

S. 2007--A

A. 3007--A

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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 social services law, in relation to limits on Medicaid copayments; 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

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

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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 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 111 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, in relation to the effectiveness thereof; 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 the effectiveness thereof; 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 the statewide health information network of New York and the statewide 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); 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); to amend the mental hygiene law, in relation to clarifying the authority of the commissioners in the department of mental hygiene to design and implement time-limited demonstration programs (Part T); and to amend the mental hygiene law, in relation to eliminating the duplication of regulatory efforts between the department of health and the office for people with developmental disabilities associated with rates and fees received by OPWDD providers; and to repeal certain provisions of such law relating thereto (Part U)

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

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

10 PART A

11 Section 1. Section 2995-a of the public health law is REPEALED.

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

14 S 2997-b. Pamphlet of department programs. The commissioner shall  
15 develop and transmit to physicians in the state a pamphlet describing a  
16 variety of department programs and initiatives, including but not limit-  
17 ed to smoking cessation programs, public health insurance programs,  
18 health and quality improvement information, AND the patient safety  
19 center [and physician profiles]. Each physician practicing in the state  
20 shall make the pamphlet available in his or her practice reception area  
21 so that it is accessible to patients.

22 S 3. Subparagraph (i) of paragraph (h) of subdivision 10 of section  
23 230 of the public health law, as amended by chapter 477 of the laws of  
24 2008, is amended to read as follows:

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

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

50 S 5. Subdivision 9 of section 2803 of the public health law is  
51 REPEALED.

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

53 S 7. This act shall take effect immediately.

1

## PART B

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

4 (E) NOTWITHSTANDING SECTION TWO HUNDRED SEVENTY-TWO OF THE PUBLIC  
5 HEALTH LAW OR ANY OTHER INCONSISTENT PROVISION OF LAW, THE COMMISSIONER  
6 MAY NEGOTIATE DIRECTLY WITH A PHARMACEUTICAL MANUFACTURER FOR THE  
7 PROVISION OF SUPPLEMENTAL REBATES, INCLUDING SUPPLEMENTAL REBATES RELAT-  
8 ING TO PHARMACEUTICAL UTILIZATION BY ENROLLEES OF MANAGED CARE PROVIDERS  
9 PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE, RELATING  
10 TO ANY OF THE DRUGS IT MANUFACTURES FOR THE PURPOSE OF FUNDING MEDICAL  
11 ASSISTANCE PROGRAM BENEFITS; PROVIDED, HOWEVER, THAT THIS PARAGRAPH  
12 SHALL APPLY ONLY TO COVERED OUTPATIENT DRUGS FOR WHICH THE MANUFACTURER  
13 HAS IN EFFECT A REBATE AGREEMENT WITH THE FEDERAL SECRETARY OF HEALTH  
14 AND HUMAN SERVICES PURSUANT TO 42 U.S.C. S1396R-8.

15 S 2. Subparagraph (ii) of paragraph (b) of subdivision 9 of section  
16 367-a of the social services law, as amended by section 2 of part C of  
17 chapter 60 of the laws of 2014, is amended to read as follows:

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

39 S 3. Subparagraph (ii) of paragraph (d) of subdivision 9 of section  
40 367-a of the social services law, as amended by section 48 of part C of  
41 chapter 58 of the laws of 2009, is amended to read as follows:

42 (ii) for prescription drugs categorized as brand-name prescription  
43 drugs by the prescription drug pricing service used by the department,  
44 [three] EIGHT dollars [and fifty cents] per prescription[, provided,  
45 however, that for brand name prescription drugs reimbursed pursuant to  
46 subparagraph (ii) of paragraph (a-1) of subdivision four of section  
47 three hundred sixty-five-a of this title, the dispensing fee shall be  
48 four dollars and fifty cents per prescription].

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

51 15. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE  
52 COMMISSIONER MAY REQUIRE PRIOR AUTHORIZATION FOR ANY DRUG AFTER EVALUAT-  
53 ING THE FACTORS SET FORTH IN SUBDIVISION THREE OF THIS SECTION AND PRIOR  
54 TO OBTAINING THE BOARD'S EVALUATION AND RECOMMENDATION REQUIRED BY  
55 SUBDIVISION FOUR OF THIS SECTION. THE BOARD MAY RECOMMEND TO THE COMMIS-

1 SIONER, PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THAT ANY SUCH PRIOR  
2 AUTHORIZATION REQUIREMENT BE MODIFIED, CONTINUED OR REMOVED.

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

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

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

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

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

32 24-A. CLAIMS FOR PAYMENT OF OUTPATIENT PRESCRIPTION DRUGS SUBMITTED TO  
33 A MANAGED CARE PROVIDER BY A COVERED ENTITY PURSUANT TO SECTION 340B OF  
34 THE FEDERAL PUBLIC HEALTH SERVICE ACT (42 USCA S 256B) OR BY SUCH  
35 COVERED ENTITY'S AUTHORIZED CONTRACT PHARMACY SHALL BE AT SUCH COVERED  
36 ENTITY'S OR CONTRACT PHARMACY'S ACTUAL ACQUISITION COST FOR THE DRUG.  
37 FOR PURPOSES OF THIS SUBDIVISION, "ACTUAL ACQUISITION COST" MEANS THE  
38 INVOICE PRICE FOR THE DRUG TO THE COVERED ENTITY OR THE COVERED ENTITY'S  
39 AUTHORIZED CONTRACT PHARMACY MINUS THE AMOUNT OF ALL DISCOUNTS AND OTHER  
40 COST-REDUCTIONS ATTRIBUTABLE TO THE DRUG.

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

43 S 368-G. LIMITATION ON GROWTH OF MEDICAL ASSISTANCE EXPENDITURES. 1.  
44 CAP ESTABLISHED. (A) NOTWITHSTANDING SECTION NINETY-ONE OF PART H OF  
45 CHAPTER FIFTY-NINE OF THE LAWS OF TWO THOUSAND ELEVEN, AS AMENDED, OR  
46 ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO FEDERAL APPROVALS,  
47 THE YEAR TO YEAR RATE OF GROWTH OF DEPARTMENT STATE FUNDS MEDICAL  
48 ASSISTANCE SPENDING SHALL NOT EXCEED THE TEN YEAR ROLLING AVERAGE OF THE  
49 MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED  
50 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, FOR THE PRECED-  
51 ING TEN YEARS; PROVIDED, HOWEVER, THAT FOR STATE FISCAL YEAR TWO THOU-  
52 SAND THIRTEEN-TWO THOUSAND FOURTEEN OR ANY FISCAL YEAR THEREAFTER, THE  
53 MAXIMUM ALLOWABLE ANNUAL INCREASE IN THE AMOUNT OF THE DEPARTMENT STATE  
54 FUNDS MEDICAL ASSISTANCE SPENDING SHALL BE CALCULATED BY MULTIPLYING THE  
55 DEPARTMENT STATE FUNDS MEDICAL ASSISTANCE SPENDING FOR THE PREVIOUS

1 YEAR, LESS THE AMOUNT OF ANY DEPARTMENT STATE OPERATIONS SPENDING  
2 INCLUDED THEREIN, BY SUCH TEN YEAR ROLLING AVERAGE.

