S T A T E O F N E W Y O R K

S. 6256--D A. 9056--D

S E N A T E - A S S E M B L Y

January 17, 2012

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to evaluations or services under the early intervention program for infants and toddlers with disabilities and their families, state aid reimbursement to municipalities for respite services, and service coordination; to repeal subdivision 7 of section 2551 and subdivision 4 of section 2557 of the public health law, relating to administering early intervention services; to amend the public health law, in relation to requiring that each municipality be responsible for providing early intervention services; to amend the public health law, in relation to requiring health maintenance organizations to include coverage for otherwise covered services that are part of an early intervention program; to amend the insurance law, in relation to payment for early intervention services; to repeal subsection (e) of section 3235-a of the insurance law relating to claims for early intervention program services; to amend the education law, in relation to special education services and programs for preschool children with handicapping conditions; and to repeal subdivision 18 of section 4403 of the education law, relating

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

LBD12671-06-2

to the power of the education department to approve the provision of early intervention services (Part A); to amend the public authorities law, in relation to funding and operations of the Roswell Park Cancer Institute (Part B); intentionally omitted (Part C); to amend the public health law, in relation to establishing the supportive housing development reinvestment program; to amend the social services law, in relation to applicability of the assisted living program; to amend the social services law, in relation to including podiatry services and lactation services under the term medical assistance; to amend the public health law, in relation to comprehensive HIV special needs plan, in relation to HEAL-NY, and in relation to the EQUAL program; to amend the social services law, in relation to education, outreach services and facilitated enrollment activities for certain aged, blind and disabled persons; to amend the public health law, in relation to expanding prenatal care programs, establishing the primary care service corps practitioner loan repayment program, authorizing moneys in the medical indemnity fund to be invested in obligations of the United States or the state or obligations where the principal and interest are guaranteed by the United States or the state and moneys distributed as non-Medicaid grants to non-major public academic medical centers; to amend the public authorities law, in relation to the powers of the dormitory authority; directs a workgroup on medically fragile children; to amend the public health law, in relation to notice requirement for preferred drug program, payment to the commissioner of health by third-party payors, audit of payments to the commissioner of health, electronic submission of reports by hospitals, and changing the definition of eligible applicant; to amend the social services law, in relation to medical assistance where relative is absent or refuses or fails to provide necessary care; to amend the public health law, in relation to third-party payor's election to make payments; to amend the public health law, in relation to reserved bed days; to amend the social services law, in relation to the personal care services worker recruitment and retention program; to amend the public health law, in relation to the tobacco control and insurance initiatives pool distributions; to amend the social services law, in relation to certain public school districts and state operated/state supported schools; to amend the public health law, in relation to the licensure of home care services agencies; to amend the social services law, in relation to managed care programs; to amend the public health law, in relation to the distribution of the professional education pools; to amend chapter 584 of the laws of 2011, amending the public authorities law, relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof; to amend chapter 119 of the laws of 1997 relating to authorizing the department of health to establish certain payments to general hospitals, in relation to costs incurred in excess of revenues by general hospitals in providing services in eligible programs to uninsured patients and patients eligible for Medicaid assistance; to amend subdivision 1 of section 92 of part H of chapter 59 of the laws of 2011, relating to known and projected department of health state funds Medicaid expenditures, in relation to the effectiveness thereof; to amend section 90 of part H of chapter 59 of the laws of 2011, relating to types of appropriations exempt from certain reductions, in relation to certain payments with regard to local governments; to amend section 1 of part C of chapter 58 of the laws of 2005, relating to authorizing

reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, in relation to Medicaid reimbursement; and to repeal certain provisions of the public health law relating thereto (Part D); intentionally omitted (Part E); to amend chapter 58 of the laws of 2005 authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, in relation to an administrative cap on such program; to amend 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 the cap on local Medicaid expenditures; to amend the social services law, in relation to the department assumption of program administration for medical assistance; and providing for the repeal of certain provisions of the social services law upon expiration thereof (Part F); to amend the public health law, in relation to regulations for computing hospital inpatient rates and to amend chapter 58 of the laws of 2005 relating to the preferred drug program, in relation to the effectiveness thereof (Part G); to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to foregoing such adjustment during the 2012-2013 state fiscal year (Part H); intentionally omitted (Part I); to amend the mental hygiene law, the public health law, the general municipal law, the education law, the social services law and the surrogate's court procedure act, in relation to the office for people with developmental disabilities and the creation of developmental disabilities regional offices and state operations offices; and providing for the repeal of certain provisions upon expiration thereof (Part J); to amend chapter 723 of the laws of 1989 amending the mental hygiene law and other laws relating to comprehensive psychiatric emergency programs, in relation to extending the repeal of certain provisions thereof (Part K); to permit the commissioners of the department of health, the office of mental health, the office of alcoholism and substance abuse services and the office for people with developmental disabilities the regulatory flexibility to more efficiently and effectively integrate health and behavioral health services (Part L); to amend the education law, in relation to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health and providing for the repeal of such provisions upon expiration thereof (Part M); to amend the mental hygiene law and the public health law, in relation to the statewide comprehensive services plan for people with mental disabilities and in relation to the local planning process; and to repeal certain provisions of the mental hygiene law relating thereto (Part N); to amend the mental hygiene law, in relation to the closure and the reduction in size of certain facilities serving persons with mental illness; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend the mental hygiene law, in relation to amending procedures under the sex offender management and treatment act (Part P); to amend the criminal procedure law, in relation to providing for outpatient capacity restoration of felony defendants at article 28 hospitals (Part Q); to amend chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs, in relation to the effectiveness thereof (Part R); in relation to the

excess medical malpractice liability coverage pool (Part S); and to amend the elder law, in relation to the program for elderly pharmaceutical insurance coverage; and to repeal certain provisions of such law relating thereto (Part T)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2012-2013 state fiscal year. Each component is wholly contained within a Part identified as Parts A through T. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a 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 Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subdivision 2 of section 2544 of the public health law is amended by adding a new paragraph (c) to read as follows:

(C) IF, IN CONSULTATION WITH THE EVALUATOR, THE SERVICE COORDINATOR IDENTIFIES A CHILD THAT IS POTENTIALLY ELIGIBLE FOR PROGRAMS OR SERVICES OFFERED BY OR UNDER THE AUSPICES OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THE SERVICE COORDINATOR SHALL, WITH PARENT CONSENT, NOTIFY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES' REGIONAL DEVELOPMENTAL DISABILITIES SERVICES OFFICE OF THE POTENTIAL ELIGIBILITY OF SUCH CHILD FOR SAID PROGRAMS OR SERVICES.

S 2. Intentionally omitted.

S 2-a. Section 2545 of the public health law is amended by adding a new subdivision 10 to read as follows:

10. THE SERVICE COORDINATOR SHALL ENSURE THAT THE IFSP, INCLUDING ANY AMENDMENTS THERETO, IS IMPLEMENTED IN A TIMELY MANNER BUT NOT LATER THAN THIRTY DAYS AFTER THE PROJECTED DATES FOR INITIATION OF THE SERVICES AS SET FORTH IN THE PLAN.

S 3. Intentionally omitted.

S 4. Subdivision 2 of section 2547 of the public health law, as amended by chapter 231 of the laws of 1993, is amended to read as follows:

2. In addition to respite services provided pursuant to subdivision one of this section and subject to the amounts appropriated therefor, the state shall reimburse the municipality IN ACCORDANCE WITH THE PERCENTAGE OF STATE AID REIMBURSEMENT FOR APPROVED COSTS AS SET FORTH IN SUBDIVISION TWO OF SECTION TWENTY-FIVE HUNDRED FIFTY-SEVEN OF THIS TITLE, for [fifty percent of] the costs of respite services provided to eligible children and their families with the approval of the early intervention official.

S 5. Section 2548 of the public health law, as amended by section 20 of part H of chapter 686 of the laws of 2003, is amended to read as follows:

S 2548. Transition plan. To the extent that a toddler with a disability is thought to be eligible for services pursuant to section forty-four

hundred ten of the education law, the [early intervention official] SERVICE COORDINATOR shall notify in writing the committee on preschool special education of the local school district in which an eligible child resides of the potential transition of such child and, with parental consent, arrange for a conference among the service coordinator, the parent and the chairperson of the preschool committee on special education or his or her designee at least ninety days before such child would be eligible for services under section forty-four hundred ten of the education law to review the child's program options and to establish a transition plan, if appropriate. If a parent does not consent to a conference with the service coordinator and the chairperson of the preschool committee on special education or his or her designee to determine whether the child should be referred for services under section forty-four hundred ten of the education law, and the child is not determined to be eligible by the committee on preschool special education for such services prior to the child's third birthday, the child's eligibility for early intervention program services shall end at the child's third birthday.

S 6. Subdivision 2 of section 2550 of the public health law, as amended by section 5 of part B3 of chapter 62 of the laws of 2003, is amended to read as follows:

2. In meeting the requirements of subdivision one of this section, the lead agency shall adopt and use proper methods of administering the early intervention program, including:

(a) establishing standards for evaluators, service coordinators and providers of early intervention services;

(b) approving, and periodically re-approving evaluators, service coordinators and providers of early intervention services who meet department standards; PROVIDED HOWEVER THAT THE DEPARTMENT MAY REQUIRE THAT APPROVED EVALUATORS, SERVICE COORDINATORS AND PROVIDERS OF EARLY INTERVENTION SERVICES ENTER INTO AGREEMENTS WITH THE DEPARTMENT IN ORDER TO CONDUCT EVALUATIONS OR RENDER SERVICE COORDINATION OR EARLY INTERVENTION SERVICES IN THE EARLY INTERVENTION PROGRAM. SUCH AGREEMENTS SHALL SET FORTH THE TERMS AND CONDITIONS OF PARTICIPATION IN THE PROGRAM. IF THE DEPARTMENT REQUIRES THAT SUCH PROVIDERS ENTER INTO AGREEMENTS WITH THE DEPARTMENT FOR PARTICIPATION IN THE PROGRAM, "APPROVAL" OR "APPROVED" AS USED IN THIS TITLE SHALL MEAN A PROVIDER WHO IS APPROVED BY THE DEPARTMENT IN ACCORDANCE WITH DEPARTMENT REGULATIONS AND HAS ENTERED INTO AN AGREEMENT WITH THE DEPARTMENT FOR THE PROVISION OF EVALUATIONS, SERVICE COORDINATION OR EARLY INTERVENTION SERVICES. THE DEPARTMENT SHALL USE BEST EFFORTS TO ENSURE PROVIDER CAPACITY IN THE EARLY INTERVENTION PROGRAM.

(c) [compiling and disseminating to the municipalities lists of approved evaluators, service coordinators and providers of early intervention services;

(d)] monitoring of agencies, institutions and organizations under this title and agencies, institutions and organizations providing early intervention services which are under the jurisdiction of a state early intervention service agency;

[(e)] (D) enforcing any obligations imposed on those agencies under this title or Part H of the federal individuals with disabilities education act and its regulations;

[(f)] (E) providing training and technical assistance to those agencies, institutions and organizations, including initial and ongoing training and technical assistance to municipalities to help enable them to identify, locate and evaluate eligible children, develop IFSPs,

ensure the provision of appropriate early intervention services, promote the development of new services, where there is a demonstrated need for such services and afford procedural safeguards to infants and toddlers and their families;

[(g)] (F) correcting deficiencies that are identified through monitoring; and

[(h)] (G) in monitoring early intervention services, the commissioner shall provide municipalities with the results of any review of early intervention services undertaken and shall provide the municipalities with the opportunity to comment thereon.

S 7. Subdivision 7 of section 2551 of the public health law is REPEALED, and subdivisions 8, 9 and 10 are renumbered subdivisions 7, 8 and 9.

S 8. Section 2552 of the public health law, as added by chapter 428 of the laws of 1992, subdivisions 2 and 3 as amended by chapter 231 of the laws of 1993, and subdivision 4 as added by section 6 of part B3 of chapter 62 of the laws of 2003, is amended to read as follows:

S 2552. Responsibility of municipality. 1. Each municipality shall be responsible for ensuring that the early intervention services contained in an IFSP are provided to eligible children and their families who reside in such municipality [and may contract with approved providers of early intervention services for such purpose]. A MUNICIPALITY MAY MONITOR, WHICH MAY INCLUDE SITE VISITATION, EVALUATORS AND PROVIDERS OF SUCH SERVICES WITHIN THE MUNICIPALITY IN ACCORDANCE WITH THIS TITLE AND REGULATIONS PROMULGATED HEREUNDER, INCLUDING MAKING THE DETERMINATIONS SPECIFIED IN THIS SECTION. THE SERVICE COORDINATOR SHALL REPORT, IN A MANNER AND FORMAT AS DETERMINED BY THE MUNICIPALITY, ON THE DELIVERY OF SERVICES TO AN ELIGIBLE CHILD IN ACCORDANCE WITH THE ELIGIBLE CHILD'S IFSP. A MUNICIPALITY MAY REQUEST THAT THE PARENT SELECT A NEW SERVICE COORDINATOR OR REQUIRE THAT THE SERVICE COORDINATOR SELECT A NEW PROVIDER OF SERVICES IF THE MUNICIPALITY FINDS THAT THE SERVICE COORDINATOR HAS NOT BEEN PERFORMING HIS OR HER RESPONSIBILITIES AS REQUIRED BY THIS TITLE OR THAT SERVICES HAVE NOT BEEN PROVIDED IN ACCORDANCE WITH THE ELIGIBLE CHILD'S IFSP. IF THE EARLY INTERVENTION OFFICIAL DETERMINES THAT THE EVALUATOR HAS NOT FOLLOWED THE REQUIREMENTS IN THIS TITLE OR REGULATIONS PROMULGATED HEREUNDER, THE EARLY INTERVENTION OFFICIAL MAY REQUIRE THAT THE EVALUATOR IMMEDIATELY SUBMIT ADDITIONAL DOCUMENTATION TO SUPPORT THE ELIGIBILITY DETERMINATION. IF THE EVALUATOR DOES NOT PROVIDE THE REQUESTED DOCUMENTATION, OR THE DOCUMENTATION PROVIDED CONTINUES TO BE INCONSISTENT WITH THE REQUIREMENTS OF THIS TITLE OR REGULATIONS, THE EARLY INTERVENTION OFFICIAL CAN REQUIRE THAT THE PARENT SELECT ANOTHER EVALUATOR TO CONDUCT A MULTIDISCIPLINARY EVALUATION TO DETERMINE WHETHER THE CHILD MEETS ELIGIBILITY FOR PROGRAM SERVICES.

2. [After consultation with early intervention officials, the commissioner shall develop procedures to permit a municipality to contract or otherwise make arrangements with other municipalities for an eligible child and the child's family to receive services from such other municipalities.

3. The municipality shall monitor claims for service reimbursement authorized by this title and shall verify such claims prior to payment. The municipality shall inform the commissioner of discrepancies in billing and when payment is to be denied or withheld by the municipality.

4.] The early intervention official shall require an eligible child's parent to furnish the parents' and eligible child's social security numbers for the purpose of the department's and municipality's administration of the program.

S 9. Intentionally omitted.

S 9-a. Subdivision 4 of section 2557 of the public health law is REPEALED and subdivisions 2 and 5, subdivision 2 as added by chapter 428 of the laws of 1992 and subdivision 5 as added by section 7 of part B3 of chapter 62 of the laws of 2003, are amended to read as follows:

2. The department shall reimburse the approved costs paid by a municipality for the purposes of this title, other than those reimbursable by the medical assistance program or by third party payors, in an amount of fifty percent of the amount expended in accordance with the rules and regulations of the commissioner; PROVIDED, HOWEVER, THAT IN THE DISCRETION OF THE DEPARTMENT AND WITH THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE DEPARTMENT MAY REIMBURSE MUNICIPALITIES IN AN AMOUNT GREATER THAN FIFTY PERCENT OF THE AMOUNT EXPENDED. Such state reimbursement to the municipality shall not be paid prior to April first of the year in which the approved costs are paid by the municipality, PROVIDED, HOWEVER THAT, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, THE DEPARTMENT MAY PAY SUCH STATE AID REIMBURSEMENT TO THE MUNICIPALITY PRIOR TO SUCH DATE.

5. [The department shall] (A) THE COMMISSIONER, IN HIS OR HER DISCRETION, IS AUTHORIZED TO contract with [an independent organization] ONE OR MORE ENTITIES to act as the fiscal agent for the department AND MUNICIPALITIES WITH RESPECT TO FISCAL MANAGEMENT AND PAYMENT OF EARLY INTERVENTION CLAIMS. MUNICIPALITIES SHALL GRANT SUFFICIENT AUTHORITY TO THE FISCAL AGENT TO ACT ON THEIR BEHALF. MUNICIPALITIES, AND INDIVIDUAL AND AGENCY PROVIDERS AS DEFINED BY THE COMMISSIONER IN REGULATION SHALL UTILIZE SUCH FISCAL AGENT FOR PAYMENT OF EARLY INTERVENTION CLAIMS AS DETERMINED BY THE DEPARTMENT AND SHALL PROVIDE SUCH INFORMATION AND DOCUMENTATION AS REQUIRED BY THE DEPARTMENT AND NECESSARY FOR THE FISCAL AGENT TO CARRY OUT ITS DUTIES.

(B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION ONE HUNDRED TWELVE OR ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, SECTIONS ONE HUNDRED FORTY-TWO AND ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS UNDER PARAGRAPH (A) OF THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(I) THE DEPARTMENT SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

(1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO THE CONTRACT OR CONTRACTS;

(2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

(3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

(4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

(II) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM PROSPECTIVE CONTRACTORS IN A TIMELY FASHION SHALL BE REVIEWED BY THE COMMISSIONER; AND

(III) THE COMMISSIONER SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

(C) PARAGRAPH (B) OF THIS SUBDIVISION SHALL APPLY ONLY TO THE INITIAL CONTRACT OR CONTRACTS NECESSARY TO OBTAIN THE SERVICES OF A FISCAL AGENT FOR EARLY INTERVENTION PROGRAM FISCAL MANAGEMENT AND PAYMENT OF EARLY INTERVENTION CLAIMS AND SHALL NOT APPLY TO SUBSEQUENT CONTRACTS NEEDED

TO MAINTAIN SUCH SERVICES, AS DETERMINED BY THE COMMISSIONER IN HIS OR HER DISCRETION. [A municipality may elect to utilize the services of such organization for early intervention program fiscal management and claiming as determined by the commissioner or may select an independent agent to act as the fiscal agent for such municipality or may act as its own fiscal agent.]

S 10. Subdivision 4 of section 2558 of the public health law, as added by chapter 428 of the laws of 1992, is amended to read as follows:

4. Local contribution. The municipality of residence shall be financially responsible for the local contribution in the amount of fifty percent of the [approved costs] AMOUNT EXPENDED PROVIDED, HOWEVER, THAT IN THE DISCRETION OF THE DEPARTMENT AND WITH THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION TWENTY-FIVE HUNDRED FIFTY-SEVEN OF THIS TITLE, THE DEPARTMENT MAY REQUIRE THAT MUNICIPALITIES BE FINANCIALLY RESPONSIBLE FOR A LOCAL CONTRIBUTION IN AN AMOUNT LESS THAN FIFTY PERCENT OF THE AMOUNT EXPENDED. The commissioner shall certify to the comptroller the amount of the local contribution owed by each municipality to the state. The comptroller shall deduct the amount of such local contribution first from any moneys due the municipality pursuant to section twenty-five hundred fifty-six of this title and then from any other moneys due or to become due to the municipality.

S 11. Paragraphs (a), (c) and (d) of subdivision 3 of section 2559 of the public health law, paragraph (a) as amended and paragraph (d) as added by chapter 231 of the laws of 1993, subparagraphs (i) and (ii) of paragraph (a) as added by chapter 406 of the laws of 2011, and paragraph (c) as added by chapter 428 of the laws of 1992, are amended to read as follows:

(a) Providers of EVALUATIONS AND early intervention services [and transportation services], HEREINAFTER COLLECTIVELY REFERRED TO IN THIS SUBDIVISION AS "PROVIDER" OR "PROVIDERS", shall in the first instance and where applicable, seek payment from all third party payors including governmental agencies prior to claiming payment from a given municipality for EVALUATIONS CONDUCTED UNDER THE PROGRAM AND FOR services rendered to eligible children, provided that, [for the purpose of seeking payment from the medical assistance program or from other third party payors, the municipality shall be deemed the provider of such early intervention services to the extent that the provider has promptly furnished to the municipality adequate and complete information necessary to support the municipality billing, and provided further that] the obligation to seek payment shall not apply to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured's policy.

(i) Parents shall provide [and] the municipality [shall obtain] AND SERVICE COORDINATOR information on any [plan of insurance] INSURANCE POLICY, PLAN OR CONTRACT under which an eligible child has coverage.

(ii) Parents shall provide the municipality AND THE SERVICE COORDINATOR with a written referral from a primary care provider as documentation, for eligible children, of the medical necessity of early intervention services.

(III) PROVIDERS SHALL UTILIZE THE DEPARTMENT'S FISCAL AGENT AND DATA SYSTEM FOR CLAIMING PAYMENT FOR EVALUATIONS AND SERVICES RENDERED UNDER THE EARLY INTERVENTION PROGRAM.

(c) Payments made for early intervention services under an insurance policy or health benefit plan, INCLUDING PAYMENTS MADE BY THE MEDICAL

ASSISTANCE PROGRAM OR OTHER GOVERNMENTAL THIRD PARTY PAYOR, which are provided as part of an IFSP pursuant to section twenty-five hundred forty-five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of the chapter of the laws of nineteen hundred ninety-two which added this title.

(d) A municipality, or its designee, AND A PROVIDER shall be subrogated, to the extent of the expenditures by such municipality OR for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from third party reimbursement. THE PROVIDER SHALL SUBMIT NOTICE TO THE INSURER OR PLAN ADMINISTRATOR OF HIS OR HER EXERCISE OF SUCH RIGHT OF SUBROGATION UPON THE PROVIDER'S ASSIGNMENT AS THE EARLY INTERVENTION SERVICE PROVIDER FOR THE CHILD. The right of subrogation does not attach to benefits paid or provided under any health insurance policy or health benefits plan prior to receipt of written notice of the exercise of subrogation rights by the insurer or plan administrator providing such benefits.

S 12. Intentionally omitted.

S 13. Intentionally omitted.

S 14. Intentionally omitted.

S 15. Intentionally omitted.

S 16. Subsection (e) of section 3235-a of the insurance law is REPEALED.

S 17. Subsection (c) of section 3235-a of the insurance law, as amended by chapter 406 of the laws of 2011, is amended to read as follows:

(c) Any right of subrogation to benefits which a municipality OR PROVIDER is entitled in accordance with paragraph (d) of subdivision three of section twenty-five hundred fifty-nine of the public health law shall be valid and enforceable to the extent benefits are available under any accident and health insurance policy. The right of subrogation does not attach to insurance benefits paid or provided under any accident and health insurance policy prior to receipt by the insurer of written notice from the municipality OR PROVIDER, AS APPLICABLE. [Upon the insurer's receipt of written request and notice from the municipality that such right of subrogation has been granted to such municipality and that the insured has authorized the release of information to the municipality, the] THE insurer shall provide the municipality AND SERVICE COORDINATOR with information on the extent of benefits available to the covered person under such policy WITHIN FIFTEEN DAYS OF THE INSURER'S RECEIPT OF WRITTEN REQUEST AND NOTICE AUTHORIZING SUCH RELEASE. THE SERVICE COORDINATOR SHALL PROVIDE SUCH INFORMATION TO THE RENDERING PROVIDER ASSIGNED TO PROVIDE SERVICES TO THE CHILD.

S 18. Subdivision 18 of section 4403 of the education law is REPEALED.

S 19. Paragraph f of subdivision 3 and the opening paragraph of paragraph a of subdivision 9 of section 4410 of the education law, as amended by chapter 82 of the laws of 1995, are amended to read as follows:

f. After notification by [an early intervention official] A SERVICE COORDINATOR, as defined in section twenty-five hundred forty-one of the public health law, that a child receiving services pursuant to title II-A of article twenty-five of the public health law potentially will transition to receiving services under this section and that a conference is to be convened to review the child's program options and estab-

lish a transition plan, which conference must occur at least ninety days before such child would be eligible for services under this section, the chairperson of the committee on preschool special education of the local school district or his or her designee in which such child resides shall participate in the conference.

Providers of special services or programs shall apply to the commissioner for program approval on a form prescribed by the commissioner; such application shall include, but not be limited to, a listing of the services to be provided, the population to be served, a plan for providing services in the least restrictive environment and a description of its evaluation component, if any. [Providers of early intervention services seeking approval pursuant to subdivision seven of section twenty-five hundred fifty-one of the public health law shall apply to the commissioner for such approval on a form prescribed by the commissioner.] The commissioner shall approve programs in accordance with regulations adopted for such purpose and shall periodically review such programs at which time the commissioner shall provide the municipality in which the program is located or for which the municipality bears fiscal responsibility an opportunity for comment within thirty days of the review. In collaboration with municipalities and representatives of approved programs, the commissioner shall develop procedures for conducting such reviews. Municipalities shall be allowed to participate in such departmental review process. Such review shall be conducted by individuals with appropriate experience as determined by the commissioner and shall be conducted not more than once every three years.

S 20. Intentionally omitted.

S 21. Intentionally omitted.

S 22. Intentionally omitted.

S 23. This act shall take effect January 1, 2013; provided, however, that sections two-a, four, five, seven, eight, nine-a, ten, eighteen and nineteen of this act shall take effect April 1, 2013.

PART B

Section 1. Subdivisions 9, 10 and 11 of section 3555 of the public authorities law, as added by chapter 5 of the laws of 1997, are amended to read as follows:

9. to determine the conditions under which a physician may be extended the privilege of practicing within a health facility under the jurisdiction of the corporation, to promulgate internal policies for the conduct of all persons, physicians and allied health practitioners within such facility, and to appoint and grant privileges to qualified and competent clinical practitioners; [and]

10. except as provided in this subdivision or as expressly limited by any applicable state law or regulation, and in support of the powers granted by subdivisions five and six of this section, to form and to participate in the formation of one or more corporations, and to exercise and perform such purposes, powers, duties, functions or activities through one or more subsidiary corporations or other entities owned or controlled wholly or in part by the corporation, which shall be formed pursuant to the business corporation law, the limited liability company law, the not-for-profit corporation law, or the partnership law; any such subsidiary may be authorized to act as a general or limited partner in a partnership or as a member of a limited liability company, and enter into an arrangement calling for an initial and subsequent payment or payments or contributions to capital by such subsidiary in consider-

ation of an interest in revenues or other contractual rights. An entity shall be deemed a subsidiary corporation whenever and so long as (a) more than half of any voting shares or other membership interest of such subsidiary are owned or held by the corporation or (b) a majority of the directors, trustees or members of such subsidiary are designees of the corporation[.];

11. TO TAKE ALL NECESSARY AND APPROPRIATE STEPS AND ARRANGEMENTS TO DEVELOP A PLAN AND, ON OR BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, SEEK THE NECESSARY APPROVALS TO EXECUTE SUCH PLAN WHICH MAY INCLUDE BUT ARE NOT LIMITED TO ENTERING INTO ARRANGEMENTS, MERGERS OR OTHER AFFILIATIONS WITH ONE OR MORE HEALTH CARE, ACADEMIC OR OTHER ENTITIES FOR THE PURPOSES OF PROTECTING AND PROMOTING THE HEALTH OF THE PATIENTS SERVED BY ITS HEALTH FACILITIES, ADVANCING THE CORPORATION'S MISSION OF CONDUCTING INNOVATIVE RESEARCH INTO THE CAUSES AND TREATMENT OF CANCER, SECURING ITS FINANCIAL VIABILITY AND ACHIEVING OPERATIONAL AND FISCAL INDEPENDENCE FROM THE STATE, AND TO THE EXTENT POSSIBLE, CONTRIBUTING TO THE ECONOMIC REVITALIZATION OF THE REGION; PROVIDED THAT THE COMMISSIONER OF HEALTH SHALL MONITOR SUCH STEPS AND ARRANGEMENTS AND PARTICIPATE WITH THE CORPORATION IN ESTABLISHMENT OF GOALS AND BENCHMARKS FOR THE ACHIEVEMENT OF SUCH INDEPENDENCE, AND THE CORPORATION SHALL MAKE REQUESTS FOR ASSISTANCE AND APPROVALS NEEDED TO EXECUTE SUCH STEPS AND ARRANGEMENTS.

12. No subsidiary of the corporation shall own, operate, manage or control the existing research, education, acute inpatient or outpatient facilities and services now operated by the Roswell Park Cancer Institute.

S 2. This act shall take effect April 1, 2012.

PART C

Intentionally omitted

PART D

Section 1. The public health law is amended by adding a new section 2823 to read as follows:

S 2823. SUPPORTIVE HOUSING DEVELOPMENT PROGRAM. 1. FOR THE PURPOSES OF THIS SECTION "ELIGIBLE APPLICANT" SHALL MEAN (A) A UNIT OF LOCAL GOVERNMENT, OR (B) A NOT-FOR-PROFIT CORPORATION THAT HAS BEEN IN EXISTENCE FOR A PERIOD OF AT LEAST ONE YEAR PRIOR TO APPLICATION AND HAS BEEN ENGAGED IN SUPPORTIVE HOUSING PROGRAMS FOR VULNERABLE POPULATIONS.

2. GRANTS PROVIDED PURSUANT TO THIS SECTION SHALL BE USED ONLY TO FUND HOUSING DEVELOPMENT ACTIVITIES AND OTHER GENERAL PROGRAMMATIC ACTIVITIES TO HELP ENSURE A STABLE SYSTEM OF SUPPORTIVE HOUSING FOR VULNERABLE PERSONS IN THE COMMUNITY. REINVESTMENT FUNDS FOR SUPPORTIVE HOUSING FOR VULNERABLE POPULATIONS, WHICH ARE GENERAL FUND SAVINGS DIRECTLY RELATED TO INPATIENT HOSPITAL AND NURSING HOME BED DECERTIFICATION AND/OR FACILITY CLOSURE, SHALL BE ALLOCATED ANNUALLY BY THE COMMISSIONER BASED UPON THE FOLLOWING CRITERIA:

(A) THE EFFICIENCY AND EFFECTIVENESS OF THE USE OF FUNDING FOR THE DEVELOPMENT OF ADEQUATE AND ACCESSIBLE HOUSING TO SUPPORT VULNERABLE PERSONS IN THE COMMUNITY AND TO ENSURE ACCESS TO SUPPORTS NECESSARY TO MAXIMIZE EXPECTED OUTCOMES; AND

(B) OTHER RELEVANT FACTORS RELATING TO THE MAINTENANCE OF EXISTING SUPPORTIVE HOUSING AND THE DEVELOPMENT OF NEW SUPPORTIVE HOUSING AND ASSOCIATED SERVICES.

3. THE COMMISSIONER SHALL ESTABLISH AN APPLICATION PROCESS BY WHICH ELIGIBLE APPLICANTS MAY APPLY FOR A GRANT UNDER THIS SECTION. THE APPLICATION SHALL INCLUDE:

(A) THE GEOGRAPHIC AREA IN WHICH THE HOUSING/SERVICES SHALL BE PROVIDED;

(B) A DETAILED DESCRIPTION OF THE HOUSING/SERVICES TO BE PROVIDED;

(C) A PLAN FOR THE EFFICIENT AND EFFECTIVE USE OF FUNDING FOR THE DEVELOPMENT OF ADEQUATE AND ACCESSIBLE HOUSING TO SUPPORT VULNERABLE PERSONS IN THE COMMUNITY;

(D) OTHER RELEVANT FACTORS RELATING TO THE NEED FOR MAINTENANCE OF EXISTING SUPPORTIVE HOUSING AND THE DEVELOPMENT OF NEW SUPPORTIVE HOUSING AND ASSOCIATED SERVICES; AND

(E) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS RELEVANT AND APPROPRIATE.

4. GRANTEES UNDER THIS SECTION SHALL FILE AN ANNUAL REPORT WITH THE COMMISSIONER, IN SUCH FORM AND WITH SUCH INFORMATION AND DATA AS THE COMMISSIONER PRESCRIBES DETAILING THE EXPENDITURE OF GRANT FUNDS. IN ADDITION, THE COMMISSIONER IS AUTHORIZED AND EMPOWERED TO MAKE INSPECTIONS AND EXAMINE RECORDS OF ANY ENTITY FUNDED PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH EXAMINATION SHALL INCLUDE ALL MEDICAL, SERVICE AND FINANCIAL RECORDS, RECEIPTS, DISBURSEMENTS, CONTRACTS, LOANS AND OTHER MONEYS RELATING TO THE FINANCIAL OPERATION OF THE PROVIDER.

5. THE AMOUNT OF SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT FUNDS FOR THE DEPARTMENT SHALL BE SUBJECT TO ANNUAL APPROPRIATION. THE METHODOLOGIES USED TO CALCULATE THE SAVINGS SHALL BE DEVELOPED BY THE COMMISSIONER AND THE DIRECTOR OF THE BUDGET. IN NO EVENT SHALL THE FULL ANNUAL VALUE OF SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAMS ATTRIBUTABLE TO INPATIENT HOSPITAL AND NURSING HOME BED DECERTIFICATION AND/OR FACILITY CLOSURE EXCEED THE TWELVE MONTH VALUE OF THE DEPARTMENT OF HEALTH GENERAL FUND REDUCTIONS RESULTING FROM SUCH DECERTIFICATION AND/OR FACILITY CLOSURE.

6. THE ANNUAL SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT APPROPRIATION SHALL REFLECT A PROPORTION OF THE AMOUNT OF GENERAL FUND SAVINGS RESULTING FROM SUBDIVISION FIVE OF THIS SECTION. WITHIN ANY FISCAL YEAR WHERE APPROPRIATION INCREASES ARE RECOMMENDED FOR THE SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAM, INSOFAR AS PROJECTED BED DECERTIFICATION AND/OR FACILITY CLOSURES DO NOT OCCUR AS ESTIMATED, AND GENERAL FUND SAVINGS DO NOT RESULT, THEN THE REINVESTMENT APPROPRIATIONS MAY BE REDUCED IN THE NEXT YEAR'S ANNUAL BUDGET ITEMIZATION.

7. NO PROVISION IN THIS SECTION SHALL CREATE OR BE DEEMED TO CREATE ANY RIGHT, INTEREST OR ENTITLEMENT TO SERVICES OR FUNDS THAT ARE SUBJECT TO THIS SECTION, OR TO ANY OTHER SERVICES OR FUNDS, WHETHER TO INDIVIDUALS, LOCALITIES, PROVIDERS OR OTHERS, INDIVIDUALLY OR COLLECTIVELY.

8. THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

S 2. Paragraph (e) of subdivision 1 of section 461-l of the social services law, as added by chapter 165 of the laws of 1991, is amended to read as follows:

(e) "Services" shall mean all services for which full payment to an assisted living program is included in the capitated rate of payment, which shall include personal care services, home care services and such other services as the commissioner in conjunction with the commissioner of health determine by regulation must be included in the capitated rate of payment, and which the assisted living program shall provide, or arrange for the provision of, through contracts with a social services

district, [a] long term home health care [program or a] PROGRAMS, certified home health [agency, and] AGENCIES, AND other qualified providers.

S 3. Paragraphs (b) and (d) of subdivision 2 of section 461-l of the social services law, as added by chapter 165 of the laws of 1991 and subparagraph (iii) of paragraph (d) as amended by chapter 569 of the laws of 2000, are amended to read as follows:

(b) If an assisted living program itself is not a certified home health agency or long term home health care program, the assisted living program shall contract with [a] ONE OR MORE certified home health [agency or] AGENCIES AND/OR long term home health care [program] PROGRAMS for the provision of services pursuant to article thirty-six of the public health law. [An assisted living program shall contract with no more than one certified home health agency or long term home health care program, provided, however, that the commissioner and the commissioner of health may approve additional contracts for good cause.]

(d) Patient services and care. (i) An assisted living program[, or if the assisted living program itself does not include a long term home health care program or certified home health agency an assisted living program and a long term home health care program or certified home health agency,] shall, EITHER DIRECTLY OR THROUGH CONTRACT WITH A LONG TERM HOME HEALTH CARE PROGRAM OR CERTIFIED HOME HEALTH AGENCY, conduct an initial assessment to determine whether a person would otherwise require placement in a residential health care facility if not for the availability of the assisted living program and is appropriate for admission to an assisted living program. [The assisted living program shall forward such assessment of a medical assistance applicant or recipient to the appropriate social services district.]

(ii) No person shall be determined eligible for and admitted to an assisted living program unless the assisted living program [and the long term home health care program or the certified home health care agency agree, based on the initial assessment,] FINDS that the person meets the criteria provided in paragraph (d) of subdivision one of this section [and unless the appropriate social services district prior authorizes payment for services].

(iii) Appropriate services shall be provided to an eligible person only in accordance with a plan of care which is based upon an initial assessment and periodic reassessments conducted by an assisted living program[, or if the assisted living program itself does not include a long term home health care program or certified home health agency an assisted living program and a long term home health care program or certified home health agency], EITHER DIRECTLY OR THROUGH CONTRACT WITH A LONG TERM HOME HEALTH CARE PROGRAM OR CERTIFIED HOME HEALTH AGENCY. A reassessment shall be conducted as frequently as is required to respond to changes in the resident's condition and ensure immediate access to necessary and appropriate services by the resident, but in no event less frequently than once every six months. No person shall be admitted to or retained in an assisted living program unless [the assisted living program, and long term home health care program or certified home health agency are in agreement that] the person can be safely and adequately cared for with the provision of services determined by such assessment or reassessment.

