

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

S. 2007

A. 3007

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

January 21, 2015

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

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

AN ACT to amend the public health law, in relation to program pamphlets developed and distributed by the department of health and the disposition of results of professional misconduct proceedings; to repeal section 2995-a of the public health law relating to the physician profile website; to repeal subdivision 11 of section 6524 of the education law, relating to physician license qualification requirements; to repeal subdivision 9 of section 2803 of the public health law relating to reports to the commissioner of health by general hospitals regarding working conditions and limits on working hours for certain members of the hospital's staff; and to repeal section 461-s of the social services law, relating to enhancing the quality of adult living program for adult care facilities (Part A); to amend the social services law, in relation to statewide supplemental rebates; to amend the social services law, in relation to pharmacy dispensing fees; to amend the public health law, in relation to the clinical drug review program; to amend the public health law, in relation to the prescriber prevails provision; to amend the social services law, in relation to outpatient prescription drugs; to amend the social services law, in relation to the codification of the global cap; to amend the public health law, in relation to hospital quality contributions; to amend the public health law, in relation to hospital payments; to amend parts A and B of chapter 1 of the laws of 2002, relating to the health care reform act of 2000, in relation to upper payment limits; to amend the public health law, in relation to noticing of hospitals; to amend the social services law, in relation to health homes; to amend the public health law, in relation to family planning; to amend part B of chapter 59 of the laws of 2011, amending the public health law relating to rates of payment and medical assistance, in relation to managed care supplemental payments; to amend part H of chapter 59 of the laws of 2011, amending the public health law relating to general hospital

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

LBD12571-01-5

inpatient reimbursement for annual rates, in relation to supplemental Medicaid managed care payments; to amend the social services law, in relation to spousal support; to amend the social services law, in relation to payments for Medicare beneficiaries; to amend the social services law, in relation to personal care; to authorize a mobility management contractor; to amend the public health law, in relation to energy efficiency; to amend the public health law, in relation to recruitment and retention; to amend the civil service law, in relation to term appointments in health insurance program-related positions; to amend the social services law, in relation to working disabled eligibility; to amend the social services law, in relation to family planning benefits; to amend the social services law, in relation to foster care; to amend the public health law, in relation to certified home health agencies; to amend the public health law, in relation to value based payments; to amend the social services law, in relation to the basic health plan program; to repeal certain provisions of the public health law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend part A of chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011 amending the public health law and other laws to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to rates of payment paid to certain providers by the Child Health Plus Program; and to amend chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to rates of payment paid to certain providers by the Child Health Plus Program (Part C); to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend the public health law, in relation to hospital assessments; to amend chapter 659 of the laws of 1997, constituting the long term care integration and finance act of 1997, in relation to the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to delay of certain administrative costs; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to the effectiveness thereof; to amend the public health law, in relation to rates of payment for long term home health care programs and making such provisions permanent; to amend chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act

relating to financing health facilities, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the effectiveness thereof; to amend the public authorities law, in relation to the transfer of certain funds; to repeal subdivision (i) of section III of part H of chapter 59 of the laws of 2011, relating to enacting into law major components of legislation necessary to implement the health and mental hygiene budget for the 2011-2012 state fiscal plan, relating to the effectiveness of program oversight and administration of managed long term care plans; to amend chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, in relation to the effectiveness thereof; to amend the public health law, in relation to residential health care facility, and certified home health agency services payments; to amend part B of chapter 109 of the laws of 2010, amending the social services law relating to transportation costs; to amend the social services law, in relation to contracting for transportation services; to amend chapter 21 of the laws of 2011 amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to extending the provisions of such chapter; to amend chapter 459 of the laws of 1996 amending the public health law relating to recertification of persons providing emergency medical care, in relation to making such provisions permanent; to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to making such provisions permanent; and to repeal subdivision (o) of section 111 of part H of chapter 59 of the laws of 2011, amending the public health law relating to state wide planning and research cooperative system and general powers and duties, in relation to the effectiveness of certain provisions (Part D); to amend the public health law, in relation to the payment of certain funds for uncompensated care (Part E); to amend the public health law, in relation to the establishment of value based payments within the delivery system reform incentive payment program (Part F); to amend the financial services law, in relation to the financial assessment that offsets the operational costs of the health insurance exchange; and to amend the public health law, in relation to health care reform act pool administration (Part G); to amend the public health law, in relation to the establishment and operation of limited services clinics, standardizing urgent care centers and enhanced oversight of office-based surgery; and to repeal subdivision 4 of section 2951 and section 2956 of such law relating to the statutory authority of upgraded diagnostic and treatment centers (Part H); to amend the criminal procedure law, in relation to the admissibility of condoms as trial evidence of prosecution; to amend the penal law, in relation to criminal possession of a controlled substance; to amend the general business law, in relation to the definition of drug related paraphernalia; to amend the public health law, in relation to the sale and furnishing of hypodermic needles and syringes; to amend the public health law in relation to simplifying consent for HIV testing; and to repeal subdivision 2-a of section 2781 of the public health law, relating to certain informed consent for HIV related testing (Part I); to amend the education law and the public health law, in relation to establishing a program for home health aides authorizing them to perform advanced tasks (Part J); to amend the public health

law, in relation to streamlining the certificate of need process for hospitals and diagnostic and treatment clinics providing primary care; and to amend the public health law, in relation to public health and health planning council reviews (Part K); to amend the public health law, in relation to the enhanced oversight of office-based surgery (Part L); to amend the public health law, in relation to requiring notice and submission of a plan prior to discontinuing fluoridation of a public water supply (Part M); relating to conducting a study to develop a report addressing the feasibility of creating an office of community living for older adults and individuals of all ages with disabilities (Part N); 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 O); 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 to amend part M of chapter 56 of the laws of 2012 amending the education law, relating 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, in relation to the effectiveness thereof (Part P); to amend the public health law and the public authorities law, in relation to establishing a private equity pilot program (Part Q); to amend part A of chapter 111 of the laws of 2010 amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part R); and to amend the social services law, the executive law and the mental hygiene law, in relation to providing professional services to individuals with developmental disabilities in non-certified settings; in relation to the exemption of the nurse practice act for direct care staff in non-certified settings funded, authorized or approved by the office for people with developmental disabilities; and to repeal certain provisions of the mental hygiene law relating thereto (Part S)

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 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through S. 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, including
7 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. Section 2995-a of the public health law is REPEALED.

1 S 2. Section 2997-b of the public health law, as added by chapter 477
2 of the laws of 2008, is amended to read as follows:

3 S 2997-b. Pamphlet of department programs. The commissioner shall
4 develop and transmit to physicians in the state a pamphlet describing a
5 variety of department programs and initiatives, including but not limit-
6 ed to smoking cessation programs, public health insurance programs,
7 health and quality improvement information, AND the patient safety
8 center [and physician profiles]. Each physician practicing in the state
9 shall make the pamphlet available in his or her practice reception area
10 so that it is accessible to patients.

11 S 3. Subparagraph (i) of paragraph (h) of subdivision 10 of section
12 230 of the public health law, as amended by chapter 477 of the laws of
13 2008, is amended to read as follows:

14 (i) The findings, conclusions, determination and the reasons for the
15 determination of the committee shall be served upon the licensee, the
16 department, [and any hospitals, primary practice settings or health care
17 plans required to be identified in publicly disseminated physician data
18 pursuant to paragraph (j), (n), or (q) of subdivision one of section
19 twenty-nine hundred ninety-five-a of this chapter] ANY HOSPITALS WHERE
20 THE LICENSEE HAS PRACTICE PRIVILEGES, THE PRIMARY PRACTICE SETTING OF
21 THE LICENSEE, THE LICENSED PHYSICIANS WITH WHOM THE LICENSEE SHARES A
22 GROUP PRACTICE, AND ANY HEALTH CARE PLANS WITH WHICH THE LICENSEE HAS
23 CONTRACTS, EMPLOYMENT OR OTHER AFFILIATIONS, within sixty days of the
24 last day of hearing. Service shall be either by certified mail upon the
25 licensee at the licensee's last known address and such service shall be
26 effective upon receipt or seven days after mailing by certified mail
27 whichever is earlier or by personal service and such service shall be
28 effective upon receipt. The licensee shall deliver to the board the
29 license which has been revoked, annulled, suspended or surrendered,
30 together with the registration certificate, within five days after
31 receipt of the order. If the license or registration certificate is
32 lost, misplaced or its whereabouts is otherwise unknown, the licensee
33 shall submit an affidavit to that effect and shall deliver such license
34 or certificate to the board when located. The director of the office
35 shall promptly transmit a copy of the order to the division of profes-
36 sional licensing services of the state education department and to each
37 hospital at which the licensee has privileges.

38 S 4. Subdivision 11 of section 6524 of the education law is REPEALED.

39 S 5. Subdivision 9 of section 2803 of the public health law is
40 REPEALED.

41 S 6. Section 461-s of the social services law is REPEALED.

42 S 7. This act shall take effect immediately.

43 PART B

44 Section 1. Subdivision 7 of section 367-a of the social services law
45 is amended by adding a new paragraph (e) to read as follows:

46 (E) NOTWITHSTANDING SECTION TWO HUNDRED SEVENTY-TWO OF THE PUBLIC
47 HEALTH LAW OR ANY OTHER INCONSISTENT PROVISION OF LAW, THE COMMISSIONER
48 MAY NEGOTIATE DIRECTLY WITH A PHARMACEUTICAL MANUFACTURER FOR THE
49 PROVISION OF SUPPLEMENTAL REBATES, INCLUDING SUPPLEMENTAL REBATES RELAT-
50 ING TO PHARMACEUTICAL UTILIZATION BY ENROLLEES OF MANAGED CARE PROVIDERS
51 PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE, RELATING
52 TO ANY OF THE DRUGS IT MANUFACTURES FOR THE PURPOSE OF FUNDING MEDICAL
53 ASSISTANCE PROGRAM BENEFITS; PROVIDED, HOWEVER, THAT THIS PARAGRAPH
54 SHALL APPLY ONLY TO COVERED OUTPATIENT DRUGS FOR WHICH THE MANUFACTURER

1 HAS IN EFFECT A REBATE AGREEMENT WITH THE FEDERAL SECRETARY OF HEALTH
2 AND HUMAN SERVICES PURSUANT TO 42 U.S.C. S1396R-8.

3 S 2. Subparagraph (ii) of paragraph (b) of subdivision 9 of section
4 367-a of the social services law, as amended by section 2 of part C of
5 chapter 60 of the laws of 2014, is amended to read as follows:

6 (ii) if the drug dispensed is a multiple source prescription drug or a
7 brand-name prescription drug for which no specific upper limit has been
8 set by such federal agency, the lower of the estimated acquisition cost
9 of such drug to pharmacies or the dispensing pharmacy's usual and
10 customary price charged to the general public. For sole and multiple
11 source brand name drugs, estimated acquisition cost means the average
12 wholesale price of a prescription drug based upon the package size
13 dispensed from, as reported by the prescription drug pricing service
14 used by the department, less [seventeen] TWENTY-FOUR percent thereof or
15 the wholesale acquisition cost of a prescription drug based upon package
16 size dispensed from, as reported by the prescription drug pricing
17 service used by the department, minus [zero and forty-one hundredths]
18 NINE percent thereof, and updated monthly by the department. For multi-
19 ple source generic drugs, estimated acquisition cost means the lower of
20 the average wholesale price of a prescription drug based on the package
21 size dispensed from, as reported by the prescription drug pricing
22 service used by the department, less twenty-five percent thereof, or the
23 maximum acquisition cost, if any, established pursuant to paragraph (e)
24 of this subdivision, provided that the methodology used by the depart-
25 ment to establish a maximum acquisition cost shall not include average
26 acquisition cost as determined by department surveys.

27 S 3. Subparagraph (ii) of paragraph (d) of subdivision 9 of section
28 367-a of the social services law, as amended by section 48 of part C of
29 chapter 58 of the laws of 2009, is amended to read as follows:

30 (ii) for prescription drugs categorized as brand-name prescription
31 drugs by the prescription drug pricing service used by the department,
32 [three] EIGHT dollars [and fifty cents] per prescription[, provided,
33 however, that for brand name prescription drugs reimbursed pursuant to
34 subparagraph (ii) of paragraph (a-1) of subdivision four of section
35 three hundred sixty-five-a of this title, the dispensing fee shall be
36 four dollars and fifty cents per prescription].

37 S 4. Section 274 of the public health law is amended by adding a new
38 subdivision 15 to read as follows:

39 15. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE
40 COMMISSIONER MAY REQUIRE PRIOR AUTHORIZATION FOR ANY DRUG AFTER EVALUAT-
41 ING THE FACTORS SET FORTH IN SUBDIVISION THREE OF THIS SECTION AND PRIOR
42 TO OBTAINING THE BOARD'S EVALUATION AND RECOMMENDATION REQUIRED BY
43 SUBDIVISION FOUR OF THIS SECTION. THE BOARD MAY RECOMMEND TO THE COMMIS-
44 SIONER, PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THAT ANY SUCH PRIOR
45 AUTHORIZATION REQUIREMENT BE MODIFIED, CONTINUED OR REMOVED.

46 S 5. Subdivision 11 of section 272 of the public health law is amended
47 by adding a new paragraph (a-1) to read as follows:

48 (A-1) THE COMMISSIONER MAY REQUIRE A PHARMACEUTICAL MANUFACTURER TO
49 PROVIDE A MINIMUM SUPPLEMENTAL REBATE FOR DRUGS THAT ARE ELIGIBLE FOR
50 STATE PUBLIC HEALTH PLAN REIMBURSEMENT, INCLUDING SUCH DRUGS AS SET
51 FORTH IN PARAGRAPH (G-1) OF SUBDIVISION TWO OF SECTION THREE HUNDRED
52 SIXTY-FIVE-A OF THE SOCIAL SERVICES LAW. IF SUCH A MINIMUM SUPPLEMENTAL
53 REBATE IS NOT PROVIDED BY THE MANUFACTURER, PRIOR AUTHORIZATION MAY BE
54 REQUIRED BY THE COMMISSIONER.

1 S 6. Paragraph (b) of subdivision 3 of section 273 of the public
2 health law, as added by section 10 of part C of chapter 58 of the laws
3 of 2005, is amended to read as follows:

4 (b) In the event that the patient does not meet the criteria in para-
5 graph (a) of this subdivision, the prescriber may provide additional
6 information to the program to justify the use of a prescription drug
7 that is not on the preferred drug list. The program shall provide a
8 reasonable opportunity for a prescriber to reasonably present his or her
9 justification of prior authorization. [If, after consultation with the
10 program, the prescriber, in his or her reasonable professional judgment,
11 determines that the use of a prescription drug that is not on the
12 preferred drug list is warranted, the prescriber's determination shall
13 be final.] THE PROGRAM WILL CONSIDER THE ADDITIONAL INFORMATION AND THE
14 JUSTIFICATION PRESENTED BY THE PRESCRIBER TO DETERMINE WHETHER THE USE
15 OF A PRESCRIPTION DRUG THAT IS NOT ON THE PREFERRED DRUG LIST IS
16 WARRANTED. NOTHING HEREIN SHALL BE CONSTRUED AS LIMITING THE RIGHT OF A
17 MEDICAID RECIPIENT TO APPEAL THE DENIAL OF A REQUEST FOR PRIOR AUTHORI-
18 ZATION OF A PRESCRIPTION DRUG THAT IS NOT ON THE PREFERRED DRUG LIST.

19 S 7. Section 364-j of the social services law is amended by adding a
20 new subdivision 24-a to read as follows:

21 24-A. CLAIMS FOR PAYMENT OF OUTPATIENT PRESCRIPTION DRUGS SUBMITTED TO
22 A MANAGED CARE PROVIDER BY A COVERED ENTITY PURSUANT TO SECTION 340B OF
23 THE FEDERAL PUBLIC HEALTH SERVICE ACT (42 USCA S 256B) OR BY SUCH
24 COVERED ENTITY'S AUTHORIZED CONTRACT PHARMACY SHALL BE AT SUCH COVERED
25 ENTITY'S OR CONTRACT PHARMACY'S ACTUAL ACQUISITION COST FOR THE DRUG.
26 FOR PURPOSES OF THIS SUBDIVISION, "ACTUAL ACQUISITION COST" MEANS THE
27 INVOICE PRICE FOR THE DRUG TO THE COVERED ENTITY OR THE COVERED ENTITY'S
28 AUTHORIZED CONTRACT PHARMACY MINUS THE AMOUNT OF ALL DISCOUNTS AND OTHER
29 COST-REDUCTIONS ATTRIBUTABLE TO THE DRUG.

30 S 8. The social services law is amended by adding a new section 368-g
31 to read as follows:

32 S 368-G. LIMITATION ON GROWTH OF MEDICAL ASSISTANCE EXPENDITURES. 1.
33 CAP ESTABLISHED. (A) NOTWITHSTANDING SECTION NINETY-ONE OF PART H OF
34 CHAPTER FIFTY-NINE OF THE LAWS OF TWO THOUSAND ELEVEN, AS AMENDED, OR
35 ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO FEDERAL APPROVALS,
36 THE YEAR TO YEAR RATE OF GROWTH OF DEPARTMENT STATE FUNDS MEDICAL
37 ASSISTANCE SPENDING SHALL NOT EXCEED THE TEN YEAR ROLLING AVERAGE OF THE
38 MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED
39 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, FOR THE PRECED-
40 ING TEN YEARS; PROVIDED, HOWEVER, THAT FOR STATE FISCAL YEAR TWO THOU-
41 SAND THIRTEEN-TWO THOUSAND FOURTEEN OR ANY FISCAL YEAR THEREAFTER, THE
42 MAXIMUM ALLOWABLE ANNUAL INCREASE IN THE AMOUNT OF THE DEPARTMENT STATE
43 FUNDS MEDICAL ASSISTANCE SPENDING SHALL BE CALCULATED BY MULTIPLYING THE
44 DEPARTMENT STATE FUNDS MEDICAL ASSISTANCE SPENDING FOR THE PREVIOUS
45 YEAR, LESS THE AMOUNT OF ANY DEPARTMENT STATE OPERATIONS SPENDING
46 INCLUDED THEREIN, BY SUCH TEN YEAR ROLLING AVERAGE.

47 (B) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, FOR STATE
48 FISCAL YEAR TWO THOUSAND THIRTEEN-TWO THOUSAND FOURTEEN OR ANY FISCAL
49 YEAR THEREAFTER, THE SPENDING LIMIT CALCULATED PURSUANT TO PARAGRAPH (A)
50 OF THIS SUBDIVISION SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE DIFFER-
51 ENCE BETWEEN THE TOTAL SOCIAL SERVICES DISTRICT MEDICAL ASSISTANCE
52 EXPENDITURE AMOUNTS CALCULATED FOR SUCH PERIOD IN CONFORMANCE WITH
53 SUBDIVISIONS (B), (C), (C-1), AND (D) OF SECTION ONE OF PART C OF CHAP-
54 TER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE AND THE TOTAL SOCIAL
55 SERVICES DISTRICT MEDICAL EXPENDITURE AMOUNTS THAT WOULD HAVE RESULTED

1 IF THE PROVISIONS OF SUBDIVISION (C-1) OF SUCH SECTION HAD NOT BEEN
2 APPLIED.

3 (C) WITH RESPECT TO A SOCIAL SERVICES DISTRICT THAT RESCINDS THE EXER-
4 CISE OF THE OPTION PROVIDED IN PARAGRAPH (I) OF SUBDIVISION (B) OF
5 SECTION TWO OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND
6 FIVE, FOR STATE FISCAL YEAR TWO THOUSAND THIRTEEN-TWO THOUSAND FOURTEEN
7 OR ANY FISCAL YEAR THEREAFTER, THE SPENDING LIMIT CALCULATED PURSUANT TO
8 SUBDIVISION ONE OF THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF THE
9 MEDICAL ASSISTANCE EXPENDITURE AMOUNT CALCULATED FOR SUCH DISTRICT FOR
10 SUCH PERIOD.

11 2. SAVINGS ALLOCATION PLAN. NOTWITHSTANDING SECTION NINETY-TWO OF PART
12 H OF CHAPTER FIFTY-NINE OF THE LAWS OF TWO THOUSAND ELEVEN, AS AMENDED,
13 AND ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY
14 OF FEDERAL FINANCIAL PARTICIPATION, FOR STATE FISCAL YEARS ON AND AFTER
15 TWO THOUSAND ELEVEN-TWO THOUSAND TWELVE, THE DIRECTOR OF THE BUDGET, IN
16 CONSULTATION WITH THE COMMISSIONER, SHALL ASSESS ON A MONTHLY BASIS, AS
17 REFLECTED IN MONTHLY REPORTS ISSUED PURSUANT TO SUBDIVISION FIVE OF THIS
18 SECTION, KNOWN AND PROJECTED DEPARTMENT STATE FUNDS MEDICAL ASSISTANCE
19 EXPENDITURES BY CATEGORY OF SERVICE AND BY GEOGRAPHIC REGIONS, AS
20 DEFINED BY THE COMMISSIONER, AND IF THE DIRECTOR OF THE BUDGET DETER-
21 MINES THAT SUCH EXPENDITURES ARE EXPECTED TO CAUSE MEDICAL ASSISTANCE
22 DISBURSEMENTS FOR SUCH PERIOD TO EXCEED THE PROJECTED DEPARTMENT MEDICAL
23 ASSISTANCE STATE FUNDS DISBURSEMENTS IN THE ENACTED BUDGET FINANCIAL
24 PLAN PURSUANT TO SUBDIVISION THREE OF SECTION TWENTY-THREE OF THE STATE
25 FINANCE LAW, THE COMMISSIONER, IN CONSULTATION WITH THE DIRECTOR OF THE
26 BUDGET, SHALL DEVELOP A MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN TO
27 LIMIT SUCH SPENDING TO THE AGGREGATE LIMIT LEVEL SPECIFIED IN THE
28 ENACTED BUDGET FINANCIAL PLAN, PROVIDED, HOWEVER, SUCH PROJECTIONS MAY
29 BE ADJUSTED BY THE DIRECTOR OF THE BUDGET TO ACCOUNT FOR ANY CHANGES IN
30 THE NEW YORK STATE FEDERAL MEDICAL ASSISTANCE PERCENTAGE AMOUNT ESTAB-
31 LISHED PURSUANT TO THE FEDERAL SOCIAL SECURITY ACT, CHANGES IN PROVIDER
32 REVENUES, REDUCTIONS TO LOCAL SOCIAL SERVICES DISTRICT MEDICAL ASSIST-
33 ANCE ADMINISTRATION, AND BEGINNING APRIL FIRST, TWO THOUSAND TWELVE, THE
34 OPERATIONAL COSTS OF THE NEW YORK STATE MEDICAL INDEMNITY FUND, AND
35 STATE COSTS OR SAVINGS FROM THE BASIC HEALTH PLAN. SUCH PROJECTIONS MAY
36 BE ADJUSTED BY THE DIRECTOR OF THE BUDGET TO ACCOUNT FOR INCREASED OR
37 EXPEDITED DEPARTMENT OF HEALTH STATE FUNDS MEDICAL ASSISTANCE EXPENDI-
38 TURES AS A RESULT OF A NATURAL OR OTHER TYPE OF DISASTER, INCLUDING A
39 GOVERNMENTAL DECLARATION OF EMERGENCY. SUCH MEDICAL ASSISTANCE SAVINGS
40 ALLOCATION PLAN SHALL BE DESIGNED TO REDUCE THE DEPARTMENT STATE FUNDS
41 MEDICAL ASSISTANCE DISBURSEMENTS AUTHORIZED BY APPROPRIATIONS IN COMPLI-
42 ANCE WITH THE FOLLOWING GUIDELINES:

43 (A) REDUCTIONS SHALL BE MADE IN COMPLIANCE WITH APPLICABLE FEDERAL
44 LAW, INCLUDING THE PROVISIONS OF THE PATIENT PROTECTION AND AFFORDABLE
45 CARE ACT (P.L. 111-148), AS AMENDED BY THE HEALTH CARE AND EDUCATION
46 RECONCILIATION ACT OF 2010 (P.L. 111-152) (COLLECTIVELY "AFFORDABLE CARE
47 ACT") AND ANY SUBSEQUENT AMENDMENTS THERETO OR REGULATIONS PROMULGATED
48 THEREUNDER;

49 (B) REDUCTIONS SHALL BE MADE IN A MANNER THAT COMPLIES WITH THE STATE
50 MEDICAL ASSISTANCE PLAN APPROVED BY THE FEDERAL CENTERS FOR MEDICARE AND
51 MEDICAID SERVICES, PROVIDED, HOWEVER, THAT THE COMMISSIONER IS AUTHOR-
52 IZED TO SUBMIT ANY STATE PLAN AMENDMENT OR SEEK OTHER FEDERAL APPROVAL,
53 INCLUDING WAIVER AUTHORITY, TO IMPLEMENT THE PROVISIONS OF THE MEDICAL
54 ASSISTANCE SAVINGS ALLOCATION PLAN THAT MEETS THE OTHER CRITERIA SET
55 FORTH HEREIN;

(C) REDUCTIONS SHALL BE MADE IN A MANNER THAT MAXIMIZES FEDERAL FINANCIAL PARTICIPATION, TO THE EXTENT PRACTICABLE, INCLUDING ANY FEDERAL FINANCIAL PARTICIPATION THAT IS AVAILABLE OR IS REASONABLY EXPECTED TO BECOME AVAILABLE, IN THE DISCRETION OF THE COMMISSIONER, UNDER THE AFFORDABLE CARE ACT;

(D) REDUCTIONS SHALL BE MADE UNIFORMLY AMONG CATEGORIES OF SERVICES AND GEOGRAPHIC REGIONS OF THE STATE, TO THE EXTENT PRACTICABLE, AND SHALL BE MADE UNIFORMLY WITHIN A CATEGORY OF SERVICE, TO THE EXTENT PRACTICABLE, EXCEPT WHERE THE COMMISSIONER DETERMINES THAT THERE ARE SUFFICIENT GROUNDS FOR NON-UNIFORMITY, INCLUDING, BUT NOT LIMITED TO:

(I) THE EXTENT TO WHICH SPECIFIC CATEGORIES OF SERVICES CONTRIBUTED TO DEPARTMENT MEDICAL ASSISTANCE STATE FUNDS SPENDING IN EXCESS OF THE LIMITS SPECIFIED HEREIN; (II) THE NEED TO MAINTAIN SAFETY NET SERVICES IN UNDERSERVED COMMUNITIES; OR (III) THE POTENTIAL BENEFITS OF PURSUING INNOVATIVE PAYMENT MODELS CONTEMPLATED BY THE AFFORDABLE CARE ACT, IN WHICH CASE SUCH GROUNDS SHALL BE SET FORTH IN THE MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN;

(E) REDUCTIONS SHALL BE MADE IN A MANNER THAT DOES NOT UNNECESSARILY CREATE ADMINISTRATIVE BURDENS FOR MEDICAL ASSISTANCE APPLICANTS AND RECIPIENTS OR FOR PROVIDERS;

(F) THE COMMISSIONER SHALL SEEK THE INPUT OF THE LEGISLATURE, AS WELL AS INPUT FROM ORGANIZATIONS REPRESENTING HEALTH CARE PROVIDERS, CONSUMERS, BUSINESSES, WORKERS, HEALTH INSURERS, AND OTHERS WITH RELEVANT EXPERTISE, IN DEVELOPING SUCH MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN TO THE EXTENT THAT ALL OR PART OF SUCH PLAN IS LIKELY, AS DETERMINED BY THE COMMISSIONER, TO HAVE A MATERIAL IMPACT ON THE OVERALL MEDICAL ASSISTANCE PROGRAM, OR ON PARTICULAR CATEGORIES OF SERVICE, OR ON PARTICULAR GEOGRAPHIC REGIONS OF THE STATE;

(G)(I) THE COMMISSIONER SHALL POST THE MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN ON THE DEPARTMENT'S WEBSITE AND SHALL PROVIDE WRITTEN COPIES OF SUCH PLAN TO THE CHAIRS OF THE SENATE FINANCE AND THE ASSEMBLY WAYS AND MEANS COMMITTEES AT LEAST THIRTY DAYS BEFORE THE DATE ON WHICH IMPLEMENTATION IS EXPECTED TO BEGIN;

(II) THE COMMISSIONER MAY REVISE THE MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN SUBSEQUENT TO THE PROVISION OF NOTICE AND PRIOR TO IMPLEMENTATION BUT IS REQUIRED TO PROVIDE A NEW NOTICE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH ONLY IF THE COMMISSIONER DETERMINES, IN HIS OR HER DISCRETION, THAT SUCH REVISIONS MATERIALLY ALTER THE PLAN;

(H) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (F) AND (G) OF THIS SUBDIVISION, THE COMMISSIONER NEED NOT SEEK THE INPUT DESCRIBED IN PARAGRAPH (F) OF THIS SUBDIVISION OR PROVIDE NOTICE PURSUANT TO PARAGRAPH (G) OF THIS SUBDIVISION IF, IN THE DISCRETION OF THE COMMISSIONER, EXPEDITED DEVELOPMENT AND IMPLEMENTATION OF A MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN IS NECESSARY DUE TO A PUBLIC HEALTH EMERGENCY; FOR PURPOSES OF THIS SECTION, A PUBLIC HEALTH EMERGENCY IS DEFINED AS:

(I) A DISASTER, NATURAL OR OTHERWISE, THAT SIGNIFICANTLY INCREASES THE IMMEDIATE NEED FOR HEALTH CARE PERSONNEL IN AN AREA OF THE STATE;

(II) AN EVENT OR CONDITION THAT CREATES A WIDESPREAD RISK OF EXPOSURE TO A SERIOUS COMMUNICABLE DISEASE, OR THE POTENTIAL FOR SUCH WIDESPREAD RISK OF EXPOSURE; OR

(III) ANY OTHER EVENT OR CONDITION DETERMINED BY THE COMMISSIONER TO CONSTITUTE AN IMMINENT THREAT TO PUBLIC HEALTH; AND

(I) NOTHING IN THIS SECTION SHALL BE DEEMED TO PREVENT ALL OR PART OF SUCH MEDICAL SAVINGS ALLOCATION PLAN FROM TAKING EFFECT RETROACTIVELY, TO THE EXTENT PERMITTED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES.

1 3. POWERS OF THE COMMISSIONER TO ENACT SAVINGS ALLOCATION PLAN. IN
2 ACCORDANCE WITH THE MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN, THE
3 COMMISSIONER SHALL REDUCE DEPARTMENT STATE FUNDS MEDICAL ASSISTANCE
4 DISBURSEMENTS BY THE AMOUNT OF THE PROJECTED OVERSPENDING THROUGH,
5 ACTIONS INCLUDING, BUT NOT LIMITED TO MODIFYING OR SUSPENDING REIMBURSE-
6 MENT METHODS, INCLUDING BUT NOT LIMITED TO ALL FEES, PREMIUM LEVELS AND
7 RATES OF PAYMENT, NOTWITHSTANDING ANY PROVISION OF LAW THAT SETS A
8 SPECIFIC AMOUNT OR METHODOLOGY FOR ANY SUCH PAYMENTS OR RATES OF
9 PAYMENT; MODIFYING MEDICAL ASSISTANCE PROGRAM BENEFITS; SEEKING ALL
10 NECESSARY FEDERAL APPROVALS, INCLUDING, BUT NOT LIMITED TO WAIVERS,
11 WAIVER AMENDMENTS; AND SUSPENDING TIME FRAMES FOR NOTICE, APPROVAL OR
12 CERTIFICATION OF RATE REQUIREMENTS, NOTWITHSTANDING ANY PROVISION OF
13 LAW, RULE OR REGULATION TO THE CONTRARY, INCLUDING, BUT NOT LIMITED TO,
14 SECTIONS TWENTY-EIGHT HUNDRED SEVEN AND THIRTY-SIX HUNDRED FOURTEEN OF
15 THE PUBLIC HEALTH LAW, SECTION EIGHTEEN OF CHAPTER TWO OF THE LAWS OF
16 NINETEEN HUNDRED EIGHTY-EIGHT, AND SECTION 505.14(H) OF TITLE 18 OF THE
17 OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW
18 YORK.

19 4. CAP DIVIDEND. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND
20 SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR
21 STATE FISCAL YEARS BEGINNING ON AND AFTER APRIL FIRST, TWO THOUSAND
22 FOURTEEN, THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE DIRECTOR
23 OF THE BUDGET, SHALL, PRIOR TO JANUARY FIRST OF EACH YEAR, DETERMINE THE
24 EXTENT OF SAVINGS THAT HAVE BEEN ACHIEVED AS A RESULT OF THE APPLICATION
25 OF THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION, AND SHALL
26 FURTHER DETERMINE THE AVAILABILITY OF SUCH SAVINGS FOR DISTRIBUTION
27 DURING THE LAST QUARTER OF SUCH STATE FISCAL YEAR. IN DETERMINING SUCH
28 SAVINGS THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE DIRECTOR OF
29 THE BUDGET, MAY EXEMPT THE MEDICAL ASSISTANCE ADMINISTRATION PROGRAM
30 FROM DISTRIBUTIONS UNDER THIS SECTION. THE COMMISSIONER OF HEALTH, IN
31 CONSULTATION WITH THE DIRECTOR OF THE BUDGET, MAY DISTRIBUTE FUNDS UP TO
32 AN AMOUNT EQUAL TO SUCH AVAILABLE SAVINGS IN ACCORDANCE WITH AN ALLO-
33 CATION PLAN THAT UTILIZES A METHODOLOGY THAT DISTRIBUTES SUCH FUNDS
34 PROPORTIONATELY AMONG PROVIDERS AND PLANS IN NEW YORK'S MEDICAL ASSIST-
35 ANCE PROGRAM. IN DEVELOPING SUCH ALLOCATION PLAN THE COMMISSIONER OF
36 HEALTH SHALL SEEK THE INPUT OF THE LEGISLATURE, AS WELL AS ORGANIZATIONS
37 REPRESENTING HEALTH CARE PROVIDERS, CONSUMERS, BUSINESSES, WORKERS,
38 HEALTH CARE INSURERS AND OTHERS WITH RELEVANT EXPERTISE. SUCH ALLOCATION
39 PLAN SHALL UTILIZE THREE YEARS OF THE MOST RECENTLY AVAILABLE
40 SYSTEM-WIDE EXPENDITURE DATA REFLECTING BOTH MMIS AND MANAGED CARE
41 ENCOUNTERS. DISTRIBUTIONS TO MANAGED CARE PLANS SHALL BE BASED ON THE
42 ADMINISTRATIVE OUTLAYS STEMMING FROM PARTICIPATION IN THE MEDICAL
43 ASSISTANCE PROGRAM. THE COMMISSIONER OF HEALTH MAY IMPOSE MINIMUM THRES-
44 HOLD AMOUNTS IN DETERMINING PROVIDER ELIGIBILITY FOR DISTRIBUTIONS
45 PURSUANT TO THIS SECTION. NO LESS THAN FIFTY PERCENT OF THE AMOUNT
46 AVAILABLE FOR DISTRIBUTION SHALL BE MADE AVAILABLE FOR THE PURPOSE OF
47 ASSISTING ELIGIBLE PROVIDERS UTILIZING THE METHODOLOGY OUTLINED ABOVE.
48 THE REMAINDER OF THE DISTRIBUTIONS PURSUANT TO THIS SECTION SHALL BE
49 MADE AVAILABLE FOR THE PURPOSES OF ENSURING A MINIMUM LEVEL OF ASSIST-
50 ANCE TO FINANCIALLY DISTRESSED AND CRITICALLY NEEDED PROVIDERS AS IDEN-
51 TIFIED BY THE COMMISSIONER. THE COMMISSIONER OF HEALTH SHALL POST THE
52 MEDICAL ASSISTANCE SAVINGS ALLOCATION PLAN ON THE DEPARTMENT OF HEALTH'S
53 WEBSITE AND SHALL PROVIDE WRITTEN COPIES OF SUCH PLAN TO THE CHAIRS OF
54 THE SENATE FINANCE AND THE ASSEMBLY WAYS AND MEANS COMMITTEES AT LEAST
55 THIRTY DAYS BEFORE THE DATE ON WHICH IMPLEMENTATION IS EXPECTED TO
56 BEGIN. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SEEK SUCH FEDERAL

1 APPROVALS AS MAY BE REQUIRED TO EFFECTUATE THE PROVISIONS OF THIS
2 SECTION, INCLUDING, BUT NOT LIMITED TO, TO PERMIT PAYMENT OF SUCH
3 DISTRIBUTIONS AS LUMPS SUMS AND TO SECURE WAIVERS FROM OTHERWISE APPLI-
4 CABLE FEDERAL UPPER PAYMENT LIMIT RESTRICTIONS ON SUCH PAYMENTS. THE
5 PROVISIONS OF THIS SECTION ARE SUBJECT TO THE REPORTING REQUIREMENTS SET
6 FORTH IN SUBDIVISION SEVEN OF THIS SECTION.