3 (B) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, FOR STATE  
4 FISCAL YEAR TWO THOUSAND THIRTEEN-TWO THOUSAND FOURTEEN OR ANY FISCAL  
5 YEAR THEREAFTER, THE SPENDING LIMIT CALCULATED PURSUANT TO PARAGRAPH (A)  
6 OF THIS SUBDIVISION SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE DIFFER-  
7 ENCE BETWEEN THE TOTAL SOCIAL SERVICES DISTRICT MEDICAL ASSISTANCE  
8 EXPENDITURE AMOUNTS CALCULATED FOR SUCH PERIOD IN CONFORMANCE WITH  
9 SUBDIVISIONS (B), (C), (C-1), AND (D) OF SECTION ONE OF PART C OF CHAP-  
10 TER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE AND THE TOTAL SOCIAL  
11 SERVICES DISTRICT MEDICAL EXPENDITURE AMOUNTS THAT WOULD HAVE RESULTED  
12 IF THE PROVISIONS OF SUBDIVISION (C-1) OF SUCH SECTION HAD NOT BEEN  
13 APPLIED.

14 (C) WITH RESPECT TO A SOCIAL SERVICES DISTRICT THAT RESCINDS THE EXER-  
15 CISE OF THE OPTION PROVIDED IN PARAGRAPH (I) OF SUBDIVISION (B) OF  
16 SECTION TWO OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND  
17 FIVE, FOR STATE FISCAL YEAR TWO THOUSAND THIRTEEN-TWO THOUSAND FOURTEEN  
18 OR ANY FISCAL YEAR THEREAFTER, THE SPENDING LIMIT CALCULATED PURSUANT TO  
19 SUBDIVISION ONE OF THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF THE  
20 MEDICAL ASSISTANCE EXPENDITURE AMOUNT CALCULATED FOR SUCH DISTRICT FOR  
21 SUCH PERIOD.

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

54 (A) REDUCTIONS SHALL BE MADE IN COMPLIANCE WITH APPLICABLE FEDERAL  
55 LAW, INCLUDING THE PROVISIONS OF THE PATIENT PROTECTION AND AFFORDABLE  
56 CARE ACT (P.L. 111-148), AS AMENDED BY THE HEALTH CARE AND EDUCATION

1 RECONCILIATION ACT OF 2010 (P.L. 111-152) (COLLECTIVELY "AFFORDABLE CARE  
2 ACT") AND ANY SUBSEQUENT AMENDMENTS THERETO OR REGULATIONS PROMULGATED  
3 THEREUNDER;

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

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

16 (D) REDUCTIONS SHALL BE MADE UNIFORMLY AMONG CATEGORIES OF SERVICES  
17 AND GEOGRAPHIC REGIONS OF THE STATE, TO THE EXTENT PRACTICABLE, AND  
18 SHALL BE MADE UNIFORMLY WITHIN A CATEGORY OF SERVICE, TO THE EXTENT  
19 PRACTICABLE, EXCEPT WHERE THE COMMISSIONER DETERMINES THAT THERE ARE  
20 SUFFICIENT GROUNDS FOR NON-UNIFORMITY, INCLUDING, BUT NOT LIMITED TO:  
21 (I) THE EXTENT TO WHICH SPECIFIC CATEGORIES OF SERVICES CONTRIBUTED TO  
22 DEPARTMENT MEDICAL ASSISTANCE STATE FUNDS SPENDING IN EXCESS OF THE  
23 LIMITS SPECIFIED HEREIN; (II) THE NEED TO MAINTAIN SAFETY NET SERVICES  
24 IN UNDERSERVED COMMUNITIES; OR (III) THE POTENTIAL BENEFITS OF PURSUING  
25 INNOVATIVE PAYMENT MODELS CONTEMPLATED BY THE AFFORDABLE CARE ACT, IN  
26 WHICH CASE SUCH GROUNDS SHALL BE SET FORTH IN THE MEDICAL ASSISTANCE  
27 SAVINGS ALLOCATION PLAN;

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

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

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

44 (II) THE COMMISSIONER MAY REVISE THE MEDICAL ASSISTANCE SAVINGS ALLO-  
45 CATION PLAN SUBSEQUENT TO THE PROVISION OF NOTICE AND PRIOR TO IMPLEMEN-  
46 TATION BUT IS REQUIRED TO PROVIDE A NEW NOTICE PURSUANT TO SUBPARAGRAPH  
47 (I) OF THIS PARAGRAPH ONLY IF THE COMMISSIONER DETERMINES, IN HIS OR HER  
48 DISCRETION, THAT SUCH REVISIONS MATERIALLY ALTER THE PLAN;

49 (H) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (F) AND (G) OF THIS  
50 SUBDIVISION, THE COMMISSIONER NEED NOT SEEK THE INPUT DESCRIBED IN PARA-  
51 GRAPH (F) OF THIS SUBDIVISION OR PROVIDE NOTICE PURSUANT TO PARAGRAPH  
52 (G) OF THIS SUBDIVISION IF, IN THE DISCRETION OF THE COMMISSIONER, EXPE-  
53 DITED DEVELOPMENT AND IMPLEMENTATION OF A MEDICAL ASSISTANCE SAVINGS  
54 ALLOCATION PLAN IS NECESSARY DUE TO A PUBLIC HEALTH EMERGENCY; FOR  
55 PURPOSES OF THIS SECTION, A PUBLIC HEALTH EMERGENCY IS DEFINED AS:

