

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:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2012-2013
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through T. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

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

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

22 S 2. Intentionally omitted.

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

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

29 S 3. Intentionally omitted.

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

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

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

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

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

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

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

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

27 (b) approving, and periodically re-approving evaluators, service coor-
28 dinators and providers of early intervention services who meet depart-
29 ment standards; PROVIDED HOWEVER THAT THE DEPARTMENT MAY REQUIRE THAT
30 APPROVED EVALUATORS, SERVICE COORDINATORS AND PROVIDERS OF EARLY INTER-
31 VENTION SERVICES ENTER INTO AGREEMENTS WITH THE DEPARTMENT IN ORDER TO
32 CONDUCT EVALUATIONS OR RENDER SERVICE COORDINATION OR EARLY INTERVENTION
33 SERVICES IN THE EARLY INTERVENTION PROGRAM. SUCH AGREEMENTS SHALL SET
34 FORTH THE TERMS AND CONDITIONS OF PARTICIPATION IN THE PROGRAM. IF THE
35 DEPARTMENT REQUIRES THAT SUCH PROVIDERS ENTER INTO AGREEMENTS WITH THE
36 DEPARTMENT FOR PARTICIPATION IN THE PROGRAM, "APPROVAL" OR "APPROVED" AS
37 USED IN THIS TITLE SHALL MEAN A PROVIDER WHO IS APPROVED BY THE DEPART-
38 MENT IN ACCORDANCE WITH DEPARTMENT REGULATIONS AND HAS ENTERED INTO AN
39 AGREEMENT WITH THE DEPARTMENT FOR THE PROVISION OF EVALUATIONS, SERVICE
40 COORDINATION OR EARLY INTERVENTION SERVICES. THE DEPARTMENT SHALL USE
41 BEST EFFORTS TO ENSURE PROVIDER CAPACITY IN THE EARLY INTERVENTION
42 PROGRAM.

43 (c) [compiling and disseminating to the municipalities lists of
44 approved evaluators, service coordinators and providers of early inter-
45 vention services;

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

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

53 [(f)] (E) providing training and technical assistance to those agen-
54 cies, institutions and organizations, including initial and ongoing
55 training and technical assistance to municipalities to help enable them
56 to identify, locate and evaluate eligible children, develop IFSPs,

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

5 [(g)] (F) correcting deficiencies that are identified through monitor-
6 ing; and

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

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

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

18 S 2552. Responsibility of municipality. 1. Each municipality shall be
19 responsible for ensuring that the early intervention services contained
20 in an IFSP are provided to eligible children and their families who
21 reside in such municipality [and may contract with approved providers of
22 early intervention services for such purpose]. A MUNICIPALITY MAY MONI-
23 TOR, WHICH MAY INCLUDE SITE VISITATION, EVALUATORS AND PROVIDERS OF SUCH
24 SERVICES WITHIN THE MUNICIPALITY IN ACCORDANCE WITH THIS TITLE AND REGU-
25 LATIONS PROMULGATED HEREUNDER, INCLUDING MAKING THE DETERMINATIONS SPEC-
26 IFIED IN THIS SECTION. THE SERVICE COORDINATOR SHALL REPORT, IN A
27 MANNER AND FORMAT AS DETERMINED BY THE MUNICIPALITY, ON THE DELIVERY OF
28 SERVICES TO AN ELIGIBLE CHILD IN ACCORDANCE WITH THE ELIGIBLE CHILD'S
29 IFSP. A MUNICIPALITY MAY REQUEST THAT THE PARENT SELECT A NEW SERVICE
30 COORDINATOR OR REQUIRE THAT THE SERVICE COORDINATOR SELECT A NEW PROVID-
31 ER OF SERVICES IF THE MUNICIPALITY FINDS THAT THE SERVICE COORDINATOR
32 HAS NOT BEEN PERFORMING HIS OR HER RESPONSIBILITIES AS REQUIRED BY THIS
33 TITLE OR THAT SERVICES HAVE NOT BEEN PROVIDED IN ACCORDANCE WITH THE
34 ELIGIBLE CHILD'S IFSP. IF THE EARLY INTERVENTION OFFICIAL DETERMINES
35 THAT THE EVALUATOR HAS NOT FOLLOWED THE REQUIREMENTS IN THIS TITLE OR
36 REGULATIONS PROMULGATED HEREUNDER, THE EARLY INTERVENTION OFFICIAL MAY
37 REQUIRE THAT THE EVALUATOR IMMEDIATELY SUBMIT ADDITIONAL DOCUMENTATION
38 TO SUPPORT THE ELIGIBILITY DETERMINATION. IF THE EVALUATOR DOES NOT
39 PROVIDE THE REQUESTED DOCUMENTATION, OR THE DOCUMENTATION PROVIDED
40 CONTINUES TO BE INCONSISTENT WITH THE REQUIREMENTS OF THIS TITLE OR
41 REGULATIONS, THE EARLY INTERVENTION OFFICIAL CAN REQUIRE THAT THE PARENT
42 SELECT ANOTHER EVALUATOR TO CONDUCT A MULTIDISCIPLINARY EVALUATION TO
43 DETERMINE WHETHER THE CHILD MEETS ELIGIBILITY FOR PROGRAM SERVICES.

44 2. [After consultation with early intervention officials, the commis-
45 sioner shall develop procedures to permit a municipality to contract or
46 otherwise make arrangements with other municipalities for an eligible
47 child and the child's family to receive services from such other munici-
48 palities.

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

53 4.] The early intervention official shall require an eligible child's
54 parent to furnish the parents' and eligible child's social security
55 numbers for the purpose of the department's and municipality's adminis-
56 tration of the program.

1 S 9. Intentionally omitted.

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

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

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

30 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION ONE HUNDRED
31 TWELVE OR ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, SECTIONS ONE
32 HUNDRED FORTY-TWO AND ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOP-
33 MENT LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER IS
34 AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS UNDER PARAGRAPH (A) OF
35 THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-
36 ESS, PROVIDED, HOWEVER, THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (ii) Parents shall provide the municipality AND THE SERVICE COORDINA-
49 TOR with a written referral from a primary care provider as documenta-
50 tion, for eligible children, of the medical necessity of early inter-
51 vention services.

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

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

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

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

20 S 12. Intentionally omitted.

21 S 13. Intentionally omitted.

22 S 14. Intentionally omitted.

23 S 15. Intentionally omitted.

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

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

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

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

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

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

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

6 Providers of special services or programs shall apply to the commis-
7 sioner for program approval on a form prescribed by the commissioner;
8 such application shall include, but not be limited to, a listing of the
9 services to be provided, the population to be served, a plan for provid-
10 ing services in the least restrictive environment and a description of
11 its evaluation component, if any. [Providers of early intervention
12 services seeking approval pursuant to subdivision seven of section twen-
13 ty-five hundred fifty-one of the public health law shall apply to the
14 commissioner for such approval on a form prescribed by the commis-
15 sioner.] The commissioner shall approve programs in accordance with regu-
16 lations adopted for such purpose and shall periodically review such
17 programs at which time the commissioner shall provide the municipality
18 in which the program is located or for which the municipality bears
19 fiscal responsibility an opportunity for comment within thirty days of
20 the review. In collaboration with municipalities and representatives of
21 approved programs, the commissioner shall develop procedures for
22 conducting such reviews. Municipalities shall be allowed to participate
23 in such departmental review process. Such review shall be conducted by
24 individuals with appropriate experience as determined by the commis-
25 sioner and shall be conducted not more than once every three years.

26 S 20. Intentionally omitted.

27 S 21. Intentionally omitted.

28 S 22. Intentionally omitted.

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

32 PART B

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

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

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

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

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

23 12. No subsidiary of the corporation shall own, operate, manage or
 24 control the existing research, education, acute inpatient or outpatient
 25 facilities and services now operated by the Roswell Park Cancer Insti-
 26 tute.

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

28 PART C

29 Intentionally omitted

30 PART D

31 Section 1. The public health law is amended by adding a new section
 32 2823 to read as follows:

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

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

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

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

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

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

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

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

10 (D) OTHER RELEVANT FACTORS RELATING TO THE NEED FOR MAINTENANCE OF
11 EXISTING SUPPORTIVE HOUSING AND THE DEVELOPMENT OF NEW SUPPORTIVE HOUS-
12 ING AND ASSOCIATED SERVICES; AND

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

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

23 5. THE AMOUNT OF SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT FUNDS FOR
24 THE DEPARTMENT SHALL BE SUBJECT TO ANNUAL APPROPRIATION. THE METHODOL-
25 OGIES USED TO CALCULATE THE SAVINGS SHALL BE DEVELOPED BY THE COMMIS-
26 SIONER AND THE DIRECTOR OF THE BUDGET. IN NO EVENT SHALL THE FULL ANNUAL
27 VALUE OF SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAMS ATTRIBUT-
28 ABLE TO INPATIENT HOSPITAL AND NURSING HOME BED DECERTIFICATION AND/OR
29 FACILITY CLOSURE EXCEED THE TWELVE MONTH VALUE OF THE DEPARTMENT OF
30 HEALTH GENERAL FUND REDUCTIONS RESULTING FROM SUCH DECERTIFICATION
31 AND/OR FACILITY CLOSURE.

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

40 7. NO PROVISION IN THIS SECTION SHALL CREATE OR BE DEEMED TO CREATE
41 ANY RIGHT, INTEREST OR ENTITLEMENT TO SERVICES OR FUNDS THAT ARE SUBJECT
42 TO THIS SECTION, OR TO ANY OTHER SERVICES OR FUNDS, WHETHER TO INDIVID-
43 UALS, LOCALITIES, PROVIDERS OR OTHERS, INDIVIDUALLY OR COLLECTIVELY.

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

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

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

1 district, [a] long term home health care [program or a] PROGRAMS, certi-
2 fied home health [agency, and] AGENCIES, AND other qualified providers.

3 S 3. Paragraphs (b) and (d) of subdivision 2 of section 461-1 of the
4 social services law, as added by chapter 165 of the laws of 1991 and
5 subparagraph (iii) of paragraph (d) as amended by chapter 569 of the
6 laws of 2000, are amended to read as follows:

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

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

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

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

52 S 4. Paragraph (i) of subdivision 3 of section 461-1 of the social
53 services law, as amended by section 16 of part D of chapter 58 of the
54 laws of 2009, is amended to read as follows:

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

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

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

20 (a) The commissioner shall, subject to the approval of the state
21 director of the budget, establish capitated rates of payment for
22 services provided by assisted living programs as defined by paragraph
23 (a) of subdivision one of section four hundred sixty-one-1 of the social
24 services law. Such rates of payment shall be related to costs incurred
25 by residential health care facilities. The rates shall reflect the wage
26 equalization factor established by the commissioner for residential
27 health care facilities in the region in which the assisted living
28 program is provided and real property capital construction costs associ-
29 ated with the construction of a free-standing assisted living program
30 such rate shall include a payment equal to the cost of interest owed and
31 depreciation costs of such construction. The rates shall also reflect
32 the efficient provision of a quality and quantity of services to
33 patients in such residential health care facilities, with needs compara-
34 ble to the needs of residents served in such assisted living programs.
35 Such rates of payment shall be equal to fifty percent of the amounts
36 which otherwise would have been expended, based upon the mean prices for
37 the first of July, nineteen hundred ninety-two (utilizing nineteen
38 hundred eighty-three costs) for freestanding, low intensity residential
39 health care facilities with less than three hundred beds, and for years
40 subsequent to nineteen hundred ninety-two, adjusted for inflation in
41 accordance with the provisions of subdivision ten of section twenty-
42 eight hundred seven-c of this chapter, to provide the appropriate level
43 of care for such residents in residential health care facilities in the
44 applicable wage equalization factor regions plus an amount equal to
45 capital construction costs associated with the construction of an
46 assisted living program facility as provided for in this subdivision.
47 THE COMMISSIONER SHALL ALSO PROMULGATE REGULATIONS, AND MAY PROMULGATE
48 EMERGENCY REGULATIONS, TO PROVIDE FOR REIMBURSEMENT OF THE COST OF
49 PREADMISSION ASSESSMENTS CONDUCTED DIRECTLY BY ASSISTED LIVING PROGRAMS.

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

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

4 (W) PODIATRY SERVICES FOR INDIVIDUALS WITH A DIAGNOSIS OF DIABETES
5 MELLITUS; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS PARAGRAPH SHALL
6 NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND
7 REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION
8 IN THE COSTS OF HEALTH CARE SERVICES PROVIDED PURSUANT TO THIS PARA-
9 GRAPH.

10 (X) LACTATION COUNSELING SERVICES FOR PREGNANT AND POSTPARTUM WOMEN
11 WHEN SUCH SERVICES ARE ORDERED BY A PHYSICIAN, REGISTERED PHYSICIAN
12 ASSISTANT, REGISTERED NURSE PRACTITIONER, OR LICENSED MIDWIFE AND
13 PROVIDED BY A CERTIFIED LACTATION CONSULTANT, AS DETERMINED BY THE
14 COMMISSIONER OF HEALTH; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS
15 PARAGRAPH SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER
16 FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINAN-
17 CIAL PARTICIPATION IN THE COSTS OF HEALTH CARE SERVICES PROVIDED PURSU-
18 ANT TO THIS PARAGRAPH. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO
19 MODIFY ANY LICENSURE, CERTIFICATION OR SCOPE OF PRACTICE PROVISION UNDER
20 TITLE EIGHT OF THE EDUCATION LAW.

21 (Y) HARM REDUCTION COUNSELING AND SERVICES TO REDUCE OR MINIMIZE THE
22 ADVERSE HEALTH CONSEQUENCES ASSOCIATED WITH DRUG USE, PROVIDED BY A
23 QUALIFIED DRUG TREATMENT PROGRAM OR COMMUNITY-BASED ORGANIZATION, AS
24 DETERMINED BY THE COMMISSIONER OF HEALTH; PROVIDED, HOWEVER, THAT THE
25 PROVISIONS OF THIS PARAGRAPH SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY
26 APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE
27 FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH CARE SERVICES
28 PROVIDED PURSUANT TO THIS PARAGRAPH. NOTHING IN THIS PARAGRAPH SHALL BE
29 CONSTRUED TO MODIFY ANY LICENSURE, CERTIFICATION OR SCOPE OF PRACTICE
30 PROVISION UNDER TITLE EIGHT OF THE EDUCATION LAW.

31 (Z) HEPATITIS C WRAP-AROUND SERVICES TO PROMOTE CARE COORDINATION AND
32 INTEGRATION WHEN ORDERED BY A PHYSICIAN, REGISTERED PHYSICIAN ASSISTANT,
33 REGISTERED NURSE PRACTITIONER, OR LICENSED MIDWIFE, AND PROVIDED BY A
34 QUALIFIED PROFESSIONAL, AS DETERMINED BY THE COMMISSIONER OF HEALTH.
35 SUCH SERVICES MAY INCLUDE CLIENT OUTREACH, IDENTIFICATION AND RECRUIT-
36 MENT, HEPATITIS C EDUCATION AND COUNSELING, COORDINATION OF CARE AND
37 ADHERENCE TO TREATMENT, ASSISTANCE IN OBTAINING APPROPRIATE ENTITLEMENT
38 SERVICES, PEER SUPPORT AND OTHER SUPPORTIVE SERVICES; PROVIDED, HOWEVER,
39 THAT THE PROVISIONS OF THIS PARAGRAPH SHALL NOT TAKE EFFECT UNLESS ALL
40 NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED
41 TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH CARE
42 SERVICES PROVIDED PURSUANT TO THIS PARAGRAPH. NOTHING IN THIS PARAGRAPH
43 SHALL BE CONSTRUED TO MODIFY ANY LICENSURE, CERTIFICATION OR SCOPE OF
44 PRACTICE PROVISION UNDER TITLE EIGHT OF THE EDUCATION LAW.