7 5. MONTHLY REPORTS. THE COMMISSIONER, IN CONSULTATION WITH THE DIREC-
8 TOR OF THE BUDGET, SHALL PREPARE A MONTHLY REPORT THAT SETS FORTH:

9 (A) KNOWN AND PROJECTED DEPARTMENT MEDICAL ASSISTANCE EXPENDITURES AS
10 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, AND FACTORS THAT COULD
11 RESULT IN MEDICAL ASSISTANCE DISBURSEMENTS FOR THE RELEVANT STATE FISCAL
12 YEAR TO EXCEED THE PROJECTED DEPARTMENT STATE FUNDS DISBURSEMENTS IN THE
13 ENACTED BUDGET FINANCIAL PLAN PURSUANT TO SUBDIVISION THREE OF SECTION
14 TWENTY-THREE OF THE STATE FINANCE LAW, INCLUDING SPENDING INCREASES OR
15 DECREASES DUE TO ENROLLMENT FLUCTUATIONS, RATE CHANGES, UTILIZATION
16 CHANGES, MEDICAL ASSISTANCE REDESIGN TEAM (MRT) INVESTMENTS, A SHIFT OF
17 BENEFICIARIES TO MANAGED CARE AND VARIATIONS IN OFFLINE MEDICAL ASSIST-
18 ANCE PAYMENTS;

19 (B) THE ACTIONS TAKEN TO IMPLEMENT ANY MEDICAL ASSISTANCE SAVINGS
20 ALLOCATION PLAN IMPLEMENTED PURSUANT TO SUBDIVISION FOUR OF THIS
21 SECTION, INCLUDING INFORMATION CONCERNING THE IMPACT OF SUCH ACTIONS ON
22 EACH CATEGORY OF SERVICE AND EACH GEOGRAPHIC REGION OF THE STATE;

23 (C) AS APPLICABLE; THE PRICE, INCLUDING, THE BASE RATE PLUS ANY UPCOM-
24 ING RATE ADJUSTMENT; UTILIZATION, INCLUDING CURRENT ENROLLMENT, PROJECT-
25 ED ENROLLMENT CHANGES AND ACUITY; MEDICAL ASSISTANCE REDESIGN TEAM
26 INITIATIVES; ONE-TIME INITIATIVES AND OTHER INITIATIVES DESCRIBING THE
27 PROPOSED BUDGET ACTION IMPACT; AND ANY PRIOR YEAR INITIATIVE WITH
28 CURRENT AND FUTURE YEAR IMPACTS FOR THE FOLLOWING CATEGORIES:

- 29 (I) INPATIENT;
- 30 (II) OUTPATIENT;
- 31 (III) EMERGENCY ROOM;
- 32 (IV) CLINIC;
- 33 (V) NURSING HOMES;
- 34 (VI) OTHER LONG TERM CARE;
- 35 (VII) MEDICAID MANAGED CARE;
- 36 (VIII) FAMILY HEALTH PLUS;
- 37 (IX) PHARMACY;
- 38 (X) TRANSPORTATION;
- 39 (XI) DENTAL;
- 40 (XII) NON-INSTITUTIONAL AND OTHER CATEGORIES;
- 41 (XIII) AFFORDABLE HOUSING;
- 42 (XIV) VITAL ACCESS PROVIDER SERVICES;
- 43 (XV) BEHAVIORAL HEALTH VITAL ACCESS PROVIDER SERVICES;
- 44 (XVI) FINGER LAKES HEALTH SERVICES AGENCY;
- 45 (XVII) AUDIT RECOVERIES AND SETTLEMENTS;

46 (D) INFORMATION AND DISBURSEMENTS OF GRANTS TO PROVIDERS, INCLUDING
47 BUT NOT LIMITED TO:

- 48 (I) DEMOGRAPHIC INFORMATION OF TARGETED RECIPIENTS;
- 49 (II) NUMBER OF RECIPIENTS;
- 50 (III) AWARD AMOUNTS AND TIMING OF AWARDS; AND

51 (E) ANY PROJECTED MEDICAL ASSISTANCE SAVINGS DETERMINED BY THE COMMIS-
52 SIONER PURSUANT TO SUBDIVISION SIX OF THIS SECTION AND THE PROPOSED
53 ALLOCATION PLAN WITH REGARD TO SUCH SAVINGS.

54 (F) THE MONTHLY REPORTS REQUIRED BY THIS SUBDIVISION SHALL BE PROVIDED
55 TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF
56 THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF

1 THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE CHAIRS OF THE SENATE AND
2 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS AND RELATED DOCUMENTS PROVIDED
3 TO THE LEGISLATURE SHALL ALSO BE POSTED ON THE WEBSITE AS MAINTAINED BY
4 THE DEPARTMENT.

5 6. EXECUTIVE BUDGET SUMMARY. THE COMMISSIONER, IN CONSULTATION WITH
6 THE DIRECTOR OF THE BUDGET SHALL, UPON SUBMISSION OF THE EXECUTIVE BUDG-
7 ET TO THE LEGISLATURE, PROVIDE TO THE LEGISLATURE A DETAILED ACCOUNTING
8 OF:

9 (A) THE STATE MEDICAL ASSISTANCE STATE FUNDS EXPENDITURES ON THE CLOSE
10 OUT OF THE PRIOR YEAR;

11 (B) A CURRENT YEAR RE-ESTIMATE;

12 (C) THE PROSPECTIVE TWO-YEAR ESTIMATE; AND

13 (D) ANY OTHER INFORMATION DEEMED NECESSARY AND APPROPRIATE.

14 7. STAFF AVAILABILITY AND TRAINING. (A) THE COMMISSIONER AND THE
15 DIRECTOR OF THE BUDGET SHALL MAKE APPROPRIATE STAFF AVAILABLE TO MEET
16 WITH THE CHAIRS OF THE HEALTH COMMITTEES OF THE SENATE AND THE ASSEMBLY,
17 OR THEIR DESIGNEES, UPON THEIR REQUEST AND WITH REASONABLE NOTICE, TO
18 REVIEW EACH MONTHLY REPORT, AS DESCRIBED IN SUBDIVISION FIVE OF THIS
19 SECTION.

20 (B) THE COMMISSIONER SHALL MAKE TRAINING AVAILABLE TO DESIGNATED
21 LEGISLATIVE STAFF WITH REGARD TO THE SKILLS AND TECHNIQUES NEEDED TO
22 EFFECTIVELY ACCESS AND REVIEW RELEVANT MEDICAL ASSISTANCE DATA BASES
23 UNDER THE CONTROL OF THE DEPARTMENT, UPON THEIR REQUEST AND WITH REASON-
24 ABLE NOTICE.

25 S 9. Section 280 of the public health law is REPEALED.

26 S 10. Subdivision 2 of section 2807-d-1 of the public health law, as
27 added by section 52-c of part H of chapter 59 of the laws of 2011, is
28 amended to read as follows:

29 2. The annual quality contribution amount referenced in subdivision
30 one of this section shall be thirty million dollars for the state fiscal
31 year beginning April first, two thousand eleven, and for each subsequent
32 state fiscal year thereafter it shall be the amount of the preceding
33 year as increased by the ten year rolling average of the medical compo-
34 nent of the consumer price index as published by the United States
35 department of labor, bureau of labor statistics, for the preceding ten
36 years. FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, AND
37 FOR EACH STATE FISCAL YEAR, THE CONTRIBUTION DESCRIBED HEREIN SHALL BE
38 REDUCED BY FIFTEEN MILLION DOLLARS.

39 S 11. Section 2807 of the public health law is amended by adding a new
40 subdivision 14 to read as follows:

41 14. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT
42 TO FEDERAL FINANCIAL PARTICIPATION, THE COMMISSIONER IS AUTHORIZED TO
43 ESTABLISH, PURSUANT TO REGULATIONS, A GENERAL HOSPITAL QUALITY POOL FOR
44 THE PURPOSE OF INCENTIVIZING AND FACILITATING QUALITY IMPROVEMENTS IN
45 GENERAL HOSPITALS. AWARDS FROM SUCH POOL SHALL BE SUBJECT TO APPROVAL BY
46 THE DIRECTOR OF BUDGET. IF FEDERAL FINANCIAL PARTICIPATION IS UNAVAIL-
47 ABLE, THEN THE NON-FEDERAL SHARE OF AWARDS MADE PURSUANT TO THIS SUBDI-
48 VISION MAY BE MADE AS STATE GRANTS.

49 S 12. Section 2807 of the public health law is amended by adding a new
50 subdivision 22 to read as follows:

51 22. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT
52 TO FEDERAL FINANCIAL PARTICIPATION, GENERAL HOSPITALS DESIGNATED AS SOLE
53 COMMUNITY HOSPITALS IN ACCORDANCE WITH TITLE XVIII OF THE FEDERAL SOCIAL
54 SECURITY ACT SHALL BE ELIGIBLE FOR ENHANCED PAYMENTS OR REIMBURSEMENT
55 FOR INPATIENT AND/OR OUTPATIENT SERVICES OF UP TO TWELVE MILLION DOLLARS
56 UNDER A SUPPLEMENTAL OR REVISED RATE METHODOLOGY, ESTABLISHED BY THE

1 COMMISSIONER IN REGULATION, FOR THE PURPOSE OF PROMOTING ACCESS AND
2 IMPROVING THE QUALITY OF CARE. IF FEDERAL FINANCIAL PARTICIPATION IS
3 UNAVAILABLE, THEN THE NON-FEDERAL SHARE OF SUCH PAYMENTS PURSUANT TO
4 THIS SUBDIVISION MAY BE MADE AS STATE GRANTS.

5 S 13. Subdivision (e) of section 2826 of the public health law, as
6 added by section 27 of part C of chapter 60 of the laws of 2014, is
7 amended to read as follows:

8 (e) Notwithstanding any law to the contrary, general hospitals defined
9 as critical access hospitals pursuant to title XVIII of the federal
10 social security act shall be allocated no less than [five] SEVEN million
11 FIVE HUNDRED THOUSAND dollars annually pursuant to this section. The
12 department of health shall provide a report to the governor and legisla-
13 ture no later than [December] JUNE first, two thousand [fourteen]
14 FIFTEEN providing recommendations on how to ensure the financial stabil-
15 ity of, and preserve patient access to, critical access hospitals,
16 INCLUDING AN EXAMINATION OF PERMANENT MEDICAID RATE METHODOLOGY CHANGES.

17 S 14. Section 2826 of the public health law is amended by adding a new
18 subdivision (f) to read as follows:

19 (F) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT
20 TO FEDERAL FINANCIAL PARTICIPATION, NO LESS THAN TEN MILLION DOLLARS
21 SHALL BE ALLOCATED TO PROVIDERS DESCRIBED IN THIS SUBDIVISION; PROVIDED,
22 HOWEVER THAT IF FEDERAL FINANCIAL PARTICIPATION IS UNAVAILABLE FOR ANY
23 ELIGIBLE PROVIDER, OR FOR ANY POTENTIAL INVESTMENT UNDER THIS SUBDIVI-
24 SION THEN THE NON-FEDERAL SHARE OF PAYMENTS PURSUANT TO THIS SUBDIVISION
25 MAY BE MADE AS STATE GRANTS.

26 (I) PROVIDERS SERVING RURAL AREAS AS SUCH TERM IS DEFINED IN SECTION
27 TWO THOUSAND NINE HUNDRED FIFTY-ONE OF THIS CHAPTER, INCLUDING BUT NOT
28 LIMITED TO HOSPITALS, RESIDENTIAL HEALTH CARE FACILITIES, DIAGNOSTIC AND
29 TREATMENT CENTERS, AMBULATORY SURGERY CENTERS AND CLINICS SHALL BE
30 ELIGIBLE FOR ENHANCED PAYMENTS OR REIMBURSEMENT UNDER A SUPPLEMENTAL
31 RATE METHODOLOGY FOR THE PURPOSE OF PROMOTING ACCESS AND IMPROVING THE
32 QUALITY OF CARE.

33 (II) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT
34 TO FEDERAL FINANCIAL PARTICIPATION, ESSENTIAL COMMUNITY PROVIDERS,
35 WHICH, FOR THE PURPOSES OF THIS SECTION, SHALL MEAN A PROVIDER THAT
36 OFFERS HEALTH SERVICES WITHIN A DEFINED AND ISOLATED GEOGRAPHIC REGION
37 WHERE SUCH SERVICES WOULD OTHERWISE BE UNAVAILABLE TO THE POPULATION OF
38 SUCH REGION, SHALL BE ELIGIBLE FOR ENHANCED PAYMENTS OR REIMBURSEMENT
39 UNDER A SUPPLEMENTAL RATE METHODOLOGY FOR THE PURPOSE OF PROMOTING
40 ACCESS AND IMPROVING QUALITY OF CARE. ELIGIBLE PROVIDERS UNDER THIS
41 PARAGRAPH MAY INCLUDE, BUT ARE NOT LIMITED TO, HOSPITALS, RESIDENTIAL
42 HEALTH CARE FACILITIES, DIAGNOSTIC AND TREATMENT CENTERS, AMBULATORY
43 SURGERY CENTERS AND CLINICS.

44 (III) IN MAKING SUCH PAYMENTS THE COMMISSIONER MAY CONTEMPLATE THE
45 EXTENT TO WHICH ANY SUCH PROVIDER RECEIVES ASSISTANCE UNDER SUBDIVISION
46 (A) OF THIS SECTION AND MAY REQUIRE SUCH PROVIDER TO SUBMIT A WRITTEN
47 PROPOSAL DEMONSTRATING THAT THE NEED FOR MONIES UNDER THIS SUBDIVISION
48 EXCEEDS MONIES OTHERWISE DISTRIBUTED PURSUANT TO THIS SECTION.

49 (IV) PAYMENTS UNDER THIS SUBDIVISION MAY INCLUDE, BUT NOT BE LIMITED
50 TO, TEMPORARY RATE ADJUSTMENTS, LUMP SUM MEDICAID PAYMENTS, SUPPLEMENTAL
51 RATE METHODOLOGIES AND ANY OTHER PAYMENTS AS DETERMINED BY THE COMMIS-
52 SIONER.

53 (V) PAYMENTS UNDER THIS SUBDIVISION SHALL BE SUBJECT TO APPROVAL BY
54 THE DIRECTOR OF THE BUDGET.

55 (VI) THE COMMISSIONER MAY PROMULGATE REGULATIONS TO EFFECTUATE THE
56 PROVISIONS OF THIS SUBDIVISION.

1 S 15. Intentionally omitted.

2 S 16. Section 12 of part A of chapter 1 of the laws of 2002, relating
3 to the health care reform act of 2000, is amended to read as follows:

4 S 12. Notwithstanding any inconsistent provision of law or regulation
5 to the contrary, and subject to the availability of federal financial
6 participation pursuant to title XIX of the federal social security act,
7 effective for the period September 1, 2001 through March 31, 2002, and
8 state fiscal years thereafter, UNTIL MARCH 31, 2012, the department of
9 health is authorized to pay a specialty hospital adjustment to public
10 general hospitals, as defined in subdivision 10 of section 2801 of the
11 public health law, other than those operated by the state of New York or
12 the state university of New York, receiving reimbursement for all inpa-
13 tient services under title XIX of the federal social security act pursu-
14 ant to paragraph (e) of subdivision 4 of section 2807-c of the public
15 health law, and located in a city with a population of over 1 million,
16 of up to four hundred sixty-three million dollars for the period Septem-
17 ber 1, 2001 through March 31, 2002 and up to seven hundred ninety-four
18 million dollars annually for state fiscal years thereafter as medical
19 assistance payments for inpatient services pursuant to title 11 of arti-
20 cle 5 of the social services law for patients eligible for federal
21 financial participation under title XIX of the federal social security
22 act based on each such hospital's proportionate share of the sum of all
23 inpatient discharges for all facilities eligible for an adjustment
24 pursuant to this section for the base year two years prior to the rate
25 year. Such proportionate share payment may be added to rates of payment
26 or made as aggregate payments to eligible public general hospitals.

27 S 17. Section 13 of part B of chapter 1 of the laws of 2002, relating
28 to the health care reform act of 2000, is amended to read as follows:

29 S 13. Notwithstanding any inconsistent provision of law or regulation
30 to the contrary, and subject to the availability of federal financial
31 participation pursuant to title XIX of the federal social security act,
32 effective for the period April 1, 2002 through March 31, 2003, and state
33 fiscal years thereafter UNTIL MARCH 31, 2012, the department of health
34 is authorized to pay a specialty hospital adjustment to public general
35 hospitals, as defined in subdivision 10 of section 2801 of the public
36 health law, other than those operated by the state of New York or the
37 state university of New York, receiving reimbursement for all inpatient
38 services under title XIX of the federal social security act pursuant to
39 paragraph (e) of subdivision 4 of section 2807-c of the public health
40 law, and located in a city with a population of over one million, of up
41 to two hundred eighty-six million dollars as medical assistance payments
42 for inpatient services pursuant to title 11 of article 5 of the social
43 services law for patients eligible for federal financial participation
44 under title XIX of the federal social security act based on each such
45 hospital's proportionate share of the sum of all inpatient discharges
46 for all facilities eligible for an adjustment pursuant to this section
47 for the base year two years prior to the rate year. Such proportionate
48 share payment may be added to rates of payment or made as aggregate
49 payments to eligible hospitals.

50 S 18. Notwithstanding any inconsistent provision of law or regulation
51 to the contrary, and subject to the availability of federal financial
52 participation pursuant to title XIX of the federal social security act,
53 effective for the period April 1, 2012, through March 31, 2013, and
54 state fiscal years thereafter, the department of health is authorized to
55 pay a public hospital adjustment to public general hospitals, as defined
56 in subdivision 10 of section 2801 of the public health law, other than

1 those operated by the state of New York or the state university of New
2 York, and located in a city with a population of over 1 million, of up
3 to one billion eighty million dollars annually as medical assistance
4 payments for inpatient services pursuant to title 11 of article 5 of the
5 social services law for patients eligible for federal financial partic-
6 ipation under title XIX of the federal social security act based on such
7 criteria and methodologies as the commissioner may from time to time set
8 through a memorandum of understanding with the New York city health and
9 hospitals corporation, and such adjustments shall be paid by means of
10 one or more estimated payments, with such estimated payments to be
11 reconciled to the commissioner of health's final adjustment determi-
12 nations after the disproportionate share hospital payment adjustment
13 caps have been calculated for such period under sections 1923(f) and (g)
14 of the federal social security act. Such adjustment payment may be added
15 to rates of payment or made as aggregate payments to eligible public
16 general hospitals.

17 S 19. Section 14 of part A of chapter 1 of the laws of 2002, relating
18 to the health care reform act of 2000, is amended to read as follows:

19 S 14. Notwithstanding any inconsistent provision of law, rule or regu-
20 lation to the contrary, and subject to the availability of federal
21 financial participation pursuant to title XIX of the federal social
22 security act, effective for the period January 1, 2002 through March 31,
23 2002, and state fiscal years thereafter UNTIL MARCH 31, 2011, the
24 department of health is authorized to increase the operating cost compo-
25 nent of rates of payment for general hospital outpatient services and
26 general hospital emergency room services issued pursuant to paragraph
27 (g) of subdivision 2 of section 2807 of the public health law for public
28 general hospitals, as defined in subdivision 10 of section 2801 of the
29 public health law, other than those operated by the state of New York or
30 the state university of New York, and located in a city with a popu-
31 lation of over one million, which experienced free patient visits in
32 excess of twenty percent of their total self-pay and free patient visits
33 based on data reported on exhibit 33 of their 1999 institutional cost
34 report and which experienced uninsured outpatient losses in excess of
35 seventy-five percent of their total inpatient and outpatient uninsured
36 losses based on data reported on exhibit 47 of their 1999 institutional
37 cost report, of up to thirty-four million dollars for the period January
38 1, 2002 through March 31, 2002 and up to one hundred thirty-six million
39 dollars annually for state fiscal years thereafter as medical assistance
40 payments for outpatient services pursuant to title 11 of article 5 of
41 the social services law for patients eligible for federal financial
42 participation under title XIX of the federal social security act based
43 on each such hospital's proportionate share of the sum of all outpatient
44 visits for all facilities eligible for an adjustment pursuant to this
45 section for the base year two years prior to the rate year. Such propor-
46 tionate share payment may be added to rates of payment or made as aggre-
47 gate payments to eligible public general hospitals.

48 S 20. Section 14 of part B of chapter 1 of the laws of 2002, relating
49 to the health care reform act of 2000, is amended to read as follows:

50 S 14. Notwithstanding any inconsistent provision of law or regulation
51 to the contrary, and subject to the availability of federal financial
52 participation pursuant to title XIX of the federal social security act,
53 effective for the period January 1, 2002 through March 31, 2002, and
54 state fiscal years thereafter UNTIL MARCH 31, 2011, the department of
55 health is authorized to increase the operating cost component of rates
56 of payment for general hospital outpatient services and general hospital

1 emergency room services issued pursuant to paragraph (g) of subdivision
2 2 of section 2807 of the public health law for public general hospitals,
3 as defined in subdivision 10 of section 2801 of the public health law,
4 other than those operated by the state of New York or the state univer-
5 sity of New York, and located in a city with a population of over one
6 million, which experienced free patient visits in excess of twenty
7 percent of their total self-pay and free patient visits based on data
8 reported on exhibit 33 of their 1999 institutional cost report and which
9 experienced uninsured outpatient losses in excess of seventy-five
10 percent of their total inpatient and outpatient uninsured losses based
11 on data reported on exhibit 47 of their 1999 institutional cost report,
12 of up to thirty-seven million dollars for the period January 1, 2002
13 through March 31, 2002 and one hundred fifty-one million dollars annual-
14 ly for state fiscal years thereafter as medical assistance payments for
15 outpatient services pursuant to title 11 of article 5 of the social
16 services law for patients eligible for federal financial participation
17 under title XIX of the federal social security act based on each such
18 hospital's proportionate share of the sum of all outpatient visits for
19 all facilities eligible for an adjustment pursuant to this section for
20 the base year two years prior to the rate year. Such proportionate share
21 payment may be added to rates of payment or made as aggregate payments
22 to eligible public general hospitals.

23 S 21. Notwithstanding any inconsistent provision of law, rule or regu-
24 lation to the contrary, and subject to the availability of federal
25 financial participation pursuant to title XIX of the federal social
26 security act, effective for the period April 1, 2011 through March 31,
27 2012, and state fiscal years thereafter, the department of health is
28 authorized to increase the operating cost component of rates of payment
29 for general hospital outpatient services and general hospital emergency
30 room services issued pursuant to paragraph (g) of subdivision 2 of
31 section 2807 of the public health law for public general hospitals, as
32 defined in subdivision 10 of section 2801 of the public health law,
33 other than those operated by the state of New York or the state univer-
34 sity of New York, and located in a city with a population over one
35 million, up to two hundred eighty-seven million dollars annually as
36 medical assistance payments for outpatient services pursuant to title 11
37 of article 5 of the social services law for patients eligible for feder-
38 al financial participation under title XIX of the federal social securi-
39 ty act based on such criteria and methodologies as the commissioner may
40 from time to time set through a memorandum of understanding with the New
41 York city health and hospitals corporation, and such adjustments shall
42 be paid by means of one or more estimated payments, with such estimated
43 payments to be reconciled to the commissioner of health's final adjust-
44 ment determinations after the disproportionate share hospital payment
45 adjustment caps have been calculated for such period under sections
46 1923(f) and (g) of the federal social security act. Such adjustment
47 payment may be added to rates of payment or made as aggregate payments
48 to eligible public general hospitals.

49 S 22. Section 16 of part A of chapter 1 of the laws of 2002, relating
50 to the health care reform act of 2000, is amended to read as follows:

51 S 16. Any amounts provided pursuant to sections eleven, twelve, thir-
52 teen and fourteen of this act shall be effective for purposes of deter-
53 mining payments for public general hospitals contingent on receipt of
54 all approvals required by federal law or regulations for federal finan-
55 cial participation in payments made pursuant to title XIX of the federal
56 social security act. If federal approvals are not granted for payments

1 based on such amounts or components thereof, payments to public general
2 hospitals shall be determined without consideration of such amounts or
3 such components. Public general hospitals shall refund to the state, or
4 the state may recoup from prospective payments, any overpayment
5 received, including those based on a retroactive reduction in the
6 payments. Any reduction in federal financial participation pursuant to
7 title XIX of the federal social security act related to federal upper
8 payment limits APPLICABLE TO PUBLIC GENERAL HOSPITALS OTHER THAN THOSE
9 OPERATED BY THE STATE UNIVERSITY OF NEW YORK shall be deemed to apply
10 first to amounts provided pursuant to sections eleven, twelve, thirteen
11 and fourteen of this act AND SECTIONS SIXTEEN AND NINETEEN OF A CHAPTER
12 OF THE LAWS OF TWO THOUSAND FIFTEEN.

13 S 23. Section 20 of part B of chapter 1 of the laws of 2002, relating
14 to the health care reform act of 2000, is amended to read as follows:

15 S 20. Any amounts provided pursuant to sections thirteen and fourteen
16 of this act shall be effective for purposes of determining payments for
17 public general hospitals contingent on receipt of all approvals required
18 by federal law or regulations for federal financial participation in
19 payments made pursuant to title XIX of the federal social security act.
20 If federal approvals are not granted for payments based on such amounts
21 or components thereof, payments to public general hospitals shall be
22 determined without consideration of such amounts or such components.
23 Public general hospitals shall refund to the state, or the state may
24 recoup from prospective payments, any overpayment received, including
25 those based on a retroactive reduction in the payments. Any reduction in
26 federal financial participation pursuant to title XIX of the federal
27 social security act related to federal upper payment limits APPLICABLE
28 TO PUBLIC GENERAL HOSPITALS OTHER THAN THOSE OPERATED BY THE STATE OF
29 NEW YORK OR THE STATE UNIVERSITY OF NEW YORK shall be deemed to apply
30 first to amounts provided pursuant to sections thirteen and fourteen of
31 this act AND SECTIONS SIXTEEN AND NINETEEN OF A CHAPTER OF THE LAWS OF
32 TWO THOUSAND FIFTEEN.

33 S 24. Subdivisions 7, 7-a and 7-b of section 2807 of the public
34 health law, subdivision 7 as amended by section 195 of part A of chapter
35 389 of the laws of 1997, subdivision 7-a as amended by chapter 938 of
36 the laws of 1990, subdivision 7-b as added by chapter 731 of the laws of
37 1993, paragraph (b) of subdivision 7-b as amended by chapter 175 of the
38 laws of 1997, are amended to read as follows:

39 7. Reimbursement rate promulgation. The commissioner shall notify each
40 [hospital] RESIDENTIAL HEALTH CARE FACILITY and health-related service
41 of its approved rates of payment which shall be used in reimbursing for
42 services provided to persons eligible for payments made by state govern-
43 mental agencies at least sixty days prior to the beginning of an estab-
44 lished rate period for which the rate is to become effective. Notifica-
45 tion shall be made only after approval of rate schedules by the state
46 director of the budget. The [sixty and thirty day] notice provisions,
47 herein, shall not apply to rates issued following judicial annulment or
48 invalidation of any previously issued rates, or rates issued pursuant to
49 changes in the methodology used to compute rates which changes are
50 promulgated following the judicial annulment or invalidation of previ-
51 ously issued rates. Notwithstanding any provision of law to the contra-
52 ry, nothing in this subdivision shall prohibit the recalculation and
53 payment of rates, including both positive and negative adjustments,
54 based on a reconciliation of amounts paid by residential health care
55 facilities beginning April first, nineteen hundred ninety-seven for
56 additional assessments or further additional assessments pursuant to

1 section twenty-eight hundred seven-d of this article with the amounts
2 originally recognized for reimbursement purposes.

3 [7-a. Notwithstanding any inconsistent provision of law, with regard
4 to a general hospital the provisions of subdivisions four and seven of
5 this section and the provisions of section eighteen of chapter two of
6 the laws of nineteen hundred eighty-eight relating to the requirement of
7 prior notice and the time frames for notice, approval or certification
8 of rates of payment, maximum rates of payment or maximum charges where
9 not otherwise waived pursuant to law shall be applicable only to such
10 rates of payment or maximum charges prospectively established for an
11 annual rate period and such provisions shall not be applicable to a
12 general hospital with regard to prospective adjustments or retrospective
13 adjustments of established rates of payment or maximum charges for or
14 during an annual rate period based on correction of errors or omissions
15 of data or in computation, rate appeals, audits or other rate adjust-
16 ments authorized by law or regulations adopted pursuant to section twen-
17 ty-eight hundred three of this article.

18 7-b. Notification of diagnostic and treatment center approved rates.
19 (a) For rate periods or portions of rate periods beginning on or after
20 October first, nineteen hundred ninety-four, the commissioner shall
21 notify each diagnostic and treatment center of its approved rates of
22 payment, which shall be used in the reimbursement for services provided
23 to persons eligible for payments made by state governmental agencies at
24 least thirty days prior to the beginning of the period for which such
25 rates are to become effective.

26 (b)] (A) Notwithstanding any contrary provision of law, all diagnostic
27 and treatment centers certified on or before September second, nineteen
28 hundred ninety-seven shall, not later than September second, nineteen
29 hundred ninety-seven, notify the commissioner whether they intend to
30 maintain all books and records utilized by the diagnostic and treatment
31 center for cost reporting and reimbursement purposes on a calendar year
32 basis or, commencing on July first, nineteen hundred ninety-six, on a
33 July first through June thirtieth basis, and shall thereafter maintain
34 all books and records on such basis. All diagnostic and treatment
35 centers certified after September second, nineteen hundred ninety-seven
36 shall notify the commissioner at the time of certification whether they
37 intend to maintain all books and records on a calendar year basis or on
38 [or] a July first through June thirtieth basis, and shall thereafter
39 maintain all books and records on such a basis.

40 [(c)] (B) The books and records maintained pursuant to paragraph [(b)]
41 (A) of this subdivision shall be utilized and made available to the
42 commissioner in promulgating rates of payment for annual rate periods
43 beginning on or after October first, nineteen hundred ninety-seven.

44 [(d)] (C) Notwithstanding any provision of the law to the contrary,
45 rates of payment established in accordance with paragraph [(b)] (A) as
46 amended, and paragraph (f) of subdivision two of this section for the
47 rate period beginning April first, nineteen hundred ninety-three shall
48 continue in effect through September thirtieth, nineteen hundred nine-
49 ty-four, and applicable trend factors shall be applied to that portion
50 of such rates of payment for the rate period which begins April first,
51 nineteen hundred ninety-four.

52 S 25. Section 365-l of the social services law is amended by adding a
53 new subdivision 2-b to read as follows:

54 2-B. THE COMMISSIONER IS AUTHORIZED TO MAKE GRANTS UP TO A GROSS
55 AMOUNT OF FIVE MILLION DOLLARS, TO ESTABLISH COORDINATION BETWEEN HEALTH
56 HOMES AND THE CRIMINAL JUSTICE SYSTEM AND FOR THE INTEGRATION OF INFOR-

MATION OF HEALTH HOMES WITH STATE AND LOCAL CORRECTIONAL FACILITIES, TO THE EXTENT PERMITTED BY LAW. HEALTH HOMES RECEIVING SUCH FUNDS SHALL BE REQUIRED TO DOCUMENT AND DEMONSTRATE THE EFFECTIVE USE OF FUNDS DISTRIBUTED HEREIN.

S 26. Paragraph (e) of subdivision 2-a of section 2807 of the public health law is amended by adding a new subparagraph (iv) to read as follows:

(IV) NOTWITHSTANDING ANY LAW TO THE CONTRARY AND SUBJECT TO FEDERAL FINANCIAL PARTICIPATION, FAMILY PLANNING OR FAMILY PLANNING RELATED SERVICES THAT ARE ELIGIBLE FOR ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, SHALL NOT BE REIMBURSED PURSUANT TO THE METHODOLOGY ESTABLISHED IN THIS SUBDIVISION.

S 27. Subdivision 35 of section 2807-c of the public health law is amended by adding a new paragraph (k) to read as follows:

(K) NOTWITHSTANDING ANY LAW TO THE CONTRARY AND SUBJECT TO FEDERAL FINANCIAL PARTICIPATION, FAMILY PLANNING OR FAMILY PLANNING RELATED SERVICES THAT ARE ELIGIBLE FOR ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES SHALL BE EXCLUDED FROM REIMBURSEMENT UNDER THIS SUBDIVISION.

S 28. Subdivisions 6 and 7 of section 369-gg of the social services law are renumbered 7 and 8 and a new subdivision 6 is added to read as follows:

6. RATES OF PAYMENT. (A) THE COMMISSIONER SHALL SELECT THE CONTRACT WITH AN INDEPENDENT ACTUARY TO STUDY AND RECOMMEND APPROPRIATE REIMBURSEMENT METHODOLOGIES FOR THE COST OF HEALTH CARE SERVICE COVERAGE PURSUANT TO THIS TITLE. SUCH INDEPENDENT ACTUARY SHALL REVIEW AND MAKE RECOMMENDATIONS CONCERNING APPROPRIATE ACTUARIAL ASSUMPTIONS RELEVANT TO THE ESTABLISHMENT OF REIMBURSEMENT METHODOLOGIES, INCLUDING BUT NOT LIMITED TO; THE ADEQUACY OF RATES OF PAYMENT IN RELATION TO THE POPULATION TO BE SERVED ADJUSTED FOR CASE MIX, THE SCOPE OF HEALTH CARE SERVICES APPROVED ORGANIZATIONS MUST PROVIDE, THE UTILIZATION OF SUCH SERVICES AND THE NETWORK OF PROVIDERS REQUIRED TO MEET STATE STANDARDS.

(B) UPON CONSULTATION WITH THE INDEPENDENT ACTUARY AND ENTITIES REPRESENTING APPROVED ORGANIZATIONS, THE COMMISSIONER SHALL DEVELOP REIMBURSEMENT METHODOLOGIES AND FEE SCHEDULES FOR DETERMINING RATES OF PAYMENT, WHICH RATE SHALL BE APPROVED BY THE DIRECTOR OF THE DIVISION OF THE BUDGET, TO BE MADE BY THE DEPARTMENT TO APPROVED ORGANIZATIONS FOR THE COST OF HEALTH CARE SERVICES COVERAGE PURSUANT TO THIS TITLE. SUCH REIMBURSEMENT METHODOLOGIES AND FEE SCHEDULES MAY INCLUDE PROVISIONS FOR CAPITATION ARRANGEMENTS.

(C) THE COMMISSIONER SHALL HAVE THE AUTHORITY TO PROMULGATE REGULATIONS, INCLUDING EMERGENCY REGULATIONS, NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION.

S 29. Section 1 of part B of chapter 59 of the laws of 2011, amending the public health law relating to rates of payment and medical assistance, is amended to read as follows:

Section 1. (a) Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, effective for the period April 1, 2011 through March 31, 2012, and each state fiscal year thereafter, the department of health is authorized to make supplemental Medicaid payments OR SUPPLEMENTAL MEDICAID MANAGED CARE PAYMENTS for professional services provided by physicians, nurse practitioners and physician assistants who are participating in a plan for the management of clinical practice at the State University of New York, in accordance with title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal

1 social security act, in amounts that will increase fees for such profes-
2 sional services to an amount equal to the average commercial or Medicare
3 rate that would otherwise be received for such services rendered by such
4 physicians, nurse practitioners and physician assistants. The calcu-
5 lation of such supplemental fee payments shall be made in accordance
6 with applicable federal law and regulation and subject to the approval
7 of the division of the budget. Such supplemental Medicaid fee payments
8 may be added to the professional fees paid under the fee schedule [or],
9 made as aggregate lump sum payments to eligible clinical practice plans
10 authorized to receive professional fees OR MADE AS SUPPLEMENTAL PAYMENTS
11 MADE FOR SUCH PURPOSE AS DESCRIBED HEREIN TO MEDICAID MANAGED CARE
12 ORGANIZATIONS. SUPPLEMENTAL MEDICAID MANAGED CARE PAYMENTS UNDER THIS
13 SECTION SHALL BE DISTRIBUTED TO PROVIDERS AS DETERMINED BY THE MANAGED
14 CARE MODEL CONTRACT AND MAY UTILIZE MANAGED CARE ORGANIZATION REPORTED
15 ENCOUNTER DATA AND OTHER SUCH METRICS AS DETERMINED BY THE DEPARTMENT OF
16 HEALTH IN ORDER TO ENSURE RATES OF PAYMENT EQUIVALENT TO THE AVERAGE
17 COMMERCIAL OR MEDICARE RATE THAT WOULD OTHERWISE BE RECEIVED FOR SUCH
18 SERVICES RENDERED BY SUCH PHYSICIANS, NURSE PRACTITIONERS AND PHYSICIAN
19 ASSISTANTS.

20 (b) The affiliated State University of New York health science centers
21 shall be responsible for payment of one hundred percent of the non-fed-
22 eral share of such supplemental Medicaid payments OR SUPPLEMENTAL MEDI-
23 CAID MANAGED CARE PAYMENTS for all services provided by physicians,
24 nurse practitioners and physician assistants who are participating in a
25 plan for the management of clinical practice, in accordance with section
26 365-a of the social services law, regardless of whether another social
27 services district or the department of health may otherwise be responsi-
28 ble for furnishing medical assistance to the eligible persons receiving
29 such services.