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

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

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

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

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

30 4. CAP DIVIDEND. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND  
31 SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR  
32 STATE FISCAL YEARS BEGINNING ON AND AFTER APRIL FIRST, TWO THOUSAND  
33 FOURTEEN, THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE DIRECTOR  
34 OF THE BUDGET, SHALL, PRIOR TO JANUARY FIRST OF EACH YEAR, DETERMINE THE  
35 EXTENT OF SAVINGS THAT HAVE BEEN ACHIEVED AS A RESULT OF THE APPLICATION  
36 OF THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION, AND SHALL  
37 FURTHER DETERMINE THE AVAILABILITY OF SUCH SAVINGS FOR DISTRIBUTION  
38 DURING THE LAST QUARTER OF SUCH STATE FISCAL YEAR. IN DETERMINING SUCH  
39 SAVINGS THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE DIRECTOR OF  
40 THE BUDGET, MAY EXEMPT THE MEDICAL ASSISTANCE ADMINISTRATION PROGRAM  
41 FROM DISTRIBUTIONS UNDER THIS SECTION. THE COMMISSIONER OF HEALTH, IN  
42 CONSULTATION WITH THE DIRECTOR OF THE BUDGET, MAY DISTRIBUTE FUNDS UP TO  
43 AN AMOUNT EQUAL TO SUCH AVAILABLE SAVINGS IN ACCORDANCE WITH A DIVIDEND  
44 ALLOCATION PLAN THAT UTILIZES A METHODOLOGY THAT DISTRIBUTES SUCH FUNDS  
45 PROPORTIONATELY AMONG PROVIDERS AND PLANS IN NEW YORK'S MEDICAL ASSIST-  
46 ANCE PROGRAM. IN DEVELOPING SUCH DIVIDEND ALLOCATION PLAN THE COMMIS-  
47 SIONER OF HEALTH SHALL SEEK THE INPUT OF THE LEGISLATURE, AS WELL AS  
48 ORGANIZATIONS REPRESENTING HEALTH CARE PROVIDERS, CONSUMERS, BUSINESSES,  
49 WORKERS, HEALTH CARE INSURERS AND OTHERS WITH RELEVANT EXPERTISE. SUCH  
50 DIVIDEND ALLOCATION PLAN SHALL UTILIZE THREE YEARS OF THE MOST RECENTLY  
51 AVAILABLE SYSTEM-WIDE EXPENDITURE DATA REFLECTING BOTH MMIS AND MANAGED  
52 CARE ENCOUNTERS. DISTRIBUTIONS TO MANAGED CARE PLANS SHALL BE BASED ON  
53 THE ADMINISTRATIVE OUTLAYS STEMMING FROM PARTICIPATION IN THE MEDICAL  
54 ASSISTANCE PROGRAM. THE COMMISSIONER OF HEALTH MAY IMPOSE MINIMUM THRES-  
55 HOLD AMOUNTS IN DETERMINING PROVIDER ELIGIBILITY FOR DISTRIBUTIONS  
56 PURSUANT TO THIS SECTION. NO LESS THAN FIFTY PERCENT OF THE AMOUNT

1 AVAILABLE FOR DISTRIBUTION SHALL BE MADE AVAILABLE FOR THE PURPOSE OF  
2 ASSISTING ELIGIBLE PROVIDERS UTILIZING THE METHODOLOGY OUTLINED ABOVE.  
3 THE REMAINDER OF THE DISTRIBUTIONS PURSUANT TO THIS SECTION SHALL BE  
4 MADE AVAILABLE FOR THE PURPOSES OF ENSURING A MINIMUM LEVEL OF ASSIST-  
5 ANCE TO FINANCIALLY DISTRESSED AND CRITICALLY NEEDED PROVIDERS AS IDEN-  
6 TIFIED BY THE COMMISSIONER. THE COMMISSIONER OF HEALTH SHALL POST THE  
7 MEDICAL ASSISTANCE SAVINGS DIVIDEND ALLOCATION PLAN ON THE DEPARTMENT OF  
8 HEALTH'S WEBSITE AND SHALL PROVIDE WRITTEN COPIES OF SUCH PLAN TO THE  
9 CHAIRS OF THE SENATE FINANCE AND THE ASSEMBLY WAYS AND MEANS COMMITTEES  
10 AT LEAST THIRTY DAYS BEFORE THE DATE ON WHICH IMPLEMENTATION IS EXPECTED  
11 TO BEGIN. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SEEK SUCH FEDERAL  
12 APPROVALS AS MAY BE REQUIRED TO EFFECTUATE THE PROVISIONS OF THIS  
13 SECTION, INCLUDING, BUT NOT LIMITED TO, TO PERMIT PAYMENT OF SUCH  
14 DISTRIBUTIONS AS LUMPS SUMS AND TO SECURE WAIVERS FROM OTHERWISE APPLI-  
15 CABLE FEDERAL UPPER PAYMENT LIMIT RESTRICTIONS ON SUCH PAYMENTS. THE  
16 PROVISIONS OF THIS SECTION ARE SUBJECT TO THE REPORTING REQUIREMENTS SET  
17 FORTH IN SUBDIVISION SEVEN OF THIS SECTION.

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

20 (A) KNOWN AND PROJECTED DEPARTMENT MEDICAL ASSISTANCE EXPENDITURES AS  
21 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, AND FACTORS THAT COULD  
22 RESULT IN MEDICAL ASSISTANCE DISBURSEMENTS FOR THE RELEVANT STATE FISCAL  
23 YEAR TO EXCEED THE PROJECTED DEPARTMENT STATE FUNDS DISBURSEMENTS IN THE  
24 ENACTED BUDGET FINANCIAL PLAN PURSUANT TO SUBDIVISION THREE OF SECTION  
25 TWENTY-THREE OF THE STATE FINANCE LAW, INCLUDING SPENDING INCREASES OR  
26 DECREASES DUE TO ENROLLMENT FLUCTUATIONS, RATE CHANGES, UTILIZATION  
27 CHANGES, MEDICAL ASSISTANCE REDESIGN TEAM (MRT) INVESTMENTS, A SHIFT OF  
28 BENEFICIARIES TO MANAGED CARE AND VARIATIONS IN OFFLINE MEDICAL ASSIST-  
29 ANCE PAYMENTS;

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

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

- 40 (I) INPATIENT;
- 41 (II) OUTPATIENT;
- 42 (III) EMERGENCY ROOM;
- 43 (IV) CLINIC;
- 44 (V) NURSING HOMES;
- 45 (VI) OTHER LONG TERM CARE;
- 46 (VII) MEDICAID MANAGED CARE;
- 47 (VIII) FAMILY HEALTH PLUS;
- 48 (IX) PHARMACY;
- 49 (X) TRANSPORTATION;
- 50 (XI) DENTAL;
- 51 (XII) NON-INSTITUTIONAL AND OTHER CATEGORIES;
- 52 (XIII) AFFORDABLE HOUSING;
- 53 (XIV) VITAL ACCESS PROVIDER SERVICES;
- 54 (XV) BEHAVIORAL HEALTH VITAL ACCESS PROVIDER SERVICES;
- 55 (XVI) FINGER LAKES HEALTH SERVICES AGENCY;
- 56 (XVII) AUDIT RECOVERIES AND SETTLEMENTS;

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

3 (I) DEMOGRAPHIC INFORMATION OF TARGETED RECIPIENTS;

4 (II) NUMBER OF RECIPIENTS;

5 (III) AWARD AMOUNTS AND TIMING OF AWARDS; AND

6 (E) ANY PROJECTED MEDICAL ASSISTANCE SAVINGS DETERMINED BY THE COMMIS-  
7 SIONER PURSUANT TO SUBDIVISION FOUR OF THIS SECTION AND THE PROPOSED  
8 ALLOCATION PLAN WITH REGARD TO SUCH SAVINGS.

