matters of professional licensing and professional conduct in
53 accordance with section sixty-five hundred eight of this title. The
54 board shall consist of not less than seven members, three of whom shall
55 be audiologists and four of whom shall be speech-language pathologists.

1 Each speech-language pathologist and audiologist on the board shall be
2 licensed and have practiced in this state for at least five years, as
3 provided under this title except that the members of the first board
4 need not be licensed prior to their appointment to the board. An execu-
5 tive secretary to the board shall be appointed by the commissioner.

6 § 8106. Requirements for a professional license. To qualify for a
7 license as a speech-language pathologist or audiologist, an applicant
8 shall fulfill the following requirements:

9 1. Application: file an application with the department;

10 2. Education: have obtained at least a masters degree in speech-lan-
11 guage pathology and/or audiology or its equivalent, as determined by the
12 department, in accordance with the commissioner's regulations;

13 3. Experience: have experience satisfactory to the board and in
14 accordance with the commissioner's regulations;

15 4. Examination: pass an examination satisfactory to the board and in
16 accordance with the commissioner's regulations;

17 5. Age: be at least twenty-one years of age;

18 6. Character: be of good moral character as determined by the depart-
19 ment; and

20 7. Fees: pay a fee of one hundred forty dollars to the department for
21 admission to a department conducted examination and for an initial
22 license, a fee of seventy dollars for each reexamination, a fee of one
23 hundred fifteen dollars for an initial license for persons not requiring
24 admission to a department conducted examination, and a fee of one
25 hundred fifty-five dollars for each triennial registration period.

26 § 8106-a. Limited license. 1. The department shall issue a limited
27 license to an applicant for a license as a speech-language pathologist
28 who meets all requirements set forth in this section.

29 2. Any person engaging in clinical or academic practice under the
30 supervision of a licensed speech-language pathologist for such period of
31 time as may be necessary to complete an experience requirement for a
32 professional license as a speech-language pathologist shall be eligible
33 for a limited license.

34 3. A limited licensee shall be authorized to practice speech-language
35 pathology only under the supervision of a licensed speech-language
36 pathologist.

37 4. A limited license shall be valid for one year. It may be renewed
38 for additional one year periods until such time as may be necessary to
39 complete an experience requirement for a professional license as a
40 speech-language pathologist.

41 5. The fee for a limited license shall be seventy dollars.

42 § 8107. Exempt persons. This title shall not be construed as prohibit-
43 ing:

44 1. The practice of any other professions licensed or registered under
45 this title.

46 2. Any person employed by the federal, state or a local government or
47 by a public or non-public elementary or secondary school or an institu-
48 tion of higher learning from performing the duties of a speech-language
49 pathologist, an audiologist, a teacher of the speech and hearing hand-
50 icapped, or a teacher of the deaf in the course of such employment.

51 3. Any person from engaging in clinical or academic practice under the
52 supervision of a licensed speech-language pathologist or audiologist for
53 such period of time as may be necessary to complete an experience
54 requirement for a professional license, as provided in this title and in
55 rules or regulations approved by the commissioner with the advice of the
56 state board for speech-language pathology and audiology.

1 4. A person from another state from performing speech-language pathol-
2 ogy or audiology services in this state provided such services are
3 performed for no more than thirty days in any calendar year and provided
4 that such services are performed in conjunction with and/or under the
5 supervision of a speech-language pathologist or audiologist licensed
6 under this title.

7 5. Any hearing aid dealer from performing hearing measurements by
8 means of an audiometer or other testing equipment when used solely for
9 the purpose of selecting, fitting, selling or dispensing an instrument
10 designed to aid or improve human hearing, including the taking of
11 impressions for the making and fitting of ear molds and the demon-
12 stration of use and instructions of persons in the use of such hearing
13 aids and accessories thereto.

14 6. A student from engaging in clinical practice, under the supervision
15 of a licensed audiologist or a licensed speech-language pathologist as
16 part of a nationally accredited program or a state licensure qualifying
17 program in speech-language pathology or audiology, pursuant to subdivi-
18 sion three of section eighty-one hundred six of this title.

19 § 8108. Special provisions. 1. Every person regularly employed in
20 teaching or working as a speech-language pathologist or audiologist for
21 not less than two years prior to the effective date of this title shall
22 be issued a license by the department, if he or she is a person of good
23 moral character; twenty-one years or older, has been engaged in such
24 practice in the state for at least two years in accordance with regu-
25 lations of the commissioner, and possesses:

26 a. the American Speech-Language-Hearing Association certificate of
27 clinical competence in speech-language pathology and/or audiology, or
28 the equivalent thereof as determined by the board in accordance with the
29 commissioner's regulations; or

30 b. a masters degree in speech-language pathology, audiology or commu-
31 nication disorders appropriate to the license being sought and a total
32 of five years experience; or

33 c. a bachelors degree in speech-language pathology, audiology or
34 communication disorders appropriate to the license being sought and
35 thirty postgraduate semester hours in subjects satisfactory to the board
36 and a total of five years experience; or

37 d. a bachelors degree and sufficient postgraduate study to be the
38 equivalent of a masters degree in speech-language pathology, audiology
39 or communication disorders as determined by the board in accordance with
40 the commissioner's regulations and a total of five years experience.
41 Applications for a license under this section shall be submitted by
42 January first, nineteen hundred eighty and applicants shall have until
43 that date to fulfill the requirements set forth by this chapter.

44 2. This title shall not prohibit the practice of speech-language
45 pathology or audiology by a corporation provided that such practice is
46 carried on by a licensed speech-language pathologist or audiologist or
47 persons exempt under this title and a violation of this provision shall
48 be a class A misdemeanor.

49 3. Any person or firm offering the services of a speech-language
50 pathologist or audiologist shall employ only persons licensed or exempt
51 under this title and a violation of this provision shall be a class A
52 misdemeanor.

53 4. a. The commissioner, pursuant to the recommendation of the board
54 shall promulgate regulations defining appropriate standards of conduct
55 for the dispensing of hearing aids by licensed audiologists. Such regu-
56 lations shall also define continuing education requirements which such

1 dispensing audiologist shall meet as a condition of maintaining registra-
2 tion pursuant to this title.

3 b. Audiologists engaged in the practice of dispensing hearing aids
4 shall comply with the applicable provisions of article thirty-seven-A of
5 the general business law.

6 § 8109. Mandatory continuing competency. 1. a. Each licensed speech-
7 language pathologist and audiologist required under this title to regis-
8 ter triennially with the department to practice in the state shall
9 comply with the provisions of the mandatory continuing competency
10 requirements prescribed in subdivision two of this section, except as
11 provided in paragraphs b and c of this subdivision. Speech-language
12 pathologists and audiologists who do not satisfy the mandatory continu-
13 ing competency requirements shall not be authorized to practice until
14 they have met such requirements, and they have been issued a registra-
15 tion certificate, except that a speech-language pathologist or audiolo-
16 gist may practice without having met such requirements if he or she is
17 issued a conditional registration pursuant to subdivision three of this
18 section.

19 b. Speech-language pathologists and audiologists shall be exempt from
20 the mandatory continuing competency requirement for the triennial regis-
21 tration period during which they are first licensed. Adjustment to the
22 mandatory continuing competency requirements may be granted by the
23 department for reasons of health of the licensee where certified by an
24 appropriate health care professional, for extended active duty with the
25 armed forces of the United States, or for other good cause acceptable to
26 the department which may prevent compliance.

27 c. A licensed speech-language pathologist or audiologist not engaged
28 in practice, as determined by the department, shall be exempt from the
29 mandatory continuing competency requirement upon the filing of a state-
30 ment with the department declaring such status. Any licensee who returns
31 to the practice of speech-language pathology or audiology during the
32 triennial registration period shall notify the department prior to reen-
33 tering the profession and shall meet such mandatory continuing competen-
34 cy requirements as shall be prescribed by regulations of the commission-
35 er.

36 2. During each triennial registration period an applicant for regis-
37 tration as either a speech-language pathologist or audiologist shall
38 complete a minimum of thirty hours of learning activities which contrib-
39 ute to continuing competence, as specified in subdivision four of this
40 section, provided further that at least twenty hours shall be in recog-
41 nized areas of study pertinent to the licensee's professional scope of
42 practice of speech-language pathology and/or audiology. Any speech-lan-
43 guage pathologist or audiologist whose first registration date following
44 the effective date of this section occurs less than three years from
45 such effective date, but on or after January first, two thousand one,
46 shall complete continuing competency hours on a prorated basis at the
47 rate of one-half hour per month for the period beginning January first,
48 two thousand one up to the first registration date. Thereafter, a licen-
49 see who has not satisfied the mandatory continuing competency require-
50 ments shall not be issued a triennial registration certificate by the
51 department and shall not practice unless and until a conditional regis-
52 tration certificate is issued as provided for in subdivision three of
53 this section. Continuing competency hours taken during one triennium may
54 not be transferred to a subsequent triennium.

55 3. The department, in its discretion, may issue a conditional regis-
56 tration to a licensee who fails to meet the continuing competency

1 requirements established in subdivision two of this section, but who
2 agrees to make up any deficiencies and complete any additional learning
3 activities which the department may require. The fee for such a condi-
4 tional registration shall be the same as, and in addition to, the fee
5 for the triennial registration. The duration of such conditional regis-
6 tration shall be determined by the department but shall not exceed one
7 year. Any licensee who is notified of the denial of registration for
8 failure to submit evidence, satisfactory to the department, of required
9 continuing competency learning activities and who practices without such
10 registration, may be subject to disciplinary proceedings pursuant to
11 section sixty-five hundred ten of this article.

12 4. As used in subdivision two of this section, "acceptable learning
13 activities" shall mean activities which contribute to professional prac-
14 tice in speech-language pathology and/or audiology, and which meet the
15 standards prescribed in the regulations of the commissioner. Such learn-
16 ing activities shall include, but not be limited to, collegiate level
17 credit and non-credit courses, self-study activities, independent study,
18 formal mentoring activities, publications in professional journals,
19 professional development programs and technical sessions; such learning
20 activities may be offered and sponsored by national, state and local
21 professional associations and other organizations or parties acceptable
22 to the department, and any other organized educational and technical
23 learning activities acceptable to the department. The department may, in
24 its discretion and as needed to contribute to the health and welfare of
25 the public, require the completion of continuing competency learning
26 activities in specific subjects to fulfill this mandatory continuing
27 competency requirement. For speech-language pathologists who are
28 employed in school settings as teachers of the speech and hearing hand-
29 icapped or as teachers of students with speech and language disabili-
30 ties, acceptable learning activities shall also include professional
31 development programs and technical sessions specific to teaching
32 students with speech and language disabilities including those designed
33 to improve methods for teaching such students, aligned with professional
34 development plans in accordance with regulations of the commissioner and
35 promoting the attainment of standards for such students. Learning activ-
36 ities must be taken from a sponsor approved by the department, pursuant
37 to the regulations of the commissioner.

38 5. Speech-language pathologists and audiologists shall maintain
39 adequate documentation of completion of acceptable continuing competency
40 learning activities and shall provide such documentation at the request
41 of the department. Failure to provide such documentation upon the
42 request of the department shall be an act of misconduct subject to
43 disciplinary proceedings pursuant to section sixty-five hundred ten of
44 this article.

45 6. The mandatory continuing competency fee shall be fifty dollars,
46 shall be payable on or before the first day of each triennial registra-
47 tion period, and shall be paid in addition to the triennial registration
48 fee required by section eighty-one hundred six of this title.

49 TITLE 23
50 ACUPUNCTURE

51 Section 8200. Introduction.

52 8201. Definitions.

53 8202. Practice of acupuncture and use of title "licensed
54 acupuncturist" or "certified acupuncturist".

55 8203. State board for acupuncture.

8204. Requirements for a professional license.

8205. Limited permits.

8206. Exemptions; waiver.

§ 8200. Introduction. This title applies to the profession of acupuncture. The general provisions for all professions contained in title one of this article apply to this article.

§ 8201. Definitions. As used in this title the following terms shall have the following meanings:

1. a. "Profession of acupuncture" is the treating, by means of mechanical, thermal or electrical stimulation effected by the insertion of needles or by the application of heat, pressure or electrical stimulation at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points for diseases, disorders and dysfunctions of the body for the purpose of achieving a therapeutic or prophylactic effect. The profession of acupuncture includes recommendation of dietary supplements and natural products including, but not limited to, the recommendation of diet, herbs and other natural products, and their preparation in accordance with traditional and modern practices of East Asian (Chinese, Korean or Japanese) medical theory.

b. Each acupuncturist licensed pursuant to this title, shall advise each patient as to the importance of consulting with a licensed physician regarding the patient's condition and shall keep on file with the patient's records, a form attesting to the patient's notice of such advice. Such form shall be in duplicate, one copy to be retained by the patient, signed and dated by both the acupuncturist and the patient and shall be prescribed in the following manner:

WE, THE UNDERSIGNED, DO AFFIRM THAT (THE PATIENT) HAS BEEN ADVISED BY , (A LICENSED ACUPUNCTURIST), TO CONSULT A PHYSICIAN REGARDING THE CONDITION OR CONDITIONS FOR WHICH SUCH PATIENT SEEKS ACUPUNCTURE TREATMENT.

(Signature)

Date

(Signature)

Date

c. Nothing in this title shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed acupuncturist from engaging in the recommendation of traditional remedies and supplements as defined in this title, nor shall this section be construed to authorize an individual to practice pharmacy under title ten of this article.

2. "Board" is the state board for acupuncture as created by section eighty-two hundred three of this title.

§ 8202. Practice of acupuncture and use of title "licensed acupuncturist" or "certified acupuncturist". Only a person licensed or authorized pursuant to section eighty-two hundred four of this title or certified pursuant to section eighty-two hundred six of this title shall practice acupuncture. Only a person licensed pursuant to section eighty-two hundred four of this title shall use the title "licensed acupuncturist" and only a person certified pursuant to section eighty-two hundred six of this title shall use the title "certified acupuncturist".

1 § 8203. State board for acupuncture. 1. There is hereby established
2 within the department a state board for acupuncture. The board shall
3 consist of not less than eleven members to be appointed by the depart-
4 ment on the recommendation of the commissioner for the purpose of
5 assisting the department on matters of professional licensing and
6 professional conduct in accordance with section sixty-five hundred eight
7 of this article, four of whom shall be licensed acupuncturists, four of
8 whom shall be licensed physicians certified to use acupuncture and three
9 of whom shall be public members representing the consumer and community.
10 Of the acupuncturists first appointed to the board, one may be a regis-
11 tered specialist's assistant-acupuncture provided that the term of such
12 registered specialist's assistant-acupuncture shall not be more than
13 four years. Of the members first appointed, three shall be appointed for
14 a one year term, three shall be appointed for a two year term and three
15 shall be appointed for a three year term, and two shall be appointed for
16 a four year term. Thereafter all members shall serve for five year
17 terms. In the event that more than eleven members are appointed, a
18 majority of the additional members shall be licensed acupuncturists. The
19 members of the board shall select one of themselves as chairman to serve
20 for a one year term.

21 2. An executive secretary to the board shall be appointed by the
22 commissioner.

23 3. The commissioner shall promulgate such rules and regulations as
24 they deem necessary and appropriate to effectuate the provisions of this
25 title.

26 § 8204. Requirements for a professional license. To qualify for a
27 license as a licensed acupuncturist an applicant shall fulfill the
28 following requirements:

29 1. Application: file an application with the department;

30 2. Education: provide evidence of satisfactory completion of a course
31 of formal study or its substantial equivalent in accordance with the
32 commissioner's regulations;

33 3. Experience: have experience in accordance with the commissioner's
34 regulations;

35 4. Examination: pass an examination satisfactory to the board and in
36 accordance with the commissioner's regulations. Such examination shall
37 be given at least once within twelve months of the effective date of
38 this title, and at least once annually thereafter, and shall consist of
39 both written and practical parts. Either part may be given at the
40 discretion of the department in English and/or Chinese or other
41 language. Nothing in this subdivision is to be construed to require the
42 department to issue an exam in a language other than English. The prac-
43 tical part of the exam must be directly administered by an acupuncturist
44 acceptable to the department, who may also be a member of the board. The
45 cost of the initial examination or reexamination shall be borne by the
46 applicant in accordance with a schedule established by the department
47 and approved by the director of the budget;

48 5. Age: be at least twenty-one years of age;

49 6. Character: be of good moral character as determined by the depart-
50 ment;

51 7. Fees: pay a fee of five hundred dollars to the department for
52 initial licensure, and a fee of two hundred fifty dollars for each
53 triennial registration; and

54 8. Registration: if a license is granted, register triennially with
55 the department, including present home and business address and such
56 other pertinent information as the department requires.

1 § 8205. Limited permits. 1. The department shall issue a limited
2 permit to an applicant who meets all requirements for admission to the
3 licensing examination;

4 2. All practice under a limited permit shall be under the supervision
5 of a licensed or certified acupuncturist in a public hospital, an incor-
6 porated hospital or clinic, a licensed proprietary hospital, a licensed
7 nursing home, a public health agency, the office of a licensed or certi-
8 fied acupuncturist or in the civil service of the federal or state
9 government;

10 3. Limited permits shall be for one year and may be renewed at the
11 discretion of the department for one additional year;

12 4. Supervision of a permittee by a licensed or certified acupuncturist
13 shall be on-site supervision and not necessarily direct personal super-
14 vision;

15 5. No practitioner shall supervise more than one permittee; and

16 6. The fee for each limited permit and for each renewal shall be
17 determined by the department.

18 § 8206. Exemptions; waiver. 1. A person who is validly registered as a
19 "specialist's assistant-acupuncture" in accordance with section sixty-
20 five hundred forty-one of this article and the commissioner's regu-
21 lations shall not be subject to the provisions of this title.

22 2. Any person who is validly licensed under the provisions of the
23 former chapter nine hundred fifty-nine of the laws of nineteen hundred
24 seventy-four is deemed to be licensed pursuant to this title.

25 3. Any person who is validly certified under the provisions of the
26 former chapter nine hundred fifty-nine of the laws of nineteen hundred
27 seventy-four shall continue to be certified to practice acupuncture and
28 may continue to use the title certified acupuncturist. The department
29 may establish rules and regulations providing for the certification of
30 physicians and dentists as acupuncturists, provided that such certified
31 acupuncturists do not represent themselves as licensed acupuncturists.
32 Certified acupuncturists seeking to become licensed acupuncturists shall
33 be subject to all provisions of this title.

34 4. A person who does not otherwise possess the credentials or quali-
35 fications required for the practice of acupuncture prescribed by this
36 title or the regulations promulgated hereunder or any other law but who
37 is authorized by the office of addiction services and supports or the
38 department to provide treatment for alcoholism, substance dependence, or
39 chemical dependency in a hospital or clinical program which has been
40 approved for such treatment by the office of addiction services and
41 supports or the department and who has been trained to practice acupunc-
42 ture for the treatment of alcoholism, substance dependence, or chemical
43 dependency through an educational program acceptable to the education
44 department may nevertheless practice acupuncture provided such practice
45 is limited to the treatment of alcoholism, substance dependence, or
46 chemical dependency in such clinical or hospital programs, or in a
47 program that if statutorily exempt from such approval meets standards
48 approved by the office of addiction services and supports or the depart-
49 ment, and further provided that such practice is done in accordance with
50 regulations promulgated by the office of addiction services and
51 supports, or the department. Such person shall work only under the
52 general supervision of a physician or dentist certified to practice
53 acupuncture or an individual licensed to practice acupuncture in the
54 state of New York pursuant to this title. Notwithstanding any other law,
55 rule or regulation to the contrary, persons authorized on or before the
56 effective date of this title to practice acupuncture for the treatment

1 of alcoholism, substance dependence, or chemical dependency within a
2 hospital or clinical program which has been approved for such treatment
3 by the office of addiction services and supports or the department may
4 nevertheless continue to practice acupuncture under the provisions of
5 this subdivision.

6 5. Any person who is pursuing qualification for licensure through a
7 course of formal study pursuant to this title may practice acupuncture
8 without a license, provided such practice is limited to such study.

9 6. Any person who has completed a formal course of study or a tutorial
10 apprenticeship acceptable to the department and in accordance with the
11 commissioner's regulations, prior to the effective date of this title,
12 and presents satisfactory proof of such completion, shall be exempt from
13 the education requirements set forth in subdivision two of section
14 eighty-two hundred four of this title provided an application pursuant
15 to subdivision one of section eighty-two hundred four of this title is
16 filed with the department not later than one year from the effective
17 date of this title, and in no event shall participation in such tutorial
18 apprenticeship or formal course of study constitute a violation of this
19 chapter.

20 7. Any person who is pursuing qualification for certification through
21 a formal course of study in a registered program and any person
22 appointed to the faculty of such program may practice acupuncture with-
23 out a license, provided that such practice is limited to such research,
24 study and training.

25 8. Any person who is licensed and in good standing to practice
26 acupuncture in another state or country may practice acupuncture in this
27 state without a license solely for the purpose of conducting clinical
28 training, practice demonstrations or clinical research that is within
29 the practice of acupuncture in connection with a program of basic clin-
30 ical education, graduate education, or post-graduate education in an
31 approved school of acupuncture or in its affiliated clinical facility or
32 health care agency, or before a group of licensed acupuncturists who are
33 members of a professional society. Any person practicing acupuncture in
34 New York state pursuant to this subdivision shall be subject to the
35 personal and subject matter jurisdiction and disciplinary and regulatory
36 authority of the department as if he or she is a licensee and as if the
37 exemption pursuant to this subdivision is a license. Such individual
38 shall comply with the provisions of this title, the rules of the depart-
39 ment, and the regulations of the commissioner, relating to professional
40 misconduct, disciplinary proceedings and penalties for professional
41 misconduct.

42 TITLE 24

43 ATHLETIC TRAINERS

44 Section 8300. Introduction.

45 8301. Definition.

46 8302. Definition of practice of athletic training.

47 8303. Use of the title "certified athletic trainer".

48 8304. State committee for athletic trainers.

49 8305. Requirements and procedure for professional certification.

50 8306. Special provisions.

51 8307. Non-liability of certified athletic trainers for first aid 52 or emergency treatment.

53 8308. Separability.

1 § 8300. Introduction. This title applies to the profession of athletic
2 training. The general provisions of all professions contained in title
3 one of this article shall apply to this title.

4 § 8301. Definition. As used in this title "athletic trainer" means any
5 person who is duly certified in accordance with this title to perform
6 athletic training under the supervision of a physician and limits his or
7 her practice to secondary schools, institutions of postsecondary educa-
8 tion, professional athletic organizations, or a person who, under the
9 supervision of a physician, carries out comparable functions on
10 orthopedic athletic injuries, excluding spinal cord injuries, in a
11 health care organization. Supervision of an athletic trainer by a
12 physician shall be continuous but shall not be construed as requiring
13 the physical presence of the supervising physician at the time and place
14 where such services are performed. The scope of work described in this
15 title shall not be construed as authorizing the reconditioning of neuro-
16 logic injuries, conditions or disease.

17 § 8302. Definition of practice of athletic training. The practice of
18 the profession of athletic training is defined as the application of
19 principles, methods and procedures for managing athletic injuries, which
20 shall include the preconditioning, conditioning and reconditioning of an
21 individual who has suffered an athletic injury through the use of appro-
22 priate preventative and supportive devices, under the supervision of a
23 physician and recognizing illness and referring to the appropriate
24 medical professional with implementation of treatment pursuant to physi-
25 cian's orders. Athletic training includes instruction to coaches,
26 athletes, parents, medical personnel and communities in the area of care
27 and prevention of athletic injuries. The scope of work described in this
28 title shall not be construed as authorizing the reconditioning of neuro-
29 logic injuries, conditions or disease.

30 § 8303. Use of the title "certified athletic trainer". Only a person
31 certified or otherwise authorized under this title shall use the title
32 "certified athletic trainer".

33 § 8304. State committee for athletic trainers. A state committee for
34 athletic trainers shall be appointed by the commissioner, upon the
35 recommendation of the commissioner and shall assist on matters of
36 certification and professional conduct in accordance with section six
37 thousand five hundred eight of this article. The committee shall consist
38 of five members who are athletic trainers certified in this state. The
39 committee shall assist the state board for medicine in athletic training
40 matters. Nominations and terms of office of the members of the state
41 committee for athletic trainers shall conform to the corresponding
42 provisions relating thereto for state boards under title one of this
43 article. Notwithstanding the foregoing, the members of the first
44 committee need not be certified prior to their appointment to the
45 committee.

46 § 8305. Requirements and procedure for professional certification. For
47 certification as a certified athletic trainer under this title, an
48 applicant shall fulfill the following requirements:

- 49 1. Application: file an application with the department;
- 50 2. Education: have received an education including a bachelor's, its
51 equivalent or higher degree in accordance with the commissioner's regu-
52 lations;
- 53 3. Experience: have experience in accordance with the commissioner's
54 regulations;
- 55 4. Examination: pass an examination in accordance with the commission-
56 er's regulations;

1 5. Age: be at least twenty-one years of age; and
2 6. Fees: pay a fee for an initial certificate of one hundred dollars
3 to the department; and a fee of fifty dollars for each triennial regis-
4 tration period.

5 § 8306. Special provisions. A person shall be certified without exam-
6 ination provided that, within three years from the effective date of
7 regulations implementing the provisions of this title, the individual:

8 1. files an application and pays the appropriate fees to the depart-
9 ment; and

10 2. meets the requirements of subdivisions two and five of section
11 eight thousand three hundred five of this title and who in addition:

12 a. has been actively engaged in the profession of athletic training
13 for a minimum of four years during the seven years immediately preceding
14 the effective date of this title; or

15 b. is certified by a United States certifying body acceptable to the
16 department.

17 § 8307. Non-liability of certified athletic trainers for first aid or
18 emergency treatment. Notwithstanding any inconsistent provision of any
19 general, special or local law, any certified athletic trainer who volun-
20 tarily and without the expectation of monetary compensation renders
21 first aid or emergency treatment at the scene of an accident or other
22 emergency, outside a hospital, doctor's office or any other place having
23 proper and necessary athletic training equipment, to a person who is
24 unconscious, ill or injured, shall not be liable for damages for inju-
25 ries alleged to have been sustained by such person or for damages for
26 the death of such person alleged to have occurred by reason of an act or
27 omission in the rendering of such first aid or emergency treatment
28 unless it is established that such injuries were or such death was
29 caused by gross negligence on the part of such athletic trainer. Nothing
30 in this section shall be deemed or construed to relieve a certified
31 athletic trainer from liability for damages for injuries or death caused
32 by an act or omission on the part of an athletic trainer while rendering
33 professional services in the normal and ordinary course of his or her
34 practice.

35 § 8308. Separability. If any section of this title, or part thereof,
36 shall be adjudged by any court of competent jurisdiction to be invalid,
37 such judgment shall not affect, impair or invalidate the remainder of
38 any other section or part thereof.

39 TITLE 25

40 MENTAL HEALTH PRACTITIONERS

41 Section 8400. Introduction.

42 8401. Definitions.

43 8402. Mental health counseling.

44 8403. Marriage and family therapy.

45 8404. Creative arts therapy.

46 8405. Psychoanalysis.

47 8406. State board for mental health practitioners.

48 8407. Boundaries of professional competency.

49 8408. Hospital privileges.

50 8409. Limited permits.

51 8410. Exemptions.

52 8411. Special provisions.

53 8412. Mandatory continuing education.

54 § 8400. Introduction. This title applies to the professions of mental
55 health counseling, marriage and family therapy, creative arts therapy,
56 and psychoanalysis and provides for the licensing of such practitioners.

1 The general provisions for all professions contained in title one this
2 article apply to this title.

3 § 8401. Definitions. For purposes of this title, the following terms
4 shall have the following meanings:

5 1. "Board" means the state board for mental health practitioners
6 authorized by section eighty-four hundred six of this title.

7 2. "Psychotherapy" means the treatment of mental, nervous, emotional,
8 behavioral and addictive disorders, and ailments by the use of both
9 verbal and behavioral methods of intervention in interpersonal relation-
10 ships with the intent of assisting the persons to modify attitudes,
11 thinking, affect, and behavior which are intellectually, socially and
12 emotionally maladaptive.

13 § 8402. Mental health counseling. 1. The practice of the profession of
14 mental health counseling is defined as:

15 a. the evaluation, assessment, amelioration, treatment, modification,
16 or adjustment to a disability, problem, or disorder of behavior, charac-
17 ter, development, emotion, personality or relationships by the use of
18 verbal or behavioral methods with individuals, couples, families or
19 groups in private practice, group, or organized settings; and

20 b. the use of assessment instruments and mental health counseling and
21 psychotherapy to identify, evaluate and treat dysfunctions and disorders
22 for purposes of providing appropriate mental health counseling services.

23 2. Only a person licensed or exempt under this title shall practice
24 mental health counseling or use the title "mental health counselor".
25 Only a person licensed under this title shall use the title "licensed
26 mental health counselor" or any other designation tending to imply that
27 the person is licensed to practice mental health counseling.

28 3. Requirements for a professional license. To qualify for a license
29 as a "licensed mental health counselor", an applicant shall fulfill the
30 following requirements:

31 a. Application: File an application with the department;

32 b. Education: Have received an education, including a master's or
33 higher degree in counseling from a program registered by the department
34 or determined by the department to be the substantial equivalent there-
35 of, in accordance with the commissioner's regulations. The graduate
36 coursework shall include, but not be limited to, the following areas:

37 (i) human growth and development;

38 (ii) social and cultural foundations of counseling;

39 (iii) counseling theory and practice and psychopathology;

40 (iv) group dynamics;

41 (v) lifestyle and career development;

42 (vi) assessment and appraisal of individuals, couples and families and
43 groups;

44 (vii) research and program evaluation;

45 (viii) professional orientation and ethics;

46 (ix) foundations of mental health counseling and consultation;

47 (x) clinical instruction; and

48 (xi) completion of a minimum one year supervised internship or practi-
49 cum in mental health counseling;

50 c. Experience: An applicant shall complete a minimum of three thousand
51 hours of post-master's supervised experience relevant to the practice of
52 mental health counseling satisfactory to the board and in accordance
53 with the commissioner's regulations. Satisfactory experience obtained in
54 an entity operating under a waiver issued by the department pursuant to
55 section sixty-five hundred three-a of this article may be accepted by
56 the department, notwithstanding that such experience may have been

1 obtained prior to the effective date of such section sixty-five hundred
2 three-a of this article and/or prior to the entity having obtained a
3 waiver. The department may, for good cause shown, accept satisfactory
4 experience that was obtained in a setting that would have been eligible
5 for a waiver but which has not obtained a waiver from the department or
6 experience that was obtained in good faith by the applicant under the
7 belief that appropriate authorization had been obtained for the experi-
8 ence, provided that such experience meets all other requirements for
9 acceptable experience;

10 d. Examination: Pass an examination satisfactory to the board and in
11 accordance with the commissioner's regulations;

12 e. Age: Be at least twenty-one years of age;

13 f. Character: Be of good moral character as determined by the depart-
14 ment; and

15 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial
16 license and a fee of one hundred seventy dollars for each triennial
17 registration period.

18 § 8403. Marriage and family therapy. 1. The practice of the profession
19 of marriage and family therapy is defined as:

20 a. the assessment and treatment of nervous and mental disorders,
21 whether affective, cognitive or behavioral, which results in dysfunc-
22 tional interpersonal family relationships including, but not limited to
23 familial relationships, marital/couple relationships, parent-child
24 relationships, pre-marital and other personal relationships;

25 b. the use of mental health counseling, psychotherapy and therapeutic
26 techniques to evaluate and treat marital, relational, and family
27 systems, and individuals in relationship to these systems;

28 c. the use of mental health counseling and psychotherapeutic tech-
29 niques to treat mental, emotional and behavioral disorders and ailments
30 within the context of marital, relational and family systems to prevent
31 and ameliorate dysfunction; and

32 d. the use of assessment instruments and mental health counseling and
33 psychotherapy to identify and evaluate dysfunctions and disorders for
34 purposes of providing appropriate marriage and family therapy services.

35 2. Only a person licensed or exempt under this title shall practice
36 marriage and family therapy or use the title "marriage and family thera-
37 pist". Only a person licensed under this title shall use the titles
38 "licensed marriage and family therapist", "licensed marriage therapist",
39 "licensed family therapist" or any other designation tending to imply
40 that the person is licensed to practice marriage and family therapy.

41 3. Requirements for a professional license. To qualify for a license
42 as a "licensed marriage and family therapist", an applicant shall
43 fulfill the following requirements:

44 a. Application: File an application with the department;

45 b. Education: Have received a master's or doctoral degree in marriage
46 and family therapy from a program registered by the department, or
47 determined by the department to be the substantial equivalent, in
48 accordance with the commissioner's regulations or a graduate degree in
49 an allied field from a program registered by the department and graduate
50 level coursework determined to be equivalent to that required in a
51 program registered by the department. This coursework shall include,
52 but not be limited to:

53 (i) the study of human development, including individual, child and
54 family development;

55 (ii) psychopathology;

56 (iii) marital and family therapy;

- (iv) family law;
- (v) research;
- (vi) professional ethics; and
- (vii) a practicum of at least three hundred client contact hours;

c. Experience: The completion of at least one thousand five hundred client contact hours of supervised clinical experience, by persons holding a degree from a master's or doctoral program, or the substantial equivalent, in accordance with the commissioner's regulations or the completion of at least one thousand five hundred client hours of supervised post-master's clinical experience in marriage and family therapy satisfactory to the department in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a of this article and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

d. Examination: Pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: Be at least twenty-one years of age;

f. Character: Be of good moral character as determined by the department; and

g. Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8404. Creative arts therapy. 1. The practice of the profession of creative arts therapy is defined as:

a. the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and

b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.

2. Only a person licensed or exempt under this title shall practice creative arts therapy or use the title "creative arts therapist". Only a person licensed under this title shall use the title "licensed creative arts therapist" or any other designation tending to imply that the person is licensed to practice creative arts therapy.

3. Requirements for a professional license. To qualify for a license as a "licensed creative arts therapist", an applicant shall fulfill the following requirements:

a. Application: File an application with the department;

b. Education: Have received an education, including a master's or higher degree in creative arts therapy from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:

- (i) human growth and development;

- (ii) theories in therapy;
- (iii) group dynamics;
- (iv) assessment and appraisal of individuals and groups;
- (v) research and program evaluation;
- (vi) professional orientation and ethics;
- (vii) foundations of creative arts therapy and psychopathology; and
- (viii) clinical instruction;

c. Experience: Have completed at least fifteen hundred hours of post-master's supervised experience in one or more creative arts therapies satisfactory to the department and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a of this article and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

d. Examination: Pass an examination in creative arts therapy satisfactory to the department and in accordance with the commissioner's regulations;

e. Age: Be at least twenty-one years of age;

f. Character: Be of good moral character as determined by the department; and

g. Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8405. Psychoanalysis. 1. The practice of the profession of psychoanalysis is defined as:

a. the observation, description, evaluation, and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to identify and resolve unconscious psychic problems which affect interpersonal relationships and emotional development, to facilitate changes in personality and behavior through the use of verbal and nonverbal cognitive and emotional communication, and to develop adaptive functioning; and

b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services.

2. Only a person licensed or exempt under this title shall practice psychoanalysis or use the title "psychoanalyst". Only a person licensed under this title shall use the title "licensed psychoanalyst" or any other designation tending to imply that the person is licensed to practice psychoanalysis.

3. Requirements for a professional license. To qualify for a license as a "licensed psychoanalyst", an applicant shall fulfill the following requirements:

a. Application: File an application with the department;

b. Education: Have received a master's degree or higher from a degree-granting program registered by the department or the substantial equivalent and have completed a program of study registered by the department in a psychoanalytic institute chartered by the department or

1 the substantial equivalent as determined by the department. The program
2 of study in a psychoanalytic institute shall include coursework substan-
3 tially equivalent to coursework required for a master's degree in a
4 health or mental health field of study. The coursework shall include,
5 but not be limited to, the following areas:

6 (i) personality development;
7 (ii) psychoanalytic theory of psychopathology;
8 (iii) psychoanalytic theory of psychodiagnosis;
9 (iv) sociocultural influence on growth and psychopathology;
10 (v) practice technique (including dreams and symbolic processes);
11 (vi) analysis of resistance, transference, and countertransference;
12 (vii) case seminars on clinical practice;
13 (viii) practice in psychopathology and psychodiagnosis;
14 (ix) professional ethics and psychoanalytic research methodology; and
15 (x) a minimum of three hundred hours of personal analysis and one
16 hundred fifty hours of supervised analysis;

17 c. Experience: Have completed a minimum of fifteen hundred hours of
18 supervised clinical practice satisfactory to the department and in
19 accordance with the commissioner's regulations. Satisfactory experience
20 obtained in an entity operating under a waiver issued by the department
21 pursuant to section sixty-five hundred three-a of this article may be
22 accepted by the department, notwithstanding that such experience may
23 have been obtained prior to the effective date of such section sixty-
24 five hundred three-a and/or prior to the entity having obtained a waiv-
25 er. The department may, for good cause shown, accept satisfactory expe-
26 rience that was obtained in a setting that would have been eligible for
27 a waiver but which has not obtained a waiver from the department or
28 experience that was obtained in good faith by the applicant under the
29 belief that appropriate authorization had been obtained for the experi-
30 ence, provided that such experience meets all other requirements for
31 acceptable experience;

32 d. Examination: Pass an examination in psychoanalysis satisfactory to
33 the department and in accordance with the commissioner's regulations;

34 e. Age: Be at least twenty-one years of age;

35 f. Character: Be of good moral character as determined by the depart-
36 ment; and

37 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial
38 license and a fee of one hundred seventy dollars for each triennial
39 registration period.

40 § 8406. State board for mental health practitioners. A state board for
41 mental health practitioners shall be appointed by the commissioner for
42 the purpose of assisting the department on matters of licensing and
43 regulation. The board shall be composed of at least three licensed
44 members from each profession licensed pursuant to this title and at
45 least three public representatives who do not hold interests in the
46 organization, financing, or delivery of mental health services. Addi-
47 tionally, the board shall contain one physician who shall be a psychia-
48 trist. Members of the first board need not be licensed prior to their
49 appointment to the board. The terms of the first appointed members shall
50 be staggered so that five are appointed for three years, five are
51 appointed for four years, and six are appointed for five years. An exec-
52 utive secretary to the board shall be appointed by the commissioner.

53 § 8407. Boundaries of professional competency. 1. It shall be deemed
54 practicing outside the boundaries of his or her professional competence
55 for a person licensed pursuant to this title, in the case of treatment
56 of any serious mental illness, to provide any mental health service for

1 such illness on a continuous and sustained basis without a medical eval-
2 uation of the illness by, and consultation with, a physician regarding
3 such illness. Such medical evaluation and consultation shall be to
4 determine and advise whether any medical care is indicated for such
5 illness. For purposes of this section, "serious mental illness" means
6 schizophrenia, schizoaffective disorder, bipolar disorder, major depres-
7 sive disorder, panic disorder, obsessive-compulsive disorder, atten-
8 tion-deficit hyperactivity disorder and autism.