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

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

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

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

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

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

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

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

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

36 S 10. Intentionally omitted.

37 S 11. Intentionally omitted.

38 S 12. Intentionally omitted.

39 S 13. Intentionally omitted.

40 S 14. Intentionally omitted.

41 S 15. Intentionally omitted.

42 S 16. Intentionally omitted.

43 S 17. Intentionally omitted.

44 S 18. Intentionally omitted.

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

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

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

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

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

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

22 S 21. The social services law is amended by adding a new section
23 461-s to read as follows:

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

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

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

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

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

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

48 ARTICLE 9-B

49 PRIMARY CARE SERVICE CORPS PRACTITIONER LOAN REPAYMENT
50 PROGRAM

51 SECTION 923. DEFINITIONS.

52 924. PRIMARY CARE SERVICE CORPS PRACTITIONER LOAN REPAYMENT
53 PROGRAM.

54 S 923. DEFINITIONS. THE FOLLOWING WORDS OR PHRASES AS USED IN THIS
55 SECTION SHALL HAVE THE FOLLOWING MEANINGS:

- 1 1. "UNDERSERVED AREA" MEANS AN AREA OR MEDICALLY UNDERSERVED POPU-
2 LATION DESIGNATED BY THE COMMISSIONER AS HAVING A SHORTAGE OF PRIMARY
3 CARE PHYSICIANS, OTHER PRIMARY CARE PRACTITIONERS, DENTAL PRACTITIONERS
4 OR MENTAL HEALTH PRACTITIONERS.
- 5 2. "PRIMARY CARE SERVICE CORPS PRACTITIONER" MEANS A PHYSICIAN ASSIST-
6 ANT, NURSE PRACTITIONER, MIDWIFE, GENERAL OR PEDODONTIC DENTIST, DENTAL
7 HYGIENIST, CLINICAL PSYCHOLOGIST, LICENSED CLINICAL SOCIAL WORKER,
8 PSYCHIATRIC NURSE PRACTITIONER, LICENSED MARRIAGE AND FAMILY THERAPIST,
9 OR A LICENSED MENTAL HEALTH COUNSELOR, WHO IS LICENSED, REGISTERED, OR
10 CERTIFIED TO PRACTICE IN NEW YORK STATE AND WHO PROVIDES COORDINATED
11 PRIMARY CARE SERVICES, INCLUDING, BUT NOT LIMITED TO, ORAL HEALTH AND
12 MENTAL HEALTH SERVICES AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE
13 LOAN REPAYMENT PROGRAM ELIGIBILITY CRITERIA.
- 14 3. "PHYSICIAN ASSISTANT" MEANS A PERSON WHO HAS BEEN REGISTERED AS
15 SUCH PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW
16 AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAYMENT PROGRAM
17 ELIGIBILITY CRITERIA.
- 18 4. "NURSE PRACTITIONER" MEANS A PERSON WHO HAS BEEN CERTIFIED AS SUCH
19 PURSUANT TO SECTION SIXTY-NINE HUNDRED TEN OF THE EDUCATION LAW AND
20 MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAYMENT PROGRAM
21 ELIGIBILITY CRITERIA.
- 22 5. "MIDWIFE" MEANS A PERSON WHO HAS BEEN LICENSED AS SUCH PURSUANT TO
23 SECTION SIXTY-NINE HUNDRED FIFTY-FIVE OF THE EDUCATION LAW AND MEETS THE
24 NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAYMENT PROGRAM ELIGIBILITY
25 CRITERIA.
- 26 6. "PSYCHOLOGIST" MEANS A PERSON WHO HAS BEEN LICENSED AS SUCH PURSU-
27 ANT TO SECTION SEVENTY-SIX HUNDRED THREE OF THE EDUCATION LAW AND MEETS
28 THE NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAYMENT PROGRAM ELIGIBIL-
29 ITY CRITERIA.
- 30 7. "LICENSED CLINICAL SOCIAL WORKER" MEANS A PERSON WHO HAS BEEN
31 LICENSED AS SUCH PURSUANT TO SECTION SEVENTY-SEVEN HUNDRED TWO OF THE
32 EDUCATION LAW AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN
33 REPAYMENT PROGRAM ELIGIBILITY CRITERIA.
- 34 8. "PSYCHIATRIC NURSE PRACTITIONER" MEANS A NURSE PRACTITIONER WHO, BY
35 REASON OF TRAINING AND EXPERIENCE, PROVIDES A FULL SPECTRUM OF PSYCHIAT-
36 RIC CARE, ASSESSING, DIAGNOSING, AND MANAGING THE PREVENTION AND TREAT-
37 MENT OF PSYCHIATRIC DISORDERS AND MENTAL HEALTH PROBLEMS AND MEETS THE
38 NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAYMENT PROGRAM ELIGIBILITY
39 CRITERIA.
- 40 9. "LICENSED MARRIAGE AND FAMILY THERAPIST" MEANS A PERSON WHO HAS
41 BEEN LICENSED AS SUCH PURSUANT TO SECTION EIGHTY-FOUR HUNDRED THREE OF
42 THE EDUCATION LAW AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN
43 REPAYMENT PROGRAM ELIGIBILITY CRITERIA.
- 44 10. "LICENSED MENTAL HEALTH COUNSELOR" MEANS A PERSON WHO HAS BEEN
45 LICENSED AS SUCH PURSUANT TO SECTION EIGHTY-FOUR HUNDRED TWO OF THE
46 EDUCATION LAW AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN
47 REPAYMENT PROGRAM ELIGIBILITY CRITERIA.
- 48 11. "GENERAL OR PEDODONTIC DENTIST" MEANS A PERSON WHO HAS BEEN
49 LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE DENTISTRY PURSUANT TO ARTI-
50 CLE ONE HUNDRED THIRTY-THREE OF THE EDUCATION LAW EXCLUDING ORTHODON-
51 TISTS, ENDODONTISTS AND PERIODONTISTS AND MEETS THE NATIONAL HEALTH
52 SERVICE CORPS STATE LOAN REPAYMENT PROGRAM ELIGIBILITY CRITERIA.
- 53 12. "DENTAL HYGIENIST" MEANS A PERSON WHO IS LICENSED TO PRACTICE
54 DENTAL HYGIENE PURSUANT TO SECTION SIXTY-SIX HUNDRED NINE OF THE EDUCA-
55 TION LAW AND MEETS THE NATIONAL HEALTH SERVICE CORPS STATE LOAN REPAY-
56 MENT PROGRAM ELIGIBILITY CRITERIA.

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

7
8 2. LOAN REPAYMENT AWARDS MADE TO A PRIMARY CARE SERVICE CORPS PRACTITIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT EXCEED THE
9 TOTAL QUALIFYING OUTSTANDING DEBT OF THE PRACTITIONER FROM STUDENT LOANS
10 TO COVER TUITION AND OTHER RELATED EDUCATIONAL EXPENSES, MADE BY OR
11 GUARANTEED BY THE FEDERAL OR STATE GOVERNMENT, OR MADE BY A LENDING OR
12 EDUCATIONAL INSTITUTION APPROVED UNDER TITLE IV OF THE FEDERAL HIGHER
13 EDUCATION ACT. LOAN REPAYMENT AWARDS SHALL BE USED SOLELY TO REPAY SUCH
14 OUTSTANDING DEBT.
15

16 3. IN THE EVENT THAT ANY COMMITMENT PURSUANT TO THE AGREEMENT REFERENCED IN SUBDIVISION ONE OF THIS SECTION IS NOT FULFILLED, THE RECIPIENT
17 SHALL BE RESPONSIBLE FOR REPAYMENT IN AMOUNTS WHICH SHALL BE CALCULATED
18 IN ACCORDANCE WITH THE FORMULA SET FORTH IN SUBDIVISION (B) OF SECTION
19 TWO HUNDRED FIFTY-FOUR-O OF TITLE FORTY-TWO OF THE UNITED STATES CODE,
20 AS AMENDED.
21

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

26 5. THE COMMISSIONER MAY POSTPONE, CHANGE OR WAIVE THE SERVICE OBLIGATION AND REPAYMENTS AMOUNTS SET FORTH IN SUBDIVISIONS ONE AND THREE OF
27 THIS SECTION, RESPECTIVELY, IN INDIVIDUAL CIRCUMSTANCES WHERE THERE IS
28 COMPELLING NEED OR HARDSHIP.
29

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

33 7. THE COMMISSIONER SHALL PROMULGATE REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE.
34

35 S 24. Intentionally omitted.

36 S 25. Intentionally omitted.

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

39 8-A. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER SHALL DEVELOP A PROGRAM TO FACILITATE THE USE OF A
40 TRIAGE SYSTEM OF CARE IN EMERGENCY ROOMS OF HOSPITALS THAT ARE SUBJECT
41 TO THE PROVISIONS OF THIS ARTICLE. IN DEVELOPING SUCH PROGRAM THE
42 COMMISSIONER SHALL CONSIDER THE MANNER IN WHICH SUCH A SYSTEM WOULD BE
43 COORDINATED, HOW SUCH A SYSTEM WOULD PROVIDE GREATER EFFICIENCY, PROVIDE
44 COST SAVINGS TO PUBLIC HEALTH PROGRAMS AND A HIGHER QUALITY OF CARE.
45 WITHIN ONE YEAR FROM THE ENACTMENT OF SUCH PROGRAM, THE COMMISSIONER
46 SHALL SUBMIT A REPORT TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE
47 SPEAKER OF THE ASSEMBLY REGARDING: THE IMPACT OF SUCH A SYSTEM ON THE
48 COST OF MEDICAID COVERED SERVICES IN THE HOSPITAL SETTING; QUALITY OF
49 CARE IN FACILITIES; ALONG WITH ANY OTHER DATA AS MAY BE APPROPRIATE.
50

51 S 27. Intentionally omitted.

52 S 28. Section 2 of chapter 584 of the laws of 2011, amending the
53 public authorities law, relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of
54 subsidiaries for certain purposes, is amended to read as follows:
55

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

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

10 (a) To form one or more subsidiaries for the purpose of limiting the
11 potential liability of the authority when exercising the powers and
12 duties conferred upon the authority by THIS article [eight of this chap-
13 ter] in connection with the exercise of remedies by the authority
14 against any borrower REGULATED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC
15 HEALTH LAW that has defaulted in its obligations under its loan agree-
16 ment or mortgage with the authority and for which an event of default
17 has been declared by the authority. Each such subsidiary created pursu-
18 ant to this subdivision may exercise and perform one or more of the
19 purposes, powers, duties, functions, rights and responsibilities of the
20 authority (other than the issuance of indebtedness) in connection with
21 real and personal property with respect to which the authority holds or
22 held a mortgage, security interest or other collateral interest includ-
23 ing: (i) bidding for, taking, holding, selling, conveying, assigning or
24 transferring title to such property; (ii) entering into leases,
25 subleases, operating agreements, security agreements, loan agreements or
26 other encumbrances or arrangements with regard to such property and
27 acting in a manner consistent with the rights, obligations or responsi-
28 bilities of the owner of such property pursuant to such agreements or
29 encumbrances; (iii) assuming any indebtedness or other liabilities
30 secured by such property. Notwithstanding any other provision of law to
31 the contrary, but in all instances subject to the provisions of any
32 contract with bondholders, the transfer of title to any such subsidiary
33 or any other actions taken by the authority or such subsidiary to
34 enforce the authority's rights under the mortgage, security interest or
35 other collateral interest or to protect, acquire, manage or dispose of
36 the property shall be deemed to be a corporate purpose of the authority
37 and shall not impair the validity of any bonds, notes or other obli-
38 gations of the authority to which the mortgage, security interest or
39 other collateral interest relates.

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

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

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

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

6 S 30. Intentionally omitted.

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

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

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

19 1. Notwithstanding any inconsistent provision of law or regulation,
20 effective for the period [April 1, 1997 through March 31, 1998] APRIL 1,
21 2012 THROUGH DECEMBER 31, 2012 and for annual periods beginning [April]
22 JANUARY 1 thereafter, the [department] DEPARTMENT of [health] HEALTH is
23 authorized to pay voluntary non-profit general hospitals as defined in
24 subdivision 10 of section 2801 of the public health law additional
25 payments for inpatient hospital services as medical assistance payments
26 pursuant to title 11 of article 5 of the social services law and federal
27 law and regulations governing disproportionate share payments, based on
28 the [amount of state aid for which such general hospitals are eligible
29 pursuant to articles 25, 26 and 41 of the mental hygiene law and as
30 identified in subdivision 2 of this section] COSTS INCURRED IN EXCESS OF
31 REVENUES BY GENERAL HOSPITALS IN PROVIDING SERVICES IN ELIGIBLE PROGRAMS
32 TO UNINSURED PATIENTS AND PATIENTS ELIGIBLE FOR MEDICAL ASSISTANCE.
33 Payment made pursuant to this section shall not exceed each such general
34 hospital's cost of providing services to uninsured patients and patients
35 eligible for medical assistance pursuant to title 11 of article 5 of the
36 social services law after taking into consideration all other medical
37 assistance received, including disproportionate share payments made to
38 such general hospital, and payments from or on behalf of such uninsured
39 patients, and shall also not exceed the total amount of state aid, iden-
40 tified by subdivision 2 of this section, available to such general
41 hospital by law. Payments made to such general hospitals pursuant to
42 this section shall be made in lieu of any state aid payments available
43 to such general hospital by law.

44 S 33. Intentionally omitted.

45 S 33-a. Intentionally omitted.

46 S 33-b. Intentionally omitted.

47 S 33-c. Intentionally omitted.

48 S 33-d. Intentionally omitted.

49 S 33-e. Intentionally omitted.

50 S 33-f. Intentionally omitted.

51 S 33-g. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 2. The workgroup shall be comprised of stakeholders of medically frag-
15 ile children, including providers or representatives of pediatric nurs-
16 ing homes, home care agencies affiliated with such pediatric nursing
17 homes and diagnostic and treatment centers which primarily serve
18 medically fragile children (including pediatric rehabilitation diagnos-
19 tic and treatment centers), representatives of families of medically
20 fragile children, and other experts on Medicaid payment for services for
21 medically fragile children. Members (other than representatives of fami-
22 lies of medically fragile children) shall have demonstrated knowledge
23 and experience in providing care to medically fragile children in pedia-
24 tric nursing homes and diagnostic and treatment centers, including
25 providers who provide care primarily to the Medicaid population, or
26 expertise in Medicaid payment for such services. Members shall be
27 permitted to participate in workgroup meetings by telephone or videocon-
28 ference, and reasonable efforts shall be made to enhance opportunities
29 for in-person participation in meetings by members who are represen-
30 tatives of families of medically fragile children.

31 3. The commissioners shall present the findings and recommendations of
32 the department of health, the office for people with developmental disa-
33 bilities and the workgroup to the governor, the chair of the senate
34 finance committee, the chair of the assembly ways and means committee,
35 the chair of the senate health committee and the chair of the assembly
36 health committee by October 1, 2012 at which time the workgroup shall
37 terminate its work and be relieved of all responsibilities and duties
38 hereunder. During the timeframe in which the workgroup is deliberating,
39 the commissioner of health shall take steps to assist pediatric rehabil-
40 itation clinics.

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

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

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

50 S 35-a. Clause (K) of subparagraph (i) of paragraph (bb) of subdivi-
51 sion 1 of section 2807-v of the public health law, as amended by section
52 8 of part C of chapter 59 of the laws of 2011, is amended to read as
53 follows:

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

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

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

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

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

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

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

26 2. FOR AN ELIGIBLE CAPITAL PROJECT REQUIRING A LIMITED OR ADMINISTRA-
27 TIVE REVIEW, WITHIN NINETY DAYS OF THE DEPARTMENT DEEMING THE APPLICA-
28 TION COMPLETE, THE DEPARTMENT SHALL MAKE A DECISION TO APPROVE (AND IN
29 THE CASE OF LIMITED REVIEWS) OR DISAPPROVE THE CERTIFICATE OF NEED
30 APPLICATION FOR SUCH PROJECT. IF THE DEPARTMENT DETERMINES TO DISAPPROVE
31 THE PROJECT, THE BASIS FOR SUCH DISAPPROVAL SHALL BE PROVIDED IN WRIT-
32 ING; HOWEVER, DISAPPROVAL SHALL NOT BE BASED ON THE INCOMPLETENESS OF
33 THE APPLICATION. IF THE DEPARTMENT FAILS TO TAKE ACTION TO APPROVE OR
34 DISAPPROVE THE APPLICATION WITHIN NINETY DAYS OF THE CERTIFICATE OF NEED
35 APPLICATION BEING DEEMED COMPLETE, THE APPLICATION WILL BE DEEMED
36 APPROVED.