9 (F) THE MONTHLY REPORTS REQUIRED BY THIS SUBDIVISION SHALL BE PROVIDED  
10 TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF  
11 THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF  
12 THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE CHAIRS OF THE SENATE AND  
13 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS AND RELATED DOCUMENTS PROVIDED  
14 TO THE LEGISLATURE SHALL ALSO BE POSTED ON THE WEBSITE AS MAINTAINED BY  
15 THE DEPARTMENT.

16 6. EXECUTIVE BUDGET SUMMARY. THE COMMISSIONER, IN CONSULTATION WITH  
17 THE DIRECTOR OF THE BUDGET SHALL, UPON SUBMISSION OF THE EXECUTIVE BUDG-  
18 ET TO THE LEGISLATURE, PROVIDE TO THE LEGISLATURE A DETAILED ACCOUNTING  
19 OF:

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

22 (B) A CURRENT YEAR RE-ESTIMATE;

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

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

25 7. STAFF AVAILABILITY AND TRAINING. (A) THE COMMISSIONER AND THE  
26 DIRECTOR OF THE BUDGET SHALL MAKE APPROPRIATE STAFF AVAILABLE TO MEET  
27 WITH THE CHAIRS OF THE HEALTH COMMITTEES OF THE SENATE AND THE ASSEMBLY,  
28 OR THEIR DESIGNEES, UPON THEIR REQUEST AND WITH REASONABLE NOTICE, TO  
29 REVIEW EACH MONTHLY REPORT, AS DESCRIBED IN SUBDIVISION FIVE OF THIS  
30 SECTION.

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

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

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

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

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

52 14. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT  
53 TO FEDERAL FINANCIAL PARTICIPATION, THE COMMISSIONER IS AUTHORIZED TO  
54 ESTABLISH, PURSUANT TO REGULATIONS, A GENERAL HOSPITAL QUALITY POOL FOR  
55 THE PURPOSE OF INCENTIVIZING AND FACILITATING QUALITY IMPROVEMENTS IN  
56 GENERAL HOSPITALS. AWARDS FROM SUCH POOL SHALL BE SUBJECT TO APPROVAL BY

1 THE DIRECTOR OF BUDGET. IF FEDERAL FINANCIAL PARTICIPATION IS UNAVAIL-  
2 ABLE, THEN THE NON-FEDERAL SHARE OF AWARDS MADE PURSUANT TO THIS SUBDI-  
3 VISION MAY BE MADE AS STATE GRANTS.

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

6 22. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT  
7 TO FEDERAL FINANCIAL PARTICIPATION, GENERAL HOSPITALS DESIGNATED AS SOLE  
8 COMMUNITY HOSPITALS IN ACCORDANCE WITH TITLE XVIII OF THE FEDERAL SOCIAL  
9 SECURITY ACT SHALL BE ELIGIBLE FOR ENHANCED PAYMENTS OR REIMBURSEMENT  
10 FOR INPATIENT AND/OR OUTPATIENT SERVICES OF UP TO TWELVE MILLION DOLLARS  
11 UNDER A SUPPLEMENTAL OR REVISED RATE METHODOLOGY, ESTABLISHED BY THE  
12 COMMISSIONER IN REGULATION, FOR THE PURPOSE OF PROMOTING ACCESS AND  
13 IMPROVING THE QUALITY OF CARE. IF FEDERAL FINANCIAL PARTICIPATION IS  
14 UNAVAILABLE, THEN THE NON-FEDERAL SHARE OF SUCH PAYMENTS PURSUANT TO  
15 THIS SUBDIVISION MAY BE MADE AS STATE GRANTS.

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

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

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

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

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

44 (II) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND SUBJECT  
45 TO FEDERAL FINANCIAL PARTICIPATION, ESSENTIAL COMMUNITY PROVIDERS,  
46 WHICH, FOR THE PURPOSES OF THIS SECTION, SHALL MEAN A PROVIDER THAT  
47 OFFERS HEALTH SERVICES WITHIN A DEFINED AND ISOLATED GEOGRAPHIC REGION  
48 WHERE SUCH SERVICES WOULD OTHERWISE BE UNAVAILABLE TO THE POPULATION OF  
49 SUCH REGION, SHALL BE ELIGIBLE FOR ENHANCED PAYMENTS OR REIMBURSEMENT  
50 UNDER A SUPPLEMENTAL RATE METHODOLOGY FOR THE PURPOSE OF PROMOTING  
51 ACCESS AND IMPROVING QUALITY OF CARE. ELIGIBLE PROVIDERS UNDER THIS  
52 PARAGRAPH MAY INCLUDE, BUT ARE NOT LIMITED TO, HOSPITALS, RESIDENTIAL  
53 HEALTH CARE FACILITIES, DIAGNOSTIC AND TREATMENT CENTERS, AMBULATORY  
54 SURGERY CENTERS AND CLINICS.

55 (III) IN MAKING SUCH PAYMENTS THE COMMISSIONER MAY CONTEMPLATE THE  
56 EXTENT TO WHICH ANY SUCH PROVIDER RECEIVES ASSISTANCE UNDER SUBDIVISION

1 (A) OF THIS SECTION AND MAY REQUIRE SUCH PROVIDER TO SUBMIT A WRITTEN  
2 PROPOSAL DEMONSTRATING THAT THE NEED FOR MONIES UNDER THIS SUBDIVISION  
3 EXCEEDS MONIES OTHERWISE DISTRIBUTED PURSUANT TO THIS SECTION.

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

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

10 (VI) THE COMMISSIONER MAY PROMULGATE REGULATIONS TO EFFECTUATE THE  
11 PROVISIONS OF THIS SUBDIVISION.