9 2. Any individual whose license or authority to practice derives from
10 the provisions of this title shall be prohibited from:

11 a. prescribing or administering drugs as defined in this chapter as a
12 treatment, therapy, or professional service in the practice of his or
13 her profession; or

14 b. using invasive procedures as a treatment, therapy, or professional
15 service in the practice of his or her profession. For purposes of this
16 subdivision, "invasive procedure" means any procedure in which human
17 tissue is cut, altered, or otherwise infiltrated by mechanical or other
18 means. Invasive procedure includes surgery, lasers, ionizing radiation,
19 therapeutic ultrasound, or electroconvulsive therapy.

20 § 8408. Hospital privileges. Nothing in this title shall be deemed to
21 authorize, grant, or extend hospital privileges to individuals licensed
22 under this title.

23 § 8409. Limited permits. The following requirements for a limited
24 permit shall apply to all professions licensed pursuant to this title:

25 1. The department may issue a limited permit to an applicant who meets
26 all qualifications for licensure, except the examination and/or experi-
27 ence requirements, in accordance with regulations promulgated therefor.

28 2. Limited permits shall be for two years; such limited permits may be
29 renewed, at the discretion of the department, for up to two additional
30 one year periods.

31 3. The fee for each limited permit and for each renewal shall be
32 seventy dollars.

33 § 8410. Exemptions. Nothing contained in this title shall be construed
34 to:

35 1. Apply to the practice, conduct, activities, services or use of any
36 title by any person licensed or otherwise authorized to practice medi-
37 cine within the state pursuant to title two of this article or by any
38 person registered to perform services as a physician assistant within
39 the state pursuant to title four of this article or by any person
40 licensed or otherwise authorized to practice psychology within this
41 state pursuant to title seventeen of this article or by any person
42 licensed or otherwise authorized to practice social work within this
43 state pursuant to title eighteen of this article, or by any person
44 licensed or otherwise authorized to practice nursing as a registered
45 professional nurse or nurse practitioner within this state pursuant to
46 title twelve of this article or by any person licensed or otherwise
47 authorized to practice applied behavior analysis within the state pursu-
48 ant to title twenty-nine of this article; provided, however, that no
49 physician, physician's assistant, registered professional nurse, nurse
50 practitioner, psychologist, licensed master social worker, licensed
51 clinical social worker, licensed behavior analyst or certified behavior
52 analyst assistant may use the titles "licensed mental health counselor",
53 "licensed marriage and family therapist", "licensed creative arts thera-
54 pist", or "licensed psychoanalyst", unless licensed under this article;

55 2. Prohibit or limit any individual who is credentialed under any law,
56 including attorneys, rape crisis counselors, certified alcoholism coun-

1 selors and certified substance abuse counselors from providing mental
2 health services within their respective established authorities;

3 3. Prohibit or limit the practice of a profession licensed pursuant to
4 this title by a student, intern or resident in, and as part of, a super-
5 vised educational program in an institution approved by the department;

6 4. Prohibit or limit the provision of pastoral counseling services by
7 any member of the clergy or Christian Science practitioner, within the
8 context of his or her ministerial charge or obligation;

9 5. Prohibit or limit individuals, churches, schools, teachers, organ-
10 izations, or not-for-profit businesses, from providing instruction,
11 advice, support, encouragement, or information to individuals, families,
12 and relational groups;

13 6. Prohibit or limit an occupational therapist from performing work
14 consistent with title twenty of this article;

15 7. Prohibit the practice of mental health counseling, marriage and
16 family therapy, creative arts therapy or psychoanalysis, to the extent
17 permissible within the scope of practice of such professions, by any
18 not-for-profit corporation or education corporation providing services
19 within the state of New York and operating under a waiver pursuant to
20 section sixty-five hundred three-a of this title, provided that such
21 entities offering mental health counseling, marriage and family therapy,
22 creative arts therapy or psychoanalysis services shall only provide such
23 services through an individual appropriately licensed or otherwise
24 authorized to provide such services or a professional entity authorized
25 by law to provide such services;

26 8. a. Prevent a person without a license from: performing assessments
27 including but not limited to basic information collection, gathering of
28 demographic data, and informal observations, screening and referral used
29 for general eligibility for a program or service and determining the
30 functional status of an individual for the purpose of determining need
31 for services; advising individuals regarding the appropriateness of
32 benefits they are eligible for; providing general advice and guidance
33 and assisting individuals or groups with difficult day to day problems
34 such as finding employment, locating sources of assistance, and organiz-
35 ing community groups to work on a specific problem; providing peer
36 services; selecting for suitability and providing substance abuse treat-
37 ment services or group re-entry services to incarcerated individuals in
38 state correctional facilities; or providing substance abuse treatment
39 services or re-entry services to incarcerated individuals in local
40 correctional facilities.

41 b. Prevent a person without a license from creating, developing or
42 implementing a service plan or recovery plan that is not a behavioral
43 health diagnosis or treatment plan. Such service or recovery plans shall
44 include, but are not limited to, coordinating, evaluating or determining
45 the need for, or the provision of the following services: job training
46 and employability; housing; homeless services and shelters for homeless
47 individuals and families; refugee services; residential, day or communi-
48 ty habilitation services; general public assistance; in home services
49 and supports or home-delivered meals; recovery supports; adult or child
50 protective services including investigations; detention as defined in
51 section five hundred two of the executive law; prevention and residen-
52 tial services for victims of domestic violence; services for runaway and
53 homeless youth; foster care, adoption, preventive services or services
54 in accordance with an approved plan pursuant to section four hundred
55 four of the social services law, including, adoption and foster home
56 studies and assessments, family service plans, transition plans, perman-

1 ency planning activities, and case planning or case management as such
2 terms are defined in the regulations of the office of children and fami-
3 ly services; residential rehabilitation; home and community based
4 services; and de-escalation techniques, peer services or skill develop-
5 ment.

6 c. (i) Prevent a person without a license from participating as a
7 member of a multi-disciplinary team to assist in the development of or
8 implementation of a behavioral health services or treatment plan;
9 provided that such team shall include one or more professionals licensed
10 under this title or titles two, twelve, seventeen or eighteen of this
11 article; and provided, further, that the activities performed by members
12 of the team shall be consistent with the scope of practice for each team
13 member licensed or authorized under this article, and those who are not
14 so authorized may not engage in the following restricted practices: the
15 diagnosis of mental, emotional, behavioral, addictive and developmental
16 disorders and disabilities; patient assessment and evaluating; the
17 provision of psychotherapeutic treatment; the provision of treatment
18 other than psychotherapeutic treatment; or independently developing and
19 implementing assessment-based treatment plans as defined in section
20 seventy-seven hundred one of this chapter.

21 (ii) For the purposes of this paragraph, "assist" shall include, but
22 not be limited to, the provision or performance of the following tasks,
23 services, or functions by an individual who has obtained the training
24 and experience required by the applicable state oversight agency to
25 perform such task, service or function in facilities or programs operat-
26 ing pursuant to article nineteen-G of the executive law; articles seven,
27 sixteen, thirty-one or thirty-two of the mental hygiene law; or title
28 three of article seven of the social services law:

29 (A) helping an individual with the completion of forms or question-
30 naires;

31 (B) reviewing existing case records and collecting background informa-
32 tion about an individual which may be used by the licensed professional
33 or multi-disciplinary team;

34 (C) gathering and reporting information about previous behavioral
35 health interventions, hospitalizations, documented diagnosis, or prior
36 treatment for review by the licensed professional and multi-disciplinary
37 team;

38 (D) discussing with the individual his or her situation, needs,
39 concerns, and thoughts in order to help identify services that support
40 the individual's goals, independence, and quality of life;

41 (E) providing advice, information, and assistance to individuals and
42 family members to identify needs and available resources in the communi-
43 ty to help meet the needs of the individual or family member;

44 (F) engaging in immediate and long-term problem solving, engaging in
45 the development of social skills, or providing general help in areas
46 including, but not limited to, housing, employment, child care, parent-
47 ing, community based services, and finances;

48 (G) distributing paper copies of self-administered tests for the indi-
49 vidual to complete when such tests do not require the observation and
50 judgment of a licensed professional;

51 (H) monitoring treatment by the collection of written and/or observa-
52 tional data in accordance with the treatment plan and providing verbal
53 or written reports to the multi-disciplinary team;

54 (I) identifying gaps in services and coordinating access to or arrang-
55 ing services for individuals such as home care, community based

1 services, housing, employment, transportation, child care, vocational
2 training, or health care;

3 (J) offering education programs that provide information about disease
4 identification and recommended treatments that may be provided, and how
5 to access such treatment;

6 (K) reporting on behavior, actions, and responses to treatment by
7 collecting written and/or observational data as part of a multi-disci-
8 plinary team;

9 (L) using de-escalation techniques consistent with appropriate train-
10 ing;

11 (M) performing assessments using standardized, structured interview
12 tools or instruments;

13 (N) directly delivering services outlined in the service plan that are
14 not clinical in nature but have been tailored to an individual based on
15 any diagnoses such individual may have received from a licensed profes-
16 sional; and

17 (O) advocating with educational, judicial or other systems to protect
18 an individual's rights and access to appropriate services.

19 d. Provided, further, that nothing in this subdivision shall be
20 construed as requiring a license for any particular activity or function
21 based solely on the fact that the activity or function is not listed in
22 this subdivision.

23 9. Notwithstanding any other provision of law to the contrary, nothing
24 in this title shall be construed to prohibit or limit the activities or
25 services provided under this title by any person who is employed or who
26 commences employment in a program or service operated, regulated, fund-
27 ed, or approved by the department of mental hygiene, the office of chil-
28 dren and family services, the department of corrections and community
29 supervision, the office of temporary and disability assistance, the
30 state office for the aging and the department or a local governmental
31 unit as that term is defined in section 41.03 of the mental hygiene law
32 or a social services district as defined in section sixty-one of the
33 social services law on or before two years from the date that the regu-
34 lations issued in accordance with section six of part Y of chapter
35 fifty-seven of the laws of two thousand eighteen appear in the state
36 register or are adopted, whichever is later. Such prohibitions or limi-
37 tations shall not apply to such employees for as long as they remain
38 employed by such programs or services and whether they remain employed
39 by the same or other employers providing such programs or services.
40 Provided however, that any person who commences employment in such
41 program or service after such date and performs services that are
42 restricted under this title shall be appropriately licensed or author-
43 ized under this title. Each state oversight agency shall create and
44 maintain a process to verify employment history of individuals exempt
45 under this subdivision.

46 10. The activities or services provided by a person with a master's
47 level degree required for licensure pursuant to this title, working
48 under the supervision of a professional licensed pursuant to title
49 seventeen or eighteen of this article in a program or service operated,
50 regulated, funded, or approved by the department of mental hygiene, the
51 office of children and family services, the department of corrections
52 and community supervision, the office of temporary and disability
53 assistance, the state office for the aging and the department or a local
54 government unit as that term is defined in section 41.03 of the mental
55 hygiene law or a social services district as defined in section sixty-
56 one of the social services law.

1 § 8411. Special provisions. 1. This section shall apply to all
2 professions licensed pursuant to this title, unless otherwise provided.

3 2. Any nonexempt person practicing a profession to be licensed pursu-
4 ant to this title shall apply for a license of said profession within
5 one year of the effective date of the specified profession.

6 a. If such person does not meet the requirements for a license estab-
7 lished within this title, such person may meet alternative criteria
8 determined by the department to be the substantial equivalent of such
9 criteria.

10 b. If such person meets the requirements for a license established
11 within this title, except for examination, and has been certified or
12 registered by a national certifying or registering body having certif-
13 ication or registration standards acceptable to the commissioner, the
14 department shall license without examination.

15 c. If such person meets the requirements for a license established
16 within this title, except for examination, and there exists no national
17 certifying or registering body having certification or registration
18 standards acceptable to the commissioner, the department shall license
19 without examination if the applicant submits evidence satisfactory to
20 the department of having been engaged in the practice of the specified
21 profession for at least five of the immediately preceding eight years.

22 3. Any person licensed pursuant to this title may use accepted classi-
23 fications of signs, symptoms, dysfunctions and disorders, as approved in
24 accordance with regulations promulgated by the department, in the prac-
25 tice of such licensed profession.

26 § 8412. Mandatory continuing education. 1. a. Each licensed mental
27 health counselor, marriage and family therapist, psychoanalyst, and
28 creative arts therapist required under this title to register triennial-
29 ly with the department to practice in this state, shall comply with the
30 provisions of mandatory continuing education requirements prescribed in
31 subdivision two of this section, except as set forth in paragraphs b and
32 c of this subdivision. Licensed mental health counselors, marriage and
33 family therapists, psychoanalysts, and creative arts therapists who do
34 not satisfy the mandatory continuing education requirements shall not
35 practice until they have met such requirements, and they have been
36 issued a registration certificate, except that a licensed mental health
37 counselor, marriage and family therapist, psychoanalyst, and creative
38 arts therapist may practice without having met such requirements if he
39 or she is issued a conditional registration certificate pursuant to
40 subdivision three of this section.

41 b. Each licensed mental health counselor, marriage and family thera-
42 pist, psychoanalyst, and creative arts therapist shall be exempt from
43 the mandatory continuing education requirements for the triennial regis-
44 tration period during which they are first licensed. In accordance with
45 the intent of this section, adjustment to the mandatory continuing
46 education requirement may be granted by the department for reasons of
47 health that are certified by an appropriate health care professional,
48 for extended active duty with the armed forces of the United States, or
49 for other good cause acceptable to the department which may prevent
50 compliance.

51 c. A licensed mental health counselor, marriage and family therapist,
52 psychoanalyst, and creative arts therapist not engaged in practice, as
53 determined by the department, shall be exempt from the mandatory contin-
54 uing education requirement upon the filing of a statement with the
55 department declaring such status. Any licensee who returns to the prac-
56 tice of mental health counseling, marriage and family therapy, psycho-

1 analysis, and creative arts therapy during the triennial registration
2 period shall notify the department prior to reentering the profession
3 and shall meet such mandatory education requirements as shall be
4 prescribed by regulations of the commissioner.

5 2. During each triennial registration period an applicant for regis-
6 tration as a licensed mental health counselor, marriage and family ther-
7 apist, psychoanalyst, and creative arts therapist shall complete a mini-
8 mum of thirty-six hours of acceptable formal continuing education, a
9 maximum of twelve hours of which may be self-instructional course work
10 acceptable to the department. Any licensed mental health counselor,
11 marriage and family therapist, psychoanalyst, and creative arts thera-
12 pist whose first registration date following the effective date of this
13 section occurs less than three years from such effective date, but on or
14 after January first, two thousand seventeen, shall complete continuing
15 education hours on a prorated basis at the rate of one hour per month
16 for the period beginning January first, two thousand seventeen up to the
17 first registration date thereafter. A licensee who has not satisfied the
18 mandatory continuing education requirement shall not be issued a trien-
19 nal registration certificate by the department and shall not practice
20 unless and until a conditional registration certificate is issued as
21 provided for in subdivision three of this section. Continuing education
22 hours taken during one triennium may not be transferred to the subse-
23 quent triennium.

24 3. a. The department, in its discretion, may issue a conditional
25 registration to a licensee who fails to meet the continuing education
26 requirements established in subdivision two of this section but who
27 agrees to make up any deficiencies and complete any additional education
28 which the department may require. The fee for such a conditional regis-
29 tration shall be the same as, and in addition to, the fee for the trien-
30 nal registration. The duration of such conditional registration shall
31 be determined by the department but shall not exceed one year. Any
32 licensee who is notified of the denial of registration for failure to
33 submit evidence, satisfactory to the department, of required continuing
34 education and who practices without such registration may be subject to
35 disciplinary proceedings pursuant to section sixty-five hundred ten of
36 this article.

37 b. For purposes of this section "acceptable formal education" shall
38 mean formal courses of learning which contribute to professional prac-
39 tice in mental health counseling, marriage and family therapy, psycho-
40 analysis, or creative arts therapies and which meet the standards
41 prescribed by regulations of the commissioner. Such formal courses of
42 learning shall include, but not be limited to, collegiate level credit
43 and non-credit courses, professional development programs and technical
44 sessions offered by national, state and local professional associations
45 and other organizations acceptable to the department, and any other
46 organized educational and technical programs acceptable to the depart-
47 ment. Continuing education courses must be taken from a provider who has
48 been approved by the department, based upon an application and fee,
49 pursuant to the regulations of the commissioner. The department may, in
50 its discretion and as needed to contribute to the health and welfare of
51 the public, require the completion of continuing education courses in
52 specific subjects to fulfill this mandatory continuing education
53 requirement. Licensed mental health counselors, marriage and family
54 therapists, psychoanalysts, and creative arts therapists shall maintain
55 adequate documentation of completion of acceptable formal continuing
56 education and shall provide such documentation at the request of the

1 department. Failure to provide such documentation upon the request of
2 the department shall be an act of misconduct subject to disciplinary
3 proceedings pursuant to section sixty-five hundred ten of this article.

4 c. The mandatory continuing education fee shall be determined by the
5 department. Such fee shall be payable on or before the first day of each
6 triennial registration period, and shall be paid in addition to the
7 triennial registration fees required by paragraph g of subdivision three
8 of section eighty-four hundred two of this title and paragraph g of
9 subdivision three of section eighty-four hundred five of this title.

10 TITLE 26

11 RESPIRATORY THERAPISTS AND RESPIRATORY THERAPY TECHNICIANS

12 Section 8500. Introduction.

13 8501. Definition of the practice of respiratory therapy.

14 8502. Practice of respiratory therapy and use of the title
15 "respiratory therapist".

16 8503. State board for respiratory therapy.

17 8504. Requirements for licensure as a respiratory therapist.

18 8504-a. Mandatory continuing education for respiratory thera-
19 pists.

20 8505. Exempt persons.

21 8506. Limited permits.

22 8507. Special provisions.

23 8508. Definition of the practice of respiratory therapy tech-
24 nician.

25 8509. Duties of respiratory therapy technicians and use of the
26 title "respiratory therapy technician".

27 8510. Requirements for licensure as a respiratory therapy
28 technician.

29 8510-a. Mandatory continuing education for respiratory therapy
30 technicians.

31 8511. Limited permits.

32 8512. Exempt persons.

33 8513. Special provisions.

34 § 8500. Introduction. This title applies to the practice of respir-
35 atory therapy and provides for the licensing of respiratory therapists
36 and respiratory therapy technicians. The general provisions for all
37 professions contained in title one of this article shall apply to this
38 title.

39 § 8501. Definition of the practice of respiratory therapy. The prac-
40 tice of the profession of respiratory therapy, which shall be undertaken
41 pursuant to the direction of a duly licensed physician, is defined as
42 the performance of cardiopulmonary evaluation, respiratory therapy
43 treatment techniques, and education of the patient, family and public.

44 1. Evaluation shall include the acquisition, analysis and interpreta-
45 tion of data obtained from physiological specimens, performing diagnos-
46 tic tests, studies and research of the cardiopulmonary system and neuro-
47 physiological studies related to respiratory care.

48 2. Therapy shall include the application and monitoring of medical
49 gases (excluding anesthetic gases) and environmental control systems,
50 mechanical ventilatory support, artificial airway care, bronchopulmonary
51 hygiene, pharmacologic agents related to respiratory care procedures,
52 and cardiopulmonary rehabilitation related and limited to respiratory
53 care.

54 3. Respiratory therapy services may be performed pursuant to a
55 prescription of a licensed physician or certified nurse practitioner.

1 § 8502. Practice of respiratory therapy and use of the title "respir-
2 atory therapist". 1. Only a person licensed or exempt under this title
3 shall practice respiratory therapy or use the title "respiratory thera-
4 pist".

5 2. A licensed respiratory therapist may supervise respiratory therapy
6 technicians in the practice of their profession in such capacities as
7 are prescribed by law and as from time to time may be set by the commis-
8 sioner.

9 § 8503. State board for respiratory therapy. A state board for respir-
10 atory therapy shall be appointed by the recommendation of the commis-
11 sioner for the purpose of assisting the department on matters of profes-
12 sional licensing and conduct in accordance with section sixty-five
13 hundred eight of this article. The board shall be composed of not less
14 than five licensed respiratory therapists, two licensed respiratory
15 therapy technicians, and four additional members who shall include at
16 least one licensed physician and at least one public member. Members of
17 the first board who are respiratory therapy practitioners need not be
18 licensed prior to appointment on the board, provided, however, that the
19 first appointed respiratory therapists shall be registered by a national
20 certifying or accrediting board, acceptable to the department and the
21 first appointed respiratory therapy technicians shall be certified by a
22 national certifying or accrediting board, acceptable to the department.
23 An executive secretary to the board shall be appointed by the commis-
24 sioner.

25 § 8504. Requirements for licensure as a respiratory therapist. To
26 qualify for a license as a respiratory therapist, an applicant shall
27 fulfill the following requirements:

28 1. Application: file an application with the department;

29 2. Education: have received an education, including completion of an
30 approved associate degree program in respiratory therapy or in a program
31 determined by the department to be the equivalent;

32 3. Experience: have experience satisfactory to the board and in
33 accordance with the commissioner's regulations;

34 4. Examination: pass an examination satisfactory to the board and in
35 accordance with the commissioner's regulations;

36 5. Age: be at least eighteen years of age;

37 6. Character: be of good moral character as determined by the depart-
38 ment; and

39 7. Fees: pay a fee of one hundred seventy-five dollars to the depart-
40 ment for admission to a department conducted examination and for an
41 initial license; a fee of eighty-five dollars for each re-examination; a
42 fee of one hundred fifteen dollars for an initial license for persons
43 not requiring admission to a department conducted examination and a fee
44 of one hundred fifty-five dollars for each triennial registration period
45 commencing on and after June first, nineteen hundred ninety-three.

46 § 8504-a. Mandatory continuing education for respiratory therapists.

47 1. a. Each licensed respiratory therapist required under this title to
48 register triennially with the department to practice in the state shall
49 comply with provisions of the mandatory continuing education require-
50 ments prescribed in subdivision two of this section except as set forth
51 in paragraphs b and c of this subdivision. Respiratory therapists who do
52 not satisfy the mandatory continuing education requirement shall not
53 practice until they have met such requirements, and have been issued a
54 registration certificate, except that a respiratory therapist may prac-
55 tice without having met such requirements if he or she is issued a

1 conditional registration certificate pursuant to subdivision three of
2 this section.

3 b. Respiratory therapists shall be exempt from the mandatory continu-
4 ing education requirement for the triennial registration period during
5 which they are first licensed. In accord with the intent of this
6 section, adjustment to the mandatory continuing education requirement
7 may be granted by the department for reasons of health, certified by an
8 appropriate health care professional, for extended active duty with the
9 armed forces of the United States, or for other good cause acceptable to
10 the department which may prevent compliance.

11 c. A licensed respiratory therapist not engaged in practice as deter-
12 mined by the department, shall be exempt from the mandatory continuing
13 education requirement upon the filing of a statement with the department
14 declaring such status. Any licensee who returns to their respective
15 practice as a respiratory therapist during the triennial registration
16 period shall notify the department prior to reentering the profession
17 and shall meet such mandatory education requirements as shall be
18 prescribed by regulations of the commissioner.

19 2. During each triennial registration period an applicant for regis-
20 tration as a respiratory therapist shall complete a minimum of thirty
21 hours of acceptable formal continuing education, as specified in subdi-
22 vision four of this section, provided that no more than fifteen hours of
23 such continuing education shall consist of self-study courses. Any
24 respiratory therapist whose first registration date following the effec-
25 tive date of this section occurs less than three years from such effec-
26 tive date, but on or after January first, two thousand one, shall
27 complete continuing education hours on a prorated basis at the rate of
28 five-sixths of one hour per month for the period beginning January
29 first, two thousand up to the first registration date thereafter. A
30 licensee who has not satisfied the mandatory continuing education
31 requirements shall not be issued a triennial registration certificate by
32 the department and shall not practice unless and until a conditional
33 registration certificate is issued as provided for in subdivision three
34 of this section. With the exception of continuing education hours
35 completed during the registration period immediately preceding the
36 effective date of this section, continuing education hours completed
37 during one triennium may not be transferred to a subsequent triennium.

38 3. The department, in its discretion, may issue a conditional regis-
39 tration to a licensee who fails to meet the continuing education
40 requirements established in subdivision two of this section but who
41 agrees to make up any deficiencies and complete any additional education
42 which the department may require. The fee for such a conditional regis-
43 tration shall be the same as, and in addition to, the fee for the trien-
44 nial registration. The duration of such conditional registration shall
45 be determined by the department but shall not exceed one year. Any
46 licensee who is notified of the denial of registration for failure to
47 submit evidence, satisfactory to the department, of required continuing
48 education and who practices as a respiratory therapist without such
49 registration, may be subject to disciplinary proceedings pursuant to
50 section sixty-five hundred ten of this article.

51 4. As used in subdivision two of this section, "acceptable formal
52 continuing education" for respiratory therapy shall mean formal courses
53 of learning which contribute to professional practice in respiratory
54 therapy and which meet the standards prescribed by regulations of the
55 commissioner. The department may, in its discretion and as needed to

1 contribute to the health and welfare of the public, require the
2 completion of continuing education courses in specific subjects.

3 5. Respiratory therapists shall maintain adequate documentation of
4 completion of acceptable formal continuing education and shall provide
5 such documentation at the request of the department.

6 6. The mandatory continuing education fee for respiratory therapists
7 shall be thirty dollars, shall be payable on or before the first day of
8 each triennial registration period, and shall be paid in addition to the
9 triennial registration fee required by section eighty-five hundred four
10 of this title.

11 § 8505. Exempt persons. This title shall not prohibit:

12 1. The practice of respiratory therapy as an integral part of a
13 program of study by students enrolled in approved respiratory therapy
14 education programs;

15 2. The performance of any of the modalities included in the definition
16 of respiratory therapy by any other duly licensed, certified or regis-
17 tered health care provider, provided that such modalities are within the
18 scope of his or her practice;

19 3. Unlicensed assistants from being employed in a hospital, as defined
20 in article twenty-eight of this chapter, for purposes other than the
21 practice of respiratory therapy;

22 4. The practice of respiratory therapy by any legally qualified
23 respiratory therapy practitioner of any other state or territory who is
24 serving in the armed forces or the public health service of the United
25 States or who is employed by the veterans' administration, while engaged
26 in the performance of his or her duties.

27 5. The provision of polysomnographic technology services, as defined
28 by the commissioner, by an individual, under the direction and super-
29 vision of a licensed physician, who has obtained authorization issued by
30 the department. Such authorization shall be issued to individuals who
31 have met standards, including those relating to education, experience,
32 examination and character, as promulgated in regulations of the commis-
33 sioner. Such authorization shall be subject to the full disciplinary and
34 regulatory authority of the department, pursuant to this title, as if
35 such authorization were a professional license issued under this title.
36 The application fee for such authorization shall be three hundred
37 dollars. Each authorization holder shall register with the department
38 every three years and shall pay a registration fee of three hundred
39 dollars.

40 § 8506. Limited permits. Permits limited as to eligibility, practice
41 and duration shall be issued by the department to eligible applicants as
42 follows:

43 1. Eligibility. A person who fulfills all requirements for registra-
44 tion as a respiratory therapist except that relating to the examination
45 shall be eligible for a limited permit.

46 2. Limit of practice. All practice under a limited permit shall be
47 under the direct supervision of a licensed respiratory therapist physi-
48 cian specializing in pulmonary medicine, an anesthesiologist or an
49 otherwise legally authorized physician.

50 3. Duration. A limited permit shall expire one year from the date of
51 issuance or upon notice to the permittee by the department that the
52 application for licensure has been denied, or ten days after notifica-
53 tion to the permittee of failure on the professional licensing examina-
54 tion, whichever first occurs; provided, however, that if the permittee
55 is awaiting the results of a licensing examination at the time such
56 limited permit expires, such permit shall continue to be valid until ten

1 days after notification to the permittee of the result of such examina-
2 tion.

3 4. Fees. The fee for each limited permit shall be seventy dollars.

4 § 8507. Special provisions. A person shall be licensed without exam-
5 ination provided that, within one year of the effective date of this
6 title, the individual:

7 1. files an application and pays the appropriate fees to the depart-
8 ment; and

9 2. (a) is registered by a national certifying or accrediting board for
10 respiratory therapy acceptable to the department, or

11 (b) has practiced respiratory therapy in a hospital, as defined in
12 article twenty-eight of this chapter, in the state for not less than
13 three years within the last five years prior to the effective date of
14 this title, or

15 (c) has met the educational standards of a hospital, as defined in
16 article twenty-eight of this chapter, or, in the case of a hospital
17 operated by a public benefit corporation, has met the educational stand-
18 ards of such corporation, and has practiced as a respiratory therapist
19 for at least one year in such hospital.

20 § 8508. Definition of the practice of respiratory therapy technician.
21 A respiratory therapy technician means a person licensed in accordance
22 with this title who works under the supervision of a licensed respir-
23 atory therapist or a licensed or otherwise legally authorized physician
24 performing tasks and responsibilities within the framework of the prac-
25 tice of respiratory therapy.

26 § 8509. Duties of respiratory therapy technicians and use of the title
27 "respiratory therapy technician". Only a person licensed or otherwise
28 authorized under this title shall participate in the practice of respir-
29 atory therapy as a respiratory therapy technician and only a person
30 licensed under this title shall use the title "respiratory therapy tech-
31 nician".

32 § 8510. Requirements for licensure as a respiratory therapy techni-
33 cian. To qualify for a license as a respiratory therapy technician an
34 applicant shall fulfill the following requirements:

35 1. Application: file an application with the department;

36 2. Education: have received an education including completion of high
37 school or its equivalent and have completed an approved one-year certif-
38 icate respiratory therapy education program, or a program determined
39 equivalent, in accordance with the commissioner's regulations;

40 3. Experience: have experience satisfactory to the board and in
41 accordance with the commissioner's regulations;

42 4. Examination: pass an examination satisfactory to the board and in
43 accordance with the commissioner's regulations;

44 5. Age: be at least eighteen years of age;

45 6. Character: be of good moral character as determined by the depart-
46 ment; and

47 7. Fees: pay a fee of ninety dollars to the department for admission
48 to a department conducted examination and for an initial license; a fee
49 of sixty dollars for each re-examination; a fee of fifty dollars for an
50 initial license for persons not requiring admission to a department
51 conducted examination and a fee of ninety dollars for each triennial
52 registration period commencing on and after June first, nineteen hundred
53 ninety-three.

54 § 8510-a. Mandatory continuing education for respiratory therapy tech-
55 nicians. 1. a. Each licensed respiratory therapy technician required
56 under this title to register triennially with the department to practice

1 in the state shall comply with provisions of the mandatory continuing
2 education requirements prescribed in subdivision two of this section
3 except as set forth in paragraphs b and c of this subdivision. Respir-
4 atory therapy technicians who do not satisfy the mandatory continuing
5 education requirement shall not practice until they have met such
6 requirements, and have been issued a registration certificate, except
7 that a respiratory therapy technician may practice without having met
8 such requirements if he or she is issued a conditional registration
9 certificate pursuant to subdivision three of this section.

10 b. Respiratory therapy technicians shall be exempt from the mandatory
11 continuing education requirement for the triennial registration period
12 during which they are first licensed. In accord with the intent of this
13 section, adjustment to the mandatory continuing education requirement
14 may be granted by the department for reasons of health, certified by an
15 appropriate health care professional, for extended active duty with the
16 armed forces of the United States, or for other good cause acceptable to
17 the department which may prevent compliance.

18 c. A licensed respiratory therapy technician not engaged in practice
19 as determined by the department, shall be exempt from the mandatory
20 continuing education requirement upon the filing of a statement with the
21 department declaring such status. Any licensee who returns to their
22 respective practice as a respiratory therapy technician during the
23 triennial registration period shall notify the department prior to reen-
24 tering the profession and shall meet such mandatory education require-
25 ments as shall be prescribed by regulations of the commissioner.

26 2. During each triennial registration period an applicant for regis-
27 tration as a respiratory therapy technician shall complete a minimum of
28 twenty-four hours of acceptable formal continuing education, as speci-
29 fied in subdivision four of this section, provided that no more than
30 twelve hours of such continuing education shall consist of self-study
31 courses. Any respiratory therapy technician whose first registration
32 date following the effective date of this section occurs less than three
33 years from such effective date, but on or after January first, two thou-
34 sand one, shall complete continuing education hours on a prorated basis
35 at the rate of two-thirds of one hour per month for the period beginning
36 January first, two thousand up to the first registration date thereaft-
37 er. A licensee who has not satisfied the mandatory continuing education
38 requirements shall not be issued a triennial registration certificate by
39 the department and shall not practice unless and until a conditional
40 registration certificate is issued as provided for in subdivision three
41 of this section. With the exception of continuing education hours taken
42 during the registration period immediately preceding the effective date
43 of this section, continuing education hours completed during one trien-
44 nium may not be transferred to a subsequent triennium.

45 3. The department, in its discretion, may issue a conditional regis-
46 tration to a licensee who fails to meet the continuing education
47 requirements established in subdivision two of this section but who
48 agrees to make up any deficiencies and complete any additional education
49 which the department may require. The fee for such a conditional regis-
50 tration shall be the same as, and in addition to, the fee for the trien-
51 ni- al registration. The duration of such conditional registration shall
52 be determined by the department but shall not exceed one year. Any
53 licensee who is notified of the denial of registration for failure to
54 submit evidence, satisfactory to the department, of required continuing
55 education and who practices as a respiratory therapy technician without

1 such registration, may be subject to the disciplinary proceedings pursu-
2 ant to section sixty-five hundred ten of this article.

3 4. As used in subdivision two of this section, "acceptable formal
4 continuing education" for respiratory therapy technicians shall mean
5 formal courses of learning which contribute to professional practice as
6 a respiratory therapy technician and which meet the standards prescribed
7 by regulations of the commissioner. The department may, in its
8 discretion and as needed to contribute to the health and welfare of the
9 public, require the completion of continuing education courses in
10 specific subjects.

11 5. Respiratory therapy technicians shall maintain adequate documenta-
12 tion of completion of acceptable formal continuing education and shall
13 provide such documentation at the request of the department.

14 6. The mandatory continuing education fee for respiratory therapy
15 technicians shall be twenty-five dollars, shall be payable on or before
16 the first day of each triennial registration period, and shall be paid
17 in addition to the triennial registration fee required by section eight-
18 y-five hundred ten of this title.

19 § 8511. Limited permits. 1. Eligibility. The department may issue a
20 limited permit to an applicant for respiratory therapy technician who
21 meets all requirements for admission to the licensing examination.

22 2. Limit of practice. All practice under a limited permit shall be
23 under the direct supervision of a licensed respiratory therapist or a
24 licensed or otherwise legally authorized physician.

25 3. Duration. A limited permit shall expire one year from the date of
26 issuance or upon notice to the permittee by the department that the
27 application for registration has been denied, or ten days after notifi-
28 cation to the permittee of failure on the professional licensing exam-
29 ination, whichever first occurs; provided, however, that if the permit-
30 tee is awaiting the results of a licensing examination at the time such
31 limited permit expires, such permit shall continue to be valid until ten
32 days after notification to the permittee of the result of such examina-
33 tion.

34 4. Fees. The fee for each limited permit shall be fifty dollars.

35 § 8512. Exempt persons. This title shall not prohibit:

36 1. a respiratory therapy student or a respiratory therapy technician
37 student from engaging in clinical assistance under the supervision of a
38 licensed respiratory therapist or a licensed or otherwise legally
39 authorized physician as an integral part of a program of study by
40 students enrolled in an approved respiratory therapy technician program
41 or in a clinical facility or health care agency affiliated with the
42 program for respiratory therapy technicians; or

43 2. the performance of any of the tasks or responsibilities included in
44 the definition of respiratory therapy technician by any other duly
45 licensed, certified or registered health care provider, provided that
46 such tasks or responsibilities are within the scope of his or her prac-
47 tice; or

48 3. unlicensed assistants from being employed in a hospital, as defined
49 in article twenty-eight of this chapter, for purposes other than the
50 practice of respiratory therapy technician; or

51 4. the practice of respiratory therapy by any legally qualified
52 respiratory therapy practitioner of any other state or territory who is
53 serving in the armed forces or the public health service of the United
54 States or who is employed by the veterans' administration, while engaged
55 in the performance of his or her duties.

1 § 8513. Special provisions. A person shall be licensed without exam-
2 ination provided that, within one year of the effective date of this
3 title, the individual:

4 1. files an application and pays the appropriate fees to the depart-
5 ment; and

6 2. a. is certified by a national certifying or accrediting board for
7 respiratory therapy technicians acceptable to the department, or

8 b. has practiced as a respiratory therapy technician in a hospital, as
9 defined in article twenty-eight of this chapter, in the state for not
10 less than two years within the last five years, or

11 c. has met the educational standards of a hospital, as defined in
12 article twenty-eight of this chapter, or, in the case of a hospital
13 operated by a public benefit corporation, has met the educational stand-
14 ards of such corporation, and has practiced as a respiratory therapy
15 technician for at least one year in such hospital.

16 TITLE 27

17 CLINICAL LABORATORY TECHNOLOGY PRACTICE ACT

18 Section 8600. Introduction.

19 8601. Definition of the practice of clinical laboratory tech-
20 nology and clinical laboratory technology practition-
21 er.

22 8602. Practice of clinical laboratory technology and cytotech-
23 nology and use of the titles "licensed clinical labo-
24 ratory technologist" and "licensed cytotechnologist".

25 8603. Practice as a clinical laboratory technician and histo-
26 logical technician and the use of the titles "clinical
27 laboratory technician" and "histological technician".

28 8604. State board for clinical laboratory technology.

29 8605. Requirements for a license as a clinical laboratory
30 technologist or cytotechnologist.

31 8606. Requirements for certification as a clinical laboratory
32 technician.

33 8606-a. Requirements for certification as a histological techni-
34 cian.

35 8607. Special provisions.

36 8608. Limited and provisional permits.

37 8609. Exempt persons.

38 8610. Restricted clinical laboratory licenses.

39 § 8600. Introduction. This title defines the practice of clinical
40 laboratory technology and provides for the licensing of clinical labo-
41 ratory technologists and cytotechnologists and for the certification of
42 clinical laboratory technicians and histological technicians. The gener-
43 al provisions for all professions contained in title one of this article
44 shall apply to this title.

45 § 8601. Definition of the practice of clinical laboratory technology
46 and clinical laboratory technology practitioner. 1. "Clinical laboratory
47 technology" means the performance of microbiological, virological, sero-
48 logical, chemical, immuno-hematological, hematological, biophysical,
49 cytogenetical, cytological or histological procedures and examinations
50 and any other test or procedure conducted by a laboratory as defined by
51 title five of article five of this chapter, on material derived from the
52 human body which provides information for the diagnosis, prevention or
53 treatment of a disease or assessment of a human medical condition.