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

41 4. WHERE THE COMMISSIONER OR DEPARTMENT REQUIRES THE APPLICANT TO
42 SUBMIT A CONTINGENCY SUBMISSION FOR AN ELIGIBLE CAPITAL PROJECT, THE
43 COMMISSIONER OR DEPARTMENT SHALL HAVE THIRTY DAYS TO REVIEW AND APPROVE
44 OR DISAPPROVE THE CONTINGENCY SUBMISSION. IF THE COMMISSIONER OR DEPART-
45 MENT DETERMINES THAT THE CONTINGENCY SUBMISSION IS INCOMPLETE, IT SHALL
46 SO NOTIFY THE APPLICANT IN WRITING AND PROVIDE THE APPLICANT WITH TEN
47 BUSINESS DAYS TO CORRECT THE DEFICIENCY OR PROVIDE ADDITIONAL INFORMA-
48 TION. IF THE COMMISSIONER OR DEPARTMENT DETERMINES TO DISAPPROVE THE
49 CONTINGENCY OF THE SUBMISSION, THE BASIS FOR SUCH DISAPPROVAL SHALL BE
50 PROVIDED IN WRITING; HOWEVER, DISAPPROVAL SHALL NOT BE BASED ON THE
51 INCOMPLETENESS OF THE APPLICATION. WITHIN FIFTEEN DAYS OF COMPLETE
52 CONTINGENCY SATISFACTION, THE COMMISSIONER OR DEPARTMENT SHALL TRANSMIT
53 THE FINAL APPROVAL LETTER TO THE APPLICANT.

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

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

3 6. "ELIGIBLE CAPITAL PROJECT" SHALL MEAN:

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

7 (B) A PROJECT WHOSE TOTAL BUDGET IS THREE MILLION DOLLARS OR MORE
8 FUNDED WITH FEDERAL MONIES PURSUANT TO THE FEDERAL CAPITAL DEVELOPMENT-
9 BUILDING CAPACITY (CD-BC) GRANT PROGRAM AND IMMEDIATE FACILITY IMPROVE-
10 MENTS (CD-IFI) GRANT PROGRAM, AS AUTHORIZED BY THE PATIENT PROTECTION
11 AND AFFORDABLE CARE ACT (AFFORDABLE CARE ACT)((P.L. 111-148), SECTION
12 10503(C)).

13 CAPITAL PROJECTS FUNDED IN WHOLE OR IN PART THROUGH SECTION 330 OF THE
14 PUBLIC HEALTH SERVICE (PHS), 42 USC 254B, AS AMENDED, OR WHOSE TOTAL
15 BUDGET IS LESS THAN THREE MILLION DOLLARS SHALL NOT BE SUBJECT TO THE
16 PROVISIONS OF THIS SECTION OR THE FEDERAL CAPITAL DEVELOPMENT-BUILDING
17 CAPACITY (CD-BC) GRANT PROGRAM AND IMMEDIATE FACILITY IMPROVEMENTS
18 (CD-IFI) GRANT PROGRAM, AS AUTHORIZED BY THE PATIENT PROTECTION AND
19 AFFORDABLE CARE ACT (AFFORDABLE CARE ACT)((P.L. 111-148), SECTION
20 10503(C)), SHALL NOT BE SUBJECT TO THE REQUIREMENTS SET FORTH IN THIS
21 SECTION OR ANY OTHER LAW OR REGULATION REGARDING CERTIFICATE OF NEED
22 PROCESS OR REQUIREMENTS.

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

26 6. The commissioner shall evaluate the results of the study conducted
27 pursuant to subdivision four of this section to determine, after iden-
28 tification of actual direct and indirect costs incurred by public school
29 districts and state operated[] AND state supported schools FOR BLIND
30 AND DEAF STUDENTS, whether it is advisable to claim federal reimburse-
31 ment for expenditures under this section as certified public expendi-
32 tures. In the event such claims are submitted, if federal reimbursement
33 received for certified public expenditures on behalf of medical assist-
34 ance recipients whose assistance and care are the responsibility of a
35 social services district [in a city with a population of over two
36 million,] results in a decrease in the state share of annual expendi-
37 tures pursuant to this section for such recipients, then to the extent
38 that the amount of any such decrease when combined with any decrease in
39 the state share of annual expenditures described in subdivision five of
40 section three hundred sixty-eight-e of this title exceeds ONE HUNDRED
41 fifty million dollars FOR THE PERIOD APRIL 1, 2011 THROUGH MARCH 31,
42 2013, OR EXCEEDS ONE HUNDRED MILLION DOLLARS IN STATE FISCAL YEAR 2012-
43 13 OR ANY FISCAL YEAR THEREAFTER, the excess amount shall be transferred
44 to such [city] PUBLIC SCHOOL DISTRICTS AND STATE OPERATED AND STATE
45 SUPPORTED SCHOOLS FOR BLIND AND DEAF STUDENTS IN AMOUNTS PROPORTIONAL TO
46 THEIR PERCENTAGE CONTRIBUTION TO THE STATEWIDE SAVINGS. Any such excess
47 amount transferred shall not be considered a revenue received by such
48 social services district in determining the district's actual medical
49 assistance expenditures for purposes of paragraph (b) of section one of
50 part C of chapter fifty-eight of the laws of two thousand five.

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

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

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

22 S 39. Subparagraph (i) of paragraph (a-1) of subdivision 4 of section
23 365-a of the social services law, as amended by section 46 of part C of
24 chapter 58 of the laws of 2009, is amended to read as follows:

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

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

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

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

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

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

3 S 41. Paragraphs (e), (f) and (g) of subdivision 1 of section 367-a of
4 the social services law, paragraph (e) as added by chapter 433 of the
5 laws of 1997, paragraph (f) as added by section 1 of part E of chapter
6 58 of the laws of 2008, paragraph (g) as added by section 65-a of part H
7 of chapter 59 of the laws of 2011, are amended to read as follows:

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

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

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

34 S 42. Intentionally omitted.

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

38 (a) Payments and reports submitted or required to be submitted to the
39 commissioner or to the commissioner's designee pursuant to this section
40 and section twenty-eight hundred seven-s of this article by designated
41 providers of services and by third-party payors which have elected to
42 make payments directly to the commissioner or to the commissioner's
43 designee in accordance with subdivision five-a of this section, shall be
44 subject to audit by the commissioner for a period of six years following
45 the close of the calendar year in which such payments and reports are
46 due, after which such payments shall be deemed final and not subject to
47 further adjustment or reconciliation, INCLUDING THROUGH OFFSET ADJUST-
48 MENTS OR RECONCILIATIONS MADE BY DESIGNATED PROVIDERS OF SERVICES OR BY
49 THIRD-PARTY PAYORS WITH REGARD TO SUBSEQUENT PAYMENTS, provided, howev-
50 er, that nothing herein shall be construed as precluding the commission-
51 er from pursuing collection of any such payments which are identified as
52 delinquent within such six year period, or which are identified as
53 delinquent as a result of an audit commenced within such six year peri-
54 od, or from conducting an audit of any adjustment or reconciliation made
55 by a designated provider of services or by a third party payor which has
56 elected to make such payments directly to the commissioner or the

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

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

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

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

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

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

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

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

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

15 (III) REGULATIONS ISSUED PURSUANT TO THIS PARAGRAPH MAY INCORPORATE
16 QUALITY RELATED MEASURES LIMITING OR EXCLUDING REIMBURSEMENT RELATED TO
17 POTENTIALLY PREVENTABLE CONDITIONS AND COMPLICATIONS; PROVIDED HOWEVER,
18 SUCH QUALITY RELATED MEASURES SHALL NOT INCLUDE ANY PREVENTABLE CONDI-
19 TIONS AND COMPLICATIONS NOT IDENTIFIED FOR MEDICARE NONPAYMENT OR LIMIT-
20 ED PAYMENT.

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

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

30 S 48-a. Subparagraph (i) of paragraph (a) of subdivision 7 of section
31 2807-j of the public health law, as amended by section 36 of part B of
32 chapter 58 of the laws of 2008, is amended to read as follows;

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

46 S 48-b. Subparagraph (ii) of paragraph (b) of subdivision 7 of section
47 2807-j of the public health law, as amended by section 25 of part A3 of
48 chapter 62 of the laws of 2003, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

1 PULMONARY OBSTRUCTIVE DISEASE, AND WHOSE MEDICAL, FUNCTIONAL AND/OR
2 ENVIRONMENTAL NEEDS ARE APPROPRIATELY MET AT HOME THROUGH THE APPLICA-
3 TION OF TELEHEALTH SERVICES INTERVENTIONS. SUCH A STUDY SHALL DETERMINE
4 THE COST OF PROVIDING TELEHEALTH SERVICES, THE QUALITY OF CARE PROVIDED
5 THROUGH TELEHEALTH SERVICES AND THE OUTCOMES OF PATIENTS RECEIVING SUCH
6 TELEHEALTH SERVICES. THE COMMISSIONER SHALL REIMBURSE THE HOME HEALTH
7 ORGANIZATION FOR CONDUCTING THE STUDY WITH AMOUNTS APPROPRIATED UNDER
8 THIS SUBDIVISION. THE HOME HEALTH ORGANIZATION SHALL EVALUATE THE FIND-
9 INGS OF THE STUDY AND REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
10 THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE COMMISSIONER, AND THE CHAIR
11 OF THE LEGISLATIVE COMMISSION ON RURAL RESOURCES ON ITS FINDINGS OF
12 PROVIDING TELEHEALTH SERVICES FOR EACH CONDITION, SO AS TO PROVIDE THE
13 COST BENCHMARKS WITH AND WITHOUT TELEHEALTH CARE, AS WELL AS PROVIDING
14 COST BENEFIT MEASUREMENTS IN TERMS OF THE QUALITY BENEFIT OUTCOMES FOR
15 EACH OF THE CONDITIONS ADDRESSED VIA TELEHEALTH.

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

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

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

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

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

47 (I) REPORT TO THE COMMISSIONER REGARDING THE DEVELOPMENT OF RECOMMEN-
48 DATIONS AND MODEL COURSES FOR CONTINUING MEDICAL EDUCATION, REFRESHER
49 COURSES AND OTHER TRAINING MATERIALS FOR LICENSED HEALTH CARE PROFES-
50 SIONALS ON APPROPRIATE USE OF PRESCRIPTION PAIN MEDICATION. SUCH RECOM-
51 MENDATIONS, MODEL COURSES AND OTHER TRAINING MATERIALS SHALL BE SUBMIT-
52 TED TO THE COMMISSIONER, WHO SHALL MAKE SUCH INFORMATION AVAILABLE FOR
53 THE USE IN MEDICAL EDUCATION, RESIDENCY PROGRAMS, FELLOWSHIP PROGRAMS,
54 AND FOR USE IN CONTINUING MEDICATION EDUCATION PROGRAMS NO LATER THAN
55 JANUARY FIRST, TWO THOUSAND THIRTEEN;

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

6 (III) PROVIDE INFORMATION TO THE COMMISSIONER FOR USE IN THE DEVELOP-
7 MENT AND CONTINUED UPDATE OF THE PUBLIC AWARENESS CAMPAIGN, INCLUDING
8 INFORMATION, RESOURCES, AND ACTIVE WEB LINKS THAT SHOULD BE INCLUDED ON
9 THE WEBSITE.

10 3. THE COMMISSIONER SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRESI-
11 DENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY NO LATER THAN MARCH
12 FIRST, TWO THOUSAND THIRTEEN, AND ANNUALLY THEREAFTER, ON THE WORK
13 GROUP'S FINDINGS. THE REPORT SHALL INCLUDE INFORMATION ON OPIOID OVER-
14 DOSE DEATHS, EMERGENCY ROOM UTILIZATION FOR THE TREATMENT OF OPIOID
15 OVERDOSE, THE UTILIZATION OF PRE-HOSPITAL ADDICTION SERVICES AND RECOM-
16 MENDATIONS TO REDUCE OPIOID ADDICTION AND THE CONSEQUENCES THEREOF.

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

20 (d) Physician loan repayment program. One million nine hundred sixty
21 thousand dollars for the period January first, two thousand eight
22 through December thirty-first, two thousand eight, one million nine
23 hundred sixty thousand dollars for the period January first, two thou-
24 sand nine through December thirty-first, two thousand nine, one million
25 nine hundred sixty thousand dollars for the period January first, two
26 thousand ten through December thirty-first, two thousand ten, four
27 hundred ninety thousand dollars for the period January first, two thou-
28 sand eleven through March thirty-first, two thousand eleven, and one
29 million seven hundred thousand dollars each state fiscal year for the
30 period April first, two thousand eleven through March thirty-first, two
31 thousand fourteen, shall be set aside and reserved by the commissioner
32 from the regional pools established pursuant to subdivision two of this
33 section and shall be available for purposes of physician loan repayment
34 in accordance with subdivision ten of this section. [Such] NOTWITHSTAND-
35 ING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS ONE HUNDRED TWELVE
36 AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR ANY OTHER
37 CONTRARY PROVISION OF LAW, SUCH funding shall be allocated regionally
38 with one-third of available funds going to New York city and two-thirds
39 of available funds going to the rest of the state and shall be distrib-
40 uted in a manner to be determined by the commissioner WITHOUT A COMPET-
41 ITIVE BID OR REQUEST FOR PROPOSAL PROCESS as follows:

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

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

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

1 (e) Physician practice support. Four million nine hundred thousand
2 dollars for the period January first, two thousand eight through Decem-
3 ber thirty-first, two thousand eight, four million nine hundred thousand
4 dollars annually for the period January first, two thousand nine through
5 December thirty-first, two thousand ten, one million two hundred twen-
6 ty-five thousand dollars for the period January first, two thousand
7 eleven through March thirty-first, two thousand eleven, and four million
8 three hundred thousand dollars each state fiscal year for the period
9 April first, two thousand eleven through March thirty-first, two thou-
10 sand fourteen, shall be set aside and reserved by the commissioner from
11 the regional pools established pursuant to subdivision two of this
12 section and shall be available for purposes of physician practice
13 support. [Such] NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION,
14 SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE
15 FINANCE LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, SUCH funding shall
16 be allocated regionally with one-third of available funds going to New
17 York city and two-thirds of available funds going to the rest of the
18 state and shall be distributed in a manner to be determined by the
19 commissioner WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS
20 as follows:

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

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

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

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

37 (E-1) WORK GROUP. FOR FUNDING AVAILABLE PURSUANT TO PARAGRAPHS (D)
38 AND (E) OF THIS SUBDIVISION:

39 (I) THE DEPARTMENT SHALL APPOINT A WORK GROUP FROM RECOMMENDATIONS
40 MADE BY ASSOCIATIONS REPRESENTING PHYSICIANS, GENERAL HOSPITALS AND
41 OTHER HEALTH CARE FACILITIES TO DEVELOP A STREAMLINED APPLICATION PROC-
42 ESS BY JUNE FIRST, TWO THOUSAND TWELVE.

43 (II) SUBJECT TO AVAILABLE FUNDING, APPLICATIONS SHALL BE ACCEPTED ON A
44 CONTINUOUS BASIS. THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO
45 APPLICANTS TO FACILITATE THEIR COMPLETION OF APPLICATIONS. AN APPLICANT
46 SHALL BE NOTIFIED IN WRITING BY THE DEPARTMENT WITHIN TEN DAYS OF
47 RECEIPT OF AN APPLICATION AS TO WHETHER THE APPLICATION IS COMPLETE AND
48 IF THE APPLICATION IS INCOMPLETE, WHAT INFORMATION IS OUTSTANDING. THE
49 DEPARTMENT SHALL ACT ON AN APPLICATION WITHIN THIRTY DAYS OF RECEIPT OF
50 A COMPLETE APPLICATION.