S 4. Paragraph (i) of subdivision 3 of section 461-l of the social services law, as amended by section 16 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

(i) The commissioner of health is authorized to add up to six thousand assisted living program beds to the gross number of assisted living

program beds having been determined to be available as of April first, two thousand nine[, provided that, for each assisted living program bed so added, a nursing home bed has been decertified upon the application of the nursing home operator or that the commissioner of health has found pursuant to subdivision six of section twenty-eight hundred six of the public health law that any assisted living program bed so added would serve as a more appropriate alternative to a certified nursing home bed and has accordingly limited or revoked the operating certificate of the nursing home providing that certified nursing home bed, provided further that nothing]. NOTHING herein shall be interpreted as prohibiting any eligible applicant from submitting an application for any assisted living program bed so added. The commissioner of health shall not be required to review on a comparative basis applications submitted for assisted living program beds made available under this paragraph. The commissioner of health shall only authorize the addition of six thousand beds pursuant to a five year plan.

S 4-a. Paragraph (a) of subdivision 6 of section 3614 of the public health law, as amended by section 17 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

(a) The commissioner shall, subject to the approval of the state director of the budget, establish capitated rates of payment for services provided by assisted living programs as defined by paragraph (a) of subdivision one of section four hundred sixty-one-l of the social services law. Such rates of payment shall be related to costs incurred by residential health care facilities. The rates shall reflect the wage equalization factor established by the commissioner for residential health care facilities in the region in which the assisted living program is provided and real property capital construction costs associated with the construction of a free-standing assisted living program such rate shall include a payment equal to the cost of interest owed and depreciation costs of such construction. The rates shall also reflect the efficient provision of a quality and quantity of services to patients in such residential health care facilities, with needs comparable to the needs of residents served in such assisted living programs. Such rates of payment shall be equal to fifty percent of the amounts which otherwise would have been expended, based upon the mean prices for the first of July, nineteen hundred ninety-two (utilizing nineteen hundred eighty-three costs) for freestanding, low intensity residential health care facilities with less than three hundred beds, and for years subsequent to nineteen hundred ninety-two, adjusted for inflation in accordance with the provisions of subdivision ten of section twenty-eight hundred seven-c of this chapter, to provide the appropriate level of care for such residents in residential health care facilities in the applicable wage equalization factor regions plus an amount equal to capital construction costs associated with the construction of an assisted living program facility as provided for in this subdivision. THE COMMISSIONER SHALL ALSO PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, TO PROVIDE FOR REIMBURSEMENT OF THE COST OF PREADMISSION ASSESSMENTS CONDUCTED DIRECTLY BY ASSISTED LIVING PROGRAMS.

S 5. Notwithstanding any contrary provision of law, inpatient hospitals licensed pursuant to the mental hygiene law by the office of mental health shall be subject to audit fees as set forth in regulations issued by the department of health pursuant to subparagraph (xiii) of paragraph (D) of subdivision 35 of section 2807-c of the public health law, with regard to cost reports submitted to the department of health on and after April 1, 2012.

S 6. Subdivision 2 of section 365-a of the social services law is amended by adding four new paragraphs (w), (x), (y) and (z) to read as follows:

(W) PODIATRY SERVICES FOR INDIVIDUALS WITH A DIAGNOSIS OF DIABETES MELLITUS; 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.

(X) LACTATION COUNSELING SERVICES FOR PREGNANT AND POSTPARTUM WOMEN WHEN SUCH SERVICES ARE ORDERED BY A PHYSICIAN, REGISTERED PHYSICIAN ASSISTANT, REGISTERED NURSE PRACTITIONER, OR LICENSED MIDWIFE AND PROVIDED BY A CERTIFIED LACTATION CONSULTANT, AS DETERMINED BY THE COMMISSIONER OF HEALTH; 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.

(Y) HARM REDUCTION COUNSELING AND SERVICES TO REDUCE OR MINIMIZE THE ADVERSE HEALTH CONSEQUENCES ASSOCIATED WITH DRUG USE, PROVIDED BY A QUALIFIED DRUG TREATMENT PROGRAM OR COMMUNITY-BASED ORGANIZATION, AS DETERMINED BY THE COMMISSIONER OF HEALTH; 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.

(Z) HEPATITIS C WRAP-AROUND SERVICES TO PROMOTE CARE COORDINATION AND INTEGRATION WHEN ORDERED BY A PHYSICIAN, REGISTERED PHYSICIAN ASSISTANT, REGISTERED NURSE PRACTITIONER, OR LICENSED MIDWIFE, AND PROVIDED BY A QUALIFIED PROFESSIONAL, AS DETERMINED BY THE COMMISSIONER OF HEALTH. SUCH SERVICES MAY INCLUDE CLIENT OUTREACH, IDENTIFICATION AND RECRUITMENT, HEPATITIS C EDUCATION AND COUNSELING, COORDINATION OF CARE AND ADHERENCE TO TREATMENT, ASSISTANCE IN OBTAINING APPROPRIATE ENTITLEMENT SERVICES, PEER SUPPORT AND OTHER SUPPORTIVE SERVICES; 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.

S 7. Paragraph (g) of subdivision 2 of section 365-a of the social services law, as amended by section 23 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(g) sickroom supplies, eyeglasses, prosthetic appliances and dental prosthetic appliances furnished in accordance with the regulations of the department; provided further that: (i) the commissioner of health is authorized to implement a preferred diabetic supply program wherein the department of health will receive enhanced rebates from preferred manufacturers of glucometers and test strips, and may subject non-preferred manufacturers' glucometers and test strips to prior authorization under section two hundred seventy-three of the public health law; (ii) enteral formula therapy and nutritional supplements are limited to

coverage only for nasogastric, jejunostomy, or gastrostomy tube feeding [or], for treatment of an inborn metabolic disorder, or to address growth and development problems in children, OR, SUBJECT TO STANDARDS ESTABLISHED BY THE COMMISSIONER, FOR PERSONS WITH A DIAGNOSIS OF HIV INFECTION, AIDS OR HIV-RELATED ILLNESS OR OTHER DISEASES AND CONDITIONS; (iii) prescription footwear and inserts are limited to coverage only when used as an integral part of a lower limb orthotic appliance, as part of a diabetic treatment plan, or to address growth and development problems in children; and (iv) compression and support stockings are limited to coverage only for pregnancy or treatment of venous stasis ulcers;

S 8. Subdivision 9 of section 4403-c of the public health law, as added by chapter 649 of the laws of 1996, is amended to read as follows:

9. Notwithstanding any other provision of law, a comprehensive HIV special needs plan certified pursuant to this section shall limit enrollment to HIV positive persons [but may enroll related children up to the age of nineteen], EXCEPT FOR THE FOLLOWING PERSONS WHO MAY BE ENROLLED regardless of their HIV status[.]:

(A) RELATED CHILDREN UP TO THE AGE OF TWENTY-ONE; AND

(B) INDIVIDUALS WHO ARE HOMELESS OR WHO ARE MEMBERS OF OTHER HIGH NEED POPULATIONS WHICH, IN THE DISCRETION OF THE COMMISSIONER, WOULD BENEFIT FROM RECEIVING SERVICES THROUGH A PLAN CERTIFIED PURSUANT TO THIS SECTION; PROVIDED HOWEVER, THAT RATES PAID TO SPECIAL NEEDS PLANS FOR SUCH POPULATIONS SHALL BE COMPARABLE TO RATES PAID FOR THE SAME POPULATIONS IN OTHER MANAGED CARE PLANS.

S 9. Paragraph (f) of subdivision 1 of section 367-a of the social services law, as added by section 1 of part E of chapter 58 of the laws of 2008, is amended to read as follows:

(f) Amounts payable under this title for medical assistance in the form of outpatient mental health services under article thirty-one OR OUTPATIENT CHEMICAL DEPENDENCE SERVICES INCLUDING OPIOID TREATMENT SERVICES UNDER ARTICLE THIRTY-TWO of the mental hygiene law provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act shall not be less than the approved medical assistance payment level less the amount payable under part B.

S 10. Intentionally omitted.

S 11. Intentionally omitted.

S 12. Intentionally omitted.

S 13. Intentionally omitted.

S 14. Intentionally omitted.

S 15. Intentionally omitted.

S 16. Intentionally omitted.

S 17. Intentionally omitted.

S 18. Intentionally omitted.

S 19. Subdivisions (f) and (g) of section 2522 of the public health law, as amended by chapter 484 of the laws of 2009, are amended and a new subdivision (h) is added to read as follows:

(f) follow-up of patient participation in prenatal care services; [and]

(g) identification of regional perinatal health care system barriers and limitations that lead to poor perinatal outcomes and development of strategies to address such barriers and limitations[.]; AND

(H) COORDINATION OF SERVICE DELIVERY BY COMMUNITY-BASED ORGANIZATIONS AMONG HEALTH CARE PROVIDERS AND HEALTH PLANS USING HEALTH INFORMATION TECHNOLOGY AND UNIFORM SCREENING CRITERIA FOR PERINATAL RISK.

S 20. Subdivision 6 of section 2818 of the public health law, as added by section 25-a of part A of chapter 59 of the laws of 2011, is amended to read as follows:

6. Notwithstanding any contrary provision of this section, sections one hundred twelve and one hundred sixty-three of the state finance law, or any other contrary provision of law, subject to available appropriations, funds available for expenditure pursuant to this section may be distributed by the commissioner without a competitive bid or request for proposal process for grants to general hospitals and residential health care facilities for the purpose of facilitating closures, mergers and restructuring of such facilities in order to strengthen and protect continued access to essential health care resources. PROVIDED HOWEVER, THAT TO THE EXTENT PRACTICABLE, THE COMMISSIONER SHALL AWARD SUCH GRANTS EQUITABLY AMONG HEALTH PLANNING REGIONS OF THE STATE. Prior to an [awarded] AWARD being granted to an eligible applicant without a competitive bid or request for proposal process, the commissioner shall notify the chair of the senate finance committee, the chair of the assembly ways and means committee and the director of the division of budget of the intent to grant such an award. Such notice shall include information regarding how the eligible applicant meets criteria established pursuant to this section.

S 21. The social services law is amended by adding a new section 461-s to read as follows:

S 461-S. ENHANCING THE QUALITY OF ADULT LIVING PROGRAM FOR ADULT CARE FACILITIES. 1. THE COMMISSIONER OF HEALTH SHALL ESTABLISH THE ENHANCED QUALITY OF ADULT LIVING PROGRAM (REFERRED TO IN THIS SECTION AS THE "EQUAL PROGRAM" OR THE "PROGRAM") FOR ADULT CARE FACILITIES. THE PROGRAM SHALL BE TARGETED AT IMPROVING THE QUALITY OF LIFE FOR ADULT CARE FACILITY RESIDENTS BY MEANS OF GRANTS TO FACILITIES FOR SPECIFIED PURPOSES. THE DEPARTMENT OF HEALTH, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, SHALL DEVELOP AN ALLOCATION METHODOLOGY TAKING INTO ACCOUNT THE FINANCIAL STATUS AND SIZE OF THE FACILITY AS WELL AS RESIDENT NEEDS.

2. NO PAYMENT SHALL BE MADE UNDER THE PROGRAM TO A FACILITY THAT HAS RECEIVED OFFICIAL WRITTEN NOTICE FROM THE DEPARTMENT OF A PROPOSED REVOCATION, SUSPENSION, LIMITATION OR DENIAL OF THE OPERATOR'S OPERATING CERTIFICATE.

3. PRIOR TO APPLYING FOR EQUAL PROGRAM FUNDS, A FACILITY SHALL RECEIVE APPROVAL OF ITS EXPENDITURE PLAN FROM THE RESIDENTS' COUNCIL FOR THE FACILITY.

S 22. Section 366 of the social services law is amended by adding a new subdivision 15 to read as follows:

15. THE COMMISSIONER MAY CONTRACT WITH ONE OR MORE ENTITIES TO ENGAGE IN EDUCATION, OUTREACH SERVICES, AND FACILITATED ENROLLMENT ACTIVITIES FOR AGED, BLIND, AND DISABLED PERSONS WHO MAY BE ELIGIBLE FOR COVERAGE UNDER THIS TITLE.

S 23. The public health law is amended by adding a new article 9-B to read as follows:

ARTICLE 9-B

PRIMARY CARE SERVICE CORPS PRACTITIONER LOAN REPAYMENT PROGRAM

SECTION 923. DEFINITIONS.
924. PRIMARY CARE SERVICE CORPS PRACTITIONER LOAN REPAYMENT PROGRAM.

S 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 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 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 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 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 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 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 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 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 AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAYMENT PROGRAM ELIGIBILITY CRITERIA.

S 924. PRIMARY CARE SERVICE CORPS PRACTITIONER LOAN REPAYMENT PROGRAM. 1. THE COMMISSIONER IS AUTHORIZED, WITHIN AMOUNTS AVAILABLE THEREFOR, TO MAKE LOAN REPAYMENT AWARDS TO ELIGIBLE PRIMARY CARE SERVICE CORPS PRACTITIONERS WHO AGREE TO PRACTICE FULL-TIME IN AN UNDERSERVED AREA IN NEW YORK STATE, IN AMOUNTS TO BE DETERMINED BY THE COMMISSIONER, BUT NOT TO EXCEED THIRTY-TWO THOUSAND DOLLARS PER YEAR FOR ANY YEAR IN WHICH SUCH PRACTITIONERS PROVIDE FULL-TIME ELIGIBLE OBLIGATED SERVICE.

2. LOAN REPAYMENT AWARDS MADE TO A PRIMARY CARE SERVICE CORPS PRACTITIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT EXCEED THE TOTAL QUALIFYING OUTSTANDING DEBT OF THE PRACTITIONER FROM STUDENT LOANS TO COVER TUITION AND OTHER RELATED EDUCATIONAL EXPENSES, MADE BY OR GUARANTEED BY THE FEDERAL OR STATE GOVERNMENT, OR MADE BY A LENDING OR EDUCATIONAL INSTITUTION APPROVED UNDER TITLE IV OF THE FEDERAL HIGHER EDUCATION ACT. LOAN REPAYMENT AWARDS SHALL BE USED SOLELY TO REPAY SUCH OUTSTANDING DEBT.

3. IN THE EVENT THAT ANY COMMITMENT PURSUANT TO THE AGREEMENT REFERENCED IN SUBDIVISION ONE OF THIS SECTION IS NOT FULFILLED, THE RECIPIENT SHALL BE RESPONSIBLE FOR REPAYMENT IN AMOUNTS WHICH SHALL BE CALCULATED IN ACCORDANCE WITH THE FORMULA SET FORTH IN SUBDIVISION (B) OF SECTION TWO HUNDRED FIFTY-FOUR-O OF TITLE FORTY-TWO OF THE UNITED STATES CODE, AS AMENDED.

4. THE COMMISSIONER IS AUTHORIZED TO APPLY ANY FUNDS AVAILABLE FOR PURPOSES OF SUBDIVISION ONE OF THIS SECTION FOR USE AS MATCHING FUNDS FOR ANY AVAILABLE FEDERAL GRANTS FOR THE PURPOSE OF ASSISTING STATES IN OPERATING LOAN REPAYMENT PROGRAMS.

5. THE COMMISSIONER MAY POSTPONE, CHANGE OR WAIVE THE SERVICE OBLIGATION AND REPAYMENTS AMOUNTS SET FORTH IN SUBDIVISIONS ONE AND THREE OF THIS SECTION, RESPECTIVELY, IN INDIVIDUAL CIRCUMSTANCES WHERE THERE IS COMPELLING NEED OR HARDSHIP.

6. IN ORDER TO BE ELIGIBLE TO RECEIVE A LOAN REPAYMENT AWARD UNDER THIS SECTION, A PRIMARY CARE SERVICE CORPS PRACTITIONER MUST MEET SITE AND SERVICE ELIGIBILITY CRITERIA AS DETERMINED BY THE COMMISSIONER.

7. THE COMMISSIONER SHALL PROMULGATE REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE.

S 24. Intentionally omitted.

S 25. Intentionally omitted.

S 26. Section 2803 of the public health law is amended by adding a new subdivision 8-a to read as follows:

8-A. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER SHALL DEVELOP A PROGRAM TO FACILITATE THE USE OF A TRIAGE SYSTEM OF CARE IN EMERGENCY ROOMS OF HOSPITALS THAT ARE SUBJECT TO THE PROVISIONS OF THIS ARTICLE. IN DEVELOPING SUCH PROGRAM THE COMMISSIONER SHALL CONSIDER THE MANNER IN WHICH SUCH A SYSTEM WOULD BE COORDINATED, HOW SUCH A SYSTEM WOULD PROVIDE GREATER EFFICIENCY, PROVIDE COST SAVINGS TO PUBLIC HEALTH PROGRAMS AND A HIGHER QUALITY OF CARE. WITHIN ONE YEAR FROM THE ENACTMENT OF SUCH PROGRAM, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY REGARDING: THE IMPACT OF SUCH A SYSTEM ON THE COST OF MEDICAID COVERED SERVICES IN THE HOSPITAL SETTING; QUALITY OF CARE IN FACILITIES; ALONG WITH ANY OTHER DATA AS MAY BE APPROPRIATE.

S 27. Intentionally omitted.

S 28. Section 2 of chapter 584 of the laws of 2011, amending the public authorities law, relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, is amended to read as follows:

S 2. This act shall take effect immediately and shall expire and be deemed repealed ON July 1, [2012] 2014; provided however, that the expiration of this act shall not impair or otherwise affect any of the powers, duties, responsibilities, functions, rights or liabilities of any subsidiary duly created pursuant to subdivision twenty-five of section 1678 of the public authorities law prior to such expiration.

S 28-a. Paragraph (a) of subdivision 25 of section 1678 of the public authorities law, as amended by chapter 584 of the laws of 2011, is amended to read as follows:

(a) To form one or more subsidiaries for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by THIS article [eight of this chapter] in connection with the exercise of remedies by the authority against any borrower REGULATED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW that has defaulted in its obligations under its loan agreement or mortgage with the authority and for which an event of default has been declared by the authority. Each such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority (other than the issuance of indebtedness) in connection with real and personal property with respect to which the authority holds or held a mortgage, security interest or other collateral interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all instances subject to the provisions of any contract with bondholders, the transfer of title to any such subsidiary or any other actions taken by the authority or such subsidiary to enforce the authority's rights under the mortgage, security interest or other collateral interest or to protect, acquire, manage or dispose of the property shall be deemed to be a corporate purpose of the authority and shall not impair the validity of any bonds, notes or other obligations of the authority to which the mortgage, security interest or other collateral interest relates.

S 29. Subdivision 1 of section 2999-i of the public health law, as added by section 52 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

1. (A) The commissioner of taxation and finance shall be the custodian of the fund and the special account established pursuant to section ninety-nine-t of the state finance law. All payments from the fund shall be made by the commissioner of taxation and finance upon certificates signed by the superintendent of financial services, or his or her designee, as hereinafter provided. The fund shall be separate and apart from any other fund and from all other state monies; PROVIDED, HOWEVER, THAT MONIES OF THE FUND MAY BE INVESTED AS SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION. No monies from the fund shall be transferred to any other fund, nor shall any such monies be applied to the making of any payment for any purpose other than the purpose set forth in this title.

(B) ANY MONIES OF THE FUND NOT REQUIRED FOR IMMEDIATE USE MAY, AT THE DISCRETION OF THE COMMISSIONER OF FINANCIAL SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE DIRECTOR OF THE BUDGET, BE

INVESTED BY THE COMMISSIONER OF TAXATION AND FINANCE IN OBLIGATIONS OF THE UNITED STATES OR THE STATE OR OBLIGATIONS THE PRINCIPAL AND INTEREST OF WHICH ARE GUARANTEED BY THE UNITED STATES OR THE STATE. THE PROCEEDS OF ANY SUCH INVESTMENT SHALL BE RETAINED BY THE FUND AS ASSETS TO BE USED FOR THE PURPOSES OF THE FUND.

S 30. Intentionally omitted.

S 31. Paragraph (b) of subdivision 1-a of section 2802 of the public health law, as amended by chapter 174 of the laws of 2011, is amended to read as follows:

(b) repair or maintenance, regardless of cost, including routine purchases and the acquisition of minor equipment undertaken in the course of a hospital's inventory control functions; PROVIDED THAT FOR PROJECTS UNDER THIS PARAGRAPH WITH A TOTAL COST OF UP TO SIX MILLION DOLLARS, NO WRITTEN NOTICE SHALL BE REQUIRED;

S 32. Subdivision 1 of section 1 of chapter 119 of the laws of 1997 relating to authorizing the department of health to establish certain payments to general hospitals, as amended by section 1 of part S2 of chapter 62 of the laws of 2003, is amended to read as follows:

1. Notwithstanding any inconsistent provision of law or regulation, effective for the period [April 1, 1997 through March 31, 1998] APRIL 1, 2012 THROUGH DECEMBER 31, 2012 and for annual periods beginning [April] JANUARY 1 thereafter, the [department] DEPARTMENT of [health] HEALTH is authorized to pay voluntary non-profit general hospitals as defined in subdivision 10 of section 2801 of the public health law additional payments for inpatient hospital services as medical assistance payments pursuant to title 11 of article 5 of the social services law and federal law and regulations governing disproportionate share payments, based on the [amount of state aid for which such general hospitals are eligible pursuant to articles 25, 26 and 41 of the mental hygiene law and as identified in subdivision 2 of this section] COSTS INCURRED IN EXCESS OF REVENUES BY GENERAL HOSPITALS IN PROVIDING SERVICES IN ELIGIBLE PROGRAMS TO UNINSURED PATIENTS AND PATIENTS ELIGIBLE FOR MEDICAL ASSISTANCE. Payment made pursuant to this section shall not exceed each such general hospital's cost of providing services to uninsured patients and patients eligible for medical assistance pursuant to title 11 of article 5 of the social services law after taking into consideration all other medical assistance received, including disproportionate share payments made to such general hospital, and payments from or on behalf of such uninsured patients, and shall also not exceed the total amount of state aid, identified by subdivision 2 of this section, available to such general hospital by law. Payments made to such general hospitals pursuant to this section shall be made in lieu of any state aid payments available to such general hospital by law.

S 33. Intentionally omitted.

S 33-a. Intentionally omitted.

S 33-b. Intentionally omitted.

S 33-c. Intentionally omitted.

S 33-d. Intentionally omitted.

S 33-e. Intentionally omitted.

S 33-f. Intentionally omitted.

S 33-g. Intentionally omitted.

S 34. Subdivision 25 of section 2808 of the public health law, as added by section 31 of part B of chapter 109 of the laws of 2010, subparagraph (iii) of paragraph (b) as amended and subparagraph (iv) of paragraph (b) as added by section 69 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

25. Reserved bed days. (a) For purposes of this subdivision, a "reserved bed day" is a day for which a governmental agency pays a residential health care facility to reserve a bed for a person eligible for medical assistance pursuant to title eleven of article five of the social services law while he or she is temporarily hospitalized or on leave of absence from the facility.

(b) Notwithstanding any other provisions of this section or any other law or regulation to the contrary, for reserved bed days provided on behalf of persons twenty-one years of age or older:

(i) payments for reserved bed days shall be made at ninety-five percent of the Medicaid rate otherwise payable to the facility for services provided on behalf of such person;

(ii) payment to a facility for reserved bed days provided on behalf of such person for temporary hospitalizations may not exceed fourteen days in any twelve month period;

(iii) payment to a facility for reserved bed days provided on behalf of such person for non-hospitalization leaves of absence may not exceed ten days in any twelve month period[; and

(iv) payments for reserved bed days for temporary hospitalizations shall only be made to a residential health care facility if at least fifty percent of the facility's residents eligible to participate in a Medicare managed care plan are enrolled in such a plan].

(C)(I) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SUBDIVISION OR ANY OTHER LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, WITH REGARD TO SERVICES PROVIDED TO RESIDENTIAL HEALTH CARE FACILITY RESIDENTS TWENTY-ONE YEARS OF AGE AND OLDER, THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, EFFECTIVE FOR PERIODS ON AND AFTER JULY FIRST, TWO THOUSAND TWELVE, ESTABLISHING REIMBURSEMENT RATES FOR RESERVED BED DAYS.

(II) SUCH REGULATIONS SHALL, FOR EACH MEDICAID PATIENT FOR ANY TWELVE MONTH PERIOD, PROVIDE FOR REIMBURSEMENT FOR RESERVED BED DAYS FOR: (A) UP TO AN AGGREGATE OF FOURTEEN DAYS FOR HOSPITALIZATIONS AND FOR OTHER THERAPEUTIC LEAVE OF ABSENCES CONSISTENT WITH A PLAN OF CARE ORDERED BY SUCH PATIENT'S TREATING HEALTH CARE PROFESSIONAL; AND (B) UP TO AN AGGREGATE OF TEN DAYS OF OTHER LEAVES OF ABSENCE.

(III) NO LATER THAN THIRTY DAYS AFTER PROMULGATION OF SUCH REGULATIONS, THE COMMISSIONER SHALL ADVISE THE CHAIRS OF THE SENATE AND ASSEMBLY FINANCE AND HEALTH COMMITTEES OF THE PROJECTED REDUCTIONS EXPECTED TO BE ACHIEVED UNDER THE METHODOLOGY SET FORTH IN SUCH REGULATIONS.

(IV) IN THE EVENT THE COMMISSIONER DETERMINES, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, THAT THE REGULATIONS PROMULGATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL ACHIEVE PROJECTED AGGREGATE MEDICAID SAVINGS, AS DETERMINED BY THE COMMISSIONER, OF LESS THAN FORTY MILLION DOLLARS FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND TWELVE, AND EACH STATE FISCAL YEAR THEREAFTER, THE COMMISSIONER SHALL ESTABLISH A PROSPECTIVE PER DIEM RATE ADJUSTMENT FOR ALL NURSING HOMES, OTHER THAN NURSING HOMES PROVIDING SERVICES PRIMARILY TO CHILDREN UNDER THE AGE OF TWENTY-ONE, SUFFICIENT TO ACHIEVE SUCH FORTY MILLION DOLLARS IN SAVINGS FOR EACH SUCH STATE FISCAL YEAR.

S 34-a. Notwithstanding any contrary provision of law, the department of health shall consult with stakeholders about effectively extending managed long term care to the nursing home population in a manner that reasonably addresses concerns regarding capital financing and its impact on payment rates.

S 34-b. Workgroup on medicaid payment for services for medically fragile children. 1. The commissioner of health and the commissioner of the office for people with developmental disabilities shall convene and co-chair, directly or through a designee or designees, a workgroup on Medicaid payment for services for medically fragile children (referred to in this section as the "workgroup") to make recommendations on the adequacy and viability of Medicaid payment rates to certain pediatric providers who provide critical services for medically fragile children including recommendations on appropriate models for care coordination and the transition of the pediatric nursing home population and benefit into Medicaid managed care, including home care agencies affiliated with pediatric nursing homes and diagnostic and treatment centers which primarily serve medically fragile children.

2. The workgroup shall be comprised of stakeholders of medically fragile children, including providers or representatives of pediatric nursing homes, home care agencies affiliated with such pediatric nursing homes and diagnostic and treatment centers which primarily serve medically fragile children (including pediatric rehabilitation diagnostic and treatment centers), representatives of families of medically fragile children, and other experts on Medicaid payment for services for medically fragile children. Members (other than representatives of families of medically fragile children) shall have demonstrated knowledge and experience in providing care to medically fragile children in pediatric nursing homes and diagnostic and treatment centers, including providers who provide care primarily to the Medicaid population, or expertise in Medicaid payment for such services. Members shall be permitted to participate in workgroup meetings by telephone or videoconference, and reasonable efforts shall be made to enhance opportunities for in-person participation in meetings by members who are representatives of families of medically fragile children.

3. The commissioners shall present the findings and recommendations of the department of health, the office for people with developmental disabilities and the workgroup to the governor, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate health committee and the chair of the assembly health committee by October 1, 2012 at which time the workgroup shall terminate its work and be relieved of all responsibilities and duties hereunder. During the timeframe in which the workgroup is deliberating, the commissioner of health shall take steps to assist pediatric rehabilitation clinics.

S 35. Paragraphs (l) and (m) of subdivision 1 of section 367-q of the social services law, as added by section 22 of part C of chapter 59 of the laws of 2011, are amended to read as follows:

(l) for the period April first, two thousand twelve through March thirty-first, two thousand thirteen, UP TO twenty-eight million five hundred thousand dollars; and

(m) for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen, UP TO twenty-eight million five hundred thousand dollars.

S 35-a. Clause (K) of subparagraph (i) of paragraph (bb) of subdivision 1 of section 2807-v of the public health law, as amended by section 8 of part C of chapter 59 of the laws of 2011, is amended to read as follows:

(K) UP TO one hundred thirty-six million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

S 35-b. Subparagraph (xi) of paragraph (cc) of subdivision 1 of section 2807-v of the public health law, as amended by section 8 of part C of chapter 59 of the laws of 2011, is amended to read as follows:

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

S 35-c. Subparagraph (vii) of paragraph (ccc) of subdivision 1 of section 2807-v of the public health law, as amended by section 8 of part C of chapter 59 of the laws of 2011, is amended to read as follows:

(vii) UP TO fifty million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

S 36. The public health law is amended by adding a new section 2807-z to read as follows:

S 2807-Z. LIMITED OR ADMINISTRATIVE REVIEW. 1. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR REGULATIONS OR ANY OTHER STATE LAW OR REGULATION, FOR ANY ELIGIBLE CAPITAL PROJECT AS DEFINED IN SUBDIVISION SIX OF THIS SECTION, THE DEPARTMENT SHALL HAVE THIRTY DAYS OF RECEIPT OF THE CERTIFICATE OF NEED APPLICATION FOR A LIMITED OR ADMINISTRATIVE REVIEW TO DEEM SUCH APPLICATION COMPLETE. IF THE DEPARTMENT DETERMINES THE APPLICATION IS INCOMPLETE OR THAT MORE INFORMATION IS REQUIRED, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING WITHIN THIRTY DAYS OF THE DATE OF THE APPLICATION'S SUBMISSION, AND THE APPLICANT SHALL HAVE TWENTY BUSINESS DAYS TO PROVIDE ADDITIONAL INFORMATION OR OTHERWISE CORRECT THE DEFICIENCY IN THE APPLICATION.

2. FOR AN ELIGIBLE CAPITAL PROJECT REQUIRING A LIMITED OR ADMINISTRATIVE REVIEW, WITHIN NINETY DAYS OF THE DEPARTMENT DEEMING THE APPLICATION COMPLETE, THE DEPARTMENT SHALL MAKE A DECISION TO APPROVE (AND IN THE CASE OF LIMITED REVIEWS) OR DISAPPROVE THE CERTIFICATE OF NEED APPLICATION FOR SUCH PROJECT. IF THE DEPARTMENT DETERMINES TO DISAPPROVE THE PROJECT, THE BASIS FOR SUCH DISAPPROVAL SHALL BE PROVIDED IN WRITING; HOWEVER, DISAPPROVAL SHALL NOT BE BASED ON THE INCOMPLETENESS OF THE APPLICATION. IF THE DEPARTMENT FAILS TO TAKE ACTION TO APPROVE OR DISAPPROVE THE APPLICATION WITHIN NINETY DAYS OF THE CERTIFICATE OF NEED APPLICATION BEING DEEMED COMPLETE, THE APPLICATION WILL BE DEEMED APPROVED.

3. FOR AN ELIGIBLE CAPITAL PROJECT REQUIRING FULL REVIEW BY THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL, THE CERTIFICATE OF NEED APPLICATION SHALL BE PLACED ON THE NEXT PHHPC AGENDA FOLLOWING THE DEPARTMENT DEEMING THE APPLICATION COMPLETE.

4. WHERE THE COMMISSIONER OR DEPARTMENT REQUIRES THE APPLICANT TO SUBMIT A CONTINGENCY SUBMISSION FOR AN ELIGIBLE CAPITAL PROJECT, THE COMMISSIONER OR DEPARTMENT SHALL HAVE THIRTY DAYS TO REVIEW AND APPROVE OR DISAPPROVE THE CONTINGENCY SUBMISSION. IF THE COMMISSIONER OR DEPARTMENT DETERMINES THAT THE CONTINGENCY SUBMISSION IS INCOMPLETE, IT SHALL SO NOTIFY THE APPLICANT IN WRITING AND PROVIDE THE APPLICANT WITH TEN BUSINESS DAYS TO CORRECT THE DEFICIENCY OR PROVIDE ADDITIONAL INFORMATION. IF THE COMMISSIONER OR DEPARTMENT DETERMINES TO DISAPPROVE THE CONTINGENCY OF THE SUBMISSION, THE BASIS FOR SUCH DISAPPROVAL SHALL BE PROVIDED IN WRITING; HOWEVER, DISAPPROVAL SHALL NOT BE BASED ON THE INCOMPLETENESS OF THE APPLICATION. WITHIN FIFTEEN DAYS OF COMPLETE CONTINGENCY SATISFACTION, THE COMMISSIONER OR DEPARTMENT SHALL TRANSMIT THE FINAL APPROVAL LETTER TO THE APPLICANT.

5. THE DEPARTMENT SHALL DEVELOP EXPEDITED PRE-OPENING SURVEY PROCESSES FOR ELIGIBLE CAPITAL PROJECTS APPROVED UNDER SUBDIVISION ONE OF THIS

SECTION, BUT UNDER NO CIRCUMSTANCES SHALL PRE-OPENING SURVEY REVIEWS BE SCHEDULED LATER THAN THIRTY DAYS AFTER FINAL APPROVAL.

6. "ELIGIBLE CAPITAL PROJECT" SHALL MEAN:

(A) A PROJECT WHOSE TOTAL BUDGET IS THREE MILLION DOLLARS OR MORE FUNDED WITH FEDERAL MONIES PURSUANT TO SECTION 330 OF THE PUBLIC HEALTH SERVICE (PHS), 42 USC 254B, AS AMENDED; OR

(B) A PROJECT WHOSE TOTAL BUDGET IS THREE MILLION DOLLARS OR MORE FUNDED WITH FEDERAL MONIES PURSUANT TO THE FEDERAL CAPITAL DEVELOPMENT-BUILDING CAPACITY (CD-BC) GRANT PROGRAM AND IMMEDIATE FACILITY IMPROVEMENTS (CD-IFI) GRANT PROGRAM, AS AUTHORIZED BY THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (AFFORDABLE CARE ACT)((P.L. 111-148), SECTION 10503(C)).

CAPITAL PROTECTS FUNDED IN WHOLE OR IN PART THROUGH SECTION 330 OF THE PUBLIC HEALTH SERVICE (PHS), 42 USC 254B, AS AMENDED, OR WHOSE TOTAL BUDGET IS LESS THAN THREE MILLION DOLLARS SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS SECTION OR THE FEDERAL CAPITAL DEVELOPMENT-BUILDING CAPACITY (CD-BC) GRANT PROGRAM AND IMMEDIATE FACILITY IMPROVEMENTS (CD-IFI) GRANT PROGRAM, AS AUTHORIZED BY THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (AFFORDABLE CARE ACT)((P.L. 111-148), SECTION 10503(C)), SHALL NOT BE SUBJECT TO THE REQUIREMENTS SET FORTH IN THIS SECTION OR ANY OTHER LAW OR REGULATION REGARDING CERTIFICATE OF NEED PROCESS OR REQUIREMENTS.

S 37. Subdivision 6 of section 368-d of the social services law, as added by section 6 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

6. The commissioner shall evaluate the results of the study conducted pursuant to subdivision four of this section to determine, after identification of actual direct and indirect costs incurred by public school districts and state operated[/] AND state supported schools FOR BLIND AND DEAF STUDENTS, whether it is advisable to claim federal reimbursement for expenditures under this section as certified public expenditures. In the event such claims are submitted, if federal reimbursement received for certified public expenditures on behalf of medical assistance recipients whose assistance and care are the responsibility of a social services district [in a city with a population of over two million,] results in a decrease in the state share of annual expenditures pursuant to this section for such recipients, then to the extent that the amount of any such decrease when combined with any decrease in the state share of annual expenditures described in subdivision five of section three hundred sixty-eight-e of this title exceeds ONE HUNDRED fifty million dollars FOR THE PERIOD APRIL 1, 2011 THROUGH MARCH 31, 2013, OR EXCEEDS ONE HUNDRED MILLION DOLLARS IN STATE FISCAL YEAR 2012-13 OR ANY FISCAL YEAR THEREAFTER, the excess amount shall be transferred to such [city] PUBLIC SCHOOL DISTRICTS AND STATE OPERATED AND STATE SUPPORTED SCHOOLS FOR BLIND AND DEAF STUDENTS IN AMOUNTS PROPORTIONAL TO THEIR PERCENTAGE CONTRIBUTION TO THE STATEWIDE SAVINGS. Any such excess amount transferred shall not be considered a revenue received by such social services district in determining the district's actual medical assistance expenditures for purposes of paragraph (b) of section one of part C of chapter fifty-eight of the laws of two thousand five.