30 S 30. Section 93 of part H of chapter 59 of the laws of 2011, amending
31 the public health law relating to general hospital inpatient reimburse-
32 ment for annual rates, is amended to read as follows:

33 S 93. 1. Notwithstanding any inconsistent provision of law, rule or
34 regulation to the contrary, and subject to the availability of federal
35 financial participation, effective for the period April 1, 2011 through
36 March 31, 2012, and each state fiscal year thereafter, the department of
37 health is authorized to make supplemental Medicaid payments OR SUPPLE-
38 MENTAL MEDICAID MANAGED CARE PAYMENTS for professional services provided
39 by physicians, nurse practitioners and physician assistants who are
40 employed by a public benefit corporation or a non-state operated public
41 general hospital operated by a public benefit corporation or who are
42 providing professional services at a facility of such public benefit
43 corporation as either a member of a practice plan or an employee of a
44 professional corporation or limited liability corporation under contract
45 to provide services to patients of such a public benefit corporation, in
46 accordance with title 11 of article 5 of the social services law for
47 patients eligible for federal financial participation under title XIX of
48 the federal social security act, in amounts that will increase fees for
49 such professional services to an amount equal to either the Medicare
50 rate or the average commercial rate that would otherwise be received for
51 such services rendered by such physicians, nurse practitioners and
52 physician assistants, provided, however, that such supplemental fee
53 payments shall not be available with regard to services provided at
54 facilities participating in the Medicare Teaching Election Amendment.
55 The calculation of such supplemental fee payments shall be made in
56 accordance with applicable federal law and regulation and subject to the

1 approval of the division of the budget. Such supplemental Medicaid fee
2 payments may be added to the professional fees paid under the fee sched-
3 ule [or], made as aggregate lump sum payments to entities authorized to
4 receive professional fees OR MADE AS SUPPLEMENTAL PAYMENTS MADE FOR SUCH
5 PURPOSE AS DESCRIBED HEREIN TO MEDICAID MANAGED CARE ORGANIZATIONS.
6 SUPPLEMENTAL MEDICAID MANAGED CARE PAYMENTS UNDER THIS SECTION SHALL BE
7 DISTRIBUTED TO PROVIDERS AS DETERMINED BY THE MANAGED CARE MODEL
8 CONTRACT AND MAY UTILIZE MANAGED CARE ORGANIZATION REPORTED ENCOUNTER
9 DATA AND OTHER SUCH METRICS AS DETERMINED BY THE DEPARTMENT OF HEALTH IN
10 ORDER TO ENSURE RATES OF PAYMENT EQUIVALENT TO THE AVERAGE COMMERCIAL OR
11 MEDICARE RATE THAT WOULD OTHERWISE BE RECEIVED FOR SUCH SERVICES
12 RENDERED BY SUCH PHYSICIANS, NURSE PRACTITIONERS AND PHYSICIAN ASSIST-
13 ANTS.

14 2. The supplemental Medicaid payments OR SUPPLEMENTAL MEDICAID MANAGED
15 CARE PAYMENTS for professional services authorized by subdivision one of
16 this section may be made only at the election of the public benefit
17 corporation or the local social services district in which the non-state
18 operated public general hospital is located. The electing public benefit
19 corporation or local social services district shall, notwithstanding the
20 social services district Medicaid cap provisions of Part C of chapter 58
21 of the laws of 2005, be responsible for payment of one hundred percent
22 of the non-federal share of such supplemental Medicaid payments, in
23 accordance with section 365-a of the social services law, regardless of
24 whether another social services district or the department of health may
25 otherwise be responsible for furnishing medical assistance to the eligi-
26 ble persons receiving such services. Social services district or public
27 benefit corporation funding of the non-federal share of any such
28 payments shall be deemed to be voluntary for purposes of the increased
29 federal medical assistance percentage provisions of the American Recov-
30 ery and Reinvestment Act of 2009, provided, however, that in the event
31 the federal Centers for Medicare and Medicaid Services determines that
32 such non-federal share payments are not voluntary payments for purposes
33 of such act, the provisions of this section shall be null and void.

34 S 31. Subparagraph (iii) of paragraph (d) of subdivision 1 of section
35 367-a of the social services law, as amended by section 65 of part H of
36 chapter 59 of the laws 2011, is amended to read as follows:

37 (iii) [When payment under part B of title XVIII of the federal social
38 security act for] WITH RESPECT TO items and services provided to eligi-
39 ble persons who are also beneficiaries under part B of title XVIII of
40 the federal social security act and [for] items and services provided to
41 qualified medicare beneficiaries under part B of title XVIII of the
42 federal social security act [would exceed the amount that otherwise
43 would be made under this title if provided to an eligible person other
44 than a person who is also a beneficiary under part B or is a qualified
45 medicare beneficiary, the amount payable for services covered under this
46 title shall be twenty percent of], THE AMOUNT PAYABLE FOR SERVICES
47 COVERED UNDER THIS TITLE SHALL BE the amount of any co-insurance liabil-
48 ity of such eligible persons pursuant to federal law were they not
49 eligible for medical assistance or were they not qualified medicare
50 beneficiaries with respect to such benefits under such part B, BUT SHALL
51 NOT EXCEED THE AMOUNT THAT OTHERWISE WOULD BE MADE UNDER THIS TITLE IF
52 PROVIDED TO AN ELIGIBLE PERSON OTHER THAN A PERSON WHO IS ALSO A BENEFI-
53 CIARY UNDER PART B OR IS A QUALIFIED MEDICARE BENEFICIARY MINUS THE
54 AMOUNT PAYABLE UNDER PART B; provided, however, amounts payable under
55 this title for items and services provided to eligible persons who are
56 also beneficiaries under part B or to qualified medicare beneficiaries

1 by an ambulance service under the authority of an operating certificate
2 issued pursuant to article thirty of the public health law, a psychol-
3 ogist licensed under article one hundred fifty-three of the education
4 law, or a facility under the authority of an operating certificate
5 issued pursuant to article sixteen, thirty-one or thirty-two of the
6 mental hygiene law and with respect to outpatient hospital and clinic
7 items and services provided by a facility under the authority of an
8 operating certificate issued pursuant to article twenty-eight of the
9 public health law, shall not be less than the amount of any co-insurance
10 liability of such eligible persons or such qualified medicare benefici-
11 aries, or for which such eligible persons or such qualified medicare
12 beneficiaries would be liable under federal law were they not eligible
13 for medical assistance or were they not qualified medicare beneficiaries
14 with respect to such benefits under part B.

15 S 32. Paragraph (d) of subdivision 1 of section 367-a of the social
16 services law is amended by adding a new subparagraph (iv) to read as
17 follows:

18 (IV) IF A HEALTH PLAN PARTICIPATING IN PART C OF TITLE XVIII OF THE
19 FEDERAL SOCIAL SECURITY ACT PAYS FOR ITEMS AND SERVICES PROVIDED TO
20 ELIGIBLE PERSONS WHO ARE ALSO BENEFICIARIES UNDER PART B OF TITLE XVIII
21 OF THE FEDERAL SOCIAL SECURITY ACT OR TO QUALIFIED MEDICARE BENEFICI-
22 ARIES, THE AMOUNT PAYABLE FOR SERVICES UNDER THIS TITLE SHALL BE THE
23 AMOUNT OF ANY CO-INSURANCE LIABILITY OF SUCH ELIGIBLE PERSONS PURSUANT
24 TO FEDERAL LAW IF THEY WERE NOT ELIGIBLE FOR MEDICAL ASSISTANCE OR WERE
25 NOT QUALIFIED MEDICARE BENEFICIARIES WITH RESPECT TO SUCH BENEFITS UNDER
26 PART B, BUT SHALL NOT EXCEED THE AMOUNT THAT OTHERWISE WOULD BE MADE
27 UNDER THIS TITLE IF PROVIDED TO AN ELIGIBLE PERSON WHO IS NOT A BENEFI-
28 CIARY UNDER PART B OR A QUALIFIED MEDICARE BENEFICIARY, LESS THE AMOUNT
29 PAYABLE BY THE PART C HEALTH PLAN.

30 S 33. Paragraph (a) of subdivision 3 of section 366 of the social
31 services law, as amended by chapter 110 of the laws of 1971, is amended
32 to read as follows:

33 (a) Medical assistance shall be furnished to applicants in cases
34 where, although such applicant has a responsible relative with suffi-
35 cient income and resources to provide medical assistance as determined
36 by the regulations of the department, the income and resources of the
37 responsible relative are not available to such applicant because of the
38 absence of such relative [or] AND the refusal or failure of such ABSENT
39 relative to provide the necessary care and assistance. In such cases,
40 however, the furnishing of such assistance shall create an implied
41 contract with such relative, and the cost thereof may be recovered from
42 such relative in accordance with title six of article three OF THIS
43 CHAPTER and other applicable provisions of law.

44 S 34. The commissioner of health is authorized to contract with one
45 or more entities to conduct an assessment of the mobility and transpor-
46 tation needs of persons with disabilities and other special needs popu-
47 lations. The assessment shall include identification of any legal,
48 statutory or regulatory, and funding barriers. After consultation with
49 the department of transportation, office for people with developmental
50 disabilities, office for the aging, office of mental health, and office
51 of alcoholism and substance abuse services, the contractor shall make
52 recommendations for the development of a pilot demonstration project to
53 coordinate medical and non-medical transportation services, maximize
54 funding sources, enhance community integration and any other related
55 tasks.

1 S 35. Section 133 of the social services law, as amended by chapter
2 455 of the laws of 2010, is amended to read as follows:

3 S 133. Temporary preinvestigation emergency needs assistance or care.
4 Upon application for public assistance or care under this chapter, the
5 local social services district shall notify the applicant in writing of
6 the availability of a monetary grant adequate to meet emergency needs
7 assistance or care and shall, at such time, determine whether such
8 person is in immediate need. If it shall appear that a person is in
9 immediate need, emergency needs assistance or care shall be granted
10 pending completion of an investigation. The written notification
11 required by this section shall inform such person of a right to an expe-
12 dited hearing when emergency needs assistance or care is denied. A
13 public assistance applicant who has been denied emergency needs assist-
14 ance or care must be given reason for such denial in a written determi-
15 nation which sets forth the basis for such denial. NOTHING IN THIS
16 SECTION SHALL BE CONSTRUED TO REQUIRE THE SOCIAL SERVICES DISTRICT OR
17 ANY STATE AGENCY TO PROVIDE A MONETARY OR OTHER GRANT PURSUANT TO THIS
18 SECTION FOR THE PURPOSE OF OBTAINING MEDICAL CARE, HOME CARE, OR RELATED
19 SERVICES.

20 S 36. Subdivision 7 of section 364-i of the social services law, as
21 added by section 34 of part A of chapter 56 of the laws of 2013, is
22 amended to read as follows:

23 7. Notwithstanding [section one hundred thirty-three of this chapter]
24 ANY OTHER SECTION OF LAW, where care [or], services, OR SUPPLIES are
25 received prior to the date [the] AN individual is determined eligible
26 for assistance under this title, medical assistance reimbursement shall
27 be available for such care [or], services, OR SUPPLIES only (a) if the
28 care [or], services, OR SUPPLIES are received during the three month
29 period preceding the month of application for medical assistance and the
30 recipient is determined to have been eligible in the month in which the
31 care [or], service, OR SUPPLY was received, or (b) [as] IF provided [for
32 in] DURING A PERIOD OF PRESUMPTIVE ELIGIBILITY PURSUANT TO this section
33 [or regulations of the department]. NO MEDICAL ASSISTANCE UNDER THIS
34 TITLE, REGARDLESS OF FUNDING SOURCE, SHALL BE AVAILABLE TO MEET THE
35 IMMEDIATE NEEDS OF INDIVIDUALS PRIOR TO A DETERMINATION THAT THEY MEET
36 THE ELIGIBILITY REQUIREMENTS OF THIS TITLE, EXCEPT DURING A PERIOD OF
37 PRESUMPTIVE ELIGIBILITY AS PROVIDED IN THIS SUBDIVISION.

38 S 37. Notwithstanding any provision of law to the contrary, enhanced
39 federal medical assistance percentage monies available as a result of
40 the state's participation in the community first choice state plan
41 option under section 1915 of title XIX of the federal social security
42 act shall be used to implement the state's comprehensive plan for serv-
43 ing New Yorkers with disabilities in the most integrated setting, also
44 known as the state's Olmstead plan. Such monies shall be expended for
45 the purposes consistent with the Olmstead plan. The Department of Health
46 shall consult with stakeholders, relevant state agencies, the Division
47 of Budget and the Olmstead cabinet in determining the level of invest-
48 ment for each of the programs under the Olmstead plan.

49 S 38. Section 2808 of the public health law is amended by adding a new
50 subdivision 27 to read as follows:

51 27. FOR PERIODS ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, THE
52 COMMISSIONER SHALL AUTHORIZE AN ENERGY EFFICIENCY AND/OR DISASTER
53 PREPAREDNESS DEMONSTRATION PROGRAM FOR RESIDENTIAL HEALTH CARE FACILI-
54 TIES. SUCH PROGRAM SHALL BE LIMITED TO REAL PROPERTY CAPITAL COSTS. THE
55 COMMISSIONER MAY PROMULGATE REGULATIONS IN ORDER TO IMPLEMENT THE
56 PROVISIONS OF THIS SUBDIVISION.

1 S 39. The opening paragraph of subdivision 9 of section 3614 of the
2 public health law, as amended by section 56 of part A of chapter 56 of
3 the laws of 2013, is amended to read as follows:

4 Notwithstanding any law to the contrary, the commissioner shall,
5 subject to the availability of federal financial participation, adjust
6 medical assistance rates of payment for certified home health agencies
7 for such services provided to children under eighteen years of age and
8 for services provided to a special needs population of medically complex
9 and fragile children, adolescents and young disabled adults by a CHHA
10 operating under a pilot program approved by the department, long term
11 home health care programs, AIDS home care programs established pursuant
12 to this article, AND hospice programs established under article forty of
13 this chapter [and for managed long term care plans and approved managed
14 long term care operating demonstrations as defined in section forty-four
15 hundred three-f of this chapter]. Such adjustments shall be for purposes
16 of improving recruitment, training and retention of home health aides or
17 other personnel with direct patient care responsibility in the following
18 aggregate amounts for the following periods:

19 S 40. Paragraph (a) of subdivision 10 of section 3614 of the public
20 health law, as amended by section 57 of part A of chapter 56 of the laws
21 of 2013, is amended to read as follows:

22 (a) Such adjustments to rates of payments shall be allocated propor-
23 tionally based on each certified home health agency, long term home
24 health care program, AIDS home care and hospice program's home health
25 aide or other direct care services total annual hours of service
26 provided to medicaid patients, as reported in each such agency's most
27 recently available cost report as submitted to the department [or for
28 the purpose of the managed long term care program a suitable proxy
29 developed by the department in consultation with the interested
30 parties]. Payments made pursuant to this section shall not be subject to
31 subsequent adjustment or reconciliation; provided that such adjustments
32 to rates of payments to certified home health agencies shall only be for
33 that portion of services provided to children under eighteen years of
34 age and for services provided to a special needs population of medically
35 complex and fragile children, adolescents and young disabled adults by a
36 CHHA operating under a pilot program approved by the department.

37 S 41. The civil service law is amended by adding a new section 66 to
38 read as follows:

39 S 66. TERM APPOINTMENTS IN HEALTH INSURANCE PROGRAM-RELATED POSITIONS.
40 1. THE DEPARTMENT OF HEALTH'S OFFICE OF HEALTH INSURANCE PROGRAMS IS
41 TASKED WITH IMPLEMENTING SIGNIFICANT HEALTH INSURANCE PROGRAM REFORMS,
42 INITIATIVES AND MANDATES. AS THE STATE CONTINUES TO IMPLEMENT THESE
43 CHANGES, THE OFFICE OF HEALTH INSURANCE PROGRAMS MAY NEED TO RELY UPON
44 THE EXPERTISE OF INDIVIDUALS FROM EITHER INSIDE OR OUTSIDE THE EXISTING
45 STATE WORKFORCE THAT POSSESS HIGHLY SPECIALIZED EXPERTISE IN ASSESSING
46 AND LEVERAGING EMERGING HEALTH INSURANCE PROGRAMS AND RELATED ISSUES.

47 TO THIS END, NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHAPTER, THE
48 DEPARTMENT MAY AUTHORIZE TERM APPOINTMENTS WITHOUT EXAMINATION TO TEMPO-
49 RARY POSITIONS REQUIRING SPECIAL EXPERTISE OR QUALIFICATIONS IN HEALTH
50 INSURANCE PROGRAMS. SUCH APPOINTMENTS MAY BE AUTHORIZED ONLY IN SUCH
51 CASES WHERE THE OFFICE OF HEALTH INSURANCE PROGRAMS CERTIFIES TO THE
52 DEPARTMENT THAT BECAUSE OF THE TYPE OF SERVICES TO BE RENDERED OR THE
53 TEMPORARY OR OCCASIONAL CHARACTER OF SUCH SERVICES, IT WOULD NOT BE
54 PRACTICABLE TO HOLD AN EXAMINATION OF ANY KIND. SUCH CERTIFICATION SHALL
55 BE A PUBLIC DOCUMENT PURSUANT TO THE PUBLIC OFFICERS LAW AND SHALL IDEN-
56 TIFY THE SPECIAL EXPERTISE OR QUALIFICATIONS THAT ARE REQUIRED AND WHY

1 THEY CANNOT BE OBTAINED THROUGH AN APPOINTMENT FROM AN ELIGIBLE LIST.
2 THE MAXIMUM PERIOD FOR A TERM APPOINTMENT ESTABLISHED PURSUANT TO THIS
3 SUBDIVISION SHALL NOT EXCEED SIXTY MONTHS AND SHALL NOT BE EXTENDED, AND
4 THE MAXIMUM NUMBER OF SUCH APPOINTMENTS SHALL NOT EXCEED THREE HUNDRED.
5 AT LEAST FIFTEEN DAYS PRIOR TO MAKING A TERM APPOINTMENT PURSUANT TO
6 THIS SECTION THE APPOINTING AUTHORITY SHALL PUBLICLY AND CONSPICUOUSLY
7 POST IN ITS OFFICES INFORMATION ABOUT THE TEMPORARY POSITION AND THE
8 REQUIRED QUALIFICATIONS AND SHALL ALLOW ANY QUALIFIED EMPLOYEE TO APPLY
9 FOR SAID POSITION. AN EMPLOYEE APPOINTED PURSUANT TO THIS PROVISION WHO
10 HAS COMPLETED TWO YEARS OF CONTINUOUS SERVICE UNDER THIS PROVISION SHALL
11 BE ABLE TO COMPETE IN ONE PROMOTIONAL EXAMINATION THAT IS ALSO OPEN TO
12 EMPLOYEES WHO HAVE PERMANENT CIVIL SERVICE APPOINTMENTS AND APPROPRIATE
13 QUALIFICATIONS.

14 2. A TEMPORARY POSITION ESTABLISHED PURSUANT TO SUBDIVISION ONE OF
15 THIS SECTION MAY BE ABOLISHED FOR REASONS OF ECONOMY, CONSOLIDATION OR
16 ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE. UPON
17 SUCH ABOLITION OR AT THE END OF THE TERM OF THE APPOINTMENT, THE
18 PROVISIONS OF SECTIONS SEVENTY-EIGHT, SEVENTY-NINE, EIGHTY AND
19 EIGHTY-ONE OF THIS CHAPTER SHALL NOT APPLY. IN THE EVENT OF A REDUCTION
20 OF WORKFORCE PURSUANT TO SECTION EIGHTY OF THIS CHAPTER AFFECTING HEALTH
21 INSURANCE PROGRAM-RELATED POSITIONS, THE TERM APPOINTMENTS PURSUANT TO
22 THIS SECTION AT THE DEPARTMENT OF HEALTH'S OFFICE OF HEALTH INSURANCE
23 PROGRAMS SHALL BE ABOLISHED PRIOR TO THE ABOLITION OF PERMANENT COMPET-
24 ITIVE CLASS HEALTH INSURANCE PROGRAM-RELATED POSITIONS AT THE OFFICE OF
25 HEALTH INSURANCE PROGRAMS INVOLVING COMPARABLE SKILLS AND RESPONSIBIL-
26 ITIES.

27 S 42. Subdivision 12 of section 367-a of the social services law, as
28 amended by section 63-a of part C of chapter 58 of the laws of 2007, is
29 amended to read as follows:

30 12. Prior to receiving medical assistance under subparagraphs [twelve]
31 FIVE and [thirteen] SIX of paragraph [(a)] (C) of subdivision one of
32 section three hundred sixty-six of this title, a person whose net avail-
33 able income is at least one hundred fifty percent of the applicable
34 federal income official poverty line, as defined and updated by the
35 United States department of health and human services, must pay a month-
36 ly premium, in accordance with a procedure to be established by the
37 commissioner. The amount of such premium shall be twenty-five dollars
38 for an individual who is otherwise eligible for medical assistance under
39 such subparagraphs, and fifty dollars for a couple, both of whom are
40 otherwise eligible for medical assistance under such subparagraphs. No
41 premium shall be required from a person whose net available income is
42 less than one hundred fifty percent of the applicable federal income
43 official poverty line, as defined and updated by the United States
44 department of health and human services.

45 S 43. Subparagraph 6 of paragraph (b) of subdivision 1 of section 366
46 of the social services law, as added by section 1 of part D of chapter
47 56 of the laws of 2013, is amended to read as follows:

48 (6) An individual who is not otherwise eligible for medical assistance
49 under this section is eligible for coverage of family planning services
50 reimbursed by the federal government at a rate of ninety percent, and
51 for coverage of those services identified by the commissioner of health
52 as services generally performed as part of or as a follow-up to a
53 service eligible for such ninety percent reimbursement, including treat-
54 ment for sexually transmitted diseases, if his or her income does not
55 exceed the MAGI-equivalent of two hundred percent of the federal poverty
56 line for the applicable family size, which shall be calculated in

1 accordance with guidance issued by the secretary of the United States
2 department of health and human services[.]; PROVIDED FURTHER THAT THE
3 COMMISSIONER OF HEALTH IS AUTHORIZED TO ESTABLISH CRITERIA FOR PRESUMP-
4 TIVE ELIGIBILITY FOR SERVICES PROVIDED PURSUANT TO THIS SUBPARAGRAPH IN
5 ACCORDANCE WITH ALL APPLICABLE REQUIREMENTS OF FEDERAL LAW OR REGULATION
6 PERTAINING TO SUCH ELIGIBILITY.

7 S 44. Subdivision 1 of section 398-b of the social services law, as
8 added by section 44 of part C of chapter 60 of the laws of 2014, is
9 amended to read as follows:

10 1. Notwithstanding any inconsistent provision of law to the contrary
11 and subject to the availability of federal financial participation, the
12 commissioner is authorized to make grants [from] UP TO a gross amount of
13 five million dollars FOR STATE FISCAL YEAR TWO THOUSAND FOURTEEN--FIF-
14 TEEN AND UP TO A GROSS AMOUNT OF FIFTEEN MILLION DOLLARS FOR STATE
15 FISCAL YEAR TWO THOUSAND FIFTEEN--SIXTEEN to facilitate the transition
16 of foster care children placed with voluntary foster care agencies to
17 managed care. The use of such funds may include providing training and
18 consulting services to voluntary agencies to [access] ASSESS readiness
19 and make necessary infrastructure and organizational modifications,
20 collecting service utilization and other data from voluntary agencies
21 and other entities, and making investments in health information tech-
22 nology, including the infrastructure necessary to establish and maintain
23 electronic health records. Such funds shall be distributed pursuant to a
24 formula to be developed by the commissioner of health, in consultation
25 with the commissioner of the office of CHILDREN AND family [and child]
26 services. In developing such formula the commissioners may take into
27 account size and scope of provider operations as a factor relevant to
28 eligibility for such funds. Each recipient of such funds shall be
29 required to document and demonstrate the effective use of funds distrib-
30 uted herein. IF FEDERAL FINANCIAL PARTICIPATION IS UNAVAILABLE, THEN
31 THE NONFEDERAL SHARE OF PAYMENTS PURSUANT TO THIS SUBDIVISION MAY BE
32 MADE AS STATE GRANTS.

33 S 45. Paragraph (g) of subdivision 1 of section 366 of the social
34 services law, as added by section 50 of part C of chapter 60 of the laws
35 of 2014, is amended to read as follows:

36 (g) Coverage of certain noncitizens. (1) Applicants and recipients who
37 are lawfully admitted for permanent residence, or who are permanently
38 residing in the United States under color of law, OR WHO ARE NON-CITIZ-
39 ENS IN A VALID NONIMMIGRANT STATUS, AS DEFINED IN 8 U.S.C. 1101(A)(15);
40 who are MAGI eligible pursuant to paragraph (b) of this subdivision; and
41 who would be ineligible for medical assistance coverage under subdivi-
42 sions one and two of section three hundred sixty-five-a of this title
43 solely due to their immigration status if the provisions of section one
44 hundred twenty-two of this chapter were applied, shall only be eligible
45 for assistance under this title if enrolled in a standard health plan
46 offered by a basic health program established pursuant to section three
47 hundred sixty-nine-gg of this article if such program is established and
48 operating.

49 (2) With respect to a person described in subparagraph one of this
50 paragraph who is enrolled in a standard health plan, medical assistance
51 coverage shall mean:

52 (i) payment of required premiums and other cost-sharing obligations
53 under the standard health plan that exceed the person's co-payment obli-
54 gation under subdivision six of section three hundred sixty-seven-a of
55 this title; and

(ii) payment for services and supplies described in subdivision one or two of section three hundred sixty-five-a of this title, as applicable, but only to the extent that such services and supplies are not covered by the standard health plan.

(3) Nothing in this subdivision shall prevent a person described in subparagraph one of this paragraph from qualifying for or receiving medical assistance while his or her enrollment in a standard health plan is pending, in accordance with applicable provisions of this title.

S 46. Subdivision 8 of section 369-gg of the social service law, as added by section 51 of part C of chapter 60 of the laws of 2014 and as renumbered by section thirty of this act, is amended to read as follows:

8. An individual who is lawfully admitted for permanent residence [or], permanently residing in the United States under color of law, OR WHO IS A NON-CITIZEN IN A VALID NONIMMIGRANT STATUS, AS DEFINED IN 8 U.S.C. 1101(A)(15), and who would be ineligible for medical assistance under title eleven of this article due to his or her immigration status if the provisions of section one hundred twenty-two of this chapter were applied, shall be considered to be ineligible for medical assistance for purposes of paragraphs (b) and (c) of subdivision three of this section.

S 47. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 48. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

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

S 50. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015, section eight of this act shall expire and be deemed repealed March 31, 2017 and section thirty-eight of this act shall expire and be deemed repealed March 31, 2018 provided that:

1. sections two and three of this act shall take effect May 1, 2015;

2. sections six, nine and thirteen of this act shall take effect June 1, 2015;

3. sections thirty-one and thirty-two of this act shall take effect July 1, 2015;

4. the amendments to subdivision 9 of section 367-a of the social services law made by sections two and three of this act shall not affect the expiration and reversion of such subdivision and shall be deemed expired therewith;

1 5. sections twenty-eight and forty-six of this act shall take effect
2 on the same date and in the same manner as section 51 of part C of chap-
3 ter 60 of the laws of 2014 takes effect;

4 6. section forty-five of this act shall take effect on the same date
5 and in the same manner as section 50 of part C of chapter 60 of the laws
6 of 2014 takes effect;

7 7. the amendments to section 364-j of the social services law made by
8 section seven of this act shall not affect the repeal of such section
9 and shall be deemed to be repealed therewith;

10 8. any rules or regulations necessary to implement the provisions of
11 this act may be promulgated and any procedures, forms, or instructions
12 necessary for such implementation may be adopted and issued on or after
13 the date this act shall have become a law;

14 9. this act shall not be construed to alter, change, affect, impair or
15 defeat any rights, obligations, duties or interests accrued, incurred or
16 conferred prior to the effective date of this act;

17 10. the commissioner of health and the superintendent of the depart-
18 ment of financial services and any appropriate council may take steps
19 necessary to implement this act prior to its effective date;

20 11. notwithstanding any inconsistent provision of the state adminis-
21 trative procedure act or any other provision of law, rule or regulation,
22 the commissioner of health and the superintendent of the department of
23 financial services and any appropriate council is authorized to adopt or
24 amend or promulgate on an emergency basis any regulation he or she or
25 such council determines necessary to implement any provision of this act
26 on its effective date; and

27 12. the provisions of this act shall become effective notwithstanding
28 the failure of the commissioner of health or the superintendent of the
29 department of financial services or any council to adopt or amend or
30 promulgate regulations implementing this act.

31

PART C

32 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
33 amending chapter 59 of the laws of 2011 amending the public health law
34 and other laws relating to general hospital reimbursement for annual
35 rates relating to the cap on local Medicaid expenditures, as amended by
36 section 13 of part C of chapter 60 of the laws of 2014, is amended to
37 read as follows:

38 S 48-a. 1. Notwithstanding any contrary provision of law, the commis-
39 sioners of the office of alcoholism and substance abuse services and the
40 office of mental health are authorized, subject to the approval of the
41 director of the budget, to transfer to the commissioner of health state
42 funds to be utilized as the state share for the purpose of increasing
43 payments under the medicaid program to managed care organizations
44 licensed under article 44 of the public health law or under article 43
45 of the insurance law. Such managed care organizations shall utilize such
46 funds for the purpose of reimbursing providers licensed pursuant to
47 article 28 of the public health law or article 31 or 32 of the mental
48 hygiene law for ambulatory behavioral health services, as determined by
49 the commissioner of health, in consultation with the commissioner of
50 alcoholism and substance abuse services and the commissioner of the
51 office of mental health, provided to medicaid eligible outpatients. Such
52 reimbursement shall be in the form of fees for such services which are
53 equivalent to the payments established for such services under the ambu-
54 latory patient group (APG) rate-setting methodology as utilized by the

1 department of health, the office of alcoholism and substance abuse
2 services, or the office of mental health for rate-setting purposes;
3 provided, however, that the increase to such fees that shall result from
4 the provisions of this section shall not, in the aggregate and as deter-
5 mined by the commissioner of health, in consultation with the commis-
6 sioner of alcoholism and substance abuse services and the commissioner
7 of the office of mental health, be greater than the increased funds made
8 available pursuant to this section. The increase of such ambulatory
9 behavioral health fees to providers available under this section shall
10 be for all rate periods on and after the effective date of [the] SECTION
11 13 OF PART C OF chapter 60 of the laws of 2014 [which amended this
12 section] through December 31, 2016 for patients in the city of New York,
13 for all rate periods on and after the effective date of [the] SECTION 13
14 OF PART C OF chapter 60 of the laws of 2014 [which amended this section]
15 through June 30, 2017 for patients outside the city of New York, and for
16 all rate periods on and after the effective date of such chapter [of the
17 laws of 2014 which amended this section] through December 31, 2017 for
18 all services provided to persons under the age of twenty-one; provided,
19 however, that managed care organizations and providers may negotiate
20 different rates and methods of payment during such periods described
21 above, subject to the approval of the department of health. The depart-
22 ment of health shall consult with the office of alcoholism and substance
23 abuse services and the office of mental health in determining whether
24 such alternative rates shall be approved. The commissioner of health
25 may, in consultation with the commissioner of alcoholism and substance
26 abuse services and the commissioner of the office of mental health,
27 promulgate regulations, including emergency regulations promulgated
28 prior to October 1, 2015 to establish rates for ambulatory behavioral
29 health services, as are necessary to implement the provisions of this
30 section. Rates promulgated under this section shall be included in the
31 report required under section 45-c of part A of this chapter.

32 2. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, THE FEES PAID BY
33 MANAGED CARE ORGANIZATIONS LICENSED UNDER ARTICLE 44 OF THE PUBLIC
34 HEALTH LAW OR UNDER ARTICLE 43 OF THE INSURANCE LAW, TO PROVIDERS
35 LICENSED PURSUANT TO ARTICLE 28 OF THE PUBLIC HEALTH LAW OR ARTICLE 31
36 OR 32 OF THE MENTAL HYGIENE LAW, FOR AMBULATORY BEHAVIORAL HEALTH
37 SERVICES PROVIDED TO PATIENTS ENROLLED IN THE CHILD HEALTH INSURANCE
38 PROGRAM PURSUANT TO TITLE ONE-A OF ARTICLE 25 OF THE PUBLIC HEALTH LAW,
39 SHALL BE IN THE FORM OF FEES FOR SUCH SERVICES WHICH ARE EQUIVALENT TO
40 THE PAYMENTS ESTABLISHED FOR SUCH SERVICES UNDER THE AMBULATORY PATIENT
41 GROUP (APG) RATE-SETTING METHODOLOGY. THE COMMISSIONER OF HEALTH SHALL
42 CONSULT WITH THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES
43 AND THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH IN DETERMINING SUCH
44 SERVICES AND ESTABLISHING SUCH FEES. SUCH AMBULATORY BEHAVIORAL HEALTH
45 FEES TO PROVIDERS AVAILABLE UNDER THIS SECTION SHALL BE FOR ALL RATE
46 PERIODS ON AND AFTER THE EFFECTIVE DATE OF THIS CHAPTER THROUGH DECEMBER
47 31, 2016 FOR PATIENTS IN THE CITY OF NEW YORK, AND FOR ALL RATE PERIODS
48 ON AND AFTER THE EFFECTIVE DATE OF THIS CHAPTER THROUGH JUNE 30, 2017
49 FOR PATIENTS OUTSIDE THE CITY OF NEW YORK, PROVIDED, HOWEVER, THAT
50 MANAGED CARE ORGANIZATIONS AND PROVIDERS MAY NEGOTIATE DIFFERENT RATES
51 AND METHODS OF PAYMENT DURING SUCH PERIODS DESCRIBED ABOVE, SUBJECT TO
52 THE APPROVAL OF THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF HEALTH
53 SHALL CONSULT WITH THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES
54 AND THE OFFICE OF MENTAL HEALTH IN DETERMINING WHETHER SUCH ALTERNATIVE
55 RATES SHALL BE APPROVED.

1 S 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
2 to increasing Medicaid payments to providers through managed care organ-
3 izations and providing equivalent fees through an ambulatory patient
4 group methodology, as amended by section 15 of part C of chapter 60 of
5 the laws of 2014, is amended to read as follows:

6 Section 1. A. Notwithstanding any contrary provision of law, the
7 commissioners of mental health and alcoholism and substance abuse
8 services are authorized, subject to the approval of the director of the
9 budget, to transfer to the commissioner of health state funds to be
10 utilized as the state share for the purpose of increasing payments under
11 the medicaid program to managed care organizations licensed under arti-
12 cle 44 of the public health law or under article 43 of the insurance
13 law. Such managed care organizations shall utilize such funds for the
14 purpose of reimbursing providers licensed pursuant to article 28 of the
15 public health law, or pursuant to article 31 or article 32 of the mental
16 hygiene law for ambulatory behavioral health services, as determined by
17 the commissioner of health in consultation with the commissioner of
18 mental health and commissioner of alcoholism and substance abuse
19 services, provided to medicaid eligible outpatients. Such reimbursement
20 shall be in the form of fees for such services which are equivalent to
21 the payments established for such services under the ambulatory patient
22 group (APG) rate-setting methodology as utilized by the department of
23 health or by the office of mental health or office of alcoholism and
24 substance abuse services for rate-setting purposes; provided, however,
25 that the increase to such fees that shall result from the provisions of
26 this section shall not, in the aggregate and as determined by the
27 commissioner of health in consultation with the commissioners of mental
28 health and alcoholism and substance abuse services, be greater than the
29 increased funds made available pursuant to this section. The increase of
30 such behavioral health fees to providers available under this section
31 shall be for all rate periods on and after the effective date of [the]
32 SECTION 15 OF PART C OF chapter 60 of the laws of 2014 [which amended
33 this section] through December 31, 2016 for patients in the city of New
34 York, for all rate periods on and after the effective date of [the]
35 SECTION 15 OF PART C OF chapter 60 of the laws of 2014 [which amended
36 this section] through June 30, 2017 for patients outside the city of New
37 York, and for all rate periods on and after the effective date of [the]
38 SECTION 15 OF PART C OF chapter 60 of the laws of 2014 [which amended
39 this section] through December 31, 2017 for all services provided to
40 persons under the age of twenty-one; provided, however, that managed
41 care organizations and providers may negotiate different rates and meth-
42 ods of payment during such periods described, subject to the approval of
43 the department of health. The department of health shall consult with
44 the office of alcoholism and substance abuse services and the office of
45 mental health in determining whether such alternative rates shall be
46 approved. The commissioner of health may, in consultation with the
47 commissioners of mental health and alcoholism and substance abuse
48 services, promulgate regulations, including emergency regulations
49 promulgated prior to October 1, 2013 that establish rates for behavioral
50 health services, as are necessary to implement the provisions of this
51 section. Rates promulgated under this section shall be included in the
52 report required under section 45-c of part A of chapter 56 of the laws
53 of 2013.

54 B. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, THE FEES PAID BY
55 MANAGED CARE ORGANIZATIONS LICENSED UNDER ARTICLE 44 OF THE PUBLIC
56 HEALTH LAW OR UNDER ARTICLE 43 OF THE INSURANCE LAW, TO PROVIDERS

1 LICENSED PURSUANT TO ARTICLE 28 OF THE PUBLIC HEALTH LAW OR ARTICLE 31
2 OR 32 OF THE MENTAL HYGIENE LAW, FOR AMBULATORY BEHAVIORAL HEALTH
3 SERVICES PROVIDED TO PATIENTS ENROLLED IN THE CHILD HEALTH INSURANCE
4 PROGRAM PURSUANT TO TITLE ONE-A OF ARTICLE 25 OF THE PUBLIC HEALTH LAW,
5 SHALL BE IN THE FORM OF FEES FOR SUCH SERVICES WHICH ARE EQUIVALENT TO
6 THE PAYMENTS ESTABLISHED FOR SUCH SERVICES UNDER THE AMBULATORY PATIENT
7 GROUP (APG) RATE-SETTING METHODOLOGY. THE COMMISSIONER OF HEALTH SHALL
8 CONSULT WITH THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES
9 AND THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH IN DETERMINING SUCH
10 SERVICES AND ESTABLISHING SUCH FEES. SUCH AMBULATORY BEHAVIORAL HEALTH
11 FEES TO PROVIDERS AVAILABLE UNDER THIS SECTION SHALL BE FOR ALL RATE
12 PERIODS ON AND AFTER THE EFFECTIVE DATE OF THIS CHAPTER THROUGH DECEMBER
13 31, 2016 FOR PATIENTS IN THE CITY OF NEW YORK, AND FOR ALL RATE PERIODS
14 ON AND AFTER THE EFFECTIVE DATE OF THIS CHAPTER THROUGH JUNE 30, 2017
15 FOR PATIENTS OUTSIDE THE CITY OF NEW YORK, PROVIDED, HOWEVER, THAT
16 MANAGED CARE ORGANIZATIONS AND PROVIDERS MAY NEGOTIATE DIFFERENT RATES
17 AND METHODS OF PAYMENT DURING SUCH PERIODS DESCRIBED ABOVE, SUBJECT TO
18 THE APPROVAL OF THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF HEALTH SHALL
19 CONSULT WITH THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES AND
20 THE OFFICE OF MENTAL HEALTH IN DETERMINING WHETHER SUCH ALTERNATIVE
21 RATES SHALL BE APPROVED.