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

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

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

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

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

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

26 (VIII) (1) THE COMMISSIONER SHALL REPORT BIANNUALLY ON THE IMPLEMENTA-
27 TION OF THIS SUBDIVISION. THE REPORTS SHALL INCLUDE, BUT NOT BE LIMITED
28 TO:

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

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

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

34 (D) QUALITY DATA; AND

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

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

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

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

1 (A) A TIMETABLE AND PLAN FOR IMPLEMENTATION AND TRANSITION BY PARTIC-
2 IPANTS, PLANS AND PROVIDERS;

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

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

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

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

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

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

30 S 57. Subdivision 1 of section 92 of part H of chapter 59 of the laws
31 of 2011, amending the public health law and other laws relating to known
32 and projected department of health state funds Medicaid expenditures, is
33 amended to read as follows:

34 1. For state fiscal years 2011-12 [and 2012-13] THROUGH 2013-14, the
35 director of the budget, in consultation with the commissioner of health
36 referenced as "commissioner" for purposes of this section, shall assess
37 on a monthly basis, as reflected in monthly reports pursuant to subdivi-
38 sion five of this section known and projected department of health state
39 funds medicaid expenditures by category of service and by geographic
40 regions, as defined by the commissioner, and if the director of the
41 budget determines that such expenditures are expected to cause medicaid
42 disbursements for such period to exceed the projected department of
43 health medicaid state funds disbursements in the enacted budget finan-
44 cial plan pursuant to subdivision 3 of section 23 of the state finance
45 law, the commissioner of health, in consultation with the director of
46 the budget, shall develop a medicaid savings allocation plan to limit
47 such spending to the aggregate limit level specified in the enacted
48 budget financial plan, provided, however, such projections may be
49 adjusted by the director of the budget to account for any changes in the
50 New York state federal medical assistance percentage amount established
51 pursuant to the federal social security act, changes in provider reven-
52 ues, REDUCTIONS TO LOCAL SOCIAL SERVICES DISTRICT MEDICAL ASSISTANCE
53 ADMINISTRATION, and beginning April 1, 2012 the operational costs of the
54 New York state medical indemnity fund.

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

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

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

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

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

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

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

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

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

21 S 59. Subparagraph (ii) of paragraph (a) of subdivision 5 of section
22 2807-j of the public health law, as amended by section 23 of part A-3 of
23 chapter 62 of the laws of 2003, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

12 6-A. TO POST ON THE DEPARTMENT'S INTERNET WEBSITE, WITHIN REASONABLY
13 PROMPT FASHION, ALL FINAL ADMINISTRATIVE DETERMINATIONS ISSUED BY ADMIN-
14 ISTRATIVE LAW JUDGES IN CONNECTION WITH ANY ACTIONS TAKEN BY THE OFFICE
15 PURSUANT TO THIS TITLE;

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

22 S 63. Notwithstanding any inconsistent provision of law, rule or regu-
23 lation, the effectiveness of the provisions of sections 2807 and 3614 of
24 the public health law, section 18 of chapter 2 of the laws of 1988, and
25 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
26 or certification of rates of payment, are hereby suspended and without
27 force or effect for purposes of implementing the provisions of this act.

28 S 64. Severability clause. If any clause, sentence, paragraph, subdi-
29 vision, section or part of this act shall be adjudged by any court of
30 competent jurisdiction to be invalid, such judgment shall not affect,
31 impair or invalidate the remainder thereof, but shall be confined in its
32 operation to the clause, sentence, paragraph, subdivision, section or
33 part thereof directly involved in the controversy in which such judgment
34 shall have been rendered. It is hereby declared to be the intent of the
35 legislature that this act would have been enacted even if such invalid
36 provisions had not been included herein.

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

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

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

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

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

54 (d) the amendments to paragraph (a-1) of subdivision 4 of section
55 365-a of the social services law made by section thirty-nine of this act

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

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

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

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

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

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

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

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

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

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

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

44 PART E

45 Intentionally Omitted

46 PART F

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

1 (C-1) NOTWITHSTANDING ANY PROVISIONS OF SUBDIVISION (C) OF THIS
2 SECTION TO THE CONTRARY, EFFECTIVE APRIL 1, 2013, FOR THE PERIOD JANUARY
3 1, 2013 THROUGH DECEMBER 31, 2013 AND FOR EACH CALENDAR YEAR THEREAFTER,
4 THE MEDICAL ASSISTANCE EXPENDITURE AMOUNT FOR THE SOCIAL SERVICES
5 DISTRICT FOR SUCH PERIOD SHALL BE EQUAL TO THE PREVIOUS CALENDAR YEAR'S
6 MEDICAL ASSISTANCE EXPENDITURE AMOUNT, EXCEPT THAT:

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

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

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

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

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

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

1 sion (g) of section 1261 and subdivision (h) of section 1313 of the tax
2 law, as applicable. A social services district, acting through its local
3 legislative body, is hereby authorized to adopt such a resolution. Such
4 a resolution shall be effective only if it is adopted exactly as set
5 forth in subparagraph (ii) of this paragraph no later than September 30,
6 2007, and a certified copy of such resolution is mailed to the commis-
7 sioner of health by certified mail by such date. The commissioner of
8 health shall, no later than October 31, 2007, certify to the commis-
9 sioner of taxation and finance a list of those social services districts
10 which have elected the option described in this section. A social
11 services district [shall have no authority to rescind the exercise of]
12 THAT ELECTED the option described in this section, ACTING THROUGH ITS
13 LOCAL LEGISLATIVE BODY, MAY REPEAL THAT ELECTION BY ADOPTING A RESOL-
14 UTION EXACTLY AS SET FORTH IN PARAGRAPH (III) OF THIS SUBDIVISION AND
15 MAILING A CERTIFIED COPY OF SUCH REPEAL RESOLUTION TO THE COMMISSIONER
16 OF HEALTH NO LATER THAN JANUARY 1, 2013. THE COMMISSIONER OF HEALTH
17 SHALL, WITHIN TWO WEEKS OF RECEIVING ANY SUCH COPY OF A CERTIFIED REPEAL
18 RESOLUTION BY CERTIFIED MAIL FROM A SOCIAL SERVICES DISTRICT, CERTIFY IN
19 WRITING TO THE COMMISSIONER OF TAXATION AND FINANCE THE NAME OF ANY SUCH
20 SOCIAL SERVICES DISTRICT THAT ADOPTED SUCH A RESOLUTION TO REPEAL ITS
21 ELECTION. UPON RECEIVING SUCH WRITTEN CERTIFICATION, THE COMMISSIONER OF
22 TAXATION AND FINANCE SHALL NO LONGER CALCULATE THE MEDICAID AMOUNT OF
23 SUCH COUNTY UNDER SUBDIVISION (F) OF SECTION 1261 OF THE TAX LAW, AND
24 THE AMOUNT DUE SUCH COUNTY UNDER SUBDIVISION (C) OF SUCH SECTION 1261
25 SHALL NO LONGER BE REDUCED BY SUCH MEDICAID AMOUNT, EFFECTIVE THE FIRST
26 DAY OF THE MONTH NEXT COMMENCING AT LEAST 10 DAYS AFTER THE COMMISSIONER
27 OF TAXATION AND FINANCE HAS RECEIVED SUCH WRITTEN CERTIFICATION. IF
28 EVERY SOCIAL SERVICE DISTRICT THAT ELECTED SUCH OPTION REPEALS ITS
29 ELECTION AND THE COMMISSIONER OF HEALTH CERTIFIES IN WRITING TO THE
30 COMMISSIONER OF TAXATION AND FINANCE THAT EVERY SUCH SOCIAL SERVICES
31 DISTRICT HAS REPEALED ITS ELECTION, THEN SUBDIVISIONS (F) AND (G) OF
32 SECTION 1261 AND SUBDIVISION (H) OF SECTION 1313 OF THE TAX LAW TAX
33 SHALL BE REPEALED AND THE PHRASE "OR A TAX REVENUE INTERCEPT AMOUNT
34 CALCULATED PURSUANT TO SUBDIVISION (F) OR (G) OF SECTION 1261 OF THE TAX
35 LAW" IN SECTION FOUR OF THIS ACT SHALL BE DELETED, EFFECTIVE THE FIRST
36 DAY OF THE MONTH NEXT COMMENCING AT LEAST 10 DAYS AFTER THE DATE ON
37 WHICH THE COMMISSIONER OF TAXATION AND FINANCE RECEIVES SUCH WRITTEN
38 CERTIFICATION FROM THE COMMISSIONER OF HEALTH. AT THE SAME TIME THAT THE
39 COMMISSIONER OF HEALTH MAKES SUCH CERTIFICATION TO THE COMMISSIONER OF
40 TAXATION AND FINANCE THAT EVERY COUNTY HAS REPEALED ITS ELECTION, THE
41 COMMISSIONER OF HEALTH SHALL ALSO NOTIFY THE LEGISLATIVE BILL DRAFTING
42 COMMISSION THAT EVERY SOCIAL SERVICE DISTRICT THAT ELECTED SUCH OPTION
43 HAS REPEALED ITS ELECTION IN ORDER THAT THE LEGISLATIVE BILL DRAFTING
44 COMMISSION MAY MAINTAIN AN ACCURATE AND TIMELY DATA BASE OF THE OFFICIAL
45 TEXT OF THE LAWS OF THE STATE OF NEW YORK IN FURTHERANCE OF EFFECTING
46 THE PROVISIONS OF SECTION 44 OF THE LEGISLATIVE LAW AND SECTION 70-B OF
47 THE PUBLIC OFFICERS LAW.

48 (III) FORM OF RESOLUTION.

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

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

54 SECTION 2. THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.

55 S 4. Part C of chapter 58 of the laws of 2005, authorizing reimburse-
56 ments for expenditures made by or on behalf of social services districts

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

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

15 (B) THE ADMINISTRATIVE CAP AMOUNT FOR A SOCIAL SERVICES DISTRICT SHALL
16 BE EQUAL TO A PERCENTAGE OF THE AMOUNT INCLUDED IN THE STATE FISCAL YEAR
17 2011-12 ENACTED BUDGET FOR THE NON-FEDERAL SHARE OF MEDICAL ASSISTANCE
18 ADMINISTRATIVE COSTS PURSUANT TO THIS SECTION. EACH SOCIAL SERVICES
19 DISTRICT'S PERCENTAGE SHALL BE EQUAL TO THE PERCENTAGE OF MEDICAL
20 ASSISTANCE ADMINISTRATIVE COSTS CLAIMED BY SUCH DISTRICT IN THE 2011
21 CALENDAR YEAR IN RELATION TO ALL OTHER SOCIAL SERVICES DISTRICTS.

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

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

43 S 5. Section 91 of part H of chapter 59 of the laws of 2011 amending
44 the public health law and other laws relating to general hospital
45 reimbursement for annual rates is amended to read as follows:

46 S 91. 1. Notwithstanding any inconsistent provision of state law, rule
47 or regulation to the contrary, subject to federal approval, the year to
48 year rate of growth of department of health state funds Medicaid spend-
49 ing shall not exceed the ten year rolling average of the medical compo-
50 nent of the consumer price index as published by the United States
51 department of labor, bureau of labor statistics, for the preceding ten
52 years.

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

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

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

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

16 S 365-N. DEPARTMENT OF HEALTH ASSUMPTION OF PROGRAM ADMINISTRATION.

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

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

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

48 4. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS
49 SECTION, THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A LOCAL DEPARTMENT
50 OF SOCIAL SERVICES STATEMENT OF INTEREST. THE STATEMENT OF INTEREST WILL
51 ELICIT FROM LOCAL DEPARTMENTS OF SOCIAL SERVICES THEIR INTEREST IN AND
52 CAPACITY TO CONTRACT WITH THE DEPARTMENT TO PERFORM THE FUNCTIONS ESTAB-
53 LISHED IN SUBDIVISION TWO OF THIS SECTION. TO THE EXTENT PRACTICABLE AND
54 IN THE BEST INTEREST OF THE MEDICAL ASSISTANCE PROGRAM, THE DEPARTMENT
55 SHALL CONTRACT WITH LOCAL SOCIAL SERVICES DISTRICTS TO PERFORM ALL OR A
56 PORTION OF THE FUNCTIONS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

39 S 9. Notwithstanding any inconsistent provision of law, rule or regu-
40 lation, the effectiveness of the provisions of sections 2807 and 3614 of
41 the public health law, section 18 of chapter 2 of the laws of 1988, and
42 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
43 or certification of rates of payment, are hereby suspended and without
44 force or effect for purposes of implementing the provisions of this act.

45 S 10. Severability clause. If any clause, sentence, paragraph, subdi-
46 vision, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair or invalidate the remainder thereof, but shall be confined in its
49 operation to the clause, sentence, paragraph, subdivision, section or
50 part thereof directly involved in the controversy in which such judgment
51 shall have been rendered. It is hereby declared to be the intent of the
52 legislature that this act would have been enacted even if such invalid
53 provisions had not been included herein.

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

1 1. section one of this act shall take effect April 1, 2013;

2 2. any rules or regulations necessary to implement the provisions of
3 this act may be promulgated and any procedures, forms, or instructions
4 necessary for such implementation may be adopted and issued on or after
5 the date this act shall have become a law;

6 3. this act shall not be construed to alter, change, affect, impair or
7 defeat any rights, obligations, duties or interests accrued, incurred or
8 conferred prior to the effective date of this act;

9 4. the commissioner of health and the superintendent of financial
10 services and any appropriate council may take any steps necessary to
11 implement this act prior to its effective date;

12 5. notwithstanding any inconsistent provision of the state administra-
13 tive procedure act or any other provision of law, rule or regulation,
14 the commissioner of health and the superintendent of financial services
15 and any appropriate council is authorized to adopt or amend or promul-
16 gate on an emergency basis any regulation he or she or such council
17 determines necessary to implement any provision of this act on its
18 effective date;

19 6. the amendment to section 91 of part H of chapter 59 of the laws of
20 2011, amending the public health law and other laws relating to general
21 hospital reimbursement for annual rates, made by section five of this
22 act shall take effect on the same date and in the same manner as such
23 section takes effect;

24 7. the provisions of this act shall become effective notwithstanding
25 the failure of the commissioner of health or the superintendent of
26 financial services or any council to adopt or amend or promulgate regu-
27 lations implementing this act;

28 8. subdivision 5 of section 365-n of the social services law, as added
29 by section six of this act shall expire and be deemed repealed March 31,
30 2015.

31

PART G

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

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

37 S 2. Subparagraph (v) of paragraph (b) of subdivision 35 of section
38 2807-c of the public health law, as amended by section 35-a of part H of
39 chapter 59 of the laws of 2011, is amended to read as follows:

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

1 gate reductions shall be offset by Medicaid payment reductions occurring
2 as a result of decreased PPRs during the period July first, two thousand
3 ten through March thirty-first, two thousand eleven and the period April
4 first, two thousand eleven through March thirty-first, two thousand
5 [twelve] THIRTEEN and as a result of decreased PPNOs during the period
6 April first, two thousand eleven through March thirty-first, two thou-
7 sand [twelve] THIRTEEN; and provided further that for the period July
8 first, two thousand ten through March thirty-first, two thousand
9 [twelve] THIRTEEN, such rate adjustments or payment disallowances shall
10 not apply to behavioral health PPRs; or to readmissions that occur on or
11 after fifteen days following an initial admission. By no later than July
12 first, two thousand eleven the commissioner shall enter into consulta-
13 tions with representatives of the health care facilities subject to this
14 section regarding potential prospective revisions to applicable method-
15 ologies and benchmarks set forth in regulations issued pursuant to this
16 subparagraph;

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

19

PART H

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

26 3-b. Notwithstanding any inconsistent provision of law, beginning
27 April 1, 2009 and ending March 31, [2012] 2013, the commissioners shall
28 not include a COLA for the purpose of establishing rates of payments,
29 contracts or any other form of reimbursement.

30 3-c. Notwithstanding any inconsistent provision of law, beginning
31 April 1, [2012] 2013 and ending March 31, [2015] 2016, the commissioners
32 shall develop the COLA under this section using the actual U.S. consumer
33 price index for all urban consumers (CPI-U) published by the United
34 States department of labor, bureau of labor statistics for the twelve
35 month period ending in July of the budget year prior to such state
36 fiscal year, for the purpose of establishing rates of payments,
37 contracts or any other form of reimbursement.