S 38. Subdivision 5 of section 368-e of the social services law, as added by section 7 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

5. The commissioner shall evaluate the results of the study conducted pursuant to subdivision three of this section to determine, after identification of actual direct and indirect costs incurred by counties for

medical care, services, and supplies furnished to pre-school children with handicapping conditions, whether it is advisable to claim federal reimbursement for expenditures under this section as certified public expenditures. In the event such claims are submitted, if federal reimbursement received for certified public expenditures on behalf of medical assistance recipients whose assistance and care are the responsibility of a social services district [in a city with a population of over two million], results in a decrease in the state share of annual expenditures pursuant to this section for such recipients, then to the extent that the amount of any such decrease when combined with any decrease in the state share of annual expenditures described in subdivision six of section three hundred sixty-eight-d of this title exceeds ONE HUNDRED fifty million dollars FOR THE PERIOD APRIL 1, 2011 THROUGH MARCH 31, 2013, OR EXCEEDS ONE HUNDRED MILLION DOLLARS IN STATE FISCAL YEAR 2012-13 OR ANY FISCAL YEAR THEREAFTER, the excess amount shall be transferred to such [city] COUNTIES IN AMOUNTS PROPORTIONAL TO THEIR PERCENTAGE CONTRIBUTION TO THE STATEWIDE SAVINGS. Any such excess amount transferred shall not be considered a revenue received by such social services district in determining the district's actual medical assistance expenditures for purposes of paragraph (b) of section one of part C of chapter fifty-eight of the laws of two thousand five.

S 39. Subparagraph (i) of paragraph (a-1) of subdivision 4 of section 365-a of the social services law, as amended by section 46 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(i) a brand name drug for which a multi-source therapeutically and generically equivalent drug, as determined by the federal food and drug administration, is available, unless previously authorized by the department of health. The commissioner of health is authorized to exempt, for good cause shown, any brand name drug from the restrictions imposed by this subparagraph[. This subparagraph shall not apply to any drug that is in a therapeutic class included on the preferred drug list under section two hundred seventy-two of the public health law or is in the clinical drug review program under section two hundred seventy-four of the public health law];

S 40. Paragraph (u) of subdivision 4 of section 364-j of the social services law, as added by section 19 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(u) A managed care provider that provides coverage for prescription drugs shall permit each participant to fill any mail order covered prescription, at his or her option, at any mail order pharmacy or non-mail-order retail pharmacy in the managed care provider network, if the non-mail-order retail pharmacy offers to accept a price that is comparable to that of the mail order pharmacy. EVERY NON-MAIL-ORDER RETAIL PHARMACY IN THE MANAGED CARE PROVIDER'S NETWORK WITH RESPECT TO ANY PRESCRIPTION DRUG SHALL BE DEEMED TO BE IN THE MANAGED CARE PROVIDER'S NETWORK FOR EVERY COVERED PRESCRIPTION DRUG; PROVIDED, HOWEVER, THAT THE MANAGED CARE PROVIDER MAY LIMIT ITS NETWORK OF PHARMACIES FOR SPECIFIED DRUGS, APPROVED BY THE COMMISSIONER, BASED ON CLINICAL, PROFESSIONAL OR COST CRITERIA. SUCH LIMITATION SHALL NOT BE BASED SOLELY ON COST.

S 40-a. Subparagraph (vii) of paragraph (b) of subdivision 7 of section 4403-f of the public health law, as added by section 41-b of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(vii) Managed long term care provided and plans certified or other care coordination model established pursuant to this paragraph shall comply with the provisions of paragraphs (d), (i), [and] (t), AND (U) and subparagraph (iii) of paragraph (a) and subparagraph (iv) of para-

graph (e) of subdivision four of section three hundred sixty-four-j of the social services law.

S 41. Paragraphs (e), (f) and (g) of subdivision 1 of section 367-a of the social services law, paragraph (e) as added by chapter 433 of the laws of 1997, paragraph (f) as added by section 1 of part E of chapter 58 of the laws of 2008, paragraph (g) as added by section 65-a of part H of chapter 59 of the laws of 2011, are amended to read as follows:

(e) Amounts payable under this title for medical assistance in the form of clinic services pursuant to article twenty-eight of the public health law and article sixteen of the mental hygiene law provided to eligible persons DIAGNOSED WITH A DEVELOPMENTAL DISABILITY who are also beneficiaries under part [b] B of title [xviii] XVIII of the federal social security act [and who are also], OR PROVIDED TO PERSONS diagnosed with a DEVELOPMENTAL disability WHO ARE QUALIFIED MEDICARE BENEFICIARIES UNDER PART B OF TITLE XVIII OF SUCH ACT shall not be less than the approved medical assistance payment level less the amount payable under part [b] B.

(f) Amounts payable under this title for medical assistance in the form of outpatient mental health services under article thirty-one of the mental hygiene law provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act OR PROVIDED TO QUALIFIED MEDICARE BENEFICIARIES UNDER PART B OF TITLE XVIII OF SUCH ACT shall not be less than the approved medical assistance payment level less the amount payable under part B.

(g) Notwithstanding any provision of this section to the contrary, amounts payable under this title for medical assistance in the form of hospital outpatient services or diagnostic and treatment center services pursuant to article twenty-eight of the public health law provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act OR PROVIDED TO QUALIFIED MEDICARE BENEFICIARIES UNDER PART B OF TITLE XVIII OF SUCH ACT shall not exceed the approved medical assistance payment level less the amount payable under part B.

S 42. Intentionally omitted.

S 43. Paragraph (a) of subdivision 8-a of section 2807-j of the public health law, as amended by section 16 of part D of chapter 57 of the laws of 2006, is amended to read as follows:

(a) Payments and reports submitted or required to be submitted to the commissioner or to the commissioner's designee pursuant to this section and section twenty-eight hundred seven-s of this article by designated providers of services and by third-party payors which have elected to make payments directly to the commissioner or to the commissioner's designee in accordance with subdivision five-a of this section, shall be subject to audit by the commissioner for a period of six years following the close of the calendar year in which such payments and reports are due, after which such payments shall be deemed final and not subject to further adjustment or reconciliation, INCLUDING THROUGH OFFSET ADJUSTMENTS OR RECONCILIATIONS MADE BY DESIGNATED PROVIDERS OF SERVICES OR BY THIRD-PARTY PAYORS WITH REGARD TO SUBSEQUENT PAYMENTS, provided, however, that nothing herein shall be construed as precluding the commissioner from pursuing collection of any such payments which are identified as delinquent within such six year period, or which are identified as delinquent as a result of an audit commenced within such six year period, or from conducting an audit of any adjustment or reconciliation made by a designated provider of services or by a third party payor which has elected to make such payments directly to the commissioner or the

commissioner's designee, OR FROM CONDUCTING AN AUDIT OF PAYMENTS MADE PRIOR TO SUCH SIX YEAR PERIOD WHICH ARE FOUND TO BE COMMINGLED WITH PAYMENTS WHICH ARE OTHERWISE SUBJECT TO TIMELY AUDIT PURSUANT TO THIS SECTION.

S 44. Paragraph (a) of subdivision 10 of section 2807-t of the public health law, as amended by section 17 of part D of chapter 57 of the laws of 2006, is amended to read as follows:

(a) Payments and reports submitted or required to be submitted to the commissioner or to the commissioner's designee pursuant to this section by specified third-party payors shall be subject to audit by the commissioner for a period of six years following the close of the calendar year in which such payments and reports are due, after which such payments shall be deemed final and not subject to further adjustment or reconciliation, INCLUDING THROUGH OFFSET ADJUSTMENTS OR RECONCILIATIONS MADE BY SUCH SPECIFIED THIRD-PARTY PAYORS WITH REGARD TO SUBSEQUENT PAYMENTS, provided, however, that nothing herein shall be construed as precluding the commissioner from pursuing collection of any such payments which are identified as delinquent within such six year period, or which are identified as delinquent as a result of an audit commenced within such six year period, or from conducting an audit of any adjustments and reconciliation made by a specified third party payor within such six year period, OR FROM CONDUCTING AN AUDIT OF PAYMENTS MADE PRIOR TO SUCH SIX YEAR PERIOD WHICH ARE FOUND TO BE COMMINGLED WITH PAYMENTS WHICH ARE OTHERWISE SUBJECT TO TIMELY AUDIT PURSUANT TO THIS SECTION.

S 45. Subdivision 7 of section 2807-d of the public health law is amended by adding a new paragraph (f) to read as follows:

(F) PAYMENTS AND REPORTS SUBMITTED OR REQUIRED TO BE SUBMITTED TO THE COMMISSIONER OR TO THE COMMISSIONER'S DESIGNEE PURSUANT TO THIS SECTION SHALL BE SUBJECT TO AUDIT BY THE COMMISSIONER FOR A PERIOD OF SIX YEARS FOLLOWING THE CLOSE OF THE CALENDAR YEAR IN WHICH SUCH PAYMENTS AND REPORTS ARE DUE, AFTER WHICH SUCH PAYMENTS SHALL BE DEEMED FINAL AND NOT SUBJECT TO FURTHER ADJUSTMENT OR RECONCILIATION, INCLUDING THROUGH OFFSET ADJUSTMENTS OR RECONCILIATIONS MADE TO SUBSEQUENT PAYMENTS MADE PURSUANT TO THIS SECTION, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE CONSTRUED AS PRECLUDING THE COMMISSIONER FROM PURSUING COLLECTION OF ANY SUCH PAYMENTS WHICH ARE IDENTIFIED AS DELINQUENT WITHIN SUCH SIX YEAR PERIOD, OR WHICH ARE IDENTIFIED AS DELINQUENT AS A RESULT OF AN AUDIT COMMENCED WITHIN SUCH SIX YEAR PERIOD, OR FROM CONDUCTING AN AUDIT OF ANY ADJUSTMENT OR RECONCILIATION MADE BY A HOSPITAL.

S 46. Paragraph (f) of subdivision 18 of section 2807-c of the public health law, as amended by section 15 of part D of chapter 57 of the laws of 2006, is amended to read as follows:

(f) Payments of assessments and allowances required to be submitted by general hospitals pursuant to this subdivision and subdivisions fourteen and fourteen-b of this section and paragraph (a) of subdivision two of section twenty-eight hundred seven-d of this article shall be subject to audit by the commissioner for a period of six years following the close of the calendar year in which such payments are due, after which such payments shall be deemed final and not subject to further adjustment or reconciliation, INCLUDING THROUGH OFFSET ADJUSTMENTS OR RECONCILIATIONS MADE BY GENERAL HOSPITALS WITH REGARD TO SUBSEQUENT PAYMENTS, provided, however, that nothing herein shall be construed as precluding the commissioner from pursuing collection of any such assessments and allowances which are identified as delinquent within such six year period, or which are identified as delinquent as a result of an audit commenced within such six year audit period, or from conducting an audit of any

adjustment or reconciliation made by a general hospital within such six year period, OR FROM CONDUCTING AN AUDIT OF PAYMENTS MADE PRIOR TO SUCH SIX YEAR PERIOD WHICH ARE FOUND TO BE COMMINGLED WITH PAYMENTS WHICH ARE OTHERWISE SUBJECT TO TIMELY AUDIT PURSUANT TO THIS SECTION. General hospitals which, in the course of such an audit, fail to produce data or documentation requested in furtherance of such an audit, within thirty days of such request may be assessed a civil penalty of up to ten thousand dollars for each such failure, provided, however, that such civil penalty shall not be imposed if the hospital demonstrates good cause for such failure. The imposition of such civil penalties shall be subject to the provisions of section twelve-a of this chapter.

S 47. Paragraph (e) of subdivision 2-a of section 2807 of the public health law is amended by adding a new subparagraph (iii) to read as follows:

(III) REGULATIONS ISSUED PURSUANT TO THIS PARAGRAPH MAY INCORPORATE QUALITY RELATED MEASURES LIMITING OR EXCLUDING REIMBURSEMENT RELATED TO POTENTIALLY PREVENTABLE CONDITIONS AND COMPLICATIONS; PROVIDED HOWEVER, SUCH QUALITY RELATED MEASURES SHALL NOT INCLUDE ANY PREVENTABLE CONDITIONS AND COMPLICATIONS NOT IDENTIFIED FOR MEDICARE NONPAYMENT OR LIMITED PAYMENT.

S 48. Paragraph (c) of subdivision 7 of section 2807-d of the public health law, as added by chapter 938 of the laws of 1990, is amended to read as follows:

(c) The reports shall be in such form as may be prescribed by the commissioner to accurately disclose information required to implement this section, PROVIDED, HOWEVER, THAT FOR PERIODS ON AND AFTER JULY FIRST, TWO THOUSAND TWELVE, SUCH REPORTS AND ANY ASSOCIATED CERTIFICATIONS SHALL BE SUBMITTED ELECTRONICALLY IN A FORM AS MAY BE REQUIRED BY THE COMMISSIONER.

S 48-a. Subparagraph (i) of paragraph (a) of subdivision 7 of section 2807-j of the public health law, as amended by section 36 of part B of chapter 58 of the laws of 2008, is amended to read as follows;

(i) Every designated provider of services shall submit reports of net patient service revenues received for or on account of patient services for each month which shall be in such form as may be prescribed by the commissioner to accurately disclose information required to implement this section. For periods on and after January first, two thousand five, reports by designated providers of services shall be submitted electronically in a form as may be required by the commissioner; provided, however, any designated provider of services is not prohibited from submitting reports electronically on a voluntary basis prior to such date, AND PROVIDED FURTHER, HOWEVER, THAT ALL SUCH ELECTRONIC SUBMISSIONS SUBMITTED ON AND AFTER JULY FIRST, TWO THOUSAND TWELVE SHALL BE VERIFIED WITH AN ELECTRONIC SIGNATURE AS PRESCRIBED BY THE COMMISSIONER.

S 48-b. Subparagraph (ii) of paragraph (b) of subdivision 7 of section 2807-j of the public health law, as amended by section 25 of part A3 of chapter 62 of the laws of 2003, is amended to read as follows:

(ii) For periods on and after July first, two thousand four, reports submitted on a monthly basis by third-party payors in accordance with subparagraph (i) of this paragraph and reports submitted on a monthly or annual basis by payors acting in an administrative services capacity on behalf of electing third-party payors in accordance with subparagraph (i) of this paragraph shall be made electronically in a form as may be required by the commissioner; provided, however, any third-party payor, except payors acting in an administrative services capacity on behalf of

electing third-party payors, which, on or after January first, two thousand four, elects to make payments directly to the commissioner or the commissioner's designee pursuant to subdivision five of this section, shall be subject to this subparagraph only after one full year of pool payment experience which results in reports being submitted on a monthly basis, AND PROVIDED FURTHER, HOWEVER, THAT ALL SUCH ELECTRONIC SUBMISSIONS SUBMITTED ON AND AFTER JULY FIRST, TWO THOUSAND TWELVE SHALL BE VERIFIED WITH AN ELECTRONIC SIGNATURE AS PRESCRIBED BY THE COMMISSIONER. This subparagraph shall not be interpreted to prohibit any third-party payor from submitting reports electronically on a voluntary basis.

S 48-c. Subparagraph (ii) of paragraph (b) of subdivision 20 of section 2807-c of the public health law, as added by section 26 of part A3 of chapter 62 of the laws of 2003, is amended to read as follows:

(ii) For periods on and after January first, two thousand five, reports submitted by general hospitals to implement the assessment set forth in subdivision eighteen of this section shall be submitted electronically in a form as may be required by the commissioner; provided, however, general hospitals are not prohibited from submitting reports electronically on a voluntary basis prior to such date, AND PROVIDED FURTHER, HOWEVER, THAT ALL SUCH ELECTRONIC SUBMISSIONS SUBMITTED ON AND AFTER JULY FIRST, TWO THOUSAND TWELVE SHALL BE VERIFIED WITH AN ELECTRONIC SIGNATURE AS PRESCRIBED BY THE COMMISSIONER.

S 49. Subdivision 8 of section 3605 of the public health law, as added by chapter 959 of the laws of 1984, is amended to read as follows:

8. Agencies licensed pursuant to this section but not certified pursuant to section three thousand six hundred eight of this article, shall not be qualified to participate as a home health agency under the provisions of title XVIII or XIX of the federal Social Security Act provided, however, an agency which has a contract with a state agency or its locally designated office OR, AS SPECIFIED BY THE COMMISSIONER, WITH A MANAGED CARE ORGANIZATION PARTICIPATING IN THE MANAGED CARE PROGRAM ESTABLISHED PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW OR WITH A MANAGED LONG TERM CARE PLAN ESTABLISHED PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER, may receive reimbursement under title XIX of the federal Social Security Act.

S 50. Subdivision 6 of section 365-f of the social services law is renumbered subdivision 7 and a new subdivision 6 is added to read as follows:

6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW, MANAGED CARE PROGRAMS ESTABLISHED PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE AND MANAGED LONG TERM CARE PLANS AND OTHER CARE COORDINATION MODELS ESTABLISHED PURSUANT TO SECTION FOUR THOUSAND FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW SHALL OFFER CONSUMER DIRECTED PERSONAL ASSISTANCE PROGRAMS TO ENROLLEES.

S 51. Subdivision 3-c of section 3614 of the public health law is amended by adding a new paragraph (e) to read as follows:

(E) THE COMMISSIONER SHALL, WITHIN MONIES APPROPRIATED THEREFOR, ESTABLISH A RURAL HOME TELEHEALTH DELIVERY DEMONSTRATION STUDY PROGRAM IN COUNTIES HAVING A POPULATION OF NOT LESS THAN ONE HUNDRED THIRTY THOUSAND AND NOT MORE THAN ONE HUNDRED FORTY THOUSAND, ACCORDING TO THE TWO THOUSAND TEN DECENNIAL FEDERAL CENSUS. THE COMMISSIONER SHALL DIRECT A HOME HEALTH ORGANIZATION SERVING IN SUCH COUNTY TO STUDY PATIENTS RECEIVING TELEHEALTH SERVICES, PURSUANT TO THIS SUBDIVISION, WHO HAVE BEEN DIAGNOSED WITH CONGESTIVE HEART FAILURE, DIABETES AND/OR CHRONIC

PULMONARY OBSTRUCTIVE DISEASE, AND WHOSE MEDICAL, FUNCTIONAL AND/OR ENVIRONMENTAL NEEDS ARE APPROPRIATELY MET AT HOME THROUGH THE APPLICATION OF TELEHEALTH SERVICES INTERVENTIONS. SUCH A STUDY SHALL DETERMINE THE COST OF PROVIDING TELEHEALTH SERVICES, THE QUALITY OF CARE PROVIDED THROUGH TELEHEALTH SERVICES AND THE OUTCOMES OF PATIENTS RECEIVING SUCH TELEHEALTH SERVICES. THE COMMISSIONER SHALL REIMBURSE THE HOME HEALTH ORGANIZATION FOR CONDUCTING THE STUDY WITH AMOUNTS APPROPRIATED UNDER THIS SUBDIVISION. THE HOME HEALTH ORGANIZATION SHALL EVALUATE THE FINDINGS OF THE STUDY AND REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE COMMISSIONER, AND THE CHAIR OF THE LEGISLATIVE COMMISSION ON RURAL RESOURCES ON ITS FINDINGS OF PROVIDING TELEHEALTH SERVICES FOR EACH CONDITION, SO AS TO PROVIDE THE COST BENCHMARKS WITH AND WITHOUT TELEHEALTH CARE, AS WELL AS PROVIDING COST BENEFIT MEASUREMENTS IN TERMS OF THE QUALITY BENEFIT OUTCOMES FOR EACH OF THE CONDITIONS ADDRESSED VIA TELEHEALTH.

S 52. The public health law is amended by adding a new section 3309-a to read as follows:

S 3309-A. PRESCRIPTION PAIN MEDICATION AWARENESS PROGRAM. 1. THERE IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT A PRESCRIPTION PAIN MEDICATION AWARENESS PROGRAM TO EDUCATE THE PUBLIC AND HEALTH CARE PRACTITIONERS ABOUT THE RISKS ASSOCIATED WITH PRESCRIBING AND TAKING CONTROLLED SUBSTANCE PAIN MEDICATIONS.

2. WITHIN THE AMOUNTS APPROPRIATED, THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, SHALL:

(A) DEVELOP AND CONDUCT A PUBLIC HEALTH EDUCATION MEDIA CAMPAIGN DESIGNED TO ALERT YOUTH, PARENTS AND THE GENERAL POPULATION ABOUT THE RISKS ASSOCIATED WITH PRESCRIPTION PAIN MEDICATIONS AND THE NEED TO PROPERLY DISPOSE OF ANY UNUSED MEDICATION. IN DEVELOPING THIS CAMPAIGN, THE COMMISSIONER SHALL CONSULT WITH AND USE INFORMATION PROVIDED BY THE WORK GROUP ESTABLISHED PURSUANT TO SUBDIVISION (B) OF THIS SECTION AND OTHER RELEVANT PROFESSIONAL ORGANIZATIONS. THE CAMPAIGN SHALL INCLUDE AN INTERNET WEBSITE PROVIDING INFORMATION FOR PARENTS, CHILDREN AND HEALTH CARE PROFESSIONALS ON THE RISKS ASSOCIATED WITH TAKING OPIOIDS AND RESOURCES AVAILABLE TO THOSE NEEDING ASSISTANCE WITH PRESCRIPTION PAIN MEDICATION ADDICTION. SUCH WEBSITE SHALL ALSO PROVIDE INFORMATION REGARDING WHERE INDIVIDUALS MAY PROPERLY DISPOSE OF CONTROLLED SUBSTANCES IN THEIR COMMUNITY AND INCLUDE ACTIVE LINKS TO FURTHER INFORMATION AND RESOURCES. THE CAMPAIGN SHALL BEGIN NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND TWELVE.

(B) ESTABLISH A WORK GROUP, NO LATER THAN JUNE FIRST, TWO THOUSAND TWELVE, WHICH SHALL BE COMPOSED OF EXPERTS IN THE FIELDS OF PALLIATIVE AND CHRONIC CARE PAIN MANAGEMENT AND ADDICTION MEDICINE. MEMBERS OF THE WORK GROUP SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED ACTUAL AND NECESSARY EXPENSES IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION. THE WORK GROUP SHALL:

(I) REPORT TO THE COMMISSIONER REGARDING THE DEVELOPMENT OF RECOMMENDATIONS AND MODEL COURSES FOR CONTINUING MEDICAL EDUCATION, REFRESHER COURSES AND OTHER TRAINING MATERIALS FOR LICENSED HEALTH CARE PROFESSIONALS ON APPROPRIATE USE OF PRESCRIPTION PAIN MEDICATION. SUCH RECOMMENDATIONS, MODEL COURSES AND OTHER TRAINING MATERIALS SHALL BE SUBMITTED TO THE COMMISSIONER, WHO SHALL MAKE SUCH INFORMATION AVAILABLE FOR THE USE IN MEDICAL EDUCATION, RESIDENCY PROGRAMS, FELLOWSHIP PROGRAMS, AND FOR USE IN CONTINUING MEDICATION EDUCATION PROGRAMS NO LATER THAN JANUARY FIRST, TWO THOUSAND THIRTEEN;

(II) NO LATER THAN JANUARY FIRST, TWO THOUSAND THIRTEEN, PROVIDE OUTREACH AND ASSISTANCE TO HEALTH CARE PROFESSIONAL ORGANIZATIONS TO ENCOURAGE AND FACILITATE CONTINUING MEDICAL EDUCATION TRAINING PROGRAMS FOR THEIR MEMBERS REGARDING APPROPRIATE PRESCRIBING PRACTICES AND THE RISKS ASSOCIATED WITH PRESCRIPTION PAIN MEDICATION; AND

(III) PROVIDE INFORMATION TO THE COMMISSIONER FOR USE IN THE DEVELOPMENT AND CONTINUED UPDATE OF THE PUBLIC AWARENESS CAMPAIGN, INCLUDING INFORMATION, RESOURCES, AND ACTIVE WEB LINKS THAT SHOULD BE INCLUDED ON THE WEBSITE.

3. THE COMMISSIONER SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY NO LATER THAN MARCH FIRST, TWO THOUSAND THIRTEEN, AND ANNUALLY THEREAFTER, ON THE WORK GROUP'S FINDINGS. THE REPORT SHALL INCLUDE INFORMATION ON OPIOID OVERDOSE DEATHS, EMERGENCY ROOM UTILIZATION FOR THE TREATMENT OF OPIOID OVERDOSE, THE UTILIZATION OF PRE-HOSPITAL ADDICTION SERVICES AND RECOMMENDATIONS TO REDUCE OPIOID ADDICTION AND THE CONSEQUENCES THEREOF.

S 53. Paragraphs (d) and (e) of subdivision 5-a of section 2807-m of the public health law, as amended by section 26 of part C of chapter 59 of the laws of 2011, are amended to read as follows:

(d) Physician loan repayment program. One million nine hundred sixty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, one million nine hundred sixty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, one million nine hundred sixty thousand dollars for the period January first, two thousand ten 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, and 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, 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 for purposes of physician loan repayment in accordance with subdivision ten of this section. [Such] NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, SUCH funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS as follows:

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

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

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

(e) Physician practice support. Four million nine hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, four million nine hundred thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, one million two hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, and four million three hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, 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 for purposes of physician practice support. [Such] NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, SUCH funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS as follows:

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

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

S 54. Subdivision 5-a of section 2807-m of the public health law is amended by adding a new paragraph (e-1) to read as follows:

(E-1) WORK GROUP. FOR FUNDING AVAILABLE PURSUANT TO PARAGRAPHS (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.

S 55. Section 364-j of the social services law is amended by adding a new subdivision 25 to read as follows:

25. EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN, NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, MANAGED CARE PROVIDERS SHALL COVER MEDICALLY NECESSARY PRESCRIPTION DRUGS IN THE ATYPICAL ANTIPSYCHOTIC THERAPEUTIC CLASS, INCLUDING NON-FORMULARY DRUGS, UPON DEMONSTRATION BY

THE PRESCRIBER, AFTER CONSULTING WITH THE MANAGED CARE PROVIDER, THAT SUCH DRUGS, IN THE PRESCRIBER'S REASONABLE PROFESSIONAL JUDGMENT, ARE MEDICALLY NECESSARY AND WARRANTED.

S 56. Subdivision 6 of section 369 of the social services law, as amended by section 53 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

6. For purposes of this section, [an individual's] THE TERM "estate" [includes] MEANS all [of the individual's] real and personal property and other assets INCLUDED WITHIN THE INDIVIDUAL'S ESTATE AND passing under the terms of a valid will or by intestacy. [Pursuant to regulations adopted by the commissioner, which may be promulgated on an emergency basis, an individual's estate also includes any other property in which the individual has any legal title or interest at the time of death, including jointly held property, retained life estates, and interests in trusts, to the extent of such interests; provided, however, that a claim against a recipient of such property by distribution or survival shall be limited to the value of the property received or the amount of medical assistance benefits otherwise recoverable pursuant to this section, whichever is less. Nothing in this subdivision shall be construed as authorizing the department or a social services district to impose liens or make recoveries that are prohibited by federal laws governing the medical assistance program.]

S 56-a. Paragraph (b) of subdivision 7 of section 4403-f of the public health law is amended by adding a new subparagraph (viii) to read as follows:

(VIII) (1) THE COMMISSIONER SHALL REPORT BIANNUALLY ON THE IMPLEMENTATION OF THIS SUBDIVISION. THE REPORTS SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) SATISFACTION OF ENROLLEES WITH CARE COORDINATION/CASE MANAGEMENT; TIMELINESS OF CARE;

(B) SERVICE UTILIZATION DATA INCLUDING CHANGES IN THE LEVEL, HOURS, FREQUENCY, AND TYPES OF SERVICES AND PROVIDERS;

(C) ENROLLMENT DATA, INCLUDING AUTO-ASSIGNMENT RATES BY PLAN;

(D) QUALITY DATA; AND

(E) CONTINUITY OF CARE FOR PARTICIPANTS AS THEY MOVE TO MANAGED LONG TERM CARE, WITH RESPECT TO COMMUNITY BASED AND NURSING HOME POPULATIONS, INCLUDING PEDIATRIC NURSING HOME POPULATIONS, AND MEDICALLY FRAGILE CHILDREN BEING SERVED BY HOME CARE AGENCIES AFFILIATED WITH PEDIATRIC NURSING HOMES AND DIAGNOSTIC AND TREATMENT CENTERS PRIMARILY SERVING MEDICALLY FRAGILE CHILDREN.

(2) THE COMMISSIONER SHALL PUBLISH THE REPORT ON THE DEPARTMENT'S WEBSITE AND PROVIDE NOTICE TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE STANDING COMMITTEE ON HEALTH, THE CHAIR OF THE ASSEMBLY HEALTH COMMITTEE AND THE MEDICAID MANAGED CARE ADVISORY REVIEW PANEL UPON AVAILABILITY OF THE REPORT. THE INITIAL REPORT SHALL BE PROVIDED BY SEPTEMBER FIRST, TWO THOUSAND TWELVE. THE REPORTS SHALL BE MADE AVAILABLE BY EACH FEBRUARY FIRST, AND SEPTEMBER FIRST THEREAFTER. SUCH REPORTS SHALL BE FORMATTED TO ALLOW COMPARISONS BETWEEN PLANS.

S 56-b. Section 4403-f of the public health law is amended by adding a new subdivision 11 to read as follows:

11. THE DEPARTMENT SHALL DEVELOP TRANSITION AND CONTINUITY OF CARE POLICIES FOR PARTICIPANTS IN HOME AND COMMUNITY BASED LONG TERM CARE, INCLUDING THE LONG TERM HOME HEALTH CARE PROGRAM, AS THEY MOVE TO MANAGED LONG TERM CARE PLANS ADDRESSING:

(A) A TIMETABLE AND PLAN FOR IMPLEMENTATION AND TRANSITION BY PARTICIPANTS, PLANS AND PROVIDERS;

(B) INFORMATIVE DISCLOSURE OF PARTICIPANTS' OPTIONS AS TO IMPENDING ACTIONS AFFECTING OR RELATING TO THE HOME CARE SERVICES THEY RECEIVE;

(C) REASONABLE OPPORTUNITY FOR PLANS' AND PROVIDERS' GOOD FAITH PURSUIT OF CONTRACTS, PROGRAM CHANGES OR STATE APPROVALS RELEVANT TO PLAN IMPLEMENTATION;

(D) NOTICE THAT A PARTICIPANT WITH A PREVIOUSLY ESTABLISHED PLAN OF CARE PROVIDED BY A CERTIFIED HOME HEALTH AGENCY OR LONG TERM HOME HEALTH CARE PROGRAM, OR PROVIDED PURSUANT TO THE PERSONAL CARE OR CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICE PROGRAMS, MAY ELECT TO HAVE SUCH CARE PLAN CONTINUED SUBJECT TO THE PARTICIPANT'S NEXT COMPREHENSIVE ASSESSMENT; AND

(E) DELINEATION OF RESPONSIBILITIES FOR SERVICE DELIVERY AND CARE COORDINATION, SO AS TO AVOID CONFLICT, DUPLICATION AND UNNECESSARY DISRUPTION OF DIRECT CARE STAFFING FOR THE PATIENT, AND MAINTAIN COMPLIANCE WITH STATE AND FEDERAL STATUTE AND REGULATION, INCLUDING THE PROVISIONS OF THIS SECTION, ARTICLE THIRTY-SIX OF THIS CHAPTER AND SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW.

IN ADDITION, THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO LONG TERM HOME HEALTH CARE PROVIDERS WITH CONTRACTING OPTIONS UNDER THIS SECTION. THE DEPARTMENT SHALL WORK WITH AFFECTED STAKEHOLDERS IN THE DEVELOPMENT OF THESE POLICIES.

S 56-c. Notwithstanding any inconsistent law or regulation, an existing long term home health care program making application to the commissioner of health for the issuance of a certificate of approval as a general purpose certified home health care agency shall be granted an expedited review and the commissioner of health may waive certain elements of such review in his or her sole discretion.

S 57. 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 known and projected department of health state funds Medicaid expenditures, is amended to read as follows:

1. For state fiscal years 2011-12 [and 2012-13] THROUGH 2013-14, the director of the budget, in consultation with the commissioner of health referenced as "commissioner" for purposes of this section, shall assess on a monthly basis, as reflected in monthly 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, and if the director of the budget determines that such expenditures are expected to cause medicaid disbursements for such period to exceed the projected department of health medicaid state funds disbursements in the enacted budget financial plan pursuant to subdivision 3 of section 23 of the state finance law, the commissioner of health, in consultation with the director of the budget, shall develop a medicaid savings allocation plan to limit such spending to the aggregate limit level specified in the enacted budget financial plan, provided, however, such projections may be adjusted by the director of the budget to account for any changes in the New York state federal medical assistance percentage amount established pursuant to the federal social security act, changes in provider revenues, REDUCTIONS TO LOCAL SOCIAL SERVICES DISTRICT MEDICAL ASSISTANCE ADMINISTRATION, and beginning April 1, 2012 the operational costs of the New York state medical indemnity fund.

S 58. Paragraph (b) of section 90 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to types

of appropriations exempt from certain reductions, is amended to read as follows:

(b) The following types of appropriations shall be exempt from reductions pursuant to this section:

(i) any reductions that would violate federal law including, but not limited to, payments required pursuant to the federal Medicare program;

(ii) any reductions related to payments pursuant to article 32, article 31 and article 16 of the mental hygiene law;

(iii) payments the state is obligated to make pursuant to court orders or judgments;

(iv) payments for which the non-federal share does not reflect any state funding; [and]

(v) at the discretion of the commissioner of health and the director of the budget, payments with regard to which it is determined by the commissioner of health and the director of the budget that application of reductions pursuant to this section would result, by operation of federal law, in a lower federal medical assistance percentage applicable to such payments; AND

(VI) PAYMENTS MADE WITH REGARD TO THE EARLY INTERVENTION PROGRAM PURSUANT TO SECTION 2540 OF THE PUBLIC HEALTH LAW.

S 59. Subparagraph (ii) of paragraph (a) of subdivision 5 of section 2807-j of the public health law, as amended by section 23 of part A-3 of chapter 62 of the laws of 2003, is amended to read as follows:

(ii) An election shall remain in effect unless revoked in writing by a specified third-party payor, which revocation shall be effective on the first day of the next [calendar year quarter] MONTH, provided that such payor has provided notice of its intention to so revoke at least [thirty] TWENTY days prior to the beginning of such [calendar quarter] MONTH.

S 60. Paragraph (b) of subdivision 5-a of section 2807-m of the public health law is amended by adding a new subparagraph (H) to read as follows:

(H) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION, FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND THIRTEEN, ECRIP GRANT AWARDS SHALL BE MADE IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER. SUCH REGULATIONS SHALL, AT A MINIMUM:

(1) PROVIDE THAT ECRIP GRANT AWARDS SHALL BE MADE WITH THE OBJECTIVE OF SECURING FEDERAL FUNDING FOR BIOMEDICAL RESEARCH, TRAINING CLINICAL RESEARCHERS, RECRUITING NATIONAL LEADERS AS FACULTY TO ACT AS MENTORS, AND TRAINING RESIDENTS AND FELLOWS IN BIOMEDICAL RESEARCH SKILLS;

(2) PROVIDE THAT ECRIP GRANT APPLICANTS MAY INCLUDE INTERDISCIPLINARY RESEARCH TEAMS COMPRISED OF TEACHING GENERAL HOSPITALS ACTING IN COLLABORATION WITH ENTITIES INCLUDING BUT NOT LIMITED TO MEDICAL CENTERS, HOSPITALS, UNIVERSITIES AND LOCAL HEALTH DEPARTMENTS;

(3) PROVIDE THAT APPLICATIONS FOR ECRIP GRANT AWARDS SHALL BE BASED ON SUCH INFORMATION REQUESTED BY THE COMMISSIONER, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO HOSPITAL-SPECIFIC DATA;

(4) ESTABLISH THE QUALIFICATIONS FOR INVESTIGATORS AND OTHER STAFF REQUIRED FOR GRANT PROJECTS ELIGIBLE FOR ECRIP GRANT AWARDS; AND

(5) ESTABLISH A METHODOLOGY FOR THE DISTRIBUTION OF FUNDS UNDER ECRIP GRANT AWARDS.

S 61. Section 1 of part C of chapter 58 of the laws of 2005, relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, is amended by adding a new subdivision (h) to read as follows:

(H) NOTWITHSTANDING THE PROVISIONS OF SECTION 368-A OF THE SOCIAL SERVICES LAW OR ANY OTHER CONTRARY PROVISION OF LAW, NO REIMBURSEMENT SHALL BE MADE FOR SOCIAL SERVICES DISTRICTS' CLAIMS SUBMITTED ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, FOR DISTRICT EXPENDITURES INCURRED PRIOR TO JANUARY 1, 2006, INCLUDING, BUT NOT LIMITED TO, EXPENDITURES FOR SERVICES PROVIDED TO INDIVIDUALS WHO WERE ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW AS A RESULT OF A MENTAL DISABILITY, FORMERLY REFERRED TO AS HUMAN SERVICES OVERBURDEN AID TO COUNTIES.