54 2. A "clinical laboratory technology practitioner" means clinical
55 laboratory technologists, cytotechnologists, clinical laboratory techni-
56 cians, and histological technicians as such terms are defined in this

1 subdivision, who practice clinical laboratory technology in a licensed
2 clinical laboratory. For the purposes of this title, a licensed clin-
3 ical laboratory does not include a laboratory operated by any licensed
4 physician, dentist, podiatrist, midwife or certified nurse practitioner
5 who performs laboratory tests or procedures, personally or through his
6 or her employees, solely as an adjunct to the treatment of his or her
7 own patients.

8 a. "Clinical laboratory technologist" means a clinical laboratory
9 practitioner who, pursuant to established and approved protocols of the
10 department of health, performs clinical laboratory procedures and exam-
11 inations and any other tests or procedures conducted by a clinical labo-
12 ratory, including maintaining equipment and records, and performing
13 quality assurance activities related to examination performance, and
14 which require the exercise of independent judgment and responsibility,
15 as determined by the department.

16 b. "Cytotechnologist" means a clinical laboratory practitioner who,
17 pursuant to established and approved protocols of the department,
18 performs cytological procedures and examinations and any other such
19 tests including maintaining equipment and records and performing quality
20 assurance activities related to examination performance, and which
21 require the exercise of independent judgment and responsibility, as
22 determined by the department.

23 c. "Clinical laboratory technician" means a clinical laboratory prac-
24 titioner who performs clinical laboratory procedures and examinations
25 pursuant to established and approved protocols of the department, which
26 require limited exercise of independent judgment and which are performed
27 under the supervision of a clinical laboratory technologist, laboratory
28 supervisor, or director of a clinical laboratory.

29 d. "Histological technician" means a clinical laboratory practitioner
30 who pursuant to established and approved protocols of the department
31 performs slide based histological assays, tests, and procedures and any
32 other such tests conducted by a clinical histology laboratory, including
33 maintaining equipment and records and performing quality assurance
34 activities relating to procedure performance on histological testing of
35 human tissues and which requires limited exercise of independent judg-
36 ment and is performed under the supervision of a laboratory supervisor,
37 designated by the director of a clinical laboratory or under the super-
38 vision of the director of the clinical laboratory.

39 e. "Director of a clinical laboratory" means a director as that term
40 is defined in section five hundred seventy-one of this chapter.

41 f. "Laboratory supervisor" means an individual who, under the general
42 direction of the laboratory director, supervises technical personnel and
43 reporting of findings, performs tests requiring special scientific
44 skills, and, in the absence of the director, is responsible for the
45 proper performance of all laboratory procedures.

46 § 8602. Practice of clinical laboratory technology and cytotechnology
47 and use of the titles "licensed clinical laboratory technologist" and
48 "licensed cytotechnologist". No person shall practice clinical laborato-
49 ry technology or hold himself or herself out as a clinical laboratory
50 technologist or a cytotechnologist in this state unless he or she is
51 licensed or exempt pursuant to this title.

52 § 8603. Practice as a clinical laboratory technician and histological
53 technician and the use of the titles "clinical laboratory technician"
54 and "histological technician". No person shall practice as a clinical
55 laboratory technician or as a histological technician or hold himself or
56 herself out as a clinical laboratory technician or a histological tech-

1 nician in this state unless he or she is certified or exempt pursuant to
2 this title, provided that an individual licensed as a clinical laborato-
3 ry technologist, cytotechnologist, or clinical laboratory technician may
4 practice the profession of histological technician.

5 § 8604. State board for clinical laboratory technology. A state board
6 for clinical laboratory technology shall be appointed by the commission-
7 er for the purpose of assisting the department on matters of profes-
8 sional licensing and professional conduct in accordance with section
9 sixty-five hundred eight of this article. The board shall be composed of
10 twelve members, four of whom shall be licensed clinical laboratory tech-
11 nologists, two of whom shall be licensed cytotechnologists, one of whom
12 shall be a certified clinical laboratory technician, one of whom shall
13 be a certified histological technician, two members of the public, one
14 representative of the diagnostic/manufacturing industry, and one direc-
15 tor of a clinical laboratory who shall be a physician. An executive
16 secretary to the board shall be appointed by the commissioner. The clin-
17 ical laboratory practitioner members of the initial board need not be
18 licensed prior to their appointment but shall have met all other
19 requirements of licensing except the filing of an application, the pass-
20 ing of a satisfactory exam and paying a fee.

21 § 8605. Requirements for a license as a clinical laboratory technolo-
22 gist or cytotechnologist. To qualify for a license as a clinical labora-
23 tory technology practitioner under one of the titles defined in subdivi-
24 sion two of section eighty-six hundred one of this title, an applicant
25 shall fulfill the particular requirements of a subdivision of this
26 section applicable to the license and title sought by the applicant:

27 1. Licensure as a clinical laboratory technologist.
28 a. Application: file an application with the department;
29 b. Education: have received an education, including a bachelor's
30 degree in clinical laboratory technology from a program registered by
31 the department or determined by the department to be the substantial
32 equivalent, or have received a bachelor's degree that includes a minimum
33 number of credit hours in the sciences and received appropriate clinical
34 education in an accredited clinical laboratory technology program or a
35 program to be determined by the department to be the substantial equiv-
36 alent;
37 c. Examination: pass an examination satisfactory to the board and in
38 accordance with the commissioner's regulations;
39 d. Age: be at least eighteen years of age;
40 e. Character: be of good moral character as determined by the depart-
41 ment; and
42 f. Fees: pay a fee of one hundred seventy-five dollars for an initial
43 license and a fee of one hundred seventy dollars for each triennial
44 registration period.

45 2. Licensure as a cytotechnologist.
46 a. Application: file an application with the department;
47 b. Education: have received an education, including a bachelor's
48 degree in cytotechnology from a program registered by the department or
49 determined by the department to be the substantial equivalent, or have
50 received a bachelor's degree that includes a minimum number of credit
51 hours in the sciences and received appropriate clinical education in an
52 accredited cytotechnology program or a program determined by the depart-
53 ment to be the substantial equivalent;
54 c. Examination: pass an examination acceptable to the board and in
55 accordance with the commissioner's regulations;
56 d. Age: be at least eighteen years of age;

1 e. Character: be of good moral character as determined by the depart-
2 ment; and

3 f. Fees: pay a fee of one hundred seventy-five dollars for an initial
4 license and a fee of one hundred seventy dollars for each triennial
5 registration period.

6 § 8606. Requirements for certification as a clinical laboratory tech-
7 nician. For certification as a clinical laboratory technician under this
8 title, an applicant shall fulfill the following requirements:

9 1. Application: file an application with the department;

10 2. Education: have received an education, including an associate's
11 degree from an approved clinical laboratory technician program regis-
12 tered by the department or determined by the department to be the
13 substantial equivalent;

14 3. Examination: pass an examination satisfactory to the board and in
15 accordance with the commissioner's regulations;

16 4. Age: be at least eighteen years of age;

17 5. Character: be of good moral character as determined by the depart-
18 ment; and

19 6. Fees: pay a fee of one hundred twenty-five dollars for an initial
20 certification and a fee of one hundred twenty dollars for each triennial
21 registration period.

22 § 8606-a. Requirements for certification as a histological technician.
23 For certification as a histological technician under this title, an
24 applicant shall fulfill the following requirements:

25 1. Application: file an application with the department;

26 2. Education: have received an education, including an associate's
27 degree from an approved histological technician program registered by
28 the department or determined by the department to be the substantial
29 equivalent, or have received an associate's degree that includes a mini-
30 imum number of credit hours in the sciences and received appropriate
31 clinical education in a histological technician program approved by the
32 department or a program to be determined by the department to be the
33 substantial equivalent;

34 3. Examination: pass an examination satisfactory to the board and in
35 accordance with the commissioner's regulations;

36 4. Age: be at least eighteen years of age;

37 5. Character: be of good moral character as determined by the depart-
38 ment; and

39 6. Fees: pay a fee of one hundred twenty-five dollars for an initial
40 certification and a fee of one hundred twenty dollars for each triennial
41 registration period.

42 § 8607. Special provisions. 1. Notwithstanding the requirements of
43 sections eighty-six hundred five and eighty-six hundred six of this
44 title, and until July first, two thousand nine, an individual may be
45 licensed as a clinical laboratory technology practitioner, as defined in
46 section eighty-six hundred one of this title, provided that an individ-
47 ual may be licensed pursuant to subparagraph (vi) of paragraph a or
48 subparagraph (iii) of paragraph b of this subdivision until December
49 thirty-first, two thousand thirteen provided such person:

50 a. In the case of clinical laboratory technologist, has either:

51 (i) met the educational requirements for clinical laboratory technolo-
52 gist as defined in section eighty-six hundred five of this title and has
53 been performing the duties of a clinical laboratory technologist for two
54 of the past five years prior to December thirty-first, two thousand
55 seven; or completed an approved baccalaureate degree program in biolog-
56 ical, chemical or physical sciences from an accredited college or

1 university and has been performing the duties of a clinical laboratory
2 technologist for two of the past five years prior to December thirty-
3 first, two thousand seven;

4 (ii) been engaged full-time in the education of clinical laboratory
5 practitioners for the equivalent of two of the past five years prior to
6 December thirty-first, two thousand seven;

7 (iii) performed the duties of a clinical laboratory technologist for
8 at least five years prior to December thirty-first, two thousand seven
9 as verified by a director of a clinical laboratory;

10 (iv) become previously qualified under other regulatory requirements
11 for that license or its equivalent;

12 (v) become a currently certified clinical laboratory technician with a
13 bachelor's degree from an accredited college that includes a minimum
14 number of credit hours in the sciences and four years of documented work
15 experience as a clinical laboratory technician, acceptable to the
16 department; or

17 (vi) become qualified to perform the duties of a clinical laboratory
18 technologist in a clinical laboratory operated in accordance with title
19 five of article five of this chapter and the regulations promulgated
20 thereunder, and competently performed the duties of a clinical laborato-
21 ry technologist in a clinical laboratory for a period of not less than
22 six months in the three years immediately preceding December thirty-
23 first, two thousand seven as verified by a director of the clinical
24 laboratory.

25 b. In the case of a clinical laboratory technician, has either:

26 (i) met the educational requirements of a clinical laboratory techni-
27 cian as defined in section eighty-six hundred six of this title and
28 performed the duties of a clinical laboratory technician for two of the
29 past five years prior to December thirty-first, two thousand seven;

30 (ii) performed the duties of a clinical laboratory technician for at
31 least five years prior to December thirty-first, two thousand seven or
32 has previously qualified under other regulatory requirements for such a
33 certification or such certification's equivalent; or

34 (iii) become qualified to perform the duties of a clinical laboratory
35 technician in a clinical laboratory operated in accordance with title
36 five of article five of this chapter and the regulations promulgated
37 thereunder, and competently performed the duties of a clinical laborato-
38 ry technician in a clinical laboratory for a period of not less than six
39 months in the three years immediately preceding December thirty-first,
40 two thousand seven as verified by a director of the clinical laboratory.

41 c. In the case of cytotechnologist, has either:

42 (i) met the educational requirements of a cytotechnologist as defined
43 in section eighty-six hundred five of this title and performed the
44 duties of a cytotechnologist for two of the previous five years prior to
45 December thirty-first, two thousand seven;

46 (ii) performed the duties of a cytotechnologist for at least five
47 years prior to December thirty-first, two thousand seven as verified by
48 a director of a clinical laboratory; or

49 (iii) has previously qualified under other regulatory requirements for
50 such a license or such license's equivalent.

51 d. In the case of a histological technician, has either:

52 (i) met the educational requirements of a histological technician as
53 defined in section eighty-six hundred six-a of this title and performed
54 the duties of a histological technician for two of the past five years
55 prior to December thirty-first, two thousand seven;

1 (ii) performed the duties of a histological technician for at least
2 five years prior to December thirty-first, two thousand seven or has
3 previously qualified under other regulatory requirements for such a
4 certification or such certification's equivalent; or

5 (iii) become qualified to perform the duties of a histological techni-
6 cian in a clinical laboratory operated in accordance with title five of
7 article five of this chapter and the regulations promulgated thereunder,
8 and competently performed the duties of a histological technician in a
9 clinical laboratory for a period of not less than six months in the
10 three years immediately preceding December thirty-first, two thousand
11 seven as verified by a director of the clinical laboratory.

12 2. For the purposes of subdivision one of this section, it shall be
13 determined that the filing of an application with the department on or
14 before January first, two thousand nine shall qualify for purposes of
15 such subdivision, regardless of the time period required for processing
16 such application, provided that an application for licensure pursuant to
17 subparagraph (vi) of paragraph a, subparagraph (iii) of paragraph b, or
18 subparagraph (iii) or paragraph d of subdivision one of this section
19 shall be submitted on or before September first, two thousand thirteen.

20 3. The commissioner may adopt such regulations as appropriate to
21 license or certify individuals who hold valid licenses, certifications
22 or their equivalent in another state or country, provided the standards
23 for granting licenses or certifications to such individuals are not less
24 than the standards required of persons otherwise licensed or certified
25 pursuant to this title.

26 § 8608. Limited and provisional permits. 1. Limited permit. On the
27 recommendation of the board, the department may issue a limited permit
28 to practice as a clinical laboratory practitioner to an applicant who
29 has met all requirements for licensure as a clinical laboratory technol-
30 ogist or cytotechnologist or certification as a clinical laboratory
31 technician or histological technician, except those relating to the
32 examination and provided that the individual is under the general super-
33 vision of the director of a clinical laboratory, as determined by the
34 department. This limited permit shall be valid for a period of not more
35 than one year, and may be renewed, at the discretion of the department,
36 for one additional year.

37 2. Provisional permit. (a) On the recommendation of the board, the
38 department may issue a provisional permit to practice as a clinical
39 laboratory practitioner to an applicant who is employed in a clinical
40 laboratory for the purpose of enabling the applicant to complete the
41 education requirements and/or to pass the exam required for licensure as
42 a clinical laboratory technologist or histological technician and
43 provided that the individual is under the general supervision of the
44 director of a clinical laboratory, as determined by the department, and
45 provided further that the applicant meets the requirements outlined in
46 paragraph b of this subdivision. This provisional permit shall be valid
47 for a period of not more than one year, and may be renewed, at the
48 discretion of the department, for one additional year.

49 b. To qualify for a provisional permit, the applicant shall:

50 (i) file an application with the department;

51 (ii) have at least one of the following enumerated qualifications:

52 (A) be licensed as a clinical laboratory technologist, or the equiv-
53 alent as determined by the department, in another jurisdiction or
54 possess a current certification in a clinical laboratory technology from
55 a national certification organization acceptable to the department; or

1 (B) have received both an education, including a bachelor's degree in
2 the biological, chemical, or physical sciences, and training in a clin-
3 ical laboratory, provided that such education and training are accepta-
4 ble to the department; or

5 (C) have received a bachelor's degree in the biological, chemical, or
6 physical sciences or in mathematics, and have served as a research
7 assistant in a research laboratory, under the direction of the director
8 or the principal researcher of such research laboratory, working on the
9 research and development of any procedures and examinations to be
10 conducted by a laboratory, as defined in title five of article five of
11 this chapter, on material derived from the human body which provides
12 information for the diagnosis, prevention or treatment of a disease or
13 assessment of a human medical condition; or

14 (D) for those seeking a provisional permit as a histological techni-
15 cian, have received an education, including an associate's degree that
16 includes a minimum number of credit hours in the sciences, provided that
17 such education is acceptable to the department;

18 (iii) be at least eighteen years of age;

19 (iv) be of good moral character as determined by the department; and

20 (v) pay a fee of three hundred forty-five dollars for a provisional
21 permit provided that the fee for a provisional permit as a histological
22 technician shall be two hundred forty-five dollars.

23 (c) Each provisional permit shall be subject to the disciplinary
24 provisions applicable to licensees pursuant to subtitle three of title
25 one of this article.

26 3. The commissioner is authorized to adopt such rules and regulations
27 as may be necessary to implement the provisions of this section.

28 § 8609. Exempt persons. This title shall not be construed to apply to:

29 1. the practice, conduct, activities, or services by any person
30 licensed or otherwise authorized to practice medicine within the state
31 pursuant to title four of this article, or by any person registered to
32 perform services as a physician assistant or specialist assistant within
33 the state pursuant to title four of this article, or by any person
34 licensed to practice dentistry within the state pursuant to title seven
35 of this article or by any person licensed to practice podiatry within
36 the state pursuant to title fourteen of this article or by any person
37 certified as a nurse practitioner within the state pursuant to title
38 twelve of this article or by any person licensed to perform services as
39 a respiratory therapist or respiratory therapy technician under title
40 twenty-six of this article or any person licensed to practice midwifery
41 within the state pursuant to title thirteen of this article or a person
42 licensed to practice nursing pursuant to title twelve of this article,
43 or a person licensed to practice pursuant to article thirty-five of this
44 chapter; provided, however, that no such person shall use the titles
45 licensed laboratory technologist, cytotechnologist, or certified labora-
46 tory technician, unless licensed or certified under this title; or

47 2. clinical laboratory technology practitioners employed by the United
48 States government or any bureau, division, or agency thereof, while in
49 the discharge of the employee's official duties; or

50 3. clinical laboratory technology practitioners employed by the New
51 York State Department of Health Wadsworth Center Laboratory or the New
52 York City Department of Health and Mental Hygiene Public Health Labora-
53 tory, while in the discharge of the employee's official duties; or

54 4. clinical laboratory technology practitioners engaged in teaching or
55 research, provided that the results of any examination performed are not

1 used in health maintenance, diagnosis or treatment of disease and are
2 not added to the patient's permanent record; or

3 5. students or trainees enrolled in approved clinical laboratory
4 science or technology education programs or training programs described
5 in subparagraph (iii) of paragraph c of subdivision one of section
6 eighty-six hundred ten of this title provided that these activities
7 constitute a part of a planned course in the program, that the persons
8 are designated by a title such as intern, trainee, fellow or student,
9 and the persons work directly under the supervision of an individual
10 licensed or exempt pursuant to subdivision one, two, four or eight of
11 this section; or

12 6. persons employed by a clinical laboratory to perform supportive
13 functions not related to the direct performance of laboratory procedures
14 or examinations; or

15 7. persons who are working in facilities registered pursuant to
16 section five hundred seventy-nine of this chapter and only perform
17 waived tests as defined in section five hundred seventy-one of this
18 chapter pursuant to such registration; or

19 8. a director of a clinical laboratory holding a valid certificate of
20 qualification pursuant to section five hundred seventy-three of this
21 chapter.

22 § 8610. Restricted clinical laboratory licenses. 1. Restricted clin-
23 ical laboratory license.

24 a. The department may issue a restricted license pursuant to which the
25 restricted licensee may receive a certificate to perform certain exam-
26 inations and procedures within the definition of clinical laboratory
27 technology set forth in subdivision one of section eighty-six hundred
28 one of this title, provided that such a restricted licensee may perform
29 examinations and procedures only in those of the following areas which
30 are specifically listed in his or her certificate: histocompatibility,
31 cytogenetics, stem cell process, flow cytometry/cellular immunology and
32 molecular diagnosis to the extent such molecular diagnosis is included
33 in genetic testing-molecular and molecular oncology, and toxicology
34 (under paragraph b-1 of this subdivision).

35 b. Notwithstanding paragraph a of this subdivision, restricted licen-
36 sees employed at National Cancer Institute designated cancer centers or
37 at teaching hospitals that are eligible for distributions pursuant to
38 paragraph (c) of subdivision three of section twenty-eight hundred
39 seven-m of this chapter may receive a certificate that also includes the
40 practice of molecular diagnosis including but not limited to genetic
41 testing-molecular and molecular oncology, and restricted licensees
42 employed at National Cancer Institute designated cancer centers may
43 receive a certificate that includes the use of mass spectrometry or any
44 tests and procedures acceptable to the commissioner, in consultation
45 with the commissioner, in the field of proteomics, provided that such
46 certificate holders may practice in such additional areas only at such
47 centers, teaching hospitals or other sites as may be designated by the
48 commissioner.

49 b-1. Only individuals employed in a New York state department of
50 health authorized toxicology laboratory, operating under the direction
51 of a clinical laboratory director, may obtain a certificate in toxicolo-
52 gy.

53 c. To qualify for a restricted license, an applicant shall:

54 (i) file an application with the department;

55 (ii) have received an education, including a bachelor's degree in the
56 biological, chemical, or physical sciences or in mathematics from a

1 program registered by the department or determined by the department to
2 be the substantial equivalent;

3 (iii) have completed a training program with a planned sequence of
4 supervised employment or engagement in activities appropriate for the
5 area of certification, which training program is satisfactory to the
6 department in quality, breadth, scope and nature and is provided by an
7 entity that shall be responsible for the services provided. The training
8 program shall be described and attested to by the clinical director of
9 the laboratory in which it is located prior to the beginning of the
10 program. The duration of the training program shall be one year of full-
11 time training in the specific areas in which the applicant is seeking
12 certification or the part-time equivalent thereof, as determined by the
13 department, and the successful completion of such program shall be
14 certified by a laboratory director who is responsible for overseeing
15 such program;

16 (iv) be at least eighteen years of age;

17 (v) be of good moral character as determined by the department; and

18 (vi) pay a fee of one hundred seventy-five dollars for an initial
19 restricted license and a fee of one hundred seventy dollars for each
20 triennial registration period.

21 d. Each restricted licensee shall register with the department as
22 required of licensees pursuant to section sixty-five hundred two of this
23 article and shall be subject to the disciplinary provisions applicable
24 to licensees pursuant to subtitle three of title one of this article.

25 2. The commissioner is authorized to adopt such rules and regulations
26 as may be necessary to implement the provisions of this section.

27 3. Nothing in this section shall restrict a clinical laboratory prac-
28 titioner, as defined in subdivision two of section eighty-six hundred
29 one of this title, from performing any of the examinations or procedures
30 which restricted clinical laboratory licensees are permitted to perform
31 under this section and which such clinical laboratory practitioner is
32 otherwise authorized to perform.

33 TITLE 28

34 MEDICAL PHYSICS PRACTICE

35 Section 8700. Introduction.

36 8701. Definitions.

37 8702. Definition of "practice of medical physics".

38 8703. Use of the title "professional medical physicist".

39 8704. State committee for medical physics.

40 8705. Requirements and procedures for professional licensure.

41 8706. Limited permits.

42 8707. Exemptions.

43 8708. Licensure without examination.

44 8709. Separability.

45 § 8700. Introduction. This title applies to the profession of medical
46 physics. The general provisions for all licensed healthcare professions
47 contained in title one of this article apply to this title.

48 § 8701. Definitions. As used in this title:

49 1. "Clinical" shall mean activities directly relating to the treatment
50 or diagnosis of human ailments.

51 2. "Specialty" or "specialty area" shall mean the following branch or
52 branches of special competence within medical physics:

53 a. "Diagnostic radiological physics" shall mean the branch of medical
54 physics relating to the diagnostic application of radiation, the analy-
55 sis and interpretation of image quality, performance measurements and
56 the calibration of equipment associated with the production and use of

1 such radiation, the analysis and interpretation of measurements associ-
2 ated with patient doses and exposures, and the radiation safety aspects
3 associated with the production and use of such radiation;

4 b. "Medical health physics" shall mean the branch of medical physics
5 pertaining to the radiation safety aspects of the use of radiation for
6 both diagnostic and therapeutic purposes, and the use of equipment to
7 perform appropriate radiation measurements;

8 c. "Medical nuclear physics" shall mean the branch of medical physics
9 pertaining to the therapeutic and diagnostic application of radionu-
10 clides, excluding those used in sealed sources for therapeutic purposes,
11 the analysis and interpretation of performance measurements associated
12 with radiation imaging equipment and performance oversight of radionu-
13 clide calibration equipment associated with the use and production of
14 radionuclides, the analysis and interpretation of measurements and
15 calculations associated with patient organ doses, and the radiation
16 safety aspects associated with the production and use of such radionu-
17 clides; and

18 d. "Therapeutic radiological physics" or "radiation oncology physics"
19 shall mean the branch of medical physics relating to the therapeutic
20 application of radiation, the analysis and interpretation of radiation
21 equipment performance measurements and the calibration of equipment
22 associated with the production and use of such radiation, the analysis
23 and interpretation of measurements associated with patient doses, and
24 the radiation safety aspects associated with the production and use of
25 such radiation.

26 3. "Medical physics" shall mean the branch of physics limited to the
27 field of radiological physics.

28 4. "Radiation" shall mean all ionizing radiation above background
29 levels or any non-ionizing radiation used in diagnostic imaging or in
30 radiation oncology.

31 5. "Radiological physics" shall mean diagnostic radiological physics,
32 therapeutic radiological physics or radiation oncology physics, medical
33 nuclear physics and medical health physics.

34 6. "Radiological procedure" shall mean any test, measurement, calcu-
35 lation or radiation exposure for the purpose of diagnosis or treatment
36 of any medical condition of a human, including therapeutic radiation,
37 diagnostic imaging and measurements, and nuclear medicine procedures.

38 § 8702. Definition of "practice of medical physics". 1. The "practice
39 of the profession of medical physics" shall mean the use and application
40 of accepted principles and protocols of physics in a clinical setting to
41 assure the correct quality, quantity and placement of radiation during
42 the performance of a radiological procedure, so as to protect the
43 patient and other persons from harmful, excessive or misapplied radi-
44 ation. Such practice shall include, but not necessarily be limited to:
45 radiation beam calibration and characterization; oversight and responsi-
46 bility for patient radiation dose measurement, calculation and report-
47 ing; oversight and responsibility for quality control; instrument spec-
48 ification; optimization of image quality; acceptance testing; shielding
49 design; protection analysis on radiation emitting equipment and radio-
50 pharmaceuticals; and consultation with a physician to assure accurate
51 radiation dosage and application to a specific patient.

52 2. A license to practice medical physics shall be issued with special
53 competency in one or more specialty areas in which the licensee has
54 satisfied the requirements of section eighty-seven hundred five of this
55 title.

1 3. The practice in any specialty by a person whose license is not
2 issued with special competency for such specialty shall be deemed the
3 unauthorized practice of the profession of medical physics.

4 4. Only a person licensed under this title shall practice the profes-
5 sion of medical physics.

6 § 8703. Use of the title "professional medical physicist". Only a
7 person licensed under this title shall use the title "professional
8 medical physicist".

9 § 8704. State committee for medical physics. 1. A state committee for
10 medical physics shall be appointed by the commissioner and shall assist
11 on matters of licensure and professional conduct in accordance with
12 section sixty-five hundred eight of this title. Notwithstanding the
13 provisions of section sixty-five hundred eight of this title, the
14 committee shall assist the board for medicine solely in medical physics
15 matters, which board shall also function as the state board for medical
16 physics. The licensure requirements for professional medical physicists
17 shall be waived for the initial committee appointees, provided that such
18 appointees shall have received national certification in their special-
19 ty.

20 2. The committee shall consist of eight individuals, to be composed of
21 the following:

22 a. Four licensed medical physicists represented by each of the follow-
23 ing specialties:

24 (i) diagnostic radiological physics;

25 (ii) therapeutic radiological or radiation oncology physics;

26 (iii) medical nuclear physics; and

27 (iv) medical health physics;

28 b. Three licensed physicians represented by each of the following
29 specialties:

30 (i) diagnostic radiology;

31 (ii) radiation therapy or radiation oncology; and

32 (iii) nuclear medicine; and

33 (c) A representative of the public at large.

34 § 8705. Requirements and procedures for professional licensure. To
35 qualify for a license as a professional medical physicist, an applicant
36 shall fulfill the following requirements:

37 1. Application: file an application with the department;

38 2. Education: have received an education including a master's or
39 doctoral degree from an accredited college or university in accordance
40 with the commissioner's regulations. Such person shall have completed
41 such courses of instruction as are deemed necessary by the commissioner
42 to practice in the medical physics specialty in which the applicant has
43 applied for a license;

44 3. Experience: have experience in his or her medical physics specialty
45 satisfactory to the board and in accordance with the commissioner's
46 regulations;

47 4. Examination: pass an examination in his or her medical specialty
48 satisfactory to the board and in accordance with the commissioner's
49 regulations. The examination requirement may be waived by the board on
50 recommendation of the commissioner for certain applicants with extensive
51 experience as a medical physicist;

52 5. Age: be at least twenty-one years of age;

53 6. Fee: pay a fee of three hundred dollars to the department for
54 admission to a department conducted examination for licensure, a fee of
55 one hundred fifty dollars for licensure with special competency in the
56 first specialty and twenty-five dollars for each additional specialty,

1 and a fee of three hundred dollars for each biennial registration peri-
2 od.

3 § 8706. Limited permits. Permits limited as to eligibility, practice
4 and duration shall be issued by the department to eligible applicants,
5 as follows:

6 1. Eligibility. The following persons shall be eligible for a limited
7 permit:

8 a. a person who fulfills all requirements for a license as a profes-
9 sional medical physicist except those relating to examination or experi-
10 ence; or

11 b. a medical physics student enrolled in a graduate or post-graduate
12 curriculum approved by the department;

13 2. Limit of practice. A permittee shall be authorized to practice
14 medical physics only under the direct and immediate supervision of a
15 professional medical physicist and only in the specialty of such profes-
16 sional medical physicist;

17 3. Duration. A limited permit shall be valid for two years. It may be
18 renewed biennially at the discretion of the department;

19 4. Fee. The fee for each limited permit and for each renewal shall be
20 sixty dollars.

21 § 8707. Exemptions. Nothing in this title shall be construed to
22 affect, prevent or in any manner expand or limit the authority of any
23 person otherwise authorized by law or regulation to practice any func-
24 tion of a medical physicist, or any department or agency authorized by
25 law or regulation to regulate the use of radiation, nor prohibit the
26 repair or calibration of any test equipment used by professional medical
27 physicists by any person otherwise allowed to do so under state or
28 federal law, nor serve to limit radiologic and/or imaging technicians or
29 any individual otherwise authorized by law or regulation from performing
30 quality control measurements or obtaining quality control data, nor
31 serve to limit a service engineer in the repair of radiation producing
32 equipment nor an installation engineer in the installation of radiation
33 producing equipment.

34 § 8708. Licensure without examination. 1. Within eighteen months of
35 the effective date of regulations implementing the provisions of this
36 title, the department may issue a license to practice medical physics
37 with special competency in one or more specialties in this state, with-
38 out an examination, to a person who meets the requirements of subdivi-
39 sions one, five and six of section eighty-seven hundred five of this
40 title and who in addition has an earned bachelor's, master's or doctoral
41 degree from an accredited college or university that signifies the
42 completion of a course of study acceptable to the department, and has
43 demonstrated to the department's satisfaction, in the case of an earned
44 bachelor's degree, the completion of at least fifteen years of full-time
45 work experience in the medical physics specialty for which application
46 is made, or, in the case of an earned master's or doctoral degree, the
47 completion of at least two years of full-time work experience in the
48 five years preceding the date of application in the medical physics
49 specialty for which application is made and the equivalent of one year
50 or more of full-time work experience in the ten years preceding the date
51 of application for each additional specialty for which application is
52 made.

53 2. On receipt of an application and fee pursuant to section eighty-
54 seven hundred five of this title, the department may issue a license to
55 practice medical physics with special competency in one or more special-
56 ties in this state to a person who holds a license to practice medical

1 physics in another state, territory or jurisdiction that has require-
2 ments for licensing of medical physicists which the department deter-
3 mines to be substantially the same as the requirements of this title.

4 § 8709. Separability. If any section of this title, or part thereof,
5 shall be adjudged by any court of competent jurisdiction to be invalid,
6 such judgment shall not affect, impair or invalidate the remainder of
7 any other section or part thereof.

8 TITLE 29

9 APPLIED BEHAVIOR ANALYSIS

10 Section 8800. Introduction.

11 8801. Definitions.

12 8802. Definition of the practice of "applied behavior analysis".

13 8803. The practice of and use of the title "licensed behavior 14 analyst" or "certified behavior analyst assistant".

15 8804. Requirements and procedures for professional licensure.

16 8805. Special provisions.

17 8806. Limited permits.

18 8807. Exemptions.

19 8808. State board for applied behavior analysis.

20 § 8800. Introduction. This title applies to the profession and prac-
21 tice of applied behavior analysis and to the use of the titles "licensed
22 behavior analyst" and "certified behavior analyst assistant". The gener-
23 al provisions for all licensed healthcare professions contained in title
24 one of this article shall apply to this title.

25 § 8801. Definitions. As used in this title, the following term shall
26 have the following meaning: "applied behavior analysis" or "ABA" means
27 the design, implementation, and evaluation of environmental modifica-
28 tions, using behavioral stimuli and consequences, to produce socially
29 significant improvement in human behavior, including the use of direct
30 observation, measurement, and functional analysis of the relationship
31 between environment and behavior.

32 § 8802. Definition of the practice of "applied behavior analysis". 1.
33 The practice of applied behavior analysis by a "licensed behavior
34 analyst" shall mean the design, implementation and evaluation of envi-
35 ronmental modifications, using behavioral stimuli and consequences, to
36 produce socially significant improvement in human behavior, including
37 the use of direct observation, measurement, and functional analysis of
38 the relationship between environment and behavior, pursuant to a diagno-
39 sis and prescription or order from a person who is licensed or otherwise
40 authorized to provide such diagnosis and prescription or ordering
41 services pursuant to a profession enumerated in this title, for the
42 purpose of providing behavioral health treatment for persons with autism
43 and autism spectrum disorders and related disorders.

44 2. The practice of applied behavior analysis by a "licensed behavior
45 analyst" shall mean the design, implementation and evaluation of envi-
46 ronmental modifications, using behavioral stimuli and consequences, to
47 produce socially significant improvement in human behavior, including
48 the use of direct observation, measurement, and functional analysis of
49 the relationship between environment and behavior, pursuant to a diagno-
50 sis and prescription or order from a person who is licensed or otherwise
51 authorized to provide such diagnosis and prescription or ordering
52 services pursuant to a profession enumerated in this title, for the
53 purpose of providing behavioral health treatment. For purposes of this
54 section, prescriptions or orders for behavioral health treatment
55 provided by a licensed behavior analyst shall be limited to providing
56 treatment to individuals with behavioral health conditions that appear

1 in the most recent edition of the diagnostic and statistical manual of
2 mental disorders, published by the American Psychiatric Association, or
3 an equivalent classification system as determined by the department. In
4 addition, licensed behavior analysts providing services pursuant to a
5 prescription or order, as authorized by this section, shall provide a
6 report at least annually regarding the status of the individual served
7 to the licensed person prescribing or ordering such service or more
8 frequently, if needed, in order to report significant changes in the
9 condition of the individual.

10 3. The practice of applied behavior analysis by a "certified behavior
11 analyst assistant" means the services and activities provided by a
12 person certified in accordance with this title who works under the
13 supervision of a licensed behavior analyst to perform such patient
14 related applied behavior analysis tasks as are assigned by the supervis-
15 ing licensed behavior analyst. Supervision of a certified behavior
16 analyst assistant by a licensed behavior analyst shall be in accordance
17 with regulations of the commissioner. No licensed behavior analyst shall
18 supervise more than six certified behavior analyst assistants.

19 4. The practice of applied behavior analysis shall not include diagno-
20 sis of a disorder or condition for which ABA may be appropriate, or
21 prescribing or ordering ABA for a particular individual.

22 5. Any individual whose license or authority to practice derives from
23 the provisions of this title shall be prohibited from:

24 a. Prescribing or administering drugs as defined in this chapter or as
25 a treatment, therapy, or professional service in the practice of his or
26 her profession; or

27 b. Using invasive procedures as a treatment, therapy, or professional
28 service in the practice of his or her profession. For purposes of this
29 subdivision, "invasive procedure" means any procedure in which human
30 tissue is cut, altered, or otherwise infiltrated by mechanical or other
31 means. Invasive procedure includes, but is not limited to, surgery,
32 lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive
33 therapy.

34 § 8803. The practice of and use of the title "licensed behavior
35 analyst" or "certified behavior analyst assistant". Only a person
36 licensed, certified or exempt under this title shall practice applied
37 behavior analysis. Only a person licensed or certified under this title
38 shall use the titles "licensed behavior analyst" or "certified behavior
39 analyst assistant".

40 § 8804. Requirements and procedures for professional licensure. 1. To
41 qualify for certification as a certified behavior analyst assistant, an
42 applicant shall fulfill the following requirements:

43 a. Application: file an application with the department;

44 b. Education: have received an education, including a bachelor's or
45 higher degree from a program registered by the department or determined
46 by the department to be the substantial equivalent thereof, in accord-
47 ance with the commissioner's regulations.

48 c. Experience: have experience in the practice of applied behavior
49 analysis satisfactory to the board and the department in accordance with
50 the commissioner's regulations.

51 d. Examination: pass an examination acceptable to the board and the
52 department in accordance with the commissioner's regulations.

53 e. Age: be at least twenty-one years of age;

54 f. Character: be of good moral character as determined by the depart-
55 ment and submit an attestation of moral character; and

1 g. Fee: pay a fee of one hundred fifty dollars for an initial license
2 and a fee of seventy-five dollars for each triennial registration peri-
3 od.

4 2. To qualify for a license as a licensed behavior analyst, an appli-
5 cant shall fulfill the following requirements:

6 a. Application: file an application with the department;

7 b. Education: have received an education, including a master's or
8 higher degree from a program registered by the department or determined
9 by the department to be the substantial equivalent, thereof, in accord-
10 ance with the commissioner's regulations.

11 c. Experience: have experience in the practice of applied behavior
12 analysis satisfactory to the board and the department in accordance with
13 the commissioner's regulations.

14 d. Examination: pass an examination acceptable to the board and the
15 department in accordance with the commissioner's regulations.

16 e. Age: be at least twenty-one years of age;

17 f. Character: be of good moral character as determined by the depart-
18 ment and submit an attestation of moral character; and

19 g. Fee: pay a fee of two hundred dollars for an initial license and a
20 fee of one hundred dollars for each triennial registration period.

21 § 8805. Special provisions. An individual who meets the requirements
22 for a license or certification as a licensed behavior analyst or a
23 certified behavior analyst assistant, except for examination, experience
24 and education, and who is certified or registered by a national certify-
25 ing body having certification or registration standards acceptable to
26 the commissioner, may be licensed or certified, without meeting addi-
27 tional requirements as to examination, experience and education,
28 provided that such individual submits an application to the department
29 within two years of the effective date of this section.

30 § 8806. Limited permits. The following requirements for a limited
31 permit shall apply to all professions licensed or certified pursuant to
32 this title:

33 1. The department may issue a limited permit to an applicant who meets
34 all qualifications for licensure, except the examination and/or experi-
35 ence requirements, in accordance with regulations promulgated therefor.

36 2. Limited permits shall be for one year; such limited permits may be
37 renewed, at the discretion of the department, for one additional year.

38 3. The fee for each limited permit and for each renewal shall be
39 seventy dollars.