38 S 4. This act shall take effect immediately and shall be deemed to
39 have been in full force and effect on and after April 1, 2006; provided
40 section one of this act shall expire and be deemed repealed April 1,
41 [2015] 2016; provided, further, that sections two and three of this act
42 shall expire and be deemed repealed December 31, 2009.

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

48

PART I

49

Intentionally Omitted

50

PART J

1 Section 1. Section 13.17 of the mental hygiene law, as added by chap-
2 ter 978 of the laws of 1977, the section heading as amended by chapter
3 168 of the laws of 2010, subdivisions (b) and (d) as amended by chapter
4 37 of the laws of 2011 and subdivision (c) as amended by chapter 538 of
5 the laws of 1987, is amended to read as follows:

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

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

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

20 Bernard M. Fineson Developmental Disabilities Services Office

21 Brooklyn Developmental Disabilities Services Office

22 Broome Developmental Disabilities Services Office

23 Capital District Developmental Disabilities Services Office

24 Central New York Developmental Disabilities Services Office

25 Finger Lakes Developmental Disabilities Services Office

26 Institute for Basic Research in Developmental Disabilities

27 Hudson Valley Developmental Disabilities Services Office

28 Metro New York Developmental Disabilities Services Office

29 Long Island Developmental Disabilities Services Office

30 Sunmount Developmental Disabilities Services Office

31 Taconic Developmental Disabilities Services Office

32 Western New York Developmental Disabilities Services Office

33 Staten Island Developmental Disabilities Services Office

34 The New York State Institute for Basic Research in Developmental Disa-
35 bilities is designated as an institute for the conduct of medical
36 research and other scientific investigation directed towards furthering
37 knowledge of the etiology, diagnosis, treatment and prevention of devel-
38 opmental disabilities.

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

46 [(d)] (C) The commissioner may [permit] AUTHORIZE other offices of the
47 department and any public or private non-profit organization or poli-
48 tical subdivision of the state to [operate programs for persons] DELIVER
49 SUPPORTS AND SERVICES TO INDIVIDUALS with developmental disabilities,
50 not inconsistent with the programs and objectives of the office in any
51 facility under his jurisdiction. The commissioner may permit any facili-
52 ty under his jurisdiction to operate programs for persons with mental
53 disabilities, not inconsistent with programs and objectives of the
54 department, under contracts or agreements with other offices within the
55 department.

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

5 S 13.19 Personnel of the office; regulations.

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

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

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

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

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

40 S 3. Section 13.21 of the mental hygiene law, as added by chapter 978
41 of the laws of 1977, the section heading and subdivisions (a) and (c) as
42 amended by chapter 168 of the laws of 2010, subdivision (b) as amended
43 by chapter 558 of the laws of 2011, subdivision (d) as added by chapter
44 355 of the laws of 1987 and subdivision (e) as added by chapter 492 of
45 the laws of 1978 and as relettered by chapter 355 of the laws of 1987,
46 is amended to read as follows:

47 S 13.21 Directors of [schools] STATE OPERATIONS OFFICES AND DEVELOP-
48 MENTAL DISABILITIES REGIONAL OFFICES in the office for people
49 with developmental disabilities.

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

1 such developmental disabilities services office]. Each such director
2 shall be in the non-competitive class and designated as confidential as
3 defined by subdivision two-a of section forty-two of the civil service
4 law and shall serve at the pleasure of the commissioner. [Except for
5 school and facility officers and employees for which subdivision (a) of
6 section 13.19 of this article makes the commissioner the appointing and
7 removing authority, the director of a school shall have the power, with-
8 in amounts appropriated therefor, to appoint and remove in accordance
9 with law and applicable rules of the state civil service commission such
10 officers and employees of the facility of which he or she is director as
11 are necessary for its efficient administration.] He or she shall in
12 exercising his or her appointing authority take, consistent with article
13 twenty-three-A of the correction law, all reasonable and necessary steps
14 to insure that any such person so appointed has not previously engaged
15 in any act in violation of any law which [could] INDICATES A PROPENSITY
16 TO ACT IN A MANNER THAT WOULD compromise the health and safety of
17 patients in the facility of which he or she is director. He or she shall
18 manage the [facility, and administer its personnel system,] STATE OPER-
19 ATIONS OFFICE OR DEVELOPMENTAL DISABILITIES REGIONAL OFFICE AND ADMINIS-
20 TER ITS PERSONNEL SYSTEM subject to applicable law, the regulations of
21 the commissioner, and the rules of the state civil service commission.
22 [Before the commissioner shall issue any such regulation or any amend-
23 ment or revision thereof, he or she shall consult with the directors of
24 schools in the office regarding its suitability.] The [director] DIREC-
25 TORS OF THE DEVELOPMENTAL DISABILITIES REGIONAL OFFICES AND STATE OPER-
26 ATIONS OFFICES shall maintain effective supervision of all parts of [the
27 facility and over all persons employed therein or coming thereon and]
28 THEIR RESPECTIVE OFFICES. THE DIRECTORS OF STATE OPERATIONS OFFICES
29 shall generally [direct] PROVIDE FOR the [care and treatment of
30 patients. Directors presently serving at facilities of the office shall
31 continue to serve under the terms of their original appointment] ADMIN-
32 ISTRATION OF SUPPORTS AND SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL
33 DISABILITIES IN STATE OPERATED PROGRAMS. DIRECTORS OF REGIONAL OFFICES
34 SHALL GENERALLY OVERSEE THE ADMINISTRATION OF SUPPORTS AND SERVICES TO
35 INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES IN SETTINGS OUTSIDE THE
36 STATE OPERATED PROGRAMS.

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

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

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

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

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

34 (1) dissemination and posting of all decisions, policies and proce-
35 dures with respect to all aspects of such actions and their impact on
36 facility staff; and

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

40 S 4. Section 13.33 of the mental hygiene law, as added by chapter 978
41 of the laws of 1977, subdivision (a) as amended by chapter 37 of the
42 laws of 2011, subdivision (d) as amended by chapter 686 of the laws of
43 1995, subdivisions (f) and (h) as amended by chapter 175 of the laws of
44 1986, subdivision (i) as amended by chapter 14 of the laws of 1990,
45 paragraph 1 of subdivision (i) as amended by chapter 75 of the laws of
46 1992, paragraph 2 of subdivision (i) and subdivision (m) as amended by
47 chapter 168 of the laws of 2010, subdivision (j) as amended by chapter
48 264 of the laws of 1980 and subdivisions (j) and (k) as relettered by
49 chapter 84 of the laws of 1980, subdivision (l) as amended by chapter
50 406 of the laws of 1994 and subdivision (n) as amended by chapter 662 of
51 the laws of 1995, is amended to read as follows:

52 S 13.33 Boards of visitors.

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

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

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

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

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

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

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

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

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

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

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

43 (h) Each board or any member of the board may visit and inspect [the]
44 A STATE OPERATED facility THAT IS IN THE CATCHMENT AREA OF THE STATE
45 OPERATIONS REGION IN WHICH SUCH MEMBER OR MEMBERS SERVE at any time
46 without prior notice and may report on conditions to the governor, to
47 the commissioner and to the chairman of the state commission on quality
48 of care [for the mentally disabled] AND ADVOCACY FOR PERSONS WITH DISA-
49 BILITIES AND, SUBJECT TO CONFIDENTIAL INFORMATION BEING REDACTED TO
50 PROTECT THE CONFIDENTIALITY OF INDIVIDUALS IN SUCH FACILITY, TO THE
51 TEMPORARY PRESIDENT OF THE SENATE AND TO THE SPEAKER OF THE ASSEMBLY.
52 In addition, each board shall ensure that a member or committee of
53 members shall inspect [the] SUCH facility once every three months with-
54 out prior notice. A report on conditions may be submitted to the gover-
55 nor, to the commissioner or to the chairman of the state commission on
56 quality of care [for the mentally disabled] AND ADVOCACY FOR PERSONS

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

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

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

1 necessary for carrying out the purposes of such visit and inspection.
2 Information, books, records or data [which] THAT are confidential as
3 provided by law shall be kept confidential and any limitations on the
4 release thereof imposed by law upon the party furnishing the informa-
5 tion, books, records or data shall apply to such member or members of
6 the board. After any such visits or inspection, a report containing
7 findings and recommendations shall be submitted promptly to the commis-
8 sioner and to the chairman of the state commission on quality of care
9 and advocacy for persons with disabilities.

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

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

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

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

32 (n) Each member shall attend, within one year of the initial appoint-
33 ment or any subsequent reappointment, an orientation training program
34 provided by the commission on quality of care [for the mentally disa-
35 bled] AND ADVOCACY FOR PERSONS WITH DISABILITIES for members of boards
36 of visitors. The chairman of the commission on quality of care [for the
37 mentally disabled] AND ADVOCACY FOR PERSONS WITH DISABILITIES shall
38 notify the governor and the appointed member of any such member's fail-
39 ure to attend such a training program. A member who has failed to attend
40 such a training program scheduled for such member shall be considered to
41 have vacated his office unless otherwise ordered by the governor within
42 forty-five days after the notice.

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

46 (c) If the attending physician determines that a patient lacks capaci-
47 ty because of a developmental disability, the concurring determination
48 required by paragraph (a) of this subdivision shall be provided by a
49 physician or psychologist employed by a [school] DEVELOPMENTAL DISABILI-
50 TIES SERVICES OFFICE named in section 13.17 of the mental hygiene law,
51 or who has been employed for a minimum of two years to render care and
52 service in a facility operated or licensed by the office [of mental
53 retardation and] FOR PEOPLE WITH developmental disabilities, or who has
54 been approved by the commissioner of [mental retardation and] develop-
55 mental disabilities in accordance with regulations promulgated by such
56 commissioner. Such regulations shall require that a physician or

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

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

6 (c) For persons who reside in a mental hygiene facility operated or
7 licensed by the office [of mental retardation and] FOR PEOPLE WITH
8 developmental disabilities, at least one witness shall be an individual
9 who is not affiliated with the facility and at least one witness shall
10 be a physician or clinical psychologist who either is employed by a
11 [school] DEVELOPMENTAL DISABILITIES SERVICES OFFICE named in section
12 13.17 of the mental hygiene law or who has been employed for a minimum
13 of two years to render care and service in a facility operated or
14 licensed by the office [of mental retardation and] FOR PEOPLE WITH
15 developmental disabilities, or [who] has been approved by the commis-
16 sioner of [mental retardation and] developmental disabilities in accord-
17 ance with regulations approved by the commissioner. Such regulations
18 shall require that a physician or clinical psychologist possess special-
19 ized training or three years experience in treating developmental disa-
20 bilities.

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

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

39 S 8. Subparagraph ii of paragraph (c) of subdivision 3 of section
40 2994-c of the public health law, as added by chapter 8 of the laws of
41 2010, is amended to read as follows:

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

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

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

5 10. "Hospital" means a general hospital as defined in subdivision ten
6 of section twenty-eight hundred one of this chapter and a residential
7 health care facility as defined in subdivision three of section twenty-
8 eight hundred one of this chapter or a hospital as defined in subdivi-
9 sion ten of section 1.03 of the mental hygiene law or a [school] DEVEL-
10 OPMENTAL DISABILITIES SERVICES OFFICE named in section 13.17 of the
11 mental hygiene law.

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

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

33 S 11. Subparagraph (B) of paragraph (vi) of subdivision (c) of section
34 958 of the general municipal law, as amended by chapter 708 of the laws
35 of 1993, is amended to read as follows:

36 (B) a state-operated hospital or facility listed in [sections] SECTION
37 7.17 or 13.17 of the mental hygiene law [which], OR A FACILITY OPERATED
38 BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THAT has been
39 designated by either the commissioner of mental health or the commis-
40 sioner of [mental retardation and] developmental disabilities for
41 contraction or discontinuance. Provided however, that not more than
42 one-third of the zones designated pursuant to paragraph (iii) or (iv) of
43 subdivision (b) of section nine hundred sixty OF THIS ARTICLE, shall be
44 based on applications filed pursuant to THIS paragraph [(vi) of this
45 subdivision].

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

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

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

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

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

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

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

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

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

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

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

1 ities under article forty-five of this chapter and who shall be respon-
2 sible for receiving and responding to any complaints regarding individ-
3 ual clients residing in such facility. The ombudsman shall have the
4 following powers and duties:

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

8 ii. to review and attempt to remedy specific complaints with responsi-
9 ble and appropriate staff;

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

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

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

20 vi. to meet with the commissioner, or a representative of the commis-
21 sioner, on a quarterly basis regarding systemic issues in the ombuds-
22 man's jurisdiction.

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

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

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

1 ance with the regulations of the department, and on and after January
2 first, nineteen hundred seventy-four, in facilities in which a person is
3 receiving family care or residential care, as those terms are used in
4 title six of [article five of] this [chapter] ARTICLE, and to persons
5 receiving care in a facility supervised by the office of alcoholism and
6 substance abuse SERVICES or in a residential facility for the mentally
7 disabled approved, licensed or operated by the office of mental health
8 or the office [of mental retardation and] FOR PEOPLE WITH developmental
9 disabilities, other than those facilities defined in sections 7.17 and
10 13.17 of the mental hygiene law, IN A DEVELOPMENTAL CENTER FACILITY
11 OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES or
12 residential care centers for adults operated by the office of mental
13 health, when such type of care is deemed necessary. Payments to such
14 homes and facilities for care and maintenance provided by them shall be
15 at rates established pursuant to law and regulations of the department.
16 The department, however, shall not establish rates of payment to such
17 homes or facilities without approval of the director of the budget.

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

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

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

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

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

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

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

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

9

PART K

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

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

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

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

30

PART L

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

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

44 (2) meet the standards that may be established by the respective
45 commissioners for the provision of such services; provided, however,
46 that an entity meeting the standards established pursuant to this
47 section shall not be required to be an integrated service provider
48 pursuant to subdivision seven of section three hundred sixty-five-1 of
49 the social services law.

50 (b) In establishing one or more sets of joint requirements or proce-
51 dures for entities described in this section, each participating commis-
52 sioner is authorized to waive any regulatory requirements, or to deter-

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

7 (c) The authority granted the commissioners in this section is
8 intended to complement and supplement the authority granted to such
9 commissioners pursuant to subdivision seven of section three hundred
10 sixty-five-1 of the social services law.

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

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

27

PART M

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

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

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

45 6-B. THE COMMISSIONER OF MENTAL HEALTH MAY MEET HIS OR HER OBLIGATIONS
46 UNDER SECTION 33.11 OF THE MENTAL HYGIENE LAW BY CONTRACTING PURSUANT TO
47 THIS SUBDIVISION FOR EDUCATIONAL SERVICES FOR CHILDREN BETWEEN THE AGES
48 OF FIVE AND TWENTY-ONE WHO DO NOT HOLD A HIGH SCHOOL DIPLOMA AND WHO ARE
49 HOSPITALIZED IN HOSPITALS OPERATED BY THE OFFICE OF MENTAL HEALTH WITH
50 THE TRUSTEES OR BOARD OF EDUCATION OF ANY SCHOOL DISTRICT FOR EDUCA-
51 TIONAL SERVICES OR WITH A BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR
52 THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES TO SUCH CHILDREN
53 IN ACCORDANCE WITH THEIR INDIVIDUALIZED EDUCATION PROGRAMS. THE COSTS OF

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

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

7 (2) THE COMMISSIONER OF MENTAL HEALTH, WITH THE APPROVAL OF THE DIREC-
8 TOR OF THE DIVISION OF THE BUDGET, SHALL BE AUTHORIZED TO TRANSFER FUND-
9 ING TO THE COMMISSIONER OF EDUCATION TO THE EXTENT NECESSARY TO REIM-
10 BURSE SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES
11 FOR SERVICES AND EDUCATIONAL PROGRAMMING PROVIDED UNDER SUCH CONTRACTS.