22 S 3. Notwithstanding any inconsistent provision of law, rule or regu-
23 lation, for purposes of implementing the provisions of the public health
24 law and the social services law, references to titles XIX and XXI of the
25 federal social security act in the public health law and the social
26 services law shall be deemed to include and also to mean any successor
27 titles thereto under the federal social security act.

28 S 4. Notwithstanding any inconsistent provision of law, rule or regu-
29 lation, the effectiveness of the provisions of sections 2807 and 3614 of
30 the public health law, section 18 of chapter 2 of the laws of 1988, and
31 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
32 or certification of rates of payment, are hereby suspended and without
33 force or effect for purposes of implementing the provisions of this act.

34 S 5. Severability clause. If any clause, sentence, paragraph, subdivi-
35 sion, section or part of this act shall be adjudged by any court of
36 competent jurisdiction to be invalid, such judgment shall not affect,
37 impair or invalidate the remainder thereof, but shall be confined in its
38 operation to the clause, sentence, paragraph, subdivision, section or
39 part thereof directly involved in the controversy in which such judgment
40 shall have been rendered. It is hereby declared to be the intent of the
41 legislature that this act would have been enacted even if such invalid
42 provisions had not been included herein.

43 S 6. This act shall take effect immediately and shall be deemed to
44 have been in full force and effect on and after April 1, 2015. Provided,
45 however that:

46 1. any rules or regulations necessary to implement the provisions of
47 this act may be promulgated and any procedures, forms, or instructions
48 necessary for such implementation may be adopted and issued on or after
49 the date this act shall have become a law;

50 2. this act shall not be construed to alter, change, affect, impair or
51 defeat any rights, obligations, duties or interests accrued, incurred or
52 conferred prior to the effective date of this act;

53 3. the commissioner of health and the superintendent of the department
54 of financial services and any appropriate council may take any steps
55 necessary to implement this act prior to its effective date;

1 4. notwithstanding any inconsistent provision of the state administra-
2 tive procedure act or any other provision of law, rule or regulation,
3 the commissioner of health and the superintendent of the department of
4 financial services and any appropriate council is authorized to adopt or
5 amend or promulgate on an emergency basis any regulation he or she or
6 such council determines necessary to implement any provision of this act
7 on its effective date;

8 5. the provisions of this act shall become effective notwithstanding
9 the failure of the commissioner of health or the superintendent of the
10 department of financial services or any council to adopt or amend or
11 promulgate regulations implementing this act; and

12 6. the amendments to section 48-a of part A of chapter 56 of the laws
13 of 2013 made by section one of this act and the amendments to section 1
14 of part H of chapter 111 of the laws of 2010 made by section two of this
15 act shall not affect the expiration of such sections and shall be deemed
16 to expire therewith.

17 PART D

18 Section 1. Section 11 of chapter 884 of the laws of 1990, amending the
19 public health law relating to authorizing bad debt and charity care
20 allowances for certified home health agencies, as amended by section 3
21 of part B of chapter 56 of the laws of 2013, is amended to read as
22 follows:

23 S 11. This act shall take effect immediately and:

24 (a) sections one and three shall expire on December 31, 1996,

25 (b) [sections four through ten shall expire on June 30, 2015, and

26 (c)] provided that the amendment to section 2807-b of the public
27 health law by section two of this act shall not affect the expiration of
28 such section 2807-b as otherwise provided by law and shall be deemed to
29 expire therewith.

30 S 2. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
31 amending the public health law and other laws relating to medical
32 reimbursement and welfare reform, as amended by section 4 of part B of
33 chapter 56 of the laws of 2013, is amended to read as follows:

34 2. Sections five, seven through nine, twelve through fourteen, and
35 eighteen of this act shall be deemed to have been in full force and
36 effect on and after April 1, 1995 through March 31, 1999 and on and
37 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
38 through March 31, 2003 and on and after April 1, 2003 through March 31,
39 2006 and on and after April 1, 2006 through March 31, 2007 and on and
40 after April 1, 2007 through March 31, 2009 and on and after April 1,
41 2009 through March 31, 2011 and sections twelve, thirteen and fourteen
42 of this act shall be deemed to be in full force and effect on and after
43 April 1, 2011 [through March 31, 2015];

44 S 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
45 2807-d of the public health law, as amended by section 5 of part B of
46 chapter 56 of the laws of 2013, is amended to read as follows:

47 (vi) Notwithstanding any contrary provision of this paragraph or any
48 other provision of law or regulation to the contrary, for residential
49 health care facilities the assessment shall be six percent of each resi-
50 dential health care facility's gross receipts received from all patient
51 care services and other operating income on a cash basis for the period
52 April first, two thousand two through March thirty-first, two thousand
53 three for hospital or health-related services, including adult day
54 services; provided, however, that residential health care facilities'

1 gross receipts attributable to payments received pursuant to title XVIII
2 of the federal social security act (medicare) shall be excluded from the
3 assessment; provided, however, that for all such gross receipts received
4 on or after April first, two thousand three through March thirty-first,
5 two thousand five, such assessment shall be five percent, and further
6 provided that for all such gross receipts received on or after April
7 first, two thousand five through March thirty-first, two thousand nine,
8 and on or after April first, two thousand nine through March thirty-
9 first, two thousand eleven such assessment shall be six percent, and
10 further provided that for all such gross receipts received on or after
11 April first, two thousand eleven through March thirty-first, two thou-
12 sand thirteen such assessment shall be six percent, and further provided
13 that for all such gross receipts received on or after April first, two
14 thousand thirteen through March thirty-first, two thousand fifteen such
15 assessment shall be six percent, AND FURTHER PROVIDED THAT FOR ALL SUCH
16 GROSS RECEIPTS RECEIVED ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN
17 SUCH ASSESSMENT SHALL BE SIX PERCENT.

18 S 4. Section 88 of chapter 659 of the laws of 1997, constituting the
19 long term care integration and finance act of 1997, as amended by
20 section 6 of part B of chapter 56 of the laws of 2013, is amended to
21 read as follows:

22 S 88. Notwithstanding any provision of law to the contrary, all oper-
23 ating demonstrations, as such term is defined in paragraph (c) of subdi-
24 vision 1 of section 4403-f of the public health law as added by section
25 eighty-two of this act, due to expire prior to January 1, 2001 shall be
26 deemed to [expire on December 31, 2015] REMAIN IN FULL FORCE AND EFFECT
27 SUBSEQUENT TO SUCH DATE.

28 S 5. Subdivision 1 of section 194 of chapter 474 of the laws of 1996,
29 amending the education law and other laws relating to rates for residen-
30 tial health care facilities, as amended by section 9 of part B of chap-
31 ter 56 of the laws of 2013, is amended to read as follows:

32 1. Notwithstanding any inconsistent provision of law or regulation,
33 the trend factors used to project reimbursable operating costs to the
34 rate period for purposes of determining rates of payment pursuant to
35 article 28 of the public health law for residential health care facili-
36 ties for reimbursement of inpatient services provided to patients eligi-
37 ble for payments made by state governmental agencies on and after April
38 1, 1996 through March 31, 1999 and for payments made on and after July
39 1, 1999 through March 31, 2000 and on and after April 1, 2000 through
40 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and
41 on and after April 1, 2007 through March 31, 2009 and on and after April
42 1, 2009 through March 31, 2011 and on and after April 1, 2011 through
43 March 31, 2013 and on and after April 1, 2013 through March 31, 2015 ,
44 AND FOR EACH STATE FISCAL YEAR THEREAFTER shall reflect no trend factor
45 projections or adjustments for the period April 1, 1996, through March
46 31, 1997.

47 S 6. Subdivision 1 of section 89-a of part C of chapter 58 of the laws
48 of 2007, amending the social services law and other laws relating to
49 enacting the major components of legislation necessary to implement the
50 health and mental hygiene budget for the 2007-2008 state fiscal year, as
51 amended by section 10 of part B of chapter 56 of the laws of 2013, is
52 amended to read as follows:

53 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
54 of the public health law and section 21 of chapter 1 of the laws of
55 1999, as amended, and any other inconsistent provision of law or regu-
56 lation to the contrary, in determining rates of payments by state

1 governmental agencies effective for services provided beginning April 1,
2 2006, [through March 31, 2009, and on and after April 1, 2009 through
3 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,
4 and on and after April 1, 2013 through March 31, 2015] for inpatient and
5 outpatient services provided by general hospitals and for inpatient
6 services and outpatient adult day health care services provided by resi-
7 dential health care facilities pursuant to article 28 of the public
8 health law, the commissioner of health shall apply a trend factor
9 projection of two and twenty-five hundredths percent attributable to the
10 period January 1, 2006 through December 31, 2006, and on and after Janu-
11 ary 1, 2007, provided, however, that on reconciliation of such trend
12 factor for the period January 1, 2006 through December 31, 2006 pursuant
13 to paragraph (c) of subdivision 10 of section 2807-c of the public
14 health law, such trend factor shall be the final US Consumer Price Index
15 (CPI) for all urban consumers, as published by the US Department of
16 Labor, Bureau of Labor Statistics less twenty-five hundredths of a
17 percentage point.

18 S 7. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of the
19 laws of 1995, amending the public health law and other laws relating to
20 medical reimbursement and welfare reform, as amended by section 11 of
21 part B of chapter 56 of the laws of 2013, is amended to read as follows:

22 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,
23 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
24 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,
25 February 1, 2012, February 1, 2013 [and], February 1, 2014 [and], Febru-
26 ary 1, 2015 AND PRIOR TO EACH FEBRUARY FIRST THEREAFTER the commissioner
27 of health shall calculate the result of the statewide total of residen-
28 tial health care facility days of care provided to beneficiaries of
29 title XVIII of the federal social security act (medicare), divided by
30 the sum of such days of care plus days of care provided to residents
31 eligible for payments pursuant to title 11 of article 5 of the social
32 services law minus the number of days provided to residents receiving
33 hospice care, expressed as a percentage, for the period commencing Janu-
34 ary 1, through November 30, of the prior year respectively, based on
35 such data for such period. This value shall be called the 2000, 2001,
36 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,
37 2014 [and], 2015 AND FOR EACH SUBSEQUENT YEAR SUCH PERCENTAGE SHALL BE
38 CALLED THE statewide target percentage [respectively] OF THE RESPECTIVE
39 YEAR.

40 S 8. Subparagraph (ii) of paragraph (b) of subdivision 3 of section 64
41 of chapter 81 of the laws of 1995, amending the public health law and
42 other laws relating to medical reimbursement and welfare reform, as
43 amended by section 12 of part B of chapter 56 of the laws of 2013, is
44 amended to read as follows:

45 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
46 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR SUBSEQUENT
47 YEARS' statewide target percentages are not for each year at least three
48 percentage points higher than the statewide base percentage, the commis-
49 sioner of health shall determine the percentage by which the statewide
50 target percentage for each year is not at least three percentage points
51 higher than the statewide base percentage. The percentage calculated
52 pursuant to this paragraph shall be called the 1997, 1998, 2000, 2001,
53 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,
54 2014 [and], 2015 AND FOR EACH SUBSEQUENT YEAR SUCH PERCENTAGE SHALL BE
55 CALLED THE statewide reduction percentage [respectively] OF THE RESPEC-
56 TIVE YEAR. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,

2007, 2008, 2009, 2010, 2011, 2012, 2013[;], 2014 [and], 2015 OR SUBSEQUENT YEARS' statewide target percentage for the respective year is at least three percentage points higher than the statewide base percentage, the statewide reduction percentage for the respective year shall be zero.

S 9. Subparagraph (iii) of paragraph (b) of subdivision 4 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 13 of part B of chapter 56 of the laws of 2013, is amended to read as follows:

(iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR SUBSEQUENT YEARS' statewide reduction percentage shall be multiplied by one hundred two million dollars respectively to determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR RESPECTIVE SUBSEQUENT YEARS' statewide aggregate reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR RESPECTIVE SUBSEQUENT YEARS' statewide reduction percentage shall be zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR RESPECTIVE SUBSEQUENT YEARS' reduction amount.

S 10. Section 228 of chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, as amended by section 14-a of part B of chapter 56 of the laws of 2013, is amended to read as follows:

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

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

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

(d) Regional group shall mean all those CHHAs and LTHHCPs, respectively, located within a region.

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

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

(g) Target period. For purposes of this section, the 1996 target period shall mean August 1, 1996 through March 31, 1997, the 1997 target period shall mean January 1, 1997 through November 30, 1997, the 1998 target period shall mean January 1, 1998 through November 30, 1998, the 1999 target period shall mean January 1, 1999 through November 30, 1999, the 2000 target period shall mean January 1, 2000 through November 30, 2000, the 2001 target period shall mean January 1, 2001 through November 30, 2001, the 2002 target period shall mean January 1, 2002 through November 30, 2002, the 2003 target period shall mean January 1, 2003

1 through November 30, 2003, the 2004 target period shall mean January 1,
2 2004 through November 30, 2004, and the 2005 target period shall mean
3 January 1, 2005 through November 30, 2005, the 2006 target period shall
4 mean January 1, 2006 through November 30, 2006, and the 2007 target
5 period shall mean January 1, 2007 through November 30, 2007 and the 2008
6 target period shall mean January 1, 2008 through November 30, 2008, and
7 the 2009 target period shall mean January 1, 2009 through November 30,
8 2009 and the 2010 target period shall mean January 1, 2010 through
9 November 30, 2010 and the 2011 target period shall mean January 1, 2011
10 through November 30, 2011 and the 2012 target period shall mean January
11 1, 2012 through November 30, 2012 and the 2013 target period shall mean
12 January 1, 2013 through November 30, 2013, and the 2014 target period
13 shall mean January 1, 2014 through November 30, 2014 and the 2015 target
14 period shall mean January 1, 2015 through November 30, 2015 AND EACH
15 JANUARY 1 THROUGH EACH NOVEMBER 30 OF A CALENDAR YEAR THEREAFTER SHALL
16 MEAN SUCH YEARS' RESPECTIVE TARGET PERIOD.

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

21 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to
22 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
23 prior to February 1, 2003, prior to February 1, 2004, prior to February
24 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
25 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,
26 prior to February 1, 2011, prior to February 1, 2012, prior to February
27 1, 2013, prior to February 1, 2014 and prior to February 1, 2015, AND
28 PRIOR TO FEBRUARY FIRST EACH YEAR THEREAFTER, for each regional group
29 the commissioner of health shall calculate the prior year's medicaid
30 revenue percentages for the period commencing January 1 through November
31 30 of such prior year.

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

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

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

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

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

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

48 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
49 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND EACH YEAR
50 THEREAFTER, for each regional group, the target medicaid revenue
51 percentage for the respective year shall be calculated by subtracting
52 the respective year's medicaid revenue reduction percentage from the
53 base period medicaid revenue percentage. The medicaid revenue reduction
54 percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
55 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND EACH
56 YEAR THEREAFTER, taking into account regional and program differences in

utilization of medicaid and medicare services, for the following regional groups shall be equal to for each such year:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH YEAR THEREAFTER, for each regional group, the reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

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

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

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

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

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

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

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

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

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

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

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

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

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH YEAR THEREAFTER, for each regional group, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue

percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this section. This amount shall be called the provider specific state share reduction amount for the applicable year.

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

(b) The provider specific state share reduction amount for 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH YEAR THEREAFTER, respectively, shall be due to the state from each CHHA and LTHHCP and each year the amount due for such year may be recouped by the state by March 31 of the following year in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

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

10. On or about June 1, 1997, for each regional group the commissioner of health shall calculate for the period August 1, 1996 through March 31, 1997 a medicaid revenue percentage, a reduction factor, a state share reduction amount, and a provider specific state share reduction amount in accordance with the methodology provided in paragraph (a) of subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivision 6 and paragraph (a) of subdivision 7 of this section. The provider specific state share reduction amount calculated in accordance with this subdivision shall be compared to the 1996 provider specific state share reduction amount calculated in accordance with paragraph (a) of subdivision 7 of this section. Any amount in excess of the amount determined in accordance with paragraph (a) of subdivision 7 of this section shall be due to the state from each CHHA and LTHHCP and may be recouped in accordance with paragraph (a) of subdivision 8 of this section. If the amount is less than the amount determined in accordance with paragraph (a) of subdivision 7 of this section, the difference shall be refunded to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs and LTHHCPs shall submit data for the period August 1, 1996 through March 31, 1997 to the commissioner of health by April 15, 1997.

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

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

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

12. The commissioner of health shall inform in writing the director of the budget and the chair of the senate finance committee and the chair

1 of the assembly ways and means committee of the results of the calcu-
2 lations pursuant to this section.

3 S 11. Subdivision 5-a of section 246 of chapter 81 of the laws of
4 1995, amending the public health law and other laws relating to medical
5 reimbursement and welfare reform, as amended by section 15 of part B of
6 chapter 56 of the laws of 2013, is amended to read as follows:

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

15 S 12. Section 64-b of chapter 81 of the laws of 1995, amending the
16 public health law and other laws relating to medical reimbursement and
17 welfare reform, as amended by section 16 of part B of chapter 56 of the
18 laws of 2013, is amended to read as follows:

19 S 64-b. Notwithstanding any inconsistent provision of law, the
20 provisions of subdivision 7 of section 3614 of the public health law, as
21 amended, shall remain and be in full force and effect on April 1, 1995
22 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
23 and after April 1, 2000 through March 31, 2003 and on and after April 1,
24 2003 through March 31, 2007, and on and after April 1, 2007 through
25 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
26 and on and after April 1, 2011 through March 31, 2013, and on and after
27 April 1, 2013 through March 31, 2015, AND FOR EACH YEAR THEREAFTER.

28 S 13. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,
29 amending the public health law, the social services law and the insur-
30 ance law, relating to providing enhanced consumer and provider
31 protections, as amended by section 17 of part B of chapter 56 of the
32 laws of 2013, is amended to read as follows:

33 1. sections four, eleven and thirteen of this act shall take effect
34 immediately [and shall expire and be deemed repealed June 30, 2015];

35 S 14. The opening paragraph of subdivision 7-a of section 3614 of the
36 public health law, as amended by section 18 of part B of chapter 56 of
37 the laws of 2013, is amended to read as follows:

38 Notwithstanding any inconsistent provision of law or regulation, for
39 the purposes of establishing rates of payment by governmental agencies
40 for long term home health care programs for the period April first, two
41 thousand five, through December thirty-first, two thousand five, and for
42 the period January first, two thousand six through March thirty-first,
43 two thousand seven, and on and after April first, two thousand seven
44 through March thirty-first, two thousand nine, and on and after April
45 first, two thousand nine through March thirty-first, two thousand elev-
46 en, and on and after April first, two thousand eleven through March
47 thirty-first, two thousand thirteen and on and after April first, two
48 thousand thirteen through March thirty-first, two thousand fifteen, AND
49 FOR EACH YEAR THEREAFTER, the reimbursable base year administrative and
50 general costs of a provider of services shall not exceed the statewide
51 average of total reimbursable base year administrative and general costs
52 of such providers of services.

53 S 15. Subdivision 12 of section 246 of chapter 81 of the laws of 1995,
54 amending the public health law and other laws relating to medical
55 reimbursement and welfare reform, as amended by section 21 of part B of
56 chapter 56 of the laws of 2013, is amended to read as follows:

12. Sections one hundred five-b through one hundred five-f of this act shall expire March 31, [2015] 2017.

S 16. Section 3 of chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, as amended by section 30 of part A of chapter 59 of the laws of 2011, is amended to read as follows:

S 3. This act shall take effect immediately[, provided, however, that subdivision 15-a of section 5 of section 1 of chapter 392 of the laws of 1973, as added by section one of this act, shall expire and be deemed repealed June 30, 2015; and provided further, however, that the expiration and repeal of such subdivision 15-a shall not affect or impair in any manner any health facilities bonds issued, or any lease or purchase of a health facility executed, pursuant to such subdivision 15-a prior to its expiration and repeal and that, with respect to any such bonds issued and outstanding as of June 30, 2015, the provisions of such subdivision 15-a as they existed immediately prior to such expiration and repeal shall continue to apply through the latest maturity date of any such bonds, or their earlier retirement or redemption, for the sole purpose of authorizing the issuance of refunding bonds to refund bonds previously issued pursuant thereto].

S 17. Subdivision (c) of section 62 of chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, as amended by section 26 of part D of chapter 59 of the laws of 2011, is amended to read as follows:

(c) [section 364-j of the social services law, as amended by section eight of this act and subdivision 6 of section 367-a of the social services law as added by section twelve of this act shall expire and be deemed repealed on March 31, 2015 and] provided [further], that the amendments to the provisions of section 364-j of the social services law made by section eight of this act shall only apply to managed care programs approved on or after the effective date of this act;

S 18. Subdivision 3 of section 1680-j of the public authorities law, as amended by section 9 of part C of chapter 59 of the laws of 2011, is amended to read as follows:

3. Notwithstanding any law to the contrary, and in accordance with section four of the state finance law, the comptroller is hereby authorized and directed to transfer from the health care reform act (HCRA) resources fund (061) to the general fund, upon the request of the director of the budget, up to \$6,500,000 on or before March 31, 2006, and the comptroller is further hereby authorized and directed to transfer from the healthcare reform act (HCRA); Resources fund (061) to the Capital Projects Fund, upon the request of the director of budget, up to \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to \$151,600,000 for the period April 1, 2009 through March 31, 2010, up to \$215,743,000 for the period April 1, 2010 through March 31, 2011, up to \$433,366,000 for the period April 1, 2011 through March 31, 2012, up to \$150,806,000 for the period April 1, 2012 through March 31, 2013, up to \$78,071,000 for the period April 1, 2013 through March 31, 2014, and up to \$86,005,000 for the period April 1, 2014 through March 31, 2015, AND UP TO \$86,005,000 FOR THE PERIOD APRIL 1, 2015 THROUGH DECEMBER 31, 2017.

S 19. Subdivision (i) of section 111 of part H of chapter 59 of the laws of 2011, relating to enacting into law major components of legis-

lation necessary to implement the health and mental hygiene budget for the 2011-2012 state fiscal plan, is REPEALED.

S 20. Section 97 of chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, as amended by section 65-b of part A of chapter 57 of the laws of 2006, is amended to read as follows:

S 97. This act shall take effect immediately, provided, however, that the amendments to subdivision 4 of section 854 of the general municipal law made by section seventy of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith and provided further that sections sixty-seven and sixty-eight of this act shall apply to taxable years beginning on or after January 1, 1998 and [provided further that sections eighty-one through eighty-seven of this act shall expire and be deemed repealed on December 31, 2015 and] provided further, however, that the amendments to section ninety of this act shall take effect January 1, 1998 and shall apply to all policies, contracts, certificates, riders or other evidences of coverage of long term care insurance issued, renewed, altered or modified pursuant to section 3229 of the insurance law on or after such date.

S 21. Paragraph (b) of subdivision 17 of section 2808 of the public health law, as amended by section 98 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(b) Notwithstanding any inconsistent provision of law or regulation to the contrary, for the state fiscal [year] YEARS beginning April first, two thousand ten and ending March thirty-first, two thousand [fifteen] NINETEEN, the commissioner shall not be required to revise certified rates of payment established pursuant to this article for rate periods prior to April first, two thousand [fifteen] NINETEEN, based on consideration of rate appeals filed by residential health care facilities or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of an application for construction under section twenty-eight hundred two of this article, in excess of an aggregate annual amount of eighty million dollars for each such state fiscal year provided, however, that for the period April first, two thousand eleven through March thirty-first, two thousand twelve such aggregate annual amount shall be fifty million dollars. In revising such rates within such fiscal limit, the commissioner shall, in prioritizing such rate appeals, include consideration of which facilities the commissioner determines are facing significant financial hardship as well as such other considerations as the commissioner deems appropriate and, further, the commissioner is authorized to enter into agreements with such facilities or any other facility to resolve multiple pending rate appeals based upon a negotiated aggregate amount and may offset such negotiated aggregate amounts against any amounts owed by the facility to the department, including, but not limited to, amounts owed pursuant to section twenty-eight hundred seven-d of this article; provided, however, that the commissioner's authority to negotiate such agreements resolving multiple pending rate appeals as hereinbefore described shall continue on and after April first, two thousand [fifteen] NINETEEN. Rate adjustments made pursuant to this paragraph remain fully subject to approval by the director of the budget in accordance with the provisions of subdivision two of section twenty-eight hundred seven of this article.

S 22. Paragraph (a) of subdivision 13 of section 3614 of the public health law, as added by section 4 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

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

15 S 23. Subdivision (a) of section 40 of part B of chapter 109 of the
16 laws of 2010, amending the social services law relating to transporta-
17 tion costs, is amended to read as follows:

18 (a) sections two, three, three-a, three-b, three-c, three-d, three-e
19 and twenty-one of this act shall take effect July 1, 2010; sections
20 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall
21 take effect January 1, 2011; [and provided further that section twenty
22 of this act shall be deemed repealed four years after the date the
23 contract entered into pursuant to section 365-h of the social services
24 law, as amended by section twenty of this act, is executed; provided
25 that the commissioner of health shall notify the legislative bill draft-
26 ing commission upon the execution of the contract entered into pursuant
27 to section 367-h of the social services law in order that the commission
28 may maintain an accurate and timely effective data base of the official
29 text of the laws of the state of New York in furtherance of effectuating
30 the provisions of section 44 of the legislative law and section 70-b of
31 the public officers law;]

32 S 24. Subdivision 4 of section 365-h of the social services law, as
33 added by section 20 of part B of chapter 109 of the laws of 2010, is
34 amended to read as follows:

35 4. The commissioner of health is authorized to assume responsibility
36 from a local social services official for the provision and reimburse-
37 ment of transportation costs under this section. If the commissioner
38 elects to assume such responsibility, the commissioner shall notify the
39 local social services official in writing as to the election, the date
40 upon which the election shall be effective and such information as to
41 transition of responsibilities as the commissioner deems prudent. The
42 commissioner is authorized to contract with a transportation manager or
43 managers to manage transportation services in any local social services
44 district. Any transportation manager or managers selected by the commis-
45 sioner to manage transportation services shall have proven experience in
46 coordinating transportation services in a geographic and demographic
47 area similar to the area in New York state within which the contractor
48 would manage the provision of services under this section. Such a
49 contract or contracts may include responsibility for: review, approval
50 and processing of transportation orders; management of the appropriate
51 level of transportation based on documented patient medical need; and
52 development of new technologies leading to efficient transportation
53 services. If the commissioner elects to assume such responsibility from
54 a local social services district, the commissioner shall examine and, if
55 appropriate, adopt quality assurance measures that may include, but are
56 not limited to, global positioning tracking system reporting require-

1 ments and service verification mechanisms. Any and all reimbursement
2 rates developed by transportation managers under this subdivision shall
3 be subject to the review and approval of the commissioner. [Notwith-
4 standing any inconsistent provision of sections one hundred twelve and
5 one hundred sixty-three of the state finance law, or section one hundred
6 forty-two of the economic development law, or any other law, the commis-
7 sioner is authorized to enter into a contract or contracts under this
8 subdivision without a competitive bid or request for proposal process,
9 provided, however, that:

10 (a) the department shall post on its website, for a period of no less
11 than thirty days:

12 (i) a description of the proposed services to be provided pursuant to
13 the contract or contracts;

14 (ii) the criteria for selection of a contractor or contractors;

15 (iii) the period of time during which a prospective contractor may
16 seek selection, which shall be no less than thirty days after such
17 information is first posted on the website; and

18 (iv) the manner by which a prospective contractor may seek such
19 selection, which may include submission by electronic means;

20 (b) all reasonable and responsive submissions that are received from
21 prospective contractors in timely fashion shall be reviewed by the
22 commissioner; and

23 (c) the commissioner shall select such contractor or contractors that,
24 in his or her discretion, are best suited to serve the purposes of this
25 section.]

26 S 25. Section 5 of chapter 21 of the laws of 2011, amending the educa-
27 tion law relating to authorizing pharmacists to perform collaborative
28 drug therapy management with physicians in certain settings, as amended
29 by chapter 125 of the laws of 2014, is amended to read as follows:

30 S 5. This act shall take effect on the one hundred twentieth day after
31 it shall have become a law and shall expire [4] 7 years after such
32 effective date when upon such date the provisions of this act shall be
33 deemed repealed; provided, however, that the amendments to subdivision 1
34 of section 6801 of the education law made by section one of this act
35 shall be subject to the expiration and reversion of such subdivision
36 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such
37 date the provisions of section one-a of this act shall take effect;
38 provided, further, that effective immediately, the addition, amendment
39 and/or repeal of any rule or regulation necessary for the implementation
40 of this act on its effective date is authorized and directed to be made
41 and completed on or before such effective date.

42 S 26. Section 2 of chapter 459 of the laws of 1996, amending the
43 public health law relating to recertification of persons providing emer-
44 gency medical care, as amended by chapter 106 of the laws of 2011, is
45 amended to read as follows:

46 S 2. This act shall take effect immediately and shall expire and be
47 deemed repealed July 1, [2015] 2018.

48 S 27. Section 4 of chapter 505 of the laws of 1995, amending the
49 public health law relating to the operation of department of health
50 facilities, as amended by section 29 of part A of chapter 59 of the laws
51 of 2011, is amended to read as follows:

52 S 4. This act shall take effect immediately; provided, however, that
53 the provisions of paragraph (b) of subdivision 4 of section 409-c of the
54 public health law, as added by section three of this act, shall take
55 effect January 1, 1996 [and shall expire and be deemed repealed twenty
56 years from the effective date thereof].

1 S 28. Subdivision (o) of section 111 of part H of chapter 59 of the
2 laws of 2011, amending the public health law relating to the statewide
3 health information network of New York and the statewide planning and
4 research cooperative system and general powers and duties, is REPEALED.

5 S 29. Notwithstanding any inconsistent provision of law, rule or regu-
6 lation, for purposes of implementing the provisions of the public health
7 law and the social services law, references to titles XIX and XXI of the
8 federal social security act in the public health law and the social
9 services law shall be deemed to include and also to mean any successor
10 titles thereto under the federal social security act.

11 S 30. Notwithstanding any inconsistent provision of law, rule or regu-
12 lation, the effectiveness of the provisions of sections 2807 and 3614 of
13 the public health law, section 18 of chapter 2 of the laws of 1988, and
14 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
15 or certification of rates of payment, are hereby suspended and without
16 force or effect for purposes of implementing the provisions of this act.

17 S 31. Severability clause. If any clause, sentence, paragraph, subdi-
18 vision, section or part of this act shall be adjudged by any court of
19 competent jurisdiction to be invalid, such judgment shall not affect,
20 impair or invalidate the remainder thereof, but shall be confined in its
21 operation to the clause, sentence, paragraph, subdivision, section or
22 part thereof directly involved in the controversy in which such judgment
23 shall have been rendered. It is hereby declared to be the intent of the
24 legislature that this act would have been enacted even if such invalid
25 provisions had not been included herein.

26 S 32. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 2015 provided,
28 that:

29 1. section eighteen of this act shall take effect on the same date as
30 the reversion of subdivision 3 of section 1680-j of the public authori-
31 ties law as provided in subdivision (a) of section 70 of part HH of
32 chapter 57 of the laws of 2013, as amended;

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

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

40 4. the commissioner of health and the superintendent of the department
41 of financial services and any appropriate council may take any steps
42 necessary to implement this act prior to its effective date;

43 5. notwithstanding any inconsistent provision of the state administra-
44 tive procedure act or any other provision of law, rule or regulation,
45 the commissioner of health and the superintendent of the department of
46 financial services and any appropriate council is authorized to adopt or
47 amend or promulgate on an emergency basis any regulation he or she or
48 such council determines necessary to implement any provision of this act
49 on its effective date; and

50 6. the provisions of this act shall become effective notwithstanding
51 the failure of the commissioner of health or the superintendent of the
52 department of financial services or any council to adopt or amend or
53 promulgate regulations implementing this act.

1 Section 1. Subdivision 5-d of section 2807-k of the public health
2 law, as added by section 1 of part C of chapter 56 of the laws of 2013,
3 is amended to read as follows:

4 5-d. (a) Notwithstanding any inconsistent provision of this section,
5 section twenty-eight hundred seven-w of this article or any other
6 contrary provision of law, and subject to the availability of federal
7 financial participation, for periods on and after January first, two
8 thousand thirteen, through December thirty-first, two thousand [fifteen]
9 EIGHTEEN, all funds available for distribution pursuant to this section,
10 except for funds distributed pursuant to subparagraph (v) of paragraph
11 (b) of subdivision five-b of this section, and all funds available for
12 distribution pursuant to section twenty-eight hundred seven-w of this
13 article, shall be reserved and set aside and distributed in accordance
14 with the provisions of this subdivision.

15 (b) The commissioner shall promulgate regulations, and may promulgate
16 emergency regulations, establishing methodologies for the distribution
17 of funds as described in paragraph (a) of this subdivision and such
18 regulations shall include, but not be limited to, the following:

19 (i) Such regulations shall establish methodologies for determining
20 each facility's relative uncompensated care need amount based on unin-
21 sured inpatient and outpatient units of service from the cost reporting
22 year two years prior to the distribution year, multiplied by the appli-
23 cable medicaid rates in effect January first of the distribution year,
24 as summed and adjusted by a statewide cost adjustment factor and reduced
25 by the sum of all payment amounts collected from such uninsured
26 patients, and as further adjusted by application of a nominal need
27 computation that shall take into account each facility's medicaid inpa-
28 tient share.

29 (ii) Annual distributions pursuant to such regulations for the two
30 thousand thirteen through two thousand [fifteen] EIGHTEEN calendar years
31 shall be in accord with the following:

32 (A) one hundred thirty-nine million four hundred thousand dollars
33 shall be distributed as Medicaid Disproportionate Share Hospital ("DSH")
34 payments to major public general hospitals; and

35 (B) nine hundred ninety-four million nine hundred thousand dollars as
36 Medicaid DSH payments to eligible general hospitals, other than major
37 public general hospitals.

38 (iii)(A) Such regulations shall establish transition adjustments to
39 the distributions made pursuant to clauses (A) and (B) of subparagraph
40 (ii) of this paragraph such that no facility experiences a reduction in
41 indigent care pool payments pursuant to this subdivision that is greater
42 than the percentages, as specified in clause (C) of this subparagraph as
43 compared to the average distribution that each such facility received
44 for the three calendar years prior to two thousand thirteen pursuant to
45 this section and section twenty-eight hundred seven-w of this article.

46 (B) Such regulations shall also establish adjustments limiting the
47 increases in indigent care pool payments experienced by facilities
48 pursuant to this subdivision by an amount that will be, as determined by
49 the commissioner and in conjunction with such other funding as may be
50 available for this purpose, sufficient to ensure full funding for the
51 transition adjustment payments authorized by clause (A) of this subpara-
52 graph.

53 (C) No facility shall experience a reduction in indigent care pool
54 payments pursuant to this subdivision that: for the calendar year begin-
55 ning January first, two thousand thirteen, is greater than two and one-
56 half percent; for the calendar year beginning January first, two thou-

1 sand fourteen, is greater than five percent; and, for the calendar year
2 beginning on January first, two thousand fifteen, is greater than seven
3 and one-half percent, AND FOR THE CALENDAR YEAR BEGINNING ON JANUARY
4 FIRST, TWO THOUSAND SIXTEEN, IS GREATER THAN TEN PERCENT; AND FOR THE
5 CALENDAR YEAR BEGINNING ON JANUARY FIRST, TWO THOUSAND SEVENTEEN, IS
6 GREATER THAN TWELVE AND ONE-HALF PERCENT; AND FOR THE CALENDAR YEAR
7 BEGINNING ON JANUARY FIRST, TWO THOUSAND EIGHTEEN, IS GREATER THAN
8 FIFTEEN PERCENT.