S 61-a. Section 32 of the public health law is amended by adding a new subdivision 6-a to read as follows:

6-A. TO POST ON THE DEPARTMENT'S INTERNET WEBSITE, WITHIN REASONABLY PROMPT FASHION, ALL FINAL ADMINISTRATIVE DETERMINATIONS ISSUED BY ADMINISTRATIVE LAW JUDGES IN CONNECTION WITH ANY ACTIONS TAKEN BY THE OFFICE PURSUANT TO THIS TITLE;

S 62. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 63. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 64. 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.

S 65. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2012, provided, however, that:

(a) the commissioner of health may promulgate emergency regulations necessary to effectuate the provisions of sections two, three and four of this act;

(b) the amendments to section 4403-c of the public health law by section eight of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith;

(b-1) the amendments made to subdivision 25 of section 1678 of the public authorities law by section twenty-eight-a of this act shall not affect the expiration of such subdivision and shall expire therewith;

(c) provided, further, that the amendments to section 1 of chapter 119 of the laws of 1997 made by section thirty-two of this act, relating to authorizing the department of health to establish certain payments to general hospitals, shall be subject to the expiration of such chapter and shall be deemed expired therewith;

(d) the amendments to paragraph (a-1) of subdivision 4 of section 365-a of the social services law made by section thirty-nine of this act

shall not affect the expiration and reversion of such paragraph and shall be deemed to expire therewith;

(e) provided, further, that the amendments to section 2807-j of the public health law made by sections forty-three, forty-eight-a, forty-eight-b and fifty-nine of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(f) provided, further, that the amendments to section 2807-t of the public health law made by section forty-four of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(g) provided, further, that the amendments to section 4403-f of the public health law, made by sections forty-a, fifty-six-a and fifty-six-b of this act shall not affect the repeal of such section and shall be deemed to repeal therewith;

(h) provided, further, that the amendments to section 364-j of the social services law made by sections forty and fifty-five of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(i) provided, further, that section fifty-five of this act shall take effect January 1, 2013;

(j) provided, further, that any rules or regulations necessary to implement the provisions of this act may be promulgated and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the date this act shall have become a law;

(k) provided, further, that this act shall not be construed to alter, change, affect, impair or defeat any rights, obligations, duties or interests accrued, incurred or conferred prior to the effective date of this act;

(l) provided, further, that the commissioner of health and the superintendent of financial services and any appropriate council may take any steps necessary to implement this act prior to its effective date;

(m) provided, further, that notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of financial services and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date; and

(n) provided, further, that the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of financial services or any council to adopt or amend or promulgate regulations implementing this act.

PART E
Intentionally Omitted

PART F

Section 1. Section 1 of part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, is amended by adding a new subdivision (c-1) to read as follows:

(C-1) NOTWITHSTANDING ANY PROVISIONS OF SUBDIVISION (C) OF THIS SECTION TO THE CONTRARY, EFFECTIVE APRIL 1, 2013, FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2013 AND FOR EACH CALENDAR YEAR THEREAFTER, THE MEDICAL ASSISTANCE EXPENDITURE AMOUNT FOR THE SOCIAL SERVICES DISTRICT FOR SUCH PERIOD SHALL BE EQUAL TO THE PREVIOUS CALENDAR YEAR'S MEDICAL ASSISTANCE EXPENDITURE AMOUNT, EXCEPT THAT:

(1) FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2013, THE PREVIOUS CALENDAR YEAR MEDICAL ASSISTANCE EXPENDITURE AMOUNT WILL BE INCREASED BY 2%;

(2) FOR THE PERIOD JANUARY 1, 2014 THROUGH DECEMBER 31, 2014, THE PREVIOUS CALENDAR YEAR MEDICAL ASSISTANCE EXPENDITURE AMOUNT WILL BE INCREASED BY 1%.

S 2. Paragraph (iii) of subdivision (g) of section 1 of part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, as amended by section 59 of part A of chapter 57 of the laws of 2006, is amended to read as follows:

(iii) During each state fiscal year subject to the provisions of this section AND PRIOR TO STATE FISCAL YEAR 2015-16, the commissioner shall maintain an accounting, for each social services district, of the net amounts that would have been expended by, or on behalf of, such district had the social services district medical assistance shares provisions in effect on January 1, 2005 been applied to such district. For purposes of this paragraph, fifty percent of the payments made by New York State to the secretary of the federal department of health and human services pursuant to section 1935(c) of the social security act shall be deemed to be payments made on behalf of social services districts; such fifty percent share shall be apportioned to each district in the same ratio as the number of "full-benefit dual eligible individuals," as that term is defined in section 1935(c)(6) of such act, for whom such district has fiscal responsibility pursuant to section 365 of the social services law, relates to the total of such individuals for whom districts have fiscal responsibility. As soon as practicable after the conclusion of each such fiscal year, but in no event later than six months after the conclusion of each such fiscal year, the commissioner shall reconcile such net amounts with such fiscal year's social services district expenditure cap amount. Such reconciliation shall be based on actual expenditures made by or on behalf of social services districts, and revenues received by social services districts, during such fiscal year and shall be made without regard to expenditures made, and revenues received, outside such fiscal year that are related to services provided during, or prior to, such fiscal year. The commissioner shall pay to each social services district the amount, if any, by which such district's expenditure cap amount exceeds such net amount.

S 3. Paragraph (i) of subdivision (b) of section 2 of part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, is amended and a new paragraph (iii) is added to read as follows:

(i) A social services district shall exercise the option described in this section through the adoption of a resolution by its local legislative body, in the form set forth in subparagraph (ii) of this paragraph, to elect the medical assistance reimbursement methodology set forth in paragraph (a) of this section and to elect the tax intercept methodology set forth in subdivision (f) of section 1261 of the tax law or subdivi-

sion (g) of section 1261 and subdivision (h) of section 1313 of the tax law, as applicable. A social services district, acting through its local legislative body, is hereby authorized to adopt such a resolution. Such a resolution shall be effective only if it is adopted exactly as set forth in subparagraph (ii) of this paragraph no later than September 30, 2007, and a certified copy of such resolution is mailed to the commissioner of health by certified mail by such date. The commissioner of health shall, no later than October 31, 2007, certify to the commissioner of taxation and finance a list of those social services districts which have elected the option described in this section. A social services district [shall have no authority to rescind the exercise of] THAT ELECTED the option described in this section, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, MAY REPEAL THAT ELECTION BY ADOPTING A RESOLUTION EXACTLY AS SET FORTH IN PARAGRAPH (III) OF THIS SUBDIVISION AND MAILING A CERTIFIED COPY OF SUCH REPEAL RESOLUTION TO THE COMMISSIONER OF HEALTH NO LATER THAN JANUARY 1, 2013. THE COMMISSIONER OF HEALTH SHALL, WITHIN TWO WEEKS OF RECEIVING ANY SUCH COPY OF A CERTIFIED REPEAL RESOLUTION BY CERTIFIED MAIL FROM A SOCIAL SERVICES DISTRICT, CERTIFY IN WRITING TO THE COMMISSIONER OF TAXATION AND FINANCE THE NAME OF ANY SUCH SOCIAL SERVICES DISTRICT THAT ADOPTED SUCH A RESOLUTION TO REPEAL ITS ELECTION. UPON RECEIVING SUCH WRITTEN CERTIFICATION, THE COMMISSIONER OF TAXATION AND FINANCE SHALL NO LONGER CALCULATE THE MEDICAID AMOUNT OF SUCH COUNTY UNDER SUBDIVISION (F) OF SECTION 1261 OF THE TAX LAW, AND THE AMOUNT DUE SUCH COUNTY UNDER SUBDIVISION (C) OF SUCH SECTION 1261 SHALL NO LONGER BE REDUCED BY SUCH MEDICAID AMOUNT, EFFECTIVE THE FIRST DAY OF THE MONTH NEXT COMMENCING AT LEAST 10 DAYS AFTER THE COMMISSIONER OF TAXATION AND FINANCE HAS RECEIVED SUCH WRITTEN CERTIFICATION. IF EVERY SOCIAL SERVICE DISTRICT THAT ELECTED SUCH OPTION REPEALS ITS ELECTION AND THE COMMISSIONER OF HEALTH CERTIFIES IN WRITING TO THE COMMISSIONER OF TAXATION AND FINANCE THAT EVERY SUCH SOCIAL SERVICES DISTRICT HAS REPEALED ITS ELECTION, THEN SUBDIVISIONS (F) AND (G) OF SECTION 1261 AND SUBDIVISION (H) OF SECTION 1313 OF THE TAX LAW TAX SHALL BE REPEALED AND THE PHRASE "OR A TAX REVENUE INTERCEPT AMOUNT CALCULATED PURSUANT TO SUBDIVISION (F) OR (G) OF SECTION 1261 OF THE TAX LAW" IN SECTION FOUR OF THIS ACT SHALL BE DELETED, EFFECTIVE THE FIRST DAY OF THE MONTH NEXT COMMENCING AT LEAST 10 DAYS AFTER THE DATE ON WHICH THE COMMISSIONER OF TAXATION AND FINANCE RECEIVES SUCH WRITTEN CERTIFICATION FROM THE COMMISSIONER OF HEALTH. AT THE SAME TIME THAT THE COMMISSIONER OF HEALTH MAKES SUCH CERTIFICATION TO THE COMMISSIONER OF TAXATION AND FINANCE THAT EVERY COUNTY HAS REPEALED ITS ELECTION, THE COMMISSIONER OF HEALTH SHALL ALSO NOTIFY THE LEGISLATIVE BILL DRAFTING COMMISSION THAT EVERY SOCIAL SERVICE DISTRICT THAT ELECTED SUCH OPTION HAS REPEALED ITS ELECTION IN ORDER THAT THE LEGISLATIVE BILL DRAFTING 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 EFFECTING THE PROVISIONS OF SECTION 44 OF THE LEGISLATIVE LAW AND SECTION 70-B OF THE PUBLIC OFFICERS LAW.

(III) FORM OF RESOLUTION.

BE IT ENACTED BY THE (COUNTY) OF (INSERT COUNTY'S NAME) AS FOLLOWS:

SECTION ONE. THE (COUNTY) OF (INSERT COUNTY'S NAME) HEREBY REPEALS ITS ELECTION IN 2007 OF THE MEDICAL ASSISTANCE REIMBURSEMENT OPTION AND REVENUE INTERCEPT FOR MEDICAID PURPOSES DESCRIBED IN SECTION 2 OF CHAPTER 58 OF THE LAWS OF 2005.

SECTION 2. THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.

S 4. Part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts

for medical assistance for needy persons and the administration thereof, is amended by adding a new section 4-a to read as follows:

S 4-A. (A) FOR STATE FISCAL YEAR 2012-13, AND FOR EACH STATE FISCAL YEAR THEREAFTER, A SOCIAL SERVICES DISTRICT WILL BE REIMBURSED BY THE STATE FOR THE FULL NON-FEDERAL SHARE OF EXPENDITURES BY THE DISTRICT FOR THE ADMINISTRATION OF THE MEDICAL ASSISTANCE PROGRAM, NOT TO EXCEED THE ADMINISTRATIVE CAP AMOUNT DETERMINED IN ACCORDANCE WITH SUBDIVISION (B) OF THIS SECTION. ANY PORTION OF THE NON-FEDERAL SHARE OF SUCH EXPENDITURES IN EXCESS OF THE ADMINISTRATIVE CAP AMOUNT SHALL BE THE RESPONSIBILITY OF THE SOCIAL SERVICES DISTRICT AND SHALL BE IN ADDITION TO THE MEDICAL ASSISTANCE EXPENDITURE AMOUNT CALCULATED IN ACCORDANCE WITH SUBDIVISIONS (B), (C), (C-1), AND (D) OF SECTION ONE OF THIS ACT. BEGINNING IN STATE FISCAL YEAR 2013-14, NO REIMBURSEMENT WILL BE MADE FOR ADMINISTRATIVE EXPENDITURES IN EXCESS OF SUCH CAP.

(B) THE ADMINISTRATIVE CAP AMOUNT FOR A SOCIAL SERVICES DISTRICT SHALL BE EQUAL TO A PERCENTAGE OF THE AMOUNT INCLUDED IN THE STATE FISCAL YEAR 2011-12 ENACTED BUDGET FOR THE NON-FEDERAL SHARE OF MEDICAL ASSISTANCE ADMINISTRATIVE COSTS PURSUANT TO THIS SECTION. EACH SOCIAL SERVICES DISTRICT'S PERCENTAGE SHALL BE EQUAL TO THE PERCENTAGE OF MEDICAL ASSISTANCE ADMINISTRATIVE COSTS CLAIMED BY SUCH DISTRICT IN THE 2011 CALENDAR YEAR IN RELATION TO ALL OTHER SOCIAL SERVICES DISTRICTS.

(C) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (B) OF THIS SECTION, THE COMMISSIONER OF HEALTH MAY, AT HIS OR HER SOLE DISCRETION, REDUCE A SOCIAL SERVICES DISTRICT'S ADMINISTRATIVE CAP AMOUNT TO ACCOUNT FOR A REDUCTION IN THE SCOPE OR VOLUME OF THE DISTRICT'S ADMINISTRATIVE RESPONSIBILITIES, INCLUDING BUT NOT LIMITED TO SUCH A REDUCTION RESULTING FROM THE PROCESS OF CONVERTING THE MEDICAL ASSISTANCE PROGRAM TO A DEPARTMENT-ADMINISTERED PROGRAM PURSUANT TO SECTION 365-N OF THE SOCIAL SERVICES LAW.

(D) IF, FOR STATE FISCAL YEAR 2012-13 AND FOR ANY STATE FISCAL YEAR THEREAFTER, THE AGGREGATE AMOUNT OF ADMINISTRATIVE COSTS CLAIMED OR PROJECTED TO BE CLAIMED BY ALL SOCIAL SERVICES DISTRICTS IS LESS THAN THE NON-FEDERAL FINANCIAL PLAN APPROPRIATION FOR THE ADMINISTRATION OF THE MEDICAL ASSISTANCE PROGRAM FOR THAT FISCAL YEAR, THE DIFFERENCE BETWEEN SUCH AGGREGATE AMOUNT OF CLAIMS OR PROJECTED CLAIMS AND SUCH APPROPRIATION SHALL BE USED FOR REIMBURSEMENT TO THOSE DISTRICTS DETERMINED BY THE COMMISSIONER, WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, TO HAVE CLAIMS OR PROJECTED CLAIMS FOR REASONABLE ADMINISTRATIVE COSTS WHICH EXCEED OR ARE PROJECTED TO EXCEED THE ADMINISTRATIVE CAP AMOUNT AS ESTABLISHED PURSUANT TO SUBDIVISION (B) OF THIS SECTION. SUCH REIMBURSEMENT SHALL BE ACCOMPLISHED BY ALLOCATING PROPORTIONALLY AMONG SUCH DISTRICTS THE AGGREGATE AMOUNT OF SUCH EXCESS.

S 5. Section 91 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 is amended to read as follows:

S 91. 1. Notwithstanding any inconsistent provision of state law, rule or regulation to the contrary, subject to federal approval, the year to year rate of growth of department of health state funds Medicaid spending shall not exceed the ten year rolling average of the medical component of the consumer price index as published by the United States department of labor, bureau of labor statistics, for the preceding ten years.

2. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, FOR STATE FISCAL YEAR 2013-14 AND FOR EACH FISCAL YEAR THEREAFTER, THE SPENDING LIMIT CALCULATED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL SOCIAL

SERVICES DISTRICT MEDICAL ASSISTANCE EXPENDITURE AMOUNTS CALCULATED FOR SUCH PERIOD IN CONFORMANCE WITH SUBDIVISIONS (B), (C), (C-1), AND (D) OF SECTION 1 OF PART C OF CHAPTER 58 OF THE LAWS OF 2005 AND THE TOTAL SOCIAL SERVICES DISTRICT MEDICAL EXPENDITURE AMOUNTS THAT WOULD HAVE RESULTED IF THE PROVISIONS OF SUBDIVISION (C-1) OF SUCH SECTION HAD NOT BEEN APPLIED.

3. WITH RESPECT TO A SOCIAL SERVICES DISTRICT THAT RESCINDS THE EXERCISE OF THE OPTION PROVIDED IN PARAGRAPH (I) OF SUBDIVISION (B) OF SECTION 2 OF PART C OF CHAPTER 58 OF THE LAWS OF 2005, FOR STATE FISCAL YEAR 2013-14 AND FOR EACH FISCAL YEAR THEREAFTER, THE SPENDING LIMIT CALCULATED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF THE MEDICAL ASSISTANCE EXPENDITURE AMOUNT CALCULATED FOR SUCH DISTRICT FOR SUCH PERIOD.

S 6. The social services law is amended by adding a new section 365-n to read as follows:

S 365-N. DEPARTMENT OF HEALTH ASSUMPTION OF PROGRAM ADMINISTRATION. 1. NOTWITHSTANDING THE PROVISIONS OF TITLE TWO OF ARTICLE THREE OF THIS CHAPTER OR OF SECTION THREE HUNDRED SIXTY-FIVE OF THIS TITLE OR OF ANY OTHER LAW TO THE CONTRARY, THE COMMISSIONER OF HEALTH (COMMISSIONER) IS AUTHORIZED TO TAKE ACTIONS EXPLICITLY AUTHORIZED BY THIS SECTION THAT ARE NECESSARY TO TRANSFER RESPONSIBILITY FOR THE ADMINISTRATION OF THE MEDICAL ASSISTANCE PROGRAM FROM LOCAL SOCIAL SERVICES DISTRICTS TO THE DEPARTMENT OF HEALTH (DEPARTMENT) BY MARCH THIRTY-FIRST, TWO THOUSAND EIGHTEEN.

2. FOR PURPOSES OF THIS SECTION, THE ADMINISTRATION OF THE MEDICAL ASSISTANCE PROGRAM INCLUDES: PROCESSING APPLICATIONS FOR BENEFITS AND SERVICES AVAILABLE UNDER THIS TITLE AND TITLE ELEVEN-D OF THIS ARTICLE; MAKING DETERMINATIONS OF INITIAL AND ONGOING ELIGIBILITY FOR SUCH BENEFITS AND SERVICES; MAKING COVERAGE DETERMINATIONS WITH RESPECT TO BENEFITS AND SERVICES REQUIRING PRIOR AUTHORIZATION; NOTIFYING APPLICANTS AND RECIPIENTS OF THESE DETERMINATIONS AND OF THEIR RIGHTS AND RESPONSIBILITIES, AUTHORIZING BENEFITS AND SERVICES FOR PERSONS FOUND ELIGIBLE; EXERCISING SUBROGATION RIGHTS WITH RESPECT TO AMOUNTS RECEIVED FROM INSURANCE CARRIERS OR OTHER LIABLE THIRD PARTIES; IMPOSING LIENS AND PURSUING RECOVERIES; AND ANY OTHER SUCH TASKS AND FUNCTIONS IDENTIFIED BY THE COMMISSIONER.

3. NOTWITHSTANDING SECTIONS SIXTY-ONE, SIXTY-THREE, SEVENTY, SEVENTY-EIGHT, SEVENTY-NINE, EIGHTY-ONE AND EIGHT-ONE-A OF THE CIVIL SERVICE LAW OR ANY PROVISIONS TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL, OR LOCAL LAWS, ALL LAWFUL APPOINTEES OF A COUNTY PERFORMING THE FUNCTIONS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION AS OF THE EFFECTIVE DATE OF THIS SECTION WILL BE ELIGIBLE FOR VOLUNTARY TRANSFER TO APPROPRIATE POSITIONS, IN THE DEPARTMENT, THAT ARE CLASSIFIED TO PERFORM SUCH FUNCTIONS WITHOUT FURTHER EXAMINATION, QUALIFICATION, OR PROBATIONARY PERIOD; AND, UPON SUCH TRANSFER, WILL HAVE ALL THE RIGHTS AND PRIVILEGES OF THE JURISDICTIONAL CLASSIFICATION TO WHICH SUCH POSITIONS ARE ALLOCATED IN THE CLASSIFIED SERVICE OF THE STATE.

4. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A LOCAL DEPARTMENT OF SOCIAL SERVICES STATEMENT OF INTEREST. THE STATEMENT OF INTEREST WILL ELICIT FROM LOCAL DEPARTMENTS OF SOCIAL SERVICES THEIR INTEREST IN AND CAPACITY TO CONTRACT WITH THE DEPARTMENT TO PERFORM THE FUNCTIONS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION. TO THE EXTENT PRACTICABLE AND IN THE BEST INTEREST OF THE MEDICAL ASSISTANCE PROGRAM, THE DEPARTMENT SHALL CONTRACT WITH LOCAL SOCIAL SERVICES DISTRICTS TO PERFORM ALL OR A PORTION OF THE FUNCTIONS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION.

IN NO EVENT, HOWEVER, SHALL THE DEPARTMENT, BY MEANS OF SUCH A CONTRACT, DELEGATE ITS AUTHORITY TO EXERCISE ADMINISTRATIVE DISCRETION IN THE ADMINISTRATION OR SUPERVISION OF THE STATE PLAN FOR MEDICAL ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF THIS TITLE, OR TO ISSUE POLICIES, RULES, AND REGULATIONS ON PROGRAM MATTERS NOR MAY ANY CONTRACTED ENTITY BE GIVEN THE AUTHORITY TO CHANGE OR DISAPPROVE ANY ADMINISTRATIVE DECISION OF THE DEPARTMENT, OR OTHERWISE SUBSTITUTE SUCH ENTITY'S JUDGMENT FOR THAT OF THE DEPARTMENT WITH RESPECT TO THE APPLICATION OF POLICIES, RULES, AND REGULATIONS ISSUED BY THE DEPARTMENT. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTIONS ONE HUNDRED FORTY-TWO AND ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT WITH LOCAL DEPARTMENTS OF SOCIAL SERVICES WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

5. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTIONS ONE HUNDRED FORTY-TWO AND ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER IS AUTHORIZED TO AMEND THE TERMS OF CONTRACTS AWARDED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, INCLUDING A CONTRACT ENTERED INTO PURSUANT TO SUBDIVISION TWENTY-FOUR OF SECTION TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW, AS ADDED BY SECTION THIRTY-NINE OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND EIGHT, WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, UPON A DETERMINATION THAT THE EXISTING CONTRACTOR IS QUALIFIED TO PROVIDE ASSISTANCE WITH ONE OR MORE FUNCTIONS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION. SUCH AMENDMENTS SHALL BE LIMITED TO IMPLEMENTATION OF: (I) AUTOMATION ENHANCEMENTS, INCLUDING BUT NOT LIMITED TO, THE MEDICARE SAVINGS PROGRAM AND THE FAMILY PLANNING BENEFIT PROGRAM; (II) PROCESSES FOR VERIFICATION OF THIRD PARTY INSURANCE AND PROCESSING ENROLLMENT IN MEDICAL ASSISTANCE WITH THIRD PARTY HEALTH INSURANCE; (III) PROCEDURES THAT WILL INCREASE EFFICIENCIES AT ENROLLMENT CENTERS; (IV) AN ASSET VERIFICATION SYSTEM; AND (V) PROCESSES TO COMPLY WITH FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, THE USE OF MODIFIED ADJUSTED GROSS INCOME IN ELIGIBILITY DETERMINATIONS.

6. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE HEALTH COMMITTEE AND THE CHAIR OF THE ASSEMBLY HEALTH COMMITTEE BY DECEMBER THIRTY-FIRST, BEGINNING IN TWO THOUSAND TWELVE AND FOR EACH YEAR THEREAFTER UNTIL THE YEAR FOLLOWING FULL IMPLEMENTATION. THE INITIAL REPORT SHALL CONSIST OF MODIFICATIONS TO THE PLAN DEVELOPED PURSUANT TO SECTION FORTY-SEVEN-B OF PART B OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND TEN, AND SHALL INCLUDE ANTICIPATED IMPLEMENTATION OF THE REVISED PLAN, ITS ELEMENTS, A TIMELINE FOR SUCH IMPLEMENTATION, RECOMMENDATIONS FOR LEGISLATIVE ACTION, AND SUCH OTHER MATTERS AS MAY BE PERTINENT.

THE REPORT SHALL INCLUDE A PLAN AND TIMELINE FOR THE STATE TO:

(I) ASSUME SPECIFIC FUNCTIONS RELATED TO THE ADMINISTRATION OF THE MEDICAL ASSISTANCE PROGRAM; (II) COORDINATE THE IMPLEMENTATION OF PROVISIONS OF FEDERAL LAW WITH THE ASSUMPTION OF THE ADMINISTRATION OF THE MEDICAL ASSISTANCE PROGRAM; AND (III) ADDRESS THE FINANCING OF THE MEDICAL ASSISTANCE PROGRAM ADMINISTRATION AND ANY ASSOCIATED ADMINISTRATIVE COST RELIEF TO LOCAL SOCIAL SERVICES DISTRICTS. THE REPORT SHALL ALSO INDICATE ANY FUNCTION THAT THE STATE INTENDS TO ENTER INTO A CONTRACT WITH A PUBLIC AND/OR PRIVATE ENTITY TO PERFORM, AND THE DATE IN WHICH THE STATE ANTICIPATES ENTERING INTO ANY SUCH CONTRACT. IN ADDI-

TION, REPORTS SHALL, AT A MINIMUM, INDICATE: (I) ANY PROGRESS THE DEPARTMENT HAS MADE REGARDING ITS PROPOSED TIMELINE, INCLUDING A SUMMARY OF ALL FUNCTIONS ASSUMED BY THE STATE DURING THE PREVIOUS YEAR; (II) ANY ANTICIPATED AND/OR ACTUAL DELAY FROM THE PROPOSED TIMELINE; (III) THE REASON FOR ANY SUCH DELAY; AND (IV) ACTIONS THE DEPARTMENT HAS UNDERTAKEN TO MITIGATE ANY SUCH DELAY.

7. THE COMMISSIONER SHALL PROMULGATE SUCH REGULATIONS THAT ARE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION. IN ADDITION, THE COMMISSIONER SHALL MAKE ANY AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE, OR DEVELOP AND SUBMIT AN APPLICATION FOR ANY WAIVER OR APPROVAL UNDER THE FEDERAL SOCIAL SECURITY ACT, THAT ARE NECESSARY AND REQUIRED TO CARRY OUT THE PROVISIONS OF THIS SECTION.

S 7. Subdivision 7 of section 369 of the social services law, as added by section 71-a of part C of chapter 58 of the laws of 2008, is amended to read as follows:

7. Notwithstanding any provision of law to the contrary, the department [may commence] SHALL, WHEN IT DETERMINES NECESSARY PROGRAM FEATURES ARE IN PLACE, ASSUME SOLE RESPONSIBILITY FOR COMMENCING actions or proceedings in accordance with the provisions of this section, sections one hundred one, one hundred four, one hundred four-b, paragraph (a) of subdivision three of section three hundred sixty-six, subparagraph one of paragraph (h) of subdivision four of section three hundred sixty-six, and paragraph (b) of subdivision two of section three hundred sixty-seven-a of this chapter, to recover the cost of medical assistance furnished pursuant to this title and title eleven-D of this article. The department is authorized to contract with an entity that shall conduct activities on behalf of the department pursuant to this subdivision. PRIOR TO ASSUMING SUCH RESPONSIBILITY FROM A SOCIAL SERVICES DISTRICT, THE DEPARTMENT OF HEALTH SHALL, IN CONSULTATION WITH THE DISTRICT, DEFINE THE SCOPE OF THE SERVICES THE DISTRICT WILL BE REQUIRED TO PERFORM ON BEHALF OF THE DEPARTMENT OF HEALTH PURSUANT TO THIS SUBDIVISION.

S 8. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 9. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 10. 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.

S 11. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012, provided that:

1. section one of this act shall take effect April 1, 2013;
2. any rules or regulations necessary to implement the provisions of this act may be promulgated and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the date this act shall have become a law;
3. this act shall not be construed to alter, change, affect, impair or defeat any rights, obligations, duties or interests accrued, incurred or conferred prior to the effective date of this act;
4. the commissioner of health and the superintendent of financial services and any appropriate council may take any steps necessary to implement this act prior to its effective date;
5. notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of financial services and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date;
6. the amendment to section 91 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, made by section five of this act shall take effect on the same date and in the same manner as such section takes effect;
7. the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of financial services or any council to adopt or amend or promulgate regulations implementing this act;
8. subdivision 5 of section 365-n of the social services law, as added by section six of this act shall expire and be deemed repealed March 31, 2015.

PART G

Section 1. Subdivision 1 of section 79 of part C of chapter 58 of the laws of 2005 relating to the preferred drug program is amended to read as follows:

1. [sections ten through fifteen] SECTION FOURTEEN of this act shall expire and be deemed repealed on and after June 15, 2012;

S 2. Subparagraph (v) of paragraph (b) of subdivision 35 of section 2807-c of the public health law, as amended by section 35-a of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(v) such regulations shall incorporate quality related measures, including, but not limited to, potentially preventable re-admissions (PPRs) and provide for rate adjustments or payment disallowances related to PPRs and other potentially preventable negative outcomes (PPNOs), which shall be calculated in accordance with methodologies as determined by the commissioner, provided, however, that such methodologies shall be based on a comparison of the actual and risk adjusted expected number of PPRs and other PPNOs in a given hospital and with benchmarks established by the commissioner and provided further that such rate adjustments or payment disallowances shall result in an aggregate reduction in Medicaid payments of no less than thirty-five million dollars for the period July first, two thousand ten through March thirty-first, two thousand eleven and no less than fifty-one million dollars for [the period] ANNUAL PERIODS BEGINNING April first, two thousand eleven through March thirty-first, two thousand [twelve] THIRTEEN, provided further that such aggre-

gate reductions shall be offset by Medicaid payment reductions occurring as a result of decreased PPRs during the period July first, two thousand ten through March thirty-first, two thousand eleven and the period April first, two thousand eleven through March thirty-first, two thousand [twelve] THIRTEEN and as a result of decreased PPNOs during the period April first, two thousand eleven through March thirty-first, two thousand [twelve] THIRTEEN; and provided further that for the period July first, two thousand ten through March thirty-first, two thousand [twelve] THIRTEEN, such rate adjustments or payment disallowances shall not apply to behavioral health PPRs; or to readmissions that occur on or after fifteen days following an initial admission. By no later than July first, two thousand eleven the commissioner shall enter into consultations with representatives of the health care facilities subject to this section regarding potential prospective revisions to applicable methodologies and benchmarks set forth in regulations issued pursuant to this subparagraph;

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART H

Section 1. Subdivisions 3-b and 3-c of section 1 and section 4 of part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, subdivisions 3-b and 3-c of section 1 as amended by section 1 and section 4 as amended by section 2 of part F of chapter 59 of the laws of 2011, is amended to read as follows:

3-b. Notwithstanding any inconsistent provision of law, beginning April 1, 2009 and ending March 31, [2012] 2013, the commissioners shall not include a COLA for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

3-c. Notwithstanding any inconsistent provision of law, beginning April 1, [2012] 2013 and ending March 31, [2015] 2016, the commissioners shall develop the COLA under this section using the actual U.S. consumer price index for all urban consumers (CPI-U) published by the United States department of labor, bureau of labor statistics for the twelve month period ending in July of the budget year prior to such state fiscal year, for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2006; provided section one of this act shall expire and be deemed repealed April 1, [2015] 2016; provided, further, that sections two and three of this act shall expire and be deemed repealed December 31, 2009.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012; provided, however, that the amendments to section 1 of part C of chapter 57 of the laws of 2006 made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART I

Intentionally Omitted

PART J

Section 1. Section 13.17 of the mental hygiene law, as added by chapter 978 of the laws of 1977, the section heading as amended by chapter 168 of the laws of 2010, subdivisions (b) and (d) as amended by chapter 37 of the laws of 2011 and subdivision (c) as amended by chapter 538 of the laws of 1987, is amended to read as follows:

S 13.17 Programs, services, and operations [of facilities] in the office for people with developmental disabilities.

(a) The commissioner shall establish policy and procedures for the organization, administration, and [operation of the facilities] SERVICE DELIVERY SYSTEM under his OR HER jurisdiction[. He] AND shall make provision for the effective rendition of SUPPORTS AND services to [patients by such facilities or office personnel] INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

(b) There shall be [in], WITHIN THE STATE OPERATIONS OFFICES OF the office, the developmental disabilities services offices named below serving the areas either currently or previously served by a school, for the care and treatment of persons with developmental disabilities and for research and teaching in the science and skills required for the care and treatment of such persons with developmental disabilities:

Bernard M. Fineson Developmental Disabilities Services Office
Brooklyn Developmental Disabilities Services Office
Broome Developmental Disabilities Services Office
Capital District Developmental Disabilities Services Office
Central New York Developmental Disabilities Services Office
Finger Lakes Developmental Disabilities Services Office
Institute for Basic Research in Developmental Disabilities
Hudson Valley Developmental Disabilities Services Office
Metro New York Developmental Disabilities Services Office
Long Island Developmental Disabilities Services Office
Sunmount Developmental Disabilities Services Office
Taconic Developmental Disabilities Services Office
Western New York Developmental Disabilities Services Office
Staten Island Developmental Disabilities Services Office

The New York State Institute for Basic Research in Developmental Disabilities is designated as an institute for the conduct of medical research and other scientific investigation directed towards furthering knowledge of the etiology, diagnosis, treatment and prevention of developmental disabilities.

(c) The commissioner shall establish [the areas which each facility or], AT HIS OR HER DISCRETION, developmental disabilities [services office under his jurisdiction shall serve and the categories of clients which shall be served thereby] REGIONAL OFFICES AND SHALL ESTABLISH STATE OPERATIONS OFFICES THAT PROVIDE FOR THE DIRECT DELIVERY OF SUPPORTS AND SERVICES BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES.

[(d)] (C) The commissioner may [permit] AUTHORIZE other offices of the department and any public or private non-profit organization or political subdivision of the state to [operate programs for persons] DELIVER SUPPORTS AND SERVICES TO INDIVIDUALS with developmental disabilities, not inconsistent with the programs and objectives of the office in any facility under his jurisdiction. The commissioner may permit any facility under his jurisdiction to operate programs for persons with mental disabilities, not inconsistent with programs and objectives of the department, under contracts or agreements with other offices within the department.

S 2. Section 13.19 of the mental hygiene law, as added by chapter 978 of the laws of 1977, subdivisions (a) and (d) as amended by chapter 168 of the laws of 2010 and subdivision (e) as added by chapter 307 of the laws of 1979, is amended to read as follows:

S 13.19 Personnel of the office; regulations.

(a) The commissioner may, within the amounts appropriated therefor, appoint and remove in accordance with law and applicable rules of the state civil service commission, such officers and employees of the office for people with developmental disabilities [and school and facility officers and employees who are designated managerial or confidential pursuant to article fourteen of the civil service law] as are necessary for efficient administration. THE COMMISSIONER SHALL, IN EXERCISING HIS OR HER APPOINTING AUTHORITY, TAKE, CONSISTENT WITH ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, ALL REASONABLE AND NECESSARY STEPS TO ENSURE THAT ANY SUCH PERSON SO APPOINTED HAS NOT PREVIOUSLY ENGAGED IN ANY ACT IN VIOLATION OF ANY LAW WHICH INDICATES A PROPENSITY TO ACT IN A MANNER THAT WOULD COMPROMISE THE HEALTH AND SAFETY OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

(b) The director of a hospital or institute in the office shall have professional qualifications and experience to be prescribed by the commissioner.

(c) Notwithstanding the provisions of any other law, the [positions] POSITION of [psychiatrist III and] deputy director in [any] AN office facility may be filled BY NEW HIRE OR by promotion open to employees [of all such facilities] who possess the minimum qualifications for the [respective positions. Promotion lists which are established for those positions shall be general eligible promotion lists from which names are certified in the order of final earned ratings and from which certification shall not be subdivided by the facility or department in which such persons are employed. Nothing in this subdivision shall prevent the use of open competitive examinations] POSITION.

[(d)] (C) The use of volunteers [at facilities] in the office for people with developmental disabilities shall be encouraged. The commissioner may establish regulations governing such volunteer services.

[(e)] (D) Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of the civil service law so provides, the commissioner is authorized to implement the provisions of such agreement relating to discipline consistent with the terms thereof.

S 3. Section 13.21 of the mental hygiene law, as added by chapter 978 of the laws of 1977, the section heading and subdivisions (a) and (c) as amended by chapter 168 of the laws of 2010, subdivision (b) as amended by chapter 558 of the laws of 2011, subdivision (d) as added by chapter 355 of the laws of 1987 and subdivision (e) as added by chapter 492 of the laws of 1978 and as relettered by chapter 355 of the laws of 1987, is amended to read as follows:

S 13.21 Directors of [schools] STATE OPERATIONS OFFICES AND DEVELOPMENTAL DISABILITIES REGIONAL OFFICES in the office for people with developmental disabilities.