12 S 15. Subparagraph (iv) of paragraph (b) of subdivision 6 of section  
13 367-a of the social services law, as amended by section 40 of part C of  
14 chapter 58 of the laws of 2005, is amended to read as follows:

15 (iv) individuals [enrolled in health maintenance organizations or  
16 other entities which provide comprehensive health services, or other  
17 managed care programs for services covered by such programs, except that  
18 such persons, other than persons otherwise exempted from co-payments  
19 pursuant to subparagraphs (i), (ii), (iii) and (v) of this paragraph,  
20 and other than those persons enrolled in a managed long term care  
21 program, shall be subject to co-payments as described in subparagraph  
22 (v) of paragraph (d) of this subdivision] WHOSE FAMILY INCOME IS LESS  
23 THAN ONE HUNDRED PERCENT OF THE FEDERAL POVERTY LINE, AS DEFINED IN  
24 SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE  
25 HUNDRED SIXTY-SIX OF THIS TITLE, FOR A FAMILY OF THE SAME SIZE; and

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

28 S 12. Notwithstanding any inconsistent provision of law or regulation  
29 to the contrary, and subject to the availability of federal financial  
30 participation pursuant to title XIX of the federal social security act,  
31 effective for the period September 1, 2001 through March 31, 2002, and  
32 state fiscal years thereafter, UNTIL MARCH 31, 2012, the department of  
33 health is authorized to pay a specialty hospital adjustment to public  
34 general hospitals, as defined in subdivision 10 of section 2801 of the  
35 public health law, other than those operated by the state of New York or  
36 the state university of New York, receiving reimbursement for all inpa-  
37 tient services under title XIX of the federal social security act pursu-  
38 ant to paragraph (e) of subdivision 4 of section 2807-c of the public  
39 health law, and located in a city with a population of over 1 million,  
40 of up to four hundred sixty-three million dollars for the period Septem-  
41 ber 1, 2001 through March 31, 2002 and up to seven hundred ninety-four  
42 million dollars annually for state fiscal years thereafter as medical  
43 assistance payments for inpatient services pursuant to title 11 of arti-  
44 cle 5 of the social services law for patients eligible for federal  
45 financial participation under title XIX of the federal social security  
46 act based on each such hospital's proportionate share of the sum of all  
47 inpatient discharges for all facilities eligible for an adjustment  
48 pursuant to this section for the base year two years prior to the rate  
49 year. Such proportionate share payment may be added to rates of payment  
50 or made as aggregate payments to eligible public general hospitals.

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

53 S 13. Notwithstanding any inconsistent provision of law or regulation  
54 to the contrary, and subject to the availability of federal financial  
55 participation pursuant to title XIX of the federal social security act,  
56 effective for the period April 1, 2002 through March 31, 2003, and state

1 fiscal years thereafter UNTIL MARCH 31, 2012, the department of health  
2 is authorized to pay a specialty hospital adjustment to public general  
3 hospitals, as defined in subdivision 10 of section 2801 of the public  
4 health law, other than those operated by the state of New York or the  
5 state university of New York, receiving reimbursement for all inpatient  
6 services under title XIX of the federal social security act pursuant to  
7 paragraph (e) of subdivision 4 of section 2807-c of the public health  
8 law, and located in a city with a population of over one million, of up  
9 to two hundred eighty-six million dollars as medical assistance payments  
10 for inpatient services pursuant to title 11 of article 5 of the social  
11 services law for patients eligible for federal financial participation  
12 under title XIX of the federal social security act based on each such  
13 hospital's proportionate share of the sum of all inpatient discharges  
14 for all facilities eligible for an adjustment pursuant to this section  
15 for the base year two years prior to the rate year. Such proportionate  
16 share payment may be added to rates of payment or made as aggregate  
17 payments to eligible hospitals.

18 S 18. Notwithstanding any inconsistent provision of law or regulation  
19 to the contrary, and subject to the availability of federal financial  
20 participation pursuant to title XIX of the federal social security act,  
21 effective for the period April 1, 2012, through March 31, 2013, and  
22 state fiscal years thereafter, the department of health is authorized to  
23 pay a public hospital adjustment to public general hospitals, as defined  
24 in subdivision 10 of section 2801 of the public health law, other than  
25 those operated by the state of New York or the state university of New  
26 York, and located in a city with a population of over 1 million, of up  
27 to one billion eighty million dollars annually as medical assistance  
28 payments for inpatient services pursuant to title 11 of article 5 of the  
29 social services law for patients eligible for federal financial partic-  
30 ipation under title XIX of the federal social security act based on such  
31 criteria and methodologies as the commissioner may from time to time set  
32 through a memorandum of understanding with the New York city health and  
33 hospitals corporation, and such adjustments shall be paid by means of  
34 one or more estimated payments, with such estimated payments to be  
35 reconciled to the commissioner of health's final adjustment determi-  
36 nations after the disproportionate share hospital payment adjustment  
37 caps have been calculated for such period under sections 1923(f) and (g)  
38 of the federal social security act. Such adjustment payment may be added  
39 to rates of payment or made as aggregate payments to eligible public  
40 general hospitals.

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

43 S 14. Notwithstanding any inconsistent provision of law, rule or regu-  
44 lation to the contrary, and subject to the availability of federal  
45 financial participation pursuant to title XIX of the federal social  
46 security act, effective for the period January 1, 2002 through March 31,  
47 2002, and state fiscal years thereafter UNTIL MARCH 31, 2011, the  
48 department of health is authorized to increase the operating cost compo-  
49 nent of rates of payment for general hospital outpatient services and  
50 general hospital emergency room services issued pursuant to paragraph  
51 (g) of subdivision 2 of section 2807 of the public health law for public  
52 general hospitals, as defined in subdivision 10 of section 2801 of the  
53 public health law, other than those operated by the state of New York or  
54 the state university of New York, and located in a city with a popu-  
55 lation of over one million, which experienced free patient visits in  
56 excess of twenty percent of their total self-pay and free patient visits

1 based on data reported on exhibit 33 of their 1999 institutional cost  
2 report and which experienced uninsured outpatient losses in excess of  
3 seventy-five percent of their total inpatient and outpatient uninsured  
4 losses based on data reported on exhibit 47 of their 1999 institutional  
5 cost report, of up to thirty-four million dollars for the period January  
6 1, 2002 through March 31, 2002 and up to one hundred thirty-six million  
7 dollars annually for state fiscal years thereafter as medical assistance  
8 payments for outpatient services pursuant to title 11 of article 5 of  
9 the social services law for patients eligible for federal financial  
10 participation under title XIX of the federal social security act based  
11 on each such hospital's proportionate share of the sum of all outpatient  
12 visits for all facilities eligible for an adjustment pursuant to this  
13 section for the base year two years prior to the rate year. Such propor-  
14 tionate share payment may be added to rates of payment or made as aggre-  
15 gate payments to eligible public general hospitals.