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

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

31 S 4. This act shall take effect July 1, 2012 and shall expire June 30,
32 2015, when upon such date the provisions of this act shall be deemed
33 repealed.

34

PART N

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

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

43 57. "SUBSTANCE USE DISORDER SERVICES" SHALL MEAN AND INCLUDE EXAMINA-
44 TION, EVALUATION, DIAGNOSIS, CARE, TREATMENT, REHABILITATION, OR TRAIN-
45 ING OF PERSONS WITH SUBSTANCE USE DISORDERS AND THEIR FAMILIES OR
46 SIGNIFICANT OTHERS.

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

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

52 S 5.06 BEHAVIORAL HEALTH SERVICES ADVISORY COUNCIL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (2) FINANCING BEHAVIORAL HEALTH SERVICES;

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

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

18 (5) PREVENTION OF BEHAVIORAL HEALTH DISORDERS; AND

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

23 (G) THE COUNCIL SHALL, IN COOPERATION WITH THE COMMISSIONERS, ESTAB-
24 LISH STATEWIDE GOALS AND OBJECTIVES FOR SERVICES TO PERSONS WITH BEHAV-
25 IORAL HEALTH DISORDERS, PURSUANT TO SECTION 5.07 OF THIS ARTICLE.

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

30 (2) THE COUNCIL SHALL REVIEW ANY MENTAL HEALTH OR SUBSTANCE USE COMPO-
31 NENT OF STATEWIDE HEALTH PLANS DEVELOPED IN ACCORDANCE WITH ANY APPLICA-
32 BLE FEDERAL LAW, AND SHALL REPORT ITS RECOMMENDATIONS THEREON TO THE
33 COMMISSIONERS.

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

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

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

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

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

1 RECOMMENDATIONS THEREON TO THE COMMISSIONERS WITHIN SIXTY DAYS. THE
2 COMMISSIONER HAVING STATUTORY JURISDICTION OVER THE PROPOSED RULE OR
3 REGULATION SHALL NOT ACT IN A MANNER INCONSISTENT WITH THE RECOMMENDA-
4 TIONS OF THE COUNCIL WITHOUT FIRST APPEARING BEFORE THE COUNCIL TO
5 REPORT THE REASONS THEREFOR. THE COUNCIL, UPON A MAJORITY VOTE OF ITS
6 MEMBERS, MAY REQUIRE THAT AN ALTERNATIVE APPROACH TO THE PROPOSED RULES
7 AND REGULATIONS BE PUBLISHED WITH THE NOTICE OF THE PROPOSED RULES AND
8 REGULATIONS PURSUANT TO SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRA-
9 TIVE PROCEDURE ACT. WHEN AN ALTERNATIVE APPROACH IS PUBLISHED PURSUANT
10 TO THIS SECTION, THE COMMISSIONER HAVING STATUTORY JURISDICTION OF THE
11 SUBJECT PROPOSED RULE OR REGULATION SHALL STATE THE REASONS FOR NOT
12 SELECTING SUCH ALTERNATIVE APPROACH.

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

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

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

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

43 (P) THE COUNCIL MAY ESTABLISH WRITTEN BYLAWS.

44 S 3. The section heading, subdivision (a), the opening paragraph and
45 paragraphs 1 and 3 of subdivision (b) and subdivision (c) of section
46 5.07 of the mental hygiene law, the section heading as amended by chap-
47 ter 55 of the laws of 1992, subdivision (a), the opening paragraph and
48 paragraphs 1 and 3 of subdivision (b) and subdivision (c) as amended by
49 chapter 223 of the laws of 1992, paragraph 1 of subdivision (a) as
50 amended by chapter 37 of the laws of 2011, the opening paragraph of
51 paragraph 1 of subdivision (b) as amended by chapter 168 of the laws of
52 2010, subparagraphs h and i as amended and subparagraph j of paragraph 1
53 of subdivision (b) as added by chapter 413 of the laws of 2009 and para-
54 graph 3 of subdivision (b) as renumbered by chapter 322 of the laws of
55 1992, are amended to read as follows:

1 Establishment of [statewide goals and objectives;] statewide comprehen-
2 sive plans of services for [the mentally disabled] PERSONS WITH
3 MENTAL DISABILITIES.

4 (a) (1) The [mental health] BEHAVIORAL HEALTH services ADVISORY coun-
5 cil and the advisory [councils] COUNCIL on developmental disabilities
6 [and alcoholism and substance abuse services] shall [each establish]
7 PROVIDE RECOMMENDATIONS FOR statewide PRIORITIES AND goals [and objec-
8 tives] to guide comprehensive planning, resource allocation and evalu-
9 ation processes for state and local services for persons with mental
10 illness, developmental disabilities [and], AND/OR those [suffering from
11 chemical abuse or dependence, respectively] WITH SUBSTANCE USE OR
12 COMPULSIVE GAMBLING DISORDERS. Such goals and objectives shall:

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

15 b. be DEVELOPED IN COLLABORATION WITH, AND communicated to, providers
16 of services, department facilities, consumers and consumer represen-
17 tatives, and other appropriate state and local governmental agencies;

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

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

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

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

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

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

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

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

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

54 a. identify [needs and problems which must be addressed during the
55 next ensuing five years which such plan encompasses] STATEWIDE PRIORI-
56 TIES;

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

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

6 d. establish] PROPOSE STRATEGIES AND INITIATIVES TO ADDRESS THE prior-
7 ities [for resource allocation] AND FACILITATE ACHIEVEMENT OF STATEWIDE
8 GOALS;

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

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

19 g. identify services and programs that assist the informal caregiver
20 to care for the mentally disabled; make recommendations to enhance the
21 ability of the informal caregiver to continue providing care; and devel-
22 op strategies for creating informal caregivers for clients in the commu-
23 nity who do not have a system in place;

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

27 [i.] F. encourage and promote PERSON-CENTERED, CULTURALLY AND LINGUIS-
28 TICALLY COMPETENT community-based programs [which] , SERVICES, AND
29 SUPPORTS THAT reflect the partnership between state and local govern-
30 mental units; and

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

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

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

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

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

13 (c) Three year capital plan. (1) On or before July first of each year,
14 the commissioners of the offices of the department of mental hygiene
15 shall each submit to the advisory council of their respective offices a
16 statewide three year capital plan for facilities within the jurisdiction
17 of their respective offices. The capital plan shall set forth the
18 projects proposed to be designed, constructed, acquired, reconstructed,
19 rehabilitated or otherwise substantially altered pursuant to appropri-
20 ation to meet the capital development needs of the respective agencies
21 for the next ensuing three years; the years of such plan shall corre-
22 spond to the years of the statewide five year plan as required by subdi-
23 vision (b) of this section.

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

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

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

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

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

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

10 (c) The developmental disabilities advisory council shall have no
11 executive, administrative or appointive duties. The council shall have
12 the duty to foster public understanding and acceptance of developmental
13 disabilities. It shall, in cooperation with the commissioner of develop-
14 mental disabilities, [establish] PROVIDE RECOMMENDATIONS FOR statewide
15 PRIORITIES AND goals [and objectives] for services for individuals with
16 developmental disabilities and shall advise the commissioner on matters
17 related to development and implementation of the [OPWDD's triennial
18 state developmental disabilities] STATEWIDE comprehensive plan as
19 required under [paragraph two of subdivision (b) of] section 5.07 of
20 this chapter. The advisory council shall have the power to consider any
21 matter relating to the improvement of the state developmental disabili-
22 ties program and shall advise the commissioner of developmental disabil-
23 ities thereon and on any matter relating to the performance of their
24 duties with relation to individuals with developmental disabilities and
25 on policies, goals, budget and operation of developmental disabilities
26 services.

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

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

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

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

1 on the one hundred eightieth day after it shall have become a law, and
2 sections three, four and six of this act shall take effect upon certifi-
3 cation by the commissioner of mental health and the commissioner of
4 alcoholism and substance abuse services that the behavioral health
5 services advisory council has sufficient confirmed membership to perform
6 its functions, powers and duties pursuant to section two of this act;
7 provided that the commissioner of mental health shall notify the legis-
8 lative bill drafting commission upon the date that such commissioner and
9 the commissioner of alcoholism and substance abuse services have certi-
10 fied that the behavioral health services advisory council has sufficient
11 confirmed membership to perform its functions, powers and duties in
12 order that the commission may maintain an accurate and timely effective
13 data base of the official text of the laws of the state of New York in
14 furtherance of effectuating the provisions of section 44 of the legisla-
15 tive law and section 70-b of the public officers law.

16

PART O

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

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

24 Greater Binghamton Health Center
25 Bronx Psychiatric Center
26 Buffalo Psychiatric Center
27 Capital District Psychiatric Center
28 Central New York Psychiatric Center
29 Creedmoor Psychiatric Center
30 Elmira Psychiatric Center
31 [Hudson River Psychiatric Center]
32 Kingsboro Psychiatric Center
33 Kirby Forensic Psychiatric Center
34 Manhattan Psychiatric Center
35 Mid-Hudson Forensic Psychiatric Center
36 Mohawk Valley Psychiatric Center
37 Nathan S. Kline Institute for Psychiatric Research
38 New York State Psychiatric Institute
39 Pilgrim Psychiatric Center
40 Richard H. Hutchings Psychiatric Center
41 Rochester Psychiatric Center
42 Rockland Psychiatric Center
43 St. Lawrence Psychiatric Center
44 South Beach Psychiatric Center
45 [Bronx Children's Psychiatric Center
46 Brooklyn Children's Center
47 Queens Children's Psychiatric Center]
48 NEW YORK CITY CHILDREN'S CENTER
49 Rockland Children's Psychiatric Center
50 Sagamore Children's Psychiatric Center
51 Western New York Children's Psychiatric Center

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

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

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

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

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

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

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

23 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
24 sion, section or part of this act shall be adjudged by any court of
25 competent jurisdiction to be invalid, such judgment shall not affect,
26 impair, or invalidate the remainder thereof, but shall be confined in
27 its operation to the clause, sentence, paragraph, subdivision, section
28 or part thereof directly involved in the controversy in which such judg-
29 ment shall have been rendered. It is hereby declared to be the intent of
30 the legislature that this act would have been enacted even if such
31 invalid provisions had not been included herein.

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

38

PART P

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

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

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

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

3 (3) A HEARING ON THE ALLEGATIONS SHALL BE HELD NO LESS THAN TEN DAYS
4 NOR MORE THAN SIXTY DAYS AFTER SUCH NOTICE IS SERVED ON THE RESPONDENT
5 AND PROVIDED TO HIS OR HER COUNSEL. THE HEARING SHALL BE CONDUCTED BY
6 THE DIRECTOR OF THE SECURE TREATMENT FACILITY, OR HIS OR HER DESIGNEE.
7 THE RESPONDENT MAY BE REPRESENTED BY COUNSEL. EVIDENCE SHALL BE INTRO-
8 DUCED THROUGH WITNESSES AND DOCUMENTS, IF ANY, AND BOTH THE PERSON IN
9 CHARGE OF THE TREATMENT PROGRAM PRESENTING THE CASE AND THE RESPONDENT
10 MAY CALL AND CROSS-EXAMINE WITNESSES AND PRESENT DOCUMENTARY EVIDENCE
11 RELEVANT TO THE QUESTION OF WHETHER THE RESPONDENT HAS BEEN SIGNIFICANT-
12 LY DISRUPTIVE OF THE TREATMENT PROGRAM. THE PRESIDING OFFICER MAY ACCEPT
13 SUCH EVIDENCE WITHOUT APPLYING FORMAL STATE OR FEDERAL RULES OF
14 EVIDENCE. THE HEARING SHALL BE RECORDED OR A STENOGRAPHIC RECORD OF THE
15 PROCEEDING SHALL BE KEPT. WHEN HEARING THE MATTER AND, IF THE ALLEGA-
16 TIONS ARE SUSTAINED, THE PRESIDING OFFICER SHALL CONSIDER THE RESPOND-
17 ENT'S MENTAL HEALTH CONDITION AND ITS EFFECT, IF ANY, ON HIS OR HER
18 CONDUCT.

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

34 (5) AT THE CONCLUSION OF THE HEARING, THE PRESIDING OFFICER SHALL
35 PREPARE A WRITTEN STATEMENT, TO BE MADE AVAILABLE TO THE RESPONDENT AND
36 HIS OR HER COUNSEL, INDICATING THE EVIDENCE RELIED ON, THE REASONS FOR
37 THE DETERMINATION AND SPECIFYING THE PROCEDURES AND TIME FRAME FOR
38 ADMINISTRATIVE APPEAL TO THE COMMISSIONER. THE DETERMINATION MAY BE
39 APPEALED TO THE COMMISSIONER IN ACCORDANCE WITH PROCEDURES ESTABLISHED
40 IN WRITING BY THE DEPARTMENT. THE RESPONDENT SHALL BE GIVEN AT LEAST TEN
41 DAYS AFTER NOTICE OF THE DETERMINATION HAS BEEN SERVED AND THE TRAN-
42 SCRIPT OR RECORDING OF THE PROCEEDING (WITH APPROPRIATE ACCESS EQUIP-
43 MENT) HAS BEEN PROVIDED TO PERFECT THE APPEAL. THE RESPONDENT MAY BE
44 REPRESENTED BY COUNSEL ON THE ADMINISTRATIVE APPEAL.

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

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

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

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

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

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

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

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

1 sioner shall review relevant records and reports, along with the find-
2 ings of the psychiatric examiners, and shall make a determination in
3 writing as to whether the respondent is currently a dangerous sex offen-
4 der requiring confinement.

5 S 4. This act shall take effect immediately.

6 PART Q

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

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

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

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

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

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

1 must adjudicate him OR HER an incapacitated person, and must issue a
2 final order of observation or an order of commitment. When the indict-
3 ment does not charge a felony or when the defendant has been convicted
4 of an offense other than a felony, such court (a) must issue a final
5 order of observation committing the defendant to the custody of the
6 commissioner for care and treatment in an appropriate institution for a
7 period not to exceed ninety days from the date of such order, provided,
8 however, that the commissioner may designate an appropriate hospital for
9 placement of a defendant for whom a final order of observation has been
10 issued, where such hospital is licensed by the office of mental health
11 and has agreed to accept, upon referral by the commissioner, defendants
12 subject to final orders of observation issued under this subdivision,
13 and (b) must dismiss the indictment filed in such court against the
14 defendant, and such dismissal constitutes a bar to any further prose-
15 cution of the charge or charges contained in such indictment. When the
16 indictment charges a felony or when the defendant has been convicted of
17 a felony, it must issue an order of commitment committing the defendant
18 to the custody of the commissioner for care and treatment in an appro-
19 priate institution OR, UPON THE CONSENT OF THE DISTRICT ATTORNEY,
20 COMMITTING HIM OR HER TO THE CUSTODY OF THE COMMISSIONER FOR CARE AND
21 TREATMENT ON AN OUT-PATIENT BASIS, for a period not to exceed one year
22 from the date of such order. Upon the issuance of an order of commit-
23 ment, the court must exonerate the defendant's bail if he OR SHE was
24 previously at liberty on bail; PROVIDED, HOWEVER, THAT EXONERATION OF
25 BAIL IS NOT REQUIRED WHEN A DEFENDANT IS COMMITTED TO THE CUSTODY OF THE
26 COMMISSIONER FOR CARE AND TREATMENT ON AN OUT-PATIENT BASIS.
27 S 4. This act shall take effect immediately.

28

PART R

29 Section 1. Section 1 of part D of chapter 111 of the laws of 2010
30 relating to the recovery of exempt income by the office of mental health
31 for community residences and family-based treatment programs is amended
32 to read as follows:
33 Section 1. The office of mental health is authorized to recover fund-
34 ing from community residences and family-based treatment providers
35 licensed by the office of mental health, consistent with contractual
36 obligations of such providers, and notwithstanding any other inconsis-
37 tent provision of law to the contrary, in an amount equal to 50 percent
38 of the income received by such providers which exceeds the fixed amount
39 of annual Medicaid revenue limitations, as established by the commis-
40 sioner of mental health. Recovery of such excess income shall be for the
41 following fiscal periods: for programs in counties located outside of
42 the city of New York, the applicable fiscal periods shall be January 1,
43 2003 through December 31, 2009 AND JANUARY 1, 2011 THROUGH DECEMBER 31,
44 2013; and for programs located within the city of New York, the applica-
45 ble fiscal periods shall be July 1, 2003 through June 30, 2010 AND JULY
46 1, 2011 THROUGH JUNE 30, 2013.
47 S 2. This act shall take effect immediately.