(a) The [director] DIRECTORS of [a school] BOTH THE STATE OPERATIONS OFFICES AND DEVELOPMENTAL DISABILITIES REGIONAL OFFICES in the office for people with developmental disabilities shall be appointed by the commissioner [and shall be its chief executive officer. The director of a school shall be the director of the developmental disabilities services office serving the areas designated by the commissioner in regulation, and in such context, the term facility shall also refer to

such developmental disabilities services office]. Each such director shall be in the non-competitive class and designated as confidential as defined by subdivision two-a of section forty-two of the civil service law and shall serve at the pleasure of the commissioner. [Except for school and facility officers and employees for which subdivision (a) of section 13.19 of this article makes the commissioner the appointing and removing authority, the director of a school shall have the power, within amounts appropriated therefor, to appoint and remove in accordance with law and applicable rules of the state civil service commission such officers and employees of the facility of which he or she is director as are necessary for its efficient administration.] He or she shall in exercising his or her appointing authority take, consistent with article twenty-three-A of the correction law, all reasonable and necessary steps to insure that any such person so appointed has not previously engaged in any act in violation of any law which [could] INDICATES A PROPENSITY TO ACT IN A MANNER THAT WOULD compromise the health and safety of patients in the facility of which he or she is director. He or she shall manage the [facility, and administer its personnel system,] STATE OPERATIONS OFFICE OR DEVELOPMENTAL DISABILITIES REGIONAL OFFICE AND ADMINISTER ITS PERSONNEL SYSTEM subject to applicable law, the regulations of the commissioner, and the rules of the state civil service commission. [Before the commissioner shall issue any such regulation or any amendment or revision thereof, he or she shall consult with the directors of schools in the office regarding its suitability.] The [director] DIRECTORS OF THE DEVELOPMENTAL DISABILITIES REGIONAL OFFICES AND STATE OPERATIONS OFFICES shall maintain effective supervision of all parts of [the facility and over all persons employed therein or coming thereon and] THEIR RESPECTIVE OFFICES. THE DIRECTORS OF STATE OPERATIONS OFFICES shall generally [direct] PROVIDE FOR the [care and treatment of patients. Directors presently serving at facilities of the office shall continue to serve under the terms of their original appointment] ADMINISTRATION OF SUPPORTS AND SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES IN STATE OPERATED PROGRAMS. DIRECTORS OF REGIONAL OFFICES SHALL GENERALLY OVERSEE THE ADMINISTRATION OF SUPPORTS AND SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES IN SETTINGS OUTSIDE THE STATE OPERATED PROGRAMS.

(b) Such [director] DIRECTORS shall have the responsibility of seeing that there is humane treatment of [the patients at his facility and shall investigate every case of alleged patient abuse or mistreatment] INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES RECEIVING SERVICES IN SETTINGS OPERATED, LICENSED, CERTIFIED, FUNDED OR APPROVED BY THIS OFFICE. [The] A director OF A STATE OPERATIONS OFFICE shall notify immediately, and in any event within three working days, the board of visitors of the facility and the mental hygiene legal service located in the same judicial department as [the hospital, school or institution] THE STATE OPERATIONS OFFICE of every complaint of patient abuse or mistreatment and shall inform the board and the mental hygiene legal service of the results of his OR HER investigation. If it appears that a crime may have been committed, [the] SUCH STATE OPERATIONS director shall give notice thereof to the district attorney or other appropriate law enforcement official as soon as possible, and in any event within three working days unless it appears that the crime includes an employee, intern, volunteer, consultant, contractor, or visitor and the alleged conduct caused physical injury or the patient was subject to unauthorized sexual contact, or if it appears the crime is endangering the welfare of an incompetent or physically disabled person pursuant to

section 260.25 of the penal law, or if the crime was any felony under state or federal law, then the district attorney or other appropriate law enforcement official must be contacted immediately, and in any event no later than twenty-four hours.

(c) In any investigation into the treatment and care of [patients] INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES or the conduct, performance, or neglect of duty of officers or employees, the [director of a school in the office for people with developmental disabilities] COMMISSIONER OR HIS OR HER DESIGNEE shall be authorized to subpoena witnesses, compel their attendance, administer oaths to witnesses, examine witnesses under oath, and require the production of any books or papers deemed relevant to the inquiry or investigation. A subpoena issued under this section shall be regulated by the civil practice law and rules.

(d) [Such] THE director of a [school] STATE OPERATIONS OFFICE shall be responsible for the provision of STATE OPERATED community developmental disabilities services[,] in those areas that the commissioner may assign. Such responsibility shall, consistent with article forty-one of this chapter, include the operation of STATE OPERATED facilities[,] AND the development of needed facilities[, and the provision of assistance to service providers in such areas and any necessarily related activities. All powers and duties as set forth in this section shall apply to such responsibilities]. THE DIRECTOR OF A DEVELOPMENTAL DISABILITIES REGIONAL OFFICE SHALL BE RESPONSIBLE FOR THE PROVISION OF COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES TO INDIVIDUALS IN SETTINGS OTHER THAN STATE OPERATED PROGRAMS. SUCH REGIONAL DIRECTOR'S RESPONSIBILITY SHALL, CONSISTENT WITH ARTICLE FORTY-ONE OF THIS CHAPTER, INCLUDE THE OVERSIGHT OF FACILITIES AND PROGRAMS OTHER THAN THOSE OPERATED BY THE STATE.

(e) Each [facility] STATE OPERATIONS director of the office shall, upon notice from the commissioner or upon knowledge that programs of such facility may be contracted or terminated, implement procedures to ensure timely notification to affected employees. Such procedures shall include, but not be limited to:

(1) dissemination and posting of all decisions, policies and procedures with respect to all aspects of such actions and their impact on facility staff; and

(2) compliance with all requirements and protection of employee rights pursuant to collective bargaining agreements with the designated legal representative of the employees and the civil service law.

S 4. Section 13.33 of the mental hygiene law, as added by chapter 978 of the laws of 1977, subdivision (a) as amended by chapter 37 of the laws of 2011, subdivision (d) as amended by chapter 686 of the laws of 1995, subdivisions (f) and (h) as amended by chapter 175 of the laws of 1986, subdivision (i) as amended by chapter 14 of the laws of 1990, paragraph 1 of subdivision (i) as amended by chapter 75 of the laws of 1992, paragraph 2 of subdivision (i) and subdivision (m) as amended by chapter 168 of the laws of 2010, subdivision (j) as amended by chapter 264 of the laws of 1980 and subdivisions (j) and (k) as relettered by chapter 84 of the laws of 1980, subdivision (l) as amended by chapter 406 of the laws of 1994 and subdivision (n) as amended by chapter 662 of the laws of 1995, is amended to read as follows:

S 13.33 Boards of visitors.

(a) Each [developmental disabilities services] STATE OPERATIONS office under the jurisdiction of the commissioner shall have a MINIMUM OF ONE board of visitors consisting of at least seven but not more than fourteen members[; provided, however, that the Central New York develop-

mental disabilities services office shall have a board of visitors consisting of at least ten, but not more than seventeen members; and that the Finger Lakes developmental disabilities services office shall have a board of visitors consisting of at least fourteen, but not more than twenty-one members. When a school is replaced by a developmental disabilities services office, the members of that school's board of visitors shall continue to serve their terms as the board of visitors for the new developmental disabilities services office]. Members appointed or reappointed after the effective date of this chapter shall be appointed by the governor, by and with the advice and consent of the senate. Members shall be appointed for four year terms to expire on the thirty-first day of December of the fourth year of the term of office provided however, when more than three terms expire in any one year, members may be appointed for terms of fewer years as designated by the governor so that no more than three members' terms expire in any one year. All terms of office shall expire on the thirty-first day of December of the designated year. A member whose term has expired shall, however, remain in office until such member's successor has been appointed and has taken office, or until such member shall have resigned or have been removed from office in the manner hereinafter provided. Should any member resign or be removed from office, the governor shall promptly submit, for senate consent, a successor candidate to fill the remaining term of the vacated office. A visitor may be removed by the governor for cause after notice and an opportunity for a hearing on the charges. In making appointments to boards of visitors, the governor shall endeavor to ensure that the membership of each such board shall adequately reflect the composition of the community or communities served by the [facility] STATE OPERATIONS OFFICE, that the membership of each such board includes at least three individuals who are parents or relatives of patients or of former patients and that the remainder includes only those persons, including former patients, who shall have expressed an active interest in, or shall have obtained professional knowledge in the care of persons with developmental disabilities or in developmental disability endeavors generally.

(b) No elected state officer or member of the legislature may serve as a visitor.

(c) [If the facility serves an area] EACH VISITOR SHALL RESIDE, AT THE TIME OF APPOINTMENT OR REAPPOINTMENT, IN THE AREA, as established by the regulations of the commissioner, [the visitors shall reside at the time of appointment or reappointment in such area] SERVED BY THE STATE OPERATED OFFICE THAT IT OVERSEES. [If no specific area is designated, the visitors shall reside at the time of appointment or reappointment in the developmental disabilities area, established by the commissioner, in which the facility is located.]

(d) Each board shall, at the first meeting of each calendar year elect one member to serve as president of the board and one member to serve as secretary; provided however, that no member may serve for more than two consecutive years as president.

(e) Visitors shall not receive compensation but shall be reimbursed for their actual expenses in connection with their service as visitors.

(f) (1) Each board of visitors shall hold six bi-monthly regular meetings annually, but a greater number of regular meetings may be scheduled by the board. Each board of visitors shall establish in their by-laws or otherwise, in writing, whether these six meetings shall be held during months represented by odd numbers or months represented by even numbers. The president of the board shall notify the chairman of the commission

on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES and the [facility] STATE OPERATIONS director of the determination made concerning the designated months for the six bi-monthly regular meetings. The president of the board, the commissioner, the director, or the members as determined by the rules of the board may call special meetings. The board may require the director to submit a report at each meeting. Each board shall keep a record of its proceedings and activities. A member of a board of visitors who has failed to attend three consecutive bi-monthly regular meetings shall be considered to have vacated his office unless otherwise ordered by the governor. The board shall cause notice of any of its public meetings to be sent to the mental hygiene legal service located in the same judicial department as the [school] STATE OPERATIONS OFFICE. The mental hygiene legal service may send a representative to any such public meeting, and may request the board to review patient complaints or investigate alleged incidents of abuse or mistreatment. The board shall notify the appropriate representative of the mental hygiene legal service of the board's actions and findings in relation to any such request.

(2) The president of the board of visitors shall notify a member by certified or registered mail return receipt requested when such member of the board has failed to attend any two consecutive bi-monthly regular meetings. This notice shall be sent within ten days following the second meeting and shall include the dates of the two meetings which were missed, the date of the next bi-monthly regular meeting, and a statement concerning the consequences of failure to attend the next meeting.

(3) Within three days after the third consecutive absence at a bi-monthly regular meeting by a member, the president of the board of visitors shall notify, in writing, the governor, the commissioner, the chairman of the commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES and the [facility] STATE OPERATIONS director of such absences. The president of the board of visitors shall send a copy of this notice by registered or certified mail return receipt requested to the member to whom it pertains. The member may petition the governor to excuse his absences. If the governor does not excuse the absences within forty-five days of the date of the third consecutive meeting absence, the office of the member shall be deemed vacated.

(g) Upon the request of the commissioner or the director, or upon the board's initiative, the board shall consult, advise, and work with the director with respect to community relations, conditions at [the] A STATE OPERATED facility, preliminary plans for construction and alterations, and programs and activities of [the] A STATE OPERATED facility.

(h) Each board or any member of the board may visit and inspect [the] A STATE OPERATED facility THAT IS IN THE CATCHMENT AREA OF THE STATE OPERATIONS REGION IN WHICH SUCH MEMBER OR MEMBERS SERVE at any time without prior notice and may report on conditions to the governor, to the commissioner and to the chairman of the state commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES AND, SUBJECT TO CONFIDENTIAL INFORMATION BEING REDACTED TO PROTECT THE CONFIDENTIALITY OF INDIVIDUALS IN SUCH FACILITY, TO THE TEMPORARY PRESIDENT OF THE SENATE AND TO THE SPEAKER OF THE ASSEMBLY. In addition, each board shall ensure that a member or committee of members shall inspect [the] SUCH facility once every three months without prior notice. A report on conditions may be submitted to the governor, to the commissioner or to the chairman of the state commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS

WITH DISABILITIES AND, SUBJECT TO CONFIDENTIAL INFORMATION BEING REDACTED TO PROTECT THE CONFIDENTIALITY OF INDIVIDUALS IN SUCH FACILITY, TO THE TEMPORARY PRESIDENT OF THE SENATE AND TO THE SPEAKER OF THE ASSEMBLY. Each board member shall visit and inspect [the] ANY SUCH facility at least twice during each calendar year. Within thirty days after the conclusion of each calendar year, the president of the board of visitors shall notify the governor, the commissioner, the chairman of the commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES, and the [facility] STATE OPERATIONS director, if any member of the board has failed to visit and inspect [the] ANY SUCH facility at least twice during that year. The president of the board of visitors shall send a copy of this notice by certified or registered mail return receipt requested to the member to whom it pertains. A member of a board of visitors who has failed to visit and inspect [the] A facility at least twice a year shall be considered to have vacated his OR HER office unless otherwise ordered by the governor within forty-five days after the end of the calendar year. The board shall have the power to investigate all charges against the STATE OPERATIONS director, and all cases of alleged patient abuse or mistreatment made against any employee, and shall have the power to interview patients and employees of the [facility] FACILITIES in pursuit of such investigations. In conducting such an investigation, the board shall have the power, in accordance with the civil practice law and rules, to subpoena witnesses, compel their testimony, administer oaths to witnesses, examine witnesses under oath, and require the production of any books or papers deemed relevant to the investigation. A board or a member may include in the report or separately at any time any matter pertaining to the management and affairs of [the facility] SUCH FACILITIES and may make recommendations to the governor, to the commissioner and to the chairman of the state commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES. Each board member shall enter in a book, kept at each SUCH facility for that purpose, the date of each visit.

(i) (1) Any member or members of the board may visit and inspect a family care home[, which] THAT is within the catchment area of the [school on the board of] STATE OPERATIONS REGION IN which such member or members serve. Such member or members shall be granted access to such facility and to all books, records and data pertaining to such facility deemed necessary for carrying out the purposes of such visit. Information, books, records or data [which] THAT are confidential as provided by law shall be kept confidential and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to such member or members of the board. After any such visits or inspections, a report containing findings and recommendations may be submitted to the governor, to the commissioner or to the state commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES AND SUBJECT TO CONFIDENTIAL INFORMATION BEING REDACTED TO PROTECT THE CONFIDENTIALITY OF INDIVIDUALS IN SUCH FACILITY TO THE TEMPORARY PRESIDENT OF THE SENATE AND TO THE SPEAKER OF THE ASSEMBLY.

(2) Any member or members of the board may visit and inspect a community residence operated by the office for people with developmental disabilities[, which] THAT is within the catchment area of the [school on the board of] STATE OPERATIONS REGION IN which such member or members serve. Such member or members shall be granted access to such facility and to all books, records and data pertaining to such facility deemed

necessary for carrying out the purposes of such visit and inspection. Information, books, records or data [which] THAT are confidential as provided by law shall be kept confidential and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to such member or members of the board. After any such visits or inspection, a report containing findings and recommendations shall be submitted promptly to the commissioner and to the chairman of the state commission on quality of care and advocacy for persons with disabilities.

(j) Once each year, each board shall make an independent assessment of conditions at [the facility] SUCH FACILITIES and shall submit a report on the assessment and recommendations to the governor, to the commissioner, TO THE TEMPORARY PRESIDENT OF THE SENATE, TO THE SPEAKER OF THE ASSEMBLY and to the chairman of the state commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES.

(k) The commissioner shall notify the board of visitors of a [school] FACILITY under his OR HER jurisdiction of the proposed appointment of a STATE OPERATIONS director [to such facility] or the proposed transfer of a STATE OPERATIONS director [from such facility], with a request that the board report an expression of its opinion of the appointment or transfer and, if it objects thereto, the reasons for such objection.

(l) The commissioner shall appoint representatives of the office [department] to serve as liaison between the office and the boards of visitors. At least once each year the commissioner shall meet with the boards collectively. The commissioner, or his OR HER designee, shall meet quarterly with representatives of boards of visitors.

(m) Members of the boards of visitors shall be considered officers of the office for people with developmental disabilities for the purposes of sections seventy-three, to the extent provided therein, and seventy-four of the public officers law relating to business or professional activities by state officers and employees and the code of ethics.

(n) Each member shall attend, within one year of the initial appointment or any subsequent reappointment, an orientation training program provided by the commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES for members of boards of visitors. The chairman of the commission on quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES shall notify the governor and the appointed member of any such member's failure to attend such a training program. A member who has failed to attend such a training program scheduled for such member shall be considered to have vacated his office unless otherwise ordered by the governor within forty-five days after the notice.

S 5. Paragraph (c) of subdivision 3 of section 2963 of the public health law, as added by chapter 818 of the laws of 1987, is amended to read as follows:

(c) If the attending physician determines that a patient lacks capacity because of a developmental disability, the concurring determination required by paragraph (a) of this subdivision shall be provided by a physician or psychologist employed by a [school] DEVELOPMENTAL DISABILITIES SERVICES OFFICE named in section 13.17 of the mental hygiene law, or who has been employed for a minimum of two years to render care and service in a facility operated or licensed by the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, or who has been approved by the commissioner of [mental retardation and] developmental disabilities in accordance with regulations promulgated by such commissioner. Such regulations shall require that a physician or

psychologist possess specialized training or three years experience in treating developmental disabilities.

S 6. Paragraph (c) of subdivision 2 of section 2981 of the public health law, as added by chapter 752 of the laws of 1990, is amended to read as follows:

(c) For persons who reside in a mental hygiene facility operated or licensed by the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, at least one witness shall be an individual who is not affiliated with the facility and at least one witness shall be a physician or clinical psychologist who either is employed by a [school] DEVELOPMENTAL DISABILITIES SERVICES OFFICE named in section 13.17 of the mental hygiene law or who has been employed for a minimum of two years to render care and service in a facility operated or licensed by the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, or [who] has been approved by the commissioner of [mental retardation and] developmental disabilities in accordance with regulations approved by the commissioner. Such regulations shall require that a physician or clinical psychologist possess specialized training or three years experience in treating developmental disabilities.

S 7. Paragraph (c) of subdivision 1 of section 2983 of the public health law, as added by chapter 752 of the laws of 1990, is amended to read as follows:

(c) If the attending physician determines that a patient lacks capacity because of a developmental disability, the attending physician who makes the determination must be, or must consult, for the purpose of confirming the determination, with a physician or clinical psychologist who either is employed by a [school] DEVELOPMENTAL DISABILITIES SERVICES OFFICE named in section 13.17 of the mental hygiene law, or who has been employed for a minimum of two years to render care and service in a facility operated or licensed by the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, or [who] has been approved by the commissioner of [mental retardation and] developmental disabilities in accordance with regulations promulgated by such commissioner. Such regulations shall require that a physician or clinical psychologist possess specialized training or three years experience in treating developmental disabilities. A record of such consultation shall be included in the patient's medical record.

S 8. Subparagraph ii of paragraph (c) of subdivision 3 of section 2994-c of the public health law, as added by chapter 8 of the laws of 2010, is amended to read as follows:

(ii) If the attending physician makes an initial determination that a patient lacks decision-making capacity because of [mental retardation or] a developmental disability, either such physician must have the following qualifications, or another professional with the following qualifications must independently determine whether the patient lacks decision-making capacity: a physician or clinical psychologist who either is employed by a [school] DEVELOPMENTAL DISABILITIES SERVICES OFFICE named in section 13.17 of the mental hygiene law, or who has been employed for a minimum of two years to render care and service in a facility operated or licensed by the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, or [who] has been approved by the commissioner of [mental retardation and] developmental disabilities in accordance with regulations promulgated by such commissioner. Such regulations shall require that a physician or clinical psychologist possess specialized training or three years experience in treating

developmental disabilities. A record of such consultation shall be included in the patient's medical record.

S 9. Subdivision 10 of section 2994-aa of the public health law, as added by chapter 8 of the laws of 2010, is amended to read as follows:

10. "Hospital" means a general hospital as defined in subdivision ten of section twenty-eight hundred one of this chapter and a residential health care facility as defined in subdivision three of section twenty-eight hundred one of this chapter or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law or a [school] DEVELOPMENTAL DISABILITIES SERVICES OFFICE named in section 13.17 of the mental hygiene law.

S 10. Subdivision 6 of section 2994-dd of the public health law, as added by chapter 8 of the laws of 2010, is amended to read as follows:

6. The commissioner may authorize the use of one or more alternative forms for issuing a nonhospital order not to resuscitate (in place of the standard form prescribed by the commissioner under subdivision two of this section). Such alternative form or forms may also be used to issue a non-hospital do not intubate order. Any such alternative forms intended for use for persons with [mental retardation or] developmental disabilities or persons with mental illness who are incapable of making their own health care decisions or who have a guardian of the person appointed pursuant to article eighty-one of the mental hygiene law or article seventeen-A of the surrogate's court procedure act must also be approved by the commissioner of [mental retardation and] developmental disabilities or the commissioner of mental health, as appropriate. An alternative form under this subdivision shall otherwise conform with applicable federal and state law. This subdivision does not limit, restrict or impair the use of an alternative form for issuing an order not to resuscitate in a general hospital or residential health care facility under article twenty-eight of this chapter or a hospital under subdivision ten of section 1.03 of the mental hygiene law [or a school under section 13.17 of the mental hygiene law].

S 11. Subparagraph (B) of paragraph (vi) of subdivision (c) of section 958 of the general municipal law, as amended by chapter 708 of the laws of 1993, is amended to read as follows:

(B) a state-operated hospital or facility listed in [sections] SECTION 7.17 or 13.17 of the mental hygiene law [which], OR A FACILITY OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THAT has been designated by either the commissioner of mental health or the commissioner of [mental retardation and] developmental disabilities for contraction or discontinuance. Provided however, that not more than one-third of the zones designated pursuant to paragraph (iii) or (iv) of subdivision (b) of section nine hundred sixty OF THIS ARTICLE, shall be based on applications filed pursuant to THIS paragraph [(vi) of this subdivision].

S 12. Paragraph (b) of subdivision 4 of section 6810 of the education law, as added by chapter 519 of the laws of 2002, is amended to read as follows:

(b) Oral prescriptions for patients in general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of the public health law, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or [developmental centers or developmental disabilities services offices listed in subdivision (b) of section 13.17 of the mental hygiene law] FACILITIES OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, may be communicated to a pharmacist serving as a vendor of pharmaceutical

services based upon a contractual arrangement by an agent designated by and under the direction of the prescriber or the institution. Such agent shall be a health care practitioner currently licensed and registered under this title.

S 13. Paragraph (b) of subdivision 7 of section 6810 of the education law, as amended by chapter 519 of the laws of 2002, is amended to read as follows:

(b) With respect to drugs other than controlled substances, the provisions of this subdivision shall not apply to pharmacists employed by or providing services under contract to general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of the public health law, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or [developmental centers or developmental disabilities services offices listed in subdivision (b) of section 13.17 of the mental hygiene law] FACILITIES OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, who dispense drugs in the course of said employment or in the course of providing such services under contract. With respect to such pharmacists, each prescription shall be transcribed on a patient specific prescription form.

S 14. Paragraph 1 of subdivision (b) of section 5.05 of the mental hygiene law, as amended by chapter 168 of the laws of 2010, is amended to read as follows:

(1) The commissioners of the office of mental health, the office for people with developmental disabilities and the office of alcoholism and substance abuse services shall constitute an inter-office coordinating council which, consistent with the autonomy of each office for matters within its jurisdiction, shall ensure that the state policy for the prevention, care, treatment and rehabilitation of individuals with mental illness and developmental disabilities, alcoholism, alcohol abuse, substance abuse, substance dependence, and chemical dependence is planned, developed and implemented comprehensively; that gaps in services to individuals with multiple disabilities are eliminated and that no person is denied treatment and services because he or she has more than one disability; that procedures for the regulation of programs which offer care and treatment for more than one class of persons with mental disabilities be coordinated between the offices having jurisdiction over such programs; and that research projects of the institutes, as identified in section 7.17 or 13.17 of this chapter OR AS OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, are coordinated to maximize the success and cost effectiveness of such projects and to eliminate wasteful duplication.

S 15. Subdivision (b) of section 13.11 of the mental hygiene law, as added by chapter 978 of the laws of 1977, is amended to read as follows:

(b) The commissioner shall control the organization of the office and may continue, establish, discontinue, expand, and contract facilities under his OR HER jurisdiction. The facilities set forth in section 13.17 IN STATE OPERATIONS OFFICES may not be discontinued by the commissioner. Units and facilities shall have such functions, duties, and responsibilities as may be assigned to them by the commissioner.

S 16. Subdivisions 1 and 2 of section 13.34 of the mental hygiene law, as amended by chapter 542 of the laws of 2011, are amended to read as follows:

1. There shall be at each developmental center facility listed in section 13.17 of this article, an ombudsman who shall be an employee of the commission on quality of care and advocacy for persons with disabil-

ities under article forty-five of this chapter and who shall be responsible for receiving and responding to any complaints regarding individual clients residing in such facility. The ombudsman shall have the following powers and duties:

i. to advise and consult with parents, guardians, correspondents and other interested persons with respect to any complaints, or issues related to the conditions of clients' residents;

ii. to review and attempt to remedy specific complaints with responsible and appropriate staff;

iii. where it appears that care has not been rendered as required by applicable standards to refer the complaint to the appropriate agency or body for its attention;

iv. to receive and keep confidential any complaint, information or inquiry from any source. The records of the ombudsman shall be confidential, and shall not be available to the public;

v. to advise and consult with the board of visitors [of the developmental center] served by the ombudsman with respect to any complaints or issues relating to conditions of client's residence, TREATMENT AND CARE and to regularly attend the meetings of such board; and

vi. to meet with the commissioner, or a representative of the commissioner, on a quarterly basis regarding systemic issues in the ombudsman's jurisdiction.

2. The president of the board of visitors of each [developmental center facility listed in section 13.17 of this article] CATCHMENT AREA OF THE STATE OPERATIONS REGION IN WHICH SUCH MEMBER SERVES, shall, in consultation with the members of such board, recommend three persons to serve as ombudsman at the facility. In making such recommendation, the president shall also consider the expressed opinion of parents, guardians and correspondents of clients residing at such facility. The persons so recommended as ombudsman shall have expressed an active interest or shall have had professional knowledge in advocating for persons who are mentally disabled. The commission on quality of care and advocacy for persons with disabilities shall select one of the recommended persons as ombudsman. The ombudsman may only be removed from office for just cause. An individual appointed as ombudsman shall be an exempt class employee as defined by section forty-one of the civil service law and may be removed by the commissioner upon the recommendation of the president of the board of visitors, for cause after notice and opportunity for a hearing on the charges.

S 17. Subdivision 1 of section 157 of the social services law, as amended by section 43 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

1. Safety net assistance means allowances pursuant to section one hundred thirty-one-a OF THIS ARTICLE for all support, maintenance and need, and costs of suitable training in a trade to enable a person to become self-supporting, furnished eligible needy persons in accordance with applicable provisions of law, by a municipal corporation, or a town where safety net assistance is a town charge, to persons or their dependents in their abode or habitation whenever possible and includes such relief granted to veterans under existing laws but does not include hospital or institutional care, except as otherwise provided in this subdivision, or family assistance or medical assistance for needy persons granted under titles ten and eleven OF THIS ARTICLE, respectively, or aid to persons receiving federal supplemental security income payments and/or additional state payments. Safety net assistance may also be provided in a family home or boarding home, operated in compli-

ance with the regulations of the department, and on and after January first, nineteen hundred seventy-four, in facilities in which a person is receiving family care or residential care, as those terms are used in title six of [article five of] this [chapter] ARTICLE, and to persons receiving care in a facility supervised by the office of alcoholism and substance abuse SERVICES or in a residential facility for the mentally disabled approved, licensed or operated by the office of mental health or the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, other than those facilities defined in sections 7.17 and 13.17 of the mental hygiene law, IN A DEVELOPMENTAL CENTER FACILITY OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES or residential care centers for adults operated by the office of mental health, when such type of care is deemed necessary. Payments to such homes and facilities for care and maintenance provided by them shall be at rates established pursuant to law and regulations of the department. The department, however, shall not establish rates of payment to such homes or facilities without approval of the director of the budget.

S 18. Subparagraph (i) of paragraph (a) and clause A of subparagraph (i) of paragraph (e) of subdivision 4 of section 1750-b of the surrogate's court procedure act, as added by chapter 500 of the laws of 2002, are amended to read as follows:

(i) be employed by a developmental disabilities services office named in section 13.17 of the mental hygiene law OR EMPLOYED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES TO PROVIDE TREATMENT AND CARE TO PEOPLE WITH DEVELOPMENTAL DISABILITIES, or

A. be employed by a developmental disabilities services office named in section 13.17 of the mental hygiene law OR EMPLOYED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES TO PROVIDE TREATMENT AND CARE TO PEOPLE WITH DEVELOPMENTAL DISABILITIES, or

S 19. (a) Wherever the terms "directors of office facilities" or "directors of schools" or "director of facilities" appear in the mental hygiene law in reference to a facility operated by the office for people with developmental disabilities, such terms are hereby changed to "directors of state operations offices".

(b) The legislative bill drafting commission is hereby directed to effectuate this provision, and shall be guided by a memorandum of instruction setting forth the specific provisions of law to be amended. Such memorandum shall be transmitted to the legislative bill drafting commission within sixty days of enactment of this provision. Such memorandum shall be issued jointly by the governor, the temporary president of the senate and the speaker of the assembly, or by the delegate of each.

S 20. The commissioner of the office for people with developmental disabilities shall provide notification to the temporary president of the senate and the speaker of the assembly sixty days prior to a reduction in capacity of twenty persons or more or closure of a developmental center or other institutional setting which is subject to such reduction or closure pursuant to such commissioner's planned downsizing and closing of institutional capacity.

S 21. This act shall take effect immediately, provided however, that on or before May 31, 2012 the office for people with developmental disabilities shall submit a report to the temporary president of the senate and the speaker of the assembly on implementation related to the restructuring of developmental disabilities services offices. The office shall also publish the report on the office's website. The report shall include but not be limited to: the plan timeline for transition of each

of the developmental disabilities service offices into a state operations offices of the office for people with developmental disabilities; the location of each state operations office, its catchment area, and a list of services that will be administered under its jurisdiction; and the location of each developmental disabilities regional office, its catchment area, and a list of programs under its jurisdiction; and provided further that section twenty of this act shall expire and be deemed repealed on March 31, 2013.

PART K

Section 1. Sections 19 and 21 of chapter 723 of the laws of 1989 amending the mental hygiene law and other laws relating to comprehensive psychiatric emergency programs, as amended by section 1 of part F of chapter 58 of the laws of 2008, are amended to read as follows:

S 19. Notwithstanding any other provision of law, the commissioner of mental health shall, until July 1, [2012] 2016, be solely authorized, in his or her discretion, to designate those general hospitals, local governmental units and voluntary agencies which may apply and be considered for the approval and issuance of an operating certificate pursuant to article 31 of the mental hygiene law for the operation of a comprehensive psychiatric emergency program.

S 21. This act shall take effect immediately, and sections one, two and four through twenty of this act shall remain in full force and effect, until July 1, [2012] 2016, at which time the amendments and additions made by such sections of this act shall be deemed to be repealed, and any provision of law amended by any of such sections of this act shall revert to its text as it existed prior to the effective date of this act.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART L

Section 1. (a) Notwithstanding any law, rule or regulation to the contrary, two or more of the commissioners of the department of health, the office of mental health, the office of alcoholism and substance abuse services or the office for people with developmental disabilities are jointly authorized to establish operating, reporting and construction requirements, as well as joint survey requirements and procedures for entities operating under the auspices of one or more such agencies, that:

(1) can demonstrate experience and competence in the delivery of health, mental health, alcohol and substance abuse services and/or services to persons with developmental disabilities and the capacity to offer the integrated delivery of such services at locations as may be approved by two or more of the respective commissioners; and

(2) meet the standards that may be established by the respective commissioners for the provision of such services; provided, however, that an entity meeting the standards established pursuant to this section shall not be required to be an integrated service provider pursuant to subdivision seven of section three hundred sixty-five-l of the social services law.

(b) In establishing one or more sets of joint requirements or procedures for entities described in this section, each participating commissioner is authorized to waive any regulatory requirements, or to deter-

mine that compliance with another participating commissioner's regulatory requirements shall be deemed to meet the regulatory requirements of his or her agency, as may be necessary or desirable to avoid duplication of requirements and/or to permit the integrated delivery of health and behavioral health services in an efficient and effective manner.

(c) The authority granted the commissioners in this section is intended to complement and supplement the authority granted to such commissioners pursuant to subdivision seven of section three hundred sixty-five-l of the social services law.

(d) All operating, reporting and construction requirements, as well as joint survey requirements and procedures, promulgated pursuant to this section shall be so done as to increase efficiencies, and reduce administrative burdens. The affected agency will post a notice on its website when regulations are waived or regulatory requirements are deemed to have been met. No regulation promulgated under this section, nor any action taken pursuant to subdivision (b) of this section, shall conflict with statutory requirements pertaining to entities operating under the auspices of the department of health, the office of mental health, the office of alcoholism and substance abuse services, or the office for people with developmental disabilities. The promulgation of any regulation or rule, and the adoption of any emergency rule, pursuant to this section, shall be done in accordance with section two hundred two of the state administrative procedure act.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART M

Section 1. Paragraph h of subdivision 4 of section 1950 of the education law is amended by adding a new subparagraph 9 to read as follows:

(9) TO ENTER INTO CONTRACTS WITH THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, TO PROVIDE SPECIAL EDUCATION AND RELATED SERVICES, IN ACCORDANCE WITH SUBDIVISION SIX-B OF SECTION THIRTY-TWO HUNDRED TWO OF THIS CHAPTER TO PATIENTS HOSPITALIZED IN HOSPITALS OPERATED BY THE OFFICE OF MENTAL HEALTH WHO ARE BETWEEN THE AGES OF FIVE AND TWENTY-ONE WHO HAVE NOT RECEIVED A HIGH SCHOOL DIPLOMA. ANY SUCH PROPOSED CONTRACT SHALL BE SUBJECT TO THE REVIEW BY THE COMMISSIONER AND HIS AND HER DETERMINATION THAT IT IS AN APPROVED COOPERATIVE EDUCATIONAL SERVICE. SERVICES PROVIDED PURSUANT TO SUCH CONTRACTS SHALL BE PROVIDED AT COST AND APPROVED BY THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL DISTRICTS.

S 2. Section 3202 of the education law is amended by adding a new subdivision 6-b to read as follows:

6-B. THE COMMISSIONER OF MENTAL HEALTH MAY MEET HIS OR HER OBLIGATIONS UNDER SECTION 33.11 OF THE MENTAL HYGIENE LAW BY CONTRACTING PURSUANT TO THIS SUBDIVISION FOR EDUCATIONAL SERVICES FOR CHILDREN BETWEEN THE AGES OF FIVE AND TWENTY-ONE WHO DO NOT HOLD A HIGH SCHOOL DIPLOMA AND WHO ARE HOSPITALIZED IN HOSPITALS OPERATED BY THE OFFICE OF MENTAL HEALTH WITH THE TRUSTEES OR BOARD OF EDUCATION OF ANY SCHOOL DISTRICT FOR EDUCATIONAL SERVICES OR WITH A BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES TO SUCH CHILDREN IN ACCORDANCE WITH THEIR INDIVIDUALIZED EDUCATION PROGRAMS. THE COSTS OF

SUCH EDUCATION SHALL NOT BE A CHARGE UPON A SCHOOL DISTRICT PURSUANT TO SECTION 33.11 OF THE MENTAL HYGIENE LAW.

(1) THE EDUCATION DEPARTMENT SHALL REIMBURSE THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES PROVIDING EDUCATIONAL SERVICES PURSUANT TO THIS SUBDIVISION FOR THE FULL COST OF ALL SERVICES PURSUANT TO THE TERMS OF SUCH CONTRACT.

(2) THE COMMISSIONER OF MENTAL HEALTH, WITH THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, SHALL BE AUTHORIZED TO TRANSFER FUNDING TO THE COMMISSIONER OF EDUCATION TO THE EXTENT NECESSARY TO REIMBURSE SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES FOR SERVICES AND EDUCATIONAL PROGRAMMING PROVIDED UNDER SUCH CONTRACTS.

(3) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NOTHING IN THIS SUBDIVISION OR SUBPARAGRAPH NINE OF PARAGRAPH H OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER SHALL BE CONSTRUED AS REQUIRING PARTICIPATION BY ANY LOCAL SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

S 3. The commissioner of mental health, in consultation with the commissioner of education, shall submit to the governor, and to the temporary president of the senate and the speaker of the assembly, a report and recommendations by December 15, 2014, on the number of children hospitalized in hospitals operated by the office of mental health who received educational services from school districts and boards of cooperative educational services pursuant to the provisions of this act in the 2012-2013 and 2013-2014 school years and the projected number to be served in the 2014-2015 school year, the services provided to these children, and the actual or projected cost of such services. Such report shall also provide detailed proposals regarding whether additional actions should be taken to ensure that children hospitalized in hospitals operated by the office of mental health continue to receive education programming and services as required by state and federal law.

S 4. This act shall take effect July 1, 2012 and shall expire June 30, 2015, when upon such date the provisions of this act shall be deemed repealed.