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

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

47 S 21. Notwithstanding any inconsistent provision of law, rule or regu-  
48 lation to the contrary, and subject to the availability of federal  
49 financial participation pursuant to title XIX of the federal social  
50 security act, effective for the period April 1, 2011 through March 31,  
51 2012, and state fiscal years thereafter, the department of health is  
52 authorized to increase the operating cost component of rates of payment  
53 for general hospital outpatient services and general hospital emergency  
54 room services issued pursuant to paragraph (g) of subdivision 2 of  
55 section 2807 of the public health law for public general hospitals, as  
56 defined in subdivision 10 of section 2801 of the public health law,

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

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

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

39 S 20. Any amounts provided pursuant to sections thirteen and fourteen  
40 of this act shall be effective for purposes of determining payments for  
41 public general hospitals contingent on receipt of all approvals required  
42 by federal law or regulations for federal financial participation in  
43 payments made pursuant to title XIX of the federal social security act.  
44 If federal approvals are not granted for payments based on such amounts  
45 or components thereof, payments to public general hospitals shall be  
46 determined without consideration of such amounts or such components.  
47 Public general hospitals shall refund to the state, or the state may  
48 recoup from prospective payments, any overpayment received, including  
49 those based on a retroactive reduction in the payments. Any reduction in  
50 federal financial participation pursuant to title XIX of the federal  
51 social security act related to federal upper payment limits APPLICABLE  
52 TO PUBLIC GENERAL HOSPITALS OTHER THAN THOSE OPERATED BY THE STATE OF  
53 NEW YORK OR THE STATE UNIVERSITY OF NEW YORK shall be deemed to apply  
54 first to amounts provided pursuant to sections thirteen and fourteen of  
55 this act AND SECTIONS EIGHTEEN AND TWENTY-ONE OF A CHAPTER OF THE LAWS  
56 OF TWO THOUSAND FIFTEEN.

1 S 24. Subdivisions 7, 7-a and 7-b of section 2807 of the public  
2 health law, subdivision 7 as amended by section 195 of part A of chapter  
3 389 of the laws of 1997, subdivision 7-a as amended by chapter 938 of  
4 the laws of 1990, subdivision 7-b as added by chapter 731 of the laws of  
5 1993, paragraph (b) of subdivision 7-b as amended by chapter 175 of the  
6 laws of 1997, are amended to read as follows:

7 7. Reimbursement rate promulgation. The commissioner shall notify each  
8 [hospital] RESIDENTIAL HEALTH CARE FACILITY and health-related service  
9 of its approved rates of payment which shall be used in reimbursing for  
10 services provided to persons eligible for payments made by state govern-  
11 mental agencies at least sixty days prior to the beginning of an estab-  
12 lished rate period for which the rate is to become effective. Notifica-  
13 tion shall be made only after approval of rate schedules by the state  
14 director of the budget. The [sixty and thirty day] notice provisions,  
15 herein, shall not apply to rates issued following judicial annulment or  
16 invalidation of any previously issued rates, or rates issued pursuant to  
17 changes in the methodology used to compute rates which changes are  
18 promulgated following the judicial annulment or invalidation of previ-  
19 ously issued rates. Notwithstanding any provision of law to the contra-  
20 ry, nothing in this subdivision shall prohibit the recalculation and  
21 payment of rates, including both positive and negative adjustments,  
22 based on a reconciliation of amounts paid by residential health care  
23 facilities beginning April first, nineteen hundred ninety-seven for  
24 additional assessments or further additional assessments pursuant to  
25 section twenty-eight hundred seven-d of this article with the amounts  
26 originally recognized for reimbursement purposes.

27 [7-a. Notwithstanding any inconsistent provision of law, with regard  
28 to a general hospital the provisions of subdivisions four and seven of  
29 this section and the provisions of section eighteen of chapter two of  
30 the laws of nineteen hundred eighty-eight relating to the requirement of  
31 prior notice and the time frames for notice, approval or certification  
32 of rates of payment, maximum rates of payment or maximum charges where  
33 not otherwise waived pursuant to law shall be applicable only to such  
34 rates of payment or maximum charges prospectively established for an  
35 annual rate period and such provisions shall not be applicable to a  
36 general hospital with regard to prospective adjustments or retrospective  
37 adjustments of established rates of payment or maximum charges for or  
38 during an annual rate period based on correction of errors or omissions  
39 of data or in computation, rate appeals, audits or other rate adjust-  
40 ments authorized by law or regulations adopted pursuant to section twen-  
41 ty-eight hundred three of this article.

42 7-b. Notification of diagnostic and treatment center approved rates.  
43 (a) For rate periods or portions of rate periods beginning on or after  
44 October first, nineteen hundred ninety-four, the commissioner shall  
45 notify each diagnostic and treatment center of its approved rates of  
46 payment, which shall be used in the reimbursement for services provided  
47 to persons eligible for payments made by state governmental agencies at  
48 least thirty days prior to the beginning of the period for which such  
49 rates are to become effective.

50 (b)] (A) Notwithstanding any contrary provision of law, all diagnostic  
51 and treatment centers certified on or before September second, nineteen  
52 hundred ninety-seven shall, not later than September second, nineteen  
53 hundred ninety-seven, notify the commissioner whether they intend to  
54 maintain all books and records utilized by the diagnostic and treatment  
55 center for cost reporting and reimbursement purposes on a calendar year  
56 basis or, commencing on July first, nineteen hundred ninety-six, on a

1 July first through June thirtieth basis, and shall thereafter maintain  
2 all books and records on such basis. All diagnostic and treatment  
3 centers certified after September second, nineteen hundred ninety-seven  
4 shall notify the commissioner at the time of certification whether they  
5 intend to maintain all books and records on a calendar year basis or on  
6 [or] a July first through June thirtieth basis, and shall thereafter  
7 maintain all books and records on such a basis.

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

12 [(d)] (C) Notwithstanding any provision of the law to the contrary,  
13 rates of payment established in accordance with paragraph [(b)] (A) as  
14 amended, and paragraph (f) of subdivision two of this section for the  
15 rate period beginning April first, nineteen hundred ninety-three shall  
16 continue in effect through September thirtieth, nineteen hundred nine-  
17 ty-four, and applicable trend factors shall be applied to that portion  
18 of such rates of payment for the rate period which begins April first,  
19 nineteen hundred ninety-four.

20 S 25. Section 365-1 of the social services law is amended by adding a  
21 new subdivision 2-b to read as follows:

22 2-B. THE COMMISSIONER IS AUTHORIZED TO MAKE GRANTS UP TO A GROSS  
23 AMOUNT OF FIVE MILLION DOLLARS, TO ESTABLISH COORDINATION BETWEEN HEALTH  
24 HOMES AND THE CRIMINAL JUSTICE SYSTEM AND FOR THE INTEGRATION OF INFOR-  
25 MATION OF HEALTH HOMES WITH STATE AND LOCAL CORRECTIONAL FACILITIES, TO  
26 THE EXTENT PERMITTED BY LAW. HEALTH HOMES RECEIVING SUCH FUNDS SHALL BE  
27 REQUIRED TO DOCUMENT AND DEMONSTRATE THE EFFECTIVE USE OF FUNDS DISTRIB-  
28 UTED HEREIN.