40 4. A limited permit holder shall practice only under supervision as
41 determined in accordance with the commissioner's regulations.

42 § 8807. Exemptions. 1. Nothing contained in this title shall be
43 construed to limit the scopes of practice of any other profession
44 licensed under this title.

45 2. Nothing in this title shall be construed as prohibiting a person
46 from performing the duties of a licensed behavior analyst or a certified
47 behavior analyst assistant, in the course of such employment, if such
48 person is employed:

49 a. by a federal, state, county or municipal agency, or other political
50 subdivision;

51 b. by a chartered elementary or secondary school or degree-granting
52 institution;

53 c. as a certified teacher or teaching assistant, other than a pupil
54 personnel services professional, in an approved program as defined in
55 paragraph b of subdivision one of section forty-four hundred ten of the
56 education law; or

1 d. in a setting to the extent that the exemption in paragraph d of
2 subdivision six of section forty-four hundred ten of the education law
3 applies.

4 3. Nothing in this title shall be construed as prohibiting a certified
5 teacher or teaching assistant, other than a pupil personnel services
6 professional, from performing the duties of a licensed behavior analyst
7 or certified behavior analyst assistant, in the course of such employ-
8 ment or contractual agreement, if such person is employed or contracted
9 with an agency approved by the department of health to provide early
10 intervention services or has an agreement with the department of health
11 to provide early intervention services pursuant to title two-A of arti-
12 cle twenty-five of this chapter.

13 4. Nothing in this title shall be construed as prohibiting the activ-
14 ities and services required of a student, intern, or resident in an
15 educational program acceptable to the department pursuant to the commis-
16 sioner's regulations, pursuing a course of study leading to a bachelor's
17 or higher degree in an educational program acceptable to the department
18 pursuant to the commissioner's regulations in an institution approved by
19 the department, provided that such activities and services constitute a
20 part of his or her supervised course of study in an educational program
21 acceptable to the department pursuant to the commissioner's regulations.
22 Such person shall be designated by title which clearly indicates his or
23 her training status.

24 5. Nothing in this title shall be construed to affect or prevent a
25 person without a license or other authorization pursuant to this title
26 from performing assessments, including collecting basic information,
27 gathering demographic data, and making informal observations, for the
28 purpose of determining need for services unrelated to an ABA plan.
29 Further, licensure or authorization pursuant to this title shall not be
30 required to create, develop or implement a service plan unrelated to an
31 ABA plan. This title shall not apply to behavioral health treatments
32 other than ABA that may be provided to persons with autism spectrum
33 disorder. A license under this title shall not be required for persons
34 to participate as a member of a multi-disciplinary team to implement an
35 ABA plan; provided, however, that such team shall include one or more
36 professionals licensed under this title or titles two, seventeen, eigh-
37 teen or twenty-five of this article; and provided further that the
38 activities performed by members of the team shall be consistent with the
39 scope of practice for each team member licensed or authorized under this
40 title, and those who are not so authorized may not engage in the follow-
41 ing restricted practices: creation, modification or termination of an
42 ABA plan; diagnosis of mental, emotional, behavioral, addictive and
43 developmental disorders and disabilities; patient assessment and evalu-
44 ating; provision of psychotherapeutic treatment; provision of treatment
45 other than psychotherapeutic treatment; and development and implementa-
46 tion of assessment-based treatment plans, as defined in section eighty-
47 eight hundred two of this title. Provided further, however, that nothing
48 in this subdivision shall be construed as requiring a license or author-
49 ization for any particular activity or function based solely on the fact
50 that the activity or function is not listed in this subdivision.
51 Provided further, however, that nothing in this subdivision shall
52 authorize the delegation of restricted activities to an individual who
53 is not appropriately licensed or authorized under this title.

54 6. Nothing in this title shall be construed as prohibiting an early
55 intervention ABA aide, pursuant to regulations promulgated by the
56 commissioner, and acting under the supervision and direction of a quali-

1 fied supervisor who is licensed or otherwise authorized pursuant to this
2 chapter from:

3 (a) assisting the supervisor and qualified personnel with the imple-
4 mentation of individual ABA plans;

5 (b) assisting in the recording and collection of data needed to moni-
6 tor progress;

7 (c) participating in required team meetings; and

8 (d) completing any other activities as directed by his or her supervi-
9 sor and as necessary to assist in the implementation of individual ABA
10 plans. Provided however, that nothing in this subdivision shall author-
11 ize the delegation of restricted activities to an individual who is not
12 appropriately licensed or otherwise authorized under this title;
13 provided further however, that in regard to the early intervention
14 program established pursuant to title two-A of article twenty-five of
15 this chapter, an early intervention ABA aide under the supervision and
16 direction of a qualified supervisor may complete activities necessary to
17 assist in the implementation of an individual ABA plan, provided that
18 such activities do not require professional skill or judgment.

19 7. This title shall not be construed to prohibit care delivered by any
20 family member, household member or friend, or person employed primarily
21 in a domestic capacity who does not hold himself or herself out, or
22 accept employment, as a person licensed to practice applied behavior
23 analysis under the provisions of this title; provided that, if such
24 person is remunerated, the person does not hold himself or herself out
25 as one who accepts employment for performing such care.

26 8. Nothing in this title shall be construed as prohibiting programs
27 certified by the office of alcoholism and substance abuse services from
28 providing substance use disorder services for persons with autism and
29 autism spectrum disorders and related disorders.

30 § 8808. State board for applied behavior analysis. 1. A state board
31 for applied behavior analysis shall be appointed by the commissioner and
32 shall assist on matters of licensing and professional conduct in accord-
33 ance with section sixty-five hundred eight of this article. An executive
34 secretary of the board shall be appointed by the commissioner.

35 2. The board shall consist of seven individuals, to be composed of the
36 following:

37 (a) Three licensed behavior analysts;

38 (b) One certified behavior analyst assistant;

39 (c) One licensed psychologist, who may currently prescribe treatment
40 involving applied behavior analysis in his or her professional practice;
41 and

42 (d) Two public representatives, as defined in paragraph b of subdivi-
43 sion one of section sixty-five hundred eight of this article.

44 TITLE 30

45 LICENSED PATHOLOGISTS' ASSISTANTS

46 Section 8850. Definitions.

47 8851. Practice as pathologists' assistant and use of the title
48 "pathologists' assistant".

49 8852. Requirements for licensure as a pathologists' assistant.

50 8853. Special provisions; eligibility.

51 8854. State committee for pathologists' assistants.

52 8855. Limited permits.

53 8856. Exemptions and exempt persons.

54 § 8850. Definitions. As used in this title: 1. The term "pathologists'
55 assistant" means a person licensed to assist physicians who practice
56 pathology by providing services within the permitted scope of practice

1 for pathologists' assistants as defined in subdivision four of this
2 section. All such services shall be performed under the direction and
3 supervision of a licensed physician who practices anatomic pathology.

4 2. The term "direction and supervision" means continuous direction and
5 supervision, but shall not be construed as necessarily requiring the
6 physical presence of the supervising physician at the time and place
7 where such services are performed.

8 3. The term "physician" means a practitioner of medicine licensed to
9 practice medicine pursuant to title two of this article.

10 4. The term "scope of practice for pathologists' assistants" means the
11 provision of the following services under the direction and supervision
12 of a licensed physician who practices anatomic pathology: a. preparing
13 gross tissue sections for pathology analysis, including but not limited
14 to, cutting, staining as required, describing gross anatomic features,
15 dissecting surgical specimens, and submitting tissues for bio-banking,
16 histologic processing, or other analyses; b. performing human postmortem
17 examinations, including but not limited to, selection of tissues and
18 fluids for further examination, external examination, dissection, and
19 gathering and recording information for autopsy reports; and c. other
20 functions and responsibilities in furtherance of and consistent with the
21 foregoing as determined by the department. The term does not include the
22 authority to diagnose or provide a medical opinion. Services of a
23 pathologists' assistant must be performed in a laboratory or other site
24 authorized under law to perform such services.

25 5. The term "committee" means the state committee for pathologists'
26 assistants created by this title.

27 § 8851. Practice as pathologists' assistant and use of the title
28 "pathologists' assistant". Only persons licensed or otherwise authorized
29 to practice as a pathologists' assistant under this title shall practice
30 pathologist assisting or use the title "pathologists' assistant" or the
31 term "pathologists' assistant" alone or in combination with other terms
32 and phrases in describing their services and activities or the desig-
33 nation "Path A".

34 § 8852. Requirements for licensure as a pathologists' assistant. To
35 qualify for licensure as a "licensed pathologists' assistant", an appli-
36 cant shall fulfill the following requirements:

37 1. Application: file an application with the department;

38 2. Education: receive an education, including a bachelor's or higher
39 degree in pathologists' assistant, granted on the basis of completion of
40 a program of pathologists' assistant registered with the department or
41 the substantial equivalent thereof, in accordance with the commission-
42 er's regulations;

43 3. Examination: obtain a passing score on an examination acceptable to
44 the department;

45 4. Age: at the time of application be at least twenty-one years of
46 age;

47 5. Character: be of good moral character as determined by the depart-
48 ment; and

49 6. Fee: pay a fee determined by the department for an initial license
50 and for each triennial registration period.

51 § 8853. Special provisions; eligibility. An individual who meets the
52 requirements for a license as a licensed pathologists' assistant except
53 for examination and education and who has been performing the duties of
54 a pathologists' assistant for two of the five years prior to the effec-
55 tive date of this title may be licensed without meeting additional
56 requirements, provided that such individual submits an application to

1 the department within two years of the effective date of this title. For
2 this purpose, the applicant's supervising physicians must attest to the
3 applicant's experience and competence.

4 § 8854. State committee for pathologists' assistants. 1. A state
5 committee for pathologists' assistants shall be appointed by the commis-
6 sioner as a committee of the board of medicine to advise solely on
7 matters relating to pathologists' assistants and shall assist on matters
8 of licensure and professional conduct. The pathologists' assistant
9 members of the initial committee need not be licensed prior to their
10 appointment but shall have met all other requirements of licensing
11 pursuant to section eighty-eight hundred fifty-two of this title except
12 the filing of an application and paying a fee.

13 2. The committee shall consist of no fewer than five individuals, to
14 be composed of a minimum of the following:

15 (a) one licensed physician who practices pathology;

16 (b) three licensed pathologists' assistants; and

17 (c) one public representative.

18 § 8855. Limited permits. 1. Eligibility. A person who fulfills all
19 requirements for licensure as a pathologists' assistant except that
20 relating to the examination shall be eligible for a limited permit.

21 2. Limit of practice. A permittee shall be authorized to practice as a
22 pathologists' assistant only under the direction and supervision of a
23 licensed physician who practices anatomic pathology and pursuant to the
24 order and direction of that licensed physician.

25 3. Duration. A limited permit shall expire one year from the date of
26 issuance. A limited permit may be extended for one additional year for
27 good cause as determined by the department.

28 4. Fees. The fee for each limited permit shall be determined by the
29 department.

30 § 8856. Exemptions and exempt persons. This title shall not prohibit:

31 1. The performance of any tasks or responsibilities by any student
32 engaged in clinical training in a general hospital licensed pursuant to
33 title twenty-eight of this chapter, provided such practice is limited to
34 clinical training that shall be carried out under the direct supervision
35 of a licensed physician who practices anatomic pathology; or

36 2. The performance of any tasks or responsibilities by any person
37 licensed under this title, provided such tasks or responsibilities are
38 permitted by the title governing the profession pursuant to which such
39 person is licensed; or

40 3. The performance of any tasks or responsibilities by any legally
41 qualified pathologists' assistants of any other state or territory who
42 is serving in the armed forces or the public health service of the
43 United States or who is employed by the veterans' administration, while
44 engaged in the performance of his or her duties; or

45 4. The performance of any tasks and responsibilities by any individual
46 legally carrying out the examinations and tests enumerated in subdivi-
47 sion two of section five hundred seventy-nine of this chapter.

48 § 3. The state finance law is amended by adding a new section 98-d to
49 read as follows:

50 § 98-d. Licensed healthcare professions account. 1. There is hereby
51 established in the joint custody of the state comptroller and the
52 commissioner of taxation and finance an account of the miscellaneous
53 special revenue fund to be known as the licensed healthcare professions
54 account.

55 2. Notwithstanding any other law, rule or regulation to the contrary,
56 the state comptroller is hereby authorized and directed to receive for

1 deposit to the credit of the licensed healthcare professions account,
2 payments relating to the responsibilities of the department of health
3 pursuant to article fifty-one of the public health law, including fees
4 for professional licenses and registration, penalties for professional
5 misconduct, charges for test administration, verification and certifi-
6 cation of credentials, and restoration of revoked and annulled
7 licenses, and surcharges and charges as established by statute or by the
8 department of health's regulations pursuant to such article.

9 3. Moneys of this account, following appropriation by the legislature,
10 shall be available to the department of health for services and expenses
11 for regulation, oversight, and enforcement of licensed healthcare
12 professions enumerated in article fifty-one of the public health law.

13 § 4. Subdivision (d) of section 4504 of the civil practice law and
14 rules, as added by chapter 987 of the laws of 1971, is amended to read
15 as follows:

16 (d) Proof of negligence; unauthorized practice of medicine. In any
17 action for damages for personal injuries or death against a person not
18 authorized to practice medicine under [~~article 131 of the education law~~]
19 title 2 of article 51 of the public health law for any act or acts
20 constituting the practice of medicine, when such act or acts were a
21 competent producing proximate or contributing cause of such injuries or
22 death, the fact that such person practiced medicine without being so
23 authorized shall be deemed prima facie evidence of negligence.

24 § 5. Subdivision (a) of section 1203 of the limited liability company
25 law, as amended by chapter 475 of the laws of 2014, is amended to read
26 as follows:

27 (a) Notwithstanding the education law or any other provision of law,
28 one or more professionals each of whom is authorized by law to render a
29 professional service within the state, or one or more professionals, at
30 least one of whom is authorized by law to render a professional service
31 within the state, may form, or cause to be formed, a professional
32 service limited liability company for pecuniary profit under this arti-
33 cle for the purpose of rendering the professional service or services as
34 such professionals are authorized to practice. With respect to a profes-
35 sional service limited liability company formed to provide medical
36 services as such services are defined in [~~article 131 of the education~~
37 ~~law~~] title 2 of article 51 of the public health law, each member of such
38 limited liability company must be licensed pursuant to [~~article 131 of~~
39 ~~the education law~~] title 2 of article 51 of the public health law to
40 practice medicine in this state. With respect to a professional service
41 limited liability company formed to provide dental services as such
42 services are defined in [~~article 133 of the education law~~] title 7 of
43 article 51 of the public health law, each member of such limited liabil-
44 ity company must be licensed pursuant to [~~article 133 of the education~~
45 ~~law~~] title 7 of article 51 of the public health law to practice dentis-
46 try in this state. With respect to a professional service limited
47 liability company formed to provide veterinary services as such services
48 are defined in article 135 of the education law, each member of such
49 limited liability company must be licensed pursuant to article 135 of
50 the education law to practice veterinary medicine in this state. With
51 respect to a professional service limited liability company formed to
52 provide professional engineering, land surveying, architectural, land-
53 scape architectural and/or geological services as such services are
54 defined in article 145, article 147 and article 148 of the education
55 law, each member of such limited liability company must be licensed
56 pursuant to article 145, article 147 and/or article 148 of the education

1 law to practice one or more of such professions in this state. With
2 respect to a professional service limited liability company formed to
3 provide licensed clinical social work services as such services are
4 defined in [~~article 154 of the education law~~] title 18 of article 51 of
5 the public health law, each member of such limited liability company
6 shall be licensed pursuant to [~~article 154 of the education law~~] title
7 18 of article 51 of the public health law to practice licensed clinical
8 social work in this state. With respect to a professional service limit-
9 ed liability company formed to provide creative arts therapy services as
10 such services are defined in [~~article 163 of the education law~~] title 25
11 of article 51 of the public health law, each member of such limited
12 liability company must be licensed pursuant to [~~article 163 of the~~
13 ~~education law~~] title 25 of article 51 of the public health law to prac-
14 tice creative arts therapy in this state. With respect to a professional
15 service limited liability company formed to provide marriage and family
16 therapy services as such services are defined in [~~article 163 of the~~
17 ~~education law~~] title 25 of article 51 of the public health law, each
18 member of such limited liability company must be licensed pursuant to
19 [~~article 163 of the education law~~] title 25 of article 51 of the public
20 health law to practice marriage and family therapy in this state. With
21 respect to a professional service limited liability company formed to
22 provide mental health counseling services as such services are defined
23 in [~~article 163 of the education law~~] title 25 of article 51 of the
24 public health law, each member of such limited liability company must be
25 licensed pursuant to [~~article 163 of the education law~~] title 25 of
26 article 51 of the public health law to practice mental health counseling
27 in this state. With respect to a professional service limited liability
28 company formed to provide psychoanalysis services as such services are
29 defined in [~~article 163 of the education law~~] title 25 of article 51 of
30 the public health law, each member of such limited liability company
31 must be licensed pursuant to [~~article 163 of the education law~~] title 25
32 of article 51 of the public health law to practice psychoanalysis in
33 this state. With respect to a professional service limited liability
34 company formed to provide applied behavior analysis services as such
35 services are defined in [~~article 167 of the education law~~] title 29 of
36 article 51 of the public health law, each member of such limited liabil-
37 ity company must be licensed or certified pursuant to [~~article 167 of~~
38 ~~the education law~~] title 29 of article 51 of the public health law to
39 practice applied behavior analysis in this state. In addition to engag-
40 ing in such profession or professions, a professional service limited
41 liability company may engage in any other business or activities as to
42 which a limited liability company may be formed under section two
43 hundred one of this chapter. Notwithstanding any other provision of
44 this section, a professional service limited liability company (i)
45 authorized to practice law may only engage in another profession or
46 business or activities or (ii) which is engaged in a profession or other
47 business or activities other than law may only engage in the practice of
48 law, to the extent not prohibited by any other law of this state or any
49 rule adopted by the appropriate appellate division of the supreme court
50 or the court of appeals.

51 § 6. Subdivision (b) of section 1207 of the limited liability company
52 law, as amended by chapter 475 of the laws of 2014, is amended to read
53 as follows:

54 (b) With respect to a professional service limited liability company
55 formed to provide medical services as such services are defined in
56 [~~article 131 of the education law~~] title 2 of article 51 of the public

1 health law, each member of such limited liability company must be
2 licensed pursuant to [~~article 131 of the education law~~] title 2 of arti-
3 cle 51 of the public health law to practice medicine in this state. With
4 respect to a professional service limited liability company formed to
5 provide dental services as such services are defined in [~~article 133 of~~
6 ~~the education law~~] title 7 of article 51 of the public health law, each
7 member of such limited liability company must be licensed pursuant to
8 [~~article 133 of the education law~~] title 7 of article 51 of the public
9 health law to practice dentistry in this state. With respect to a
10 professional service limited liability company formed to provide veteri-
11 nary services as such services are defined in article 135 of the educa-
12 tion law, each member of such limited liability company must be licensed
13 pursuant to article 135 of the education law to practice veterinary
14 medicine in this state. With respect to a professional service limited
15 liability company formed to provide professional engineering, land
16 surveying, architectural, landscape architectural and/or geological
17 services as such services are defined in article 145, article 147 and
18 article 148 of the education law, each member of such limited liability
19 company must be licensed pursuant to article 145, article 147 and/or
20 article 148 of the education law to practice one or more of such
21 professions in this state. With respect to a professional service limit-
22 ed liability company formed to provide licensed clinical social work
23 services as such services are defined in [~~article 154 of the education~~
24 ~~law~~] title 18 of article 51 of the public health law, each member of
25 such limited liability company shall be licensed pursuant to [~~article~~
26 ~~154 of the education law~~] title 18 of article 51 of the public health
27 law to practice licensed clinical social work in this state. With
28 respect to a professional service limited liability company formed to
29 provide creative arts therapy services as such services are defined in
30 [~~article 163 of the education law~~] title 25 of article 51 of the public
31 health law, each member of such limited liability company must be
32 licensed pursuant to [~~article 163 of the education law~~] title 25 of
33 article 51 of the public health law to practice creative arts therapy in
34 this state. With respect to a professional service limited liability
35 company formed to provide marriage and family therapy services as such
36 services are defined in [~~article 163 of the education law~~] title 25 of
37 article 51 of the public health law, each member of such limited liabil-
38 ity company must be licensed pursuant to [~~article 163 of the education~~
39 ~~law~~] title 25 of article 51 of the public health law to practice
40 marriage and family therapy in this state. With respect to a profes-
41 sional service limited liability company formed to provide mental health
42 counseling services as such services are defined in [~~article 163 of the~~
43 ~~education law~~] title 25 of article 51 of the public health law, each
44 member of such limited liability company must be licensed pursuant to
45 [~~article 163 of the education law~~] title 25 of article 51 of the public
46 health law to practice mental health counseling in this state. With
47 respect to a professional service limited liability company formed to
48 provide psychoanalysis services as such services are defined in [~~article~~
49 ~~163 of the education law~~] title 25 of article 51 of the public health
50 law, each member of such limited liability company must be licensed
51 pursuant to [~~article 163 of the education law~~] title 25 of article 51 of
52 the public health law to practice psychoanalysis in this state. With
53 respect to a professional service limited liability company formed to
54 provide applied behavior analysis services as such services are defined
55 in [~~article 167 of the education law~~] title 29 of article 51 of the
56 public health law, each member of such limited liability company must be

1 licensed or certified pursuant to [~~article 167 of the education law~~]
2 title 29 of article 51 of the public health law to practice applied
3 behavior analysis in this state.

4 § 7. Subdivisions (a), (b), (c) and (f) of section 1301 of the limited
5 liability company law, subdivisions (a) and (f) as amended by chapter
6 475 of the laws of 2014, are amended to read as follows:

7 (a) "Foreign professional service limited liability company" means a
8 professional service limited liability company, whether or not denomi-
9 nated as such, organized under the laws of a jurisdiction other than
10 this state, (i) each of whose members and managers, if any, is a profes-
11 sional authorized by law to render a professional service within this
12 state and who is or has been engaged in the practice of such profession
13 in such professional service limited liability company or a predecessor
14 entity, or will engage in the practice of such profession in the profes-
15 sional service limited liability company within thirty days of the date
16 such professional becomes a member, or each of whose members and manag-
17 ers, if any, is a professional at least one of such members is author-
18 ized by law to render a professional service within this state and who
19 is or has been engaged in the practice of such profession in such
20 professional service limited liability company or a predecessor entity,
21 or will engage in the practice of such profession in the professional
22 service limited liability company within thirty days of the date such
23 professional becomes a member, or (ii) authorized by, or holding a
24 license, certificate, registration or permit issued by the licensing
25 authority pursuant to, the education law to render a professional
26 service within this state; except that all members and managers, if any,
27 of a foreign professional service limited liability company that
28 provides health services in this state shall be licensed in this state.
29 With respect to a foreign professional service limited liability company
30 which provides veterinary services as such services are defined in arti-
31 cle 135 of the education law, each member of such foreign professional
32 service limited liability company shall be licensed pursuant to article
33 135 of the education law to practice veterinary medicine. With respect
34 to a foreign professional service limited liability company which
35 provides medical services as such services are defined in [~~article 131~~
36 ~~of the education law~~] title 2 of article 51 of the public health law,
37 each member of such foreign professional service limited liability
38 company must be licensed pursuant to [~~article 131 of the education law~~]
39 title 2 of article 51 of the public health law to practice medicine in
40 this state. With respect to a foreign professional service limited
41 liability company which provides dental services as such services are
42 defined in [~~article 133 of the education law~~] title 7 of article 51 of
43 the public health law, each member of such foreign professional service
44 limited liability company must be licensed pursuant to [~~article 133 of~~
45 ~~the education law~~] title 7 of article 51 of the public health law to
46 practice dentistry in this state. With respect to a foreign professional
47 service limited liability company which provides professional engineer-
48 ing, land surveying, geologic, architectural and/or landscape architec-
49 tural services as such services are defined in article 145, article 147
50 and article 148 of the education law, each member of such foreign
51 professional service limited liability company must be licensed pursuant
52 to article 145, article 147 and/or article 148 of the education law to
53 practice one or more of such professions in this state. With respect to
54 a foreign professional service limited liability company which provides
55 licensed clinical social work services as such services are defined in
56 [~~article 154 of the education law~~] title 18 of article 51 of the public

1 health law, each member of such foreign professional service limited
2 liability company shall be licensed pursuant to [~~article 154 of the~~
3 ~~education law~~] title 18 of article 51 of the public health law to prac-
4 tice clinical social work in this state. With respect to a foreign
5 professional service limited liability company which provides creative
6 arts therapy services as such services are defined in [~~article 163 of~~
7 ~~the education law~~] title 25 of article 51 of the public health law, each
8 member of such foreign professional service limited liability company
9 must be licensed pursuant to [~~article 163 of the education law~~] title 25
10 of article 51 of the public health law to practice creative arts therapy
11 in this state. With respect to a foreign professional service limited
12 liability company which provides marriage and family therapy services as
13 such services are defined in [~~article 163 of the education law~~] title 25
14 of article 51 of the public health law, each member of such foreign
15 professional service limited liability company must be licensed pursuant
16 to [~~article 163 of the education law~~] title 25 of article 51 of the
17 public health law to practice marriage and family therapy in this state.
18 With respect to a foreign professional service limited liability company
19 which provides mental health counseling services as such services are
20 defined in [~~article 163 of the education law~~] title 25 of article 51 of
21 the public health law, each member of such foreign professional service
22 limited liability company must be licensed pursuant to [~~article 163 of~~
23 ~~the education law~~] title 25 of article 51 of the public health law to
24 practice mental health counseling in this state. With respect to a
25 foreign professional service limited liability company which provides
26 psychoanalysis services as such services are defined in [~~article 163 of~~
27 ~~the education law~~] title 25 of article 51 of the public health law, each
28 member of such foreign professional service limited liability company
29 must be licensed pursuant to [~~article 163 of the education law~~] title 25
30 of article 51 of the public health law to practice psychoanalysis in
31 this state. With respect to a foreign professional service limited
32 liability company which provides applied behavior analysis services as
33 such services are defined in [~~article 167 of the education law~~] title 29
34 of article 51 of the public health law, each member of such foreign
35 professional service limited liability company must be licensed or
36 certified pursuant to [~~article 167 of the education law~~] title 29 of
37 article 51 of the public health law to practice applied behavior analy-
38 sis in this state.

39 (b) "Licensing authority" means the regents of the university of the
40 state of New York or the state education department, as the case may be,
41 in the case of all professions licensed under title eight of the educa-
42 tion law, the department of health in the case of all professions
43 licensed under article fifty-one of the public health law, and the
44 appropriate appellate division of the supreme court in the case of the
45 profession of law.

46 (c) "Profession" includes any practice as an attorney and counselor-
47 at-law, or as a licensed physician, and those professions designated in
48 title eight of the education law or article fifty-one of the public
49 health law.

50 (f) "Professional partnership" means (1) a partnership without limited
51 partners each of whose partners is a professional authorized by law to
52 render a professional service within this state, (2) a partnership with-
53 out limited partners each of whose partners is a professional, at least
54 one of whom is authorized by law to render a professional service within
55 this state or (3) a partnership without limited partners authorized by,
56 or holding a license, certificate, registration or permit issued by the

1 licensing authority pursuant to the education law to render a profes-
2 sional service within this state; except that all partners of a profes-
3 sional partnership that provides medical services in this state must be
4 licensed pursuant to [~~article 131 of the education law~~] title 2 of arti-
5 cle 51 of the public health law to practice medicine in this state and
6 all partners of a professional partnership that provides dental services
7 in this state must be licensed pursuant to [~~article 133 of the education~~
8 ~~law~~] title 7 of article 51 of the public health law to practice dentis-
9 try in this state; except that all partners of a professional partner-
10 ship that provides veterinary services in this state must be licensed
11 pursuant to article 135 of the education law to practice veterinary
12 medicine in this state; and further except that all partners of a
13 professional partnership that provides professional engineering, land
14 surveying, geologic, architectural, and/or landscape architectural
15 services in this state must be licensed pursuant to article 145, article
16 147 and/or article 148 of the education law to practice one or more of
17 such professions.

18 § 8. The tenth, twelfth, fourteenth, and sixteenth undesignated para-
19 graphs of section 2 of the partnership law, the tenth, twelfth, and
20 sixteenth undesignated paragraphs as added by chapter 576 of the laws of
21 1994, and the fourteenth undesignated paragraph as amended by chapter
22 475 of the laws of 2014, are amended to read as follows:

23 "Licensing authority" means the regents of the university of the state
24 of New York or the state education department, as the case may be, in
25 the case of all professions licensed under title eight of the education
26 law, the department of health in the case of all professions licensed
27 under article fifty-one of the public health law and the appropriate
28 appellate division of the supreme court in the case of the profession of
29 law.

30 "Profession" includes any practice as an attorney and counsellor-at-
31 law or as a licensed physician, and those professions designated in
32 title eight of the education law or article fifty-one of the public
33 health law.

34 "Professional partnership" means (1) a partnership without limited
35 partners each of whose partners is a professional authorized by law to
36 render a professional service within this state, (2) a partnership with-
37 out limited partners each of whose partners is a professional, at least
38 one of whom is authorized by law to render a professional service within
39 this state or (3) a partnership without limited partners authorized by,
40 or holding a license, certificate, registration or permit issued by the
41 licensing authority pursuant to the education law to render a profes-
42 sional service within this state; except that all partners of a profes-
43 sional partnership that provides medical services in this state must be
44 licensed pursuant to [~~article 131 of the education law~~] title 2 of arti-
45 cle 51 of the public health law to practice medicine in this state and
46 all partners of a professional partnership that provides dental services
47 in this state must be licensed pursuant to [~~article 133 of the education~~
48 ~~law~~] title 7 of article 51 of the public health law to practice dentis-
49 try in this state; and further except that all partners of a profes-
50 sional partnership that provides professional engineering, land survey-
51 ing, geologic, architectural and/or landscape architectural services in
52 this state must be licensed pursuant to article 145, article 147 and/or
53 article 148 of the education law to practice one or more of such
54 professions in this state.

55 "Professional service corporation" means (i) a corporation organized
56 under article fifteen of the business corporation law and (ii) any other

1 corporation organized under the business corporation law or any prede-
2 cessor statute, which is authorized by, or holds a license, certificate,
3 registration or permit issued by, the licensing authority pursuant to
4 the education law or the public health law to render professional
5 services within this state.

6 § 9. Subdivision (q) of section 121-1500 of the partnership law, as
7 amended by chapter 475 of the laws of 2014, is amended to read as
8 follows:

9 (q) Each partner of a registered limited liability partnership formed
10 to provide medical services in this state must be licensed pursuant to
11 ~~[article 131 of the education law]~~ title 2 of article 51 of the public
12 health law to practice medicine in this state and each partner of a
13 registered limited liability partnership formed to provide dental
14 services in this state must be licensed pursuant to ~~[article 133 of the~~
15 ~~education law]~~ title 7 of article 51 of the public health law to prac-
16 tice dentistry in this state. Each partner of a registered limited
17 liability partnership formed to provide veterinary services in this
18 state must be licensed pursuant to article 135 of the education law to
19 practice veterinary medicine in this state. Each partner of a registered
20 limited liability partnership formed to provide professional engineer-
21 ing, land surveying, geological services, architectural and/or landscape
22 architectural services in this state must be licensed pursuant to arti-
23 cle 145, article 147 and/or article 148 of the education law to practice
24 one or more of such professions in this state. Each partner of a regis-
25 tered limited liability partnership formed to provide licensed clinical
26 social work services in this state must be licensed pursuant to ~~[article~~
27 ~~154 of the education law]~~ title 18 of article 51 of the public health
28 law to practice clinical social work in this state. Each partner of a
29 registered limited liability partnership formed to provide creative arts
30 therapy services in this state must be licensed pursuant to ~~[article 163~~
31 ~~of the education law]~~ title 25 of article 51 of the public health law to
32 practice creative arts therapy in this state. Each partner of a regis-
33 tered limited liability partnership formed to provide marriage and fami-
34 ly therapy services in this state must be licensed pursuant to ~~[article~~
35 ~~163 of the education law]~~ title 25 of article 51 of the public health
36 law to practice marriage and family therapy in this state. Each partner
37 of a registered limited liability partnership formed to provide mental
38 health counseling services in this state must be licensed pursuant to
39 ~~[article 163 of the education law]~~ title 25 of article 51 of the public
40 health law to practice mental health counseling in this state. Each
41 partner of a registered limited liability partnership formed to provide
42 psychoanalysis services in this state must be licensed pursuant to
43 ~~[article 163 of the education law]~~ title 25 of article 51 of the public
44 health law to practice psychoanalysis in this state. Each partner of a
45 registered limited liability partnership formed to provide applied
46 behavior analysis service in this state must be licensed or certified
47 pursuant to ~~[article 167 of the education law]~~ title 29 of article 51 of
48 the public health law to practice applied behavior analysis in this
49 state.

50 § 10. Subdivision (q) of section 121-1502 of the partnership law, as
51 amended by chapter 475 of the laws of 2014, is amended to read as
52 follows:

53 (q) Each partner of a foreign limited liability partnership which
54 provides medical services in this state must be licensed pursuant to
55 ~~[article 131 of the education law]~~ title 2 of article 51 of the public
56 health law to practice medicine in the state and each partner of a

foreign limited liability partnership which provides dental services in the state must be licensed pursuant to ~~[article 133 of the education law]~~ title 7 of article 51 of the public health law to practice dentistry in this state. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to ~~[article 154 of the education law]~~ title 18 of article 51 of the public health law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides creative arts therapy services in this state must be licensed pursuant to ~~[article 163 of the education law]~~ title 25 of article 51 of the public health law to practice creative arts therapy in this state. Each partner of a foreign limited liability partnership which provides marriage and family therapy services in this state must be licensed pursuant to ~~[article 163 of the education law]~~ title 25 of article 51 of the public health law to practice marriage and family therapy in this state. Each partner of a foreign limited liability partnership which provides mental health counseling services in this state must be licensed pursuant to ~~[article 163 of the education law]~~ title 25 of article 51 of the public health law to practice mental health counseling in this state. Each partner of a foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to ~~[article 163 of the education law]~~ title 25 of article 51 of the public health law to practice psychoanalysis in this state. Each partner of a foreign limited liability partnership which provides applied behavior analysis services in this state must be licensed or certified pursuant to ~~[article 167 of the education law]~~ title 29 of article 51 of the public health law to practice applied behavior analysis in this state.

§ 11. Section 24-a of the corrections law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

§ 24-a. Actions against persons rendering health care services at the request of the department; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to any person holding a license to practice a profession pursuant to ~~[article one hundred thirty one, one hundred thirty one B, one hundred thirty two, one hundred thirty three, one hundred thirty six, one hundred thirty seven, one hundred thirty nine, one hundred forty one, one hundred forty three, one hundred fifty six or one hundred fifty nine of the education law]~~ titles two, four, six, seven, nine, ten, twelve, fourteen, fifteen, twenty, and twenty-two of article fifty-one of the public health law, who is rendering or has rendered professional services authorized under such license while acting at the request of the department or a facility of the department in providing health care and treatment or professional consultation to incarcerated individuals of state correctional facilities, or to the infant children of incarcerated individuals while such infants are cared for in facility nurseries pursuant to section six hundred eleven of this chapter, without regard to whether

1 such health care and treatment or professional consultation is provided
2 within or without a correctional facility.

3 § 12. Section 910 of the education law, as amended by chapter 477 of
4 the laws of 2004, is amended to read as follows:

5 § 910. Choice of method of treatment. Whenever affected by the
6 requirements of this article, the school employee so affected, and, in
7 the case of a child, the parent of, or person in parental relation to,
8 such child, shall have the right to determine the form or manner of
9 treatment or remedial care to be prescribed or applied, but the treat-
10 ment or remedial care must be in accordance with and as allowed under
11 the provisions of [~~article one hundred thirty-one of this chapter~~] title
12 two of article fifty-one of the public health law.

13 § 13. Section 522 of the executive law, as added by chapter 552 of the
14 laws of 1993, is amended to read as follows:

15 § 522. Actions against persons rendering health care services at the
16 request of the division; defense and indemnification. The provisions of
17 section seventeen of the public officers law shall apply to any person
18 holding a license to practice a profession pursuant to [~~article one~~
19 ~~hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two,~~
20 ~~one hundred thirty-three, one hundred thirty-six, one hundred thirty-~~
21 ~~seven, one hundred thirty-nine, one hundred forty-one, one hundred~~
22 ~~forty-three, one hundred fifty-six or one hundred fifty-nine of the~~
23 ~~education law~~] titles two, four, six, seven, nine, ten, twelve, four-
24 teen, fifteen, twenty, and twenty-two of article fifty-one of the public
25 health law, who is rendering or has rendered professional services
26 authorized under such license while acting at the request of the divi-
27 sion or a facility of the division in providing health care and treat-
28 ment or professional consultation to residents of division facilities,
29 or to infants of residents while such infants are cared for in division
30 facilities pursuant to section five hundred sixteen of this [~~article~~]
31 subtitle, without regard to whether such health care and treatment or
32 professional consultation is provided within or without a division
33 facility.

34 § 14. Paragraph 4 of subdivision (a) of section 33.16 of the mental
35 hygiene law, as amended by chapter 226 of the laws of 1991, is amended
36 to read as follows:

37 4. "Mental health practitioner" or "practitioner" means a person
38 employed by or rendering a service at a facility maintaining the clin-
39 ical record licensed under [~~article one hundred thirty-one of the educa-~~
40 ~~tion law~~] title two of article fifty-one of the public health law who
41 practices psychiatry or a person licensed under [~~article one hundred~~
42 ~~thirty-nine, one hundred fifty-three or one hundred fifty-four of the~~
43 ~~education law~~] titles twelve, seventeen, or eighteen of article fifty-
44 one of the public health law or any other person not prohibited by law
45 from providing mental health or developmental disabilities services.

46 § 15. Section 14 of the public health law, as amended by chapter 2 of
47 the laws of 1998, is amended to read as follows:

48 § 14. Actions against persons rendering professional services at the
49 request of the department; defense and indemnification. The provisions
50 of section seventeen of the public officers law shall apply to any
51 physician, dentist, nurse or other health care professional who: (i) is
52 licensed to practice pursuant to [~~article one hundred thirty-one, one~~
53 ~~hundred thirty-one-B, one hundred thirty-three, one hundred thirty-six,~~
54 ~~one hundred thirty-seven, one hundred thirty-nine, one hundred forty-~~
55 ~~three, one hundred fifty-six, one hundred fifty-seven, one hundred~~
56 ~~fifty-nine or one hundred sixty-four of the education law~~] titles two,

1 four, six, seven, nine, ten, twelve, fifteen, twenty, twenty-one, twenty-
2 ty-two and twenty-six of article fifty-one of this chapter and who is
3 rendering professional treatment or consultation in connection with
4 professional treatment authorized under such license at the request of
5 the department, or at a departmental facility, including clinical prac-
6 tice provided pursuant to a clinical practice plan established pursuant
7 to subdivision fourteen of section two hundred six of this chapter, to
8 patients receiving care or professional consultation from the department
9 while rendering such professional treatment or consultation; (ii) is
10 rendering consultation in connection with an audit or prepayment review
11 of claims or treatment requests under the medical assistance program; or
12 (iii) assists the department as consultants or expert witnesses in the
13 investigation or prosecution of alleged violations of article twenty-
14 eight, thirty-six, forty-four or forty-seven of this chapter or rules
15 and regulations adopted pursuant thereto.