PART N

Section 1. Section 1.03 of the mental hygiene law is amended by adding three new subdivisions 56, 57 and 58 to read as follows:

56. "SUBSTANCE USE DISORDER" MEANS THE MISUSE OF, DEPENDENCE ON, OR ADDICTION TO ALCOHOL AND/OR LEGAL OR ILLEGAL DRUGS LEADING TO EFFECTS THAT ARE DETRIMENTAL TO THE INDIVIDUAL'S PHYSICAL AND MENTAL HEALTH, OR THE WELFARE OF OTHERS AND SHALL INCLUDE ALCOHOLISM, ALCOHOL ABUSE, SUBSTANCE ABUSE, SUBSTANCE DEPENDENCE, CHEMICAL ABUSE, AND/OR CHEMICAL DEPENDENCE.

57. "SUBSTANCE USE DISORDER SERVICES" SHALL MEAN AND INCLUDE EXAMINATION, EVALUATION, DIAGNOSIS, CARE, TREATMENT, REHABILITATION, OR TRAINING OF PERSONS WITH SUBSTANCE USE DISORDERS AND THEIR FAMILIES OR SIGNIFICANT OTHERS.

58. "BEHAVIORAL HEALTH SERVICES" MEANS EXAMINATION, DIAGNOSIS, CARE, TREATMENT, REHABILITATION, OR TRAINING FOR PERSONS WITH MENTAL ILLNESS, SUBSTANCE USE DISORDER, OR COMPULSIVE GAMBLING DISORDER.

S 2. The mental hygiene law is amended by adding a new section 5.06 to read as follows:

S 5.06 BEHAVIORAL HEALTH SERVICES ADVISORY COUNCIL.

(A) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT A BEHAVIORAL HEALTH SERVICES ADVISORY COUNCIL, THE PURPOSE OF WHICH SHALL BE TO ADVISE THE

OFFICES OF MENTAL HEALTH AND ALCOHOLISM AND SUBSTANCE ABUSE SERVICES ON MATTERS RELATING TO THE PROVISION OF BEHAVIORAL HEALTH SERVICES; ISSUES OF JOINT CONCERN TO THE OFFICES, INCLUDING THE INTEGRATION OF VARIOUS BEHAVIORAL HEALTH SERVICES AND THE INTEGRATION OF BEHAVIORAL HEALTH SERVICES WITH HEALTH SERVICES; AND ISSUES RELATED TO THE DELIVERY OF BEHAVIORAL HEALTH SERVICES THAT ARE RESPONSIVE TO LOCAL, STATE AND FEDERAL CONCERNS. THE COUNCIL SHALL CONSIST OF THE COMMISSIONERS OF MENTAL HEALTH AND OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, WHO SHALL NOT HAVE THE RIGHT TO VOTE, THE CHAIR OF THE CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS OR HIS OR HER DESIGNEE, AND TWENTY-EIGHT MEMBERS APPOINTED BY THE GOVERNOR, UPON THE ADVICE AND CONSENT OF THE SENATE. MEMBERS SHALL BE APPOINTED ONLY IF THEY HAVE PROFESSIONAL KNOWLEDGE IN THE CARE OF PERSONS RECEIVING BEHAVIORAL HEALTH SERVICES, OR AN ACTIVE INTEREST IN THE BEHAVIORAL HEALTH SERVICES SYSTEM.

(B) THE GOVERNOR SHALL DESIGNATE ONE OF THE MEMBERS OF THE COUNCIL AS CHAIR. AT LEAST ONE-HALF OF THE MEMBERS OF THE COUNCIL SHALL NOT BE PROVIDERS OF BEHAVIORAL HEALTH SERVICES. MEMBERSHIP SHALL REFLECT A BALANCED REPRESENTATION OF PERSONS WITH INTERESTS IN MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES AND SHALL INCLUDE:

(1) AT LEAST FIVE CURRENT OR FORMER CONSUMERS OF BEHAVIORAL HEALTH SERVICES;

(2) AT LEAST THREE INDIVIDUALS WHO ARE PARENTS OR RELATIVES OF CURRENT OR FORMER CONSUMERS OF BEHAVIORAL HEALTH SERVICES;

(3) AT LEAST THREE MEMBERS WHO ARE NOT PROVIDERS OF BEHAVIORAL HEALTH SERVICES AND WHO REPRESENT NON-GOVERNMENTAL ORGANIZATIONS, SUCH AS NOT-FOR-PROFIT ENTITIES REPRESENTING HEALTH OR BEHAVIORAL HEALTH CARE EMPLOYEES, PRIVATE PAYORS OF BEHAVIORAL HEALTH SERVICES, OR OTHER ORGANIZATIONS CONCERNED WITH THE PROVISION OF BEHAVIORAL HEALTH SERVICES;

(4) AT LEAST FIVE REPRESENTATIVES OF PROVIDERS OF SERVICES TO PERSONS WITH MENTAL ILLNESS AND AT LEAST FIVE REPRESENTATIVES OF PROVIDERS OF SERVICES TO PERSONS WITH SUBSTANCE USE DISORDERS, AT LEAST TWO OF WHOM SHALL BE PHYSICIANS AND AT LEAST ONE OF WHOM SHALL HAVE PROVIDED SERVICES TO VETERANS WHO SERVED IN A COMBAT THEATER OR COMBAT ZONE OF OPERATIONS;

(5) ONE MEMBER APPOINTED ON THE RECOMMENDATION OF THE STATE DIRECTOR OF THE DIVISION OF VETERANS' AFFAIRS AND ONE MEMBER APPOINTED ON THE RECOMMENDATION OF THE ADJUTANT GENERAL OF THE DIVISION OF MILITARY AND NAVAL AFFAIRS, AT LEAST ONE OF WHOM SHALL BE A CURRENT OR FORMER CONSUMER OF MENTAL HEALTH SERVICES OR SUBSTANCE USE DISORDER SERVICES WHO IS A VETERAN WHO HAS SERVED IN A COMBAT THEATER OR COMBAT ZONE OF OPERATIONS AND IS A MEMBER OF A VETERANS ORGANIZATION;

(6) AT LEAST THREE REPRESENTATIVES OF LOCAL GOVERNMENTS OR OTHER STATE AND LOCAL AGENCIES CONCERNED WITH THE PROVISION OF BEHAVIORAL HEALTH SERVICES; AND

(7) AT LEAST TWO MEMBERS WHO ARE ALSO MEMBERS OF THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE PUBLIC HEALTH LAW.

(C) MEMBERS SHALL BE APPOINTED FOR TERMS OF THREE YEARS PROVIDED, HOWEVER, THAT OF THE MEMBERS FIRST APPOINTED, ONE-THIRD SHALL BE APPOINTED FOR ONE YEAR TERMS AND ONE-THIRD SHALL BE APPOINTED FOR TWO YEAR TERMS. VACANCIES SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS FOR THE REMAINDER OF ANY UNEXPIRED TERM. NO PERSON SHALL BE AN APPOINTED MEMBER OF THE COUNCIL FOR MORE THAN SIX YEARS IN ANY PERIOD OF TWELVE CONSECUTIVE YEARS.

(D) THE COUNCIL SHALL MEET AT LEAST FOUR TIMES IN EACH FULL CALENDAR YEAR. THE COUNCIL SHALL MEET AT THE REQUEST OF ITS CHAIR OR EITHER COMMISSIONER.

(E) THE COUNCIL SHALL ESTABLISH SUCH COMMITTEES AS IT DEEMS NECESSARY TO ADDRESS THE SERVICE NEEDS OF SPECIAL POPULATIONS AND TO ADDRESS PARTICULAR SUBJECTS OF IMPORTANCE IN THE DEVELOPMENT AND MANAGEMENT OF BEHAVIORAL HEALTH SERVICES.

(F) THE COUNCIL MAY CONSIDER ANY MATTER RELATING TO THE IMPROVEMENT OF BEHAVIORAL HEALTH SERVICES IN THE STATE AND SHALL ADVISE THE COMMISSIONERS ON ANY SUCH MATTER, INCLUDING, BUT NOT LIMITED TO:

(1) CARE AND SERVICES TO PERSONS WITH BEHAVIORAL HEALTH DISORDERS, INCLUDING SPECIAL AND UNDERSERVED POPULATIONS AS DETERMINED BY THE COMMISSIONER;

(2) FINANCING BEHAVIORAL HEALTH SERVICES;

(3) INTEGRATION OF BEHAVIORAL HEALTH SERVICES WITH HEALTH SERVICES;

(4) CARE AND SERVICES FOR PERSONS WITH CO-OCCURRING DISORDERS OR MULTIPLE DISABILITIES;

(5) PREVENTION OF BEHAVIORAL HEALTH DISORDERS; AND

(6) IMPROVEMENT OF CARE IN STATE OPERATED OR COMMUNITY BASED PROGRAMS, RECRUITMENT, EDUCATION AND TRAINING OF QUALIFIED DIRECT CARE PERSONNEL, AND PROTECTION OF THE INTERESTS OF EMPLOYEES AFFECTED BY ADJUSTMENTS IN THE BEHAVIORAL HEALTH SERVICE SYSTEM.

(G) THE COUNCIL SHALL, IN COOPERATION WITH THE COMMISSIONERS, ESTABLISH STATEWIDE GOALS AND OBJECTIVES FOR SERVICES TO PERSONS WITH BEHAVIORAL HEALTH DISORDERS, PURSUANT TO SECTION 5.07 OF THIS ARTICLE.

(H) (1) THE COUNCIL SHALL REVIEW THE PORTION OF THE STATEWIDE PLAN TO BE DEVELOPED AND UPDATED ANNUALLY BY THE COMMISSIONERS PURSUANT TO SECTION 5.07 OF THIS ARTICLE, AND REPORT ITS RECOMMENDATIONS THEREON TO THE COMMISSIONERS.

(2) THE COUNCIL SHALL REVIEW ANY MENTAL HEALTH OR SUBSTANCE USE COMPONENT OF STATEWIDE HEALTH PLANS DEVELOPED IN ACCORDANCE WITH ANY APPLICABLE FEDERAL LAW, AND SHALL REPORT ITS RECOMMENDATIONS THEREON TO THE COMMISSIONERS.

(I) THE COUNCIL SHALL REVIEW APPLICATIONS FILED IN ACCORDANCE WITH:

(1) SECTION 31.22 OF THIS CHAPTER FOR APPROVAL OF INCORPORATION OR ESTABLISHMENT OF A FACILITY, AND SECTION 31.23 OF THIS CHAPTER FOR APPROVAL OF THE CONSTRUCTION OF A FACILITY FOR WHICH APPROVAL FROM THE COMMISSIONER OF MENTAL HEALTH IS REQUIRED; AND

(2) SECTION 32.29 OR 32.31 OF THIS CHAPTER FOR APPROVAL OF INCORPORATION OR ESTABLISHMENT OR CONSTRUCTION OF A FACILITY FOR WHICH APPROVAL TO OPERATE IS REQUIRED FROM THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES PURSUANT TO ARTICLE THIRTY-TWO OF THIS CHAPTER, AND AS OTHERWISE REQUESTED BY SUCH COMMISSIONER;

(J) THE COUNCIL SHALL BE NOTIFIED OF, AND MAY REVIEW AT ITS DISCRETION, ANY CLOSURE OF A HOSPITAL OR WARD THEREOF OPERATED BY THE OFFICE OF MENTAL HEALTH OR OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, AND MAY ISSUE RECOMMENDATIONS PERTAINING TO ISSUES INCLUDING COMMUNITY REINVESTMENT AND CONTINUITY OF CARE. ALL SUCH RECOMMENDATIONS SHALL BE PROVIDED TO THE RELEVANT COMMISSIONER OR COMMISSIONERS, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

(K) AT LEAST SIXTY DAYS PRIOR TO THE COMMISSIONERS' FINAL APPROVAL OF RULES AND REGULATIONS UNDER THEIR RESPECTIVE JURISDICTION, OTHER THAN EMERGENCY RULES AND REGULATIONS AND REGULATIONS PROMULGATED PURSUANT TO SECTION 43.01 OF THIS CHAPTER, THE COMMISSIONERS SHALL SUBMIT SUCH PROPOSED RULES AND REGULATIONS TO THE COUNCIL FOR ITS REVIEW. THE COUNCIL SHALL REVIEW ALL PROPOSED RULES AND REGULATIONS AND REPORT ITS

RECOMMENDATIONS THEREON TO THE COMMISSIONERS WITHIN SIXTY DAYS. THE COMMISSIONER HAVING STATUTORY JURISDICTION OVER THE PROPOSED RULE OR REGULATION SHALL NOT ACT IN A MANNER INCONSISTENT WITH THE RECOMMENDATIONS OF THE COUNCIL WITHOUT FIRST APPEARING BEFORE THE COUNCIL TO REPORT THE REASONS THEREFOR. THE COUNCIL, UPON A MAJORITY VOTE OF ITS MEMBERS, MAY REQUIRE THAT AN ALTERNATIVE APPROACH TO THE PROPOSED RULES AND REGULATIONS BE PUBLISHED WITH THE NOTICE OF THE PROPOSED RULES AND REGULATIONS PURSUANT TO SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT. WHEN AN ALTERNATIVE APPROACH IS PUBLISHED PURSUANT TO THIS SECTION, THE COMMISSIONER HAVING STATUTORY JURISDICTION OF THE SUBJECT PROPOSED RULE OR REGULATION SHALL STATE THE REASONS FOR NOT SELECTING SUCH ALTERNATIVE APPROACH.

(L) THE COUNCIL, BY A MAJORITY VOTE OF ITS MEMBERS, MAY PROPOSE RULES AND REGULATIONS ON ANY MATTER WITHIN THE REGULATORY JURISDICTION OF THE OFFICES OF MENTAL HEALTH OR ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OTHER THAN ESTABLISHMENT OF FEE SCHEDULES PURSUANT TO SECTION 43.01 OF THIS CHAPTER, AND FORWARD SUCH PROPOSED RULES AND REGULATIONS TO BOTH COMMISSIONERS FOR REVIEW AND CONSIDERATION; PROVIDED, HOWEVER, THAT ONLY THE APPROVAL OF THE COMMISSIONER WITH STATUTORY JURISDICTION OF THE PROPOSED RULE OR REGULATION SHALL BE REQUIRED. PRIOR TO SUCH COMMISSIONER'S FINAL APPROVAL AND PROMULGATION OF SUCH PROPOSED RULES AND REGULATIONS, IF SUCH RULES AND REGULATIONS ARE MODIFIED IN ANY RESPECT, THEY SHALL BE SUBMITTED TO THE COUNCIL PURSUANT TO SUBDIVISION (K) OF THIS SECTION. IF SUCH COMMISSIONER DETERMINES NOT TO PROMULGATE SUCH PROPOSED RULES AND REGULATIONS, THE COMMISSIONER SHALL APPEAR BEFORE THE COUNCIL TO REPORT THE REASONS THEREFOR.

(M) THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE REIMBURSED FOR EXPENSES ACTUALLY AND NECESSARILY INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(N) THE COMMISSIONERS, UPON REQUEST OF THE COUNCIL, SHALL DESIGNATE ONE OR MORE OFFICERS OR EMPLOYEES FROM EITHER OR BOTH OFFICES TO PROVIDE ADMINISTRATIVE SUPPORT SERVICES TO THE COUNCIL, AND MAY ASSIGN FROM TIME TO TIME SUCH OTHER EMPLOYEES AS THE COUNCIL MAY REQUEST.

(O) NO CIVIL ACTION SHALL BE BROUGHT IN ANY COURT AGAINST ANY MEMBER OF THE BEHAVIORAL HEALTH SERVICES ADVISORY COUNCIL FOR ANY ACT DONE, FAILURE TO ACT, OR STATEMENT OR OPINION MADE, WHILE DISCHARGING HIS OR HER DUTIES AS A MEMBER OF THE COUNCIL, WITHOUT LEAVE FROM A JUSTICE OF THE SUPREME COURT, FIRST HAD AND OBTAINED. IN ANY EVENT, SUCH MEMBER SHALL NOT BE LIABLE FOR DAMAGES IN ANY SUCH ACTION IF HE OR SHE ACTED IN GOOD FAITH, WITH REASONABLE CARE AND UPON PROBABLE CAUSE. MEMBERS OF THE COUNCIL SHALL BE CONSIDERED PUBLIC OFFICERS FOR THE PURPOSES OF SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

(P) THE COUNCIL MAY ESTABLISH WRITTEN BYLAWS.

S 3. The section heading, subdivision (a), the opening paragraph and paragraphs 1 and 3 of subdivision (b) and subdivision (c) of section 5.07 of the mental hygiene law, the section heading as amended by chapter 55 of the laws of 1992, subdivision (a), the opening paragraph and paragraphs 1 and 3 of subdivision (b) and subdivision (c) as amended by chapter 223 of the laws of 1992, paragraph 1 of subdivision (a) as amended by chapter 37 of the laws of 2011, the opening paragraph of paragraph 1 of subdivision (b) as amended by chapter 168 of the laws of 2010, subparagraphs h and i as amended and subparagraph j of paragraph 1 of subdivision (b) as added by chapter 413 of the laws of 2009 and paragraph 3 of subdivision (b) as renumbered by chapter 322 of the laws of 1992, are amended to read as follows:

Establishment of [statewide goals and objectives;] statewide comprehensive plans of services for [the mentally disabled] PERSONS WITH MENTAL DISABILITIES.

(a) (1) The [mental health] BEHAVIORAL HEALTH services ADVISORY council and the advisory [councils] COUNCIL on developmental disabilities [and alcoholism and substance abuse services] shall [each establish] PROVIDE RECOMMENDATIONS FOR statewide PRIORITIES AND goals [and objectives] to guide comprehensive planning, resource allocation and evaluation processes for state and local services for persons with mental illness, developmental disabilities [and], AND/OR those [suffering from chemical abuse or dependence, respectively] WITH SUBSTANCE USE OR COMPULSIVE GAMBLING DISORDERS. Such goals and objectives shall:

a. be measurable in terms of attainment AND FOCUSED ON OUTCOMES FOR THOSE BEING SERVED;

b. be DEVELOPED IN COLLABORATION WITH, AND communicated to, providers of services, department facilities, consumers and consumer representatives, and other appropriate state and local governmental agencies;

c. [require that all state and local public and private services for persons with mental disabilities be organized, staffed and financed to best meet the needs of all persons with mental disabilities whether receiving in-patient or non in-patient services;

d.] reflect the partnership between state and local governmental units; and

[e.] D. emphasize [that gaps in services be filled and that services are provided to persons with mental disabilities] THE NEED TO INTEGRATE BEHAVIORAL HEALTH AND HEALTH SERVICES.

(2) Such advisory councils shall [establish, review, augment or delete from such goals and objectives, as appropriate,] ACCOMPLISH THEIR DUTIES by means of a [continuing annual goal-setting] process which is:

a. open, visible and accessible to the public; and

b. consistent with the statewide AND FEDERALLY MANDATED planning, appropriation and evaluation processes and activities for services to [the mentally disabled] PERSONS WITH MENTAL DISABILITIES.

(3) The advisory councils are hereby empowered to hold public hearings and meetings to enable them to accomplish their duties.

Statewide comprehensive plan for services to [the mentally disabled] PERSONS WITH MENTAL DISABILITIES.

(1) The office of mental health, the office for people with developmental disabilities and the office of alcoholism and substance abuse services shall [each] formulate a statewide comprehensive five-year plan for the provision of all state and local services for persons with mental illness [and], developmental disabilities, [and] AND/OR those [suffering from alcoholism and] WITH substance [abuse, respectively] USE OR COMPULSIVE GAMBLING DISORDERS. [Each] THE STATEWIDE COMPREHENSIVE plan shall be [formulated from] BASED UPON AN ANALYSIS OF local [comprehensive] SERVICES plans developed by each local governmental unit, [with participation of] IN CONSULTATION WITH consumers, consumer groups, providers of services and departmental facilities [furnishing] THAT FURNISH BEHAVIORAL HEALTH services [to individuals with mental disabilities of the area] in conformance with statewide PRIORITIES AND goals [and objectives] established [by] WITH RECOMMENDATIONS OF the BEHAVIORAL HEALTH SERVICES advisory council [of each office] AND THE ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES. [Each] THE plan shall:

a. identify [needs and problems which must be addressed during the next ensuing five years which such plan encompasses] STATEWIDE PRIORITIES;

b. specify [time-limited] STATEWIDE goals [to meet those needs] THAT REFLECT THE STATEWIDE PRIORITIES AND ARE FOCUSED ON OBTAINING POSITIVE MEASURABLE OUTCOMES;

c. [identify resources to achieve the goals, including but not limited to resource reallocations;

d. establish] PROPOSE STRATEGIES AND INITIATIVES TO ADDRESS THE priorities [for resource allocation] AND FACILITATE ACHIEVEMENT OF STATEWIDE GOALS;

[e. define the authority and responsibility for state and local participation in the delivery of services] D. IDENTIFY SERVICES AND SUPPORTS, WHICH MAY INCLUDE PROGRAMS RUN OR LED BY PEERS, THAT ARE DESIGNED TO PROMOTE THE HEALTH AND WELLNESS OF PERSONS WITH MENTAL ILLNESS, DEVELOPMENTAL DISABILITIES, AND/OR SUBSTANCE USE OR COMPULSIVE GAMBLING DISORDERS;

[f. propose programs to achieve the goals, which programs may include direct services, development of multi-purpose facilities, contracts for services, and innovative financial and organizational relationships with public and private providers;

g. identify services and programs that assist the informal caregiver to care for the mentally disabled; make recommendations to enhance the ability of the informal caregiver to continue providing care; and develop strategies for creating informal caregivers for clients in the community who do not have a system in place;

h. analyze] E. PROVIDE ANALYSIS OF current and anticipated utilization of state and local, and public and private facilities [and], programs, SERVICES, AND/OR SUPPORTS;

[i.] F. encourage and promote PERSON-CENTERED, CULTURALLY AND LINGUISTICALLY COMPETENT community-based programs [which] , SERVICES, AND SUPPORTS THAT reflect the partnership between state and local governmental units; and

[j.] G. include progress reports on the implementation of both short-term and long-term recommendations of the children's plan required pursuant to section four hundred eighty-three-f of the social services law.

(3) The commissioners of each of the offices shall be responsible for the development of such statewide five-year plan for services within the jurisdiction of their respective offices and after giving due notice shall conduct one or more public hearings on such plan. The BEHAVIORAL HEALTH SERVICES advisory council [of each office] AND THE ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES shall review the statewide five year COMPREHENSIVE plan developed by such office OR OFFICES and report its recommendations thereon to such commissioner OR COMMISSIONERS. Each commissioner shall submit the plan, with appropriate modifications, to the governor no later than the first day of [October] NOVEMBER of each year in order that such plan may be considered with the estimates of the offices for the preparation of the executive budget of the state of New York for the next succeeding state fiscal year. [Each commissioner shall also submit such plan to the legislature. The statewide plan] SUCH COMPREHENSIVE PLAN SHALL BE SUBMITTED TO THE LEGISLATURE AND ALSO BE POSTED TO THE WEBSITE OF EACH OFFICE. STATEWIDE PLANS shall [be reassessed and updated at least annually to encompass the next ensuing five years to] ensure responsiveness to changing needs and goals and [to] SHALL reflect the development of new information and the completion of program evaluations. An interim report detailing the commissioner's actions in fulfilling the requirements of this section in preparation of the plan and modifications in the plan of services being considered by

the commissioner shall be submitted to the governor and the legislature on or before the fifteenth day of [February] MARCH of each year. Such interim report shall include, but need not be limited to:

(a) actions to include participation of consumers, consumer groups, providers of services and departmental facilities, as required by this subdivision; and

(b) any modifications in the plan of services being considered by the commissioner, to include: (i) compelling budgetary, programmatic or clinical justifications or other major appropriate reason for any significant new statewide programs or policy changes from a prior (approved) five year comprehensive plan; and (ii) procedures to involve or inform local governmental units of such actions or plans.

(c) Three year capital plan. (1) On or before July first of each year, the commissioners of the offices of the department of mental hygiene shall each submit to the advisory council of their respective offices a statewide three year capital plan for facilities within the jurisdiction of their respective offices. The capital plan shall set forth the projects proposed to be designed, constructed, acquired, reconstructed, rehabilitated or otherwise substantially altered pursuant to appropriation to meet the capital development needs of the respective agencies for the next ensuing three years; the years of such plan shall correspond to the years of the statewide five year plan as required by subdivision (b) of this section.

(2) Such plan for each office shall include but not be limited to a detailed project schedule indicating the location by county or borough and estimated cost of each project, the anticipated dates on which the design and construction of the project is to commence, the proposed method of financing for the project, the estimated economic life of the project and whether the proposed project constitutes design, new construction or rehabilitation.

(3) Such plan shall further specify for each project whether the project is to be a residential or nonresidential facility, a state or voluntary operated facility, and, the number of clients, by source of clients, proposed to utilize the facility. The information on the source of the client shall include but not be limited to identification of clients currently living independently, or at home with families, or with caretakers, clients defined by their respective agencies as special populations, or clients currently residing in an institutional setting under the jurisdiction of the offices of the department.

(4) The advisory council of the appropriate office shall review such plan and report its recommendation to the commissioner for inclusion, provided, however, that the [mental] BEHAVIORAL health services ADVISORY council shall forward its comments on the capital plan of the office of mental health to the mental health planning council which shall forward such recommendations after review to the commissioner of mental health. The commissioner shall submit his or her plan with the formal recommendations of the advisory council of his or her office and any subsequent appropriate modifications to the governor no later than the first day of [October] NOVEMBER of each year or concurrent with the annual submission of estimates and information required by section one of article seven of the constitution in order that such plans shall be considered with the estimates of the offices for the preparation of the executive budget of the state of New York for the next succeeding state fiscal year. The commissioners shall also submit such plans to the chairmen of the senate finance committee and the assembly ways and means committee.

(5) Each statewide three year capital plan for facilities shall be evaluated and revised annually to encompass the fiscal year then in progress and the next ensuing two fiscal years to ensure responsiveness to the changing needs and goals of the department, and to reflect the development of new information and project completion.

S 4. Section 7.05 of the mental hygiene law is REPEALED.

S 5. Subdivision (c) of section 13.05 of the mental hygiene law, as amended by chapter 37 of the laws of 2011, is amended to read as follows:

(c) The developmental disabilities advisory council shall have no executive, administrative or appointive duties. The council shall have the duty to foster public understanding and acceptance of developmental disabilities. It shall, in cooperation with the commissioner of developmental disabilities, [establish] PROVIDE RECOMMENDATIONS FOR statewide PRIORITIES AND goals [and objectives] for services for individuals with developmental disabilities and shall advise the commissioner on matters related to development and implementation of the [OPWDD's triennial state developmental disabilities] STATEWIDE comprehensive plan as required under [paragraph two of subdivision (b) of] section 5.07 of this chapter. The advisory council shall have the power to consider any matter relating to the improvement of the state developmental disabilities program and shall advise the commissioner of developmental disabilities thereon and on any matter relating to the performance of their duties with relation to individuals with developmental disabilities and on policies, goals, budget and operation of developmental disabilities services.

S 6. Section 19.05 of the mental hygiene law is REPEALED.

S 7. Section 220 of the public health law, as amended by section 45 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

S 220. Public health and health planning council; appointment of members. There shall continue to be in the department a public health and health planning council to consist of the commissioner and fourteen members to be appointed by the governor with the advice and consent of the senate; provided that effective December first, two thousand ten, the membership of the council shall consist of the commissioner and twenty-four members to be appointed by the governor with the advice and consent of the senate. Membership on the council shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state. The members shall include representatives of the public health system, health care providers that comprise the state's health care delivery system, individuals with expertise in the clinical and administrative aspects of health care delivery, issues affecting health care consumers, health planning, health care financing and reimbursement, health care regulation and compliance, and public health practice and at least two members shall also be members of the [mental] BEHAVIORAL health services ADVISORY council; at least four members shall be representatives of general hospitals or nursing homes; and at least one member shall be a representative of each of the following groups: home care agencies, diagnostic and treatment centers, health care payors, labor organizations for health care employees, and health care consumer advocacy organizations.

S 8. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012; provided, however, that sections one, two and five of this act shall take effect

on the one hundred eightieth day after it shall have become a law, and sections three, four and six of this act shall take effect upon certification by the commissioner of mental health and the commissioner of alcoholism and substance abuse services that the behavioral health services advisory council has sufficient confirmed membership to perform its functions, powers and duties pursuant to section two of this act; provided that the commissioner of mental health shall notify the legislative bill drafting commission upon the date that such commissioner and the commissioner of alcoholism and substance abuse services have certified that the behavioral health services advisory council has sufficient confirmed membership to perform its functions, powers and duties 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 effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART O

Section 1. Subdivision (b) of section 7.17 of the mental hygiene law, as amended by section 1 of part G of chapter 59 of the laws of 2011, is amended to read as follows:

(b) There shall be in the office the hospitals named below for the care, treatment and rehabilitation of persons with mental illness and for research and teaching in the science and skills required for the care, treatment and rehabilitation of such persons with mental illness.

Greater Binghamton Health Center
Bronx Psychiatric Center
Buffalo Psychiatric Center
Capital District Psychiatric Center
Central New York Psychiatric Center
Creedmoor Psychiatric Center
Elmira Psychiatric Center
[Hudson River Psychiatric Center]
Kingsboro Psychiatric Center
Kirby Forensic Psychiatric Center
Manhattan Psychiatric Center
Mid-Hudson Forensic Psychiatric Center
Mohawk Valley Psychiatric Center
Nathan S. Kline Institute for Psychiatric Research
New York State Psychiatric Institute
Pilgrim Psychiatric Center
Richard H. Hutchings Psychiatric Center
Rochester Psychiatric Center
Rockland Psychiatric Center
St. Lawrence Psychiatric Center
South Beach Psychiatric Center
[Bronx Children's Psychiatric Center
Brooklyn Children's Center
Queens Children's Psychiatric Center]
NEW YORK CITY CHILDREN'S CENTER
Rockland Children's Psychiatric Center
Sagamore Children's Psychiatric Center
Western New York Children's Psychiatric Center

The New York State Psychiatric Institute and The Nathan S. Kline Institute for Psychiatric Research are designated as institutes for the conduct of medical research and other scientific investigation directed

towards furthering knowledge of the etiology, diagnosis, treatment and prevention of mental illness. [The Brooklyn Children's Center is a facility operated by the office to provide community-based mental health services for children with serious emotional disturbances.] WHENEVER THE TERM BRONX CHILDREN'S PSYCHIATRIC CENTER, BROOKLYN CHILDREN'S PSYCHIATRIC CENTER AND QUEENS CHILDREN'S PSYCHIATRIC CENTER IS REFERRED TO OR DESIGNATED IN ANY REGULATION, CONTRACT OR DOCUMENT PERTAINING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES HEREBY TRANSFERRED AND ASSIGNED, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO THE NEW YORK CITY CHILDREN'S CENTER.

S 2. Notwithstanding the provisions of subdivisions (b) and (e) of section 7.17 of the mental hygiene law, section 41.55 of the mental hygiene law, or any other law to the contrary, the office of mental health is authorized to close, consolidate, reduce, transfer or otherwise redesign services of hospitals, other facilities and programs operated by the office of mental health, and to implement significant service reductions and reconfigurations according to this section as shall be determined by the commissioner of mental health to be necessary for the cost-effective and efficient operation of such hospitals, other facilities and programs. One of the intents of actions taken that result in closure, consolidation, reduction, transfer or other redesign of services of hospitals is to reinvest savings such that, to the extent practicable, comparable or greater levels of community based mental health services will be provided to persons with mental illness in need of services within the catchment areas of such hospitals, as determined by the commissioner of mental health with approval from the director of the division of the budget.

(a) In addition to the closure, consolidation or merger of one or more facilities, the commissioner of mental health is authorized to perform any significant service reductions that would reduce inpatient bed capacity by up to 400 beds, which shall include but not be limited to, closures of wards at a state-operated psychiatric center or the conversion of beds to transitional placement programs, provided that the commissioner provide at least 45 days notice of such reductions to the temporary president of the senate and the speaker of the assembly and simultaneously post such notice upon its public website. In assessing which significant service reductions to undertake, the commissioner shall consider data related to inpatient census, indicating nonutilization or under utilization of beds, and the efficient operation of facilities.

(b) At least 75 days prior to the anticipated closure, consolidation or merger of any hospitals named in subdivision (b) of section 7.17 of the mental hygiene law, the commissioner of mental health shall provide notice of such closure, consolidation or merger to the temporary president of the senate, and speaker of the assembly, the chief executive officer of the county in which the facility is located, and shall post such notice upon its public website. The commissioner shall be authorized to conduct any and all preparatory actions which may be required to effectuate such closures during such 75 day period. In assessing which of such hospitals to close, the commissioner shall consider the following factors: (1) the size, scope and type of services provided by the hospital; (2) the relative quality of the care and treatment provided by the hospital, as may be informed by internal or external quality or accreditation reviews; (3) the current and anticipated long-term need for the types of services provided by the facility within its catchment area, which may include, but not be limited to, services for adults or

children, or other specialized services, such as forensic services; (4) the availability of staff sufficient to address the current and anticipated long term service needs; (5) the long term capital investment required to ensure that the facility meets relevant state and federal regulatory and capital construction requirements, and national accreditation standards; (6) the proximity of the facility to other facilities with space that could accommodate anticipated need, the relative cost of any necessary renovations of such space, the relative potential operating efficiency of such facilities, and the size, scope and types of services provided by the other facilities; (7) anticipated savings based upon economies of scale or other factors; (8) community mental health services available in the facility catchment area and the ability of such community mental health services to meet the behavioral health needs of the impacted consumers; (9) the obligations of the state to place persons with mental disabilities in community settings rather than in institutions, when appropriate; and (10) the anticipated impact of the closure on access to mental health services.

(c) Any transfers of inpatient capacity or any resulting transfer of functions shall be authorized to be made by the commissioner of mental health and any transfer of personnel upon such transfer of capacity or transfer of functions shall be accomplished in accordance with the provisions of section 70 of the civil service law.

S 3. 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.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012; provided that the date for any closure or consolidation pursuant to this act shall be on a date certified by the commissioner of mental health; and provided further, however, that this act shall expire and be deemed repealed March 31, 2013.

PART P

Section 1. Section 10.06 of the mental hygiene law is amended by adding a new subdivision (l) to read as follows:

(L) (1) IF A RESPONDENT WHO IS TRANSFERRED TO A SECURE TREATMENT FACILITY PURSUANT TO SUBDIVISION (K) OF THIS SECTION, HAS NOT YET REACHED HIS OR HER MAXIMUM EXPIRATION DATE ON THE UNDERLYING DETERMINATE OR INDETERMINATE SENTENCE OF IMPRISONMENT, IS SIGNIFICANTLY DISRUPTIVE OF THE TREATMENT PROGRAM AT SUCH SECURE TREATMENT FACILITY, THE PERSON IN CHARGE OF TREATMENT PROGRAMS AT SUCH FACILITY MAY INITIATE A PROCEEDING TO OBTAIN AN ORDER THAT THE RESPONDENT SHALL BE TRANSFERRED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR SUCH CONDUCT.

(2) SUCH A PROCEEDING SHALL BE INITIATED BY A WRITTEN NOTICE SERVED UPON THE RESPONDENT, AND PROVIDED BY MAIL TO HIS OR HER COUNSEL (OR BY ELECTRONIC MAIL OR FACSIMILE TO A DESTINATION IDENTIFIED BY SUCH COUNSEL FOR SUCH PURPOSE). SUCH NOTICE SHALL IDENTIFY IN DETAIL THE DATES, TIMES AND NATURE OF THE ALLEGED MISCONDUCT PURSUANT TO PARAGRAPH ONE OF THIS

SUBDIVISION, THE POSSIBLE SANCTIONS, AND THE DATE, TIME AND LOCATION OF THE HEARING.

(3) A HEARING ON THE ALLEGATIONS SHALL BE HELD NO LESS THAN TEN DAYS NOR MORE THAN SIXTY DAYS AFTER SUCH NOTICE IS SERVED ON THE RESPONDENT AND PROVIDED TO HIS OR HER COUNSEL. THE HEARING SHALL BE CONDUCTED BY THE DIRECTOR OF THE SECURE TREATMENT FACILITY, OR HIS OR HER DESIGNEE. THE RESPONDENT MAY BE REPRESENTED BY COUNSEL. EVIDENCE SHALL BE INTRODUCED THROUGH WITNESSES AND DOCUMENTS, IF ANY, AND BOTH THE PERSON IN CHARGE OF THE TREATMENT PROGRAM PRESENTING THE CASE AND THE RESPONDENT MAY CALL AND CROSS-EXAMINE WITNESSES AND PRESENT DOCUMENTARY EVIDENCE RELEVANT TO THE QUESTION OF WHETHER THE RESPONDENT HAS BEEN SIGNIFICANTLY DISRUPTIVE OF THE TREATMENT PROGRAM. THE PRESIDING OFFICER MAY ACCEPT SUCH EVIDENCE WITHOUT APPLYING FORMAL STATE OR FEDERAL RULES OF EVIDENCE. THE HEARING SHALL BE RECORDED OR A STENOGRAPHIC RECORD OF THE PROCEEDING SHALL BE KEPT. WHEN HEARING THE MATTER AND, IF THE ALLEGATIONS ARE SUSTAINED, THE PRESIDING OFFICER SHALL CONSIDER THE RESPONDENT'S MENTAL HEALTH CONDITION AND ITS EFFECT, IF ANY, ON HIS OR HER CONDUCT.