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

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

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

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

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

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

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

9 (C) THE COMMISSIONER SHALL HAVE THE AUTHORITY TO PROMULGATE REGU-  
10 LATIONS, INCLUDING EMERGENCY REGULATIONS, NECESSARY TO EFFECTUATE THE  
11 PROVISIONS OF THIS SUBDIVISION.

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

15 Section 1. (a) Notwithstanding any inconsistent provision of law,  
16 rule or regulation to the contrary, and subject to the availability of  
17 federal financial participation, effective for the period April 1, 2011  
18 through March 31, 2012, and each state fiscal year thereafter, the  
19 department of health is authorized to make supplemental Medicaid  
20 payments OR SUPPLEMENTAL MEDICAID MANAGED CARE PAYMENTS for professional  
21 services provided by physicians, nurse practitioners and physician  
22 assistants who are participating in a plan for the management of clin-  
23 ical practice at the State University of New York, in accordance with  
24 title 11 of article 5 of the social services law for patients eligible  
25 for federal financial participation under title XIX of the federal  
26 social security act, in amounts that will increase fees for such profes-  
27 sional services to an amount equal to the average commercial or Medicare  
28 rate that would otherwise be received for such services rendered by such  
29 physicians, nurse practitioners and physician assistants. The calcu-  
30 lation of such supplemental fee payments shall be made in accordance  
31 with applicable federal law and regulation and subject to the approval  
32 of the division of the budget. Such supplemental Medicaid fee payments  
33 may be added to the professional fees paid under the fee schedule [or],  
34 made as aggregate lump sum payments to eligible clinical practice plans  
35 authorized to receive professional fees OR MADE AS SUPPLEMENTAL PAYMENTS  
36 MADE FOR SUCH PURPOSE AS DESCRIBED HEREIN TO MEDICAID MANAGED CARE  
37 ORGANIZATIONS. SUPPLEMENTAL MEDICAID MANAGED CARE PAYMENTS UNDER THIS  
38 SECTION SHALL BE DISTRIBUTED TO PROVIDERS AS DETERMINED BY THE MANAGED  
39 CARE MODEL CONTRACT AND MAY UTILIZE MANAGED CARE ORGANIZATION REPORTED  
40 ENCOUNTER DATA AND OTHER SUCH METRICS AS DETERMINED BY THE DEPARTMENT OF  
41 HEALTH IN ORDER TO ENSURE RATES OF PAYMENT EQUIVALENT TO THE AVERAGE  
42 COMMERCIAL OR MEDICARE RATE THAT WOULD OTHERWISE BE RECEIVED FOR SUCH  
43 SERVICES RENDERED BY SUCH PHYSICIANS, NURSE PRACTITIONERS AND PHYSICIAN  
44 ASSISTANTS.

45 (b) The affiliated State University of New York health science centers  
46 shall be responsible for payment of one hundred percent of the non-fed-  
47 eral share of such supplemental Medicaid payments OR SUPPLEMENTAL MEDI-  
48 CAID MANAGED CARE PAYMENTS for all services provided by physicians,  
49 nurse practitioners and physician assistants who are participating in a  
50 plan for the management of clinical practice, in accordance with section  
51 365-a of the social services law, regardless of whether another social  
52 services district or the department of health may otherwise be responsi-  
53 ble for furnishing medical assistance to the eligible persons receiving  
54 such services.

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

4 S 93. 1. Notwithstanding any inconsistent provision of law, rule or  
5 regulation to the contrary, and subject to the availability of federal  
6 financial participation, effective for the period April 1, 2011 through  
7 March 31, 2012, and each state fiscal year thereafter, the department of  
8 health is authorized to make supplemental Medicaid payments OR SUPPLE-  
9 MENTAL MEDICAID MANAGED CARE PAYMENTS for professional services provided  
10 by physicians, nurse practitioners and physician assistants who are  
11 employed by a public benefit corporation or a non-state operated public  
12 general hospital operated by a public benefit corporation or who are  
13 providing professional services at a facility of such public benefit  
14 corporation as either a member of a practice plan or an employee of a  
15 professional corporation or limited liability corporation under contract  
16 to provide services to patients of such a public benefit corporation, in  
17 accordance with title 11 of article 5 of the social services law for  
18 patients eligible for federal financial participation under title XIX of  
19 the federal social security act, in amounts that will increase fees for  
20 such professional services to an amount equal to either the Medicare  
21 rate or the average commercial rate that would otherwise be received for  
22 such services rendered by such physicians, nurse practitioners and  
23 physician assistants, provided, however, that such supplemental fee  
24 payments shall not be available with regard to services provided at  
25 facilities participating in the Medicare Teaching Election Amendment.  
26 The calculation of such supplemental fee payments shall be made in  
27 accordance with applicable federal law and regulation and subject to the  
28 approval of the division of the budget. Such supplemental Medicaid fee  
29 payments may be added to the professional fees paid under the fee sched-  
30 ule [or], made as aggregate lump sum payments to entities authorized to  
31 receive professional fees OR MADE AS SUPPLEMENTAL PAYMENTS MADE FOR SUCH  
32 PURPOSE AS DESCRIBED HEREIN TO MEDICAID MANAGED CARE ORGANIZATIONS.  
33 SUPPLEMENTAL MEDICAID MANAGED CARE PAYMENTS UNDER THIS SECTION SHALL BE  
34 DISTRIBUTED TO PROVIDERS AS DETERMINED BY THE MANAGED CARE MODEL  
35 CONTRACT AND MAY UTILIZE MANAGED CARE ORGANIZATION REPORTED ENCOUNTER  
36 DATA AND OTHER SUCH METRICS AS DETERMINED BY THE DEPARTMENT OF HEALTH IN  
37 ORDER TO ENSURE RATES OF PAYMENT EQUIVALENT TO THE AVERAGE COMMERCIAL OR  
38 MEDICARE RATE THAT WOULD OTHERWISE BE RECEIVED FOR SUCH SERVICES  
39 RENDERED BY SUCH PHYSICIANS, NURSE PRACTITIONERS AND PHYSICIAN ASSIST-  
40 ANTS.

41 2. The supplemental Medicaid payments OR SUPPLEMENTAL MEDICAID MANAGED  
42 CARE PAYMENTS for professional services authorized by subdivision one of  
43 this section may be made only at the election of the public benefit  
44 corporation or the local social services district in which the non-state  
45 operated public general hospital is located. The electing public benefit  
46 corporation or local social services district shall, notwithstanding the  
47 social services district Medicaid cap provisions of Part C of chapter 58  
48 of the laws of 2005, be responsible for payment of one hundred percent  
49 of the non-federal share of such supplemental Medicaid payments, in  
50 accordance with section 365-a of the social services law, regardless of  
51 whether another social services district or the department of health may  
52 otherwise be responsible for furnishing medical assistance to the eligi-  
53 ble persons receiving such services. Social services district or public  
54 benefit corporation funding of the non-federal share of any such  
55 payments shall be deemed to be voluntary for purposes of the increased  
56 federal medical assistance percentage provisions of the American Recov-

1 ery and Reinvestment Act of 2009, provided, however, that in the event  
2 the federal Centers for Medicare and Medicaid Services determines that  
3 such non-federal share payments are not voluntary payments for purposes  
4 of such act, the provisions of this section shall be null and void.