16 § 16. Paragraph (d) of subdivision 1 of section 18 of the public
17 health law, as added by chapter 497 of the laws of 1986, is amended to
18 read as follows:

19 (d) "Health care practitioner" or "practitioner" means a person
20 licensed under [~~article one hundred thirty-one, one hundred~~
21 ~~thirty-one B, one hundred thirty-two, one hundred thirty-three, one~~
22 ~~hundred thirty-six, one hundred thirty-nine, one hundred forty-one, one~~
23 ~~hundred forty-three, one hundred forty-four, one hundred fifty-three,~~
24 ~~one hundred fifty-four, one hundred fifty-six or one hundred fifty-nine~~
25 ~~of the education law~~] titles two, four, six, seven, nine, twelve, four-
26 teen, fifteen, sixteen, seventeen, eighteen, twenty, and twenty-two of
27 article fifty-one of this chapter or a person certified under former
28 section twenty-five hundred sixty of this chapter.

29 § 17. The opening paragraph of subdivision 1 of section 19 of the
30 public health law, as added by chapter 572 of the laws of 1990, is
31 amended to read as follows:

32 No physician licensed under [~~article one hundred thirty-one of the~~
33 ~~education law~~] title two of article fifty-one of this chapter shall
34 charge from a beneficiary of health insurance under title XVIII of the
35 federal social security act (medicare) any amount in excess of the
36 following limitations:

37 § 18. Subdivisions 1 and 9-b, clause 2 of subparagraph (ii) of para-
38 graph (h) and paragraph (p) of subdivision 10, paragraph (a) of subdivi-
39 sion 11, paragraphs (a) and (b) of subdivision 13, and paragraph (c) of
40 subdivision 17 of section 230 of the public health law, subdivision 1 as
41 amended by chapter 537 of the laws of 1998, subdivision 9-b as amended
42 by chapter 11 of the laws of 2015, clause 2 of subparagraph (ii) of
43 paragraph (h) of subdivision 10 as amended by chapter 477 of the laws of
44 2008, paragraph (p) of subdivision 10 as amended by chapter 599 of the
45 laws of 1996, paragraph (a) of subdivision 11 as amended by chapter 627
46 of the laws of 1996, paragraphs (a) and (b) of subdivision 13 as added
47 by and paragraph (c) of subdivision 17 as amended by chapter 606 of the
48 laws of 1991, are amended to read as follows:

49 1. A state board for professional medical conduct is hereby created in
50 the department in matters of professional misconduct as defined in
51 sections sixty-five hundred thirty and sixty-five hundred thirty-one of
52 [~~the education law~~] this chapter. Its physician members shall be
53 appointed by the commissioner at least eighty-five percent of whom shall
54 be from among nominations submitted by the medical society of the state
55 of New York, the New York state osteopathic society, the New York acade-
56 my of medicine, county medical societies, statewide specialty societies

1 recognized by the council of medical specialty societies, and the hospi-
2 tal association of New York state. Its lay members shall be appointed by
3 the commissioner with the approval of the governor. The board of regents
4 shall also appoint twenty percent of the members of the board. Not less
5 than sixty-seven percent of the members appointed by the board of
6 regents shall be physicians. Not less than eighty-five percent of the
7 physician members appointed by the board of regents shall be from among
8 nominations submitted by the medical society of the state of New York,
9 the New York state osteopathic society, the New York academy of medi-
10 cine, county medical societies, statewide medical societies recognized
11 by the council of medical specialty societies, and the hospital associ-
12 ation of New York state. Any failure to meet the percentage thresholds
13 stated in this subdivision shall not be grounds for invalidating any
14 action by or on authority of the board for professional medical conduct
15 or a committee or a member thereof. The board for professional medical
16 conduct shall consist of not fewer than eighteen physicians licensed in
17 the state for at least five years, two of whom shall be doctors of
18 osteopathy, not fewer than two of whom shall be physicians who dedicate
19 a significant portion of their practice to the use of non-conventional
20 medical treatments who may be nominated by New York state medical asso-
21 ciations dedicated to the advancement of such treatments, at least one
22 of whom shall have expertise in palliative care, and not fewer than
23 seven lay members. An executive secretary shall be appointed by the
24 chairperson and shall be a licensed physician. Such executive secretary
25 shall not be a member of the board, shall hold office at the pleasure
26 of, and shall have the powers and duties assigned and the annual salary
27 fixed by, the chairperson. The chairperson shall also assign such secre-
28 taries or other persons to the board as are necessary.

29 9-b. Neither the board for professional medical conduct nor the office
30 of professional medical conduct shall charge a licensee with misconduct
31 as defined in sections sixty-five hundred thirty and sixty-five hundred
32 thirty-one of [~~the education law~~] this chapter, or cause a report made
33 to the director of such office to be investigated beyond a preliminary
34 review as set forth in clause (A) of subparagraph (i) of paragraph (a)
35 of subdivision ten of this section, where such report is determined to
36 be based solely upon the recommendation or provision of a treatment
37 modality to a particular patient by such licensee that is not
38 universally accepted by the medical profession, including but not limit-
39 ed to, varying modalities used in the treatment of Lyme disease and
40 other tick-borne diseases. When a licensee, acting in accordance with
41 paragraph e of subdivision four of section sixty-five hundred twenty-
42 seven of [~~the education law~~] this chapter, recommends or provides a
43 treatment modality that effectively treats human disease, pain, injury,
44 deformity or physical condition for which the licensee is treating a
45 patient, the recommendation or provision of that modality to a partic-
46 ular patient shall not, by itself, constitute professional misconduct.
47 The licensee shall otherwise abide by all other applicable professional
48 requirements.

49 (2) make arrangements for the transfer and maintenance of the medical
50 records of his or her former patients. Records shall be either trans-
51 ferred to the licensee's former patients consistent with the provisions
52 of sections seventeen and eighteen of this chapter or to another physi-
53 cian or health care practitioner as provided in clause (1) of this
54 subparagraph who shall expressly assume responsibility for their care
55 and maintenance and for providing access to such records, as provided in
56 subdivisions twenty-two and thirty-two of section sixty-five hundred

1 thirty of ~~[the education law]~~ this chapter, the rules of the ~~[board of~~
2 ~~regents]~~ department or the regulations of the commissioner of ~~[educa-~~
3 ~~tion]~~ health and sections seventeen and eighteen of this chapter. When
4 records are not transferred to the licensee's former patients or to
5 another physician or health care practitioner, the licensee whose
6 license has been revoked, annulled, surrendered, suspended or restricted
7 shall remain responsible for the care and maintenance of the medical
8 records of his or her former patients and shall be subject to additional
9 proceedings pursuant to subdivisions twenty-two, thirty-two and forty of
10 section sixty-five hundred thirty of ~~[the education law]~~ this chapter in
11 the event that the licensee fails to maintain those medical records or
12 fails to make them available to a former patient.

13 (p) Convictions of crimes or administrative violations. In cases of
14 professional misconduct based solely upon a violation of subdivision
15 nine of section sixty-five hundred thirty of ~~[the education law]~~ this
16 chapter, the director may direct that charges be prepared and served and
17 may refer the matter to a committee on professional conduct for its
18 review and report of findings, conclusions as to guilt, and determi-
19 nation. In such cases, the notice of hearing shall state that the licen-
20 see shall file a written answer to each of the charges and allegations
21 in the statement of charges no later than ten days prior to the hearing,
22 and that any charge or allegation not so answered shall be deemed admit-
23 ted, that the licensee may wish to seek the advice of counsel prior to
24 filing such answer that the licensee may file a brief and affidavits
25 with the committee on professional conduct, that the licensee may appear
26 personally before the committee on professional conduct, may be repres-
27 ented by counsel and may present evidence or sworn testimony in his or
28 her behalf, and the notice may contain such other information as may be
29 considered appropriate by the director. The department may also present
30 evidence or sworn testimony and file a brief at the hearing. A steno-
31 graphic record of the hearing shall be made. Such evidence or sworn
32 testimony offered to the committee on professional conduct shall be
33 strictly limited to evidence and testimony relating to the nature and
34 severity of the penalty to be imposed upon the licensee. Where the
35 charges are based on the conviction of state law crimes in other juris-
36 dictions, evidence may be offered to the committee which would show that
37 the conviction would not be a crime in New York state. The committee on
38 professional conduct may reasonably limit the number of witnesses whose
39 testimony will be received and the length of time any witness will be
40 permitted to testify. The determination of the committee shall be served
41 upon the licensee and the department in accordance with the provisions
42 of paragraph (h) of this subdivision. A determination pursuant to this
43 subdivision may be reviewed by the administrative review board for
44 professional medical conduct.

45 (a) The medical society of the state of New York, the New York state
46 osteopathic society or any district osteopathic society, any statewide
47 medical specialty society or organization, and every county medical
48 society, every person licensed pursuant to ~~[articles one hundred thir-~~
49 ~~ty one, one hundred thirty-one B, one hundred thirty-three, one hundred~~
50 ~~thirty-seven and one hundred thirty-nine of the education law]~~ titles
51 two, four, seven, ten, and twelve of article fifty-one of this chapter,
52 and the chief executive officer, the chief of the medical staff and the
53 chairperson of each department of every institution which is established
54 pursuant to article twenty-eight of this chapter and a comprehensive
55 health services plan pursuant to article forty-four of this chapter or
56 article forty-three of the insurance law, shall, and any other person

1 may, report to the board any information which such person, medical
2 society, organization institution or plan has which reasonably appears
3 to show that a licensee is guilty of professional misconduct as defined
4 in sections sixty-five hundred thirty and sixty-five hundred thirty-one
5 of [~~the education law~~] this chapter. Such reports shall remain confiden-
6 tial and shall not be admitted into evidence in any administrative or
7 judicial proceeding except that the board, its staff, or the members of
8 its committees may begin investigations on the basis of such reports and
9 may use them to develop further information.

10 (a) Temporary surrender. The license and registration of a licensee
11 who may be temporarily incapacitated for the active practice of medicine
12 and whose alleged incapacity has not resulted in harm to a patient may
13 be voluntarily surrendered to the board for professional medical
14 conduct, which may accept and hold such license during the period of
15 such alleged incapacity or the board for professional medical conduct
16 may accept the surrender of such license after agreement to conditions
17 to be met prior to the restoration of the license. The board shall give
18 prompt written notification of such surrender to the division of profes-
19 sional licensing services of the state education department, and to each
20 hospital at which the licensee has privileges. The licensee whose
21 license is so surrendered shall notify all patients and all persons who
22 request medical services that the licensee has temporarily withdrawn
23 from the practice of medicine. The licensure status of each such licen-
24 see shall be "inactive" and the licensee shall not be authorized to
25 practice medicine. The temporary surrender shall not be deemed to be an
26 admission of disability or of professional misconduct, and shall not be
27 used as evidence of a violation of subdivision seven or eight of section
28 sixty-five hundred thirty of [~~the education law~~] this chapter unless the
29 licensee practices while the license is "inactive". Any such practice
30 shall constitute a violation of subdivision twelve of section sixty-five
31 hundred thirty of [~~the education law~~] this chapter. The surrender of a
32 license under this subdivision shall not bar any disciplinary action
33 except action based solely upon the provisions of subdivision seven or
34 eight of section sixty-five hundred thirty of [~~the education law~~] this
35 chapter and where no harm to a patient has resulted, and shall not bar
36 any civil or criminal action or proceeding which might be brought with-
37 out regard to such surrender. A surrendered license shall be restored
38 upon a showing to the satisfaction of a committee of professional
39 conduct of the state board for professional medical conduct that the
40 licensee is not incapacitated for the active practice of medicine
41 provided, however, that the committee may impose reasonable conditions
42 on the licensee, if it determined that due to the nature and extent of
43 the licensee's former incapacity such conditions are necessary to
44 protect the health of the people. The chairperson of the committee shall
45 issue a restoration order adopting the decision of the committee. Prompt
46 written notification of such restoration shall be given to the division
47 of professional licensing services of the [~~state education~~] department
48 and to all hospitals which were notified of the surrender of the
49 license.

50 (b) Permanent surrender. The license and registration of a licensee
51 who may be permanently incapacitated for the active practice of medi-
52 cine, and whose alleged incapacity has not resulted in harm to a
53 patient, may be voluntarily surrendered to the board for professional
54 medical conduct. The board shall give prompt written notification of
55 such surrender to the division of professional licensing services of the
56 state education department, and to each hospital at which the licensee

1 has privileges. The licensee whose license is so surrendered shall noti-
2 fy all patients and all persons who request medical services that the
3 licensee has permanently withdrawn from the practice of medicine. The
4 permanent surrender shall not be deemed to be an admission of disability
5 of or professional misconduct, and shall not be used as evidence of a
6 violation of subdivision seven or eight of section sixty-five hundred
7 thirty of ~~[the education law]~~ this chapter. The surrender shall not bar
8 any civil or criminal action or proceeding which might be brought with-
9 out regard to such surrender. There shall be no restoration of a license
10 that has been surrendered pursuant to this subdivision.

11 (c) If the committee determines that reasonable cause exists as speci-
12 fied in paragraph (a) of this subdivision and that there is insufficient
13 evidence for the matter to constitute misconduct as defined in sections
14 sixty-five hundred thirty and section sixty-five hundred thirty-one of
15 ~~[the education law]~~ this chapter, the committee may issue an order
16 directing that the licensee's practice of medicine be monitored for a
17 period specified in the order, which shall in no event exceed one year,
18 by a licensee approved by the director, which may include members of
19 county medical societies or district osteopathic societies designated by
20 the commissioner. The licensee responsible for monitoring the licensee
21 shall submit regular reports to the director. If the licensee refuses to
22 cooperate with the licensee responsible for monitoring or if the moni-
23 toring licensee submits a report that the licensee is not practicing
24 medicine with reasonable skill and safety to his or her patients, the
25 committee may refer the matter to the director for further proceedings
26 pursuant to subdivision ten of this section. An order pursuant to this
27 paragraph shall be kept confidential and shall not be subject to discov-
28 ery or subpoena, unless the licensee refuses to comply with the order.

29 § 19. Paragraph (i) of subdivision 1 of section 230-d of the public
30 health law, as amended by chapter 438 of the laws of 2012, is amended to
31 read as follows:

32 (i) "Licensee" shall mean an individual licensed or otherwise author-
33 ized under article one hundred thirty-one, one hundred thirty-one-B,
34 individuals who have obtained an issuance of a privilege to perform
35 podiatric standard or advanced ankle surgery pursuant to subdivisions
36 one and two of section seven thousand nine of ~~[the education law]~~ this
37 chapter.

38 § 20. Subdivision 5 of section 230-d of the public health law, as
39 added by chapter 365 of the laws of 2007, is amended to read as follows:

40 5. The commissioner shall make, adopt, promulgate and enforce such
41 rules and regulations, as he or she may deem appropriate, to effectuate
42 the purposes of this section. Where any rule or regulation under this
43 section would affect the scope of practice of a health care practitioner
44 licensed, registered or certified under title eight of the education law
45 other than those licensed under ~~[articles one hundred thirty-one or one~~
46 ~~hundred thirty-one-B of the education law]~~ article fifty-one of this
47 chapter, the rule or regulation shall be made with the concurrence of
48 the commissioner of education.

49 § 21. Paragraph (a) of subdivision 3 of section 260 of the public
50 health law, as amended by chapter 84 of the laws of 2006, is amended to
51 read as follows:

52 (a) is licensed, or exempt from licensure, pursuant to ~~[articles one~~
53 ~~hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two,~~
54 ~~one hundred thirty-three, one hundred thirty-six, one hundred thirty-~~
55 ~~seven, one hundred thirty-nine, one hundred forty, one hundred forty-~~
56 ~~one, one hundred forty-three, one hundred forty-four, one hundred~~

~~fifty three, one hundred fifty four, one hundred fifty five, one hundred fifty six, one hundred fifty seven, one hundred fifty nine, one hundred sixty, one hundred sixty two, or one hundred sixty four of the education law]~~ titles two, four, six, seven, nine, ten, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twenty-six of article fifty-one of this chapter;

§ 22. Subdivision 1 of section 462 of the public health law, as amended by chapter 562 of the laws of 2001, is amended to read as follows:

1. This article shall not apply to or affect a physician duly licensed under [~~article one hundred thirty one of the education law~~] title two of article fifty-one of this chapter or x-ray technicians.

§ 23. Subdivision 2 of section 470 of the public health law, as added by chapter 514 of the laws of 2004, is amended to read as follows:

2. No person shall perform a tongue-splitting on another person, unless the person performing such tongue-splitting is licensed to practice medicine pursuant to [~~article one hundred thirty one of the education law~~] title two of article fifty-one of this chapter or licensed to practice dentistry pursuant to [~~article one hundred thirty three of the education law~~] title seven of article fifty-one of this chapter.

§ 24. Section 2509-c of the public health law, as added by section 5 of subpart A of part JJ of chapter 56 of the laws of 2021, is amended to read as follows:

§ 2509-c. Availability of adverse childhood experiences services. Every pediatrics health care provider licensed pursuant to [~~article one hundred thirty one of the education law~~] title two of article fifty-one of this chapter shall be required to provide the parent, guardian, custodian or other authorized individual of a child that the pediatrician sees in their official capacity, with educational materials developed pursuant to subdivision two of section three hundred seventy-c of the social services law. Such materials may be provided electronically and shall be used to inform and educate them about adverse childhood experiences, the importance of protective factors and the availability of services for children at risk for or experiencing adverse childhood experiences.

§ 25. Subdivision 17 of section 2511 of the public health law, as added by chapter 2 of the laws of 1998, is amended to read as follows:

17. The commissioner, in consultation with the superintendent, is authorized to establish and operate a child health information service which shall utilize advanced telecommunications technologies to meet the health information and support needs of children, parents and medical professionals, which shall include, but not be limited to, treatment guidelines for children, treatment protocols, research articles and standards for the care of children from birth through eighteen years of age. Such information shall not constitute the practice of medicine, as defined in [~~article one hundred thirty one of the education law~~] title two of article fifty-one of this chapter.

§ 26. Paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) and (y) of subdivision 2 of section 2999-cc of the public health law, paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) as amended and paragraph (m) as added by chapter 454 of the laws of 2015, and paragraph (y) as amended by section 1 of part V of chapter 57 of the laws of 2022, are amended to read as follows:

(a) a physician licensed pursuant to [~~article one hundred thirty one of the education law~~] title two of article fifty-one of this chapter;

(b) a physician assistant licensed pursuant to ~~[article one hundred thirty-one B of the education law]~~ title four of article fifty-one of this chapter;

(c) a dentist licensed pursuant to ~~[article one hundred thirty-three of the education law]~~ title seven of article fifty-one of this chapter;

(d) a nurse practitioner licensed pursuant to ~~[article one hundred thirty-nine of the education law]~~ title twelve of article fifty-one of this chapter;

(e) a registered professional nurse licensed pursuant to ~~[article one hundred thirty-nine of the education law]~~ title twelve of article fifty-one of this chapter only when such nurse is receiving patient-specific health information or medical data at a distant site by means of remote patient monitoring;

(f) a podiatrist licensed pursuant to ~~[article one hundred forty-one of the education law]~~ title fourteen of article fifty-one of this chapter;

(g) an optometrist licensed pursuant to ~~[article one hundred forty-three of the education law]~~ title fifteen of article fifty-one of this chapter;

(h) a psychologist licensed pursuant to ~~[article one hundred fifty-three of the education law]~~ title seventeen of article fifty-one of this chapter;

(i) a social worker licensed pursuant to ~~[article one hundred fifty-four of the education law]~~ title eighteen of article fifty-one of this chapter;

(j) a speech language pathologist or audiologist licensed pursuant to ~~[article one hundred fifty-nine of the education law]~~ title twenty-two of article fifty-one of this chapter;

(k) a midwife licensed pursuant to ~~[article one hundred forty of the education law]~~ title thirteen of article fifty-one of this chapter;

(l) a physical therapist licensed pursuant to ~~[article one hundred thirty-six of the education law]~~ title nine of article fifty-one of this chapter;

(m) an occupational therapist licensed pursuant to ~~[article one hundred fifty-six of the education law]~~ title twenty of article fifty-one of this chapter;

(y) a mental health practitioner licensed pursuant to ~~[article one hundred sixty-three of the education law]~~ title twenty-five of article fifty-one of this chapter; and

§ 27. Subdivision 7 of section 2999-cc of the public health law, as amended by section 3 of subpart C of part S of chapter 57 of the laws of 2018, is amended to read as follows:

7. "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at an originating site that is transmitted to a telehealth provider at a distant site for use in the treatment and management of medical conditions that require frequent monitoring. Such technologies may include additional interaction triggered by previous transmissions, such as interactive queries conducted through communication technologies or by telephone. Such conditions shall include, but not be limited to, congestive heart failure, diabetes, chronic obstructive pulmonary disease, wound care, polypharmacy, mental or behavioral problems, and technology-dependent care such as continuous oxygen, ventilator care, total parenteral nutrition or enteral feeding. Remote patient monitoring shall be ordered by a physician licensed pursuant to ~~[article one hundred~~

~~thirty one of the education law~~ title two of article fifty-one of this chapter, a nurse practitioner licensed pursuant to ~~[article one hundred thirty nine of the education law]~~ title twelve of article fifty-one of this chapter, or a midwife licensed pursuant to ~~[article one hundred forty of the education law]~~ title thirteen of article fifty-one of this chapter, with which the patient has a substantial and ongoing relationship.

§ 28. The opening paragraph of paragraph c of subdivision 1 and subdivision 4 of section 3383 of the public health law, as added by chapter 494 of the laws of 1982, are amended to read as follows:

"Imitation controlled substance" means a substance, other than a drug for which a prescription is required pursuant to ~~[article one hundred thirty seven of the education law]~~ title ten of article fifty-one of this chapter, that is not a controlled substance, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a controlled substance, as defined in the penal law. Evidence of representations that the substance is a controlled substance may include but is not limited to oral or written representations by the manufacturer or seller, as the case may be, about the substance with regard to:

4. No liability shall be imposed by virtue of this section on any person licensed pursuant to ~~[article one hundred thirty one of the education law]~~ title two of article fifty-one of this chapter or licensed under this article who manufactures, ~~[distributed]~~ distributes, sells, prescribes, dispenses or possesses an imitation controlled substance for use as a placebo or for use in clinical research conducted pursuant to the federal food, drug and cosmetic act.

§ 29. Section 3700 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3700. Definitions. As used in this article:

1. Physician assistant. The term "physician assistant" means a person who is licensed as a physician assistant pursuant to section sixty-five hundred forty-one of the ~~[education]~~ public health law.

2. Physician. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to ~~[article one hundred thirty one of the education law]~~ title two of article fifty-one of this chapter.

3. Hospital. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of this chapter and authorized to employ physician assistants in accordance with rules and regulations of the public health and health planning council.

4. Approved program. The term "approved program" means a program for the education of physician assistants which has been formally approved by the ~~[education]~~ department.

§ 30. Section 3710 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3710. Definitions. As used in this article:

1. Specialist assistant. The term "specialist assistant" means a person who is registered pursuant to section sixty-five hundred forty-eight of the ~~[education]~~ public health law as a specialist assistant for a particular medical speciality as defined by regulations promulgated by the commissioner pursuant to section thirty-seven hundred eleven of this article.

2. Physician. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to ~~[article one hundred thirty~~

~~one of the education law~~ title two of article fifty-one of this chapter.

3. Hospital. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of this chapter and authorized to employ specialist assistants in accordance with rules and regulations of the public health and health planning council.

4. Approved program. The term "approved program" means a program for the education of specialist assistants which has been formally approved by the ~~education~~ department.

§ 31. Subdivision 2 of section 4702 of the public health law, as amended by chapter 805 of the laws of 1984, is amended to read as follows:

2. "Shared health facility" or "facility" means any arrangement wherein four or more practitioners licensed under the provisions of ~~article one hundred thirty one, one hundred thirty one a, one hundred thirty two, one hundred thirty three, one hundred thirty seven, one hundred thirty nine, one hundred forty one, one hundred forty three, one hundred forty four, one hundred fifty six or one hundred fifty nine of the education law~~ titles two, three, six, seven, twelve, fourteen, fifteen, sixteen, twenty or twenty-two of article fifty-one of this chapter, one or more of whom receives payment under the program and whose total aggregate monthly remuneration from such program is in excess of five thousand dollars for any one month during the preceding twelve months, (a) practice their professions at a common physical location; and (b) share (i) common waiting areas, examining rooms, treatment rooms or other space, or (ii) the services of supporting staff, or (iii) equipment; and (c) a person, whether such person is a practitioner or not, is in charge of, controls, manages or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at said common physical location, other than the direct furnishing of professional services by the practitioners to their patients, or a person makes available to the practitioners the services of supporting staff who are not employees of the practitioners. "Shared health facility" does not mean or include practitioners practicing their profession as a partnership provided that members of the supporting staff are employees of such legal entity and if there is an office manager, or person with similar title, he or she is an employee of the legal entity whose compensation is customary and not excessive for such services and there is no person described in paragraph (c) of this subdivision. "Shared health facility" does not mean or include any entity organized pursuant to the provisions of article twenty-eight of this chapter or operating under a certificate issued pursuant to the provisions of article thirteen of the mental hygiene law; nor shall it mean or include a facility wherein ambulatory medical services are provided by an organized group of physicians pursuant to an arrangement between such group and a health services corporation operating under article forty-three of the insurance law or a health maintenance organization operating under article forty-four of the public health law, and where the health services corporation or the health maintenance organization is reimbursed on a prepaid capitation basis for the provision of health care services under New York state's medical assistance program.

§ 32. Subdivision 12 of section 130.00 of the penal law, as added by chapter 1 of the laws of 2000, is amended to read as follows:

12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be

1 licensed or registered, or provides services as if he or she were
2 licensed or registered in the profession of medicine, chiropractic,
3 dentistry or podiatry under any of the following: [~~article one hundred~~
4 ~~thirty-one, one hundred thirty-two, one hundred thirty-three, or one~~
5 ~~hundred forty-one of the education law~~] titles two, six, seven and four-
6 teen of article fifty-one of the public health law.

7 § 33. Paragraph (iv) of subdivision 5 of section 1750-b of the surro-
8 gate's court procedure act, as amended by chapter 198 of the laws of
9 2016, is amended to read as follows:

10 (iv) any other health care practitioner providing services to the
11 person who is intellectually disabled, who is licensed pursuant to
12 [~~article one hundred thirty-one, one hundred thirty one B, one hundred~~
13 ~~thirty-two, one hundred thirty-three, one hundred thirty-six, one~~
14 ~~hundred thirty-nine, one hundred forty-one, one hundred forty-three, one~~
15 ~~hundred forty-four, one hundred fifty-three, one hundred fifty-four, one~~
16 ~~hundred fifty-six, one hundred fifty-nine or one hundred sixty-four of~~
17 ~~the education law~~] titles two, four, six, seven, nine, twelve, fourteen,
18 fifteen, sixteen, twenty and twenty-two of article fifty-one of the
19 public health law; or

20 § 34. Subparagraph (iii) of paragraph (d) of subdivision 1 of section
21 367-a of the social services law, as amended by section 31 of part B of
22 chapter 57 of the laws of 2015, is amended to read as follows:

23 (iii) With respect to items and services provided to eligible persons
24 who are also beneficiaries under part B of title XVIII of the federal
25 social security act and items and services provided to qualified medi-
26 care beneficiaries under part B of title XVIII of the federal social
27 security act, the amount payable for services covered under this title
28 shall be the amount of any co-insurance liability of such eligible
29 persons pursuant to federal law were they not eligible for medical
30 assistance or were they not qualified medicare beneficiaries with
31 respect to such benefits under such part B, but shall not exceed the
32 amount that otherwise would be made under this title if provided to an
33 eligible person other than a person who is also a beneficiary under part
34 B or is a qualified medicare beneficiary minus the amount payable under
35 part B; provided, however, amounts payable under this title for items
36 and services provided to eligible persons who are also beneficiaries
37 under part B or to qualified medicare beneficiaries by an ambulance
38 service under the authority of an operating certificate issued pursuant
39 to article thirty of the public health law, a psychologist licensed
40 under [~~article one hundred fifty-three of the education law~~] title
41 seventeen of article fifty-one of the public health law, or a facility
42 under the authority of an operating certificate issued pursuant to arti-
43 cle sixteen, thirty-one or thirty-two of the mental hygiene law and with
44 respect to outpatient hospital and clinic items and services provided by
45 a facility under the authority of an operating certificate issued pursu-
46 ant to article twenty-eight of the public health law, shall not be less
47 than the amount of any co-insurance liability of such eligible persons
48 or such qualified medicare beneficiaries, or for which such eligible
49 persons or such qualified medicare beneficiaries would be liable under
50 federal law were they not eligible for medical assistance or were they
51 not qualified medicare beneficiaries with respect to such benefits under
52 part B.

53 § 35. Subdivisions 2 and 3 of section 2999-r of the public health law,
54 as amended by chapter 461 of the laws of 2012, are amended to read as
55 follows:

2. With respect to the planning, implementation, and operation of ACOs, the commissioner, by regulation, shall specifically delineate safe harbors that exempt ACOs from the application of the following statutes:

(a) article twenty-two of the general business law relating to arrangements and agreements in restraint of trade;

(b) ~~[article one hundred thirty-one A of the education law]~~ title three of article fifty-one of this chapter relating to fee-splitting arrangements; and

(c) title two-D of article two of this chapter relating to health care practitioner referrals.

3. For the purposes of this article, an ACO shall be deemed to be a hospital for purposes of sections twenty-eight hundred five-j, twenty-eight hundred five-k, twenty-eight hundred five-l and twenty-eight hundred five-m of this chapter and subdivisions three and five of section sixty-five hundred twenty-seven of ~~[the education law]~~ this chapter.

§ 36. Paragraph (b) of subdivision 1 of section 4405-b of the public health law, as amended by chapter 542 of the laws of 2000, is amended to read as follows:

(b) An organization shall make a report to be made to the appropriate professional disciplinary agency within thirty days of obtaining knowledge of any information that reasonably appears to show that a health professional is guilty of professional misconduct as defined in ~~[article one hundred thirty-one or one hundred thirty-one A of the education law]~~ title one or three of article fifty-one of this chapter. A violation of this subdivision shall not be subject to the provisions of section twelve-b of this chapter.

§ 37. Section 923 of the public health law, as added by section 23 of part D of chapter 56 of the laws of 2012, is amended to read as follows:

§ 923. Definitions. The following words or phrases as used in this section shall have the following meanings:

1. "Underserved area" means an area or medically underserved population designated by the commissioner as having a shortage of primary care physicians, other primary care practitioners, dental practitioners or mental health practitioners.

2. "Primary care service corps practitioner" means a physician assistant, nurse practitioner, midwife, general or pedodontic dentist, dental hygienist, clinical psychologist, licensed clinical social worker, psychiatric nurse practitioner, licensed marriage and family therapist, or a licensed mental health counselor, who is licensed, registered, or certified to practice in New York state and who provides coordinated primary care services, including, but not limited to, oral health and mental health services and meets the national health service corps state loan repayment program eligibility criteria.

3. "Physician assistant" means a person who has been registered as such pursuant to ~~[article one hundred thirty-one B of the education law]~~ title four of article fifty-one of this chapter and meets the national health service corps state loan repayment program eligibility criteria.

4. "Nurse practitioner" means a person who has been certified as such pursuant to section sixty-nine hundred ten of ~~[the education law]~~ this chapter and meets the national health service corps state loan repayment program eligibility criteria.

5. "Midwife" means a person who has been licensed as such pursuant to section sixty-nine hundred fifty-five of ~~[the education law]~~ this chapter and meets the national health service corps state loan repayment program eligibility criteria.

6. "Psychologist" means a person who has been licensed as such pursuant to section seventy-six hundred three of [~~the education law~~] this chapter and meets the national health service corps state loan repayment program eligibility criteria.

7. "Licensed clinical social worker" means a person who has been licensed as such pursuant to section seventy-seven hundred two of [~~the education law~~] this chapter and meets the national health service corps state loan repayment program eligibility criteria.

8. "Psychiatric nurse practitioner" means a nurse practitioner who, by reason of training and experience, provides a full spectrum of psychiatric care, assessing, diagnosing, and managing the prevention and treatment of psychiatric disorders and mental health problems and meets the national health service corps state loan repayment program eligibility criteria.

9. "Licensed marriage and family therapist" means a person who has been licensed as such pursuant to section eighty-four hundred three of [~~the education law~~] this chapter and meets the national health service corps state loan repayment program eligibility criteria.

10. "Licensed mental health counselor" means a person who has been licensed as such pursuant to section eighty-four hundred two of [~~the education law~~] this chapter and meets the national health service corps state loan repayment program eligibility criteria.

11. "General or pedodontic dentist" means a person who has been licensed or otherwise authorized to practice dentistry pursuant to [~~article one hundred thirty-three of the education law~~] title seven of article fifty-one of this chapter excluding orthodontists, endodontists and periodontists and meets the national health service corps state loan repayment program eligibility criteria.

12. "Dental hygienist" means a person who is licensed to practice dental hygiene pursuant to section sixty-six hundred nine of [~~the education law~~] this chapter and meets the national health service corps state loan repayment program eligibility criteria.

§ 38. Subdivision 3 of section 2998-e of the public health law, as added by chapter 365 of the laws of 2007, is amended to read as follows:

3. The commissioner shall make, adopt, promulgate and enforce such rules and regulations, as he or she may deem appropriate, to effectuate the purposes of this section. [~~Where any rule or regulation under this section would affect the scope of practice of a health care practitioner licensed, registered or certified under title eight of the education law other than those licensed under articles one hundred thirty-one or one hundred thirty-one B of the education law, the rule or regulation shall be made with the concurrence of the commissioner of education.~~]

§ 39. Subdivision 3 of section 838 of the executive law, as amended by chapter 708 of the laws of 1983, is amended to read as follows:

3. In addition to the foregoing provisions of this section, the county medical examiner or coroner shall cause a dentist authorized to practice pursuant to [~~article one hundred thirty-three of the education law~~] title four of article fifty-one of the public health law or a dental student in a registered school of dentistry in this state to carry out a dental examination of the deceased. The medical examiner or coroner shall forward the dental examination records to the division on a form supplied by the division for that purpose.

§ 40. Subdivisions 1 and 2 of section 1394-c of the public health law, as amended by chapter 142 of the laws of 2022, are amended to read as follows:

1 1. Camps for children with developmental disabilities, as defined in
2 regulations, and in compliance with the justice center for the
3 protection of people with special needs, shall be authorized to employ
4 or contract with any of the individuals licensed under ~~[articles one~~
5 ~~hundred thirty-two, one hundred thirty-six, one hundred fifty-six, one~~
6 ~~hundred fifty-nine, one hundred sixty-two and one hundred sixty-seven of~~
7 ~~the education law]~~ titles four, nine, twenty, twenty-two, twenty-four
8 and twenty-nine of article fifty-one of this chapter, to provide profes-
9 sional services for any period during which the camp has a valid permit
10 to operate. Individuals hired under this section shall communicate with
11 the camp health director when medically necessary for the sole purpose
12 of providing health services that benefit campers and staff at the camp
13 while the camp is in operation. In cases where the camp health direc-
14 tor's lawful scope of practice is more limited than that of the licensed
15 professional providing services, the camp health director shall not
16 supervise the provision of such treatment, but shall be informed of such
17 treatment as medically necessary to ensure the well-being of the camper
18 and staff.

19 2. All decisions, identification or coordination of professional
20 services, or other professional interactions with campers and staff,
21 must be made based on the professional judgment of such licensees to
22 provide professional services within his or her lawful scope of practice
23 for the purpose of treating campers and staff during their attendance or
24 employment at such camp, pursuant to applicable regulations ~~[promulgated~~
25 ~~by the commissioner in consultation with the commissioner of education]~~.

26 § 41. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 3
27 of section 13-c of the workers' compensation law, subparagraph (iii) as
28 added by chapter 803 of the laws of 1983 and subparagraph (iv) as added
29 by chapter 649 of the laws of 1985, are amended to read as follows:

30 (iii) When physical therapy care is required it shall be rendered by a
31 duly licensed physical therapist upon the referral which may be direc-
32 tive as to treatment of an authorized physician or podiatrist within the
33 scope of such physical therapist's specialized training and qualifica-
34 tions as defined in ~~[article one hundred thirty-six of the education~~
35 ~~law]~~ title nine of article fifty-one of the public health law. Reports
36 of such treatment and records of instruction for treatment, if any,
37 shall be maintained by the physical therapist and referring professional
38 and submitted to the chairman on such forms and at such times as the
39 chairman may require.

40 (iv) When occupational therapy care is required it shall be rendered
41 by a duly licensed and registered occupational therapist upon the
42 prescription or referral of an authorized physician within the scope of
43 such occupational therapist's specialized training and qualifications as
44 defined in ~~[article one hundred fifty-six of the education law]~~ title
45 twenty of article fifty-one of the public health law. Reports of such
46 treatment and records of instruction for treatment, if any, shall be
47 maintained by the occupational therapist and referring professional and
48 submitted to the chairman on such forms and at such times as the chair-
49 man may require.

50 § 42. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 4
51 of section 13-c of the workers' compensation law, as added by chapter
52 362 of the laws of 1986, are amended to read as follows:

53 (iii) When physical therapy care is required it shall be rendered by a
54 duly licensed physical therapist upon the referral which may be direc-
55 tive as to treatment of an authorized physician or podiatrist within the
56 scope of such physical therapist's specialized training and qualifica-

tions as defined in [~~article one hundred thirty six of the education law~~] title nine of article fifty-one of the public health law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the physical therapist and referring professional and submitted to the chairman of such forms and at such times as the chairman may require.

(iv) When occupational therapy care is required it shall be rendered by a duly licensed and registered occupational therapist upon the prescription or referral of an authorized physician within the scope of such occupational therapist's specialized training and qualifications as defined in [~~article one hundred fifty six of the education law~~] title twenty of article fifty-one of the public health law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the occupational therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

Reports of such treatment and supervision shall be made by such physician to the chairman on such forms and at such times as the chairman may require.

§ 43. Subdivision 2 of section 40 of the cannabis law is amended to read as follows:

2. Medical cannabis shall not be deemed to be a "drug" for purposes of [~~article one hundred thirty seven of the education law~~] title ten of article fifty-one of the public health law.