9 (D) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IN
10 THE EVENT THE AGGREGATE LEVEL OF MEDICAID DSH PAYMENTS IS REDUCED DURING
11 THE PERIODS DESCRIBED IN CLAUSE (C) OF THIS SUBPARAGRAPH, THE COMMIS-
12 SIONER MAY ADJUST, BY REGULATION: THE AGGREGATE LEVEL OF PAYMENTS MADE
13 PURSUANT TO CLAUSES (A) AND (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF
14 THIS SUBDIVISION, THE PERCENTAGE OF REDUCTIONS IN PAYMENTS REQUIRED BY
15 CLAUSE (C) OF THIS SUBPARAGRAPH, AND THE METHODOLOGY BY WHICH SUCH DSH
16 PAYMENTS ARE DISTRIBUTED. SUCH ADJUSTMENTS SHALL TAKE EFFECT AT THE
17 BEGINNING OF THE CALENDAR YEAR FOLLOWING THE YEAR IN WHICH SUCH
18 REDUCTIONS IN MEDICAID DSH PAYMENTS TAKE EFFECT AND PROVIDED, FURTHER,
19 ANY SUCH REGULATIONS UNDER THIS SECTION MAY APPLY RETROACTIVELY TO SUCH
20 DATE.

21 (iv) Such regulations shall reserve one percent of the funds available
22 for distribution in the two thousand fourteen and two thousand fifteen
23 calendar years, AND FOR CALENDAR YEARS THEREAFTER, pursuant to this
24 subdivision, subdivision fourteen-f of section twenty-eight hundred
25 seven-c of this article, and sections two hundred eleven and two hundred
26 twelve of chapter four hundred seventy-four of the laws of nineteen
27 hundred ninety-six, in a "financial assistance compliance pool" and
28 shall establish methodologies for the distribution of such pool funds to
29 facilities based on their level of compliance, as determined by the
30 commissioner, with the provisions of subdivision nine-a of this section.

31 (c) The commissioner shall annually report to the governor and the
32 legislature on the distribution of funds under this subdivision includ-
33 ing, but not limited to:

34 (i) the impact on safety net providers, including community providers,
35 rural general hospitals and major public general hospitals;

36 (ii) the provision of indigent care by units of services and funds
37 distributed by general hospitals; and

38 (iii) the extent to which access to care has been enhanced.

39 S. 2. Subdivision 17 of section 2807-k of the public health law, as
40 added by section 3-b of part B of chapter 109 of the laws of 2010, is
41 amended to read as follows:

42 17. Indigent care reductions. (A) For each hospital receiving payments
43 pursuant to paragraph (i) of subdivision thirty-five of section twenty-
44 eight hundred seven-c of this article, the commissioner shall reduce the
45 sum of any amounts paid pursuant to this section and pursuant to section
46 twenty-eight hundred seven-w of this article, as computed based on
47 projected facility specific disproportionate share hospital ceilings, by
48 an amount equal to the lower of such sum or each such hospital's
49 payments pursuant to paragraph (i) of subdivision thirty-five of section
50 twenty-eight hundred seven-c of this article, provided, however, that
51 any additional aggregate reductions enacted in a chapter of the laws of
52 two thousand ten to the aggregate amounts payable pursuant to this
53 section and pursuant to section twenty-eight hundred seven-w of this
54 article shall be applied subsequent to the adjustments otherwise
55 provided for in this subdivision.

(B) FOR ANY REDUCTIONS IN PAYMENTS UNDER PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE RESULTING FROM AGGREGATE UPPER PAYMENT LIMIT CALCULATIONS, THE COMMISSIONER MAY REDUCE OR REDISTRIBUTE PAYMENTS UNDER THIS SECTION OR SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE IN A MANNER TO BE DETERMINED IN HIS OR HER DISCRETION.

S 3. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 4. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015; provided, that:

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

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

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

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

e. the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of financial services or any council to adopt or amend or promulgate regulations implementing this act.

PART F

Section 1. The public health law is amended by adding a new section 4415 to read as follows:

1 S 4415. VALUE BASED PAYMENTS. 1. NOTWITHSTANDING ANY CONTRARY
2 PROVISION OF LAW IN THIS ARTICLE OR SECTION THREE HUNDRED SIXTY-FOUR-J
3 OF THE SOCIAL SERVICES LAW, THE COMMISSIONER MAY AUTHORIZE MANAGED CARE
4 ORGANIZATIONS LICENSED UNDER THIS ARTICLE TO CONTRACT FOR VALUE BASED
5 PAYMENTS AND FURTHER, MAY AUTHORIZE THE DEPARTMENT TO UTILIZE METHODOL-
6 OGIES OF REIMBURSEMENT THAT ARE VALUE BASED.

7 2. NOTHING IN SUBDIVISION ONE OF THIS SECTION SHALL LIMIT THE AUTHORI-
8 TY OF THE COMMISSIONER TO AUTHORIZE VALUE BASED PAYMENTS FOR PERFORMING
9 PROVIDER SYSTEMS PARTICIPATING IN THE DELIVERY SYSTEM REFORM INCENTIVE
10 PROGRAM ("DSRIP"), OR TO AUTHORIZE VALUE BASED PAYMENTS FOR ANY SUCH
11 SUBSET OF PROVIDERS.

12 3. FOR THE PURPOSES OF THIS SECTION AND NOTWITHSTANDING ANY PROVISION
13 OF LAW TO THE CONTRARY, A PERFORMING PROVIDER SYSTEM PARTICIPATING IN
14 DSRIP, OR ANY SUCH SUBSET OF PROVIDERS, IS AUTHORIZED TO ARRANGE BY
15 CONTRACT FOR THE DELIVERY AND PROVISION OF HEALTH SERVICES AS CONTEM-
16 PLATED BY THIS CHAPTER OR THE SOCIAL SERVICES LAW.

17 4. THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF FINAN-
18 CIAL SERVICES, MAY PROMULGATE REGULATIONS TO EFFECTUATE THE PROVISIONS
19 OF THIS SECTION; PROVIDED, HOWEVER, THAT THE FAILURE TO ADOPT REGU-
20 LATIONS SHALL NOT INVALIDATE ANY EXERCISE OF AUTHORITY UNDER THIS
21 SECTION. SUCH REGULATIONS MAY, AND SHALL AS NECESSARY FOR THE PURPOSES
22 OF THIS SECTION, ADDRESS MATTERS INCLUDING, BUT NOT LIMITED TO:

23 (A) AUTHORIZING DISCRETE LEVELS OF VALUE BASED PAYMENTS THAT ACCOUNT
24 FOR LEVEL OF RISK;

25 (B) PLACING CONDITIONS UPON ANY SUCH LEVEL OF VALUE BASED PAYMENT;

26 (C) REQUIRING OR ADJUSTING RESERVES, AS APPLICABLE, FOR MANAGED CARE
27 ORGANIZATIONS LICENSED UNDER THIS ARTICLE AND ENTITIES PARTICIPATING IN
28 VALUE BASED PAYMENT ARRANGEMENTS;

29 (D) AUTHORIZING THE COMMISSIONER TO ESTABLISH A REINSURANCE POOL;

30 (E) MAKING ANY CHANGES TO VALUE BASED PAYMENTS OR METHODOLOGIES OF
31 REIMBURSEMENT THAT ARE VALUE BASED AS NECESSARY TO CONFORM TO THE TERMS
32 AND CONDITIONS OF THE DSRIP WAIVER.

33 5. NOTHING CONTAINED IN THIS SECTION SHALL LIMIT THE AUTHORITY OF THE
34 COMMISSIONER TO MAINTAIN A SYSTEM OF VALUE BASED PAYMENTS SUBSEQUENT TO
35 THE CONCLUSION OR EXPIRATION OF THE DSRIP WAIVER, NOR SHALL ANY REFER-
36 ENCE TO THE DSRIP PROGRAM WITHIN THIS SECTION LIMIT THE AUTHORITY OF THE
37 COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF FINANCIAL
38 SERVICES, TO OTHERWISE APPLY SUCH PRINCIPLES TO ORGANIZATIONS LICENSED
39 UNDER THIS ARTICLE OR TO IMPLEMENT METHODOLOGIES THAT UTILIZE VALUE
40 BASED PAYMENTS FOR ANY PROVIDER REIMBURSED UNDER THIS CHAPTER.

41 S 2. Notwithstanding any inconsistent provision of law, rule or regu-
42 lation, for purposes of implementing the provisions of the public health
43 law and the social services law, references to titles XIX and XXI of the
44 federal social security act in the public health law and the social
45 services law shall be deemed to include and also to mean any successor
46 titles thereto under the federal social security act.

47 S 3. Notwithstanding any inconsistent provision of law, rule or regu-
48 lation, the effectiveness of the provisions of sections 2807 and 3614 of
49 the public health law, section 18 of chapter 2 of the laws of 1988, and
50 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
51 or certification of rates of payment, are hereby suspended and without
52 force or effect for purposes of implementing the provisions of this act.

53 S 4. 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 its

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

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015; provided that:

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

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

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

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

5. the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of financial services or any council to adopt or amend or promulgate regulations implementing this act.

PART G

Section 1. The financial services law is amended by adding a new section 208 to read as follows:

S 208. ASSESSMENT FOR THE OPERATING EXPENSES OF THE NEW YORK HEALTH BENEFIT EXCHANGE. (A) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, ASSESSMENTS FOR THE OPERATING EXPENSES ATTRIBUTABLE TO QUALIFIED HEALTH PLAN COVERAGE OF THE NEW YORK HEALTH BENEFIT EXCHANGE, ESTABLISHED WITHIN THE DEPARTMENT OF HEALTH BY EXECUTIVE ORDER 42 SIGNED BY GOVERNOR ANDREW M. CUOMO ON APRIL 12, 2012 IN CONFORMITY WITH THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, PUBLIC LAW 111-14 AND THE HEALTH CARE AND EDUCATION RECONCILIATION ACT, PUBLIC LAW 111-152, AND DOING BUSINESS AS THE NY STATE OF HEALTH, THE OFFICIAL HEALTH PLAN MARKETPLACE (NY STATE OF HEALTH) SHALL BE ASSESSED BY THE SUPERINTENDENT IN ACCORDANCE WITH THIS SECTION. A DOMESTIC ACCIDENT AND HEALTH INSURER SHALL BE ASSESSED BY THE SUPERINTENDENT PURSUANT TO THIS SECTION FOR THE OPERATING EXPENSES OF THE NY STATE OF HEALTH ATTRIBUTABLE TO QUALIFIED HEALTH PLANS' COVERAGE, WHICH SHALL INCLUDE DIRECT AND INDIRECT EXPENSES RELATED TO THE OPERATION OF THE NEW YORK STATE OF HEALTH ATTRIBUTABLE TO SUCH QUALIFIED HEALTH PLAN COVERAGE WITH THE ASSESSMENTS ALLOCATED PRO RATA UPON ALL DOMESTIC ACCIDENT AND HEALTH INSURERS IN THE INDIVIDUAL, SMALL GROUP AND LARGE GROUP MARKETS, IN PROPORTION TO THE GROSS DIRECT PREMIUMS, EXCLUSIVE OF FEDERAL TAX CREDITS AND OTHER CONSIDERATIONS, WRITTEN OR RECEIVED BY THEM IN THIS STATE DURING THE CALENDAR YEAR ENDING DECEMBER THIRTY-FIRST IMMEDIATELY PRECEDING THE END OF THE FISCAL YEAR FOR WHICH THE ASSESSMENT IS MADE

1 (LESS RETURN PREMIUMS AND CONSIDERATIONS THEREON) FOR INSURANCE POLICIES
2 OR CONTRACTS OF MAJOR MEDICAL OR SIMILAR COMPREHENSIVE TYPE MEDICAL
3 COVERAGE OR DENTAL COVERAGE DELIVERED OR ISSUED FOR DELIVERY IN THIS
4 STATE; BUT EXCLUDING INSURANCE POLICIES OR CONTRACTS FOR MAJOR MEDICAL
5 OR SIMILAR COMPREHENSIVE TYPE MEDICAL OR DENTAL COVERAGE DELIVERED OR
6 ISSUED FOR DELIVERY IN THIS STATE UNDER TITLE XVIII OF THE SOCIAL SECU-
7 RITY ACT (MEDICARE), MEDICAL ASSISTANCE UNDER TITLE ELEVEN OF ARTICLE
8 FIVE OF THE SOCIAL SERVICES LAW, CHILD HEALTH PLUS INSURANCE PLAN UNDER
9 SECTION TWENTY-FIVE HUNDRED OF THE PUBLIC HEALTH LAW AND/OR THE BASIC
10 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPH (E) OF SUBDIVISION ONE OF
11 SECTION THREE HUNDRED SIXTY-NINE-GG OF THE SOCIAL SERVICES LAW.

12 (B) THE ASSESSMENT UPON DOMESTIC ACCIDENT AND HEALTH INSURERS
13 DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE MADE BY THE SUPER-
14 INTENDENT COMMENCING APRIL FIRST, TWO THOUSAND FIFTEEN, IN A SUM AS
15 PRESCRIBED BY THE SUPERINTENDENT FOR SUCH INSURERS' PRO RATA SHARE OF
16 THE ANNUAL EXPENSES OF THE NY STATE OF HEALTH ATTRIBUTABLE TO QUALIFIED
17 HEALTH PLAN COVERAGE FOR THE TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN
18 FISCAL YEAR, AS ESTIMATED BY THE SUPERINTENDENT. SUCH PAYMENT SHALL BE
19 MADE ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND SIXTEEN, OR ON OR
20 BEFORE SUCH OTHER DATES AS THE SUPERINTENDENT MAY PRESCRIBE. FOLLOWING
21 THE DETERMINATION OF THE AMOUNT COLLECTED BASED ON THE ACTUAL ENROLLMENT
22 IN QUALIFIED HEALTH PLAN COVERAGE THROUGH THE NY STATE OF HEALTH AND
23 FULLY INSURED INDIVIDUAL, SMALL GROUP, AND LARGE GROUP COVERAGE OUTSIDE
24 THE NY STATE OF HEALTH FOR THE TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN
25 FISCAL YEAR, ANY OVERPAYMENT OF SUCH ASSESSMENT SHALL BE APPLIED AGAINST
26 THE NEXT ESTIMATED QUARTERLY ASSESSMENT FOR SUCH EXPENSES AS SET FORTH
27 IN THIS SECTION, IF LESS THAN OR EQUAL TO SUCH AMOUNT, UNTIL FULLY
28 RECONCILED. HOWEVER, IF THE ASSESSMENT COLLECTED IS LESS THAN THE
29 EXPENSES OF THE NY STATE OF HEALTH ATTRIBUTABLE TO QUALIFIED HEALTH PLAN
30 COVERAGE FOR THE TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN FISCAL YEAR,
31 THE SUPERINTENDENT MAY REQUIRE FULL PAYMENT TO BE MADE ON SUCH DATE OF
32 THE FISCAL YEAR AS THE SUPERINTENDENT MAY DETERMINE.

33 (C) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER APRIL FIRST, TWO THOU-
34 SAND SIXTEEN, A PARTIAL PAYMENT SHALL BE MADE BY A DOMESTIC ACCIDENT AND
35 HEALTH INSURER IN A SUM EQUAL TO TWENTY-FIVE PER CENTUM, OR SUCH OTHER
36 PER CENTUM OR PER CENTUMS AS THE SUPERINTENDENT MAY PRESCRIBE, OF ITS
37 PRO RATA SHARE OF THE ANNUAL EXPENSES OF THE NY STATE OF HEALTH ATTRIB-
38 UTABLE TO QUALIFIED HEALTH PLAN COVERAGE ASSESSED UPON IT FOR THE FISCAL
39 YEAR AS ESTIMATED BY THE SUPERINTENDENT. SUCH PAYMENT SHALL BE MADE ON
40 MARCH FIFTEENTH OF THE PRECEDING FISCAL YEAR AND ON JUNE FIFTEENTH,
41 SEPTEMBER FIFTEENTH AND DECEMBER FIFTEENTH OF EACH YEAR, OR AT SUCH
42 OTHER DATES AS THE SUPERINTENDENT MAY PRESCRIBE. THE SUPERINTENDENT
43 SHALL ANNUALLY RECONCILE THE ASSESSMENT PERCENTAGE BASED UPON ACTUAL
44 PREMIUM DATA SUBMITTED TO THE SUPERINTENDENT OR COMMISSIONER OF HEALTH,
45 AS APPLICABLE. THE BALANCE OF ASSESSMENTS FOR THE FISCAL YEAR SHALL BE
46 PAID UPON DETERMINATION OF THE AMOUNT COLLECTED FOR POLICIES OR
47 CONTRACTS OF MAJOR MEDICAL OR SIMILAR COMPREHENSIVE TYPE MEDICAL COVER-
48 AGE OR DENTAL COVERAGE DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE AS
49 SET FORTH IN SUBSECTION (A) OF THIS SECTION. ANY OVERPAYMENT OF ANNUAL
50 ASSESSMENT RESULTING FROM COMPLYING WITH THE REQUIREMENTS OF THIS
51 SECTION SHALL BE APPLIED AGAINST THE NEXT ESTIMATED QUARTERLY ASSESS-
52 MENT, IF LESS THAN OR EQUAL TO SUCH AMOUNT, UNTIL FULLY RECONCILED.

53 (D)(1) PAYMENTS AND REPORTS SUBMITTED OR REQUIRED TO BE SUBMITTED TO
54 THE COMMISSIONER OF HEALTH PURSUANT TO THIS SECTION BY A DOMESTIC ACCI-
55 DENT AND HEALTH INSURER SHALL BE SUBJECT TO AUDIT BY THE COMMISSIONER OF
56 HEALTH FOR A PERIOD OF SIX YEARS FOLLOWING THE CLOSE OF THE CALENDAR

1 YEAR IN WHICH SUCH PAYMENTS AND REPORTS ARE DUE, AFTER WHICH SUCH
2 PAYMENTS SHALL BE DEEMED FINAL AND NOT SUBJECT TO FURTHER ADJUSTMENT OR
3 RECONCILIATION, INCLUDING THROUGH OFFSET ADJUSTMENTS OR RECONCILIATIONS
4 MADE BY THE DOMESTIC ACCIDENT AND HEALTH INSURER WITH REGARD TO SUBSE-
5 QUENT PAYMENTS, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE
6 CONSTRUED AS PRECLUDING THE COMMISSIONER OF HEALTH FROM PURSUING
7 COLLECTION OF ANY SUCH PAYMENTS WHICH ARE IDENTIFIED AS DELINQUENT WITH-
8 IN SUCH SIX YEAR PERIOD, OR WHICH ARE IDENTIFIED AS DELINQUENT AS A
9 RESULT OF AN AUDIT COMMENCED WITHIN SUCH SIX YEAR PERIOD, OR FROM
10 CONDUCTING AN AUDIT OF ANY ADJUSTMENTS AND RECONCILIATION WITHIN SUCH
11 SIX YEAR PERIOD, OR FROM CONDUCTING AN AUDIT OF PAYMENTS MADE PRIOR TO
12 SUCH SIX YEAR PERIOD WHICH ARE FOUND TO BE COMMINGLED WITH PAYMENTS
13 WHICH ARE OTHERWISE SUBJECT TO TIMELY AUDIT PURSUANT TO THIS SECTION.

14 (2) THE SUPERINTENDENT MAY ASSESS A DOMESTIC ACCIDENT AND HEALTH
15 INSURER WHICH, IN THE COURSE OF AN AUDIT PURSUANT TO THIS SECTION, FAILS
16 TO PRODUCE DATA OR DOCUMENTATION REQUESTED IN FURTHERANCE OF SUCH AN
17 AUDIT, WITHIN THIRTY DAYS OF SUCH REQUEST, A CIVIL PENALTY OF UP TO TEN
18 THOUSAND DOLLARS FOR EACH SUCH FAILURE, PROVIDED, HOWEVER, THAT SUCH
19 CIVIL PENALTY SHALL NOT BE IMPOSED IF THE DOMESTIC ACCIDENT AND HEALTH
20 INSURER DEMONSTRATES GOOD CAUSE FOR SUCH FAILURE.

21 (3) RECORDS REQUIRED TO BE RETAINED FOR AUDIT VERIFICATION PURPOSES BY
22 A DOMESTIC ACCIDENT AND HEALTH INSURER IN ACCORDANCE WITH THIS SECTION
23 SHALL INCLUDE, ON A MONTHLY BASIS, THE SOURCE RECORDS GENERATED BY
24 SUPPORTING INFORMATION SYSTEMS, FINANCIAL ACCOUNTING RECORDS, AND SUCH
25 OTHER RECORDS AS MAY BE REQUIRED TO PROVE COMPLIANCE WITH, AND TO
26 SUPPORT REPORTS SUBMITTED IN ACCORDANCE WITH, THIS SECTION.

27 (4) IF A DOMESTIC ACCIDENT AND HEALTH INSURER FAILS TO PRODUCE DATA OR
28 DOCUMENTATION REQUESTED IN FURTHERANCE OF AN AUDIT PURSUANT TO THIS
29 SECTION FOR A QUARTER TO WHICH THE ASSESSMENT APPLIES, THE SUPERINTEN-
30 DENT MAY ESTIMATE, BASED ON AVAILABLE FINANCIAL AND STATISTICAL DATA AS
31 DETERMINED BY THE SUPERINTENDENT, THE AMOUNT DUE FOR SUCH QUARTER.
32 INTEREST AND PENALTIES SHALL BE APPLIED TO SUCH AMOUNTS DUE IN ACCORD-
33 ANCE WITH THE PROVISIONS OF SUBSECTION (B) OF SECTION NINE THOUSAND ONE
34 HUNDRED NINE OF THE INSURANCE LAW.

35 (5) THE SUPERINTENDENT MAY, AS PART OF A FINAL RESOLUTION OF AN AUDIT
36 CONDUCTED BY THE COMMISSIONER OF HEALTH PURSUANT TO THIS SUBSECTION,
37 WAIVE PAYMENT OF INTEREST AND PENALTIES OTHERWISE APPLICABLE PURSUANT TO
38 SUBSECTION (B) OF SECTION NINE THOUSAND ONE HUNDRED NINE OF THE INSUR-
39 ANCE LAW, WHEN AMOUNTS DUE AS A RESULT OF SUCH AUDIT, OTHER THAN SUCH
40 WAIVED PENALTIES AND INTEREST, ARE PAID IN FULL TO THE COMMISSIONER OF
41 HEALTH WITHIN SIXTY DAYS OF THE ISSUANCE OF A FINAL AUDIT REPORT THAT IS
42 MUTUALLY AGREED TO BY THE COMMISSIONER OF HEALTH AND DOMESTIC ACCIDENT
43 AND HEALTH INSURER, PROVIDED, HOWEVER, THAT IF SUCH FINAL AUDIT REPORT
44 IS NOT SO MUTUALLY AGREED UPON, THEN THE SUPERINTENDENT SHALL HAVE NO
45 OBLIGATIONS PURSUANT TO THIS PARAGRAPH.

46 (6) THE COMMISSIONER OF HEALTH MAY ENTER INTO AN AGREEMENT WITH A
47 DOMESTIC ACCIDENT AND HEALTH INSURER IN REGARD TO WHICH AUDIT FINDINGS
48 OR PRIOR SETTLEMENTS HAVE BEEN MADE PURSUANT TO THIS SECTION, EXTENDING
49 AND APPLYING SUCH AUDIT FINDINGS OR PRIOR SETTLEMENTS, OR A PORTION
50 THEREOF, IN SETTLEMENT AND SATISFACTION OF POTENTIAL AUDIT LIABILITIES
51 FOR SUBSEQUENT UNAUDITED PERIODS. THE SUPERINTENDENT MAY REDUCE OR WAIVE
52 PAYMENT OF INTEREST AND PENALTIES OTHERWISE APPLICABLE TO SUCH SUBSE-
53 QUENT UNAUDITED PERIODS WHEN SUCH AMOUNTS DUE AS A RESULT OF SUCH AGREE-
54 MENT, OTHER THAN REDUCED OR WAIVED INTEREST AND PENALTIES, ARE PAID IN
55 FULL TO THE COMMISSIONER OF HEALTH WITHIN SIXTY DAYS OF EXECUTION OF
56 SUCH AGREEMENT BY ALL PARTIES TO THE AGREEMENT. ANY PAYMENTS MADE PURSU-

ANT TO AN AGREEMENT ENTERED INTO IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE DEEMED TO BE IN FULL SATISFACTION OF ANY LIABILITY ARISING UNDER THIS SECTION, AS REFERENCED IN SUCH AGREEMENT AND FOR THE TIME PERIODS COVERED BY SUCH AGREEMENT, PROVIDED, HOWEVER, THAT THE COMMISSIONER OF HEALTH MAY AUDIT FUTURE RETROACTIVE ADJUSTMENTS TO PAYMENTS MADE FOR SUCH PERIODS BASED ON REPORTS FILED BY A DOMESTIC ACCIDENT AND HEALTH INSURER SUBSEQUENT TO SUCH AGREEMENT.

(E) THE COMMISSIONER OF HEALTH SHALL HAVE THE AUTHORITY UNDER SECTION TWENTY-EIGHT HUNDRED SEVEN-Y OF THE PUBLIC HEALTH LAW TO CONTRACT WITH THE ARTICLE FORTY-THREE INSURANCE LAW PLANS, OR SUCH OTHER CONTRACTORS AS THE COMMISSIONER OF HEALTH SHALL DESIGNATE, TO ISSUE INVOICES, RECEIVE PAYMENT, AND DISTRIBUTE FUNDS FROM THE ASSESSMENT AUTHORIZED BY THIS SECTION AND TO DEPOSIT IT INTO THE SPECIAL REVENUE FUNDS-OTHER, HCRA RESOURCES FUND.

(F) FOR THE PURPOSE OF THIS SECTION, "ACCIDENT AND HEALTH INSURER" SHALL MEAN AN INSURER AUTHORIZED UNDER THE INSURANCE LAW TO WRITE ACCIDENT AND HEALTH INSURANCE IN THIS STATE, A CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-THREE OF THE INSURANCE LAW, OR A HEALTH MAINTENANCE ORGANIZATION HOLDING OR REQUIRED TO HOLD A CERTIFICATE OF AUTHORITY PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW, THAT WRITES MAJOR MEDICAL OR SIMILAR COMPREHENSIVE TYPE MEDICAL COVERAGE OR WRITES DENTAL COVERAGE.

(G) FOR THE PURPOSE OF THIS SECTION, "DOMESTIC ACCIDENT AND HEALTH INSURER" SHALL MEAN AN ACCIDENT AND HEALTH INSURER INCORPORATED OR ORGANIZED UNDER ANY LAW OF THIS STATE.

S 2. Paragraph (g) and (h) of subdivision 1 of section 2807-y of the public health law, as added by section 67 of part B of chapter 58 of the laws of 2005, are amended and a new paragraph (i) is added to read as follows:

(g) section thirty-six hundred fourteen-a of this chapter; [and]

(h) section three hundred sixty-seven-i of the social services law[.];
AND

(I) SECTION TWO HUNDRED EIGHT OF THE FINANCIAL SERVICES LAW.

S 3. Subdivision 3 of section 2807-y of the public health law, as added by section 67 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

3. The reasonable costs and expenses of an administrator as approved by the commissioner, not to exceed for personnel services on an annual basis [four] SIX million [five hundred] fifty thousand dollars, increased annually by the lower of the consumer price index or five percent, for collection and distribution of allowances and assessments set forth in subdivision one of this section, shall be paid from the allowance and assessment funds.

S 4. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the

1 legislature that this act would have been enacted even if such invalid
2 provisions had not been included herein.

3 S 6. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2015; provided
5 that:

6 1. any rules or regulations necessary to implement the provisions of
7 this act may be promulgated and any procedures, forms, or instructions
8 necessary for such implementation may be adopted and issued on or after
9 the date this act shall have become a law;

10 2. this act shall not be construed to alter, change, affect, impair or
11 defeat any rights, obligations, duties or interests accrued, incurred or
12 conferred prior to the effective date of this act;

13 3. the commissioner of health and the superintendent of financial
14 services may take any steps necessary to implement this act prior to its
15 effective date;

16 4. notwithstanding any inconsistent provision of the state administra-
17 tive procedure act or any other provision of law, rule or regulation,
18 the commissioner of health and the superintendent of financial services
19 are authorized to adopt or amend or promulgate on an emergency basis any
20 regulation they determine necessary to implement any provision of this
21 act on its effective date; and

22 5. the provisions of this act shall become effective notwithstanding
23 the failure of the commissioner of health or the superintendent of
24 financial services to adopt or amend or promulgate regulations imple-
25 menting this act.

26 PART H

27 Section 1. Section 2801-a of the public health law is amended by
28 adding a new subdivision 17 to read as follows:

29 17. (A) DIAGNOSTIC OR TREATMENT CENTERS ESTABLISHED TO PROVIDE HEALTH
30 CARE SERVICES WITHIN THE SPACE OF A RETAIL BUSINESS OPERATION, SUCH AS A
31 PHARMACY OR A STORE OPEN TO THE GENERAL PUBLIC, OR WITHIN SPACE USED BY
32 AN EMPLOYER FOR PROVIDING HEALTH CARE SERVICES TO ITS EMPLOYEES, MAY BE
33 OPERATED BY LEGAL ENTITIES FORMED UNDER THE LAWS OF THE STATE OF NEW
34 YORK: (I) WHOSE STOCKHOLDERS OR MEMBERS, AS APPLICABLE, ARE NOT NATURAL
35 PERSONS; (II) WHOSE PRINCIPAL STOCKHOLDERS AND MEMBERS, AS APPLICABLE,
36 AND CONTROLLING PERSONS COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THIS
37 SECTION; AND (III) THAT DEMONSTRATE, TO THE SATISFACTION OF THE PUBLIC
38 HEALTH AND HEALTH PLANNING COUNCIL, SUFFICIENT EXPERIENCE AND EXPERTISE
39 IN DELIVERING HIGH QUALITY HEALTH CARE SERVICES. SUCH DIAGNOSTIC AND
40 TREATMENT CENTERS SHALL BE REFERRED TO IN THIS SECTION AS "LIMITED
41 SERVICES CLINICS".

42 (B) FOR PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION, THE PUBLIC
43 HEALTH AND HEALTH PLANNING COUNCIL SHALL ADOPT AND AMEND RULES AND REGU-
44 LATIONS, NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, TO
45 ADDRESS ANY MATTER IT DEEMS PERTINENT TO THE ESTABLISHMENT OF LIMITED
46 SERVICES CLINICS. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE
47 LIMITED TO, PROVISIONS GOVERNING OR RELATING TO: (I) ANY DIRECT OR INDI-
48 RECT CHANGES OR TRANSFERS OF OWNERSHIP INTERESTS OR VOTING RIGHTS IN
49 SUCH ENTITIES OR THEIR STOCKHOLDERS OR MEMBERS, AS APPLICABLE; (II)
50 PUBLIC HEALTH AND HEALTH PLANNING COUNCIL APPROVAL OF ANY CHANGE IN
51 CONTROLLING INTERESTS, PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS,
52 PARENT COMPANY OR SPONSORS; (III) OVERSIGHT OF THE OPERATOR AND ITS
53 SHAREHOLDERS OR MEMBERS, AS APPLICABLE, INCLUDING LOCAL GOVERNANCE OF
54 THE LIMITED SERVICES CLINICS; AND (IV) THE CHARACTER AND COMPETENCE AND

1 QUALIFICATIONS OF, AND CHANGES RELATING TO, THE DIRECTORS AND OFFICERS
2 OF THE OPERATOR AND ITS PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS,
3 PARENT COMPANY OR SPONSORS.

4 (C) THE FOLLOWING PROVISIONS OF THIS SECTION SHALL NOT APPLY TO LIMIT-
5 ED SERVICES CLINICS: (I) PARAGRAPH (A) OF SUBDIVISION THREE OF THIS
6 SECTION; (II) PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELAT-
7 ING TO STOCKHOLDERS AND MEMBERS OTHER THAN PRINCIPAL STOCKHOLDERS AND
8 PRINCIPAL MEMBERS; (III) PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS
9 SECTION, RELATING TO THE DISPOSITION OF STOCK OR VOTING RIGHTS; AND (IV)
10 PARAGRAPH (E) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE
11 OWNERSHIP OF STOCK OR MEMBERSHIP.

12 (D) A LIMITED SERVICES CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE
13 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
14 TER. A PRESCRIBER PRACTICING IN A LIMITED SERVICE CLINIC SHALL NOT BE
15 DEEMED TO BE IN THE EMPLOY OF A PHARMACY OR PRACTICING IN A HOSPITAL FOR
16 PURPOSES OF SUBDIVISION TWO OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE
17 EDUCATION LAW.

18 (E) THE COMMISSIONER SHALL PROMULGATE REGULATIONS SETTING FORTH OPERA-
19 TIONAL AND PHYSICAL PLANT STANDARDS FOR LIMITED SERVICES CLINICS, WHICH
20 MAY BE DIFFERENT FROM THE REGULATIONS OTHERWISE APPLICABLE TO DIAGNOSTIC
21 OR TREATMENT CENTERS, INCLUDING, BUT NOT LIMITED TO:

22 (I) REQUIRING THAT LIMITED SERVICES CLINICS ATTAIN AND MAINTAIN
23 ACCREDITATION AND REQUIRING TIMELY REPORTING TO THE DEPARTMENT IF A
24 LIMITED SERVICE CLINIC LOSES ITS ACCREDITATION;

25 (II) DESIGNATING OR LIMITING THE TREATMENTS AND SERVICES THAT MAY BE
26 PROVIDED, INCLUDING:

27 (1) PROHIBITING THE PROVISION OF SERVICES TO PATIENTS TWENTY-FOUR
28 MONTHS OF AGE OR YOUNGER;

29 (2) THE PROVISION OF SPECIFIC IMMUNIZATIONS TO PATIENTS YOUNGER THAN
30 EIGHTEEN YEARS OF AGE;

31 (III) REQUIRING LIMITED SERVICE CLINICS TO ACCEPT WALK-INS AND OFFER
32 EXTENDED BUSINESS HOURS;

33 (IV) SETTING FORTH GUIDELINES FOR ADVERTISING AND SIGNAGE, DISCLOSURE
34 OF OWNERSHIP INTERESTS, INFORMED CONSENT, RECORD KEEPING, REFERRAL FOR
35 TREATMENT AND CONTINUITY OF CARE, CASE REPORTING TO THE PATIENT'S PRIMA-
36 RY CARE OR OTHER HEALTH CARE PROVIDERS, DESIGN, CONSTRUCTION, FIXTURES,
37 AND EQUIPMENT. SIGNAGE SHALL ALSO BE REQUIRED TO INDICATE THAT
38 PRESCRIPTIONS AND OVER-THE-COUNTER SUPPLIES MAY BE PURCHASED BY A
39 PATIENT FROM ANY BUSINESS AND DO NOT NEED TO BE PURCHASED ON-SITE; AND

40 (V) REQUIRING THE OPERATOR TO DIRECTLY EMPLOY A MEDICAL DIRECTOR WHO
41 IS LICENSED AND CURRENTLY REGISTERED TO PRACTICE MEDICINE IN THE STATE
42 OF NEW YORK.

43 (F) SUCH REGULATIONS ALSO SHALL PROMOTE AND STRENGTHEN PRIMARY CARE
44 THROUGH: (I) THE INTEGRATION OF SERVICES PROVIDED BY LIMITED SERVICES
45 CLINICS WITH THE SERVICES PROVIDED BY THE PATIENT'S OTHER HEALTH CARE
46 PROVIDERS; AND (II) THE REFERRAL OF PATIENTS TO APPROPRIATE HEALTH CARE
47 PROVIDERS, INCLUDING APPROPRIATE TRANSMISSION OF PATIENT HEALTH RECORDS.

48 S 2. The public health law is amended by adding a new section 230-e to
49 read as follows:

50 S 230-E. URGENT CARE. 1. DEFINITIONS. AS USED IN THIS SECTION:

51 (A) "ACCREDITED STATUS" SHALL MEAN THE FULL ACCREDITATION BY SUCH
52 NATIONALLY-RECOGNIZED ACCREDITING AGENCIES AS DETERMINED BY THE COMMIS-
53 SIONER.

54 (B) "EMERGENCY MEDICAL CARE" SHALL MEAN THE PROVISION OF TREATMENT FOR
55 LIFE-THREATENING OR POTENTIALLY DISABLING TRAUMA, BURNS, RESPIRATORY,
56 CIRCULATORY OR OBSTETRICAL CONDITIONS.

(C) "LICENSEE" SHALL MEAN AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED UNDER ARTICLE ONE HUNDRED THIRTY-ONE OR ONE HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW.

(D) "URGENT CARE" SHALL MEAN THE PROVISION OF TREATMENT ON AN UNSCHEDULED BASIS TO PATIENTS FOR ACUTE EPISODIC ILLNESS, MINOR TRAUMAS THAT ARE NOT LIFE-THREATENING, OR POTENTIALLY DISABLING, OR FOR MONITORING OR TREATMENT OVER PROLONGED PERIODS.

(E) "URGENT CARE PROVIDER" SHALL MEAN A LICENSEE PRACTICE THAT ADVERTISES OR HOLDS ITSELF OUT AS A PROVIDER OF URGENT CARE.

2. NO LICENSEE PRACTICE SHALL, WITHIN THIS STATE, DISPLAY SIGNAGE, ADVERTISE OR HOLD ITSELF OUT AS A PROVIDER OF URGENT CARE THROUGH THE USE OF THE TERM URGENT CARE, OR THROUGH ANY OTHER TERM OR SYMBOL THAT IMPLIES THAT IT IS A PROVIDER OF URGENT CARE, UNLESS IT OBTAINS AND MAINTAINS ACCREDITED STATUS, OBTAINS THE APPROVAL OF THE DEPARTMENT AND OTHERWISE COMPLIES WITH THE PROVISIONS OF THIS SECTION AND REGULATIONS PROMULGATED HEREUNDER. ANY PROVIDER THAT LOSES ITS ACCREDITED STATUS SHALL PROMPTLY NOTIFY THE DEPARTMENT THEREOF.