(4) AT THE CONCLUSION OF THE HEARING, IF THE PRESIDING OFFICER IS SATISFIED THAT THERE IS A PREPONDERANCE OF EVIDENCE THAT THE RESPONDENT HAS BEEN SIGNIFICANTLY DISRUPTIVE OF THE TREATMENT PROGRAM AT THE SECURE TREATMENT FACILITY, THE PRESIDING OFFICER SHALL SO FIND. IN SUCH EVENT, THE PRESIDING OFFICER MAY ORDER THE RESPONDENT'S TRANSFER BACK TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR A PERIOD OF UP TO SIX MONTHS, PROVIDED HOWEVER, THAT WHEN SUCH RESPONDENT REACHES THE MAXIMUM EXPIRATION DATE OF HIS OR HER UNDERLYING SENTENCE HE OR SHE SHALL BE RETURNED TO A SECURE TREATMENT FACILITY UNLESS HE OR SHE CONSENTS IN WRITING AS PROVIDED IN SUBDIVISION (K) OF THIS SECTION TO REMAINING IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND PROVIDED FURTHER THAT HE OR SHE SHALL BE RETURNED TO A SECURE TREATMENT FACILITY IF THE FINAL ORDER ISSUED PURSUANT TO SUBDIVISION (F) OF SECTION 10.07 OF THIS ARTICLE REQUIRES PLACEMENT IN A SECURE TREATMENT FACILITY.

(5) AT THE CONCLUSION OF THE HEARING, THE PRESIDING OFFICER SHALL PREPARE A WRITTEN STATEMENT, TO BE MADE AVAILABLE TO THE RESPONDENT AND HIS OR HER COUNSEL, INDICATING THE EVIDENCE RELIED ON, THE REASONS FOR THE DETERMINATION AND SPECIFYING THE PROCEDURES AND TIME FRAME FOR ADMINISTRATIVE APPEAL TO THE COMMISSIONER. THE DETERMINATION MAY BE APPEALED TO THE COMMISSIONER IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN WRITING BY THE DEPARTMENT. THE RESPONDENT SHALL BE GIVEN AT LEAST TEN DAYS AFTER NOTICE OF THE DETERMINATION HAS BEEN SERVED AND THE TRANSCRIPT OR RECORDING OF THE PROCEEDING (WITH APPROPRIATE ACCESS EQUIPMENT) HAS BEEN PROVIDED TO PERFECT THE APPEAL. THE RESPONDENT MAY BE REPRESENTED BY COUNSEL ON THE ADMINISTRATIVE APPEAL.

S 2. Section 10.08 of the mental hygiene law is amended by adding a new subdivision (i) to read as follows:

(I) (1) AT A PROCEEDING CONDUCTED PURSUANT TO SUBDIVISION (G) OR (H) OF SECTION 10.06 OF THIS ARTICLE, A PSYCHIATRIC EXAMINER CALLED TO TESTIFY MAY BE PERMITTED, UPON GOOD CAUSE SHOWN, TO TESTIFY BY ELECTRONIC APPEARANCE IN THE COURT BY MEANS OF AN INDEPENDENT AUDIO-VISUAL SYSTEM, AS THAT PHRASE IS DEFINED IN SUBDIVISION ONE OF SECTION 182.10 OF THE CRIMINAL PROCEDURE LAW. IT SHALL CONSTITUTE GOOD CAUSE TO PERMIT SUCH AN ELECTRONIC APPEARANCE THAT SUCH PROPOSED WITNESS IS CURRENTLY EMPLOYED BY THE STATE AT A SECURE TREATMENT FACILITY OR ANOTHER WORK LOCATION UNLESS THERE ARE COMPELLING CIRCUMSTANCES REQUIRING THE WITNESS' PERSONAL PRESENCE AT THE COURT PROCEEDING.

(2) A COPY OF ANY CLINICAL RECORD OR OTHER DOCUMENT THAT THE PARTY CALLING SUCH PSYCHIATRIC EXAMINER INTENDS TO PRESENT TO THE WITNESS OR INTRODUCE DURING THE DIRECT TESTIMONY OF SUCH PSYCHIATRIC EXAMINER BY ELECTRONIC APPEARANCE SHALL BE PROVIDED TO OPPOSING COUNSEL AND, IN A MANNER CONSISTENT WITH SECTION 33.16 OF THIS CHAPTER, THE RESPONDENT: (I) FIVE DAYS OR MORE BEFORE THE DATE SUCH PERSON IS CALLED TO TESTIFY BY ELECTRONIC APPEARANCE AT A PROCEEDING CONDUCTED PURSUANT TO SUBDIVISION (G) OF SECTION 10.06 OF THIS ARTICLE, AND (II) TWENTY-FOUR HOURS OR MORE BEFORE THE DATE SUCH PERSON IS CALLED TO TESTIFY BY ELECTRONIC APPEARANCE AT A PROCEEDING CONDUCTED PURSUANT TO SUBDIVISION (H) OF SUCH SECTION 10.06.

(3) EXCEPT AS PROVIDED IN PARAGRAPH FOUR OF THIS SUBDIVISION, COPIES OF CLINICAL RECORDS AND DOCUMENTS NOT MADE AVAILABLE TO OPPOSING COUNSEL AND, WHERE APPLICABLE, THE RESPONDENT AS REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE PERMITTED TO BE PRESENTED TO THE WITNESS ON DIRECT EXAMINATION OR INTRODUCED IN EVIDENCE WITHOUT THE CONSENT OF OPPOSING COUNSEL PROVIDED, HOWEVER, THAT WHERE GOOD CAUSE IS SHOWN WHY SUCH CLINICAL RECORD OR OTHER DOCUMENT WAS NOT PROVIDED SUFFICIENTLY IN ADVANCE AS REQUIRED BY THIS SUBDIVISION, THE COURT SHALL ALLOW SUCH CLINICAL RECORD OR OTHER DOCUMENT TO BE PROVIDED BY APPROPRIATE MEANS, INCLUDING BUT NOT LIMITED TO FACSIMILE OR ELECTRONIC MEANS, AND THEN USED OR CONSIDERED IN THE SAME MANNER AS IF TIMELY ADVANCE DISCLOSURE HAD BEEN MADE.

(4) THE COURT SHALL ORDER THAT COPIES OF CLINICAL RECORDS AND OTHER DOCUMENTS RELEVANT FOR CROSS-EXAMINATION, RE-DIRECT EXAMINATION OR RE-CROSS EXAMINATION OF SUCH WITNESS TESTIFYING BY ELECTRONIC MEANS, NOT OTHERWISE PROVIDED PURSUANT TO THIS SUBDIVISION, BE PROVIDED TO OPPOSING COUNSEL AND, IN A MANNER CONSISTENT WITH SECTION 33.16 OF THIS CHAPTER, THE RESPONDENT, BY APPROPRIATE MEANS, INCLUDING BUT NOT LIMITED TO FACSIMILE OR OTHER ELECTRONIC MEANS.

(5) FOR PURPOSES OF THIS SUBDIVISION, AN "ELECTRONIC APPEARANCE" MEANS AN APPEARANCE AT WHICH A PARTICIPANT IS NOT PRESENT IN THE COURT, BUT IN WHICH ALL OF THE PARTICIPANTS ARE ABLE TO SEE AND HEAR THE SIMULTANEOUS REPRODUCTIONS OF THE VOICES AND IMAGES OF THE JUDGE, COUNSEL, RESPONDENT AND ANY OTHER APPROPRIATE PARTICIPANT. WHEN A WITNESS MAKES AN ELECTRONIC APPEARANCE PURSUANT TO THIS SUBDIVISION, THE COURT STENOGRAPHER SHALL RECORD ANY STATEMENTS IN THE SAME MANNER AS IF THE WITNESS HAD MADE A PERSONAL APPEARANCE.

S 3. Subdivision (b) of section 10.09 of the mental hygiene law, as added by chapter 7 of the laws of 2007, is amended to read as follows:

(b) The commissioner shall also assure that each respondent committed under this article shall have an examination for evaluation of his or her mental condition made at least once every year (CALCULATED FROM THE DATE ON WHICH THE SUPREME OR COUNTY COURT JUDGE LAST ORDERED OR CONFIRMED THE NEED FOR CONTINUED CONFINEMENT PURSUANT TO THIS ARTICLE OR THE DATE ON WHICH THE RESPONDENT WAIVED THE RIGHT TO PETITION FOR DISCHARGE PURSUANT TO THIS SECTION, WHICHEVER IS LATER, AS APPLICABLE) CONDUCTED by a psychiatric examiner who shall report to the commissioner his or her written findings as to whether the respondent is currently a dangerous sex offender requiring confinement. At such time, the respondent also shall have the right to be evaluated by an independent psychiatric examiner. If the respondent is financially unable to obtain an examiner, the court shall appoint an examiner of the respondent's choice to be paid within the limits prescribed by law. Following such evaluation, each psychiatric examiner shall report his or her findings in writing to the commissioner and to counsel for respondent. The commis-

sioner shall review relevant records and reports, along with the findings of the psychiatric examiners, and shall make a determination in writing as to whether the respondent is currently a dangerous sex offender requiring confinement.

S 4. This act shall take effect immediately.

PART Q

Section 1. Section 730.10 of the criminal procedure law is amended by adding a new subdivision 9 to read as follows:

9. "APPROPRIATE INSTITUTION" MEANS: (A) A HOSPITAL OPERATED BY THE OFFICE OF MENTAL HEALTH OR A DEVELOPMENTAL CENTER OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; OR (B) A HOSPITAL LICENSED BY THE DEPARTMENT OF HEALTH WHICH OPERATES A PSYCHIATRIC UNIT LICENSED BY THE OFFICE OF MENTAL HEALTH, AS DETERMINED BY THE COMMISSIONER PROVIDED, HOWEVER, THAT ANY SUCH HOSPITAL THAT IS NOT OPERATED BY THE STATE SHALL QUALIFY AS AN "APPROPRIATE INSTITUTION" ONLY PURSUANT TO THE TERMS OF AN AGREEMENT BETWEEN THE COMMISSIONER AND THE HOSPITAL. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS REQUIRING A HOSPITAL TO CONSENT TO PROVIDING CARE AND TREATMENT TO AN INCAPACITATED PERSON AT SUCH HOSPITAL.

S 2. Subdivision 1 of section 730.40 of the criminal procedure law, as amended by chapter 231 of the laws of 2008, is amended to read as follows:

1. When a local criminal court, following a hearing conducted pursuant to subdivision three or four of section 730.30, is satisfied that the defendant is not an incapacitated person, the criminal action against him OR HER must proceed. If it is satisfied that the defendant is an incapacitated person, or if no motion for such a hearing is made, such court must issue a final or temporary order of observation committing him OR HER to the custody of the commissioner for care and treatment in an appropriate institution for a period not to exceed ninety days from the date of the order, provided, however, that the commissioner may designate an appropriate hospital for placement of a defendant for whom a final order of observation has been issued, where such hospital is licensed by the office of mental health and has agreed to accept, upon referral by the commissioner, defendants subject to final orders of observation issued under this subdivision. When a local criminal court accusatory instrument other than a felony complaint has been filed against the defendant, such court must issue a final order of observation[; when]. WHEN a felony complaint has been filed against the defendant, such court must issue a temporary order of observation COMMITTING HIM OR HER TO THE CUSTODY OF THE COMMISSIONER FOR CARE AND TREATMENT IN AN APPROPRIATE INSTITUTION OR, UPON THE CONSENT OF THE DISTRICT ATTORNEY, COMMITTING HIM OR HER TO THE CUSTODY OF THE COMMISSIONER FOR CARE AND TREATMENT ON AN OUT-PATIENT BASIS, FOR A PERIOD NOT TO EXCEED NINETY DAYS FROM THE DATE OF SUCH ORDER, except that, with the consent of the district attorney, it may issue a final order of observation.

S 3. Subdivision 1 of section 730.50 of the criminal procedure law, as amended by chapter 231 of the laws of 2008, is amended to read as follows:

1. When a superior court, following a hearing conducted pursuant to subdivision three or four of section 730.30, is satisfied that the defendant is not an incapacitated person, the criminal action against him OR HER must proceed. If it is satisfied that the defendant is an incapacitated person, or if no motion for such a hearing is made, it

must adjudicate him OR HER an incapacitated person, and must issue a final order of observation or an order of commitment. When the indictment does not charge a felony or when the defendant has been convicted of an offense other than a felony, such court (a) must issue a final order of observation committing the defendant to the custody of the commissioner for care and treatment in an appropriate institution for a period not to exceed ninety days from the date of such order, provided, however, that the commissioner may designate an appropriate hospital for placement of a defendant for whom a final order of observation has been issued, where such hospital is licensed by the office of mental health and has agreed to accept, upon referral by the commissioner, defendants subject to final orders of observation issued under this subdivision, and (b) must dismiss the indictment filed in such court against the defendant, and such dismissal constitutes a bar to any further prosecution of the charge or charges contained in such indictment. When the indictment charges a felony or when the defendant has been convicted of a felony, it must issue an order of commitment committing the defendant to the custody of the commissioner for care and treatment in an appropriate institution OR, UPON THE CONSENT OF THE DISTRICT ATTORNEY, COMMITTING HIM OR HER TO THE CUSTODY OF THE COMMISSIONER FOR CARE AND TREATMENT ON AN OUT-PATIENT BASIS, for a period not to exceed one year from the date of such order. Upon the issuance of an order of commitment, the court must exonerate the defendant's bail if he OR SHE was previously at liberty on bail; PROVIDED, HOWEVER, THAT EXONERATION OF BAIL IS NOT REQUIRED WHEN A DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER FOR CARE AND TREATMENT ON AN OUT-PATIENT BASIS.

S 4. This act shall take effect immediately.

PART R

Section 1. Section 1 of part D of chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs is amended to read as follows:

Section 1. The office of mental health is authorized to recover funding from community residences and family-based treatment providers licensed by the office of mental health, consistent with contractual obligations of such providers, and notwithstanding any other inconsistent provision of law to the contrary, in an amount equal to 50 percent of the income received by such providers which exceeds the fixed amount of annual Medicaid revenue limitations, as established by the commissioner of mental health. Recovery of such excess income shall be for the following fiscal periods: for programs in counties located outside of the city of New York, the applicable fiscal periods shall be January 1, 2003 through December 31, 2009 AND JANUARY 1, 2011 THROUGH DECEMBER 31, 2013; and for programs located within the city of New York, the applicable fiscal periods shall be July 1, 2003 through June 30, 2010 AND JULY 1, 2011 THROUGH JUNE 30, 2013.

S 2. This act shall take effect immediately.

PART S

Section 1. Notwithstanding any law, rule or regulation to the contrary, only physicians or dentists who were eligible, and for whom the superintendent of financial services and the commissioner of health, or their designee, purchased, with funds available in the hospital excess

liability pool, a full or partial policy for excess coverage or equivalent excess coverage for the coverage periods ending the thirtieth of June, two thousand ten, the thirtieth of June, two thousand eleven, and the thirtieth of June, two thousand twelve shall be eligible to apply for such coverage for the coverage period beginning the first of July, two thousand twelve. If the total number of physicians or dentists for whom such excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand ten is more than the total number of physicians and dentists certified as eligible for the coverage period beginning the first of July, two thousand twelve, then the general hospitals may certify additional eligible physicians or dentists up to the greater of the total number of physicians or dentists for whom excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand ten, or one thousand physicians or dentists; provided, however, that no general hospital may certify additional eligible physicians or dentists in a greater number than the proportion of its physicians and dentists for whom excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand ten as applied to the difference between the total eligible physicians and dentists for the coverage period beginning the first of July, two thousand twelve and the total eligible physicians and dentists for whom excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand ten.

S 2. The superintendent of financial services and the commissioner of health shall prepare a report that includes, but is not limited to: a review of the nature and extent of affiliations between physicians, dentists, general hospitals, private practices and universities; and an actuarial analysis of the adequacy of premiums paid by the hospital excess liability pool for excess coverage and equivalent excess coverage with regard to liabilities and claims history, and relative to budget appropriations to the hospital excess liability pool. The report shall also include recommendations to support the sustainability of the excess medical malpractice liability coverage pool, maintaining the assumption that the future annual appropriations for the pool will not exceed the amount appropriated for the pool in state fiscal year two thousand twelve-thirteen. The superintendent of financial services and the commissioner of health shall submit the report to the governor, temporary president of the senate and speaker of the assembly by the first of November, two thousand twelve.

S 3. This act shall take effect immediately.

PART T

Section 1. Paragraph (f) of subdivision 3 of section 242 of the elder law, as amended by section 3-d of part A of chapter 59 of the laws of 2011, is amended to read as follows:

(f) As a condition of eligibility for benefits under this title, a program participant is required to be enrolled in Medicare part D and to maintain such enrollment. FOR UNMARRIED PARTICIPANTS WITH INDIVIDUAL ANNUAL INCOME LESS THAN OR EQUAL TO TWENTY-THREE THOUSAND DOLLARS AND MARRIED PARTICIPANTS WITH JOINT ANNUAL INCOME LESS THAN OR EQUAL TO TWENTY-NINE THOUSAND DOLLARS, THE ELDERLY PHARMACEUTICAL INSURANCE

COVERAGE PROGRAM SHALL PAY FOR THE PORTION OF THE PART D MONTHLY PREMIUM THAT IS THE RESPONSIBILITY OF THE PARTICIPANT. SUCH PAYMENT SHALL BE LIMITED TO THE LOW-INCOME BENCHMARK PREMIUM AMOUNT ESTABLISHED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES AND ANY OTHER AMOUNT WHICH SUCH AGENCY ESTABLISHES UNDER ITS DE MINIMUS PREMIUM POLICY.

S 1-a. Subdivision 1 of section 241 of the elder law, as amended by section 29 of part A of chapter 58 of the laws of 2008, is amended to read as follows:

1. "Covered drug" shall mean a drug dispensed subject to a legally authorized prescription pursuant to section sixty-eight hundred ten of the education law, and insulin, an insulin syringe, or an insulin needle. Such term shall not include: (a) any drug determined by the commissioner of the federal food and drug administration to be ineffective or unsafe; (b) any drug dispensed in a package, or form of dosage or administration, as to which the commissioner of health finally determines in accordance with the provisions of section two hundred fifty-two of this title that a less expensive package, or form of dosage or administration, is available that is pharmaceutically equivalent and equivalent in its therapeutic effect for the general health characteristics of the eligible program participant population; (c) any device for the aid or correction of vision; (d) any drug, including vitamins, which is generally available without a physician's prescription; and (e) drugs for the treatment of sexual or erectile dysfunction, unless such drugs are used to treat a condition, other than sexual or erectile dysfunction, for which the drugs have been approved by the federal food and drug administration; and (f) a brand name drug for which a multi-source therapeutically and generically equivalent drug, as determined by the federal food and drug administration, is available, unless previously authorized by the elderly pharmaceutical insurance coverage program, provided, however, that the [elderly pharmaceutical insurance coverage panel] COMMISSIONER is authorized to exempt, for good cause shown, any brand name drug from such restriction, and provided further that such restriction shall not apply to any drug that is included on the preferred drug list under section two hundred seventy-two of the public health law or is in the clinical drug review program under section two hundred seventy-four of the public health law to the extent that the preferred drug program and the clinical drug review program are applied to the elderly pharmaceutical insurance coverage program pursuant to section two hundred seventy-five of the public health law, or to any drug covered under a program participant's Medicare part D or other primary insurance plan. Any of the drugs enumerated in the preceding sentence shall be considered a covered drug or a prescription drug for purposes of this article if it is added to the preferred drug list under article two-A of the public health law. For the purpose of this title, except as otherwise provided in this section, a covered drug shall be dispensed in quantities no greater than a thirty day supply or one hundred units, whichever is greater. In the case of a drug dispensed in a form of administration other than a tablet or capsule, the maximum allowed quantity shall be a thirty day supply; the [panel] COMMISSIONER is authorized to approve exceptions to these limits for specific products following consideration of recommendations from pharmaceutical or medical experts regarding commonly packaged quantities, unusual forms of administration, length of treatment or cost effectiveness. In the case of a drug prescribed pursuant to section thirty-three hundred thirty-two of the public health law to treat one of the conditions that have been enumerated by the commissioner of health pursuant to regulation as

warranting the prescribing of greater than a thirty day supply, such drug shall be dispensed in quantities not to exceed a three month supply.

S 1-b. Subdivision 1 of section 241 of the elder law, as amended by section 12 of part B of chapter 57 of the laws of 2006, is amended to read as follows:

1. "Covered drug" shall mean a drug dispensed subject to a legally authorized prescription pursuant to section sixty-eight hundred ten of the education law, and insulin, an insulin syringe, or an insulin needle. Such term shall not include: (a) any drug determined by the commissioner of the federal food and drug administration to be ineffective or unsafe; (b) any drug dispensed in a package, or form of dosage or administration, as to which the commissioner of health finally determines in accordance with the provisions of section two hundred fifty-two of this title that a less expensive package, or form of dosage or administration, is available that is pharmaceutically equivalent and equivalent in its therapeutic effect for the general health characteristics of the eligible program participant population; (c) any device for the aid or correction of vision, or any drug, including vitamins, which is generally available without a physician's prescription; and (d) drugs for the treatment of sexual or erectile dysfunction, unless such drugs are used to treat a condition, other than sexual or erectile dysfunction, for which the drugs have been approved by the federal food and drug administration. For the purpose of this title, except as otherwise provided in this section, a covered drug shall be dispensed in quantities no greater than a thirty day supply or one hundred units, whichever is greater. In the case of a drug dispensed in a form of administration other than a tablet or capsule, the maximum allowed quantity shall be a thirty day supply; the [panel] COMMISSIONER is authorized to approve exceptions to these limits for specific products following consideration of recommendations from pharmaceutical or medical experts regarding commonly packaged quantities, unusual forms of administration, length of treatment or cost effectiveness. In the case of a drug prescribed pursuant to section thirty-three hundred thirty-two of the public health law to treat one of the conditions that have been enumerated by the commissioner of health pursuant to regulation as warranting the prescribing of greater than a thirty day supply, such drug shall be dispensed in quantities not to exceed a three month supply.

S 2. Subdivision 6 of section 241 of the elder law, as amended by section 2 of part A of chapter 59 of the laws of 2011, is amended to read as follows:

6. "Annual coverage period" shall mean the period of twelve consecutive calendar months for which an eligible program participant has met the [requirements of section two hundred forty-two] APPLICATION FEE OR DEDUCTIBLE REQUIREMENTS, AS THE CASE MAY BE, OF SECTIONS TWO HUNDRED FORTY-SEVEN AND TWO HUNDRED FORTY-EIGHT of this title.

S 3. Subdivision 8 of section 241 of the elder law is REPEALED and subdivision 9 is renumbered subdivision 8.

S 4. Subdivision 1 of section 242 of the elder law, as amended by section 3 of part A of chapter 59 of the laws of 2011, is amended to read as follows:

1. Persons eligible for COMPREHENSIVE coverage under SECTION TWO HUNDRED FORTY-SEVEN OF this title shall include:

(a) any unmarried resident who is at least sixty-five years of age[, who is enrolled in Medicare part D,] and whose income for the calendar year immediately preceding the effective date of the annual coverage

period beginning on or after January first, two thousand five, is less than or equal to [thirty-five] TWENTY thousand dollars. After the initial determination of eligibility, each eligible individual must be redetermined eligible at least every twenty-four months; and

(b) any married resident who is at least sixty-five years of age[, who is enrolled in Medicare part D,] and whose income for the calendar year immediately preceding the effective date of the annual coverage period when combined with the income in the same calendar year of such married person's spouse beginning on or after January first, two thousand one, is less than or equal to [fifty] TWENTY-SIX thousand dollars. After the initial determination of eligibility, each eligible individual must be redetermined eligible at least every twenty-four months.

S 5. Section 242 of the elder law is amended by adding a new subdivision 2 to read as follows:

2. PERSONS ELIGIBLE FOR CATASTROPHIC COVERAGE UNDER SECTION TWO HUNDRED FORTY-EIGHT OF THIS TITLE SHALL INCLUDE:

(A) ANY UNMARRIED RESIDENT WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE AND WHOSE INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE ANNUAL COVERAGE PERIOD BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ONE, IS MORE THAN TWENTY THOUSAND AND LESS THAN OR EQUAL TO THIRTY-FIVE THOUSAND DOLLARS. AFTER THE INITIAL DETERMINATION OF ELIGIBILITY, EACH ELIGIBLE INDIVIDUAL MUST BE REDETERMINED ELIGIBLE AT LEAST EVERY TWENTY-FOUR MONTHS; AND

(B) ANY MARRIED RESIDENT WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE AND WHOSE INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE ANNUAL COVERAGE PERIOD WHEN COMBINED WITH THE INCOME IN THE SAME CALENDAR YEAR OF SUCH MARRIED PERSON'S SPOUSE BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ONE, IS MORE THAN TWENTY-SIX THOUSAND DOLLARS AND LESS THAN OR EQUAL TO FIFTY THOUSAND DOLLARS. AFTER THE INITIAL DETERMINATION OF ELIGIBILITY, EACH ELIGIBLE INDIVIDUAL MUST BE REDETERMINED ELIGIBLE AT LEAST EVERY TWENTY-FOUR MONTHS.

S 6. Paragraph (c) of subdivision 3 of section 242 of the elder law is REPEALED and a new paragraph (c) is added to read as follows:

(C) THE PARTICIPANT REGISTRATION FEE CHARGED TO ELIGIBLE PROGRAM PARTICIPANTS FOR COMPREHENSIVE COVERAGE PURSUANT TO SECTION TWO HUNDRED FORTY-SEVEN OF THIS TITLE SHALL BE WAIVED FOR THE PORTION OF THE ANNUAL COVERAGE PERIOD THAT THE PARTICIPANT IS ALSO ENROLLED AS A FULL SUBSIDY INDIVIDUAL IN A PRESCRIPTION DRUG OR MA-PD PLAN UNDER PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT.

S 7. Intentionally omitted.

S 8. Intentionally omitted.

S 9. Intentionally omitted.

S 10. Intentionally omitted.

S 11. Intentionally omitted.

S 12. Intentionally omitted.

S 12-a. Section 242 of the elder law is amended by adding a new subdivision 4 to read as follows:

4. AS A CONDITION OF ELIGIBILITY FOR BENEFITS UNDER THIS TITLE, PARTICIPANTS MUST BE ENROLLED IN MEDICARE PART D AND MAINTAIN SUCH ENROLLMENT. FOR PERSONS WHO MEET THE ELIGIBILITY REQUIREMENTS TO PARTICIPATE IN THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM, THE PROGRAM WILL PAY FOR A DRUG COVERED BY THE PERSON'S MEDICARE PART D PLAN OR A DRUG IN A MEDICARE PART D EXCLUDED DRUG CLASS, AS DEFINED IN SUBDIVISION EIGHT OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, PROVIDED THAT SUCH DRUG IS A COVERED DRUG, AS DEFINED IN SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, AND THAT THE PARTICIPANT

COMPLIES WITH THE POINT OF SALE CO-PAYMENT REQUIREMENTS SET FORTH IN SECTIONS TWO HUNDRED FORTY-SEVEN AND TWO HUNDRED FORTY-EIGHT OF THIS TITLE. NO PAYMENT SHALL BE MADE FOR MEDICARE PART D PLAN DEDUCTIBLES.

S 12-b. Section 245 of the elder law is REPEALED.

S 12-c. Subdivision 1 of section 249 of the elder law, as amended by section 111 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

1. The state shall offer an opportunity to participate in this program to all provider pharmacies as defined in section two hundred forty-one of this title, provided, however, that the participation of pharmacies registered in the state pursuant to section sixty-eight hundred eight-b of the education law shall be limited to state assistance provided under this title for prescription drugs covered by a program participant's medicare [or other] drug plan.

S 12-d. Subdivisions 1 and 2 of section 253 of the elder law are amended to read as follows:

1. In counties having a population of seventy-five thousand or less that are in proximity to the state boundary and which are determined by the [executive director] COMMISSIONER OF HEALTH to be not adequately served by provider pharmacies registered in New York, and in Fishers Island in the town of Southold, Suffolk county, the [executive director] COMMISSIONER may approve as provider pharmacies, pharmacies located in New Jersey, Connecticut, Vermont, Pennsylvania or Massachusetts. Such approvals shall be made after (a) consideration of the convenience and necessity of New York residents in the rural areas served by such pharmacies, (b) consideration of the quality of service of such pharmacies and the standing of such pharmacies with the governmental board or agency of the state in which such pharmacy is located, (c) the [executive director] COMMISSIONER shall give all licensed pharmacies within the county notice of his or her intention to approve such out-of-state provider pharmacies, and (d) the [executive director] COMMISSIONER has held a public hearing at which he or she has determined factually that the licensed pharmacies within such county are not adequately serving as provider pharmacies.

2. The [executive director] COMMISSIONER OF HEALTH shall investigate and determine whether certification shall be granted within ninety days of the filing of an application for certification by the governing body of any city, town or village, within a county determined by the [executive director] COMMISSIONER to be not adequately served by provider pharmacies registered in New York pursuant to subdivision one of this section, claiming to be lacking adequate pharmaceutical service.

S 13. The section heading of section 247 of the elder law, as amended by section 3-i of part A of chapter 59 of the laws of 2011, is amended to read as follows:

Cost-sharing responsibilities of eligible program participants FOR COMPREHENSIVE COVERAGE.

S 14. Subdivision 1 of section 247 of the elder law is REPEALED and a new subdivision 1 is added to read as follows:

1. REGISTRATION FEE. ELIGIBLE INDIVIDUALS MEETING THE REGISTRATION FEE REQUIREMENTS OF THIS SECTION MAY PURCHASE PRESCRIBED COVERED DRUGS FOR AN AMOUNT SPECIFIED BY SUBDIVISION THREE OF THIS SECTION, SUBJECT TO THE LIMITS ON POINT OF SALE CO-PAYMENTS SPECIFIED BY SUBDIVISION FOUR OF THIS SECTION.

S 15. Subdivision 2 of section 247 of the elder law, as renumbered by section 3-k of part A of chapter 59 of the laws of 2011, is renumbered

subdivision 3 and two new subdivisions 2 and 4 are added to read as follows:

2. REGISTRATION FEE SCHEDULE. ELIGIBLE INDIVIDUALS ELECTING TO MEET THE REQUIREMENTS OF THIS SUBDIVISION SHALL PAY A QUARTERLY REGISTRATION FEE IN A MANNER AND FORM DETERMINED BY THE EXECUTIVE DIRECTOR; AT THE OPTION OF THE PARTICIPANT, THE REGISTRATION FEE MAY BE PAID ANNUALLY IN A LUMP SUM UPON THE BEGINNING OF THE ANNUAL COVERAGE PERIOD. NO ELIGIBLE INDIVIDUAL ELECTING TO MEET THE REQUIREMENTS OF THIS SUBDIVISION SHALL HAVE HIS PARTICIPATION IN THE PROGRAM LAPSE BY VIRTUE OF NON-PAYMENT OF THE APPLICABLE REGISTRATION FEE UNLESS THE CONTRACTOR HAS PROVIDED NOTIFICATION OF THE AMOUNT AND DUE DATE THEREOF, AND MORE THAN THIRTY DAYS HAVE ELAPSED SINCE THE DUE DATE OF THE INDIVIDUAL'S REGISTRATION FEE. THE REGISTRATION FEE TO BE CHARGED TO ELIGIBLE PROGRAM PARTICIPANTS FOR COMPREHENSIVE COVERAGE UNDER THIS OPTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

(A) QUARTERLY REGISTRATION FEES FOR UNMARRIED INDIVIDUAL PROGRAM PARTICIPANTS:

INDIVIDUAL INCOME OF $5,000 OR LESS	$2.00
INDIVIDUAL INCOME OF $5,001 TO $6,000	$2.00
INDIVIDUAL INCOME OF $6,001 TO $7,000	$4.00
INDIVIDUAL INCOME OF $7,001 TO $8,000	$5.50
INDIVIDUAL INCOME OF $8,001 TO $9,000	$7.00
INDIVIDUAL INCOME OF $9,001 TO $10,000	$9.00
INDIVIDUAL INCOME OF $10,001 TO $11,000	$10.00
INDIVIDUAL INCOME OF $11,001 TO $12,000	$11.50
INDIVIDUAL INCOME OF $12,001 TO $13,000	$13.50
INDIVIDUAL INCOME OF $13,001 TO $14,000	$15.00
INDIVIDUAL INCOME OF $14,001 TO $15,000	$20.00
INDIVIDUAL INCOME OF $15,001 TO $16,000	$27.50
INDIVIDUAL INCOME OF $16,001 TO $17,000	$35.00
INDIVIDUAL INCOME OF $17,001 TO $18,000	$42.50
INDIVIDUAL INCOME OF $18,001 TO $19,000	$50.00
INDIVIDUAL INCOME OF $19,001 TO $20,000	$57.50

(B) QUARTERLY REGISTRATION FEES FOR EACH MARRIED INDIVIDUAL PROGRAM PARTICIPANT:

JOINT INCOME OF $5,000 OR LESS	$2.00
JOINT INCOME OF $5,001 TO $6,000	$2.00
JOINT INCOME OF $6,001 TO $7,000	$3.00
JOINT INCOME OF $7,001 TO $8,000	$4.00
JOINT INCOME OF $8,001 TO $9,000	$5.00
JOINT INCOME OF $9,001 TO $10,000	$6.00
JOINT INCOME OF $10,001 TO $11,000	$7.00
JOINT INCOME OF $11,001 TO $12,000	$8.00
JOINT INCOME OF $12,001 TO $13,000	$9.00
JOINT INCOME OF $13,001 TO $14,000	$10.00
JOINT INCOME OF $14,001 TO $15,000	$10.00
JOINT INCOME OF $15,001 TO $16,000	$21.00
JOINT INCOME OF $16,001 TO $17,000	$26.50
JOINT INCOME OF $17,001 TO $18,000	$31.50
JOINT INCOME OF $18,001 TO $19,000	$37.50
JOINT INCOME OF $19,001 TO $20,000	$43.00
JOINT INCOME OF $20,001 TO $21,000	$48.50
JOINT INCOME OF $21,001 TO $22,000	$54.00
JOINT INCOME OF $22,001 TO $23,000	$59.50
JOINT INCOME OF $23,001 TO $24,000	$65.00

JOINT INCOME OF $24,001 TO $25,000 $68.75
JOINT INCOME OF $25,001 TO $26,000 $75.00

(C) IN THE EVENT THAT THE STATE EXPENDITURES PER PARTICIPANT MEETING THE REGISTRATION FEE REQUIREMENTS OF THIS SUBDIVISION, EXCLUSIVE OF EXPENDITURES FOR PROGRAM ADMINISTRATION, IN THE PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, AND IN EACH PROGRAM YEAR THEREAFTER, EXCEED SUCH EXPENDITURES IN THE PREVIOUS PROGRAM YEAR BY A MINIMUM OF TEN PERCENT, THE ANNUAL REGISTRATION FEES SET FORTH IN THIS SUBDIVISION MAY, UNLESS OTHERWISE PROVIDED BY LAW, BE INCREASED, PRO-RATA, FOR THE SUBSEQUENT PROGRAM YEAR, PROVIDED THAT SUCH INCREASE SHALL NOT EXCEED SEVEN AND ONE-HALF PERCENT OF THE PRIOR YEAR REGISTRATION FEES AS MAY HAVE BEEN ADJUSTED IN ACCORDANCE WITH THIS PARAGRAPH.

(D) IN THE EVENT THAT THE STATE EXPENDITURES PER SUCH PARTICIPANT, INCURRED PURSUANT TO THIS SUBDIVISION, EXCLUSIVE OF EXPENDITURES FOR PROGRAM ADMINISTRATION, IN THE PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, AND IN EACH PROGRAM YEAR THEREAFTER, ARE LESS THAN SUCH EXPENDITURES IN THE PREVIOUS PROGRAM YEAR BY A MINIMUM OF TEN PERCENT, THE ANNUAL REGISTRATION FEES SET FORTH IN THIS SUBDIVISION MAY, UNLESS OTHERWISE PROVIDED BY LAW, BE DECREASED, PRO-RATA, FOR THE SUBSEQUENT PROGRAM YEAR, PROVIDED THAT SUCH DECREASE SHALL NOT EXCEED SEVEN AND ONE-HALF PERCENT OF THE PRIOR YEAR REGISTRATION FEES AS MAY HAVE BEEN ADJUSTED IN ACCORDANCE WITH THIS PARAGRAPH.

(E) THE DETERMINATION TO ADJUST ANNUAL REGISTRATION FEES SET FORTH IN THIS SUBDIVISION SHALL FOLLOW A REVIEW OF SUCH FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGIBLE PROGRAM PARTICIPANTS TO SUPPORT SUCH ADJUSTMENTS AND CHANGES IN THE CONSUMER PRICE INDEX. THE FREQUENCY OF SUCH ADJUSTMENTS SHALL NOT EXCEED ONCE IN ANY PROGRAM YEAR AND SUCH ADJUSTMENTS SHALL NOT BECOME EFFECTIVE FOR INDIVIDUAL PROGRAM PARTICIPANTS PRIOR TO THE FIRST DAY OF THE NEXT ANNUAL COVERAGE PERIOD FOR EACH PARTICIPANT.