§ 44. Subdivision 25 of section 206 of the public health law, as added by chapter 563 of the laws of 2008, is amended to read as follows:

25. (a) In assessing and reporting on the impact of section sixty-eight hundred one of [~~the education law~~] this chapter, pursuant to subdivision four of such section the commissioner may use: (1) influenza vaccine supply data from the federal centers for disease control and prevention; (2) pneumococcal vaccine supply data provided by manufacturers and distributors of such vaccine; and (3) data from a third party entity that engages in the collection of data and tracking of pharmaceutical sales and distribution. Manufacturers and distributors of pneumococcal vaccine shall provide or arrange for the timely provision to the commissioner of such data as the commissioner may reasonably request to complete the report. Provider and customer identifiable information submitted pursuant to this paragraph shall be confidential, unless the information provider consents to its release or the commissioner determines disclosure is necessary to respond to an imminent public health emergency.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the commissioner may require reporting by entities licensed pursuant to article twenty-eight or thirty-six of this chapter, pharmacies registered pursuant to [~~article one hundred thirty seven of the education law~~] title ten of article fifty-one of the this chapter, manufacturers and distributors of adult immunizing agents doing business in this state, and others possessing such adult immunizing agents of additional information needed to respond to an imminent public health emergency.

§ 45. Subdivisions 3 and 41 of section 3302 of the public health law, as amended by chapter 92 of the laws of 2021, are amended to read as follows:

3. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. No person may be authorized to so act if under [~~title VIII of the education law~~] article

1 fifty-one of this chapter such person would not be permitted to engage
2 in such conduct. It does not include a common or contract carrier,
3 public warehouseman, or employee of the carrier or warehouseman when
4 acting in the usual and lawful course of the carrier's or warehouseman's
5 business.

6 41. "Outsourcing facility" means a facility that:

7 (a) is engaged in the compounding of sterile drugs as defined in
8 section sixty-eight hundred two of [~~the education law~~] this chapter;

9 (b) is currently registered as an outsourcing facility pursuant to
10 [~~article one hundred thirty-seven of the education law~~] title ten of
11 article fifty-one of this chapter; and

12 (c) complies with all applicable requirements of federal and state
13 law, including the Federal Food, Drug and Cosmetic Act.

14 Notwithstanding any other provision of law to the contrary, when an
15 outsourcing facility distributes or dispenses any drug to any person
16 pursuant to a prescription, such outsourcing facility shall be deemed to
17 be providing pharmacy services and shall be subject to all laws, rules
18 and regulations governing pharmacies and pharmacy services.

19 § 46. Subdivision 2 and subparagraphs (ii) and (iii) of paragraph (a)
20 of subdivision 3 of section 3309 of the public health law, as amended by
21 chapter 42 of the laws of 2014, are amended to read as follows:

22 2. Notwithstanding any inconsistent provisions of section sixty-five
23 hundred twelve of [~~the education law~~] this chapter or any other law, the
24 purchase, acquisition, possession or use of an opioid antagonist pursu-
25 ant to this section shall not constitute the unlawful practice of a
26 profession or other violation under title eight of the education law,
27 article fifty-one of this chapter, or this article.

28 (ii) "Health care professional" means a person licensed, registered or
29 authorized pursuant to [~~title eight of the education law~~] article
30 fifty-one of this chapter to prescribe prescription drugs.

31 (iii) "Pharmacist" means a person licensed or authorized to practice
32 pharmacy pursuant to [~~article one hundred thirty-seven of the education~~
33 ~~law~~] title ten of article fifty-one this chapter.

34 § 46-a. Paragraph (b) of subdivision 2 of section 3368 of the public
35 health law, as added by chapter 90 of the laws of 2014, is amended to
36 read as follows:

37 (b) Medical marihuana shall not be deemed to be a "drug" for purposes
38 of [~~article one hundred thirty-seven of the education law~~] title ten of
39 article fifty-one of this chapter.

40 § 47. Subdivisions 1 and 4 of section 3381 of the public health law,
41 as amended by chapter 433 of the laws of 2021, are amended to read as
42 follows:

43 1. It shall be unlawful for any person to sell or furnish to another
44 person or persons, a hypodermic syringe or hypodermic needle except:

45 (a) pursuant to a prescription of a practitioner, which for the
46 purposes of this section shall include a patient specific prescription
47 form as provided for in [~~the education law~~] this chapter; or

48 (b) to persons who have been authorized by the commissioner to obtain
49 and possess such instruments; or

50 (c) by a pharmacy licensed under [~~article one hundred thirty-seven of~~
51 ~~the education law~~] title ten of article fifty-one of this chapter,
52 health care facility licensed under article twenty-eight of this chapter
53 or a health care practitioner who is otherwise authorized to prescribe
54 the use of hypodermic needles or syringes within his or her scope of
55 practice; provided, however, that such sale or furnishing: (i) shall

1 only be to a person eighteen years of age or older; and (ii) shall be in
2 accordance with subdivision four of this section; or

3 (d) under subdivision three of this section.

4 4. (a) A person eighteen years of age or older may obtain and possess
5 a hypodermic syringe or hypodermic needle pursuant to paragraph (c) of
6 subdivision one of this section.

7 (b) Subject to regulations of the commissioner, a pharmacy licensed
8 under ~~[article one hundred thirty-seven of the education law]~~ title ten
9 of article fifty-one of this chapter, a health care facility licensed
10 under article twenty-eight of this chapter or a health care practitioner
11 who is otherwise authorized to prescribe the use of hypodermic needles
12 or syringes within his or her scope of practice, may obtain and possess
13 hypodermic needles or syringes for the purpose of selling or furnishing
14 them pursuant to paragraph (c) of subdivision one of this section or for
15 the purpose of disposing of them.

16 (c) Sale or furnishing of hypodermic syringes or hypodermic needles to
17 direct consumers pursuant to this subdivision by a pharmacy, health care
18 facility, or health care practitioner shall be accompanied by a safety
19 insert. Such safety insert shall be developed or approved by the commis-
20 sioner and shall include, but not be limited to, (i) information on the
21 proper use of hypodermic syringes and hypodermic needles; (ii) the risk
22 of blood borne diseases that may result from the use of hypodermic
23 syringes and hypodermic needles; (iii) methods for preventing the trans-
24 mission or contraction of blood borne diseases; (iv) proper hypodermic
25 syringe and hypodermic needle disposal practices; (v) information on the
26 dangers of injection drug use, and how to access drug treatment; (vi) a
27 toll-free phone number for information on the human immunodeficiency
28 virus; and (vii) information on the safe disposal of hypodermic syringes
29 and hypodermic needles including the relevant provisions of the environ-
30 mental conservation law relating to the unlawful release of regulated
31 medical waste. The safety insert shall be attached to or included in the
32 hypodermic syringe and hypodermic needle packaging, or shall be given to
33 the purchaser at the point of sale or furnishing in brochure form.

34 (d) In addition to the requirements of paragraph (c) of subdivision
35 one of this section, a pharmacy licensed under ~~[article one hundred~~
36 ~~thirty-seven of the education law]~~ title ten of article fifty-one of
37 this chapter may sell or furnish hypodermic needles or syringes only if
38 such pharmacy stores such needles and syringes in a manner that makes
39 them available only to authorized personnel and not openly available to
40 customers.

41 (e) A pharmacy registered under ~~[article one hundred thirty-seven of~~
42 ~~the education law]~~ title ten of article fifty-one of this chapter may
43 offer counseling and referral services to customers purchasing hypoderm-
44 ic syringes for the purpose of: preventing injection drug abuse; the
45 provision of drug treatment; preventing and treating hepatitis C;
46 preventing drug overdose; testing for the human immunodeficiency virus;
47 and providing pre-exposure prophylaxis and non-occupational post-expo-
48 sure prophylaxis. The content of such counseling and referral shall be
49 at the professional discretion of the pharmacist.

50 (f) The commissioner shall promulgate rules and regulations necessary
51 to implement the provisions of this subdivision which shall include: (i)
52 standards for advertising to the public the availability for retail sale
53 or furnishing of hypodermic syringes or needles; and (ii) a requirement
54 that such pharmacies, health care facilities and health care practition-
55 ers cooperate in a safe disposal of used hypodermic needles or syringes.

(g) The commissioner may, upon the finding of a violation of this section, suspend for a determinate period of time the sale or furnishing of syringes by a specific entity.

§ 48. The opening paragraph of paragraph 15 of subdivision a of section 265.20 of the penal law, as added by chapter 354 of the laws of 1996, is amended to read as follows:

Possession and sale of a self-defense spray device as defined in paragraph fourteen of this subdivision by a dealer in firearms licensed pursuant to section 400.00 of this chapter, a pharmacist licensed pursuant to ~~[article one hundred thirty-seven of the education law]~~ title ten of article fifty-one of the public health law or by such other vendor as may be authorized and approved by the superintendent of state police.

§ 49. Intentionally omitted.

§ 50. Section 182 of the general business law, as added by chapter 731 of the laws of 1952 and as renumbered by chapter 893 of the laws of 1958, is amended to read as follows:

§ 182. Cards to be furnished nurses; registry records. A nurses' registry shall send out to practice nursing only persons duly licensed pursuant to ~~[article one hundred thirty-nine of the education law]~~ title twelve of article fifty-one of the public health law as a registered professional nurse or licensed practical nurse. Every nurses' registry, before sending a person out to practice nursing, shall investigate such person's educational qualifications and verify such person's licensure and current registration. At least two current written references shall be required of such person. The record of such investigation and verification shall be kept on file in the registry.

Every nurses' registry that sends out any such person shall at such time give to such person and send to the employer of such person a card stating (1) such person's name, address and salary, (2) whether such person is a registered professional nurse or licensed practical nurse, (3) the number of the current registration certificate issued to such person by the ~~[education]~~ department of health, and (4) a statement that the record of such person's educational qualifications and experience in the practice of nursing is on file in such registry and that a copy thereof will be sent to such employer on request. A copy of such card shall be kept on file in the registry.

The record of investigation and verification and the card-copy required by this section to be kept on file shall be open to inspection by any duly authorized agent of the university of the state of New York, and every nurses' registry shall furnish a complete list of its registrants on request of such agent.

§ 51. Subdivision 4 of section 185 of the general business law, as amended by chapter 998 of the laws of 1960, is amended to read as follows:

4. Types of employment. For the purpose of placing a ceiling over the fees charged by persons conducting employment agencies, types of employment shall be classified as follows:

Class "A"--domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural workers;

Class "A1"--non-professional trained or skilled industrial workers or mechanics;

Class "B"--commercial, clerical, executive, administrative and professional employment, all employment outside the continental United States, and all other employment not included in classes "A", "A1", "C" and "D";

Class "C"--theatrical engagements;

Class "D"--nursing engagements as defined in title twelve of article ~~[one hundred thirty nine of the education]~~ fifty-one of the public health law.

§ 52. Item (i) of subparagraph (A) of paragraph 10 of subsection (i) of section 3216 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended to read as follows:

(i) Every policy which provides hospital, surgical or medical coverage shall provide coverage for maternity care, including hospital, surgical or medical care to the same extent that hospital, surgical or medical coverage is provided for illness or disease under the policy. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for mother and for newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours after a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to title thirteen of article ~~[one hundred forty of the education]~~ fifty-one of the public health law, practicing consistent with section sixty-nine hundred fifty-one of the ~~[education]~~ public health law and affiliated or practicing in conjunction with a facility licensed pursuant to article twenty-eight of the public health law, but no insurer shall be required to pay for duplicative routine services actually provided by both a licensed midwife and a physician.

§ 53. Item (i) of subparagraph (A) of paragraph 5 of subsection (k) of section 3221 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended to read as follows:

(i) Every group or blanket policy delivered or issued for delivery in this state which provides hospital, surgical or medical coverage shall include coverage for maternity care, including hospital, surgical or medical care to the same extent that coverage is provided for illness or disease under the policy. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for mother and newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours after a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to title thirteen of article ~~[one hundred forty of the education]~~ fifty-one of the public health law, practicing consistent with section sixty-nine hundred fifty-one of the ~~[education]~~ public health law and affiliated or practicing in conjunction with a facility licensed pursuant to article twenty-eight of the public health law, but no insurer shall be required to pay for duplicative routine services actually provided by both a licensed midwife and a physician.

§ 54. Subparagraph (A) of paragraph 1 of subsection (c) of section 4303 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended to read as follows:

(A) Every contract issued by a corporation subject to the provisions of this article which provides hospital service, medical expense indemnity or both shall provide coverage for maternity care including hospital, surgical or medical care to the same extent that hospital service, medical expense indemnity or both are provided for illness or disease under the contract. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for mother and for newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours following a caesarean section. Such coverage for mater-

nity care shall include the services of a midwife licensed pursuant to article ~~[one hundred forty of the education]~~ title thirteen of article fifty-one of the public health law, practicing consistent with section sixty-nine hundred fifty-one of the ~~[education]~~ public health law and affiliated or practicing in conjunction with a facility licensed pursuant to article twenty-eight of the public health law, but no insurer shall be required to pay for duplicative routine services actually provided by both a licensed midwife and a physician.

§ 55. Intentionally omitted.

§ 56. Paragraph b of subdivision 1 of section 167 of the labor law, as amended by chapter 815 of the laws of 2022, is amended to read as follows:

b. "Nurse" shall mean a registered professional nurse or a licensed practical nurse as defined by title twelve of article ~~[one hundred thirty-nine]~~ fifty-one of the ~~[education]~~ public health law who provides direct patient care.

§ 57. Subdivision 13 of section 700 of the county law, as added by chapter 358 of the laws of 2012, is amended to read as follows:

13. In order to provide services to crime victims, witnesses, and other persons involved in the criminal justice system, and to support crime prevention programs, the district attorney may employ or contract with persons licensed and registered to practice or otherwise authorized under ~~[article one hundred fifty three, one hundred fifty four, or one hundred sixty three of the education]~~ title seventeen, eighteen, or twenty-five of article fifty-one of the public health law, or contract with entities authorized to provide the services specified in such articles, in connection with the provision of any services that such persons or entities are authorized to provide and that are authorized by the district attorney.

§ 58. Paragraph (vi) of subparagraph 1 of subdivision (e) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(vi) a psychologist, licensed pursuant to title seventeen of article ~~[one hundred fifty three of the education]~~ fifty-one of the public health law, or a social worker, licensed pursuant to title eighteen of article ~~[one hundred fifty four of the education]~~ fifty-one of the public health law, who is treating the subject of the petition for a mental illness; or

§ 59. Paragraph (b) of subdivision 1 of section 2828 of the public health law, as added by section 1 of part GG of chapter 57 of the laws of 2021, is amended to read as follows:

(b) Fifteen percent of costs associated with resident-facing staffing contracted out by a facility for services provided by registered professional nurses or licensed practical nurses licensed pursuant to title twelve of article ~~[one hundred thirty-nine of the education law]~~ fifty-one of this chapter or certified nurse aides who have completed certification and training approved by the department shall be deducted from the calculation of the amount spent on resident-facing staffing and direct resident care.

§ 60. Paragraph (b) of subdivision 1 of section 2895-b of the public health law, as added by chapter 156 of the laws of 2021, is amended to read as follows:

(b) "Licensed nurse" means a registered professional nurse or licensed practical nurse licensed pursuant to title twelve of article ~~[one hundred thirty-nine of the education law]~~ fifty-one of this chapter.

§ 61. Paragraph (a) of subdivision 2, and subdivisions 5 and 8 of section 13-m of the workers' compensation law, paragraph (a) of subdivision 2 as amended by section 6 of part CC of chapter 55 of the laws of 2019, and subdivisions 5 and 8 as added by chapter 589 of the laws of 1989, are amended to read as follows:

(a) An injured employee, injured under circumstances which make such injury compensable under this article, may lawfully be treated by a psychologist, duly registered and licensed by the state of New York, authorized by the chair to render psychological care pursuant to section thirteen-b of this article. Such services shall be within the scope of such psychologist's specialized training and qualifications as defined in title seventeen of article [~~one hundred fifty three of the education~~] fifty-one of the public health law.

5. Fees for psychological services shall be payable only to a duly authorized psychologist as licensed in title seventeen of article [~~one hundred fifty three of the education~~] fifty-one of the public health law, or to the agent, executor or administrator of the estate of such psychologist. No psychologist rendering treatment to a compensation claimant shall collect or receive a fee from such claimant within this state, but shall have recourse for payment of services rendered only to the employer under the provisions of this section.

8. Within the limits prescribed by the [~~education~~] public health law for psychological care and treatment, the report or testimony of an authorized psychologist concerning the condition of an injured employee and treatment thereof shall be deemed competent evidence and the professional opinion of the psychologist as to causal relation and as to required treatment shall be deemed competent but shall not be controlling. Nothing in this section shall be deemed to deprive any employer or insurance carrier of any right to a medical examination or presentation of medical testimony now conferred by law.

§ 62. Subdivision 1 of section 794 of the general business law, as amended by chapter 301 of the laws of 2000, is amended to read as follows:

1. Prior to the expiration of a certificate of registration and as a condition of renewal, each hearing aid dispenser registered pursuant to subdivision one of section seven hundred ninety of this article shall submit documentation showing successful completion of twenty continuing education credits through a course or courses approved by the secretary in consultation with the advisory board, or, in relation to audiologists licensed pursuant to title twenty-two of article [~~one hundred fifty nine of the education~~] fifty-one of the public health law, the office of the professions in the [~~education~~] of health. Such formal courses of learning shall include, but not be limited to, collegiate level of credit in non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and other organizations acceptable to the secretary and any other organized educational and technical programs acceptable to the secretary. The secretary may, in his or her discretion, and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement. Courses shall be taken from a sponsor approved by the secretary pursuant to regulations promulgated pursuant to this section.

§ 63. Subdivision 2 of section 794 of the general business law, as amended by chapter 301 of the laws of 2000, is amended to read as follows:

2. A hearing aid dispenser registered under paragraph (b) of subdivision one of section seven hundred ninety of this article may satisfy the requirements of subdivision one of this section by demonstrating to the secretary compliance with such continuing competency requirements as are prescribed by title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law, provided, however, that, such persons shall submit documentation showing the successful completion of four continuing education credits relating to the dispensing of hearing aids.

§ 64. Paragraph (f) of subdivision 4, subdivision 10, and paragraph (a) of subdivision 15 of section 798 of the general business law, paragraph (f) of subdivision 4 as added by chapter 599 of the laws of 1998, subdivision 10 as amended by chapter 301 of the laws of 2000, and paragraph (a) of subdivision 15 as amended by chapter 133 of the laws of 1999 are amended to read as follows:

(f) if applicable, requirements otherwise provided under title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law.

10. (a) A hearing aid dispenser, not otherwise licensed pursuant to title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law, shall provide any prospective hearing aid users with a copy of their audiogram which shall include pure-tone (air and bone conduction) and speech audiometry test results, upon completion of such audiometric tests. Such audiogram shall clearly and conspicuously contain the following statement: "This information is intended for the sole purpose of fitting or selecting a hearing aid and is not a medical examination or audiological evaluation".

(b) Hearing aid dispensers licensed under title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law shall comply with the provisions of such article in the conduct of audiological evaluations and shall further provide a copy of the results of any audiological evaluation to any prospective hearing aid users with the following statement: "This is an audiological evaluation and is not a medical examination".

(a) no hearing aid dispenser shall, through advertisement, indicate or imply that any type of medical examination or audiological evaluation will be provided or that the dispenser has been recommended by anyone other than an individual licensed to perform such examination or evaluation; provided, however, that nothing in this paragraph shall restrict or limit any person licensed under title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law from performing any activity thereunder or from stating in an advertisement that an audiological evaluation will be provided where an audiological evaluation is to be provided;

§ 65. Subdivision 2 of section 789 of the general business law, as amended by chapter 301 of the laws of 2000, is amended to read as follows:

2. "Audiologist" means an individual who is licensed under title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law to evaluate hearing, and hearing and communication disorders and to engage in those practices defined in section eighty-two hundred three of the [education] public health law.

§ 66. Subdivision 9 of section 789 of the general business law, as added by chapter 599 of the laws of 1998, is amended to read as follows:

9. "Otolaryngologist" means a physician licensed under title two of article [one hundred thirty-one of the education] fifty-one of the

1 public health law, who practices that branch of medicine which treats
2 diseases of the ear, nose and throat.

3 § 67. Subdivisions 1, 3 and 4 of section 790 of the general business
4 law, subdivision 1 as added by chapter 599 of the laws of 1998, subdivi-
5 sion 3 as amended by chapter 133 of the laws of 1999 and subdivision 4
6 as amended by chapter 301 of the laws of 2000, are amended to read as
7 follows:

8 1. Any person desiring to be engaged in the dispensing of hearing aids
9 in this state shall be registered biennially pursuant to this article.
10 Such person shall file with the secretary an application to be regis-
11 tered as a hearing aid dispenser. The secretary shall examine each
12 application and issue a certificate of registration if either of the
13 following criteria are satisfied:

14 (a) (i) the applicant is twenty-one years of age or older;
15 (ii) is of good moral character;
16 (iii) has received a high school diploma or its equivalent;
17 (iv) has two years college accredited coursework or its equivalent;
18 (v) has fully completed the required training program;
19 (vi) has achieved a passing score on the required examination;
20 (vii) has not had a registration, license or other authorization to
21 dispense hearing aids suspended or revoked;
22 (viii) has paid the appropriate fees according to the provisions of
23 section seven hundred ninety-seven of this article; and

24 (ix) on or after January first, two thousand three, the applicant
25 shall demonstrate the successful completion of post-secondary coursework
26 approved by the secretary in conjunction with the advisory board; or

27 (b) (i) the applicant has submitted proof of licensure under [~~article~~
28 ~~one hundred fifty nine of the education law~~] title twenty-two of article
29 fifty-one of the public health law as a licensed audiologist;

30 (ii) has paid the appropriate fees according to the provisions of
31 section seven hundred ninety-seven of this article;

32 (iii) has achieved a passing score on the practical test of proficien-
33 cy required pursuant to subdivision six of section seven hundred nine-
34 ty-six of this article or who submits evidence satisfactory to the
35 secretary of experience in dispensing hearing aids; and

36 (iv) has not had a registration, license or other authorization to
37 dispense hearing aids suspended or revoked according to the provisions
38 of section seven hundred ninety-nine of this article.

39 3. (a) Any person who has been continuously registered as a hearing
40 aid dealer pursuant to the former article thirty-seven-A of this chapter
41 for the three years immediately preceding January first, two thousand or
42 who submits evidence satisfactory to the secretary of experience in the
43 business of dispensing hearing aids in this state for the three years
44 immediately preceding January first, two thousand, upon payment of
45 applicable fees, shall be registered as a hearing aid dispenser and
46 shall be exempt from requirements set forth in subparagraphs (iv), (v),
47 (vi) and (ix) of paragraph (a) of subdivision one of this section.

48 (b) Any person who has been continuously registered as a hearing aid
49 dealer pursuant to the former article thirty-seven-A of this chapter for
50 less than three years but more than one year immediately preceding Janu-
51 ary first, two thousand, or who submits evidence satisfactory to the
52 secretary of less than three years but more than one year's continuous
53 experience in the business of dispensing hearing aids in this state
54 immediately preceding January first, two thousand, may pay the applica-
55 ble fees and register as a hearing aid dispenser. Such registrant shall
56 be exempt from the requirements set forth in subparagraphs (iv), (v) and

(ix) of paragraph (a) of subdivision one of this section. Such registrant shall achieve a passing score on the required registration examination by December thirty-first, two thousand; provided further that, upon failing to achieve a passing score such person shall continue under the supervision of a registered hearing aid dispenser until such time as a passing score is achieved, provided that such passing score is achieved on an examination administered within twelve months of the first examination.

(c) Any individual who has been continuously registered as a hearing aid dealer pursuant to the former article thirty-seven-A of this chapter for less than twelve months immediately preceding January first, two thousand or any individual with less than twelve months experience in the business of dispensing hearing aids in this state immediately preceding January first, two thousand shall be required to comply with all the requirements set forth in subdivision one of this section.

(d) Any person licensed pursuant to ~~[article one hundred fifty-nine of the education law]~~ title twenty-two of article fifty-one of the public health law, who submits evidence satisfactory to the secretary of experience of dispensing hearing aids in this state for the period immediately preceding January first, two thousand, upon payment of applicable fees shall be registered as a hearing aid dispenser and shall be exempt from requirements set forth in subparagraph (iii) of paragraph (b) of subdivision one of this section.

4. Upon application to the secretary, a temporary certificate of registration authorized under section seven hundred ninety-five of this article shall be issued to: (i) individuals who prove to the satisfaction of the secretary that he or she will be supervised and trained by one or more registered hearing aid dispensers for a period of twelve months or (ii) individuals who are candidates for licensure under ~~[article one hundred fifty-nine of the education law]~~ title twenty-two of article fifty-one of the public health law, have satisfied the educational requirement in subdivision two of section eighty-two hundred six of the ~~[education]~~ public health law, and are actively engaged in completing the experience requirement in subdivision three of section eighty-two hundred six of the ~~[education]~~ public health law. A temporary certificate of registration may be renewed only once.

(a) A person holding a temporary certificate of registration shall not be the sole proprietor of, manage, or independently operate a business which engages in the business of dispensing hearing aids unless such business employs a registered hearing aid dispenser.

(b) A person holding a temporary certificate of registration shall not advertise or otherwise represent that he or she holds a certificate of registration as a hearing aid dispenser.

(c) A person holding a temporary certificate of registration who is a candidate for licensure under ~~[article one hundred fifty-nine of the education law]~~ title twenty-two of article fifty-one of the public health law shall be exempt from the requirement to complete the course of instruction prescribed by section seven hundred ninety-six of this article.

§ 68. Clause (E) of subparagraph (iii) of paragraph (a) of subdivision 4 of section 364-j of the social services law, as added by chapter 37 of the laws of 2010, is amended to read as follows:

(E) the services are optometric services, as defined in ~~[article one hundred forty-three of the education law]~~ title fifteen of article fifty-one of the public health law, and are provided by a diagnostic and treatment center licensed under article twenty-eight of the public

1 health law which is affiliated with the college of optometry of the
2 state university of New York and which has been granted an operating
3 certificate pursuant to article twenty-eight of the public health law to
4 provide such optometric services. Any diagnostic and treatment center
5 providing optometric services pursuant to this clause shall prior to
6 June first of each year report to the governor, temporary president of
7 the senate and speaker of the assembly on the following: the total
8 number of visits made by medical assistance recipients during the imme-
9 diately preceding calendar year; the number of visits made by medical
10 assistance recipients during the immediately preceding calendar year by
11 recipients who were enrolled in managed care programs; the number of
12 visits made by medical assistance recipients during the immediately
13 preceding calendar year by recipients who were enrolled in managed care
14 programs that provide optometric benefits as a covered service; and the
15 number of visits made by the uninsured during the immediately preceding
16 calendar year; or

17 § 69. Subdivision 3 of section 250.10 of the criminal procedure law,
18 as added by chapter 548 of the laws of 1980, is amended to read as
19 follows:

20 3. When a defendant, pursuant to subdivision two of this section,
21 serves notice of intent to present psychiatric evidence, the district
22 attorney may apply to the court, upon notice to the defendant, for an
23 order directing that the defendant submit to an examination by a psychi-
24 atrist or licensed psychologist as defined in [~~article one hundred~~
25 ~~fifty-three of the education law~~] title seventeen of article fifty-one
26 of the public health law designated by the district attorney. If the
27 application is granted, the psychiatrist or psychologist designated to
28 conduct the examination must notify the district attorney and counsel
29 for the defendant of the time and place of the examination. Defendant
30 has a right to have his counsel present at such examination. The
31 district attorney may also be present. The role of each counsel at such
32 examination is that of an observer, and neither counsel shall be permit-
33 ted to take an active role at the examination.

34 § 70. Paragraph (r) of subdivision 1 of section 330.20 of the crimi-
35 nal procedure law, as added by chapter 548 of the laws of 1980, is
36 amended to read as follows:

37 (r) "Licensed psychologist" means a person who is registered as a
38 psychologist under [~~article one hundred fifty-three of the education~~
39 ~~law~~] title seventeen of article fifty-one of the public health law.

40 § 71. Subdivision 6 of section 730.10 of the criminal procedure law,
41 as renumbered by chapter 629 of the laws of 1974, is amended to read as
42 follows:

43 6. "Certified psychologist" means a person who is registered as a
44 certified psychologist under [~~article one hundred fifty-three of the~~
45 ~~education law~~] title seventeen of article fifty-one of the public health
46 law.

47 § 72. Section 4507 of the civil practice law and rules, as amended by
48 chapter 913 of the laws of 1984, is amended to read as follows:

49 § 4507. Psychologist. The confidential relations and communications
50 between a psychologist registered under the provisions of [~~article one~~
51 ~~hundred fifty-three of the education law~~] title seventeen of article
52 fifty-one of the public health law and his client are placed on the same
53 basis as those provided by law between attorney and client, and nothing
54 in such article shall be construed to require any such privileged commu-
55 nications to be disclosed.

1 A client who, for the purpose of obtaining insurance benefits, author-
2 izes the disclosure of any such privileged communication to any person
3 shall not be deemed to have waived the privilege created by this
4 section. For purposes of this section:

5 1. "person" shall mean any individual, insurer or agent thereof, peer
6 review committee, public or private corporation, political subdivision,
7 government agency, department or bureau of the state, municipality,
8 industry, co-partnership, association, firm, trust, estate or any other
9 legal entity whatsoever; and

10 2. "insurance benefits" shall include payments under a self-insured
11 plan.

12 § 73. The opening paragraph of subdivision (a) of section 4508 of the
13 civil practice law and rules, as amended by chapter 230 of the laws of
14 2004, is amended to read as follows:

15 Confidential information privileged. A person licensed as a licensed
16 master social worker or a licensed clinical social worker under the
17 provisions of [~~article one hundred fifty four of the education law~~]
18 title eighteen of article fifty-one of the public health law shall not
19 be required to disclose a communication made by a client, or his or her
20 advice given thereon, in the course of his or her professional employ-
21 ment, nor shall any clerk, stenographer or other person working for the
22 same employer as such social worker or for such social worker be allowed
23 to disclose any such communication or advice given thereon; except

24 § 74. Paragraphs (g-1), (q), (r), (y), (z) and subparagraph (i) of
25 paragraph (x) of subdivision 2 of section 365-a of the social services
26 law, paragraph (g-1) as amended by section 9 of part D of chapter 57 of
27 the laws of 2017, paragraph (q) as amended by section 35 of part B of
28 chapter 58 of the laws of 2010, paragraph (r) as added by section 32 of
29 part C of chapter 58 of the laws of 2008, paragraphs (y) and (z) as
30 added by section 6 of part D of chapter 56 of the laws of 2012 and
31 subparagraph (i) of paragraph (x) as amended by chapter 61 of the laws
32 of 2020, are amended to read as follows:

33 (g-1) drugs provided on an in-patient basis, those drugs contained on
34 the list established by regulation of the commissioner of health pursu-
35 ant to subdivision four of this section, and those drugs which may not
36 be dispensed without a prescription as required by section sixty-eight
37 hundred ten of the [~~education~~] public health law and which the commis-
38 sioner of health shall determine to be reimbursable based upon such
39 factors as the availability of such drugs or alternatives at low cost if
40 purchased by a medicaid recipient, or the essential nature of such drugs
41 as described by such commissioner in regulations, provided, however,
42 that such drugs, exclusive of long-term maintenance drugs, shall be
43 dispensed in quantities no greater than a thirty day supply or one
44 hundred doses, whichever is greater; provided further that the commis-
45 sioner of health is authorized to require prior authorization for any
46 refill of a prescription when more than a ten day supply of the previ-
47 ously dispensed amount should remain were the product used as normally
48 indicated, or in the case of a controlled substance, as defined in
49 section thirty-three hundred two of the public health law, when more
50 than a seven day supply of the previously dispensed amount should remain
51 were the product used as normally indicated; provided further that the
52 commissioner of health is authorized to require prior authorization of
53 prescriptions of opioid analgesics in excess of four prescriptions in a
54 thirty-day period in accordance with section two hundred seventy-three
55 of the public health law; medical assistance shall not include any drug
56 provided on other than an in-patient basis for which a recipient is

1 charged or a claim is made in the case of a prescription drug, in excess
2 of the maximum reimbursable amounts to be established by department
3 regulations in accordance with standards established by the secretary of
4 the United States department of health and human services, or, in the
5 case of a drug not requiring a prescription, in excess of the maximum
6 reimbursable amount established by the commissioner of health pursuant
7 to paragraph (a) of subdivision four of this section;

8 (q) diabetes self-management training services for persons diagnosed
9 with diabetes when such services are ordered by a physician, registered
10 physician assistant, registered nurse practitioner, or licensed midwife
11 and provided by a licensed, registered, or certified health care profes-
12 sional, as determined by the commissioner of health, who is certified as
13 a diabetes educator by the National Certification Board for Diabetes
14 Educators, or a successor national certification board, or provided by
15 such a professional who is affiliated with a program certified by the
16 American Diabetes Association, the American Association of Diabetes
17 Educators, the Indian Health Services, or any other national accredi-
18 tation organization approved by the federal centers for medicare and
19 medicaid services; provided, however, that the provisions of this para-
20 graph shall not take effect unless all necessary approvals under federal
21 law and regulation have been obtained to receive federal financial
22 participation in the costs of health care services provided pursuant to
23 this paragraph. Nothing in this paragraph shall be construed to modify
24 any licensure, certification or scope of practice provision under [~~title~~
25 ~~eight of the education law~~] article fifty-one of the public health law.

26 (r) asthma self-management training services for persons diagnosed
27 with asthma when such services are ordered by a physician, registered
28 physician's assistant, registered nurse practitioner, or licensed
29 midwife and provided by a licensed, registered, or certified health care
30 professional, as determined by the commissioner of health, who is certi-
31 fied as an asthma educator by the National Asthma Educator Certification
32 Board, or a successor national certification board; provided, however,
33 that the provisions of this paragraph shall not take effect unless all
34 necessary approvals under federal law and regulation have been obtained
35 to receive federal financial participation in the costs of health care
36 services provided pursuant to this paragraph. Nothing in this paragraph
37 shall be construed to modify any licensure, certification or scope of
38 practice provision under [~~title eight of the education law~~] article
39 fifty-one of the public health law.

40 (i) lactation counseling services for pregnant and postpartum women
41 when such services are ordered by a physician, physician assistant,
42 nurse practitioner, or midwife and provided by a qualified lactation
43 care provider, as determined by the commissioner of health; provided,
44 however, that the provisions of this paragraph shall not take effect
45 unless all necessary approvals under federal law and regulation have
46 been obtained to receive federal financial participation in the costs of
47 health care services provided pursuant to this paragraph. Nothing in
48 this paragraph shall be construed to modify any licensure, certification
49 or scope of practice provision under [~~title eight of the education law~~]
50 article fifty-one of the public health law.

51 (y) harm reduction counseling and services to reduce or minimize the
52 adverse health consequences associated with drug use, provided by a
53 qualified drug treatment program or community-based organization, as
54 determined by the commissioner of health; provided, however, that the
55 provisions of this paragraph shall not take effect unless all necessary
56 approvals under federal law and regulation have been obtained to receive

1 federal financial participation in the costs of health care services
2 provided pursuant to this paragraph. Nothing in this paragraph shall be
3 construed to modify any licensure, certification or scope of practice
4 provision under [~~title eight of the education law~~] article fifty-one of
5 the public health law.

6 (z) hepatitis C wrap-around services to promote care coordination and
7 integration when ordered by a physician, registered physician assistant,
8 registered nurse practitioner, or licensed midwife, and provided by a
9 qualified professional, as determined by the commissioner of health.
10 Such services may include client outreach, identification and recruit-
11 ment, hepatitis C education and counseling, coordination of care and
12 adherence to treatment, assistance in obtaining appropriate entitlement
13 services, peer support and other supportive services; provided, however,
14 that the provisions of this paragraph shall not take effect unless all
15 necessary approvals under federal law and regulation have been obtained
16 to receive federal financial participation in the costs of health care
17 services provided pursuant to this paragraph. Nothing in this paragraph
18 shall be construed to modify any licensure, certification or scope of
19 practice provision under [~~title eight of the education law~~] article
20 fifty-one of the public health law.

21 § 75. Paragraph (e) of subdivision 6 of section 384-b of the social
22 services law, as amended by chapter 691 of the laws of 1991, is amended
23 to read as follows:

24 (e) In every proceeding upon a ground set forth in paragraph (c) of
25 subdivision four of this section the judge shall order the parent to be
26 examined by, and shall take the testimony of, a qualified psychiatrist
27 or a psychologist licensed pursuant to [~~article one hundred fifty-three~~
28 ~~of the education law~~] title seventeen of article fifty-one of the public
29 health law as defined in section 730.10 of the criminal procedure law in
30 the case of a parent alleged to be mentally ill or retarded, such
31 psychologist or psychiatrist to be appointed by the court pursuant to
32 section thirty-five of the judiciary law. The parent and the authorized
33 agency shall have the right to submit other psychiatric, psychological
34 or medical evidence. If the parent refuses to submit to such court-ord-
35 ered examination, or if the parent renders himself unavailable therefor
36 whether before or after the initiation of a proceeding under this
37 section, by departing from the state or by concealing himself therein,
38 the appointed psychologist or psychiatrist, upon the basis of other
39 available information, including, but not limited to, agency, hospital
40 or clinic records, may testify without an examination of such parent,
41 provided that such other information affords a reasonable basis for his
42 opinion.

43 § 76. Subdivision (c) of section 9.37 of the mental hygiene law, as
44 amended by chapter 230 of the laws of 2004, is amended to read as
45 follows:

46 (c) Notwithstanding the provisions of subdivision (b) of this section,
47 in counties with a population of less than two hundred thousand, a
48 director of community services who is a licensed psychologist pursuant
49 to [~~article one hundred fifty-three of the education law~~] title seven-
50 teen of article fifty-one of the public health law or a licensed clin-
51 ical social worker pursuant to [~~article one hundred fifty-four of the~~
52 ~~education law~~] title eighteen of article fifty-one of the public health
53 law but who is not a physician may apply for the admission of a patient
54 pursuant to this section without a medical examination by a designated
55 physician, if a hospital approved by the commissioner pursuant to
56 section 9.39 of this article is not located within thirty miles of the

1 patient, and the director of community services has made a reasonable
2 effort to locate a designated examining physician but such a designee is
3 not immediately available and the director of community services, after
4 personal observation of the person, reasonably believes that he may have
5 a mental illness which is likely to result in serious harm to himself or
6 others and inpatient care and treatment of such person in a hospital may
7 be appropriate. In the event of an application pursuant to this subdivi-
8 sion, a physician of the receiving hospital shall examine the patient
9 and shall not admit the patient unless he or she determines that the
10 patient has a mental illness for which immediate inpatient care and
11 treatment in a hospital is appropriate and which is likely to result in
12 serious harm to himself or others. If the patient is admitted, the need
13 for hospitalization shall be confirmed by another staff physician within
14 twenty-four hours. An application pursuant to this subdivision shall be
15 in writing and shall be filed with the director of such hospital at the
16 time of the patient's reception, together with a statement in a form
17 prescribed by the commissioner giving such information as he may deem
18 appropriate, including a statement of the efforts made by the director
19 of community services to locate a designated examining physician prior
20 to making an application pursuant to this subdivision.