3. NO LICENSEE PRACTICE SHALL, WITHIN THIS STATE, DISPLAY SIGNAGE, ADVERTISE OR HOLD ITSELF OUT AS A PROVIDER OF EMERGENCY MEDICAL CARE THROUGH THE USE OF THE TERM EMERGENCY, OR THROUGH ANY OTHER TERM OR SYMBOL THAT IMPLIES THAT IT IS A PROVIDER OF EMERGENCY MEDICAL CARE, REGARDLESS OF WHETHER IT IS AN URGENT CARE PROVIDER ACCREDITED UNDER THIS SECTION.

4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A HOSPITAL ESTABLISHED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER FROM PROVIDING URGENT CARE OR EMERGENCY MEDICAL CARE, OR FROM DISPLAYING SIGNAGE, ADVERTISING OR HOLDING ITSELF OUT AS A PROVIDER OF URGENT OR EMERGENCY CARE PURSUANT TO REGULATIONS PROMULGATED UNDER THAT ARTICLE.

5. THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL, BY A MAJORITY VOTE OF ITS MEMBERS, SHALL ADOPT AND AMEND RULES AND REGULATIONS, SUBJECT TO THE APPROVAL OF THE COMMISSIONER, TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO DEFINING THE SCOPE OF SERVICES THAT MAY BE PROVIDED BY URGENT CARE PROVIDERS AND THE MINIMUM SERVICES THAT SHALL BE PROVIDED; REQUIRING URGENT CARE PROVIDERS TO DISCLOSE TO PATIENTS THE SCOPE OF SERVICES PROVIDED; AND ESTABLISHING STANDARDS FOR APPROPRIATE REFERRAL AND CONTINUITY OF CARE, STAFFING, EQUIPMENT, AND MAINTENANCE AND TRANSMISSION OF PATIENT RECORDS. SUCH REGULATIONS SHALL ALSO PROMOTE AND STRENGTHEN PRIMARY CARE THROUGH: (I) THE INTEGRATION OF SERVICES PROVIDED BY URGENT CARE PROVIDERS WITH THE SERVICES PROVIDED BY THE PATIENT'S OTHER HEALTH CARE PROVIDERS; AND (II) THE REFERRAL OF PATIENTS TO APPROPRIATE HEALTH CARE PROVIDERS, INCLUDING APPROPRIATE TRANSMISSION OF PATIENT HEALTH RECORDS.

S 3. Subdivision 4 of section 2951 of the public health law is REPEALED.

S 4. Section 2956 of the public health law is REPEALED.

S 5. Section 225 of the public health law is amended by adding a new subdivision 13 to read as follows:

13. THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL MAY REVIEW THE TYPE OF PROCEDURES PERFORMED IN OUTPATIENT SETTINGS, INCLUDING PRACTICES REQUIRED TO REPORT ADVERSE EVENTS UNDER SECTION TWO HUNDRED THIRTY-D OF THIS ARTICLE AND HEALTH CARE FACILITIES LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER THAT PROVIDE AMBULATORY SURGERY SERVICES, FOR PURPOSES OF:

(A) IDENTIFYING THE TYPES OF PROCEDURES PERFORMED AND TYPES OF ANESTHESIA/SEDATION ADMINISTERED IN SUCH SETTINGS;

(B) CONSIDERING WHETHER IT IS APPROPRIATE FOR SUCH PROCEDURES OR ANESTHESIA/SEDATION TO BE PERFORMED IN SUCH SETTINGS;

(C) CONSIDERING WHETHER SETTINGS PERFORMING SUCH PROCEDURES OR ADMINISTERING SUCH ANESTHESIA/SEDATION ARE SUBJECT TO SUFFICIENT OVERSIGHT;

(D) CONSIDERING WHETHER SETTINGS PERFORMING SUCH PROCEDURES OR ADMINISTERING SUCH ANESTHESIA/SEDATION ARE SUBJECT TO AN EQUIVALENT LEVEL OF OVERSIGHT REGARDLESS OF SETTING; AND

(E) MAKING RECOMMENDATIONS TO THE DEPARTMENT REGARDING THE FOREGOING.

S 6. This act shall take effect immediately, provided, however, that subdivision 2 of section 230-e of the public health law, as added by section two of this act, shall take effect January 1, 2017; subdivision 3 of section 230-e of the public health law, as added by section two of this act, shall take effect January 1, 2016; and regulations shall be adopted or amended pursuant to subdivision 5 of section 230-e of the public health law, as added by section two of this act, on or before January 1, 2016, and shall not take effect until January 1, 2017.

17

PART I

18 Section 1. Subdivision 2-a of section 2781 of the public health law is
19 REPEALED.

20 S 2. The criminal procedure law is amended by adding a new section
21 60.47 to read as follows:

22 S 60.47 POSSESSION OF CONDOMS; RECEIPT INTO EVIDENCE.

23 EVIDENCE THAT A PERSON WAS IN POSSESSION OF ONE OR MORE CONDOMS MAY
24 NOT BE ADMITTED AT ANY TRIAL, HEARING, OR OTHER PROCEEDING IN A PROSECUTION FOR SECTION 230.00 OR SECTION 240.37 OF THE PENAL LAW FOR THE
25 PURPOSE OF ESTABLISHING PROBABLE CAUSE FOR AN ARREST OR PROVING ANY
26 PERSON'S COMMISSION OR ATTEMPTED COMMISSION OF SUCH OFFENSE.

27
28 S 3. Section 220.45 of the penal law, as amended by chapter 284 of the
29 laws of 2010, is amended to read as follows:

30 S 220.45 Criminally possessing a hypodermic instrument.

31 A person is guilty of criminally possessing a hypodermic instrument
32 when he or she knowingly and unlawfully possesses or sells a hypodermic
33 syringe or hypodermic needle. It shall not be a violation of this
34 section when a person obtains and possesses a hypodermic syringe or
35 hypodermic needle pursuant to section thirty-three hundred eighty-one of
36 the public health law, WHICH INCLUDES THE STATE'S SYRINGE EXCHANGE AND
37 PHARMACY AND MEDICAL PROVIDER-BASED EXPANDED SYRINGE ACCESS PROGRAMS.

38 Criminally possessing a hypodermic instrument is a class A misdemeanor.
39

40 S 4. Section 220.03 of the penal law, as amended by chapter 284 of the
41 laws of 2010, the opening paragraph as amended by chapter 154 of the
42 laws of 2011, is amended to read as follows:

43 S 220.03 Criminal possession of a controlled substance in the seventh
44 degree.

45 A person is guilty of criminal possession of a controlled substance in
46 the seventh degree when he or she knowingly and unlawfully possesses a
47 controlled substance; provided, however, that it shall not be a
48 violation of this section when a person possesses a residual amount of a
49 controlled substance and that residual amount is in or on a hypodermic
50 syringe or hypodermic needle obtained and possessed pursuant to section
51 thirty-three hundred eighty-one of the public health law, WHICH INCLUDES
52 THE STATE'S SYRINGE EXCHANGE AND PHARMACY AND MEDICAL PROVIDER-BASED
53 EXPANDED SYRINGE ACCESS PROGRAMS; nor shall it be a violation of this
54 section when a person's unlawful possession of a controlled substance is

1 discovered as a result of seeking immediate health care as defined in
2 paragraph (b) of subdivision three of section 220.78 of the penal law,
3 for either another person or him or herself because such person is expe-
4 riencing a drug or alcohol overdose or other life threatening medical
5 emergency as defined in paragraph (a) of subdivision three of section
6 220.78 of the penal law.

7 Criminal possession of a controlled substance in the seventh degree is
8 a class A misdemeanor.

9 S 5. Paragraph (g) of subdivision 2 of section 850 of the general
10 business law, as amended by chapter 812 of the laws of 1980, is amended
11 to read as follows:

12 (g) Hypodermic syringes, needles and other objects, used or designed
13 for the purpose of parenterally injecting controlled substances into the
14 human body; PROVIDED, HOWEVER, HYPODERMIC SYRINGES AND NEEDLES OBTAINED
15 AND POSSESSED FROM THE STATE'S SYRINGE EXCHANGE AND PHARMACY AND MEDICAL
16 PROVIDER-BASED EXPANDED SYRINGE ACCESS PROGRAMS SHALL NOT BE CONSIDERED
17 DRUG-RELATED PARAPHERNALIA;

18 S 6. Paragraph (c) of subdivision 1 of section 3381 of the public
19 health law, as amended by chapter 178 of the laws of 2010, is amended to
20 read as follows:

21 (c) by a pharmacy licensed under article one hundred thirty-seven of
22 the education law, health care facility licensed under article twenty-
23 eight of this chapter or a health care practitioner who is otherwise
24 authorized to prescribe the use of hypodermic needles or syringes within
25 his or her scope of practice; provided, however, that such sale or
26 furnishing: (i) shall only be to a person eighteen years of age or
27 older; AND (ii) [shall be limited to a quantity of ten or less hypoderm-
28 ic needles or syringes; and (iii)] shall be in accordance with subdivi-
29 sion five of this section.

30 S 7. Paragraph (d) of subdivision 5 of section 3381 of the public
31 health law, as amended by section 9-a of part B of chapter 58 of the
32 laws of 2007, is amended to read as follows:

33 (d) In addition to the requirements of paragraph (c) of subdivision
34 one of this section, a pharmacy licensed under article one hundred thir-
35 ty-seven of the education law may sell or furnish hypodermic needles or
36 syringes only if such pharmacy[: (i) does not advertise to the public
37 the availability for retail sale or furnishing of hypodermic needles or
38 syringes without a prescription; and (ii) at any location where hypo-
39 dermic needles or syringes are kept for retail sale or furnishing,]
40 stores such needles and syringes in a manner that makes them available
41 only to authorized personnel and not openly available to customers.

42 S 8. This act shall take effect immediately.

43

PART J

44 Section 1. Subparagraph (v) of paragraph a of subdivision 1 of section
45 6908 of the education law is relettered subparagraph (vi) and a new
46 subparagraph (v) is added to read as follows:

47 (V) TASKS PROVIDED BY AN ADVANCED HOME HEALTH AIDE IN ACCORDANCE WITH
48 REGULATIONS DEVELOPED IN CONSULTATION WITH THE COMMISSIONER OF HEALTH
49 WHICH, AT A MINIMUM, SHALL: (1) SPECIFY THE TYPES OF TASKS THAT MAY BE
50 PERFORMED BY ADVANCED HOME HEALTH AIDES PURSUANT TO THIS SUBPARAGRAPH
51 ("ADVANCED TASKS"), WHICH SHALL INCLUDE THE ADMINISTRATION OF MEDICA-
52 TIONS WHICH ARE ROUTINE AND PREFILLED OR OTHERWISE PACKAGED IN A MANNER
53 THAT PROMOTES RELATIVE EASE OF ADMINISTRATION; (2) PROVIDE THAT ADVANCED
54 TASKS PERFORMED BY ADVANCED HOME HEALTH AIDES MAY BE PERFORMED ONLY

1 UNDER THE DIRECT SUPERVISION OF A REGISTERED PROFESSIONAL NURSE LICENSED
2 IN NEW YORK STATE AND EMPLOYED BY A HOME CARE SERVICES AGENCY LICENSED
3 OR CERTIFIED PURSUANT TO ARTICLE THIRTY-SIX OF THE PUBLIC HEALTH LAW OR
4 HOSPICE PROGRAM CERTIFIED PURSUANT TO ARTICLE FORTY OF THE PUBLIC HEALTH
5 LAW, WHERE SUCH NURSING SUPERVISION (A) INCLUDES TRAINING AND PERIODIC
6 ASSESSMENT OF THE PERFORMANCE OF ADVANCED TASKS, (B) SHALL BE DETERMINED
7 BY THE REGISTERED PROFESSIONAL NURSE RESPONSIBLE FOR SUPERVISING SUCH
8 ADVANCED TASKS BASED UPON THE COMPLEXITY OF SUCH ADVANCED TASKS, THE
9 SKILL AND EXPERIENCE OF THE ADVANCED HOME HEALTH AIDE, AND THE HEALTH
10 STATUS OF THE INDIVIDUAL FOR WHOM SUCH ADVANCED TASKS ARE BEING
11 PERFORMED, AND (C) INCLUDES A COMPREHENSIVE ASSESSMENT OF THE INDIVID-
12 UAL'S NEEDS; (3) PROVIDE THAT ADVANCED TASKS MAY BE PERFORMED ONLY IN
13 ACCORDANCE WITH AND PURSUANT TO AN AUTHORIZED PRACTITIONER'S ORDERED
14 CARE; (4) PROVIDE THAT ONLY A HOME HEALTH AIDE WHO HAS AT LEAST ONE YEAR
15 OF EXPERIENCE AS A CERTIFIED HOME HEALTH AIDE, HAS COMPLETED THE REQUI-
16 SITE TRAINING AND DEMONSTRATED COMPETENCIES OF AN ADVANCED HOME HEALTH
17 AIDE, HAS SUCCESSFULLY COMPLETED COMPETENCY EXAMINATIONS SATISFACTORY TO
18 THE COMMISSIONER AND MEETS OTHER APPROPRIATE QUALIFICATIONS MAY PERFORM
19 ADVANCED TASKS AS AN ADVANCED HOME HEALTH AIDE; (5) PROVIDE THAT ONLY AN
20 INDIVIDUAL WHO IS LISTED IN THE HOME CARE SERVICES REGISTRY MAINTAINED
21 BY THE DEPARTMENT OF HEALTH PURSUANT TO SUBDIVISION NINE OF SECTION
22 THIRTY-SIX HUNDRED THIRTEEN OF THE PUBLIC HEALTH LAW AS HAVING SATISFIED
23 ALL APPLICABLE TRAINING REQUIREMENTS AND HAVING PASSED THE APPLICABLE
24 COMPETENCY EXAMINATIONS AND WHO MEETS OTHER REQUIREMENTS AS SET FORTH IN
25 REGULATIONS ISSUED BY THE COMMISSIONER OF HEALTH PURSUANT TO SUBDIVISION
26 SEVENTEEN OF SECTION THIRTY-SIX HUNDRED TWO OF THE PUBLIC HEALTH LAW MAY
27 PERFORM ADVANCED TASKS PURSUANT TO THIS SUBPARAGRAPH AND MAY HOLD
28 HIMSELF OR HERSELF OUT AS AN ADVANCED HOME HEALTH AIDE; (6) ESTABLISH
29 MINIMUM STANDARDS OF TRAINING FOR THE PERFORMANCE OF ADVANCED TASKS BY
30 ADVANCED HOME HEALTH AIDES, INCLUDING (A) DIDACTIC TRAINING, (B) CLIN-
31 ICAL TRAINING, AND (C) A SUPERVISED CLINICAL PRACTICUM WITH STANDARDS
32 SET FORTH BY THE COMMISSIONER; (7) PROVIDE THAT ADVANCED HOME HEALTH
33 AIDES SHALL RECEIVE CASE-SPECIFIC TRAINING ON THE ADVANCED TASKS TO BE
34 ASSIGNED BY THE SUPERVISING NURSE, PROVIDED THAT ADDITIONAL TRAINING
35 SHALL TAKE PLACE WHENEVER ADDITIONAL ADVANCED TASKS ARE ASSIGNED; (8)
36 PROHIBIT AN ADVANCED HOME HEALTH AIDE FROM HOLDING HIMSELF OR HERSELF
37 OUT, OR ACCEPTING EMPLOYMENT AS, A PERSON LICENSED TO PRACTICE NURSING
38 UNDER THE PROVISIONS OF THIS ARTICLE; (9) PROVIDE THAT AN ADVANCED HOME
39 HEALTH AIDE IS NOT REQUIRED NOR PERMITTED TO ASSESS THE MEDICATION NEEDS
40 OF AN INDIVIDUAL; (10) PROVIDE THAT AN ADVANCED HOME HEALTH AIDE SHALL
41 NOT BE AUTHORIZED TO PERFORM ANY TASKS OR ACTIVITIES PURSUANT TO THIS
42 SUBPARAGRAPH THAT ARE OUTSIDE THE SCOPE OF PRACTICE OF A LICENSED PRAC-
43 TICAL NURSE; (11) PROVIDE THAT AN ADVANCED HOME HEALTH AIDE SHALL DOCU-
44 MENT MEDICATION ADMINISTRATION TO EACH INDIVIDUAL THROUGH THE USE OF A
45 MEDICATION ADMINISTRATION RECORD; AND (12) PROVIDE THAT THE SUPERVISING
46 REGISTERED PROFESSIONAL NURSE SHALL RETAIN THE DISCRETION TO DECIDE
47 WHETHER TO ASSIGN ADVANCED TASKS TO HOME HEALTH AIDES UNDER THIS PROGRAM
48 AND SHALL NOT BE SUBJECT TO COERCION OR THE THREAT OF RETALIATION; IN
49 DEVELOPING SUCH REGULATIONS, THE COMMISSIONER SHALL TAKE INTO ACCOUNT
50 THE RECOMMENDATIONS OF THE WORKGROUP OF STAKEHOLDERS CONVENED BY THE
51 COMMISSIONER OF HEALTH FOR THE PURPOSE OF PROVIDING GUIDANCE ON THE
52 FOREGOING; OR

53 S 2. Section 3602 of the public health law is amended by adding a new
54 subdivision 17 to read as follows:

55 17. "ADVANCED HOME HEALTH AIDES" MEANS HOME HEALTH AIDES WHO ARE
56 AUTHORIZED TO PERFORM ADVANCED TASKS AS DELINEATED IN SUBPARAGRAPH (V)

1 OF PARAGRAPH A OF SUBDIVISION ONE OF SECTION SIX THOUSAND NINE HUNDRED
2 EIGHT OF THE EDUCATION LAW AND REGULATIONS ISSUED BY THE COMMISSIONER OF
3 EDUCATION, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, RELATING
4 THERETO. THE COMMISSIONER SHALL PROMULGATE REGULATIONS REGARDING SUCH
5 AIDES, WHICH SHALL INCLUDE A PROCESS FOR THE LIMITATION OR REVOCATION OF
6 THE ADVANCED HOME HEALTH AIDE'S AUTHORIZATION TO PERFORM ADVANCED TASKS
7 IN APPROPRIATE CASES.

8 S 3. Subdivision 9 of section 3613 of the public health law is renum-
9 bered subdivision 10 and a new subdivision 9 is added to read as
10 follows:

11 9. THE DEPARTMENT SHALL INDICATE WITHIN THE HOME CARE SERVICES WORKER
12 REGISTRY WHEN A HOME HEALTH AIDE HAS SATISFIED ALL APPLICABLE TRAINING
13 AND RECERTIFICATION REQUIREMENTS AND HAS PASSED THE APPLICABLE COMPETEN-
14 CY EXAMINATIONS NECESSARY TO PERFORM ADVANCED TASKS PURSUANT TO SUBPARA-
15 GRAPH (V) OF PARAGRAPH A OF SUBDIVISION ONE OF SECTION SIX THOUSAND NINE
16 HUNDRED EIGHT OF THE EDUCATION LAW AND REGULATIONS ISSUED THERETO. ANY
17 LIMITATION OR REVOCATION OF THE ADVANCED HOME HEALTH AIDE'S AUTHORI-
18 ZATION ALSO SHALL BE INDICATED ON THE REGISTRY.

19 S 4. In developing regulations required under subparagraph (v) of
20 paragraph a of subdivision 1 of section 6908 of the education law, as
21 added by section one of this act, the commissioner of education shall
22 consider the recommendations of the workgroup of stakeholders convened
23 by the commissioner of health, to provide guidance on the tasks which
24 may be performed by advanced home health aides pursuant to such section
25 including but not limited to recommendations encompassing the following
26 matters:

27 (a) the tasks that appropriately could be performed by advanced home
28 health aides with appropriate training and supervision ("advanced
29 tasks");

30 (b) the types of medications that advanced home health aides should be
31 authorized to administer, including whether subcutaneous injectables and
32 controlled substances should be authorized;

33 (c) qualifications that must be satisfied by advanced home health
34 aides to perform advanced tasks, including those related to experience,
35 training, moral character, and examination requirements;

36 (d) minimum training and education standards; and

37 (e) adequate levels of supervision to be provided by nurses, including
38 adherence to existing requirements for comprehensive assessment and any
39 additional assessment that should be required, including when the indi-
40 vidual receiving advanced tasks performed by an advanced home health
41 aide experiences a significant change in condition.

42 S 5. This act shall take effect October 1, 2015; provided, however,
43 that the commissioner of education shall adopt or amend regulations
44 necessary to implement the provisions of subparagraph (v) of paragraph a
45 of subdivision 1 of section 6908 of the education law, as added by
46 section one of this act, by such effective date; provided, further, that
47 no advanced tasks may be performed pursuant to such provision until such
48 regulations are adopted and except in conformance with such regulations.

49

PART K

50 Section 1. Subdivisions 1, 2 and 3 of section 2802 of the public
51 health law, subdivisions 1 and 2 as amended by section 58 of part A of
52 chapter 58 of the laws of 2010, subdivision 3 as amended by chapter 609
53 of the laws of 1982 and paragraph (e) of subdivision 3 as amended by
54 chapter 731 of the laws of 1993, are amended to read as follows:

1 1. An application for such construction shall be filed with the
2 department, together with such other forms and information as shall be
3 prescribed by, or acceptable to, the department. Thereafter the depart-
4 ment shall forward a copy of the application and accompanying documents
5 to the public health and health planning council, and the health systems
6 agency, if any, having geographical jurisdiction of the area where the
7 hospital is located.

8 2. The commissioner shall not act upon an application for construction
9 of a hospital until the public health and health planning council and
10 the health systems agency have had a reasonable time to submit their
11 recommendations, and unless (a) the applicant has obtained all approvals
12 and consents required by law for its incorporation or establishment
13 (including the approval of the public health and health planning council
14 pursuant to the provisions of this article) provided, however, that the
15 commissioner may act upon an application for construction by an appli-
16 cant possessing a valid operating certificate when the application qual-
17 ifies for review without the recommendation of the council pursuant to
18 regulations adopted by the council and approved by the commissioner; and
19 (b) the commissioner is satisfied as to the public need for the
20 construction, at the time and place and under the circumstances
21 proposed, provided however that[,] in the case of an application by a
22 hospital established or operated by an organization defined in subdivi-
23 sion one of section four hundred eighty-two-b of the social services
24 law, the needs of the members of the religious denomination concerned,
25 for care or treatment in accordance with their religious or ethical
26 convictions, shall be deemed to be public need[.]; AND FURTHER PROVIDED
27 THAT: (I) AN APPLICATION BY A GENERAL HOSPITAL OR DIAGNOSTIC AND TREAT-
28 MENT CENTER, ESTABLISHED UNDER THIS ARTICLE, TO CONSTRUCT A FACILITY TO
29 PROVIDE PRIMARY CARE SERVICES, AS DEFINED IN REGULATION, MAY BE APPROVED
30 WITHOUT REGARD FOR PUBLIC NEED; OR (II) AN APPLICATION BY A GENERAL
31 HOSPITAL OR A DIAGNOSTIC AND TREATMENT CENTER, ESTABLISHED UNDER THIS
32 ARTICLE, TO UNDERTAKE CONSTRUCTION THAT DOES NOT INVOLVE A CHANGE IN
33 CAPACITY, THE TYPES OF SERVICES PROVIDED, MAJOR MEDICAL EQUIPMENT,
34 FACILITY REPLACEMENT, OR THE GEOGRAPHIC LOCATION OF SERVICES, MAY BE
35 APPROVED WITHOUT REGARD FOR PUBLIC NEED.

36 3. Subject to the provisions of paragraph (b) of subdivision two OF
37 THIS SECTION, the commissioner in approving the construction of a hospi-
38 tal shall take into consideration and be empowered to request informa-
39 tion and advice as to (a) the availability of facilities or services
40 such as preadmission, ambulatory or home care services which may serve
41 as alternatives or substitutes for the whole or any part of the proposed
42 hospital construction;

43 (b) the need for special equipment in view of existing utilization of
44 comparable equipment at the time and place and under the circumstances
45 proposed;

46 (c) the possible economies and improvements in service to be antic-
47 ipated from the operation of joint central services including, but not
48 limited to laboratory, research, radiology, pharmacy, laundry and
49 purchasing;

50 (d) the adequacy of financial resources and sources of future revenue,
51 PROVIDED THAT THE COMMISSIONER MAY, BUT IS NOT REQUIRED TO, CONSIDER THE
52 ADEQUACY OF FINANCIAL RESOURCES AND SOURCES OF FUTURE REVENUE IN
53 RELATION TO APPLICATIONS UNDER SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH
54 (B) OF SUBDIVISION TWO OF THIS SECTION; and

55 (e) whether the facility is currently in substantial compliance with
56 all applicable codes, rules and regulations, provided, however, that the

1 commissioner shall not disapprove an application solely on the basis
2 that the facility is not currently in substantial compliance, if the
3 application is specifically:

- 4 (i) to correct life safety code or patient care deficiencies;
- 5 (ii) to correct deficiencies which are necessary to protect the life,
6 health, safety and welfare of facility patients, residents or staff;
- 7 (iii) for replacement of equipment that no longer meets the generally
8 accepted operational standards existing for such equipment at the time
9 it was acquired; and
- 10 (iv) for decertification of beds and services.

11 S 2. Subdivisions 1, 2 and 3 of section 2807-z of the public health
12 law, as amended by chapter 400 of the laws of 2012, are amended to read
13 as follows:

14 1. Notwithstanding any provision of this chapter or regulations or any
15 other state law or regulation, for any eligible capital project as
16 defined in subdivision six of this section, the department shall have
17 thirty days [of] AFTER receipt of the certificate of need OR
18 CONSTRUCTION application, PURSUANT TO SECTION TWENTY-EIGHT HUNDRED TWO
19 OF THIS ARTICLE, for a limited or administrative review to deem such
20 application complete. If the department determines the application is
21 incomplete or that more information is required, the department shall
22 notify the applicant in writing within thirty days of the date of the
23 application's submission, and the applicant shall have twenty business
24 days to provide additional information or otherwise correct the defi-
25 ciency 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 or disap-
29 prove the certificate of need OR CONSTRUCTION application for such
30 project. If the department determines to disapprove the project, the
31 basis for such disapproval shall be provided in writing; however, disap-
32 proval shall not be based on the incompleteness of the application. If
33 the department fails to take action to approve or disapprove the appli-
34 cation within ninety days of the certificate of need application being
35 deemed complete, the application will be deemed approved.

36 3. For an eligible capital project requiring full review by the coun-
37 cil, the certificate of need OR CONSTRUCTION application shall be placed
38 on the next council agenda following the department deeming the applica-
39 tion complete.

40 S 3. Section 2801-a of the public health law is amended by adding a
41 new subdivision 3-b to read as follows:

42 3-B. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER TO THE
43 CONTRARY, THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL MAY APPROVE THE
44 ESTABLISHMENT OF DIAGNOSTIC OR TREATMENT CENTERS TO BE ISSUED OPERATING
45 CERTIFICATES FOR THE PURPOSE OF PROVIDING PRIMARY CARE, AS DEFINED BY
46 THE COMMISSIONER IN REGULATIONS, WITHOUT REGARD TO THE REQUIREMENTS OF
47 PUBLIC NEED AND FINANCIAL RESOURCES AS SET FORTH IN SUBDIVISION THREE OF
48 THIS SECTION.

49 S 4. Subdivision 3 of section 2801-a of the public health law, as
50 amended by section 57 of part A of chapter 58 of the laws of 2010, is
51 amended to read as follows:

52 3. The public health and health planning council shall not approve a
53 certificate of incorporation, articles of organization or application
54 for establishment unless it is satisfied, insofar as applicable, as to
55 (a) the public need for the existence of the institution at the time and
56 place and under the circumstances proposed, provided, however, that in

1 the case of an institution proposed to be established or operated by an
2 organization defined in subdivision one of section one hundred seventy-
3 two-a of the executive law, the needs of the members of the religious
4 denomination concerned, for care or treatment in accordance with their
5 religious or ethical convictions, shall be deemed to be public need; (b)
6 the character, competence, and standing in the community, of the
7 proposed incorporators, directors, sponsors, MEMBERS, PRINCIPAL MEMBERS,
8 stockholders, [members] PRINCIPAL STOCKHOLDERS or operators; with
9 respect to any proposed incorporator, director, sponsor, MEMBER, PRINCI-
10 PAL MEMBER, stockholder, [member] PRINCIPAL STOCKHOLDER or operator who
11 is already or within the past [ten] SEVEN years has been an incorpora-
12 tor, director, sponsor, member, principal stockholder, principal member,
13 or operator of any hospital, private proprietary home for adults, resi-
14 dence for adults, or non-profit home for the aged or blind which has
15 been issued an operating certificate by the state department of social
16 services, or a halfway house, hostel or other residential facility or
17 institution for the care, custody or treatment of the mentally disabled
18 which is subject to approval by the department of mental hygiene, no
19 approval shall be granted unless the public health and health planning
20 council, having afforded an adequate opportunity to members of health
21 systems agencies, if any, having geographical jurisdiction of the area
22 where the institution is to be located to be heard, shall affirmatively
23 find by substantial evidence as to each such incorporator, director,
24 sponsor, MEMBER, PRINCIPAL MEMBER, principal stockholder or operator
25 that a substantially consistent high level of care is being or was being
26 rendered in each such hospital, home, residence, halfway house, hostel,
27 or other residential facility or institution with which such person is
28 or was affiliated; for the purposes of this paragraph, the public health
29 and health planning council shall adopt rules and regulations, subject
30 to the approval of the commissioner, to establish the criteria to be
31 used to determine whether a substantially consistent high level of care
32 has been rendered, provided, however, that there shall not be a finding
33 that a substantially consistent high level of care has been rendered
34 where there have been violations of the state hospital code, or other
35 applicable rules and regulations, that (i) threatened to directly affect
36 the health, safety or welfare of any patient or resident, and (ii) were
37 recurrent or were not promptly corrected, UNLESS THE PROPOSED INCORPORA-
38 TOR, DIRECTOR, SPONSOR, MEMBER, PRINCIPAL MEMBER, STOCKHOLDER, PRINCIPAL
39 STOCKHOLDER, OR OPERATOR DEMONSTRATES, AND THE PUBLIC HEALTH AND HEALTH
40 PLANNING COUNCIL FINDS, THAT THE VIOLATIONS CANNOT BE ATTRIBUTED TO THE
41 ACTION OR INACTION OF SUCH PROPOSED INCORPORATOR, DIRECTOR, SPONSOR,
42 MEMBER, PRINCIPAL MEMBER, STOCKHOLDER, PRINCIPAL STOCKHOLDER, OR OPERA-
43 TOR DUE TO THE TIMING, EXTENT OR MANNER OF THE AFFILIATION; (c) the
44 financial resources of the proposed institution and its sources of
45 future revenues; and (d) such other matters as it shall deem pertinent.

46 S 5. Paragraphs (b) and (c) of subdivision 4 of section 2801-a of the
47 public health law, as amended by section 57 of part A of chapter 58 of
48 the laws of 2010, are amended to read as follows:

49 (b) [(i)] Any transfer, assignment or other disposition of ten percent
50 or more of [an] DIRECT OR INDIRECT interest or voting rights in [a part-
51 nership or limited liability company, which is the] AN operator of a
52 hospital to a new STOCKHOLDER, partner or member, OR ANY TRANSFER,
53 ASSIGNMENT OR OTHER DISPOSITION OF A DIRECT OR INDIRECT INTEREST OR
54 VOTING RIGHTS OF SUCH AN OPERATOR WHICH RESULTS IN THE OWNERSHIP OR
55 CONTROL OF MORE THAN TEN PERCENT OF THE INTEREST OR VOTING RIGHTS OF
56 SUCH OPERATOR BY ANY PERSON NOT PREVIOUSLY APPROVED BY THE PUBLIC HEALTH

1 AND HEALTH PLANNING COUNCIL, OR ITS PREDECESSOR, FOR THAT OPERATOR shall
2 be approved by the public health and health planning council, in accord-
3 ance with the provisions of subdivisions two and three of this section,
4 except that: (A) any such change shall be subject to the approval by the
5 public health and health planning council in accordance with paragraph
6 (b) of subdivision three of this section only with respect to the new
7 STOCKHOLDER, partner or member, and any remaining STOCKHOLDERS, partners
8 or members who have not been previously approved for that facility in
9 accordance with such paragraph, and (B) such change shall not be subject
10 to paragraph (a) of subdivision three of this section. IN THE ABSENCE OF
11 SUCH APPROVAL, THE OPERATING CERTIFICATE OF SUCH HOSPITAL SHALL BE
12 SUBJECT TO REVOCATION OR SUSPENSION.

13 [(ii)] (C) (I) With respect to a transfer, assignment or disposition
14 involving less than ten percent of [an] A DIRECT OR INDIRECT interest or
15 voting rights in [such partnership or limited liability company] AN
16 OPERATOR OF A HOSPITAL to a new STOCKHOLDER, partner or member, no prior
17 approval of the public health and health planning council shall be
18 required EXCEPT WHERE REQUIRED BY PARAGRAPH (B) OF THIS SUBDIVISION.
19 However, no such transaction shall be effective unless at least ninety
20 days prior to the intended effective date thereof, the [partnership or
21 limited liability company] OPERATOR fully completes and files with the
22 public health and health planning council notice on a form, to be devel-
23 oped by the public health and health planning council, which shall
24 disclose such information as may reasonably be necessary for the public
25 health and health planning council to determine whether it should bar
26 the transaction for any of the reasons set forth in item (A), (B), (C)
27 or (D) below. Within ninety days from the date of receipt of such
28 notice, the public health and health planning council may bar any trans-
29 action under this subparagraph: (A) if the equity position of the [part-
30 nership or limited liability company,] OPERATOR, determined in accord-
31 ance with generally accepted accounting principles, would be reduced as
32 a result of the transfer, assignment or disposition; (B) if the trans-
33 action would result in the ownership of a [partnership or membership]
34 DIRECT OR INDIRECT interest OR VOTING RIGHTS by any persons who have
35 been convicted of a felony described in subdivision five of section
36 twenty-eight hundred six of this article; (C) if there are reasonable
37 grounds to believe that the proposed transaction does not satisfy the
38 character and competence criteria set forth in subdivision three of this
39 section; or (D) UPON THE RECOMMENDATION OF THE DEPARTMENT, if the trans-
40 action, together with all transactions under this subparagraph for the
41 [partnership] OPERATOR, or successor, during any five year period would,
42 in the aggregate, involve twenty-five percent or more of the interest in
43 the [partnership] OPERATOR. The public health and health planning coun-
44 cil shall state specific reasons for barring any transaction under this
45 subparagraph and shall so notify each party to the proposed transaction.

46 [(iii)] With respect to a transfer, assignment or disposition of an
47 interest or voting rights in such partnership or limited liability
48 company to any remaining partner or member, which transaction involves
49 the withdrawal of the transferor from the partnership or limited liabil-
50 ity company, no prior approval of the public health and health planning
51 council shall be required. However, no such transaction shall be effec-
52 tive unless at least ninety days prior to the intended effective date
53 thereof, the partnership or limited liability company fully completes
54 and files with the public health and health planning council notice on a
55 form, to be developed by the public health and health planning council,
56 which shall disclose such information as may reasonably be necessary for

1 the public health and health planning council to determine whether it
2 should bar the transaction for the reason set forth below. Within ninety
3 days from the date of receipt of such notice, the public health and
4 health planning council may bar any transaction under this subparagraph
5 if the equity position of the partnership or limited liability company,
6 determined in accordance with generally accepted accounting principles,
7 would be reduced as a result of the transfer, assignment or disposition.
8 The public health and health planning council shall state specific
9 reasons for barring any transaction under this subparagraph and shall so
10 notify each party to the proposed transaction.

11 (c) Any transfer, assignment or other disposition of ten percent or
12 more of the stock or voting rights thereunder of a corporation which is
13 the operator of a hospital or which is a member of a limited liability
14 company which is the operator of a hospital to a new stockholder, or any
15 transfer, assignment or other disposition of the stock or voting rights
16 thereunder of such a corporation which results in the ownership or
17 control of more than ten percent of the stock or voting rights there-
18 under of such corporation by any person not previously approved by the
19 public health and health planning council, or its predecessor, for that
20 corporation shall be subject to approval by the public health and health
21 planning council, in accordance with the provisions of subdivisions two
22 and three of this section and rules and regulations pursuant thereto;
23 except that: any such transaction shall be subject to the approval by
24 the public health and health planning council in accordance with para-
25 graph (b) of subdivision three of this section only with respect to a
26 new stockholder or a new principal stockholder; and shall not be subject
27 to paragraph (a) of subdivision three of this section. In the absence of
28 such approval, the operating certificate of such hospital shall be
29 subject to revocation or suspension.]

30 (II) No prior approval of the public health and health planning coun-
31 cil shall be required with respect to a transfer, assignment or disposi-
32 tion of ten percent or more of [the stock] A DIRECT OR INDIRECT INTEREST
33 or voting rights [thereunder of a corporation which is the] IN AN opera-
34 tor of a hospital [or which is a member of a limited liability company
35 which is the owner of a hospital] to any person previously approved by
36 the public health and health planning council, or its predecessor, for
37 that [corporation] OPERATOR. However, no such transaction shall be
38 effective unless at least ninety days prior to the intended effective
39 date thereof, the [stockholder] OPERATOR FULLY completes and files with
40 the public health and health planning council notice on forms to be
41 developed by the public health and health planning council, which shall
42 disclose such information as may reasonably be necessary for the public
43 health and health planning council to determine whether it should bar
44 the transaction. Such transaction will be final as of the intended
45 effective date unless, prior thereto, the public health and health plan-
46 ning council shall state specific reasons for barring such transactions
47 under this paragraph and shall notify each party to the proposed trans-
48 action. Nothing in this paragraph shall be construed as permitting a
49 person not previously approved by the public health and health planning
50 council for that [corporation] OPERATOR to become the owner of ten
51 percent or more of the [stock of a corporation which is] INTEREST OR
52 VOTING RIGHTS, DIRECTLY OR INDIRECTLY, IN the operator of a hospital [or
53 which is a member of a limited liability company which is the owner of a
54 hospital] without first obtaining the approval of the public health and
55 health planning council.