48

PART S

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

1 liability pool, a full or partial policy for excess coverage or equiv-
2 alent excess coverage for the coverage periods ending the thirtieth of
3 June, two thousand ten, the thirtieth of June, two thousand eleven, and
4 the thirtieth of June, two thousand twelve shall be eligible to apply
5 for such coverage for the coverage period beginning the first of July,
6 two thousand twelve. If the total number of physicians or dentists for
7 whom such excess coverage or equivalent excess coverage was purchased
8 with funds available in the hospital excess liability pool as of the
9 thirtieth of June, two thousand ten is more than the total number of
10 physicians and dentists certified as eligible for the coverage period
11 beginning the first of July, two thousand twelve, then the general
12 hospitals may certify additional eligible physicians or dentists up to
13 the greater of the total number of physicians or dentists for whom
14 excess coverage or equivalent excess coverage was purchased with funds
15 available in the hospital excess liability pool as of the thirtieth of
16 June, two thousand ten, or one thousand physicians or dentists;
17 provided, however, that no general hospital may certify additional
18 eligible physicians or dentists in a greater number than the proportion
19 of its physicians and dentists for whom excess coverage or equivalent
20 excess coverage was purchased with funds available in the hospital
21 excess liability pool as of the thirtieth of June, two thousand ten as
22 applied to the difference between the total eligible physicians and
23 dentists for the coverage period beginning the first of July, two thou-
24 sand twelve and the total eligible physicians and dentists for whom
25 excess coverage or equivalent excess coverage was purchased with funds
26 available in the hospital excess liability pool as of the thirtieth of
27 June, two thousand ten.

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

44 S 3. This act shall take effect immediately.

45

PART T

46 Section 1. Paragraph (f) of subdivision 3 of section 242 of the elder
47 law, as amended by section 3-d of part A of chapter 59 of the laws of
48 2011, is amended to read as follows:

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

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

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

9 1. "Covered drug" shall mean a drug dispensed subject to a legally
10 authorized prescription pursuant to section sixty-eight hundred ten of
11 the education law, and insulin, an insulin syringe, or an insulin
12 needle. Such term shall not include: (a) any drug determined by the
13 commissioner of the federal food and drug administration to be ineffec-
14 tive or unsafe; (b) any drug dispensed in a package, or form of dosage
15 or administration, as to which the commissioner of health finally deter-
16 mines in accordance with the provisions of section two hundred fifty-two
17 of this title that a less expensive package, or form of dosage or admin-
18 istration, is available that is pharmaceutically equivalent and equiv-
19 alent in its therapeutic effect for the general health characteristics
20 of the eligible program participant population; (c) any device for the
21 aid or correction of vision; (d) any drug, including vitamins, which is
22 generally available without a physician's prescription; and (e) drugs
23 for the treatment of sexual or erectile dysfunction, unless such drugs
24 are used to treat a condition, other than sexual or erectile dysfunc-
25 tion, for which the drugs have been approved by the federal food and
26 drug administration; and (f) a brand name drug for which a multi-source
27 therapeutically and generically equivalent drug, as determined by the
28 federal food and drug administration, is available, unless previously
29 authorized by the elderly pharmaceutical insurance coverage program,
30 provided, however, that the [elderly pharmaceutical insurance coverage
31 panel] COMMISSIONER is authorized to exempt, for good cause shown, any
32 brand name drug from such restriction, and provided further that such
33 restriction shall not apply to any drug that is included on the
34 preferred drug list under section two hundred seventy-two of the public
35 health law or is in the clinical drug review program under section two
36 hundred seventy-four of the public health law to the extent that the
37 preferred drug program and the clinical drug review program are applied
38 to the elderly pharmaceutical insurance coverage program pursuant to
39 section two hundred seventy-five of the public health law, or to any
40 drug covered under a program participant's Medicare part D or other
41 primary insurance plan. Any of the drugs enumerated in the preceding
42 sentence shall be considered a covered drug or a prescription drug for
43 purposes of this article if it is added to the preferred drug list under
44 article two-A of the public health law. For the purpose of this title,
45 except as otherwise provided in this section, a covered drug shall be
46 dispensed in quantities no greater than a thirty day supply or one
47 hundred units, whichever is greater. In the case of a drug dispensed in
48 a form of administration other than a tablet or capsule, the maximum
49 allowed quantity shall be a thirty day supply; the [panel] COMMISSIONER
50 is authorized to approve exceptions to these limits for specific
51 products following consideration of recommendations from pharmaceutical
52 or medical experts regarding commonly packaged quantities, unusual forms
53 of administration, length of treatment or cost effectiveness. In the
54 case of a drug prescribed pursuant to section thirty-three hundred thir-
55 ty-two of the public health law to treat one of the conditions that have
56 been enumerated by the commissioner of health pursuant to regulation as

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

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

7 1. "Covered drug" shall mean a drug dispensed subject to a legally
8 authorized prescription pursuant to section sixty-eight hundred ten of
9 the education law, and insulin, an insulin syringe, or an insulin
10 needle. Such term shall not include: (a) any drug determined by the
11 commissioner of the federal food and drug administration to be ineffec-
12 tive or unsafe; (b) any drug dispensed in a package, or form of dosage
13 or administration, as to which the commissioner of health finally deter-
14 mines in accordance with the provisions of section two hundred fifty-two
15 of this title that a less expensive package, or form of dosage or admin-
16 istration, is available that is pharmaceutically equivalent and equiv-
17 alent in its therapeutic effect for the general health characteristics
18 of the eligible program participant population; (c) any device for the
19 aid or correction of vision, or any drug, including vitamins, which is
20 generally available without a physician's prescription; and (d) drugs
21 for the treatment of sexual or erectile dysfunction, unless such drugs
22 are used to treat a condition, other than sexual or erectile dysfunc-
23 tion, for which the drugs have been approved by the federal food and
24 drug administration. For the purpose of this title, except as otherwise
25 provided in this section, a covered drug shall be dispensed in quanti-
26 ties no greater than a thirty day supply or one hundred units, whichever
27 is greater. In the case of a drug dispensed in a form of administration
28 other than a tablet or capsule, the maximum allowed quantity shall be a
29 thirty day supply; the [panel] COMMISSIONER is authorized to approve
30 exceptions to these limits for specific products following consideration
31 of recommendations from pharmaceutical or medical experts regarding
32 commonly packaged quantities, unusual forms of administration, length of
33 treatment or cost effectiveness. In the case of a drug prescribed pursu-
34 ant to section thirty-three hundred thirty-two of the public health law
35 to treat one of the conditions that have been enumerated by the commis-
36 sioner of health pursuant to regulation as warranting the prescribing of
37 greater than a thirty day supply, such drug shall be dispensed in quan-
38 tities not to exceed a three month supply.

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

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

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

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

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

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

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

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

13 S 5. Section 242 of the elder law is amended by adding a new subdivi-
14 sion 2 to read as follows:

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

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

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

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

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

40 S 7. Intentionally omitted.

41 S 8. Intentionally omitted.

42 S 9. Intentionally omitted.

43 S 10. Intentionally omitted.

44 S 11. Intentionally omitted.

45 S 12. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

| | | |
|----|---|---------|
| 18 | INDIVIDUAL INCOME OF \$5,000 OR LESS | \$2.00 |
| 19 | INDIVIDUAL INCOME OF \$5,001 TO \$6,000 | \$2.00 |
| 20 | INDIVIDUAL INCOME OF \$6,001 TO \$7,000 | \$4.00 |
| 21 | INDIVIDUAL INCOME OF \$7,001 TO \$8,000 | \$5.50 |
| 22 | INDIVIDUAL INCOME OF \$8,001 TO \$9,000 | \$7.00 |
| 23 | INDIVIDUAL INCOME OF \$9,001 TO \$10,000 | \$9.00 |
| 24 | INDIVIDUAL INCOME OF \$10,001 TO \$11,000 | \$10.00 |
| 25 | INDIVIDUAL INCOME OF \$11,001 TO \$12,000 | \$11.50 |
| 26 | INDIVIDUAL INCOME OF \$12,001 TO \$13,000 | \$13.50 |
| 27 | INDIVIDUAL INCOME OF \$13,001 TO \$14,000 | \$15.00 |
| 28 | INDIVIDUAL INCOME OF \$14,001 TO \$15,000 | \$20.00 |
| 29 | INDIVIDUAL INCOME OF \$15,001 TO \$16,000 | \$27.50 |
| 30 | INDIVIDUAL INCOME OF \$16,001 TO \$17,000 | \$35.00 |
| 31 | INDIVIDUAL INCOME OF \$17,001 TO \$18,000 | \$42.50 |
| 32 | INDIVIDUAL INCOME OF \$18,001 TO \$19,000 | \$50.00 |
| 33 | INDIVIDUAL INCOME OF \$19,001 TO \$20,000 | \$57.50 |

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

| | | |
|----|--------------------------------------|---------|
| 36 | JOINT INCOME OF \$5,000 OR LESS | \$2.00 |
| 37 | JOINT INCOME OF \$5,001 TO \$6,000 | \$2.00 |
| 38 | JOINT INCOME OF \$6,001 TO \$7,000 | \$3.00 |
| 39 | JOINT INCOME OF \$7,001 TO \$8,000 | \$4.00 |
| 40 | JOINT INCOME OF \$8,001 TO \$9,000 | \$5.00 |
| 41 | JOINT INCOME OF \$9,001 TO \$10,000 | \$6.00 |
| 42 | JOINT INCOME OF \$10,001 TO \$11,000 | \$7.00 |
| 43 | JOINT INCOME OF \$11,001 TO \$12,000 | \$8.00 |
| 44 | JOINT INCOME OF \$12,001 TO \$13,000 | \$9.00 |
| 45 | JOINT INCOME OF \$13,001 TO \$14,000 | \$10.00 |
| 46 | JOINT INCOME OF \$14,001 TO \$15,000 | \$10.00 |
| 47 | JOINT INCOME OF \$15,001 TO \$16,000 | \$21.00 |
| 48 | JOINT INCOME OF \$16,001 TO \$17,000 | \$26.50 |
| 49 | JOINT INCOME OF \$17,001 TO \$18,000 | \$31.50 |
| 50 | JOINT INCOME OF \$18,001 TO \$19,000 | \$37.50 |
| 51 | JOINT INCOME OF \$19,001 TO \$20,000 | \$43.00 |
| 52 | JOINT INCOME OF \$20,001 TO \$21,000 | \$48.50 |
| 53 | JOINT INCOME OF \$21,001 TO \$22,000 | \$54.00 |
| 54 | JOINT INCOME OF \$22,001 TO \$23,000 | \$59.50 |
| 55 | JOINT INCOME OF \$23,001 TO \$24,000 | \$65.00 |

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

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

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

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

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

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

| | |
|--|----------------------|
| 38 INDIVIDUAL INCOME OF \$5,000 OR LESS | NO MORE THAN \$340 |
| 39 INDIVIDUAL INCOME OF \$5,001 TO \$6,000 | NO MORE THAN \$408 |
| 40 INDIVIDUAL INCOME OF \$6,001 TO \$7,000 | NO MORE THAN \$476 |
| 41 INDIVIDUAL INCOME OF \$7,001 TO \$8,000 | NO MORE THAN \$544 |
| 42 INDIVIDUAL INCOME OF \$8,001 TO \$9,000 | NO MORE THAN \$612 |
| 43 INDIVIDUAL INCOME OF \$9,001 TO \$10,000 | NO MORE THAN \$700 |
| 44 INDIVIDUAL INCOME OF \$10,001 TO \$11,000 | NO MORE THAN \$720 |
| 45 INDIVIDUAL INCOME OF \$11,001 TO \$12,000 | NO MORE THAN \$827 |
| 46 INDIVIDUAL INCOME OF \$12,001 TO \$13,000 | NO MORE THAN \$896 |
| 47 INDIVIDUAL INCOME OF \$13,001 TO \$14,000 | NO MORE THAN \$964 |
| 48 INDIVIDUAL INCOME OF \$14,001 TO \$15,000 | NO MORE THAN \$1,016 |
| 49 INDIVIDUAL INCOME OF \$15,001 TO \$16,000 | NO MORE THAN \$1,034 |
| 50 INDIVIDUAL INCOME OF \$16,001 TO \$17,000 | NO MORE THAN \$1,052 |
| 51 INDIVIDUAL INCOME OF \$17,001 TO \$18,000 | NO MORE THAN \$1,070 |
| 52 INDIVIDUAL INCOME OF \$18,001 TO \$19,000 | NO MORE THAN \$1,088 |
| 53 INDIVIDUAL INCOME OF \$19,001 TO \$20,000 | NO MORE THAN \$1,160 |

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

| | | |
|----|--------------------------------------|----------------------|
| 1 | JOINT INCOME OF \$5,000 OR LESS | NO MORE THAN \$291 |
| 2 | JOINT INCOME OF \$5,001 TO \$6,000 | NO MORE THAN \$342 |
| 3 | JOINT INCOME OF \$6,001 TO \$7,000 | NO MORE THAN \$399 |
| 4 | JOINT INCOME OF \$7,001 TO \$8,000 | NO MORE THAN \$456 |
| 5 | JOINT INCOME OF \$8,001 TO \$9,000 | NO MORE THAN \$513 |
| 6 | JOINT INCOME OF \$9,001 TO \$10,000 | NO MORE THAN \$570 |
| 7 | JOINT INCOME OF \$10,001 TO \$11,000 | NO MORE THAN \$622 |
| 8 | JOINT INCOME OF \$11,001 TO \$12,000 | NO MORE THAN \$641 |
| 9 | JOINT INCOME OF \$12,001 TO \$13,000 | NO MORE THAN \$660 |
| 10 | JOINT INCOME OF \$13,001 TO \$14,000 | NO MORE THAN \$684 |
| 11 | JOINT INCOME OF \$14,001 TO \$15,000 | NO MORE THAN \$710 |
| 12 | JOINT INCOME OF \$15,001 TO \$16,000 | NO MORE THAN \$826 |
| 13 | JOINT INCOME OF \$16,001 TO \$17,000 | NO MORE THAN \$877 |
| 14 | JOINT INCOME OF \$17,001 TO \$18,000 | NO MORE THAN \$928 |
| 15 | JOINT INCOME OF \$18,001 TO \$19,000 | NO MORE THAN \$980 |
| 16 | JOINT INCOME OF \$19,001 TO \$20,000 | NO MORE THAN \$990 |
| 17 | JOINT INCOME OF \$20,001 TO \$21,000 | NO MORE THAN \$1,008 |
| 18 | JOINT INCOME OF \$21,001 TO \$22,000 | NO MORE THAN \$1,026 |
| 19 | JOINT INCOME OF \$22,001 TO \$23,000 | NO MORE THAN \$1,044 |
| 20 | JOINT INCOME OF \$23,001 TO \$24,000 | NO MORE THAN \$1,062 |
| 21 | JOINT INCOME OF \$24,001 TO \$25,000 | NO MORE THAN \$1,080 |
| 22 | JOINT INCOME OF \$25,001 TO \$26,000 | NO MORE THAN \$1,150 |

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

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

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

3 (E) THE DETERMINATION TO ADJUST THE LIMITS ON POINT OF SALE CO-PAY-
4 MENTS SET FORTH IN THIS SUBDIVISION SHALL FOLLOW A REVIEW OF SUCH
5 FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGI-
6 BLE PROGRAM PARTICIPANTS TO SUPPORT SUCH ADJUSTMENTS.