21 § 77. Subdivision (h) of section 10.03 of the mental hygiene law, as
22 added by chapter 7 of the laws of 2007, is amended to read as follows:

23 (h) "Licensed psychologist" means a person who is registered as a
24 psychologist under ~~[article one hundred fifty-three of the education~~
25 ~~law]~~ title seventeen of article fifty-one of the public health law.

26 § 78. Paragraphs (b-4), (b-5), (b-7), (d) and (g) of section 1503 of
27 the business corporation law, paragraph (b-4) as added and paragraph (d)
28 as amended by chapter 550 of the laws of 2011, paragraph (b-5) as
29 amended by chapter 9 of the laws of 2013, the opening paragraph of para-
30 graph (b-5) as amended by chapter 475 of the laws of 2014, paragraph
31 (b-7) as added by chapter 260 of the laws of 2016, the opening paragraph
32 of subparagraph 1 of paragraph (b-7) as amended by chapter 302 of the
33 laws of 2018, and paragraph (g) as added by chapter 676 of the laws of
34 2002, are amended to read as follows:

35 (b-4) The certificate of incorporation of a design professional
36 service corporation shall also have attached thereto a certificate or
37 certificates issued by the licensing authority certifying that each of
38 the shareholders, officers, directors and owners have been deemed to
39 have been of good moral character as may be established by the regu-
40 lations of the commissioner of education or the commissioner of health.

41 (b-5) On or after January first, two thousand twelve, the state educa-
42 tion department and the department of state shall allow an existing
43 professional service corporation organized under this article and prac-
44 ticing professional engineering, architecture, landscape architecture,
45 geology or land surveying, or practicing any combination of such
46 professions to become a design professional service corporation as
47 defined in this article, provided the professional service corporation
48 meets all of the requirements to become a design professional service
49 corporation, including that its name shall end with the words "design
50 professional corporation" or the abbreviation "D.P.C.", by amending its
51 certificate of incorporation so that it contains the following state-
52 ments:

53 (1) the names and residence addresses of all individuals or ESOPs who
54 will be the shareholders, directors and officers of the original design
55 professional service corporation; and

1 (2) the profession or professions of each shareholder, director and
2 officer who is a design professional of the original design professional
3 service corporation; and

4 (3) the ownership interest of each shareholder of the original design
5 professional service corporation; and

6 (4) the names of the officers and directors who will be the president,
7 the chairperson of the board of directors and the chief executive offi-
8 cer or officers of the original design professional service corporation.

9 (i) The certificate of amendment shall have attached thereto a certif-
10 icate or certificates issued by the licensing authority certifying that
11 each of the proposed shareholders, directors and officers who is listed
12 as a design professional is authorized by law to practice a profession
13 which the corporation is organized to practice and, if applicable, that
14 one or more of such individuals is authorized to practice each profes-
15 sion which the corporation will be authorized to practice. The attached
16 certificate or certificates shall also certify that the proposed presi-
17 dent, the chairperson of the board of directors and the chief executive
18 officer or officers are authorized by law to practice a profession which
19 the corporation is organized to practice.

20 (ii) The certificate of amendment shall also have attached thereto a
21 certificate or certificates issued by the licensing authority certifying
22 that each of the proposed shareholders, officers, directors and owners
23 listed have been deemed to have been of good moral character as may be
24 established by the regulations of the commissioner of education or the
25 commissioner of health.

26 (iii) The certificate of amendment shall also have attached thereto:
27 (A) a tax clearance issued by the department of taxation and finance
28 certifying that the existing professional service corporation is current
29 with respect to payment of its state tax liabilities and (B) a certif-
30 icate of good standing from the state education department or the
31 department of health certifying that the existing professional service
32 corporation is authorized to provide professional services without
33 restriction.

34 (b-7) (1) Prior to the first day of March, two thousand nineteen, the
35 state education department and the department of state shall allow an
36 existing business corporation organized under article four of this chap-
37 ter to become a design professional service corporation as defined in
38 this article for the purpose of practicing professional geology,
39 provided that the surviving corporation meet all of the requirements to
40 become a design professional service corporation, including that the
41 name shall end with the words "design professional service corporation"
42 or the abbreviation "D.P.C." by amending its certificate of incorpo-
43 ration so that it contains the following:

44 (i) the names and residence addresses of all individuals or ESOPs who
45 will be the original shareholders, directors and officers of the profes-
46 sional service corporation;

47 (ii) a statement that the design professional service corporation is
48 formed pursuant to this section;

49 (iii) the profession or profession of each shareholder, director and
50 officer who is a design professional of the original design professional
51 service corporation;

52 (iv) the names of the officers and directors who will be the presi-
53 dent, the chairperson of the board of directors and the chief executive
54 officer or officers of the original design professional service corpo-
55 ration;

1 (v) the ownership interest of each shareholder of the original design
2 professional service corporation; and

3 (vi) a statement that the amendment shall not effect a dissolution of
4 the corporation, but shall be deemed a continuation of its corporate
5 existence, without affecting its then existing property rights or
6 liabilities or the liabilities of its members or officers as such, but
7 thereafter it shall have only such rights, powers and privileges, and be
8 subject only to such other duties and liabilities, as a corporation
9 created for the same purposes under this article.

10 (2) The certificate of amendment shall have attached thereto a certifi-
11 cate or certificates issued by the licensing authority certifying that
12 each of the proposed shareholders, directors and officers listed:

13 (i) is authorized by law to practice a profession which the corpo-
14 ration is organized to practice and, if applicable, that one or more of
15 such individuals is authorized to practice each profession which the
16 corporation will be authorized to practice; and

17 (ii) has been deemed to be of good moral character as may be estab-
18 lished by the regulations of the commissioner of education and the
19 commissioner of health.

20 (3) The certificate of amendment shall also have attached thereto a
21 tax clearance issued by the department of taxation and finance certifi-
22 ing that the existing business corporation is current with respect to
23 payment of its state tax liabilities.

24 (4) Notwithstanding any provision of law to the contrary, any corpo-
25 ration formed under this section shall be required to comply with all
26 applicable laws, rules, or regulations relating to the practice of a
27 profession under title eight of the education law or article fifty-one
28 of the public health law.

29 (d) A professional service corporation, including a design profes-
30 sional service corporation, other than a corporation authorized to prac-
31 tice law, shall be under the supervision of the regents of the universi-
32 ty of the state of New York or the department of health and be subject
33 to disciplinary proceedings and penalties, and its certificate of incor-
34 poration shall be subject to suspension, revocation or annulment for
35 cause, in the same manner and to the same extent as is provided with
36 respect to individuals and their licenses, certificates, and registra-
37 tions in title eight of the education law or article fifty-one of the
38 public health law relating to the applicable profession. Notwithstanding
39 the provisions of this paragraph, a professional service corporation
40 authorized to practice medicine shall be subject to the prehearing
41 procedures and hearing procedures as is provided with respect to indi-
42 vidual physicians and their licenses in title II-A of article two of the
43 public health law.

44 (g) The practices of creative arts therapy, marriage and family thera-
45 py, mental health counseling, and psychoanalysis shall not be deemed the
46 same professional service for the purpose of paragraph (a) of this
47 section, notwithstanding that such practices are all licensed under
48 ~~[article one hundred sixty-three of the education law]~~ title twenty-five
49 of article fifty-one of the public health law.

50 § 79. Subparagraph 1 of paragraph (a) of subdivision 4 of section
51 1194 of the vehicle and traffic law, as amended by chapter 169 of the
52 laws of 2010, is amended to read as follows:

53 (1) At the request of a police officer, the following persons may
54 withdraw blood for the purpose of determining the alcoholic or drug
55 content therein: (i) a physician, a registered professional nurse, a
56 registered physician assistant, a certified nurse practitioner, or an

1 advanced emergency medical technician as certified by the department of
2 health; or (ii) under the supervision and at the direction of a physi-
3 cian, registered physician assistant or certified nurse practitioner
4 acting within his or her lawful scope of practice, or upon the express
5 consent of the person eighteen years of age or older from whom such
6 blood is to be withdrawn: a clinical laboratory technician or clinical
7 laboratory technologist licensed pursuant to [~~article one hundred~~
8 ~~sixty-five of the education law~~] title twenty-seven of article fifty-one
9 of the public health law; a phlebotomist; or a medical laboratory tech-
10 nician or medical technologist employed by a clinical laboratory
11 approved under title five of article five of the public health law. This
12 limitation shall not apply to the taking of a urine, saliva or breath
13 specimen.

14 § 80. Subdivisions 11 and 12 of section 3501 of the public health law,
15 as added by chapter 175 of the laws of 2006, are amended to read as
16 follows:

17 11. "Licensed practitioner" means a person licensed or otherwise
18 authorized under [~~the education law~~] this chapter to practice medicine,
19 dentistry, podiatry, or chiropractic.

20 12. "Professional medical physicist" means a person licensed or other-
21 wise authorized to practice medical physics in accordance with [~~article~~
22 ~~one hundred sixty-six of the education law~~] title twenty-eight of arti-
23 cle fifty-one of this chapter.

24 § 81. Subdivision a of section 17-199.15 of the administrative code of
25 the city of New York, as added by local law number 30 of the city of New
26 York for the year 2021, is amended to read as follows:

27 a. Definitions. For the purposes of this section, the following terms
28 have the following meanings:

29 Covered health care services. The term "covered health care services"
30 means professional medical services by primary care practitioners,
31 including preventive, primary, diagnostic and specialty services; diag-
32 nostic and laboratory services, including therapeutic radiological
33 services; prescription drugs, excluding drugs for uncovered services;
34 and any other services determined by the department.

35 Direct care worker. The term "direct care worker" means any employee
36 of a hospital that is responsible for patient handling or patient
37 assessment as a regular or incident part of their employment, including
38 any licensed or unlicensed health care worker.

39 Doctor. The term "doctor" means a practitioner of medicine licensed to
40 practice medicine pursuant to [~~article 131 of the education law~~] title
41 two of article fifty-one of the public health law.

42 Hospital. The term "hospital" means an institution or facility operat-
43 ing in New York city possessing a valid operating certificate issued
44 pursuant to [~~article 28 of the public health law~~] title twelve of arti-
45 cle fifty-one of the public health law.

46 Nurse. The term "nurse" means a practitioner of nursing licensed to
47 practice nursing pursuant to [~~article 139 of the education law~~] title
48 twelve of article fifty-one of the public health law.

49 Physician assistant. The term "physician assistant" means a person
50 licensed as a physician assistant pursuant to [~~article 131-b of the New~~
51 ~~York state education law~~] title two of article fifty-one of the public
52 health law.

53 § 82. Subdivision b of section 17-357 of the administrative code of
54 the city of New York, as added by local law number 12 of the city of New
55 York for the year 1997, is amended to read as follows:

b. The provisions of this subchapter shall not apply to a physician licensed under ~~[article one hundred thirty-one of the New York state education law]~~ title two of article fifty-one of the public health law.

§ 83. Subdivision e of section 20-815 of the administrative code of the city of New York, as added by local law number 17 of the city of New York for the year 2011, is amended to read as follows:

e. "Licensed medical provider" shall mean a person licensed or otherwise authorized under the provisions of ~~[articles one hundred thirty-one, one hundred thirty-one-a, one hundred thirty-one-b, one hundred thirty-nine or one hundred forty of the education law of New York]~~ title two, three, four, twelve, or thirteen of article fifty-one of the public health law, to provide medical services.

§ 84. Section 308-b of the military law, as amended by chapter 418 of the laws of 2004, is amended to read as follows:

§ 308-b. Extension of license, certificate or registration. Notwithstanding any other provision of general, special or local law, code or ordinance, or rule or regulation to the contrary, military personnel serving on active duty, who were licensed, certified or registered to engage in a profession or occupation prior to being called to active duty, and whose license, certificate or registration shall expire during such period of active duty, shall have such license, certificate or registration automatically extended for the period of active duty and for twelve months after such military personnel have been released from active duty, provided that with regard to professions subject to title VIII of the education law or article fifty-one of the public health law, this section shall not apply to limited permits or other credentials issued for a period of two months or less and shall not extend the term of a limited permit that expires for reasons other than the passage of time, including but not limited to failure on a licensure examination, and further provided that this section shall not be construed to permit any individual whose authority to engage in a profession or occupation has been revoked or suspended to engage in such profession or occupation.

§ 85. Subdivision 6 of section 2441 of the public health law, as added by chapter 450 of the laws of 1975, is amended to read as follows:

6. "Researcher" means any person licensed under ~~[title VIII of the education law]~~ article fifty-one of this chapter to perform diagnosis, treatment, medical services, prescription or therapeutic exercises with regard to or upon human beings, or any other person deemed appropriately competent and qualified by a human research review committee as provided by section twenty-four hundred forty-four of this chapter.

§ 86. Subdivision 1 of section 3000-a of the public health law, as amended by chapter 69 of the laws of 1994, is amended to read as follows:

1. Except as provided in subdivision six of section six thousand six hundred eleven, subdivision two of section six thousand five hundred twenty-seven, subdivision one of section six thousand nine hundred nine and sections six thousand five hundred forty-seven and six thousand seven hundred thirty-seven of ~~[the education law]~~ this chapter, any person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill, or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or

1 omission in the rendering of such emergency treatment unless it is
2 established that such injuries were or such death was caused by gross
3 negligence on the part of such person. Nothing in this section shall be
4 deemed or construed to relieve a licensed physician, dentist, nurse,
5 physical therapist or registered physician's assistant from liability
6 for damages for injuries or death caused by an act or omission on the
7 part of such person while rendering professional services in the normal
8 and ordinary course of his or her practice.

9 § 87. Paragraph (a) of subdivision 3 and paragraph (b) of subdivision
10 4 of section 3000-b of the public health law, paragraph (a) of subdivi-
11 sion 3 as amended by chapter 243 of the laws of 2010, and paragraph (b)
12 of subdivision 4 as added by chapter 552 of the laws of 1998, are
13 amended to read as follows:

14 (a) No person may operate an automated external defibrillator unless
15 the person has successfully completed a training course in the operation
16 of an automated external defibrillator approved by a nationally-recog-
17 nized organization or the state emergency medical services council.
18 However, this section shall not prohibit operation of an automated
19 external defibrillator, (i) by a health care practitioner licensed or
20 certified under [~~title VIII of the education law~~] article fifty-one of
21 this chapter or a person certified under this article acting within his
22 or her lawful scope of practice; (ii) by a person acting pursuant to a
23 lawful prescription; or (iii) by a person who operates the automated
24 external defibrillator other than as part of or incidental to his or her
25 employment or regular duties, who is acting in good faith, with reason-
26 able care, and without expectation of monetary compensation, to provide
27 first aid that includes operation of an automated external defibrilla-
28 tor; nor shall this section limit any good samaritan protections
29 provided in section three thousand-a of this article.

30 (b) Operation of an automated external defibrillator pursuant to this
31 section shall not constitute the unlawful practice of a profession under
32 [~~title VIII of the education law~~] article fifty-one of this chapter.

33 § 88. Paragraph (c) of subdivision 2 of section 369-bb of the social
34 services law, as amended by section 2 of part D of chapter 57 of the
35 laws of 2017, is amended to read as follows:

36 (c) Two persons with expertise in drug utilization review who are
37 health care professionals licensed under [~~title VIII of the education~~
38 ~~law~~] article fifty-one of the public health law at least one of whom is
39 a pharmacologist.

40 § 89. Paragraph (x) of subdivision 2 of section 496 of the social
41 services law, as added by section 1 of part B of chapter 501 of the laws
42 of 2012, is amended to read as follows:

43 (x) officers and employees of the education department and, where
44 applicable, the department of health, for the purpose of investigating
45 charges and maintaining professional discipline proceedings against the
46 professional license of the subject of the report pursuant to [~~title~~
47 ~~VIII of the education law~~] article fifty-one of the public health law,
48 and to employees of the education department for the purpose of investi-
49 gating charges and maintaining good moral character proceedings against
50 the teaching, school administrator or school leader certificate or
51 license of the subject of the report; and

52 § 90. Paragraph 2 of subdivision (a) of section 1212-a of the tax law,
53 as amended by chapter 200 of the laws of 2009, is amended to read as
54 follows:

55 (2) a tax, at the same uniform rate, but at a rate not to exceed four
56 and one-half per centum, in multiples of one-half of one per centum, on

1 the receipts from every sale of the following services: beauty, barber-
2 ing, hair restoring, manicuring, pedicuring, electrolysis, massage
3 services and similar services, and every sale of services by weight
4 control salons, health salons, gymnasiums, turkish and sauna bath and
5 similar establishments and every charge for the use of such facilities,
6 whether or not any tangible personal property is transferred in conjunc-
7 tion therewith; but excluding services rendered by a physician, osteo-
8 path, dentist, nurse, physiotherapist, chiropractor, podiatrist, optome-
9 trist, ophthalmic dispenser or a person performing similar services
10 licensed under [~~title VIII of the education law~~] article fifty-one of
11 the public health law, as amended, and excluding such services when
12 performed on pets and other animals.

13 § 91. Transfer of employees. All employees of the state education
14 department deemed necessary to implement this act by the division of the
15 budget, in consultation with the commissioner of health, shall be trans-
16 ferred to the department of health. This transfer of employees shall be
17 deemed to be a transfer of function pursuant to subdivision 2 of section
18 70 of the civil service law. Such officers and employees of the state
19 education department shall be transferred without further examination or
20 qualification, and shall retain their respective civil service classi-
21 fication, status and bargaining unit representation.

22 § 92. This act shall take effect on January 1, 2024; provided however
23 that:

24 (a) effective immediately, the department of health and the state
25 education department are authorized to adopt, repeal, or amend any rule
26 or regulation necessary to effectuate the provisions of this act prior
27 to its effective date;

28 (b) the amendments to paragraph (y) of subdivision 2 of section 2999-
29 cc of the public health law made by section twenty-six of this act shall
30 not affect the expiration of such paragraph and shall expire and be
31 deemed repealed therewith;

32 (c) the amendments to section 3368 of the public health law made by
33 section forty-six-a of this act shall not affect the expiration of such
34 subdivision and shall be deemed repealed therewith;

35 (d) that if chapter 815 of the laws of 2022 shall not have taken
36 effect on or before such date then section fifty-six of this act shall
37 take effect on the same date and in the same manner as such chapter of
38 the laws of 2022, takes effect;

39 (e) the amendments to subparagraph (vi) of paragraph 1 of subdivision
40 (e) of section 9.60 of the mental hygiene law made by section fifty-
41 eight of this act shall not affect the repeal of such section and shall
42 be deemed repealed therewith; and

43 (f) the amendments to clause (E) of subparagraph (iii) of paragraph
44 (a) of subdivision 4 of section 364-j of the social services law made by
45 section sixty-eight of this act shall not affect the repeal of such
46 section and shall be deemed repealed therewith.

47 PART DD

48 Section 1. 1. Subject to available appropriations and approval of the
49 director of the budget, the commissioners of the office of mental
50 health, office for people with developmental disabilities, office of
51 addiction services and supports, office of temporary and disability
52 assistance, office of children and family services, and the state office
53 for the aging shall establish a state fiscal year 2023-24 cost of living
54 adjustment (COLA), effective April 1, 2023, for projecting for the

1 effects of inflation upon rates of payments, contracts, or any other
2 form of reimbursement for the programs and services listed in paragraphs
3 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this
4 section. The COLA established herein shall be applied to the appropri-
5 ate portion of reimbursable costs or contract amounts. Where appropri-
6 ate, transfers to the department of health (DOH) shall be made as
7 reimbursement for the state share of medical assistance.

8 2. Notwithstanding any inconsistent provision of law, subject to the
9 approval of the director of the budget and available appropriations
10 therefore, for the period of April 1, 2023 through March 31, 2024, the
11 commissioners shall provide funding to support a two and five-tenths
12 percent (2.5%) cost of living adjustment under this section for all
13 eligible programs and services as determined pursuant to subdivision
14 four of this section.

15 3. Notwithstanding any inconsistent provision of law, and as approved
16 by the director of the budget, the 2.5 percent cost of living adjustment
17 (COLA) established herein shall be inclusive of all other cost of living
18 type increases, inflation factors, or trend factors that are newly
19 applied effective April 1, 2023. Except for the 2.5 percent cost of
20 living adjustment (COLA) established herein, for the period commencing
21 on April 1, 2023 and ending March 31, 2024 the commissioners shall not
22 apply any other new cost of living adjustments for the purpose of estab-
23 lishing rates of payments, contracts or any other form of reimbursement.
24 The phrase "all other cost of living type increases, inflation factors,
25 or trend factors" as defined in this subdivision shall not include
26 payments made pursuant to the American Rescue Plan Act or other federal
27 relief programs related to the Coronavirus Disease 2019 (COVID-19)
28 pandemic Public Health Emergency. This subdivision shall not prevent
29 the office of children and family services from applying additional
30 trend factors or staff retention factors to eligible programs and
31 services under paragraph (v) of subdivision four of this section.

32 4. Eligible programs and services. (i) Programs and services funded,
33 licensed, or certified by the office of mental health (OMH) eligible for
34 the cost of living adjustment established herein, pending federal
35 approval where applicable, include: office of mental health licensed
36 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
37 the office of mental health regulations including clinic, continuing day
38 treatment, day treatment, intensive outpatient programs and partial
39 hospitalization; outreach; crisis residence; crisis stabilization,
40 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric
41 emergency program services; crisis intervention; home based crisis
42 intervention; family care; supported single room occupancy; supported
43 housing; supported housing community services; treatment congregate;
44 supported congregate; community residence - children and youth;
45 treatment/apartment; supported apartment; community residence single
46 room occupancy; on-site rehabilitation; employment programs; recreation;
47 respite care; transportation; psychosocial club; assertive community
48 treatment; case management; care coordination, including health home
49 plus services; local government unit administration; monitoring and
50 evaluation; children and youth vocational services; single point of
51 access; school-based mental health program; family support children and
52 youth; advocacy/support services; drop in centers; recovery centers;
53 transition management services; bridger; home and community based waiver
54 services; behavioral health waiver services authorized pursuant to the
55 section 1115 MRT waiver; self-help programs; consumer service dollars;
56 conference of local mental hygiene directors; multicultural initiative;

1 ongoing integrated supported employment services; supported education;
2 mentally ill/chemical abuse (MICA) network; personalized recovery
3 oriented services; children and family treatment and support services;
4 residential treatment facilities operating pursuant to part 584 of title
5 14-NYCRR; geriatric demonstration programs; community-based mental
6 health family treatment and support; coordinated children's service
7 initiative; homeless services; and promises zone.

8 (ii) Programs and services funded, licensed, or certified by the
9 office for people with developmental disabilities (OPWDD) eligible for
10 the cost of living adjustment established herein, pending federal
11 approval where applicable, include: local/unified services; chapter 620
12 services; voluntary operated community residential services; article 16
13 clinics; day treatment services; family support services; 100% day
14 training; epilepsy services; traumatic brain injury services; hepatitis
15 B services; independent practitioner services for individuals with
16 intellectual and/or developmental disabilities; crisis services for
17 individuals with intellectual and/or developmental disabilities; family
18 care residential habilitation; supervised residential habilitation;
19 supportive residential habilitation; respite; day habilitation; prevoca-
20 tional services; supported employment; community habilitation; interme-
21 diate care facility day and residential services; specialty hospital;
22 pathways to employment; intensive behavioral services; basic home and
23 community based services (HCBS) plan support; health home services
24 provided by care coordination organizations; community transition
25 services; family education and training; fiscal intermediary; support
26 broker; and personal resource accounts.

27 (iii) Programs and services funded, licensed, or certified by the
28 office of addiction services and supports (OASAS) eligible for the cost
29 of living adjustment established herein, pending federal approval where
30 applicable, include: medically supervised withdrawal services - residen-
31 tial; medically supervised withdrawal services - outpatient; medically
32 managed detoxification; medically monitored withdrawal; inpatient reha-
33 bilitation services; outpatient opioid treatment; residential opioid
34 treatment; KEEP units outpatient; residential opioid treatment to absti-
35 nence; problem gambling treatment; medically supervised outpatient;
36 outpatient rehabilitation; specialized services substance abuse
37 programs; home and community based waiver services pursuant to subdivi-
38 sion 9 of section 366 of the social services law; children and family
39 treatment and support services; continuum of care rental assistance case
40 management; NY/NY III post-treatment housing; NY/NY III housing for
41 persons at risk for homelessness; permanent supported housing; youth
42 clubhouse; recovery community centers; recovery community organizing
43 initiative; residential rehabilitation services for youth (RRSY); inten-
44 sive residential; community residential; supportive living; residential
45 services; job placement initiative; case management; family support
46 navigator; local government unit administration; peer engagement; voca-
47 tional rehabilitation; support services; HIV early intervention
48 services; dual diagnosis coordinator; problem gambling resource centers;
49 problem gambling prevention; prevention resource centers; primary
50 prevention services; other prevention services; and community services.

51 (iv) Programs and services funded, licensed, or certified by the
52 office of temporary and disability assistance (OTDA) eligible for the
53 cost of living adjustment established herein, pending federal approval
54 where applicable, include: nutrition outreach and education program
55 (NOEP).

(v) Programs and services funded, licensed, or certified by the office of children and family services (OCFS) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: programs for which the office of children and family services establishes maximum state aid rates pursuant to section 398-a of the social services law and section 4003 of the education law; emergency foster homes; foster family boarding homes and therapeutic foster homes; supervised settings as defined by subdivision twenty-two of section 371 of the social services law; adoptive parents receiving adoption subsidy pursuant to section 453 of the social services law; and congregate and scattered supportive housing programs and supportive services provided under the NY/NY III supportive housing agreement to young adults leaving or having recently left foster care.

(vi) Programs and services funded, licensed, or certified by the state office for the aging (SOFA) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: community services for the elderly; expanded in-home services for the elderly; and supplemental nutrition assistance program.

5. Each local government unit or direct contract provider receiving funding for the cost of living adjustment established herein shall submit a written certification, in such form and at such time as each commissioner shall prescribe, attesting how such funding will be or was used to first promote the recruitment and retention of non-executive direct care staff, non-executive direct support professionals, non-executive clinical staff, or respond to other critical non-personal service costs prior to supporting any salary increases or other compensation for executive level job titles.

6. Notwithstanding any inconsistent provision of law to the contrary, agency commissioners shall be authorized to recoup funding from a local governmental unit or direct contract provider for the cost of living adjustment established herein determined to have been used in a manner inconsistent with the appropriation, or any other provision of this section. Such agency commissioners shall be authorized to employ any legal mechanism to recoup such funds, including an offset of other funds that are owed to such local governmental unit or direct contract provider.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023.

PART EE

Section 1. Subdivision 1-a of section 84 of part A of chapter 56 of the laws of 2013, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2013-2014 state fiscal year, as amended by section 9 of part Z of chapter 57 of the laws of 2018, is amended to read as follows:

1-a. sections seventy-three through eighty-a shall expire and be deemed repealed September 30, ~~2023~~ 2028;

§ 2. This act shall take effect immediately.

PART FF

Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of section 6908 of the education law is renumbered subparagraph (vi) and a new subparagraph (v) is added to read as follows:

(v) tasks provided by a direct support staff in non-facility based programs certified, authorized or approved by the office for people with developmental disabilities, so long as such staff do not hold himself or herself out as one who accepts employment solely for performing such care, and where nursing services are under the instruction of a service recipient or family or household member determined by a registered professional nurse to be capable of providing such instruction. In the event that the registered nurse determines that the service recipient, family, or household member is not capable of providing such instruction, nursing tasks may be performed by direct support staff pursuant to subparagraph (vi) of this paragraph subject to the requirements set forth therein; or

§ 2. This act shall take effect immediately.

PART GG

Section 1. Section 7.07 of the mental hygiene law is amended by adding a new subdivision (i) to read as follows:

(i) The office shall foster programs for the training and development of persons capable of providing the following services, including but not limited to a process of issuing, either directly or through contract, credentials for qualified mental health associates in accordance with the following:

(1) The office shall establish minimum qualifications for qualified mental health associates in all phases of delivery of services to persons who are suffering from mental health issues, as well as their families, that shall include, but not be limited to, completion of approved courses of study or equivalent on-the-job experience in working with individuals who suffer from mental illness. Such approved courses of study or equivalent on-the-job experience shall include, but not be limited to, providing trauma-informed, patient-centered care; referring individuals to appropriate treatments for co-occurring disorders; implicit bias training, and best practice approaches to serving marginalized and minority populations. Such courses shall be updated as needed to reflect evolving best practices in treatment and long-term recovery. For the purposes of this subdivision, the term "implicit bias training" shall mean a form of training with the goal of making people more aware of their own biases, for the purpose of ensuring equity in care delivery.

(2) The office shall establish procedures for issuing, directly or through contract, credentials to associates who meet minimum qualifications, including the establishment of appropriate fees, and shall further establish procedures to suspend, revoke, or annul such credentials for good cause. Such procedures shall be promulgated by the commissioner by rule or regulation.

(3) The commissioner shall establish a credentialing board which shall provide advice concerning the credentialing process under this subdivision.

(4) No person shall use the title qualified mental health associate unless authorized pursuant to this subdivision.

(5) Failure to comply with the requirements of this subdivision shall constitute a violation as defined in the penal law.

§ 2. Section 7.03 of the mental hygiene law is amended by adding a new subdivision 3 to read as follows:

3. "Qualified mental health associate" or "QMHA" means an official designation identifying an individual as one who holds a currently

1 registered and valid credential issued by the office pursuant to section
2 7.07 of this article which documents an individual's qualifications to
3 provide counseling and supportive assistance to those with mental
4 illness.

5 § 3. Paragraph (a) of subdivision 5 of section 7706 of the education
6 law, as added by chapter 420 of the laws of 2002, is amended to read as
7 follows:

8 (a) any individual who is credentialed under any law, including attor-
9 neys, rape crisis counselors, credentialed alcoholism and substance
10 abuse counselors, and qualified mental health associates as defined by
11 section 7.03 of the mental hygiene law whose scope of practice includes
12 the practices defined in section seventy-seven hundred one of this arti-
13 cle from performing or claiming to perform work authorized by applicable
14 provisions of this chapter and the mental hygiene law;

15 § 4. Subdivision 2 of section 8410 of the education law, as added by
16 chapter 676 of the laws of 2002, is amended to read as follows:

17 2. Prohibit or limit any individual who is credentialed under any law,
18 including attorneys, rape crisis counselors, certified alcoholism coun-
19 selors ~~[and]~~, certified substance abuse counselors, and qualified mental
20 health associates as defined by section 7.03 of the mental hygiene law
21 from providing mental health services within their respective estab-
22 lished authorities.

23 § 5. This act shall take effect immediately.

24 PART HH

25 Section 1. Sections 36.01, 36.02 and 36.03 of the mental hygiene law
26 are renumbered sections 36.02, 36.03 and 36.04 and a new section 36.01
27 is added to read as follows:

28 § 36.01 General applicability.

29 The office of mental health and the office of addiction services and
30 supports shall be authorized to receive from the division of criminal
31 justice services criminal history information, as such term is defined
32 in paragraph (c) of subdivision one of section eight hundred
33 forty-five-b of the executive law, concerning each applicant to be a
34 provider of services or operator of such provider of services, and shall
35 securely exchange information with confidentiality between the office of
36 mental health and the office of addiction services and supports to
37 facilitate a single criminal history information process for providers
38 of services licensed, certified, or otherwise authorized jointly or by
39 both of the offices pursuant to this article or articles thirty-one and
40 thirty-two of this title.

41 § 2. The mental hygiene law is amended by adding two new sections
42 36.05 and 36.06 to read as follows:

43 § 36.05 Certified community behavioral health clinics.

44 (a) The commissioners are authorized to jointly certify community
45 behavioral health clinics, subject to the availability of state and
46 federal funding.

47 (b) Certified community behavioral health clinics shall provide coor-
48 ordinated, comprehensive behavioral health care, including mental health
49 and addiction services, primary care screening, and case management
50 services, in accordance with certified community behavioral health clin-
51 ic standards established by the United States department of health and
52 human services substance abuse and mental health services administration
53 and the commissioners of the office of mental health and the office of
54 addiction services and supports.

(c) The commissioners shall require each proposed certified community behavioral health clinic to submit a plan, which shall be approved by the commissioners prior to the issuance of an operating certificate pursuant to this article. Such plan shall include:

(1) a description of the clinic's character and competency to provide certified community behavioral health clinic services across the lifespan, including how the clinic will ensure access to crisis services at all times and accept all patients regardless of ability to pay;

(2) a description of the clinic's catchment area;

(3) a statement indicating that the clinic has been included in an approved local services plan developed pursuant to article forty-one of this chapter for each local government located within the clinic's catchment area;

(4) where executed, agreements establishing formal relationships with designated collaborating organizations to provide certain certified community behavioral health clinic services, consistent with guidance issued by the United States department of health and human services substance abuse and mental health services administration and the office of mental health and the office of addiction services and supports;

(5) a staffing plan driven by local needs assessment, licensing, and training to support service delivery;

(6) a description of the clinic's data-driven approach to quality improvement;

(7) a description of how consumers are represented in governance of the clinic;

(8) all financial information in the form and format required by the office of mental health and the office of addiction services and supports; and

(9) any other information or agreements required by the commissioners.

(d) Where a certified community behavioral health clinic has been established and is participating on the effective date of this section in the federal certified community behavioral health clinic demonstration awarded to the state by the United States department of health and human services substance abuse and mental health services administration, the previously established clinic may be certified where the clinic demonstrates compliance with the certification standards established pursuant to this article.

(e) The commissioners shall promulgate any rule or regulation necessary to effectuate this section.

§ 36.06 Certified community behavioral health clinics indigent care program.

(a) (1) For periods on and after July first, two thousand twenty-three, the commissioners are authorized to make payment to eligible certified community behavioral health clinics, to the extent of funds appropriated therefor to assist in meeting losses resulting from uncompensated care. In the event federal financial participation is not available for such payments to eligible certified community behavioral health clinics, payments shall be made solely on the basis of available state general fund appropriations for this purpose in amounts to be determined by the director of the division of the budget.

(2) For purposes of this section, "eligible certified community behavioral health clinics" shall mean voluntary non-profit certified community behavioral health clinics participating in the federal certified community behavioral health clinic demonstration awarded to the state by the United States department of health and human services substance abuse and mental health services administration and other certified

1 community behavioral health clinics certified pursuant to section 36.05
2 of this article, which demonstrate that a minimum of three percent of
3 total visits reported during the applicable base year period, as deter-
4 mined by the commissioners, were to uninsured individuals.

5 (3) For purposes of this section, "losses resulting from uncompensated
6 care" shall mean losses from reported self-pay and free visits multi-
7 plied by the clinic's medical assistance payment rate for the applicable
8 distribution year, offset by payments received from such patients during
9 the reporting period.

10 (b) A certified community behavioral health clinic qualifying for a
11 distribution pursuant to this section shall provide assurances satisfac-
12 tory to the commissioners that it shall undertake reasonable efforts to
13 maintain financial support from community and public funding sources and
14 reasonable efforts to collect payments for services from third-party
15 insurance payors, governmental payors and self-paying patients.

16 (c) (1) Funding pursuant to this section shall be allocated to eligi-
17 ble certified community behavioral health clinics based on actual,
18 reported losses resulting from uncompensated care in a given base year
19 period and shall not exceed one hundred percent of an eligible clinic's
20 losses in the same period.

21 (2) If the sum of actual, reported losses resulting from uncompensated
22 care for all certified community behavioral health clinics exceeds the
23 amount appropriated therefor in a given base year period, allocations of
24 funds for each eligible certified community behavioral health clinic
25 shall be assessed proportionately based upon the percentage of the total
26 number of uncompensated care visits for all clinics that each clinic
27 provided during the base year and shall not exceed amounts appropriated
28 in the aggregate.

29 (d) Except as provided in subdivision (e) of this section, for periods
30 on and after July first, two thousand twenty-three through June thirti-
31 eth, two thousand twenty-six, funds shall be made available for payments
32 pursuant to this section for eligible certified community behavioral
33 health clinics for the following periods in the following aggregate
34 amounts:

35 (1) For the period of July first, two thousand twenty-three through
36 June thirtieth, two thousand twenty-four, up to twenty-two million five
37 hundred thousand dollars;

38 (2) For the period of July first, two thousand twenty-four through
39 June thirtieth, two thousand twenty-five, up to forty-one million two
40 hundred fifty thousand dollars; and

41 (3) For the period of July first, two thousand twenty-five through
42 June thirtieth, two thousand twenty-six, up to forty-five million
43 dollars.

44 (e) In the event that federal financial participation is not available
45 for rate adjustments pursuant to this section, funds available for
46 payments pursuant to this section for each eligible certified community
47 behavioral health clinic shall be limited to the non-federal share
48 equivalent of the amounts specified in subdivision (d) of this section.

49 (f) Eligible certified community behavioral health clinics receiving
50 funding under this section shall not be eligible for comprehensive diag-
51 nostic and treatment centers indigent care program funding pursuant to
52 section two thousand eight hundred seven-p of the public health law.

53 (g) The commissioners may require facilities receiving distributions
54 pursuant to this section as a condition of participating in such
55 distributions, to provide reports and data to the office of mental
56 health and the office of addiction services and supports as the commis-

sioners deem necessary to adequately implement the provisions of this section.

§ 3. This act shall take effect immediately.

PART II

Section 1. This Part enacts into law major components of legislation relating to improving access to behavioral health services. Each component is wholly contained within a Subpart identified as Subparts A through F. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this Part.