1 S 6. Subdivision 1 of section 3611-a of the public health law, as
2 amended by section 67 of part A of chapter 58 of the laws of 2010, is
3 amended to read as follows:

4 1. Any change in the person who, or any transfer, assignment, or other
5 disposition of an interest or voting rights of ten percent or more, or
6 any transfer, assignment or other disposition which results in the
7 ownership or control of an interest or voting rights of ten percent or
8 more, in a limited liability company or a partnership which is the oper-
9 ator of a licensed home care services agency or a certified home health
10 agency shall be approved by the public health and health planning coun-
11 cil, in accordance with the provisions of subdivision four of section
12 thirty-six hundred five of this article relative to licensure or subdi-
13 vision two of section thirty-six hundred six of this article relative to
14 certificate of approval, except that:

15 (a) Public health and health planning council approval shall be
16 required only with respect to the person, or the member or partner that
17 is acquiring the interest or voting rights; and

18 (b) With respect to certified home health agencies, such change shall
19 not be subject to the public need assessment described in paragraph (a)
20 of subdivision two of section thirty-six hundred six of this article.

21 (c) IN THE ABSENCE OF SUCH APPROVAL, THE LICENSE OR CERTIFICATE OF
22 APPROVAL SHALL BE SUBJECT TO REVOCATION OR SUSPENSION.

23 (D) (I) No prior approval of the public health and health planning
24 council shall be required with respect to a transfer, assignment or
25 disposition of:

26 [(i)] (A) an interest or voting rights to any person previously
27 approved by the public health and health planning council, or its prede-
28 cessor, for that operator; or

29 [(ii)] (B) an interest or voting rights of less than ten percent in
30 the operator. [However, no]

31 (II) NO such transaction UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
32 shall be effective unless at least ninety days prior to the intended
33 effective date thereof, the [partner or member] OPERATOR completes and
34 files with the public health and health planning council notice on forms
35 to be developed by the public health council, which shall disclose such
36 information as may reasonably be necessary for the public health and
37 health planning council to determine whether it should bar the trans-
38 action. Such transaction will be final as of the intended effective date
39 unless, prior thereto, the public health and health planning council
40 shall state specific reasons for barring such transactions under this
41 paragraph and shall notify each party to the proposed transaction.

42 S 7. This act shall take effect immediately.

43 PART L

44 Section 1. Section 230-d of the public health law, as added by chapter
45 365 of the laws of 2007, paragraph (i) of subdivision 1 as amended by
46 chapter 438 of the laws of 2012, and subdivision 4 as amended by chapter
47 477 of the laws of 2008, is amended to read as follows:

48 S 230-d. Office-based surgery AND OFFICE-BASED ANESTHESIA. 1. The
49 following words or phrases, as used in this section shall have the
50 following meanings:

51 (a) "Accredited status" means the full accreditation by nationally-re-
52 cognized accrediting agency(ies) determined by the commissioner.

53 (b) "Adverse event" means (i) patient death within thirty days; (ii)
54 unplanned transfer to a hospital OR EMERGENCY DEPARTMENT VISIT WITHIN

1 SEVENTY-TWO HOURS OF OFFICE-BASED SURGERY; (iii) unscheduled hospital
2 admission OR ASSIGNMENT TO OBSERVATION SERVICES, within seventy-two
3 hours of the office-based surgery, for longer than twenty-four hours; or
4 (iv) any other serious or life-threatening event.

5 (c) "Deep sedation" means a drug-induced depression of consciousness
6 during which (i) the patient cannot be easily aroused but responds
7 purposefully following repeated painful stimulation; (ii) the patient's
8 ability to maintain independent ventilatory function may be impaired;
9 (iii) the patient may require assistance in maintaining a patent airway
10 and spontaneous ventilation may be inadequate; and (iv) the patient's
11 cardiovascular function is usually maintained without assistance.

12 (d) "General anesthesia" means a drug-induced depression of conscious-
13 ness during which (i) the patient is not arousable, even by painful
14 stimulation; (ii) the patient's ability to maintain independent ventila-
15 tory function is often impaired; (iii) the patient, in many cases, often
16 requires assistance in maintaining a patent airway and positive pressure
17 ventilation may be required because of depressed spontaneous ventilation
18 or drug-induced depression of neuromuscular function; and (iv) the
19 patient's cardiovascular function may be impaired.

20 (e) "Moderate sedation" means a drug-induced depression of conscious-
21 ness during which (i) the patient responds purposefully to verbal
22 commands, either alone or accompanied by light tactile stimulation; (ii)
23 no interventions are required to maintain a patent airway; (iii) sponta-
24 neous ventilation is adequate; and (iv) the patient's cardiovascular
25 function is usually maintained without assistance.

26 (f) "Minimal sedation" means a drug-induced state during which (i)
27 patients respond normally to verbal commands; (ii) cognitive function
28 and coordination may be impaired; and (iii) ventilatory and cardiovascu-
29 lar functions are unaffected.

30 (g) "Minor procedures" means (i) procedures that can be performed
31 safely with a minimum of discomfort where the likelihood of compli-
32 cations requiring hospitalization is minimal; (ii) procedures performed
33 with local or topical anesthesia; or (iii) liposuction with removal of
34 less than 500 cc of fat under unsupplemented local anesthesia.

35 (h) "Office-based surgery" means any surgical or other invasive proce-
36 dure, requiring general anesthesia, NEURAXIAL ANESTHESIA, MAJOR UPPER OR
37 LOWER EXTREMITY REGIONAL NERVE BLOCKS, moderate sedation, or deep
38 sedation, and any liposuction procedure, where such surgical or other
39 invasive procedure or liposuction is performed by a licensee in a
40 location other than a hospital, as such term is defined in article twen-
41 ty-eight of this chapter, excluding minor procedures and procedures
42 requiring minimal sedation.

43 (i) "Licensee" shall mean an individual licensed or otherwise author-
44 ized under article one hundred thirty-one, one hundred thirty-one-B,
45 [individuals who have obtained an issuance of a privilege to perform
46 podiatric standard or advanced ankle surgery pursuant to subdivisions
47 one and two of section seven thousand nine] ONE HUNDRED THIRTY-TWO, OR
48 ONE HUNDRED FORTY-ONE of the education law.

49 (J) "MAJOR UPPER OR LOWER EXTREMITY REGIONAL NERVE BLOCKS" MEANS TYPES
50 OF REGIONAL ANESTHESIA IN WHICH PAIN SENSATION IS MODIFIED OR BLOCKED TO
51 A LARGE AREA OF THE EXTREMITY BY ADMINISTRATION OF MEDICATION AROUND THE
52 NERVES SUPPLYING THAT REGION OF THE EXTREMITY.

53 (K) "NEURAXIAL ANESTHESIA" MEANS A FORM OF REGIONAL ANESTHESIA IN
54 WHICH PAIN SENSATION IS MODIFIED OR BLOCKED BY ADMINISTRATION OF MEDICA-
55 TION INTO THE EPIDURAL SPACE OR SPINAL CANAL.

1 (L) "OFFICE-BASED ANESTHESIA" MEANS GENERAL ANESTHESIA, NEURAXIAL
2 ANESTHESIA, MAJOR UPPER OR LOWER EXTREMITY REGIONAL NERVE BLOCKS, MODER-
3 ATE SEDATION OR DEEP SEDATION WHERE SUCH ANESTHESIA IS ADMINISTERED BY A
4 LICENSEE IN A LOCATION OTHER THAN A HOSPITAL, AS SUCH TERM IS DEFINED IN
5 ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

6 2. Licensee practices in which office-based surgery OR OFFICE-BASED
7 ANESTHESIA is performed shall obtain and maintain full accredited status
8 AND REGISTER WITH THE DEPARTMENT.

9 3. A licensee may only perform office-based surgery OR OFFICE-BASED
10 ANESTHESIA in a setting that has obtained and maintains full accredited
11 status AND IS REGISTERED WITH THE DEPARTMENT.

12 4. (A) Licensees shall report adverse events to the department's
13 patient safety center within [one] THREE business [day] DAYS of the
14 occurrence of such adverse event. Licensees shall also report any
15 suspected health care disease transmission originating in their prac-
16 tices to the patient safety center within [one] THREE business [day]
17 DAYS of becoming aware of such suspected transmission. For purposes of
18 this section, health care disease transmission shall mean the trans-
19 mission of a reportable communicable disease that is blood borne from a
20 health care professional to a patient or between patients as a result of
21 improper infection control practices by the health care professional.

22 (B) THE DEPARTMENT MAY ALSO REQUIRE LICENSEES TO REPORT ADDITIONAL
23 DATA SUCH AS PROCEDURAL INFORMATION AS NEEDED FOR THE INTERPRETATION OF
24 ADVERSE EVENTS AND EVALUATION OF PATIENT CARE AND QUALITY IMPROVEMENT
25 AND ASSURANCE ACTIVITIES.

26 (C) The DATA reported [data] UNDER THIS SUBDIVISION shall be subject
27 to all confidentiality provisions provided by section twenty-nine
28 hundred ninety-eight-e of this chapter.

29 4-A. OFFICE-BASED SURGERY OR OFFICE-BASED ANESTHESIA SHALL BE LIMITED
30 TO OPERATIONS AND PROCEDURES WITH AN EXPECTED DURATION OF NO MORE THAN
31 SIX HOURS AND EXPECTED APPROPRIATE AND SAFE DISCHARGE WITHIN SIX HOURS.

32 5. The commissioner shall make, adopt, promulgate and enforce such
33 rules and regulations, as he or she may deem appropriate, to effectuate
34 the purposes of this section. Where any rule or regulation under this
35 section would affect the scope of practice of a health care practitioner
36 licensed, registered or certified under title eight of the education law
37 other than those licensed under articles one hundred thirty-one or one
38 hundred thirty-one-B of the education law, the rule or regulation shall
39 be made with the concurrence of the commissioner of education.

40 S 2. The section heading and subdivisions 1 and 2 of section 2998-e of
41 the public health law, as added by chapter 365 of the laws of 2007, are
42 amended to read as follows:

43 Reporting [of adverse events] in office based surgery AND ANESTHESIA.

44 1. The commissioner shall enter into agreements with accrediting agen-
45 cies pursuant to which the accrediting agencies shall REQUIRE ALL
46 OFFICE-BASED SURGICAL AND OFFICE-BASED ANESTHESIA PRACTICES TO CONDUCT
47 QUALITY IMPROVEMENT AND QUALITY ASSURANCE ACTIVITIES AND UTILIZE AMERI-
48 CAN BOARD OF MEDICAL SPECIALTIES (ABMS) OR EQUIVALENT CERTIFICATION,
49 HOSPITAL PRIVILEGING OR OTHER EQUIVALENT METHODS TO DETERMINE COMPETENCY
50 OF PRACTITIONERS TO PERFORM OFFICE-BASED SURGERY AND OFFICE-BASED ANES-
51 THESIA, CARRY OUT SURVEYS OR COMPLAINT/INCIDENT INVESTIGATIONS UPON
52 DEPARTMENT REQUEST AND SHALL report, at a minimum, [aggregate data on
53 adverse events] FINDINGS OF SURVEYS AND COMPLAINT/INCIDENT INVESTI-
54 GATIONS, AND DATA for all office-based surgical AND OFFICE-BASED ANES-
55 THESIA practices accredited by the accrediting agencies to the depart-

1 ment. The department may disclose reports of aggregate data to the
2 public.

3 2. The information required to be collected, maintained and reported
4 directly to the department AND MAINTAINED BY OFFICE-BASED SURGERY AND
5 OFFICE-BASED ANESTHESIA PRACTICES UNDER QUALITY IMPROVEMENT AND QUALITY
6 ASSURANCE ACTIVITIES pursuant to section two hundred thirty-d of this
7 chapter shall be kept confidential and shall not be released, except to
8 the department and except as required or permitted under subdivision
9 nine-a and subparagraph (v) of paragraph (a) of subdivision ten of
10 section two hundred thirty of this chapter. Notwithstanding any other
11 provision of law, none of such information shall be subject to disclo-
12 sure under article six of the public officers law or article thirty-one
13 of the civil practice law and rules.

14 S 3. This act shall take effect one year after it shall have become a
15 law.

16 PART M

17 Section 1. Subdivisions 1 and 2 of section 1100-a of the public health
18 law, as added by chapter 258 of the laws of 1996, are amended and two
19 new subdivisions 3 and 4 are added to read as follows:

20 1. Notwithstanding any contrary provision of law, rule, regulation or
21 code, any county, city, town or village that owns both its public water
22 system and the water supply for such system may by local law provide
23 whether a fluoride compound shall [or shall not] be added to such public
24 water supply.

25 2. Any county, wherein a public authority owns both its public water
26 system and the water supply for such system, may by local law provide
27 whether a fluoride compound shall [or shall not] be added to such public
28 water supply.

29 3. NO COUNTY, CITY, TOWN OR VILLAGE, INCLUDING A COUNTY WHEREIN A
30 PUBLIC AUTHORITY OWNS BOTH ITS PUBLIC WATER SYSTEM AND THE WATER SUPPLY
31 FOR SUCH SYSTEM, THAT FLUORIDATES A PUBLIC WATER SUPPLY OR CAUSES A
32 PUBLIC WATER SUPPLY TO BE FLUORIDATED, SHALL DISCONTINUE THE ADDITION OF
33 A FLUORIDE COMPOUND TO SUCH PUBLIC WATER SUPPLY UNLESS IT HAS FIRST
34 COMPLIED WITH THE FOLLOWING REQUIREMENTS:

35 (A) ISSUE A NOTICE TO THE PUBLIC OF THE PRELIMINARY DETERMINATION TO
36 DISCONTINUE FLUORIDATION FOR COMMENT, WHICH SHALL INCLUDE THE JUSTIFICA-
37 TION FOR THE PROPOSED DISCONTINUANCE, ALTERNATIVES TO FLUORIDATION
38 AVAILABLE, AND A SUMMARY OF CONSULTATIONS WITH HEALTH PROFESSIONALS AND
39 THE DEPARTMENT CONCERNING THE PROPOSED DISCONTINUANCE. SUCH NOTICE MAY,
40 BUT IS NOT REQUIRED TO, INCLUDE PUBLICATION IN LOCAL NEWSPAPERS.
41 "CONSULTATIONS WITH HEALTH PROFESSIONALS" MAY INCLUDE FORMAL STUDIES BY
42 HIRED PROFESSIONALS, INFORMAL CONSULTATIONS WITH LOCAL PUBLIC HEALTH
43 OFFICIALS OR OTHER HEALTH PROFESSIONALS, OR OTHER CONSULTATIONS,
44 PROVIDED THAT THE NATURE OF SUCH CONSULTATIONS AND THE IDENTITY OF SUCH
45 PROFESSIONALS SHALL BE IDENTIFIED IN THE PUBLIC NOTICE. "ALTERNATIVES TO
46 FLUORIDATION" MAY INCLUDE FORMAL ALTERNATIVES PROVIDED BY OR AT THE
47 EXPENSE OF THE COUNTY, CITY, TOWN OR VILLAGE, OR OTHER ALTERNATIVES
48 AVAILABLE TO THE PUBLIC. ANY PUBLIC COMMENTS RECEIVED IN RESPONSE TO
49 SUCH NOTICE SHALL BE ADDRESSED BY THE COUNTY, CITY, TOWN OR VILLAGE IN
50 THE ORDINARY COURSE OF BUSINESS; AND

51 (B) PROVIDE THE DEPARTMENT AT LEAST NINETY DAYS PRIOR WRITTEN NOTICE
52 OF THE INTENT TO DISCONTINUE AND SUBMIT A PLAN FOR DISCONTINUANCE THAT
53 INCLUDES BUT IS NOT LIMITED TO THE NOTICE THAT WILL BE PROVIDED TO THE
54 PUBLIC, CONSISTENT WITH PARAGRAPH (A) OF THIS SUBDIVISION, OF THE DETER-

MINATION TO DISCONTINUE FLUORIDATION OF THE WATER SUPPLY, INCLUDING THE DATE OF SUCH DISCONTINUANCE AND ALTERNATIVES TO FLUORIDATION, IF ANY, THAT WILL BE MADE AVAILABLE IN THE COMMUNITY, AND THAT INCLUDES INFORMATION AS MAY BE REQUIRED UNDER THE SANITARY CODE.

4. THE COMMISSIONER IS HEREBY AUTHORIZED, WITHIN AMOUNTS APPROPRIATED THEREFOR, TO MAKE GRANTS TO COUNTIES, CITIES, TOWNS OR VILLAGES THAT OWN THEIR PUBLIC WATER SYSTEM AND THE WATER SUPPLY FOR SUCH SYSTEM, INCLUDING A COUNTY WHEREIN A PUBLIC AUTHORITY OWNS BOTH ITS PUBLIC WATER SYSTEM AND THE WATER SUPPLY FOR SUCH SYSTEM, FOR THE PURPOSE OF PROVIDING ASSISTANCE TOWARDS THE COSTS OF INSTALLATION, INCLUDING BUT NOT LIMITED TO TECHNICAL AND ADMINISTRATIVE COSTS ASSOCIATED WITH PLANNING, DESIGN AND CONSTRUCTION, AND START-UP OF FLUORIDATION SYSTEMS, AND REPLACING, REPAIRING OR UPGRADING OF FLUORIDATION EQUIPMENT FOR SUCH PUBLIC WATER SYSTEMS. GRANT FUNDING SHALL NOT BE AVAILABLE FOR ASSISTANCE TOWARDS THE COSTS AND EXPENSES OF OPERATION OF THE FLUORIDATION SYSTEM, AS DETERMINED BY THE DEPARTMENT. THE GRANT APPLICATIONS SHALL INCLUDE SUCH INFORMATION AS REQUIRED BY THE COMMISSIONER. IN MAKING THE GRANT AWARDS, THE COMMISSIONER SHALL CONSIDER THE DEMONSTRATED NEED FOR INSTALLATION OF NEW FLUORIDATION EQUIPMENT OR REPLACING, REPAIRING OR UPGRADING OF EXISTING FLUORIDATION EQUIPMENT, AND SUCH OTHER CRITERIA AS DETERMINED BY THE COMMISSIONER. GRANT AWARDS SHALL BE MADE ON A COMPETITIVE BASIS AND BE SUBJECT TO SUCH CONDITIONS AS MAY BE DETERMINED BY THE COMMISSIONER.

S 2. This act shall take effect immediately.

PART N

Section 1. Purpose. The purpose of this act is to seek public input about the creation of an office of community living with the goal of providing improvements in service delivery and improved program outcomes that would result from the expansion of community living integration services for older adults and persons of all ages with disabilities.

S 2. Data and information collection. The director of the state office for the aging, in collaboration with other state agencies, will consult with stakeholders, providers, individuals and their families to gather data and information on the creation of an office for community living. Areas of focus shall include, but not be limited to, furthering the goals of the governor's Olmstead plan, strengthening the No Wrong Door approach to accessing information and services, reinforcing initiatives of the Balancing Incentive Program, creating opportunities to better leverage resources, evaluating methods for service delivery improvements, and analyzing the fiscal impact of creating such an office on services, individuals and providers. The state office for the aging shall also examine recent federal initiatives to create an administration on community living; and examine other states' efforts to expand services supporting community living integration, and local and/or regional coordination efforts within New York.

S 3. Reporting. The director of the state office for the aging shall submit to the governor, and to the temporary president of the senate and the speaker of the assembly, a report and recommendations by December 15, 2015, that outlines the results and findings associated with the aforementioned collection of data and solicitation of feedback. Such report shall include discussion regarding the potential impact and the feasibility of the expansion of the agency's community living integration services beginning April 1, 2016.

S 4. This act shall take effect immediately.

1

PART O

2 Section 1. Section 1 of part D of chapter 111 of the laws of 2010
3 relating to the recovery of exempt income by the office of mental health
4 for community residences and family-based treatment programs as amended
5 by section 1 of part C of chapter 58 of the laws of 2014, is amended to
6 read as follows:

7 Section 1. The office of mental health is authorized to recover fund-
8 ing from community residences and family-based treatment providers
9 licensed by the office of mental health, consistent with contractual
10 obligations of such providers, and notwithstanding any other inconsis-
11 tent provision of law to the contrary, in an amount equal to 50 percent
12 of the income received by such providers which exceeds the fixed amount
13 of annual Medicaid revenue limitations, as established by the commis-
14 sioner of mental health. Recovery of such excess income shall be for the
15 following fiscal periods: for programs in counties located outside of
16 the city of New York, the applicable fiscal periods shall be January 1,
17 2003 through December 31, 2009 and January 1, 2011 through December 31,
18 [2015] 2016; and for programs located within the city of New York, the
19 applicable fiscal periods shall be July 1, 2003 through June 30, 2010
20 and July 1, 2011 through June 30, [2015] 2016.

21 S 2. This act shall take effect immediately.

22

PART P

23 Section 1. Subparagraph 9 of paragraph h of subdivision 4 of section
24 1950 of the education law, as added by section 1 of part M of chapter 56
25 of the laws of 2012, is amended to read as follows:

26 (9) To enter into contracts with the commissioner of the office of
27 mental health, to provide special education [and], related services AND
28 ANY ALTERNATIVE EDUCATION PROGRAMS PROVIDED BY THE BOARD OF COOPERATIVE
29 EDUCATIONAL SERVICES TO COMPONENT SCHOOL DISTRICTS, in accordance with
30 subdivision six-b of section thirty-two hundred two of this chapter to
31 patients hospitalized in hospitals operated by the office of mental
32 health who are between the ages of five and twenty-one who have not
33 received a high school diploma. Any such proposed contract shall be
34 subject to the review by the commissioner and his [and] OR her determi-
35 nation that it is an approved cooperative educational service. Services
36 provided pursuant to such contracts shall be provided at cost and
37 approved by the commissioner of the office of mental health and the
38 director of the division of the budget, and the board of cooperative
39 educational services shall not be authorized to charge any costs
40 incurred in providing such services to its component school districts.

41 S 2. The opening paragraph of subdivision 6-b of section 3202 of the
42 education law, as added by section 2 of part M of chapter 56 of the laws
43 of 2012, is amended to read as follows:

44 The commissioner of mental health may meet his or her obligations
45 under section 33.11 of the mental hygiene law by contracting pursuant to
46 this subdivision for educational services for children between the ages
47 of five and twenty-one who do not hold a high school diploma and who are
48 hospitalized in hospitals operated by the office of mental health with
49 the trustees or board of education of any school district for educa-
50 tional services or with a board of cooperative educational services for
51 the provision of special education [and], related services AND ANY
52 ALTERNATIVE EDUCATION PROGRAMS PROVIDED BY THE BOARD OF COOPERATIVE
53 EDUCATIONAL SERVICES TO COMPONENT SCHOOL DISTRICTS to such children in

1 accordance with their individualized education programs. The costs of
2 such education shall not be a charge upon a school district pursuant to
3 section 33.11 of the mental hygiene law.

4 S 3. Section 4 of part M of chapter 56 of the laws of 2012 amending
5 the education law, relating to authorizing contracts for the provision
6 of special education and related services for certain patients hospital-
7 ized in hospitals operated by the office of mental health, is amended to
8 read as follows:

9 S 4. This act shall take effect July 1, 2012 and shall expire June 30,
10 [2015] 2018, when upon such date the provisions of this act shall be
11 deemed repealed.

12 S 4. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2015, provided,
14 however, that:

15 a. The amendments to subparagraph 9 of paragraph h of subdivision 4 of
16 section 1950 of the education law made by section one of this act shall
17 not affect the repeal of such subparagraph and shall be deemed repealed
18 therewith; and

19 b. The amendments to the opening paragraph of subdivision 6-b of
20 section 3202 of the education law made by section two of this act shall
21 not affect the repeal of such subdivision and shall be deemed repealed
22 therewith.

23

PART Q

24 Section 1. Section 2801-a of the public health law is amended by
25 adding a new subdivision 17 to read as follows:

26 17. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A PILOT PROGRAM TO
27 ASSIST IN RESTRUCTURING HEALTH CARE DELIVERY SYSTEMS BY ALLOWING FOR
28 INCREASED CAPITAL INVESTMENT. PURSUANT TO THE PILOT PROGRAM, THE PUBLIC
29 HEALTH AND HEALTH PLANNING COUNCIL SHALL APPROVE THE ESTABLISHMENT, IN
30 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPHS (F), (G) AND (H) OF THIS
31 SUBDIVISION AND SUBDIVISION THREE OF THIS SECTION, OF NO MORE THAN FIVE
32 BUSINESS CORPORATIONS FORMED UNDER THE BUSINESS CORPORATION LAW. SUCH
33 BUSINESS CORPORATIONS SHALL AFFILIATE, THE EXTENT OF THE AFFILIATION TO
34 BE DETERMINED BY THE COMMISSIONER, WITH AT LEAST ONE ACADEMIC MEDICAL
35 INSTITUTION OR TEACHING HOSPITAL APPROVED BY THE COMMISSIONER. A BUSI-
36 NESS CORPORATION SHALL NOT BE ELIGIBLE TO PARTICIPATE IN THIS PROGRAM IF
37 ANY OF ITS STOCK, OR THAT OF ANY OF ITS DIRECT OR INDIRECT OWNERS, IS OR
38 WILL BE TRADED ON A PUBLIC STOCK EXCHANGE OR ON AN OVER-THE-COUNTER
39 MARKET.

40 (B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUSINESS
41 CORPORATIONS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED
42 ELIGIBLE TO PARTICIPATE IN DEBT FINANCING PROVIDED BY THE DORMITORY
43 AUTHORITY OF THE STATE OF NEW YORK, LOCAL DEVELOPMENT CORPORATIONS AND
44 ECONOMIC DEVELOPMENT CORPORATIONS.

45 (C) THE FOLLOWING PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO BUSI-
46 NESS CORPORATIONS ESTABLISHED PURSUANT TO THIS SUBDIVISION: (I) PARA-
47 GRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO STOCKHOLD-
48 ERS, OTHER THAN PRINCIPAL STOCKHOLDERS; (II) PARAGRAPH (C) OF
49 SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE DISPOSITION OF STOCK
50 OR VOTING RIGHTS; (III) PARAGRAPHS (D) AND (E) OF SUBDIVISION FOUR OF
51 THIS SECTION, RELATING TO THE OWNERSHIP OF STOCK; AND (IV) PARAGRAPH (A)
52 OF SUBDIVISION THREE OF SECTION FOUR THOUSAND FOUR OF THIS CHAPTER,
53 RELATING TO THE OWNERSHIP OF STOCK. NOTWITHSTANDING THE FOREGOING, THE

1 PUBLIC HEALTH AND HEALTH PLANNING COUNCIL MAY REQUIRE THE DISCLOSURE OF
2 THE IDENTITY OF STOCKHOLDERS.

3 (D) THE CORPORATE POWERS AND PURPOSES OF A BUSINESS CORPORATION ESTAB-
4 LISHED AS AN OPERATOR PURSUANT TO THIS SUBDIVISION SHALL BE LIMITED TO
5 THE OWNERSHIP AND OPERATION, OR OPERATION, OF A HOSPITAL OR HOSPITALS
6 SPECIFICALLY NAMED AND THE LOCATION OR LOCATIONS OF WHICH ARE SPECIF-
7 ICALLY DESIGNATED BY STREET ADDRESS, CITY, TOWN, VILLAGE OR LOCALITY AND
8 COUNTY; PROVIDED, HOWEVER, THAT THE CORPORATE POWERS AND PURPOSES MAY
9 ALSO INCLUDE THE OWNERSHIP AND OPERATION, OR OPERATION, OF A CERTIFIED
10 HOME HEALTH AGENCY OR LICENSED HOME CARE SERVICES AGENCY OR AGENCIES AS
11 DEFINED IN ARTICLE THIRTY-SIX OF THIS CHAPTER OR A HOSPICE OR HOSPICES
12 AS DEFINED IN ARTICLE FORTY OF THIS CHAPTER, IF THE CORPORATION HAS
13 RECEIVED ALL APPROVALS REQUIRED UNDER SUCH LAW TO OWN AND OPERATE, OR
14 OPERATE, SUCH HOME CARE SERVICES AGENCY OR AGENCIES OR HOSPICE OR
15 HOSPICES. SUCH CORPORATE POWERS AND PURPOSES SHALL NOT BE MODIFIED,
16 AMENDED OR DELETED WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER.

17 (E)(1) IN DISCHARGING THE DUTIES OF THEIR RESPECTIVE POSITIONS, THE
18 BOARD OF DIRECTORS, COMMITTEES OF THE BOARD AND INDIVIDUAL DIRECTORS AND
19 OFFICERS OF A BUSINESS CORPORATION ESTABLISHED PURSUANT TO THIS SUBDIVI-
20 SION SHALL CONSIDER THE EFFECTS OF ANY ACTION UPON:

21 (A) THE ABILITY OF THE BUSINESS CORPORATION TO ACCOMPLISH ITS PURPOSE;

22 (B) THE SHAREHOLDERS OF THE BUSINESS CORPORATION;

23 (C) THE EMPLOYEES AND WORKFORCE OF THE HOSPITAL OR HOSPITALS;

24 (D) THE INTERESTS OF PATIENTS OF THE HOSPITAL OR HOSPITALS;

25 (E) COMMUNITY AND SOCIETAL CONSIDERATIONS, INCLUDING THOSE OF ANY
26 COMMUNITY IN WHICH FACILITIES OF THE HOSPITAL OR HOSPITALS ARE LOCATED;
27 AND

28 (F) THE SHORT-TERM AND LONG-TERM INTERESTS OF THE BUSINESS CORPO-
29 RATION, INCLUDING BENEFITS THAT MAY ACCRUE TO THE BUSINESS CORPORATION
30 FROM ITS LONG-TERM PLANS.

31 (2) THE CONSIDERATION OF INTERESTS AND FACTORS IN THE MANNER REQUIRED
32 BY SUBPARAGRAPH ONE OF THIS PARAGRAPH:

33 (A) SHALL NOT CONSTITUTE A VIOLATION OF THE PROVISIONS OF SECTION
34 SEVEN HUNDRED FIFTEEN OR SEVEN HUNDRED SEVENTEEN OF THE BUSINESS CORPO-
35 RATION LAW; AND

36 (B) IS IN ADDITION TO THE ABILITY OF DIRECTORS TO CONSIDER INTERESTS
37 AND FACTORS AS PROVIDED IN SECTION SEVEN HUNDRED SEVENTEEN OF THE BUSI-
38 NESS CORPORATION LAW.

39 (F) WHILE ANY DECISION TO APPROVE A BUSINESS CORPORATION UNDER THIS
40 SECTION MUST WEIGH AND BALANCE A NUMBER OF FACTORS, IN DETERMINING
41 WHETHER TO APPROVE A BUSINESS CORPORATION UNDER THIS SECTION, THE PUBLIC
42 HEALTH AND HEALTH PLANNING COUNCIL, IN CONSULTATION WITH THE COMMISSION-
43 ER, SHALL CONSIDER THE EXTENT TO WHICH THE BUSINESS CORPORATION:

44 (1) PROVIDES FOR EITHER EQUAL OR MAJORITY GOVERNANCE RIGHTS OF THE
45 NOT-FOR-PROFIT HOSPITAL PARTNER, REGARDLESS OF EQUITY STAKES, THROUGH
46 WEIGHTED CLASS VOTING STRUCTURE OR OTHERWISE;

47 (2) INCORPORATES A REPRESENTATIVE GOVERNANCE MODEL THAT:

48 (A) CLEARLY DELINEATES AUTHORITY AND RESPONSIBILITY FOR THE HOSPITAL'S
49 OPERATIONS;

50 (B) DEFINES MECHANISMS FOR APPROVAL OF DESIGNATED SHAREHOLDERS OR
51 INVESTORS; AND

52 (C) RESERVES POWERS GRANTED TO A LOCAL GOVERNING AUTHORITY TO ASSURE
53 ACCESS AND QUALITY;

54 (3) IS INCORPORATED AS A BENEFIT CORPORATION UNDER THE BUSINESS CORPO-
55 RATION LAW;

1 (4) COMMITS TO MAINTAINING OR ENHANCING EXISTING LEVELS OF SERVICES,
2 CHARITY CARE AND CORE COMMUNITY BENEFITS;

3 (5) IDENTIFIES AN ACTIONABLE STRATEGY TO MONITOR AND MAINTAIN OR
4 IMPROVE QUALITY OF CARE;

5 (6) EXPLAINS THE LEVEL OF CAPITAL COMMITMENT AND THE MECHANISM OR
6 MECHANISMS FOR INFUSING CAPITAL INTO THE NOT-FOR-PROFIT HOSPITAL PART-
7 NER;

8 (7) EXPLAINS HOW IT WILL RETAIN THE WORKFORCE, EITHER IN EXISTING JOBS
9 OR THROUGH RETRAINING, AND ADDRESSES OBLIGATIONS OWED TO EMPLOYEE BENE-
10 FIT PLANS AND PENSIONS;

11 (8) WILL CREATE A FOUNDATION TO ADDRESS THE PUBLIC HEALTH NEEDS OF THE
12 COMMUNITY; AND

13 (9) IDENTIFIES HOW PROFIT DISTRIBUTIONS SHALL BE MADE IN A WAY TO
14 ENSURE THAT THE COMMUNITY'S ACCESS TO QUALITY CARE AND CORE COMMUNITY
15 BENEFITS ARE NOT COMPROMISED AND ACCESS TO CAPITAL IS NOT COMPROMISED.

16 NONE OF THE FOREGOING FACTORS SHALL BE DISPOSITIVE IN THE APPROVAL OR
17 DISAPPROVAL OF THE BUSINESS CORPORATION.

18 (G) NO BUSINESS CORPORATION SHALL BE APPROVED UNDER THIS SECTION THAT
19 FAILS TO:

20 (1) ATTEST THAT IT WILL PROVIDE THE NOT-FOR-PROFIT HOSPITAL PARTNER
21 WITH THE EXCLUSIVE AUTHORITY OVER FUNCTIONS RELATING TO ITS EXEMPT
22 STATUS;

23 (2) COMMIT TO ONGOING MONITORING AND REPORTING TO THE DEPARTMENT ON
24 QUALITY OF CARE, ACCESS TO SERVICES, LOCAL INVESTMENT, AND WORKFORCE
25 ISSUES, TO BE DEFINED BY THE COMMISSIONER; AND

26 (3) PROVIDE FOR A LOCAL ADVISORY BOARD CONSISTING OF COMMUNITY REPRE-
27 SENTATIVES, WHICH SHALL MAKE RECOMMENDATIONS ON MATTERS INCLUDING:

28 (A) ADOPTING A MISSION, VISION AND VALUES STATEMENT;

29 (B) MONITORING OPERATING PERFORMANCE;

30 (C) ASSURING QUALITY OF CARE;

31 (D) ENSURING MEDICAL STAFF COMPLY WITH JOINT COMMISSION REQUIREMENTS;

32 (E) GRANTING MEDICAL STAFF PRIVILEGES;

33 (F) FORMULATING STRATEGIC, OPERATIONAL AND CAPITAL PLANS;

34 (G) NOMINATING ADVISORY BOARD MEMBERS;

35 (H) APPROVING THE CHIEF EXECUTIVE OFFICER AND EVALUATING HIS OR HER
36 PERFORMANCE; AND

37 (I) IDENTIFYING AND APPROVING POLICIES RELATING TO CORE COMMUNITY
38 SERVICES AND BENEFITS AND CHARITY CARE POLICIES.

39 (H) ANY BUSINESS CORPORATION APPROVED UNDER THIS SECTION MUST ARTIC-
40 ULATE:

41 (1) THE TIME PERIOD IT EXPECTS TO KEEP ITS INVESTMENT IN THE HOSPITAL
42 OR HOSPITALS;

43 (2) WHETHER IT WILL ALLOW A "BUY-BACK" OPTION TO ITS NOT-FOR-PROFIT
44 HOSPITAL PARTNER OR BY AN EMPLOYEE OWNERSHIP PLAN;

45 (3) WHAT SAFEGUARDS IT PLANS TO PUT IN PLACE TO PROTECT ACCESS TO
46 SERVICES WHEN IT BEGINS TO NEGOTIATE WITH A SUBSEQUENT INVESTOR; AND

47 (4) THE ROLE OF THE NOT-FOR-PROFIT HOSPITAL PARTNER IN THOSE
48 DISCUSSIONS WITH A SUBSEQUENT INVESTOR.

49 (I) THE BOARD OF DIRECTORS OF A BUSINESS CORPORATION ESTABLISHED
50 PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED A "GOVERNING BODY" FOR THE
51 PURPOSES OF SECTION TWENTY-EIGHT HUNDRED THREE-L OF THIS ARTICLE AND
52 SHALL COMPLY WITH THE PROVISIONS OF SUCH SECTION, REGARDLESS OF THE
53 CORPORATION'S PROFIT-MAKING STATUS.