4. LIMITS ON POINT OF SALE CO-PAYMENTS. DURING EACH ANNUAL COVERAGE PERIOD NO POINT OF SALE CO-PAYMENT AS SET FORTH IN SUBDIVISION THREE OF THIS SECTION SHALL BE REQUIRED TO BE MADE FOR THE REMAINDER OF SUCH PERIOD BY ANY ELIGIBLE PROGRAM PARTICIPANT WHO HAS ALREADY INCURRED CO-PAYMENTS IN EXCESS OF THE LIMITS SET FORTH IN THE FOLLOWING SCHEDULE:

(A) LIMITS ON CO-PAYMENTS BY UNMARRIED INDIVIDUAL ELIGIBLE PROGRAM PARTICIPANTS:

INDIVIDUAL INCOME OF $5,000 OR LESS NO MORE THAN $340
INDIVIDUAL INCOME OF $5,001 TO $6,000 NO MORE THAN $408
INDIVIDUAL INCOME OF $6,001 TO $7,000 NO MORE THAN $476
INDIVIDUAL INCOME OF $7,001 TO $8,000 NO MORE THAN $544
INDIVIDUAL INCOME OF $8,001 TO $9,000 NO MORE THAN $612
INDIVIDUAL INCOME OF $9,001 TO $10,000 NO MORE THAN $700
INDIVIDUAL INCOME OF $10,001 TO $11,000 NO MORE THAN $720
INDIVIDUAL INCOME OF $11,001 TO $12,000 NO MORE THAN $827
INDIVIDUAL INCOME OF $12,001 TO $13,000 NO MORE THAN $896
INDIVIDUAL INCOME OF $13,001 TO $14,000 NO MORE THAN $964
INDIVIDUAL INCOME OF $14,001 TO $15,000 NO MORE THAN $1,016
INDIVIDUAL INCOME OF $15,001 TO $16,000 NO MORE THAN $1,034
INDIVIDUAL INCOME OF $16,001 TO $17,000 NO MORE THAN $1,052
INDIVIDUAL INCOME OF $17,001 TO $18,000 NO MORE THAN $1,070
INDIVIDUAL INCOME OF $18,001 TO $19,000 NO MORE THAN $1,088
INDIVIDUAL INCOME OF $19,001 TO $20,000 NO MORE THAN $1,160

(B) LIMITS ON CO-PAYMENTS BY EACH MARRIED INDIVIDUAL ELIGIBLE PROGRAM PARTICIPANT:

JOINT INCOME OF $5,000 OR LESS	NO MORE THAN $291
JOINT INCOME OF $5,001 TO $6,000	NO MORE THAN $342
JOINT INCOME OF $6,001 TO $7,000	NO MORE THAN $399
JOINT INCOME OF $7,001 TO $8,000	NO MORE THAN $456
JOINT INCOME OF $8,001 TO $9,000	NO MORE THAN $513
JOINT INCOME OF $9,001 TO $10,000	NO MORE THAN $570
JOINT INCOME OF $10,001 TO $11,000	NO MORE THAN $622
JOINT INCOME OF $11,001 TO $12,000	NO MORE THAN $641
JOINT INCOME OF $12,001 TO $13,000	NO MORE THAN $660
JOINT INCOME OF $13,001 TO $14,000	NO MORE THAN $684
JOINT INCOME OF $14,001 TO $15,000	NO MORE THAN $710
JOINT INCOME OF $15,001 TO $16,000	NO MORE THAN $826
JOINT INCOME OF $16,001 TO $17,000	NO MORE THAN $877
JOINT INCOME OF $17,001 TO $18,000	NO MORE THAN $928
JOINT INCOME OF $18,001 TO $19,000	NO MORE THAN $980
JOINT INCOME OF $19,001 TO $20,000	NO MORE THAN $990
JOINT INCOME OF $20,001 TO $21,000	NO MORE THAN $1,008
JOINT INCOME OF $21,001 TO $22,000	NO MORE THAN $1,026
JOINT INCOME OF $22,001 TO $23,000	NO MORE THAN $1,044
JOINT INCOME OF $23,001 TO $24,000	NO MORE THAN $1,062
JOINT INCOME OF $24,001 TO $25,000	NO MORE THAN $1,080
JOINT INCOME OF $25,001 TO $26,000	NO MORE THAN $1,150

(C) EFFECTIVE OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, THE LIMITS ON POINT OF SALE CO-PAYMENTS AS SET FORTH IN THIS SUBDIVISION MAY BE ADJUSTED BY THE PANEL ON THE ANNIVERSARY DATE OF EACH PROGRAM PARTICIPANT'S ANNUAL COVERAGE PERIOD, AND SUCH ADJUSTMENT SHALL BE IN EFFECT FOR THE DURATION OF THAT ANNUAL COVERAGE PERIOD. ANY SUCH ANNUAL ADJUSTMENT SHALL BE MADE USING A PERCENTAGE ADJUSTMENT FACTOR WHICH SHALL NOT EXCEED ONE-HALF OF THE DIFFERENCE BETWEEN THE YEAR-TO-YEAR PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, AND, IF LARGER, THE YEAR-TO-YEAR PERCENTAGE INCREASE IN THE AGGREGATE AVERAGE COST OF COVERED DRUGS PURCHASED UNDER THIS TITLE, WHICH YEAR-TO-YEAR PERCENTAGE INCREASE IN SUCH COST SHALL BE DETERMINED BY COMPARISON OF SUCH COST IN THE SAME MONTH OF EACH OF THE APPROPRIATE SUCCESSIVE YEARS; PROVIDED, HOWEVER, THAT FOR ANY SUCH ADJUSTMENT BASED WHOLLY ON EXPERIENCE IN THE PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN, THE YEAR-TO-YEAR PERCENTAGE INCREASE IN SUCH COST SHALL BE DETERMINED BY COMPARISON OF SUCH COST IN EACH OF TWO MONTHS NO LESS THAN FIVE MONTHS APART AND WITHIN SUCH PROGRAM YEAR, WHICH COMPARISON SHALL BE ANNUALIZED. SUCH PERCENTAGE ADJUSTMENT FACTOR SHALL BE THE SAME AS THAT USED TO DETERMINE ANY SIMILAR ANNUAL ADJUSTMENT FOR THE SAME ANNUAL COVERAGE PERIODS PURSUANT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION TWO HUNDRED FORTY-EIGHT OF THIS TITLE.

(D) SUCH ANNUAL ADJUSTMENTS SHALL BE CALCULATED BY MULTIPLYING THE PERCENTAGE ADJUSTMENT FACTOR BY (1) TEN PERCENT AND APPLYING THE RESULTING PERCENTAGE TO THE UPPER INCOME LIMITATION OF EACH INCOME LEVEL FOR UNMARRIED INDIVIDUALS CONTAINED IN THIS SUBDIVISION, AND BY (2) SEVEN AND ONE-HALF PERCENT AND APPLYING THE RESULTING PERCENTAGE TO THE UPPER INCOME LIMITATION OF EACH INCOME LEVEL FOR MARRIED INDIVIDUALS CONTAINED IN THIS SUBDIVISION; EACH RESULT OF SUCH CALCULATIONS, MINUS ANY APPLICABLE REGISTRATION FEE INCREASES MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION AND PLUS THE RESULT OF APPLYING THE PERCENTAGE ADJUSTMENT FACTOR TO THE SUM OF ANY SUCH ANNUAL ADJUSTMENTS APPLICABLE THERETO FOR ANY PRIOR ANNUAL COVERAGE PERIOD, SHALL BE THE AMOUNT BY WHICH THE LIMIT ON CO-PAYMENTS FOR EACH SUCH INCOME LEVEL MAY BE ADJUSTED, AND SUCH

AMOUNT SHALL BE IN ADDITION TO ANY SUCH AMOUNT OR AMOUNTS APPLICABLE TO PRIOR ANNUAL COVERAGE PERIODS.

(E) THE DETERMINATION TO ADJUST THE LIMITS ON POINT OF SALE CO-PAYMENTS SET FORTH IN THIS SUBDIVISION SHALL FOLLOW A REVIEW OF SUCH FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGIBLE PROGRAM PARTICIPANTS TO SUPPORT SUCH ADJUSTMENTS.

S 16. Paragraph (a) of subdivision 3 of section 247 of the elder law, as amended by section 3-k of part A of chapter 59 of the laws of 2011, such subdivision as renumbered by section fifteen of this act, is amended to read as follows:

(a) [A] UPON SATISFACTION OF THE REGISTRATION FEE PURSUANT TO THIS SECTION AN ELIGIBLE program participant must pay a point of sale co-payment as set forth in paragraph (b) of this subdivision at the time of each purchase of a COVERED drug prescribed for such individual [that is described in paragraph (c) of subdivision three of section two hundred forty-two of this title]. SUCH CO-PAYMENT SHALL NOT BE WAIVED OR REDUCED IN WHOLE OR IN PART SUBJECT TO THE LIMITS PROVIDED BY SUBDIVISION FOUR OF THIS SECTION.

S 17. The elder law is amended by adding a new section 248 to read as follows:

S 248. COST-SHARING RESPONSIBILITIES OF ELIGIBLE PROGRAM PARTICIPANTS FOR CATASTROPHIC COVERAGE. 1. DEDUCTIBLE. ELIGIBLE INDIVIDUALS MEETING THE DEDUCTIBLE REQUIREMENTS OF THIS SECTION MAY PURCHASE PRESCRIBED COVERED DRUGS FOR AN AMOUNT SPECIFIED BY SUBDIVISION THREE OF THIS SECTION, SUBJECT TO THE LIMITS ON POINT OF SALE CO-PAYMENTS SPECIFIED BY SUBDIVISION FOUR OF THIS SECTION.

2. DEDUCTIBLE SCHEDULE. ELIGIBLE INDIVIDUALS ELECTING TO MEET THE REQUIREMENTS OF THIS SUBDIVISION SHALL INCUR AN AMOUNT OF PERSONAL COVERED DRUG EXPENDITURES DURING ANY ANNUAL COVERAGE PERIOD WHICH ARE NOT REIMBURSED BY ANY OTHER PUBLIC OR PRIVATE THIRD PARTY PAYMENT SOURCE OR INSURANCE PLAN, AND SHALL BE DEEMED TO HAVE MET THEIR DEDUCTIBLE REQUIREMENTS FOR THE REMAINDER OF SUCH ANNUAL COVERAGE PERIOD. THE AMOUNT OF PERSONAL COVERED DRUG EXPENDITURES TO BE INCURRED BY ELIGIBLE PROGRAM PARTICIPANTS FOR CATASTROPHIC COVERAGE UNDER THIS OPTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

(A) ANNUAL PERSONAL COVERED DRUG EXPENDITURES FOR UNMARRIED INDIVIDUAL ELIGIBLE PROGRAM PARTICIPANTS:

INDIVIDUAL INCOME OF $20,001 TO $21,000	$530
INDIVIDUAL INCOME OF $21,001 TO $22,000	$550
INDIVIDUAL INCOME OF $22,001 TO $23,000	$580
INDIVIDUAL INCOME OF $23,001 TO $24,000	$720
INDIVIDUAL INCOME OF $24,001 TO $25,000	$750
INDIVIDUAL INCOME OF $25,001 TO $26,000	$780
INDIVIDUAL INCOME OF $26,001 TO $27,000	$810
INDIVIDUAL INCOME OF $27,001 TO $28,000	$840
INDIVIDUAL INCOME OF $28,001 TO $29,000	$870
INDIVIDUAL INCOME OF $29,001 TO $30,000	$900
INDIVIDUAL INCOME OF $30,001 TO $31,000	$930
INDIVIDUAL INCOME OF $31,001 TO $32,000	$960
INDIVIDUAL INCOME OF $32,001 TO $33,000	$1,160
INDIVIDUAL INCOME OF $33,001 TO $34,000	$1,190
INDIVIDUAL INCOME OF $34,001 TO $35,000	$1,230

(B) ANNUAL PERSONAL COVERED DRUG EXPENDITURES FOR EACH MARRIED INDIVIDUAL ELIGIBLE PROGRAM PARTICIPANT:

JOINT INCOME OF $26,001 TO $27,000	$650
JOINT INCOME OF $27,001 TO $28,000	$675

JOINT INCOME OF $28,001 TO $29,000	$700
JOINT INCOME OF $29,001 TO $30,000	$725
JOINT INCOME OF $30,001 TO $31,000	$900
JOINT INCOME OF $31,001 TO $32,000	$930
JOINT INCOME OF $32,001 TO $33,000	$960
JOINT INCOME OF $33,001 TO $34,000	$990
JOINT INCOME OF $34,001 TO $35,000	$1,020
JOINT INCOME OF $35,001 TO $36,000	$1,050
JOINT INCOME OF $36,001 TO $37,000	$1,080
JOINT INCOME OF $37,001 TO $38,000	$1,110
JOINT INCOME OF $38,001 TO $39,000	$1,140
JOINT INCOME OF $39,001 TO $40,000	$1,170
JOINT INCOME OF $40,001 TO $41,000	$1,200
JOINT INCOME OF $41,001 TO $42,000	$1,230
JOINT INCOME OF $42,001 TO $43,000	$1,260
JOINT INCOME OF $43,001 TO $44,000	$1,290
JOINT INCOME OF $44,001 TO $45,000	$1,320
JOINT INCOME OF $45,001 TO $46,000	$1,575
JOINT INCOME OF $46,001 TO $47,000	$1,610
JOINT INCOME OF $47,001 TO $48,000	$1,645
JOINT INCOME OF $48,001 TO $49,000	$1,680
JOINT INCOME OF $49,001 TO $50,000	$1,715

(C) IN THE EVENT THAT THE STATE EXPENDITURES PER PARTICIPANT ELECTING TO MEET THE DEDUCTIBLE REQUIREMENTS OF THIS SUBDIVISION, EXCLUSIVE OF EXPENDITURES FOR PROGRAM ADMINISTRATION, IN THE PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, AND IN EACH PROGRAM YEAR THEREAFTER, EXCEED SUCH EXPENDITURES IN THE PREVIOUS PROGRAM YEAR BY A MINIMUM OF TEN PERCENT, THE ANNUAL PERSONAL COVERED DRUG EXPENDITURES SET FORTH IN THIS SUBDIVISION MAY, UNLESS OTHERWISE PROVIDED BY LAW, BE INCREASED, PRO-RATA, FOR THE SUBSEQUENT PROGRAM YEAR, PROVIDED THAT SUCH INCREASE SHALL NOT EXCEED EIGHT PERCENT OF THE PRIOR YEAR PERSONAL COVERED DRUG EXPENDITURES AS MAY HAVE BEEN ADJUSTED IN ACCORDANCE WITH THIS PARAGRAPH.

(D) IN THE EVENT THAT THE STATE EXPENDITURES PER SUCH PARTICIPANT, INCURRED PURSUANT TO THIS SUBDIVISION, EXCLUSIVE OF EXPENDITURES FOR PROGRAM ADMINISTRATION, IN THE PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, AND IN EACH PROGRAM YEAR THEREAFTER, ARE LESS THAN SUCH EXPENDITURES IN THE PREVIOUS PROGRAM YEAR BY A MINIMUM OF TEN PERCENT, THE ANNUAL PERSONAL COVERED DRUG EXPENDITURES SET FORTH IN THIS SUBDIVISION MAY, UNLESS OTHERWISE PROVIDED BY LAW, BE DECREASED, PRO-RATA, FOR THE SUBSEQUENT PROGRAM YEAR, PROVIDED THAT SUCH DECREASE SHALL NOT EXCEED EIGHT PERCENT OF THE PRIOR YEAR PERSONAL COVERED DRUG EXPENDITURES AS MAY HAVE BEEN ADJUSTED IN ACCORDANCE WITH THIS PARAGRAPH.

(E) THE DETERMINATION TO ADJUST ANNUAL PERSONAL COVERED DRUG EXPENDITURES SET FORTH IN THIS SUBDIVISION, SHALL FOLLOW A REVIEW OF SUCH FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGIBLE PROGRAM PARTICIPANTS TO SUPPORT SUCH ADJUSTMENTS AND CHANGES IN THE CONSUMER PRICE INDEX. THE FREQUENCY OF SUCH ADJUSTMENTS SHALL NOT EXCEED ONCE IN ANY TWELVE MONTH PERIOD AND SUCH ADJUSTMENTS SHALL NOT BECOME EFFECTIVE FOR INDIVIDUAL PROGRAM PARTICIPANTS PRIOR TO THE FIRST DAY OF THE NEXT ANNUAL COVERAGE PERIOD FOR EACH PARTICIPANT.

3. POINT OF SALE CO-PAYMENT. (A) UPON SATISFACTION OF THE DEDUCTIBLE REQUIREMENTS PURSUANT TO SUBDIVISION TWO OF THIS SECTION, AN ELIGIBLE PROGRAM PARTICIPANT SHALL PAY A POINT OF SALE CO-PAYMENT AS SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION AT THE TIME OF EACH PURCHASE OF A

COVERED DRUG PRESCRIBED FOR SUCH INDIVIDUAL. SUCH CO-PAYMENT SHALL NOT BE WAIVED OR REDUCED IN WHOLE OR IN PART, SUBJECT TO THE LIMITS PROVIDED BY SUBDIVISION FOUR OF THIS SECTION.

(B) THE POINT OF SALE CO-PAYMENT AMOUNTS WHICH ARE TO BE CHARGED ELIGIBLE PROGRAM PARTICIPANTS SHALL BE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

FOR EACH PRESCRIPTION OF COVERED DRUGS COSTING $15.00 OR LESS	$3.00
FOR EACH PRESCRIPTION OF COVERED DRUGS COSTING $15.01 TO $35.00	$7.00
FOR EACH PRESCRIPTION OF COVERED DRUGS COSTING $35.01 TO $55.00	$15.00
FOR EACH PRESCRIPTION OF COVERED DRUGS COSTING $55.01 OR MORE	$20.00

(C) FOR THE PURPOSES OF THE FOREGOING SCHEDULE OF POINT OF SALE CO-PAYMENTS, "COSTING" SHALL MEAN THE AMOUNT OF REIMBURSEMENT WHICH SHALL BE PAID BY THE STATE TO A PARTICIPATING PROVIDER PHARMACY IN ACCORDANCE WITH SECTION TWO HUNDRED FIFTY OF THIS TITLE PLUS THE POINT OF SALE CO-PAYMENT, CALCULATED AS OF THE DATE OF SALE.

4. ANNUAL LIMITS ON POINT OF SALE CO-PAYMENTS. DURING EACH ANNUAL COVERAGE PERIOD, NO POINT OF SALE CO-PAYMENTS AS SET FORTH IN SUBDIVISION THREE OF THIS SECTION SHALL BE REQUIRED TO BE MADE FOR THE REMAINDER OF SUCH PERIOD BY ANY ELIGIBLE PROGRAM PARTICIPANT MEETING THE PERSONAL COVERED DRUG EXPENDITURE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN EXCESS OF THE LIMITS SET FORTH IN THE FOLLOWING SCHEDULE:

(A) LIMITS ON CO-PAYMENTS BY UNMARRIED INDIVIDUAL ELIGIBLE PROGRAM PARTICIPANTS:

INDIVIDUAL INCOME OF $20,001 TO $21,000	NO MORE THAN $1,050
INDIVIDUAL INCOME OF $21,001 TO $22,000	NO MORE THAN $1,100
INDIVIDUAL INCOME OF $22,001 TO $23,000	NO MORE THAN $1,150
INDIVIDUAL INCOME OF $23,001 TO $24,000	NO MORE THAN $1,200
INDIVIDUAL INCOME OF $24,001 TO $25,000	NO MORE THAN $1,250
INDIVIDUAL INCOME OF $25,001 TO $26,000	NO MORE THAN $1,300
INDIVIDUAL INCOME OF $26,001 TO $27,000	NO MORE THAN $1,350
INDIVIDUAL INCOME OF $27,001 TO $28,000	NO MORE THAN $1,400
INDIVIDUAL INCOME OF $28,001 TO $29,000	NO MORE THAN $1,450
INDIVIDUAL INCOME OF $29,001 TO $30,000	NO MORE THAN $1,500
INDIVIDUAL INCOME OF $30,001 TO $31,000	NO MORE THAN $1,550
INDIVIDUAL INCOME OF $31,001 TO $32,000	NO MORE THAN $1,600
INDIVIDUAL INCOME OF $32,001 TO $33,000	NO MORE THAN $1,650
INDIVIDUAL INCOME OF $33,001 TO $34,000	NO MORE THAN $1,700
INDIVIDUAL INCOME OF $34,001 TO $35,000	NO MORE THAN $1,750

(B) LIMITS ON CO-PAYMENTS BY EACH MARRIED INDIVIDUAL ELIGIBLE PROGRAM PARTICIPANT:

JOINT INCOME OF $26,001 TO $27,000	NO MORE THAN $1,080
JOINT INCOME OF $27,001 TO $28,000	NO MORE THAN $1,120
JOINT INCOME OF $28,001 TO $29,000	NO MORE THAN $1,160
JOINT INCOME OF $29,001 TO $30,000	NO MORE THAN $1,200
JOINT INCOME OF $30,001 TO $31,000	NO MORE THAN $1,240
JOINT INCOME OF $31,001 TO $32,000	NO MORE THAN $1,280
JOINT INCOME OF $32,001 TO $33,000	NO MORE THAN $1,320
JOINT INCOME OF $33,001 TO $34,000	NO MORE THAN $1,360
JOINT INCOME OF $34,001 TO $35,000	NO MORE THAN $1,400
JOINT INCOME OF $35,001 TO $36,000	NO MORE THAN $1,440
JOINT INCOME OF $36,001 TO $37,000	NO MORE THAN $1,480

JOINT INCOME OF $37,001 TO $38,000	NO MORE THAN $1,520
JOINT INCOME OF $38,001 TO $39,000	NO MORE THAN $1,560
JOINT INCOME OF $39,001 TO $40,000	NO MORE THAN $1,600
JOINT INCOME OF $40,001 TO $41,000	NO MORE THAN $1,640
JOINT INCOME OF $41,001 TO $42,000	NO MORE THAN $1,680
JOINT INCOME OF $42,001 TO $43,000	NO MORE THAN $1,720
JOINT INCOME OF $43,001 TO $44,000	NO MORE THAN $1,760
JOINT INCOME OF $44,001 TO $45,000	NO MORE THAN $1,800
JOINT INCOME OF $45,001 TO $46,000	NO MORE THAN $1,840
JOINT INCOME OF $46,001 TO $47,000	NO MORE THAN $1,880
JOINT INCOME OF $47,001 TO $48,000	NO MORE THAN $1,920
JOINT INCOME OF $48,001 TO $49,000	NO MORE THAN $1,960
JOINT INCOME OF $49,001 TO $50,000	NO MORE THAN $2,000

(C) EFFECTIVE OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, THE LIMITS ON POINT OF SALE CO-PAYMENTS AS SET FORTH IN THIS SUBDIVISION MAY BE ADJUSTED BY THE COMMISSIONER ON THE ANNIVERSARY DATE OF EACH PROGRAM PARTICIPANT'S ANNUAL COVERAGE PERIOD, AND SUCH ADJUSTMENT SHALL BE IN EFFECT FOR THE DURATION OF THAT ANNUAL COVERAGE PERIOD. ANY SUCH ANNUAL ADJUSTMENT SHALL BE MADE USING A PERCENTAGE ADJUSTMENT FACTOR WHICH SHALL NOT EXCEED ONE-HALF OF THE DIFFERENCE BETWEEN THE YEAR-TO-YEAR PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, AND, IF LARGER, THE YEAR-TO-YEAR PERCENTAGE INCREASE IN THE AGGREGATE AVERAGE COST OF COVERED DRUGS PURCHASED UNDER THIS TITLE, WHICH YEAR-TO-YEAR PERCENTAGE INCREASE IN SUCH COST SHALL BE DETERMINED BY COMPARISON OF SUCH COST IN THE SAME MONTH OF EACH OF THE APPROPRIATE SUCCESSIVE YEARS; PROVIDED, HOWEVER, THAT FOR ANY SUCH ADJUSTMENT BASED WHOLLY ON EXPERIENCE IN THE PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN, THE YEAR-TO-YEAR PERCENTAGE INCREASE IN SUCH COST SHALL BE DETERMINED BY COMPARISON OF SUCH COST IN EACH OF TWO MONTHS NO LESS THAN FIVE MONTHS APART AND WITHIN SUCH PROGRAM YEAR, WHICH COMPARISON SHALL BE ANNUALIZED. SUCH PERCENTAGE ADJUSTMENT FACTOR SHALL BE THE SAME AS THAT USED TO DETERMINE ANY SIMILAR ANNUAL ADJUSTMENT FOR THE SAME ANNUAL COVERAGE PERIODS PURSUANT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION TWO HUNDRED FORTY-SEVEN OF THIS TITLE. SUCH ANNUAL ADJUSTMENTS SHALL BE CALCULATED BY MULTIPLYING THE PERCENTAGE ADJUSTMENT FACTOR BY (1) TEN PERCENT AND APPLYING THE RESULTING PERCENTAGE TO THE UPPER INCOME LIMITATION OF EACH INCOME LEVEL FOR UNMARRIED INDIVIDUALS CONTAINED IN THIS SUBDIVISION, AND BY (2) SEVEN AND ONE-HALF PERCENT AND APPLYING THE RESULTING PERCENTAGE TO THE UPPER INCOME LIMITATION OF EACH INCOME LEVEL FOR MARRIED INDIVIDUALS CONTAINED IN THIS SUBDIVISION; EACH RESULT OF SUCH CALCULATIONS, MINUS ANY APPLICABLE DEDUCTIBLE INCREASES MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION AND PLUS THE RESULT OF APPLYING THE PERCENTAGE ADJUSTMENT FACTOR TO THE SUM OF ANY SUCH ANNUAL ADJUSTMENTS APPLICABLE THERETO FOR ANY PRIOR ANNUAL COVERAGE PERIOD, SHALL BE THE AMOUNT BY WHICH THE LIMIT ON CO-PAYMENTS FOR EACH SUCH INCOME LEVEL MAY BE ADJUSTED, AND SUCH AMOUNT SHALL BE IN ADDITION TO ANY SUCH AMOUNT OR AMOUNTS APPLICABLE TO PRIOR ANNUAL COVERAGE PERIODS.

(D) THE DETERMINATION TO ADJUST THE LIMITS ON POINT OF SALE CO-PAYMENTS SET FORTH IN THIS SUBDIVISION SHALL FOLLOW A REVIEW OF SUCH FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGIBLE PROGRAM PARTICIPANT TO SUPPORT SUCH ADJUSTMENTS.

S 18. Section 250 of the elder law, as amended by section 3-m of part A of chapter 59 of the laws of 2011, is amended to read as follows:

S 250. Reimbursement to participating provider pharmacies. 1. The amount of reimbursement which shall be paid by the state to a partic-

ipating provider pharmacy [filling or refilling a prescription for a drug that is described in paragraph (c) of subdivision three of section two hundred forty-two of this title] FOR ANY COVERED DRUG FILLED OR REFILLED FOR ANY ELIGIBLE PROGRAM PARTICIPANT shall be equal to the allowed amount defined as follows, minus the point of sale co-payment as required by [section] SECTIONS two hundred forty-seven AND TWO HUNDRED FORTY-EIGHT of this title:

(a) Multiple source covered drugs. Except for brand name drugs that are required by the prescriber to be dispensed as written, the allowed amount for a multiple source covered drug shall equal the lower of:

(1) The pharmacy's usual and customary charge to the general public, taking into consideration any quantity and promotional discounts to the general public at the time of purchase, or

(2) The upper limit, if any, set by the centers for medicare and medicaid services for such multiple source drug, or

(3) Average wholesale price discounted by twenty-five percent, or

(4) The maximum allowable cost, if any, established by the commissioner of health pursuant to paragraph (e) of subdivision nine of section three hundred sixty-seven-a of the social services law.

Plus a dispensing fee for drugs reimbursed pursuant to subparagraphs two, three, and four of this paragraph, as defined in paragraph (c) of this subdivision.

(b) Other covered drugs. The allowed amount for brand name drugs required by the prescriber to be dispensed as written and for covered drugs other than multiple source drugs shall be determined by applying the lower of:

(1) Average wholesale price discounted by sixteen and twenty-five one hundredths percent, plus a dispensing fee as defined in paragraph (c) of this subdivision, or

(2) The pharmacy's usual and customary charge to the general public, taking into consideration any quantity and promotional discounts to the general public at the time of purchase.

(c) As required by paragraphs (a) and (b) of this subdivision, a dispensing fee of four dollars fifty cents will apply to generic drugs and a dispensing fee of three dollars fifty cents will apply to brand name drugs.

2. For purposes of determining the amount of reimbursement which shall be paid to a participating provider pharmacy, the commissioner of health shall determine or cause to be determined, through a statistically valid survey, the quantities of each covered drug that participating provider pharmacies buy most frequently. Using the result of this survey, the contractor shall update every thirty days the list of average wholesale prices upon which such reimbursement is determined using nationally recognized and most recently revised sources. Such price revisions shall be made available to all participating provider pharmacies. The pharmacist shall be reimbursed based on the price in effect at the time the covered drug is dispensed.

3. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE PROGRAM FOR ELDERLY PHARMACEUTICAL INSURANCE COVERAGE SHALL REIMBURSE FOR COVERED DRUGS WHICH ARE DISPENSED UNDER THE PROGRAM BY A PROVIDER PHARMACY ONLY PURSUANT TO THE TERMS OF A REBATE AGREEMENT BETWEEN THE PROGRAM AND THE MANUFACTURER (AS DEFINED UNDER SECTION 1927 OF THE FEDERAL SOCIAL SECURITY ACT) OF SUCH COVERED DRUGS; PROVIDED, HOWEVER, THAT:

(1) ANY AGREEMENT BETWEEN THE PROGRAM AND A MANUFACTURER ENTERED INTO BEFORE AUGUST FIRST, NINETEEN HUNDRED NINETY-ONE, SHALL BE DEEMED TO

HAVE BEEN ENTERED INTO ON APRIL FIRST, NINETEEN HUNDRED NINETY-ONE; AND PROVIDED FURTHER, THAT IF A MANUFACTURER HAS NOT ENTERED INTO AN AGREEMENT WITH THE DEPARTMENT BEFORE AUGUST FIRST, NINETEEN HUNDRED NINETY-ONE, SUCH AGREEMENT SHALL NOT BE EFFECTIVE UNTIL APRIL FIRST, NINETEEN HUNDRED NINETY-TWO, UNLESS SUCH AGREEMENT PROVIDES THAT REBATES WILL BE RETROACTIVELY CALCULATED AS IF THE AGREEMENT HAD BEEN IN EFFECT ON APRIL FIRST, NINETEEN HUNDRED NINETY-ONE; AND

(2) THE PROGRAM MAY REIMBURSE FOR ANY COVERED DRUGS PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION, FOR WHICH A REBATE AGREEMENT DOES NOT EXIST AND WHICH ARE DETERMINED BY THE COMMISSIONER TO BE ESSENTIAL TO THE HEALTH OF PERSONS PARTICIPATING IN THE PROGRAM; AND LIKELY TO PROVIDE EFFECTIVE THERAPY OR DIAGNOSIS FOR A DISEASE NOT ADEQUATELY TREATED OR DIAGNOSED BY ANY OTHER COVERED DRUG.

(B) THE REBATE AGREEMENT BETWEEN SUCH MANUFACTURER AND THE PROGRAM FOR ELDERLY PHARMACEUTICAL INSURANCE COVERAGE SHALL UTILIZE FOR COVERED DRUGS THE IDENTICAL FORMULA USED TO DETERMINE THE REBATE FOR FEDERAL FINANCIAL PARTICIPATION FOR DRUGS, PURSUANT TO SECTION 1927(C) OF THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE THE AMOUNT OF THE REBATE PURSUANT TO THIS SUBDIVISION.

(C) THE AMOUNT OF REBATE PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE CALCULATED BY MULTIPLYING THE REQUIRED REBATE FORMULAS BY THE TOTAL NUMBER OF UNITS OF EACH DOSAGE FORM AND STRENGTH DISPENSED. THE REBATE AGREEMENT SHALL ALSO PROVIDE FOR PERIODIC PAYMENT OF THE REBATE, PROVISION OF INFORMATION TO THE PROGRAM, AUDITS, VERIFICATION OF DATA, DAMAGES TO THE PROGRAM FOR ANY DELAY OR NON-PRODUCTION OF NECESSARY DATA BY THE MANUFACTURER AND FOR THE CONFIDENTIALITY OF INFORMATION.

(D) THE PROGRAM IN PROVIDING UTILIZATION DATA TO A MANUFACTURER (AS PROVIDED FOR UNDER SECTION 1927 (B) OF THE FEDERAL SOCIAL SECURITY ACT) SHALL PROVIDE SUCH DATA BY ZIP CODE, IF REQUESTED, FOR THE TOP THREE HUNDRED MOST COMMONLY USED DRUGS BY VOLUME COVERED UNDER A REBATE AGREEMENT.

(E) ANY FUNDS COLLECTED PURSUANT TO ANY REBATE AGREEMENTS ENTERED INTO WITH A MANUFACTURER PURSUANT TO THIS SUBDIVISION, SHALL BE DEPOSITED INTO THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM PREMIUM ACCOUNT.

4. Notwithstanding any other provision of law, entities which offer insurance coverage for provision of and/or reimbursement for pharmaceutical expenses, including but not limited to, entities licensed/certified pursuant to article thirty-two, forty-two, forty-three or forty-four of the insurance law (employees welfare funds) or article forty-four of the public health law, shall participate in a benefit recovery program with the elderly pharmaceutical insurance coverage (EPIC) program which includes, but is not limited to, a semi-annual match of EPIC's file of enrollees against the entity's file of insured to identify individuals enrolled in both plans with claims paid within the twenty-four months preceding the date the entity receives the match request information from EPIC. Such entity shall indicate if pharmaceutical coverage is available from the entity for the insured persons, list the copayment or other payment obligations of the insured persons applicable to the pharmaceutical coverage, and (after receiving necessary claim information from EPIC) list the amounts which the entity would have paid for the pharmaceutical claims for those identified individuals and the entity shall reimburse EPIC for pharmaceutical expenses paid by EPIC that are covered under the contract between the entity and its insured in only those instances where the entity has not already made payment of the claim. Reimbursement of the net amount payable

(after rebates and discounts) that would have been paid under the coverage issued by the entity will be made by the entity to EPIC within sixty days of receipt from EPIC of the standard data in electronic format necessary for the entity to adjudicate the claim and if the standard data is provided to the entity by EPIC in paper format payment by the entity shall be made within one hundred eighty days. After completing at least one match process with EPIC in electronic format, an entity shall be entitled to elect a monthly or bi-monthly match process rather than a semi-annual match process.

[4.] 5. Notwithstanding any other provision of law, the commissioner of health shall maximize the coordination of benefits for persons enrolled under Title XVIII of the federal social security act (medicare) and enrolled under this title in order to facilitate medicare payment of claims. The commissioner of health may select an independent contractor, through a request-for-proposal process, to implement a centralized coordination of benefits system under this subdivision for individuals qualified in both the elderly pharmaceutical insurance coverage (EPIC) program and medicare programs who receive medications or other covered products from a pharmacy provider currently enrolled in the elderly pharmaceutical insurance coverage (EPIC) program.

[5.] 6. The EPIC program shall be the payor of last resort for individuals qualified in both the EPIC program and title XVIII of the federal social security act (Medicare).

S 19. Section 254 of the elder law, as amended by section 3-n of part A of chapter 59 of the laws of 2011, is amended to read as follows:

S 254. Cost of living adjustment. 1. Within amounts appropriated, the commissioner of health shall adjust the program eligibility standards set forth in subdivision [one] TWO of section two hundred forty-two of this title to account for increases in the cost of living.

2. THE COMMISSIONER SHALL FURTHER ADJUST INDIVIDUAL AND JOINT INCOME CATEGORIES SET FORTH IN SUBDIVISIONS TWO AND FOUR OF SECTION TWO HUNDRED FORTY-EIGHT OF THIS TITLE TO CONFORM TO THE ADJUSTMENTS MADE PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

S 19-a. Subdivision 5 of section 244 of the elder law, as added by section 3-h of part A of chapter 59 of the laws of 2011, is amended and a new subdivision 6 is added to read as follows:

5. establishing or contracting for a therapeutic drug monitoring program, for the purpose of monitoring therapeutic drug use by eligible program participants in an effort to prevent the incorrect or unnecessary consumption of such therapeutic drugs[.]; AND

6. MONITOR THE PROVISION OF SERVICES PURSUANT TO CONTRACTUAL ARRANGEMENTS ENTERED INTO PURSUANT TO SECTION TWO HUNDRED FORTY-THREE OF THIS TITLE AND EXAMINE AND REVIEW ALL DOCUMENTS AND OTHER INFORMATION TO ASSURE COMPLIANCE WITH ALL PROVISIONS OF THIS ARTICLE WHETHER SUCH DOCUMENTS OR OTHER INFORMATION ARE UNDER THE CONTROL OF A CONTRACTOR OR A PARTICIPATING PROVIDER PHARMACY.

S 20. This act shall take effect January 1, 2013, provided that the amendments to subdivision 1 of section 241 of the elder law made by section one-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 79 of part C of chapter 58 of the laws of 2005, as amended, when upon such date the provisions of section one-b of this act shall take effect.

S 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.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through T of this act shall be as specifically set forth in the last section of such Parts.