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

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

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

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

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

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

| | | |
|----|---|---------|
| 38 | INDIVIDUAL INCOME OF \$20,001 TO \$21,000 | \$530 |
| 39 | INDIVIDUAL INCOME OF \$21,001 TO \$22,000 | \$550 |
| 40 | INDIVIDUAL INCOME OF \$22,001 TO \$23,000 | \$580 |
| 41 | INDIVIDUAL INCOME OF \$23,001 TO \$24,000 | \$720 |
| 42 | INDIVIDUAL INCOME OF \$24,001 TO \$25,000 | \$750 |
| 43 | INDIVIDUAL INCOME OF \$25,001 TO \$26,000 | \$780 |
| 44 | INDIVIDUAL INCOME OF \$26,001 TO \$27,000 | \$810 |
| 45 | INDIVIDUAL INCOME OF \$27,001 TO \$28,000 | \$840 |
| 46 | INDIVIDUAL INCOME OF \$28,001 TO \$29,000 | \$870 |
| 47 | INDIVIDUAL INCOME OF \$29,001 TO \$30,000 | \$900 |
| 48 | INDIVIDUAL INCOME OF \$30,001 TO \$31,000 | \$930 |
| 49 | INDIVIDUAL INCOME OF \$31,001 TO \$32,000 | \$960 |
| 50 | INDIVIDUAL INCOME OF \$32,001 TO \$33,000 | \$1,160 |
| 51 | INDIVIDUAL INCOME OF \$33,001 TO \$34,000 | \$1,190 |
| 52 | INDIVIDUAL INCOME OF \$34,001 TO \$35,000 | \$1,230 |

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

| | | |
|----|--------------------------------------|-------|
| 55 | JOINT INCOME OF \$26,001 TO \$27,000 | \$650 |
| 56 | JOINT INCOME OF \$27,001 TO \$28,000 | \$675 |

| | | |
|----|--------------------------------------|---------|
| 1 | JOINT INCOME OF \$28,001 TO \$29,000 | \$700 |
| 2 | JOINT INCOME OF \$29,001 TO \$30,000 | \$725 |
| 3 | JOINT INCOME OF \$30,001 TO \$31,000 | \$900 |
| 4 | JOINT INCOME OF \$31,001 TO \$32,000 | \$930 |
| 5 | JOINT INCOME OF \$32,001 TO \$33,000 | \$960 |
| 6 | JOINT INCOME OF \$33,001 TO \$34,000 | \$990 |
| 7 | JOINT INCOME OF \$34,001 TO \$35,000 | \$1,020 |
| 8 | JOINT INCOME OF \$35,001 TO \$36,000 | \$1,050 |
| 9 | JOINT INCOME OF \$36,001 TO \$37,000 | \$1,080 |
| 10 | JOINT INCOME OF \$37,001 TO \$38,000 | \$1,110 |
| 11 | JOINT INCOME OF \$38,001 TO \$39,000 | \$1,140 |
| 12 | JOINT INCOME OF \$39,001 TO \$40,000 | \$1,170 |
| 13 | JOINT INCOME OF \$40,001 TO \$41,000 | \$1,200 |
| 14 | JOINT INCOME OF \$41,001 TO \$42,000 | \$1,230 |
| 15 | JOINT INCOME OF \$42,001 TO \$43,000 | \$1,260 |
| 16 | JOINT INCOME OF \$43,001 TO \$44,000 | \$1,290 |
| 17 | JOINT INCOME OF \$44,001 TO \$45,000 | \$1,320 |
| 18 | JOINT INCOME OF \$45,001 TO \$46,000 | \$1,350 |
| 19 | JOINT INCOME OF \$46,001 TO \$47,000 | \$1,380 |
| 20 | JOINT INCOME OF \$47,001 TO \$48,000 | \$1,410 |
| 21 | JOINT INCOME OF \$48,001 TO \$49,000 | \$1,440 |
| 22 | JOINT INCOME OF \$49,001 TO \$50,000 | \$1,470 |

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

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

45 (E) THE DETERMINATION TO ADJUST ANNUAL PERSONAL COVERED DRUG EXPENDI-
 46 TURES SET FORTH IN THIS SUBDIVISION, SHALL FOLLOW A REVIEW OF SUCH
 47 FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGI-
 48 BLE PROGRAM PARTICIPANTS TO SUPPORT SUCH ADJUSTMENTS AND CHANGES IN THE
 49 CONSUMER PRICE INDEX. THE FREQUENCY OF SUCH ADJUSTMENTS SHALL NOT EXCEED
 50 ONCE IN ANY TWELVE MONTH PERIOD AND SUCH ADJUSTMENTS SHALL NOT BECOME
 51 EFFECTIVE FOR INDIVIDUAL PROGRAM PARTICIPANTS PRIOR TO THE FIRST DAY OF
 52 THE NEXT ANNUAL COVERAGE PERIOD FOR EACH PARTICIPANT.

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

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

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

| | |
|-------------------------------------|---------|
| 7 FOR EACH PRESCRIPTION OF COVERED | |
| 8 DRUGS COSTING \$15.00 OR LESS | \$3.00 |
| 9 FOR EACH PRESCRIPTION OF COVERED | |
| 10 DRUGS COSTING \$15.01 TO \$35.00 | \$7.00 |
| 11 FOR EACH PRESCRIPTION OF COVERED | |
| 12 DRUGS COSTING \$35.01 TO \$55.00 | \$15.00 |
| 13 FOR EACH PRESCRIPTION OF COVERED | |
| 14 DRUGS COSTING \$55.01 OR MORE | \$20.00 |

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

20 4. ANNUAL LIMITS ON POINT OF SALE CO-PAYMENTS. DURING EACH ANNUAL
21 COVERAGE PERIOD, NO POINT OF SALE CO-PAYMENTS AS SET FORTH IN SUBDIVI-
22 SION THREE OF THIS SECTION SHALL BE REQUIRED TO BE MADE FOR THE REMAIN-
23 DER OF SUCH PERIOD BY ANY ELIGIBLE PROGRAM PARTICIPANT MEETING THE
24 PERSONAL COVERED DRUG EXPENDITURE REQUIREMENTS OF SUBDIVISION TWO OF
25 THIS SECTION IN EXCESS OF THE LIMITS SET FORTH IN THE FOLLOWING SCHED-
26 ULE:

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

| | |
|--|----------------------|
| 29 INDIVIDUAL INCOME OF \$20,001 TO \$21,000 | NO MORE THAN \$1,050 |
| 30 INDIVIDUAL INCOME OF \$21,001 TO \$22,000 | NO MORE THAN \$1,100 |
| 31 INDIVIDUAL INCOME OF \$22,001 TO \$23,000 | NO MORE THAN \$1,150 |
| 32 INDIVIDUAL INCOME OF \$23,001 TO \$24,000 | NO MORE THAN \$1,200 |
| 33 INDIVIDUAL INCOME OF \$24,001 TO \$25,000 | NO MORE THAN \$1,250 |
| 34 INDIVIDUAL INCOME OF \$25,001 TO \$26,000 | NO MORE THAN \$1,300 |
| 35 INDIVIDUAL INCOME OF \$26,001 TO \$27,000 | NO MORE THAN \$1,350 |
| 36 INDIVIDUAL INCOME OF \$27,001 TO \$28,000 | NO MORE THAN \$1,400 |
| 37 INDIVIDUAL INCOME OF \$28,001 TO \$29,000 | NO MORE THAN \$1,450 |
| 38 INDIVIDUAL INCOME OF \$29,001 TO \$30,000 | NO MORE THAN \$1,500 |
| 39 INDIVIDUAL INCOME OF \$30,001 TO \$31,000 | NO MORE THAN \$1,550 |
| 40 INDIVIDUAL INCOME OF \$31,001 TO \$32,000 | NO MORE THAN \$1,600 |
| 41 INDIVIDUAL INCOME OF \$32,001 TO \$33,000 | NO MORE THAN \$1,650 |
| 42 INDIVIDUAL INCOME OF \$33,001 TO \$34,000 | NO MORE THAN \$1,700 |
| 43 INDIVIDUAL INCOME OF \$34,001 TO \$35,000 | NO MORE THAN \$1,750 |

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

| | |
|---|----------------------|
| 46 JOINT INCOME OF \$26,001 TO \$27,000 | NO MORE THAN \$1,080 |
| 47 JOINT INCOME OF \$27,001 TO \$28,000 | NO MORE THAN \$1,120 |
| 48 JOINT INCOME OF \$28,001 TO \$29,000 | NO MORE THAN \$1,160 |
| 49 JOINT INCOME OF \$29,001 TO \$30,000 | NO MORE THAN \$1,200 |
| 50 JOINT INCOME OF \$30,001 TO \$31,000 | NO MORE THAN \$1,240 |
| 51 JOINT INCOME OF \$31,001 TO \$32,000 | NO MORE THAN \$1,280 |
| 52 JOINT INCOME OF \$32,001 TO \$33,000 | NO MORE THAN \$1,320 |
| 53 JOINT INCOME OF \$33,001 TO \$34,000 | NO MORE THAN \$1,360 |
| 54 JOINT INCOME OF \$34,001 TO \$35,000 | NO MORE THAN \$1,400 |
| 55 JOINT INCOME OF \$35,001 TO \$36,000 | NO MORE THAN \$1,440 |
| 56 JOINT INCOME OF \$36,001 TO \$37,000 | NO MORE THAN \$1,480 |

| | | |
|----|--------------------------------------|----------------------|
| 1 | JOINT INCOME OF \$37,001 TO \$38,000 | NO MORE THAN \$1,520 |
| 2 | JOINT INCOME OF \$38,001 TO \$39,000 | NO MORE THAN \$1,560 |
| 3 | JOINT INCOME OF \$39,001 TO \$40,000 | NO MORE THAN \$1,600 |
| 4 | JOINT INCOME OF \$40,001 TO \$41,000 | NO MORE THAN \$1,640 |
| 5 | JOINT INCOME OF \$41,001 TO \$42,000 | NO MORE THAN \$1,680 |
| 6 | JOINT INCOME OF \$42,001 TO \$43,000 | NO MORE THAN \$1,720 |
| 7 | JOINT INCOME OF \$43,001 TO \$44,000 | NO MORE THAN \$1,760 |
| 8 | JOINT INCOME OF \$44,001 TO \$45,000 | NO MORE THAN \$1,800 |
| 9 | JOINT INCOME OF \$45,001 TO \$46,000 | NO MORE THAN \$1,840 |
| 10 | JOINT INCOME OF \$46,001 TO \$47,000 | NO MORE THAN \$1,880 |
| 11 | JOINT INCOME OF \$47,001 TO \$48,000 | NO MORE THAN \$1,920 |
| 12 | JOINT INCOME OF \$48,001 TO \$49,000 | NO MORE THAN \$1,960 |
| 13 | JOINT INCOME OF \$49,001 TO \$50,000 | NO MORE THAN \$2,000 |

14 (C) EFFECTIVE OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-EIGHT, THE LIMITS
15 ON POINT OF SALE CO-PAYMENTS AS SET FORTH IN THIS SUBDIVISION MAY BE
16 ADJUSTED BY THE COMMISSIONER ON THE ANNIVERSARY DATE OF EACH PROGRAM
17 PARTICIPANT'S ANNUAL COVERAGE PERIOD, AND SUCH ADJUSTMENT SHALL BE IN
18 EFFECT FOR THE DURATION OF THAT ANNUAL COVERAGE PERIOD. ANY SUCH ANNUAL
19 ADJUSTMENT SHALL BE MADE USING A PERCENTAGE ADJUSTMENT FACTOR WHICH
20 SHALL NOT EXCEED ONE-HALF OF THE DIFFERENCE BETWEEN THE YEAR-TO-YEAR
21 PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS,
22 AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, AND, IF LARGER,
23 THE YEAR-TO-YEAR PERCENTAGE INCREASE IN THE AGGREGATE AVERAGE COST OF
24 COVERED DRUGS PURCHASED UNDER THIS TITLE, WHICH YEAR-TO-YEAR PERCENTAGE
25 INCREASE IN SUCH COST SHALL BE DETERMINED BY COMPARISON OF SUCH COST IN
26 THE SAME MONTH OF EACH OF THE APPROPRIATE SUCCESSIVE YEARS; PROVIDED,
27 HOWEVER, THAT FOR ANY SUCH ADJUSTMENT BASED WHOLLY ON EXPERIENCE IN THE
28 PROGRAM YEAR COMMENCING OCTOBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN,
29 THE YEAR-TO-YEAR PERCENTAGE INCREASE IN SUCH COST SHALL BE DETERMINED BY
30 COMPARISON OF SUCH COST IN EACH OF TWO MONTHS NO LESS THAN FIVE MONTHS
31 APART AND WITHIN SUCH PROGRAM YEAR, WHICH COMPARISON SHALL BE ANNUAL-
32 IZED. SUCH PERCENTAGE ADJUSTMENT FACTOR SHALL BE THE SAME AS THAT USED
33 TO DETERMINE ANY SIMILAR ANNUAL ADJUSTMENT FOR THE SAME ANNUAL COVERAGE
34 PERIODS PURSUANT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION TWO
35 HUNDRED FORTY-SEVEN OF THIS TITLE. SUCH ANNUAL ADJUSTMENTS SHALL BE
36 CALCULATED BY MULTIPLYING THE PERCENTAGE ADJUSTMENT FACTOR BY (1) TEN
37 PERCENT AND APPLYING THE RESULTING PERCENTAGE TO THE UPPER INCOME LIMIT-
38 TATION OF EACH INCOME LEVEL FOR UNMARRIED INDIVIDUALS CONTAINED IN THIS
39 SUBDIVISION, AND BY (2) SEVEN AND ONE-HALF PERCENT AND APPLYING THE
40 RESULTING PERCENTAGE TO THE UPPER INCOME LIMITATION OF EACH INCOME LEVEL
41 FOR MARRIED INDIVIDUALS CONTAINED IN THIS SUBDIVISION; EACH RESULT OF
42 SUCH CALCULATIONS, MINUS ANY APPLICABLE DEDUCTIBLE INCREASES MADE PURSU-
43 ANT TO SUBDIVISION TWO OF THIS SECTION AND PLUS THE RESULT OF APPLYING
44 THE PERCENTAGE ADJUSTMENT FACTOR TO THE SUM OF ANY SUCH ANNUAL ADJUST-
45 MENTS APPLICABLE THERETO FOR ANY PRIOR ANNUAL COVERAGE PERIOD, SHALL BE
46 THE AMOUNT BY WHICH THE LIMIT ON CO-PAYMENTS FOR EACH SUCH INCOME LEVEL
47 MAY BE ADJUSTED, AND SUCH AMOUNT SHALL BE IN ADDITION TO ANY SUCH AMOUNT
48 OR AMOUNTS APPLICABLE TO PRIOR ANNUAL COVERAGE PERIODS.

49 (D) THE DETERMINATION TO ADJUST THE LIMITS ON POINT OF SALE CO-PAY-
50 MENTS SET FORTH IN THIS SUBDIVISION SHALL FOLLOW A REVIEW OF SUCH
51 FACTORS AS THE RELATIVE FINANCIAL CAPACITY OF THE STATE AND SUCH ELIGI-
52 BLE PROGRAM PARTICIPANT TO SUPPORT SUCH ADJUSTMENTS.

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

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

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

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

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

14 (2) The upper limit, if any, set by the centers for medicare and medi-
15 caid services for such multiple source drug, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 [4.] 5. Notwithstanding any other provision of law, the commissioner
11 of health shall maximize the coordination of benefits for persons
12 enrolled under Title XVIII of the federal social security act (medicare)
13 and enrolled under this title in order to facilitate medicare payment of
14 claims. The commissioner of health may select an independent contractor,
15 through a request-for-proposal process, to implement a centralized coord-
16 ination of benefits system under this subdivision for individuals qual-
17 ified in both the elderly pharmaceutical insurance coverage (EPIC)
18 program and medicare programs who receive medications or other covered
19 products from a pharmacy provider currently enrolled in the elderly
20 pharmaceutical insurance coverage (EPIC) program.

21 [5.] 6. The EPIC program shall be the payor of last resort for indi-
22 viduals qualified in both the EPIC program and title XVIII of the feder-
23 al social security act (Medicare).

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

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

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

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

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

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

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

53 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
54 sion, section or part of this act shall be adjudged by any court of
55 competent jurisdiction to be invalid, such judgment shall not affect,
56 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

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