54 (J) A SALE, LEASE, CONVEYANCE, EXCHANGE, TRANSFER, OR OTHER DISPOSI-
55 TION OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE BUSINESS CORPO-

1 RATION SHALL NOT BE EFFECTIVE UNLESS THE TRANSACTION IS APPROVED BY THE
2 COMMISSIONER.

3 NO SUCH TRANSACTION MAY OCCUR WITHIN THREE YEARS OF THE COMMISSIONER'S
4 APPROVAL OF THE BUSINESS CORPORATION'S PARTICIPATION IN THE DEMON-
5 STRATION PROJECT. IN APPROVING SUCH A TRANSACTION, THE COMMISSIONER
6 SHALL CONSIDER, AMONG OTHER THINGS, WHETHER THE TRANSACTION:

7 (1) IMPOSES SAFEGUARDS TO PROTECT QUALITY AND ACCESS TO CORE COMMUNITY
8 SERVICES DURING THE TRANSITION TO THE NEW INVESTOR;

9 (2) REQUIRES THE SUBSEQUENT INVESTOR TO GUARANTEE ALL OBLIGATIONS,
10 INCLUDING THOSE DESCRIBED IN SUBPARAGRAPH SEVEN OF PARAGRAPH (F) OF THIS
11 SUBDIVISION;

12 (3) WILL MAINTAIN THE HOSPITAL GOVERNANCE STRUCTURE AND LOCAL GOVERN-
13 ING BOARD'S POWERS; AND

14 (4) IMPOSES MINIMUM CAPITALIZATION CRITERIA POST-TRANSACTION.

15 (K) NO LATER THAN THREE YEARS AFTER THE ESTABLISHMENT OF A BUSINESS
16 CORPORATION UNDER THIS SUBDIVISION, THE COMMISSIONER SHALL PROVIDE THE
17 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
18 ASSEMBLY WITH A WRITTEN EVALUATION OF THE PILOT PROGRAM. SUCH EVALUATION
19 SHALL ADDRESS THE OVERALL EFFECTIVENESS OF THE PROGRAM IN ALLOWING FOR
20 ACCESS TO CAPITAL INVESTMENT AND THE IMPACT SUCH ACCESS MAY HAVE ON THE
21 QUALITY OF CARE PROVIDED BY HOSPITALS OPERATED BY BUSINESS CORPORATIONS
22 ESTABLISHED UNDER THIS SUBDIVISION.

23 S 2. Paragraph (b) of subdivision 2 of section 1676 of the public
24 authorities law is amended by adding a new undesignated paragraph to
25 read as follows:

26 SUCH BUSINESS CORPORATIONS AS ARE ESTABLISHED PURSUANT TO SUBDIVISION
27 SEVENTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THE PUBLIC HEALTH LAW
28 FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND
29 IMPROVEMENT, OR OTHERWISE PROVIDING, FURNISHING AND EQUIPPING OF A
30 HOSPITAL OR HOSPITALS.

31 S 3. Subdivision 1 of section 1680 of the public authorities law is
32 amended by adding a new undesignated paragraph to read as follows:

33 SUCH BUSINESS CORPORATIONS AS ARE ESTABLISHED PURSUANT TO SUBDIVISION
34 SEVENTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THE PUBLIC HEALTH LAW
35 FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND
36 IMPROVEMENT, OR OTHERWISE PROVIDING, FURNISHING AND EQUIPPING OF A
37 HOSPITAL OR HOSPITALS.

38 S 4. This act shall take effect immediately.

39 PART R

40 Section 1. Section 3 of part A of chapter 111 of the laws of 2010
41 amending the mental hygiene law relating to the receipt of federal and
42 state benefits received by individuals receiving care in facilities
43 operated by an office of the department of mental hygiene, as amended by
44 section 1 of part B of chapter 58 of the laws of 2014, is amended to
45 read as follows:

46 S 3. This act shall take effect immediately; and shall expire and be
47 deemed repealed June 30, [2015] 2018.

48 S 2. This act shall take effect immediately.

49 PART S

50 Section 1. Section 366 of the social services law is amended by adding
51 a new subdivision 7-a to read as follows:

1 7-A. A. THE COMMISSIONER OF HEALTH IN CONSULTATION WITH THE COMMIS-
2 SIONER OF DEVELOPMENTAL DISABILITIES SHALL APPLY FOR A HOME AND COMMUNI-
3 TY-BASED WAIVER, PURSUANT TO SUBDIVISION (C) OF SECTION NINETEEN HUNDRED
4 FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT, IN ORDER TO PROVIDE HOME AND
5 COMMUNITY-BASED SERVICES FOR A POPULATION OF PERSONS WITH DEVELOPMENTAL
6 DISABILITIES, AS SUCH TERM IS DEFINED IN SECTION 1.03 OF THE MENTAL
7 HYGIENE LAW.

8 B. PERSONS ELIGIBLE FOR PARTICIPATION IN THE WAIVER PROGRAM SHALL:

9 (I) HAVE A DEVELOPMENTAL DISABILITY AS SUCH TERM IS DEFINED IN SUBDI-
10 VISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW;

11 (II) MEET THE LEVEL OF CARE CRITERIA PROVIDED BY AN INTERMEDIATE CARE
12 FACILITY FOR THE DEVELOPMENTALLY DISABLED;

13 (III) BE ELIGIBLE FOR MEDICAID;

14 (IV) LIVE AT HOME OR IN AN INDIVIDUALIZED RESIDENTIAL ALTERNATIVE,
15 COMMUNITY RESIDENCE OR FAMILY CARE HOME, OPERATED, FUNDED OR LICENSED BY
16 THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES OR OTHER APPROPRI-
17 ATE COMMUNITY SETTING AS DEFINED IN REGULATION BY THE COMMISSIONER OF
18 DEVELOPMENTAL DISABILITIES;

19 (V) BE CAPABLE OF BEING CARED FOR IN THE COMMUNITY IF PROVIDED WITH
20 SUCH SERVICES AS RESPIRE, HOME ADAPTATION, OR OTHER HOME AND COMMUNITY-
21 BASED SERVICES, OTHER THAN ROOM AND BOARD, AS MAY BE APPROVED BY THE
22 SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, IN
23 ADDITION TO OTHER SERVICES PROVIDED UNDER THIS TITLE, AS DETERMINED BY
24 THE ASSESSMENT REQUIRED BY PARAGRAPH C OF THIS SUBDIVISION;

25 (VI) HAVE A DEMONSTRATED NEED FOR HOME AND COMMUNITY BASED WAIVER
26 SERVICES; AND

27 (VII) MEET SUCH OTHER CRITERIA AS MAY BE ESTABLISHED BY THE COMMIS-
28 SIONER OF HEALTH AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, AS
29 MAY BE NECESSARY TO ADMINISTER THE PROVISIONS OF THIS SUBDIVISION.

30 C. THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL ASSESS THE
31 ELIGIBILITY OF PERSONS ENROLLED, OR SEEKING TO ENROLL, IN THE WAIVER
32 PROGRAM. THE ASSESSMENT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, AN
33 EVALUATION OF THE HEALTH, PSYCHO-SOCIAL, DEVELOPMENTAL, HABILITATION AND
34 ENVIRONMENTAL NEEDS OF THE PERSON AND SHALL SERVE AS THE BASIS FOR THE
35 DEVELOPMENT AND PROVISION OF AN APPROPRIATE PLAN OF CARE FOR SUCH
36 PERSON.

37 D. THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL UNDER-
38 TAKE OR ARRANGE FOR THE DEVELOPMENT OF A WRITTEN PLAN OF CARE FOR EACH
39 PERSON ENROLLED IN THE WAIVER. SUCH PLAN OF CARE SHALL DESCRIBE THE
40 PROVISION OF HOME AND COMMUNITY BASED WAIVER SERVICES CONSISTENT WITH
41 THE ASSESSMENT FOR EACH PERSON.

42 E. THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL REVIEW
43 THE PLAN OF CARE AND AUTHORIZE THOSE HOME AND COMMUNITY BASED SERVICES
44 TO BE INCLUDED IN THE PLAN OF CARE, TAKING INTO ACCOUNT THE PERSON'S
45 ASSESSED NEEDS, VALUED OUTCOMES AND AVAILABLE RESOURCES.

46 F. THE COMMISSIONERS OF DEVELOPMENTAL DISABILITIES AND HEALTH SHALL
47 DETERMINE QUALITY STANDARDS FOR ORGANIZATIONS PROVIDING SERVICES UNDER
48 SUCH WAIVER AND SHALL AUTHORIZE ORGANIZATIONS THAT MEET SUCH STANDARDS
49 TO PROVIDE SUCH SERVICES.

50 G. THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES OR HEALTH MAY
51 PROMULGATE RULES AND REGULATIONS AS NECESSARY TO EFFECTUATE THE
52 PROVISIONS OF THIS SECTION.

53 H. THIS SUBDIVISION SHALL BE EFFECTIVE ONLY IF, AND AS LONG AS, FEDER-
54 AL FINANCIAL PARTICIPATION IS AVAILABLE FOR EXPENDITURES INCURRED UNDER
55 THIS SUBDIVISION.

1 S 2. Paragraph (a) of subdivision 4 of section 488 of the social
2 services law, as added by section 1 of part B of chapter 501 of the laws
3 of 2012, is amended to read as follows:

4 (a) a facility or program in which services are provided and which is
5 operated, licensed or certified by the office of mental health, the
6 office for people with developmental disabilities or the office of alco-
7 holism and substance abuse services, including but not limited to
8 psychiatric centers, inpatient psychiatric units of a general hospital,
9 developmental centers, intermediate care facilities, community resi-
10 dences, group homes and family care homes, provided, however, that such
11 term shall not include a secure treatment facility as defined in section
12 10.03 of the mental hygiene law, SERVICES DEFINED IN SUBPARAGRAPH FOUR
13 OF SUBDIVISION (A) OF SECTION 16.03 OF THE MENTAL HYGIENE LAW, or
14 services provided in programs or facilities that are operated by the
15 office of mental health and located in state correctional facilities
16 under the jurisdiction of the department of corrections and community
17 supervision;

18 S 3. Subdivision 2 of section 550 of the executive law, as added by
19 section 3 of part A of chapter 501 of the laws of 2012, is amended to
20 read as follows:

21 2. "Mental hygiene facility" shall mean a facility as defined in
22 subdivision six of section 1.03 of the mental hygiene law and facilities
23 for the operation of which an operating certificate is required pursuant
24 to article sixteen or thirty-one of the mental hygiene law and including
25 family care homes. "Mental hygiene facility" also means a secure treat-
26 ment facility as defined by article ten of the mental hygiene law. THIS
27 TERM SHALL NOT INCLUDE SERVICES DEFINED IN SUBPARAGRAPH FOUR OF SUBDIVI-
28 SION (A) OF SECTION 16.03 OF THE MENTAL HYGIENE LAW.

29 S 4. Subdivisions 3, 4, 5 and 22 of section 1.03 of the mental hygiene
30 law, subdivision 3 as amended by chapter 223 of the laws of 1992, subdi-
31 vision 4 as added by chapter 978 of the laws of 1977, subdivision 5 as
32 amended by chapter 75 of the laws of 2006, and subdivision 22 as amended
33 by chapter 255 of the laws of 2002, are amended to read as follows:

34 3. "Mental disability" means mental illness, [mental retardation]
35 INTELLECTUAL DISABILITY, developmental disability, alcoholism, substance
36 dependence, or chemical dependence. [A mentally disabled person is one
37 who has a mental disability.]

38 4. "Services for [the mentally disabled] PERSONS WITH A MENTAL DISA-
39 BILITY" means examination, diagnosis, care, treatment, rehabilitation,
40 SUPPORTS, HABILITATION or training of the mentally disabled.

41 5. "Provider of services" means an individual, association, corpo-
42 ration, partnership, limited liability company, or public or private
43 agency, other than an agency or department of the state, which provides
44 services for [the mentally disabled] PERSONS WITH A MENTAL DISABILITY.
45 It shall not include any part of a hospital as defined in article twen-
46 ty-eight of the public health law which is not being operated for the
47 purpose of providing services for the mentally disabled. No provider of
48 services shall be subject to the regulation or control of the department
49 or one of its offices except as such regulation or control is provided
50 for by other provisions of this chapter.

51 22. "Developmental disability" means a disability of a person which:

52 (a) (1) is attributable to [mental retardation] INTELLECTUAL DISABILI-
53 TY, cerebral palsy, epilepsy, neurological impairment, familial dysauto-
54 nomia or autism;

55 (2) is attributable to any other condition of a person found to be
56 closely related to [mental retardation] INTELLECTUAL DISABILITY because

1 such condition results in similar impairment of general intellectual
2 functioning or adaptive behavior to that of [mentally retarded] INTEL-
3 LECTUALLY DISABLED persons or requires treatment and services similar to
4 those required for such person; or

5 (3) is attributable to dyslexia resulting from a disability described
6 in subparagraph (1) or (2) of this paragraph;

7 (b) originates before such person attains age twenty-two;

8 (c) has continued or can be expected to continue indefinitely; and

9 (d) constitutes a substantial handicap to such person's ability to
10 function normally in society.

11 S 5. Paragraph 3 of subdivision (a) of section 16.03 of the mental
12 hygiene law, as amended by chapter 37 of the laws of 2011, is amended to
13 read as follows:

14 (3) Operation of a facility established or maintained by a public
15 agency, board, or commission, or by a corporation or voluntary associ-
16 ation for the rendition of out-patient or non-residential services for
17 persons with developmental disabilities; provided, however, that such
18 operation shall not be deemed to include (i) professional practice,
19 within the scope of a professional license or certificate issued by an
20 agency of the state, by an individual practitioner or by a partnership
21 of such individuals or by a professional service corporation duly incor-
22 porated pursuant to the business corporation law or by a university
23 faculty practice corporation duly incorporated pursuant to the not-for-
24 profit corporation law or (ii) non-residential services which are
25 licensed, supervised, or operated by another agency of the state and
26 non-residential services which are chartered or issued a certificate of
27 incorporation pursuant to the education law or (iii) pastoral counseling
28 by a clergyman or minister, including those defined as clergyman or
29 minister by section two of the religious corporations law.

30 S 6. Subdivision (a) of section 16.03 of the mental hygiene law is
31 amended by adding a new paragraph 4 to read as follows:

32 (4) THE PROVISION OF HOME AND COMMUNITY BASED SERVICES APPROVED UNDER
33 A WAIVER PROGRAM AUTHORIZED PURSUANT TO SUBDIVISION (C) OF SECTION NINE-
34 TEEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT AND SUBDIVISIONS
35 SEVEN AND SEVEN-A OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL
36 SERVICES LAW.

37 S 7. Section 16.03 of the mental hygiene law is amended by adding a
38 new subdivision (f) to read as follows:

39 (F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
40 PROVISION OF LICENSED PROFESSIONAL SERVICES, INCLUDING, BUT NOT LIMITED
41 TO, PSYCHOLOGY, NURSING, SOCIAL WORK, SPEECH-LANGUAGE PATHOLOGY, OCCUPA-
42 TIONAL THERAPY, PHYSICAL THERAPY AND APPLIED BEHAVIORAL ANALYSIS, SHALL
43 BE AUTHORIZED AS PART OF THE PROGRAMS CERTIFIED PURSUANT TO THIS ARTI-
44 CLE.

45 S 8. Subdivision (a), paragraphs 2, 3, and 6 of subdivision (c), para-
46 graphs 1 and 4 of subdivision (d), subdivision (e), and subdivision (i)
47 of section 16.05 of the mental hygiene law, subdivision (a), paragraphs
48 2, 3, and 6 of subdivision (c), paragraphs 1 and 4 of subdivision (d)
49 and subdivision (e) as added by chapter 786 of the laws of 1983, para-
50 graph 6 of subdivision (c) and paragraph 4 of subdivision (d) as renum-
51 bered by chapter 618 of the laws of 1990, and subdivision (i) as amended
52 by chapter 37 of the laws of 2011, are amended to read as follows:

53 (a)(1) Application for an operating certificate shall be made upon
54 forms prescribed by the commissioner.

55 (2) Application shall be made by the person or entity responsible for
56 operation of the facility OR PROVISION OF SERVICES AS DESCRIBED IN

1 SUBDIVISION FOUR OF SECTION 16.03 OF THIS ARTICLE. Applications shall
2 be in writing, shall be verified and shall contain such information as
3 required by the commissioner.

4 (2) The character, competence and standing in the community of the
5 person or entity responsible for operating the facility OR PROVIDING
6 SERVICES;

7 (3) The financial resources of the proposed facility OR PROVIDER OF
8 SERVICES and its sources of future revenues;

9 (6) In the case of residential facilities, that arrangements have been
10 made with other providers of services for the provision of health,
11 habilitation, day treatment, education, sheltered workshop, transporta-
12 tion or other services as may be necessary to meet the needs of
13 [clients] INDIVIDUALS who will reside in the facility; and

14 (1) the financial resources of the proposed facility OR PROVIDER OF
15 SERVICES and its sources of future revenues;

16 (4) in the case of residential facilities, that arrangements have been
17 made with other providers of services for the provision of health,
18 habilitation, day treatment, education, sheltered workshop, transporta-
19 tion or other services as may be necessary to meet the needs of
20 [clients] INDIVIDUALS who will reside in the facility; and

21 (e) The commissioner may disapprove an application for an operating
22 certificate, may authorize fewer services than applied for, and may
23 place limitations or conditions on the operating certificate including,
24 but not limited to compliance with a time limited plan of correction of
25 any deficiency which does not threaten the health or well-being of any
26 [client] INDIVIDUALS. In such cases the applicant shall be given an
27 opportunity to be heard, at a public hearing if requested by the appli-
28 cant.

29 (i) In the event that the holder of an operating certificate for a
30 residential facility issued by the commissioner pursuant to this article
31 wishes to cease the operation or conduct of any of the activities, as
32 defined in paragraph one OR FOUR of subdivision (a) of section 16.03 of
33 this article, for which such certificate has been issued or to cease
34 operation of any one or more of facilities for which such certificate
35 has been issued; wishes to transfer ownership, possession or operation
36 of the premises and facilities upon which such activities are being
37 conducted or to transfer ownership, possession or operation of any one
38 or more of the premises or facilities for which such certificate has
39 been issued; or elects not to apply to the commissioner for re-certifi-
40 cation upon the expiration of any current period of certification, it
41 shall be the duty of such certificate holder to give to the commissioner
42 written notice of such intention not less than sixty days prior to the
43 intended effective date of such transaction. Such notice shall set forth
44 a detailed plan which makes provision for the safe and orderly transfer
45 of each person with a developmental disability served by such certif-
46 icate holder pursuant to such certificate into a program of services
47 appropriate to such person's on-going needs and/or for the continuous
48 provision of a lawfully operated program of such activities and services
49 at the premises and facilities to be conveyed by the certificate holder.
50 Such certificate holder shall not cease to provide any such services to
51 any such person with a developmental disability under any of the circum-
52 stances described in this section until the notice and plan required
53 hereby are received, reviewed and approved by the commissioner. For the
54 purposes of this paragraph, the requirement of prior notice and contin-
55 uous provision of programs and services by the certificate holder shall
56 not apply to those situations and changes in circumstances directly

1 affecting the certificate holder that are not reasonably foreseeable at
2 the time of occurrence, including, but not limited to, death or other
3 sudden incapacitating disability or infirmity. Written notice shall be
4 given to the commissioner as soon as reasonably possible thereafter in
5 the manner set forth within this subdivision.

6 S 9. Paragraph 1 of subdivision (a) of section 16.09 of the mental
7 hygiene law, as added by chapter 786 of the laws of 1983, is amended to
8 read as follows:

9 (1) "Facility" is limited to a facility in which services are offered
10 for which an operating certificate is required by this article. For the
11 purposes of this section facility shall include family care homes BUT
12 SHALL NOT INCLUDE THE PROVISION OF SERVICES, AS DEFINED IN PARAGRAPH
13 FOUR OF SUBDIVISION (A) OF SECTION 16.03 OF THIS ARTICLE, OUTSIDE OF A
14 FACILITY.

15 S 10. The section heading and subdivision (a) of section 16.11 of the
16 mental hygiene law are REPEALED and a new section heading and subdivi-
17 sion (a) are added to read as follows:

18 OVERSIGHT OF FACILITIES AND SERVICES. (A) THE COMMISSIONER SHALL
19 PROVIDE FOR THE OVERSIGHT OF FACILITIES AND PROVIDERS OF SERVICES HOLD-
20 ING OPERATING CERTIFICATES PURSUANT TO SECTION 16.03 OF THIS ARTICLE AND
21 SHALL PROVIDE FOR THE ANNUAL REVIEW OF SUCH FACILITIES AND PROVIDERS IN
22 IMPLEMENTING THE REQUIREMENTS OF THE OFFICE AND IN PROVIDING QUALITY
23 CARE AND PERSON CENTERED AND COMMUNITY BASED SERVICES.

24 (1) THE REVIEW OF FACILITIES ISSUED AN OPERATING CERTIFICATE PURSUANT
25 TO THIS ARTICLE SHALL INCLUDE A SITE VISIT TO OCCUR AT LEAST ONCE DURING
26 EACH CALENDAR YEAR AND SHALL BE WITHOUT PRIOR NOTICE. AREAS OF REVIEW
27 SHALL INCLUDE, BUT NOT BE LIMITED TO, A REVIEW OF A FACILITY'S: PHYSICAL
28 PLANT, FIRE SAFETY PROCEDURES, HEALTH CARE, PROTECTIVE OVERSIGHT, ABUSE
29 AND NEGLECT PREVENTION, AND REPORTING PROCEDURES.

30 (2) THE REVIEW OF PROVIDERS OF SERVICES, AS DEFINED IN PARAGRAPH FOUR
31 OF SUBDIVISION (A) OF SECTION 16.03 OF THIS ARTICLE, SHALL ENSURE THAT
32 THE PROVIDER OF SERVICES COMPLIES WITH ALL THE REQUIREMENTS OF THE
33 APPLICABLE FEDERAL HOME AND COMMUNITY BASED SERVICES WAIVER PROGRAM AND
34 APPLICABLE FEDERAL REGULATION, SUBDIVISIONS SEVEN AND SEVEN-A OF SECTION
35 THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW AND RULES AND REGU-
36 LATIONS ADOPTED BY THE COMMISSIONER.

37 S 11. Subdivisions (b), (c), (d), and (e) of section 16.11 of the
38 mental hygiene law, subdivision (b) as amended by chapter 37 of the laws
39 of 2011, and subdivisions (c), (d) and (e) as added by chapter 786 of
40 the laws of 1983, are amended to read as follows:

41 (b) The commissioner shall have the power to conduct investigations
42 into the operations of any PROVIDER OF SERVICE, person or entity which
43 holds an operating certificate issued by the office, into the operation
44 of any facility, SERVICE or program issued an operating certificate by
45 the office and into the operations, related to the provision of services
46 regulated by this chapter, of any person or entity providing a residence
47 for one or more unrelated persons with developmental disabilities.

48 (c) In conducting an inspection or investigation, the commissioner or
49 his OR HER authorized representative shall have the power to inspect
50 facilities, conduct interviews of clients, interview personnel, examine
51 and copy all records, including financial and medical records of the
52 facility OR PROVIDER OF SERVICES, and obtain such other information as
53 may be required in order to carry out his OR HER responsibilities under
54 this chapter.

55 (d) In conducting any inspection or investigation under this chapter,
56 the commissioner or his OR HER authorized representative is empowered to

1 subpoena witnesses, compel their attendance, administer oaths to
2 witnesses, examine witnesses under oath, and require the production of
3 any books or papers deemed relevant to the investigation, inspection, or
4 hearing. A subpoena issued under this section shall be regulated by the
5 civil practice law and rules.

6 (e) The supreme court may enjoin persons or entities subject to
7 inspection or investigation pursuant to this article to cooperate with
8 the commissioner and to allow the commissioner access to PROVIDERS OF
9 SERVICES, facilities, records, clients and personnel as necessary to
10 enable the commissioner to conduct the inspection or investigation.

11 S 12. Section 16.17 of the mental hygiene law, as added by chapter 786
12 of the laws of 1983, subdivision (a) and paragraph 2 and subparagraph b
13 of paragraph 1 of subdivision (b) as amended and subparagraph d of para-
14 graph 1 of subdivision (b) as relettered by chapter 169 of the laws of
15 1992, subdivision (b) as amended by chapter 856 of the laws of 1985, the
16 opening paragraph and subparagraph c of paragraph 1 of subdivision (b)
17 as amended by chapter 37 of the laws of 2011, subparagraph d of para-
18 graph 1 of subdivision (b) as added by chapter 618 of the laws of 1990,
19 paragraph 4 of subdivision (b) as amended by chapter 168 of the laws of
20 2010, paragraph 1 of subdivision (f) as amended by chapter 601 of the
21 laws of 2007, subdivision (g) as amended by chapter 24 of the laws of
22 2007, and subdivision (h) as amended by chapter 306 of the laws of 1995,
23 is amended to read as follows:

24 S 16.17 Suspension, revocation, or limitation of an operating certif-
25 icate.

26 (a) The commissioner may revoke, suspend, or limit an operating
27 certificate or impose the penalties described in subparagraph a, b, c or
28 d of paragraph one of subdivision (b) or in subdivision (g) of this
29 section upon a determination that the holder of the certificate has
30 failed to comply with the terms of its operating certificate or with the
31 provisions of any applicable statute, rule or regulation. The holder of
32 the certificate shall be given notice and an opportunity to be heard
33 prior to any such determination except that no such notice and opportu-
34 nity to be heard shall be necessary prior to an emergency suspension or
35 limitation of the facility's OR PROVIDER OF SERVICES' operating certif-
36 icate imposed pursuant to paragraph one of subdivision (b) of this
37 section, nor shall such notice and opportunity to be heard be necessary
38 should the commissioner, in his OR HER discretion, decide to issue sepa-
39 rate operating certificates to each facility OR PROVIDER OF SERVICES
40 formerly included under the services authorized by one operating certif-
41 icate to the provider of services.

42 (b) (1) An operating certificate may be temporarily suspended or
43 limited without a prior hearing for a period not in excess of sixty days
44 upon written notice to the facility OR PROVIDER OF SERVICES following a
45 finding by the office for people with developmental disabilities that a
46 [client's] INDIVIDUAL'S health or safety is in imminent danger. Upon
47 such finding and notice, the power of the commissioner temporarily to
48 suspend or limit an operating certificate shall include, but shall not
49 be limited to, the power to:

50 a. Prohibit or limit the placement of new [clients] INDIVIDUALS in the
51 facility OR SERVICES;

52 b. Remove or cause to be removed some or all of the [clients] INDIVID-
53 UALS in the facility OR SERVICES;

54 c. Suspend or limit or cause to be suspended or limited the payment of
55 any governmental funds to the facility OR PROVIDER OF SERVICES provided
56 that such action shall not in any way jeopardize the health, safety and

1 welfare of any person with a developmental disability in such program or
2 facility OR SERVICES;

3 d. Prohibit or limit the placement of new [clients] INDIVIDUALS,
4 remove or cause to be removed some or all [clients] INDIVIDUALS, or
5 suspend or limit or cause to be suspended or limited the payment of any
6 governmental funds, in or to any one or more of the facilities OR
7 PROVIDER OF SERVICES authorized pursuant to an operating certificate
8 [issued to a provider of services].

9 (2) At any time subsequent to the suspension or limitation of any
10 operating certificate pursuant to paragraph one of this subdivision
11 where said suspension or limitation is the result of correctable phys-
12 ical plant, staffing or program deficiencies, the facility OR PROVIDER
13 OF SERVICES may request the office to [reinspect] REVIEW the facility OR
14 PROVIDER OF SERVICES to redetermine whether a physical plant, staffing
15 or program deficiency continues to exist. After the receipt of such a
16 request, the office shall [reinspect] REVIEW the facility OR PROVIDER OF
17 SERVICES within ten days and in the event that the previously found
18 physical plant, staffing or program deficiency has been corrected, the
19 suspension or limitation shall be withdrawn. If the physical plant,
20 staffing or program deficiency has not been corrected, the commissioner
21 shall not thereafter be required to [reinspect] REVIEW the facility OR
22 PROVIDER OF SERVICES during the emergency period of suspension or limi-
23 tation.

24 (3) During the sixty day suspension or limitation period provided for
25 in paragraph one of this subdivision the commissioner shall determine
26 whether to reinstate or remove the limitations on the facility's OR
27 PROVIDER OF SERVICES' operating certificate or to revoke, suspend or
28 limit the operating certificate pursuant to subdivision (a) of this
29 section. Should the commissioner choose to revoke, suspend or limit the
30 operating certificate, then the emergency suspension or limitation
31 provided for in this subdivision shall remain in effect pending the
32 outcome of an administrative hearing on the revocation, suspension or
33 limitation.

34 (4) The facility operator OR PROVIDER OF SERVICES, within ten days of
35 the date when the emergency suspension or limitation pursuant to para-
36 graph one of this subdivision is first imposed, may request an evidenti-
37 ary hearing to contest the validity of the emergency suspension or limi-
38 tation. Such an evidentiary hearing shall commence within ten days of
39 the facility operator's OR PROVIDER'S request and no request for an
40 adjournment shall be granted without the concurrence of the facility
41 operator OR PROVIDER OF SERVICE, office for people with developmental
42 disabilities, and the hearing officer. The evidentiary hearing shall be
43 limited to those violations of federal and state law and regulations
44 that existed at the time of the emergency suspension or limitation and
45 which gave rise to the emergency suspension or limitation. The emergency
46 suspension or limitation shall be upheld upon a determination that the
47 office for people with developmental disabilities had reasonable cause
48 to believe that a [client's] INDIVIDUAL'S health or safety was in immi-
49 nent danger. A record of such hearing shall be made available to the
50 facility operator OR PROVIDER OF SERVICE upon request. Should the
51 commissioner determine to revoke, suspend or limit [the facility's] AN
52 operating certificate pursuant to subdivision (a) of this section, no
53 administrative hearing on that action shall commence prior to the
54 conclusion of the evidentiary hearing. The commissioner shall issue a
55 ruling within ten days after the receipt of the hearing officer's
56 report.

(c) When the holder of an operating certificate shall request an opportunity to be heard, the commissioner shall fix a time and place for the hearing. A copy of the charges, together with the notice of the time and place of the hearing, shall be served in person or mailed by registered or certified mail to the facility OR PROVIDER OF SERVICES at least ten days before the date fixed for the hearing. The facility OR PROVIDER OF SERVICES shall file with the office, not less than three days prior to the hearing, a written answer to the charges.

(d) (1) When a hearing must be afforded pursuant to this section or other provisions of this article, the commissioner, acting as hearing officer, or any person designated by him OR HER as hearing officer, shall have power to:

- a. administer oaths and affirmations;
- b. issue subpoenas, which shall be regulated by the civil practice law and rules;
- c. take testimony; or
- d. control the conduct of the hearing.

(2) The rules of evidence observed by courts need not be observed except that the rules of privilege recognized by law shall be respected. Irrelevant or unduly repetitious evidence may be excluded.

(3) All parties shall have the right of counsel and be afforded an opportunity to present evidence and cross-examine witnesses.

(4) If evidence at the hearing relates to the identity, condition, or clinical record of [a client] AN INDIVIDUAL, the hearing officer may exclude all persons from the room except parties to the proceeding, their counsel and the witness. The record of such proceeding shall not be available to anyone outside the office, other than a party to the proceeding or his counsel, except by order of a court of record.

(5) The commissioner may establish regulations to govern the hearing procedure and the process of determination of the proceeding.

(6) The commissioner shall issue a ruling within ten days after the termination of the hearing or, if a hearing officer has been designated, within ten days from the hearing officer's report.

(e) All orders or determinations hereunder shall be subject to review as provided in article seventy-eight of the civil practice law and rules.

(f) (1) Except as provided in paragraph two of this subdivision, anything contained in this section to the contrary notwithstanding, an operating certificate of a facility OR PROVIDER OF SERVICE shall be revoked upon a finding by the office that any individual, member of a partnership or shareholder of a corporation to whom or to which an operating certificate has been issued, has been convicted of a class A, B or C felony or a felony related in any way to any activity or program subject to the regulations, supervision, or administration of the office or of the office of temporary and disability assistance, the department of health, or another office of the department of mental hygiene, or in violation of the public officers law in a court of competent jurisdiction of the state, or in a court in another jurisdiction for an act which would have been a class A, B or C felony in this state or a felony in any way related to any activity or program which would be subject to the regulations, supervision, or administration of the office or of the office of temporary and disability assistance, the department of health, or another office of the department of mental hygiene, or for an act which would be in violation of the public officers law. The commissioner shall not revoke or limit the operating certificate of any facility OR PROVIDER OF SERVICE, solely because of the conviction, whether in the

1 courts of this state or in the courts of another jurisdiction, more than
2 ten years prior to the effective date of such revocation or limitation,
3 of any person of a felony, or what would amount to a felony if committed
4 within the state, unless the commissioner makes a determination that
5 such conviction was related to an activity or program subject to the
6 regulations, supervision, and administration of the office or of the
7 office of temporary and disability assistance, the department of health,
8 or another office of the department of mental hygiene, or in violation
9 of the public officers law.

10 (2) In the event one or more members of a partnership or shareholders
11 of a corporation shall have been convicted of a felony as described in
12 paragraph one of this subdivision, the commissioner shall, in addition
13 to his OR HER other powers, limit the existing operating certificate of
14 such partnership or corporation so that it shall apply only to the
15 remaining partner or shareholders, as the case may be, provided that
16 every such convicted person immediately and completely ceases and with-
17 draws from participation in the management and operation of the facility
18 OR PROVIDER OF SERVICES and further provided that a change of ownership
19 or transfer of stock is completed without delay, and provided that such
20 partnership or corporation shall immediately reapply for a certificate
21 of operation pursuant to subdivision (a) of section 16.05 of this arti-
22 cle.

23 (g) The commissioner may impose a fine upon a finding that the holder
24 of the certificate has failed to comply with the terms of the operating
25 certificate or with the provisions of any applicable statute, rule or
26 regulation. The maximum amount of such fine shall be one thousand
27 dollars per day or fifteen thousand dollars per violation.

28 Such penalty may be recovered by an action brought by the commissioner
29 in any court of competent jurisdiction OR BY OFFSETTING SUCH PENALTY
30 AGAINST A FUTURE MEDICAID OR OFFICE PAYMENT TO SUCH PROVIDER.

31 Such penalty may be released or compromised by the commissioner before
32 the matter has been referred to the attorney general. Any such penalty
33 may be released or compromised and any action commenced to recover the
34 same may be settled or discontinued by the attorney general with the
35 consent of the commissioner.

36 (h) Where a proceeding has been brought pursuant to section 16.27 of
37 this article, and a receiver appointed pursuant thereto, the commission-
38 er may assume operation of the facility subject to such receivership,
39 upon termination of such receivership, and upon showing to the court
40 having jurisdiction over such receivership that no voluntary associ-
41 ation, not-for-profit corporation or other appropriate provider is will-
42 ing to assume operation of the facility subject to receivership and is
43 capable of meeting the requirements of this article; provided that the
44 commissioner notifies the chairman of the assembly ways and means
45 committee, the chairman of the senate finance committee and the director
46 of the budget of his intention to assume operation of such facility upon
47 service of the order to show cause upon the owner or operator of the
48 facility, pursuant to subdivision (b) of section 16.27 of this article.

49 S 13. Paragraph 5 of subdivision (a) of section 16.29 of the mental
50 hygiene law, as amended by section 9 of part C of chapter 501 of the
51 laws of 2012, is amended to read as follows:

52 (5) removing a service recipient when it is determined that there is a
53 risk to such person if he or she continues to remain in a facility OR
54 SERVICE PROGRAM; and

1 S 14. Paragraph (ii) of subdivision (c) of section 16.29 of the mental
2 hygiene law, as amended by section 9 of part C of chapter 501 of the
3 laws of 2012, is amended to read as follows:
4 (ii) development and implementation of a plan of prevention and reme-
5 diation, in the event an investigation of a report of an alleged report-
6 able incident exists and such reportable incident may be attributed in
7 whole or in part to noncompliance by the facility OR PROVIDER OF
8 SERVICES with the provisions of this chapter or regulations of the
9 office applicable to the operation of such facility OR PROVIDER OF
10 SERVICES. Any plan of prevention and remediation required to be devel-
11 oped pursuant to this subdivision by a facility supervised by the office
12 shall be submitted to and approved by such office in accordance with
13 time limits established by regulations of such office. Implementation of
14 the plan shall be monitored by such office. In reviewing the continued
15 qualifications of a residential facility OR PROVIDER OF SERVICES or
16 program for an operating certificate, the office shall evaluate such
17 facility's OR PROVIDER OF SERVICE'S compliance with plans of prevention
18 and remediation developed and implemented pursuant to this subdivision.
19 S 15. This act shall take effect immediately.
20 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
21 sion, section or part of this act shall be adjudged by a court of compo-
22 nent jurisdiction to be invalid, such judgment shall not affect, impair
23 or invalidate the remainder thereof, but shall be confined in its opera-
24 tion to the clause, sentence, paragraph, subdivision, section or part
25 thereof directly involved in the controversy in which such judgment
26 shall have been rendered. It is hereby declared to be in the intent of
27 the legislature that this act would have been enacted even if such
28 invalid provisions had not been included herein.
29 S 3. This act shall take effect immediately provided, however, that
30 the applicable effective date of Parts A through S of this act shall be
31 as specifically set forth in the last section of such Part.