SUBPART A

Section 1. Item (i) of subparagraph (A) of paragraph 35 of subsection (i) of section 3216 of the insurance law, as amended by chapter 818 of the laws of 2022, is amended to read as follows:

(i) where the policy provides coverage for inpatient hospital care, such policy shall include benefits: for inpatient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~[and benefits for];~~ sub-acute care in a medically-monitored residential facility licensed, operated, or otherwise authorized by the office of mental health; outpatient care provided ~~[in]~~ by a facility issued an operating certificate by the commissioner of mental health pursuant to the provisions of article thirty-one of the mental hygiene law~~[,]~~ or ~~[in]~~ by a facility operated by the office of mental health~~[, or in];~~ outpatient care provided by a crisis stabilization center licensed pursuant to section 36.01 of the mental hygiene law~~[,];~~ outpatient care provided by a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health; outpatient care for care coordination services, critical time intervention services, and assertive community treatment services, provided by facilities licensed, operated, or otherwise authorized by the office of mental health, following discharge from a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law or the emergency department of a hospital licensed pursuant to article twenty-eight of the public health law; or, for care provided in other states, to similarly licensed or certified hospitals ~~[or],~~ facilities, or providers; and

§ 2. Items (iii) and (iv) of subparagraph (E) of paragraph 35 of subsection (i) of section 3216 of the insurance law, as added by section 8 of subpart A of part BB of chapter 57 of the laws of 2019, are amended and two new items (v) and (vi) are added to read as follows:

(iii) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes nonquantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; formulary design for prescription

1 drugs; network tier design; standards for provider admission to partic-
2 ipate in a network, including reimbursement rates; methods for determin-
3 ing usual, customary, and reasonable charges; fail-first or step therapy
4 protocols; exclusions based on failure to complete a course of treat-
5 ment; and restrictions based on geographic location, facility type,
6 provider specialty, and other criteria that limit the scope or duration
7 of benefits for services provided under the policy; [and]

8 (iv) "mental health condition" means any mental health disorder as
9 defined in the most recent edition of the diagnostic and statistical
10 manual of mental disorders or the most recent edition of another gener-
11 ally recognized independent standard of current medical practice such as
12 the international classification of diseases[-];

13 (v) "assertive community treatment" means an evidence-based, mobile,
14 psychiatric treatment intervention, designed for an individual with a
15 serious mental health condition who is at risk for hospitalization, that
16 includes psychotherapy, medication therapy, crisis intervention, psychi-
17 atric rehabilitation, care coordination, and peer support services,
18 provided assertively in the community; and

19 (vi) "critical time intervention services" means evidence-based, time-
20 limited, therapeutic interventions that begin before an individual is
21 discharged from an inpatient setting, that include intensive outreach,
22 engagement, and care coordination services to stabilize the individual
23 in the community.

24 § 3. Paragraph 35 of subsection (i) of section 3216 of the insurance
25 law is amended by adding a new subparagraph (I) to read as follows:

26 (I) This subparagraph shall apply to mobile crisis intervention
27 services providers licensed, certified, or authorized by the office of
28 mental health, office of addiction services and supports, office of
29 children and family services, or department of health. For purposes of
30 this subparagraph, "mobile crisis intervention services" means mental
31 health and substance use disorder services, including assessment and
32 treatment services and peer support services, provided to an individual
33 experiencing an acute psychological crisis or acute emotional distress
34 in relation to a mental health condition or substance use disorder,
35 intended to ameliorate the crisis and stabilize the individual and
36 ensure ongoing stabilization after the initial crisis response.

37 (i) Benefits for covered services provided by a mobile crisis inter-
38 vention services provider shall not be subject to preauthorization.

39 (ii) Benefits for covered services provided by a mobile crisis inter-
40 vention services provider shall be covered regardless of whether the
41 mobile crisis intervention services provider is a participating provid-
42 er.

43 (iii) If the covered services are provided by a non-participating
44 mobile crisis intervention services provider, an insurer shall not
45 impose any administrative requirement or limitation on coverage that is
46 more restrictive than the requirements or limitations that apply to
47 covered services received from a participating mobile crisis inter-
48 vention services provider.

49 (iv) If the covered services are provided by a non-participating
50 mobile crisis intervention services provider, the insured's copayment,
51 coinsurance, and deductible shall be the same as would apply if such
52 covered services were provided by a participating mobile crisis inter-
53 vention services provider.

54 § 4. Paragraph 35 of subsection (i) of section 3216 of the insurance
55 law is amended by adding a new subparagraph (J) to read as follows:

(J) This subparagraph shall apply to school-based mental health clinics that are licensed pursuant to article thirty-one of the mental hygiene law and provide outpatient care in pre-school, elementary, or secondary schools. An insurer shall provide reimbursement for covered outpatient care when provided by such school-based mental health clinics at a pre-school, elementary, or secondary school, regardless of whether the school-based mental health clinic furnishing such services is a participating provider with respect to such services. Reimbursement for such covered services shall be at the rate negotiated between the insurer and school-based mental health clinic or, in the absence of a negotiated rate, an amount no less than the rate that would be paid for such services pursuant to the medical assistance program under title eleven of article five of the social services law. Payment by an insurer pursuant to this section shall be payment in full for the services provided. The school-based mental health clinic reimbursed pursuant to this section shall not charge or seek any reimbursement from, or have any recourse against, an insured for the services provided pursuant to this subparagraph, except for the collection of in-network copayments, coinsurance, or deductibles for which the insured is responsible for under the terms of the policy.

§ 5. Item (i) of subparagraph (A) of paragraph 5 of subsection (l) of section 3221 of the insurance law, as amended by section 14 of part AA of chapter 57 of the laws of 2021, is amended to read as follows:

(i) where the policy provides coverage for inpatient hospital care, benefits for: inpatient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~[and benefits for];~~ sub-acute care in a medically-monitored residential facility licensed, operated, or otherwise authorized by the office of mental health; outpatient care provided ~~[in]~~ by a facility issued an operating certificate by the commissioner of mental health pursuant to the provisions of article thirty-one of the mental hygiene law, or ~~[in]~~ by a facility operated by the office of mental health ~~[or in];~~ outpatient care provided by a crisis stabilization center licensed pursuant to section 36.01 of the mental hygiene law; outpatient care provided by a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health; outpatient care for care coordination services, critical time intervention services, and assertive community treatment services, provided by facilities licensed, operated, or otherwise authorized by the office of mental health or the department of health, following discharge from a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law or the emergency department of a hospital licensed pursuant to article twenty-eight of the public health law; or, for care provided in other states, to similarly licensed or certified hospitals ~~[or]~~ facilities, or providers; and

§ 6. Items (iii) and (iv) of subparagraph (E) of paragraph 5 of subsection (l) of section 3221 of the insurance law, as added by section 14 of subpart A of part BB of chapter 57 of the laws of 2019, are amended and two new items (v) and (vi) are added to read as follows:

(iii) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes nonquantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; formulary design for prescription

1 drugs; network tier design; standards for provider admission to partic-
2 ipate in a network, including reimbursement rates; methods for determin-
3 ing usual, customary, and reasonable charges; fail-first or step therapy
4 protocols; exclusions based on failure to complete a course of treat-
5 ment; and restrictions based on geographic location, facility type,
6 provider specialty, and other criteria that limit the scope or duration
7 of benefits for services provided under the policy; [and]

8 (iv) "mental health condition" means any mental health disorder as
9 defined in the most recent edition of the diagnostic and statistical
10 manual of mental disorders or the most recent edition of another gener-
11 ally recognized independent standard of current medical practice such as
12 the international classification of diseases[-];

13 (v) "assertive community treatment" means an evidence-based, mobile,
14 psychiatric treatment intervention, designed for people with a serious
15 mental health condition who are at risk for hospitalization, that
16 includes psychotherapy, medication therapy, crisis intervention, psychi-
17 atric rehabilitation, care coordination, and peer support services,
18 provided assertively in the community; and

19 (vi) "critical time intervention services" means evidence-based, time-
20 limited, therapeutic interventions that begin before an individual is
21 discharged from an inpatient setting, that include intensive outreach,
22 engagement, and care coordination services to stabilize individuals in
23 the community.

24 § 7. Paragraph 5 of subsection (l) of section 3221 of the insurance
25 law is amended by adding a new subparagraph (I) to read as follows:

26 (I) This subparagraph shall apply to mobile crisis intervention
27 services providers licensed, certified, or authorized by the office of
28 mental health, office of addiction services and supports, office of
29 children and family services, or department of health. For purposes of
30 this subparagraph, "mobile crisis intervention services" means mental
31 health and substance use disorder services, including assessment and
32 treatment services and peer support services, provided to an individual
33 experiencing an acute psychological crisis or acute emotional distress
34 in relation to a mental health condition or substance use disorder,
35 intended to ameliorate the crisis and stabilize the individual and
36 ensure ongoing stabilization after the initial crisis response.

37 (i) Benefits for covered services provided by a mobile crisis inter-
38 vention services provider shall not be subject to preauthorization.

39 (ii) Benefits for covered services provided by a mobile crisis inter-
40 vention services provider shall be covered regardless of whether the
41 mobile crisis intervention services provider is a participating provid-
42 er.

43 (iii) If the covered services are provided by a non-participating
44 mobile crisis intervention services provider, an insurer shall not
45 impose any administrative requirement or limitation on coverage that is
46 more restrictive than the requirements or limitations that apply to
47 covered services received from a participating mobile crisis inter-
48 vention services provider.

49 (iv) If the covered services are provided by a non-participating
50 mobile crisis intervention services provider, the insured's copayment,
51 coinsurance, and deductible shall be the same as would apply if such
52 covered services were provided by a participating mobile crisis inter-
53 vention services provider.

54 § 8. Paragraph 5 of subsection (l) of section 3221 of the insurance
55 law is amended by adding a new subparagraph (J) to read as follows:

(J) This subparagraph shall apply to school-based mental health clinics that are licensed pursuant to article thirty-one of the mental hygiene law and provide outpatient care in pre-school, elementary, or secondary schools. An insurer shall provide reimbursement for covered outpatient care when provided by such school-based mental health clinics at a pre-school, elementary, or secondary school, regardless of whether the school-based mental health clinic furnishing such services is a participating provider with respect to such services. Reimbursement for such covered services shall be at the rate negotiated between the insurer and school-based mental health clinic or, in the absence of a negotiated rate, an amount no less than the rate that would be paid for such services pursuant to the medical assistance program under title eleven of article five of the social services law. Payment by an insurer pursuant to this section shall be payment in full for the services provided. The school-based mental health clinic reimbursed pursuant to this section shall not charge or seek any reimbursement from or have any recourse against, an insured for the services provided pursuant to this subparagraph, except for the collection of in-network copayments, coinsurance, or deductibles for which the insured is responsible for under the terms of the policy.

§ 9. Paragraph 1 of subsection (g) of section 4303 of the insurance law, as amended by section 18 of part AA of chapter 57 of the laws of 2021, is amended to read as follows:

(1) where the contract provides coverage for inpatient hospital care, benefits for: in-patient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~[or for inpatient care provided in other states, to similarly licensed hospitals, and benefits for];~~ sub-acute care in a medically-monitored residential facility licensed, operated, or otherwise authorized by the office of mental health; [out-patient] outpatient care provided [in] by a facility issued an operating certificate by the commissioner of mental health pursuant to the provisions of article thirty-one of the mental hygiene law or [in] by a facility operated by the office of mental health [or in]; outpatient care provided by a crisis stabilization center licensed pursuant to section 36.01 of the mental hygiene law; outpatient care provided by a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health; outpatient care for care coordination services, critical time intervention services, and assertive community treatment services, provided by facilities licensed, operated, or otherwise authorized by the office of mental health or the department of health, following discharge from a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law or the emergency department of a hospital licensed pursuant to article twenty-eight of the public health law; or for [out-patient] care provided in other states, to similarly licensed or certified hospitals, facilities, or providers; and

§ 10. Subparagraphs (C) and (D) of paragraph 6 of subsection (g) of section 4303 of the insurance law, as added by section 23 of subpart A of part BB of chapter 57 of the laws of 2019, are amended and two new subparagraphs (E) and (F) are added to read as follows:

(C) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes nonquantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is

1 experimental or investigational; formulary design for prescription
2 drugs; network tier design; standards for provider admission to partic-
3 ipate in a network, including reimbursement rates; methods for determin-
4 ing usual, customary, and reasonable charges; fail-first or step therapy
5 protocols; exclusions based on failure to complete a course of treat-
6 ment; and restrictions based on geographic location, facility type,
7 provider specialty, and other criteria that limit the scope or duration
8 of benefits for services provided under the contract; [and]

9 (D) "mental health condition" means any mental health disorder as
10 defined in the most recent edition of the diagnostic and statistical
11 manual of mental disorders or the most recent edition of another gener-
12 ally recognized independent standard of current medical practice such as
13 the international classification of diseases[-];

14 (E) "assertive community treatment" means an evidence-based, mobile,
15 psychiatric treatment intervention, designed for an individual with a
16 serious mental health condition who is at risk for hospitalization, that
17 includes psychotherapy, medication therapy, crisis intervention, psychi-
18 atric rehabilitation, care coordination, and peer support services,
19 provided assertively in the community; and

20 (F) "critical time intervention services" means evidence-based, time-
21 limited, therapeutic interventions that begin before an individual is
22 discharged from an inpatient setting, that include intensive outreach,
23 engagement, and care coordination services to stabilize individuals in
24 the community.

25 § 11. Subsection (g) of section 4303 of the insurance law is amended
26 by adding a new paragraph 10 to read as follows:

27 (10) This paragraph shall apply to mobile crisis intervention services
28 providers licensed, certified, or authorized by the office of mental
29 health, office of addiction services and supports, office of children
30 and family services, or department of health. For purposes of this para-
31 graph, "mobile crisis intervention services" means mental health and
32 substance use disorder services, including assessment and treatment
33 services and peer support services, provided to an individual experienc-
34 ing an acute psychological crisis or acute emotional distress in
35 relation to a mental health condition or substance use disorder,
36 intended to ameliorate the crisis and stabilize the individual and
37 ensure ongoing stabilization after the initial crisis response.

38 (A) Benefits for covered services provided by a mobile crisis inter-
39 vention services provider shall not be subject to preauthorization.

40 (B) Benefits for covered services provided by a mobile crisis inter-
41 vention services provider shall be covered regardless of whether the
42 mobile crisis intervention services provider is a participating provid-
43 er.

44 (C) If the covered services are provided by a non-participating
45 mobile crisis intervention services provider, a corporation shall not
46 impose any administrative requirement or limitation on coverage that is
47 more restrictive than the requirements or limitations that apply to
48 covered services received from a participating mobile crisis inter-
49 vention services provider.

50 (D) If the covered services are provided by a non-participating
51 mobile crisis intervention services provider, the insured's copayment,
52 coinsurance, and deductible shall be the same as would apply if such
53 covered services were provided by a participating mobile crisis inter-
54 vention services provider.

55 § 12. Subsection (g) of section 4303 of the insurance law is amended
56 by adding a new paragraph 11 to read as follows:

(11) This paragraph shall apply to school-based mental health clinics that are licensed pursuant to article thirty-one of the mental hygiene law and provide outpatient care in pre-school, elementary, or secondary schools. A corporation shall provide reimbursement for covered outpatient care when provided by such school-based mental health clinics at a pre-school, elementary, or secondary school, regardless of whether the school-based mental health clinic furnishing such services is a participating provider with respect to such services. Reimbursement for such covered services shall be at the rate negotiated between the corporation and school-based mental health clinic or, in the absence of a negotiated rate, an amount no less than the rate that would be paid for such services pursuant to the medical assistance program under title eleven of article five of the social services law. Payment by a corporation pursuant to this section shall be payment in full for the services provided. The school-based mental health clinic reimbursed pursuant to this section shall not charge or seek any reimbursement from, or have any recourse against, a corporation for the services provided pursuant to this paragraph, except for the collection of in-network copayments, coinsurance, or deductibles for which the insured is responsible for under the terms of the contract.

§ 13. Paragraphs 1 and 2 of subsection (a) of section 605 of the financial services law, as amended by section 5 of subpart A of part AA of chapter 57 of the laws of 2022, are amended to read as follows:

(1) When a health care plan receives a bill for emergency services from a non-participating provider, including a bill for inpatient services which follow an emergency room visit, or a bill for services from a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health, the health care plan shall pay an amount that it determines is reasonable for the emergency services, including inpatient services which follow an emergency room visit or for the mobile crisis intervention services, rendered by the non-participating provider, in accordance with section three thousand two hundred twenty-four-a of the insurance law, except for the insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-pocket costs for the emergency services, including inpatient services which follow an emergency room visit or for the mobile crisis intervention services, than the insured would have incurred with a participating provider. The non-participating provider may bill the health care plan for the services rendered. Upon receipt of the bill, the health care plan shall pay the non-participating provider the amount prescribed by this section and any subsequent amount determined to be owed to the provider in relation to the emergency services provided, including inpatient services which follow an emergency room visit or for the mobile crisis intervention services.

(2) A non-participating provider or a health care plan may submit a dispute regarding a fee or payment for emergency services, including inpatient services which follow an emergency room visit, or for services rendered by a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health, for review to an independent dispute resolution entity.

§ 14. Subsection (b) of section 606 of the financial services law, as amended by section 7 of subpart A of part AA of chapter 57 of the laws of 2022, is amended to read as follows:

(b) A non-participating provider shall not bill an insured for emergency services, including inpatient services which follow an emergency room visit, or for services rendered by a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health, except for any applicable copayment, coinsurance or deductible that would be owed if the insured utilized a participating provider.

§ 15. This act shall take effect January 1, 2024; provided, however, that sections one through twelve of this act shall apply to policies and contracts issued, renewed, amended, modified or altered on or after such date.

SUBPART B

Section 1. Subparagraphs (G) and (H) of paragraph 35 of subsection (i) of section 3216 of the insurance law, subparagraph (G) as added by section 8 of subpart A of part BB of chapter 57 of the laws of 2019 and subparagraph (H) as added by section 13 of part AA of chapter 57 of the laws of 2021, are amended to read as follows:

(G) This subparagraph shall apply to hospitals and medically-monitored crisis residential facilities in this state that are licensed, operated, or otherwise authorized by the office of mental health that are participating in the insurer's provider network. Where the policy provides coverage for inpatient hospital care, benefits for inpatient hospital care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~[provided to individuals who have not attained the age of eighteen]~~ and benefits for sub-acute care in a medically-monitored crisis residential facility licensed, operated, or otherwise authorized by the office of mental health shall not be subject to preauthorization. Coverage provided under this subparagraph shall also not be subject to concurrent utilization review for individuals who have not attained the age of eighteen during the first fourteen days of the inpatient admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the ~~[patient]~~ insured, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the ~~[patient]~~ insured, to ensure that the inpatient care is medically necessary for the ~~[patient]~~ insured. For individuals who have attained age eighteen, coverage provided under this subparagraph shall also not be subject to concurrent review during the first thirty days of the inpatient or residential admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the insured, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the insured, to ensure that the inpatient or residential care is medically necessary for the insured. However, concurrent review may be performed during the first

thirty days if an insured meets clinical criteria designated by the office of mental health or where the insured is admitted to a hospital or facility which has been designated by the office of mental health for concurrent review, in consultation with the commissioner of health and the superintendent. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

(H) This subparagraph shall apply to crisis stabilization centers in this state that are licensed pursuant to section 36.01 of the mental hygiene law and participate in the insurer's provider network. Benefits for care ~~in~~ by a crisis stabilization center shall not be subject to preauthorization. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

§ 2. Subparagraphs (G) and (H) of paragraph 5 of subsection (l) of section 3221 of the insurance law, subparagraph (G) as added by section 14 of subpart A of part BB of chapter 57 of the laws of 2019 and subparagraph (H) as added by section 15 of part AA of chapter 57 of the laws of 2021, are amended to read as follows:

(G) This subparagraph shall apply to hospitals and medically-monitored crisis residential facilities in this state that are licensed, operated, or otherwise authorized by the office of mental health that are participating in the insurer's provider network. Where the policy provides coverage for inpatient hospital care, benefits for inpatient hospital care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~[provided to individuals who have not attained the age of eighteen]~~ and benefits for sub-acute care in a medically-monitored crisis residential facility, operated or otherwise authorized by the office of mental health shall not be subject to preauthorization. Coverage provided under this subparagraph shall also not be subject to concurrent utilization review for individuals who have not attained the age of eighteen during the first fourteen days of the inpatient admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the ~~[patient]~~ insured, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the ~~[patient]~~ insured to ensure that the inpatient care is medically necessary for the ~~[patient]~~ insured. For individuals who have attained age eighteen, coverage provided under this subparagraph shall also not be subject to concurrent review during the first thirty days of the inpatient or residential admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the insured, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the insured, to ensure that the inpatient or residential care is medically necessary for the insured. However, concurrent review may be performed during the first

thirty days if an insured meets clinical criteria designated by the office of mental health or where the insured is admitted to a hospital or facility which has been designated by the office of mental health for concurrent review, in consultation with the commissioner of health and the superintendent. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

(H) This subparagraph shall apply to crisis stabilization centers in this state that are licensed pursuant to section 36.01 of the mental hygiene law and participate in the insurer's provider network. Benefits for care ~~in~~ by a crisis stabilization center shall not be subject to preauthorization. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

§ 3. Paragraphs 8 and 9 of subsection (g) of section 4303 of the insurance law, paragraph 8 as added by section 23 of subpart A of part BB of chapter 57 of the laws of 2019 and paragraph 9 as added by section 19 of part AA of chapter 57 of the laws of 2021, are amended to read as follows:

(8) This paragraph shall apply to hospitals and medically-monitored crisis residential facilities in this state that are licensed, operated or otherwise authorized by the office of mental health that are participating in the corporation's provider network. Where the contract provides coverage for inpatient hospital care, benefits for inpatient hospital care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~provided to individuals who have not attained the age of eighteen~~ and benefits for sub-acute care in a medically-monitored crisis residential facility licensed, operated, or otherwise authorized by the office of mental health shall not be subject to preauthorization. Coverage provided under this paragraph shall also not be subject to concurrent utilization review for individuals who have not attained the age of eighteen during the first fourteen days of the inpatient admission, provided the facility notifies the corporation of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the ~~patient~~ insured, and participates in periodic consultation with the corporation to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the corporation which is approved by the office of mental health and appropriate to the age of the ~~patient~~ insured, to ensure that the inpatient care is medically necessary for the ~~patient~~ insured. For individuals who have attained age eighteen, coverage provided under this paragraph shall also not be subject to concurrent review during the first thirty days of the inpatient or residential admission, provided the facility notifies the corporation of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the insured, and participates in periodic consultation with the corporation to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the corporation which is approved by the office of mental health and appropriate to the age of the insured, to ensure that the inpatient or residential care is medically necessary for the insured. However, concurrent review may be

1 performed during the first thirty days if an insured meets clinical
2 criteria designated by the office of mental health or where the insured
3 is admitted to a hospital or facility which has been designated by the
4 office of mental health for concurrent review, in consultation with the
5 commissioner of health and the superintendent. All treatment provided
6 under this paragraph may be reviewed retrospectively. Where care is
7 denied retrospectively, an insured shall not have any financial obli-
8 gation to the facility for any treatment under this paragraph other than
9 any copayment, coinsurance, or deductible otherwise required under the
10 contract.

11 (9) This paragraph shall apply to crisis stabilization centers in this
12 state that are licensed pursuant to section 36.01 of the mental hygiene
13 law and participate in the corporation's provider network. Benefits for
14 care ~~[in]~~ by a crisis stabilization center shall not be subject to
15 preauthorization. All treatment provided under this paragraph may be
16 reviewed retrospectively. Where care is denied retrospectively, an
17 insured shall not have any financial obligation to the facility for any
18 treatment under this paragraph other than any copayment, coinsurance, or
19 deductible otherwise required under the contract.

20 § 4. Paragraph 12 of subsection (a) of section 4902 of the insurance
21 law, as added by section 38 of subpart A of part BB of chapter 57 of the
22 laws of 2019, is amended to read as follows:

23 (12) When conducting utilization review for purposes of determining
24 health care coverage for a mental health condition, a utilization review
25 agent shall utilize evidence-based and peer reviewed clinical review
26 criteria that is appropriate to the age of the patient. The utilization
27 review agent shall use clinical review criteria designated by the
28 commissioner of the office of mental health for level of care determi-
29 nations, in consultation with the superintendent and commissioner of
30 health. For coverage determinations outside the scope of the criteria
31 designated for level of care determinations, the utilization review
32 agent shall use clinical review criteria deemed appropriate and approved
33 for such use by the commissioner of the office of mental health, in
34 consultation with the commissioner of health and the superintendent.
35 Approved clinical review criteria shall have inter rater reliability
36 testing completed ~~[by December thirty-first, two thousand nineteen]~~
37 prior to implementation.

38 § 5. Paragraph (j) of subdivision 1 of section 4902 of the public
39 health law, as added by section 43 of subpart A of part BB of chapter 57
40 of the laws of 2019, is amended to read as follows:

41 (j) When conducting utilization review for purposes of determining
42 health care coverage for a mental health condition, a utilization review
43 agent shall utilize evidence-based and peer reviewed clinical review
44 criteria that is appropriate to the age of the patient. The utilization
45 review agent shall use clinical review criteria designated by the
46 commissioner of the office of mental health for level of care determi-
47 nations, in consultation with the commissioner and the superintendent of
48 financial services. For coverage determinations outside the scope of
49 the criteria designated for level of care determinations, the utiliza-
50 tion review agent shall use clinical review criteria deemed appropriate
51 and approved for such use by the commissioner of the office of mental
52 health, in consultation with the commissioner and the superintendent of
53 financial services. Approved clinical review criteria shall have inter
54 rater reliability testing completed ~~[by December thirty-first, two thou-~~
55 ~~sand nineteen]~~ prior to implementation.

1 § 6. This act shall take effect one year after it shall have become a
2 law. Effective immediately, the addition, amendment and/or repeal of any
3 rule or regulation necessary for the implementation of this act on its
4 effective date are authorized to be made and completed on or before such
5 effective date.

6 SUBPART C

7 Section 1. Paragraph 2 of subsection (a) of section 3217-h of the
8 insurance law, as added by section 3 of part V of chapter 57 of the laws
9 of 2022, is amended to read as follows:

10 (2) An insurer that provides comprehensive coverage for hospital,
11 medical or surgical care shall reimburse covered services delivered by
12 means of telehealth on the same basis, at the same rate, and to the same
13 extent that such services are reimbursed when delivered in person;
14 provided that reimbursement of covered services delivered via telehealth
15 shall not require reimbursement of costs not actually incurred in the
16 provision of the telehealth services, including charges related to the
17 use of a clinic or other facility when neither the originating site nor
18 distant site occur within the clinic or other facility. Notwithstanding
19 the provisions of this paragraph, services provided by facilities
20 licensed, certified or otherwise authorized pursuant to article sixteen,
21 thirty-one, thirty-two or thirty-six of the mental hygiene law, and
22 deemed appropriate to be provided by telehealth by the commissioner of
23 the office for people with developmental disabilities, the office of
24 mental health, or the office of addiction services and supports, as
25 applicable, shall be reimbursed at the same rate as is reimbursed when
26 delivered in person.

27 § 2. Paragraph 2 of subsection (a) of section 4306-g of the insurance
28 law, as added by section 4 of part V of chapter 57 of the laws of 2022,
29 is amended to read as follows:

30 (2) A corporation that provides comprehensive coverage for hospital,
31 medical or surgical care shall reimburse covered services delivered by
32 means of telehealth on the same basis, at the same rate, and to the same
33 extent that such services are reimbursed when delivered in person;
34 provided that reimbursement of covered services delivered via telehealth
35 shall not require reimbursement of costs not actually incurred in the
36 provision of the telehealth services, including charges related to the
37 use of a clinic or other facility when neither the originating site nor
38 the distant site occur within the clinic or other facility. The super-
39 intendent may promulgate regulations to implement the provisions of this
40 section. Notwithstanding the provisions of this paragraph, services
41 provided by facilities licensed, certified or otherwise authorized
42 pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the
43 mental hygiene law, and deemed appropriate to be provided by telehealth
44 by the commissioner of the office for people with developmental disabil-
45 ities, the office of mental health, or the office of addiction services
46 and supports, as applicable, shall be reimbursed at the same rate as is
47 reimbursed when delivered in person.

48 § 3. Subdivision 3 of section 4406-g of the public health law, as
49 added by section 5 of part V of chapter 57 of the laws of 2022, is
50 amended to read as follows:

51 3. A health maintenance organization that provides comprehensive
52 coverage for hospital, medical or surgical care shall reimburse covered
53 services delivered via telehealth on the same basis, at the same rate,
54 and to the extent that such services are reimbursed when delivered in

1 person; provided that reimbursement of covered services delivered by
2 means of telehealth shall not require reimbursement of costs not actual-
3 ly incurred in the provision of the telehealth services, including
4 charges related to the use of a clinic or other facility when neither
5 the originating site nor the distant site occur within the clinic or
6 other facility. The commissioner, in consultation with the superinten-
7 dent, may promulgate regulations to implement the provisions of this
8 section. Notwithstanding the provisions of this subdivision, services
9 provided by facilities licensed, certified or otherwise authorized
10 pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the
11 mental hygiene law, and deemed appropriate to be provided by telehealth
12 by the commissioner of the office for people with developmental disabil-
13 ities, the office of mental health, or the office of addiction services
14 and supports, as applicable, shall be reimbursed at the same rate as is
15 reimbursed when delivered in person.

16 § 4. This act shall take effect immediately, and shall apply to claims
17 submitted on or after such date; provided that:

18 (a) the amendments made to subsection (a) of section 3217-h of the
19 insurance law made by section one of this act shall not affect the expi-
20 ration and reversion of such subsection and shall be deemed to expire
21 therewith;

22 (b) the amendments made to subsection (a) of section 4306-g of the
23 insurance law made by section two of this act shall not affect the expi-
24 ration and reversion of such subsection and shall be deemed to expire
25 therewith; and

26 (c) the amendments made to subdivision 3 of section 4406-g of the
27 public health law made by section three of this act shall not affect the
28 repeal of such subdivision and shall be deemed repealed therewith.

29 SUBPART D

30 Section 1. Section 109 of the insurance law is amended by adding a new
31 subsection (e) to read as follows:

32 (e) In addition to any right of action granted to the superintendent
33 pursuant to this section, any person who has been injured by reason of a
34 violation of paragraph thirty, thirty-one, thirty-one-a or thirty-five
35 of subsection (i) of section thirty-two hundred sixteen, paragraph five,
36 six, seven, seven-a or seven-b of subsection (l) of section thirty-two
37 hundred twenty-one, or subsection (g), (k), (l), (l-1) or (l-2) of
38 section forty-three hundred three of this chapter by an insurer, corpo-
39 ration, or health maintenance organization subject to article thirty-two
40 or forty-three of this chapter may bring an action in the person's own
41 name to recover the person's actual damages or one thousand dollars,
42 whichever is greater; provided, however, that the provisions of this
43 subsection shall not apply to any health plan that exclusively serves
44 individuals enrolled pursuant to a federal or state insurance afford-
45 ability program as defined in section two hundred sixty-eight-a of the
46 public health law, the medical assistance program under title eleven of
47 article five of the social services law, child health plus under title
48 one-A of article twenty-five of the public health law, the basic health
49 program under section three hundred sixty-nine-gg of the social services
50 law, or a plan providing services under title XVIII of the federal
51 Social Security Act. The court may, in its discretion, award the
52 prevailing plaintiff in such action an additional award not to exceed
53 five thousand dollars if the court finds a willful violation pursuant to

this subsection. The court may award reasonable attorneys' fees to a prevailing plaintiff.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Subparagraph (A) of paragraph 31-a of subsection (i) of section 3216 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No policy that provides medical, major medical or similar comprehensive-type coverage and provides coverage for prescription drugs for medication for the treatment of a substance use disorder shall require prior authorization for an initial or renewal prescription for the detoxification or maintenance treatment of a substance use disorder, including all buprenorphine products, methadone [or], long acting injectable naltrexone [for detoxification or maintenance treatment of a substance use disorder], or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, except where otherwise prohibited by law.

§ 2. Subparagraph (A) of paragraph 7-a of subsection (l) of section 3221 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No policy that provides medical, major medical or similar comprehensive-type small group coverage and provides coverage for prescription drugs for medication for the treatment of a substance use disorder shall require prior authorization for an initial or renewal prescription for the detoxification or maintenance treatment of a substance use disorder, including all buprenorphine products, methadone, long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, except where otherwise prohibited by law.

Every policy that provides medical, major medical or similar comprehensive-type large group coverage shall provide coverage for prescription drugs for medication for the treatment of a substance use disorder and shall provide immediate coverage for all buprenorphine products, methadone [or], long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, without prior authorization for the detoxification or maintenance treatment of a substance use disorder, except where otherwise prohibited by law.

§ 3. Paragraph (A) of subsection (l-1) of section 4303 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No contract that provides medical, major medical or similar comprehensive-type individual or small group coverage and provides coverage for prescription drugs for medication for the treatment of a substance use disorder shall require prior authorization for an initial or renewal prescription for the detoxification or maintenance treatment of a substance use disorder, including all buprenorphine products,

methadone, long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the contract, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, except where otherwise prohibited by law. Every contract that provides medical, major medical, or similar comprehensive-type large group coverage shall provide coverage for prescription drugs for medication for the treatment of a substance use disorder and shall provide immediate coverage for all buprenorphine products, methadone [~~or~~], long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the contract, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, without prior authorization for the detoxification or maintenance treatment of a substance use disorder, except where otherwise prohibited by law.

SUBPART F

Section 1. Subsection (a) of 3241 of the insurance law, as added by section 6 of part H of chapter 60 of the laws of 2014, is amended to read as follows:

(a) (1) An insurer, a corporation organized pursuant to article forty-three of this chapter, a municipal cooperative health benefit plan certified pursuant to article forty-seven of this chapter, or a student health plan established or maintained pursuant to section one thousand one hundred twenty-four of this chapter, that issues a health insurance policy or contract with a network of health care providers shall ensure that the network is adequate to meet the health needs of insureds and provide an appropriate choice of providers sufficient to render the services covered under the policy or contract. The superintendent shall review the network of health care providers for adequacy at the time of the superintendent's initial approval of a health insurance policy or contract; at least every three years thereafter; and upon application for expansion of any service area associated with the policy or contract in conformance with the standards set forth in subdivision five of section four thousand four hundred three of the public health law. To the extent that the network has been determined by the commissioner of health to meet the standards set forth in subdivision five of section four thousand four hundred three of the public health law, such network shall be deemed adequate by the superintendent.

(2) The superintendent, in consultation with the commissioner of health, the commissioner of the office of mental health, and the commissioner of the office of addiction services and supports, shall promulgate regulations setting forth standards for network adequacy for mental health and substance use disorder treatment. Such standards shall include:

(A) requirements that ensure that insureds have timely and proximate access to treatment for mental health conditions and substance use disorders;

(B) appointment availability standards that include timeframes for initial provider visits, follow-up provider visits, and provider visits following discharge from a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law or the emergency department of a

1 hospital licensed pursuant to article twenty-eight of the public health
2 law;

3 (C) time and distance standards that take into consideration reason-
4 able proximity to the insured's residence, established service delivery
5 patterns for the area, the geographic area, and the availability of
6 telehealth services; and

7 (D) responsibilities of an insurer to provide an out-of-network refer-
8 ral at the in-network cost-sharing when there is no participating
9 provider able to provide the requested health care service within the
10 timely and proximate access standards established by regulation and a
11 non-participating provider is able to meet such standards; and, where
12 the non-participating provider is a facility licensed, operated, or
13 otherwise authorized by the office of mental health or the office of
14 addiction services and supports, the insurer shall reimburse the facili-
15 ty at a rate negotiated between the insurer and facility, or in the
16 absence of a negotiated rate, an amount no less than the rate that would
17 be paid for such services pursuant to the medical assistance program
18 under title eleven of article five of the social services law.

19 § 2. Subdivision 5 of section 4403 of the public health law is amended
20 by adding a new paragraph (d) to read as follows:

21 (d) The commissioner, in consultation with the superintendent of
22 financial services, the commissioner of the office of mental health, and
23 the commissioner of the office of addiction services and supports, shall
24 promulgate regulations setting forth standards for network adequacy for
25 mental health and substance use disorder treatment. Such standards
26 shall include:

27 (i) requirements that ensure that enrollees have timely and proximate
28 access to treatment for mental health conditions and substance use
29 disorders;

30 (ii) appointment availability standards that include timeframes for
31 initial provider visits, follow-up provider visits, and provider visits
32 following discharge from a hospital as defined by subdivision ten of
33 section 1.03 of the mental hygiene law or the emergency department of a
34 hospital licensed pursuant to article twenty-eight of the public health
35 law;

36 (iii) time and distance standards that take into consideration reason-
37 able proximity to the enrollee's residence, established service delivery
38 patterns for the area, the geographic area, and the availability of
39 telehealth services; and

40 (iv) responsibilities of an organization to provide an out-of-network
41 referral at the in-network cost-sharing when there is no participating
42 provider able to provide the requested health care service within the
43 timely and proximate access standards established by regulation and a
44 non-participating provider is able to meet such standards; and, where
45 the non-participating provider is a facility licensed, operated, or
46 otherwise authorized by the office of mental health or the office of
47 addiction services and supports, the organization shall reimburse the
48 facility at a rate negotiated between the organization and facility or,
49 in the absence of a negotiated rate, an amount no less than the rate
50 that would be paid for such services pursuant to the medical assistance
51 program under title eleven of article five of the social services law.

52 § 3. This act shall take effect immediately.

53 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
54 sion, section or subpart of this act shall be adjudged by any court of
55 competent jurisdiction to be invalid, such judgment shall not affect,
56 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or subpart thereof directly involved in the controversy in which such
3 judgment shall have been rendered. It is hereby declared to be the
4 intent of the legislature that this act would have been enacted even if
5 such invalid provisions had not been included herein.

6 § 3. This act shall take effect immediately, provided, however, that
7 the applicable effective date of Subparts A through F of this act shall
8 be as specifically set forth in the last section of such Subparts.

9

PART JJ

10 Section 1. Subdivision (g) of section 31.16 of the mental hygiene law,
11 as amended by chapter 351 of the laws of 1994, is amended to read as
12 follows:

13 (g) The commissioner may impose [~~a fine~~] sanctions upon a finding that
14 the holder of the certificate has failed to comply with the terms of the
15 operating certificate or with the provisions of any applicable statute,
16 rule or regulation. The commissioner shall be authorized to develop a
17 schedule for the purpose of imposing such sanctions. The maximum amount
18 of [~~such~~] any fine imposed thereunder shall not exceed [~~one~~] two thou-
19 sand dollars per day [~~or fifteen thousand dollars~~], per violation.
20 Penalties may be considered at the individual bed level for beds closed
21 without authorization at inpatient settings.

22 Such penalty may be recovered by an action brought by the commissioner
23 in any court of competent jurisdiction.

24 Such penalty may be released or compromised by the commissioner before
25 the matter has been referred to the attorney general. Any such penalty
26 may be released or compromised and any action commenced to recover the
27 same may be settled or discontinued by the attorney general with the
28 consent of the commissioner.

29 § 2. This act shall take effect immediately.

30 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
31 sion, section or part of this act shall be adjudged by any court of
32 competent jurisdiction to be invalid, such judgment shall not affect,
33 impair, or invalidate the remainder thereof, but shall be confined in
34 its operation to the clause, sentence, paragraph, subdivision, section
35 or part thereof directly involved in the controversy in which such judg-
36 ment shall have been rendered. It is hereby declared to be the intent of
37 the legislature that this act would have been enacted even if such
38 invalid provisions had not been included herein.

39 § 3. This act shall take effect immediately provided, however, that
40 the applicable effective date of Parts A through JJ of this act shall be
41 as specifically set forth in the last section of such Parts.