5 S 31. Subparagraph (iii) of paragraph (d) of subdivision 1 of section  
6 367-a of the social services law, as amended by section 65 of part H of  
7 chapter 59 of the laws 2011, is amended to read as follows:

8 (iii) [When payment under part B of title XVIII of the federal social  
9 security act for] WITH RESPECT TO items and services provided to eligi-  
10 ble persons who are also beneficiaries under part B of title XVIII of  
11 the federal social security act and [for] items and services provided to  
12 qualified medicare beneficiaries under part B of title XVIII of the  
13 federal social security act [would exceed the amount that otherwise  
14 would be made under this title if provided to an eligible person other  
15 than a person who is also a beneficiary under part B or is a qualified  
16 medicare beneficiary, the amount payable for services covered under this  
17 title shall be twenty percent of], THE AMOUNT PAYABLE FOR SERVICES  
18 COVERED UNDER THIS TITLE SHALL BE the amount of any co-insurance liabil-  
19 ity of such eligible persons pursuant to federal law were they not  
20 eligible for medical assistance or were they not qualified medicare  
21 beneficiaries with respect to such benefits under such part B, BUT SHALL  
22 NOT EXCEED THE AMOUNT THAT OTHERWISE WOULD BE MADE UNDER THIS TITLE IF  
23 PROVIDED TO AN ELIGIBLE PERSON OTHER THAN A PERSON WHO IS ALSO A BENEFI-  
24 CIARY UNDER PART B OR IS A QUALIFIED MEDICARE BENEFICIARY MINUS THE  
25 AMOUNT PAYABLE UNDER PART B; provided, however, amounts payable under  
26 this title for items and services provided to eligible persons who are  
27 also beneficiaries under part B or to qualified medicare beneficiaries  
28 by an ambulance service under the authority of an operating certificate  
29 issued pursuant to article thirty of the public health law, a psychol-  
30 ogist licensed under article one hundred fifty-three of the education  
31 law, or a facility under the authority of an operating certificate  
32 issued pursuant to article sixteen, thirty-one or thirty-two of the  
33 mental hygiene law and with respect to outpatient hospital and clinic  
34 items and services provided by a facility under the authority of an  
35 operating certificate issued pursuant to article twenty-eight of the  
36 public health law, shall not be less than the amount of any co-insurance  
37 liability of such eligible persons or such qualified medicare benefi-  
38 ciaires, or for which such eligible persons or such qualified medicare  
39 beneficiaries would be liable under federal law were they not eligible  
40 for medical assistance or were they not qualified medicare beneficiaries  
41 with respect to such benefits under part B.

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

45 (IV) IF A HEALTH PLAN PARTICIPATING IN PART C OF TITLE XVIII OF THE  
46 FEDERAL SOCIAL SECURITY ACT PAYS FOR ITEMS AND SERVICES PROVIDED TO  
47 ELIGIBLE PERSONS WHO ARE ALSO BENEFICIARIES UNDER PART B OF TITLE XVIII  
48 OF THE FEDERAL SOCIAL SECURITY ACT OR TO QUALIFIED MEDICARE BENEFICI-  
49 ARIES, THE AMOUNT PAYABLE FOR SERVICES UNDER THIS TITLE SHALL BE THE  
50 AMOUNT OF ANY CO-INSURANCE LIABILITY OF SUCH ELIGIBLE PERSONS PURSUANT  
51 TO FEDERAL LAW IF THEY WERE NOT ELIGIBLE FOR MEDICAL ASSISTANCE OR WERE  
52 NOT QUALIFIED MEDICARE BENEFICIARIES WITH RESPECT TO SUCH BENEFITS UNDER  
53 PART B, BUT SHALL NOT EXCEED THE AMOUNT THAT OTHERWISE WOULD BE MADE  
54 UNDER THIS TITLE IF PROVIDED TO AN ELIGIBLE PERSON WHO IS NOT A BENEFI-  
55 CIARY UNDER PART B OR A QUALIFIED MEDICARE BENEFICIARY, LESS THE AMOUNT  
56 PAYABLE BY THE PART C HEALTH PLAN.

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

4 (a) Medical assistance shall be furnished to applicants in cases  
5 where, although such applicant has a responsible relative with suffi-  
6 cient income and resources to provide medical assistance as determined  
7 by the regulations of the department, the income and resources of the  
8 responsible relative are not available to such applicant because of the  
9 absence of such relative [or] AND the refusal or failure of such ABSENT  
10 relative to provide the necessary care and assistance. In such cases,  
11 however, the furnishing of such assistance shall create an implied  
12 contract with such relative, and the cost thereof may be recovered from  
13 such relative in accordance with title six of article three OF THIS  
14 CHAPTER and other applicable provisions of law.

15 S 34. The commissioner of health is authorized to contract with one  
16 or more entities to conduct an assessment of the mobility and transpor-  
17 tation needs of persons with disabilities and other special needs popu-  
18 lations. The assessment shall include identification of any legal,  
19 statutory or regulatory, and funding barriers. After consultation with  
20 the department of transportation, office for people with developmental  
21 disabilities, office for the aging, office of mental health, and office  
22 of alcoholism and substance abuse services, the contractor shall make  
23 recommendations for the development of a pilot demonstration project to  
24 coordinate medical and non-medical transportation services, maximize  
25 funding sources, enhance community integration and any other related  
26 tasks.

27 S 35. Section 133 of the social services law, as amended by chapter  
28 455 of the laws of 2010, is amended to read as follows:

29 S 133. Temporary preinvestigation emergency needs assistance or care.  
30 Upon application for public assistance or care under this chapter, the  
31 local social services district shall notify the applicant in writing of  
32 the availability of a monetary grant adequate to meet emergency needs  
33 assistance or care and shall, at such time, determine whether such  
34 person is in immediate need. If it shall appear that a person is in  
35 immediate need, emergency needs assistance or care shall be granted  
36 pending completion of an investigation. The written notification  
37 required by this section shall inform such person of a right to an expe-  
38 dited hearing when emergency needs assistance or care is denied. A  
39 public assistance applicant who has been denied emergency needs assist-  
40 ance or care must be given reason for such denial in a written determi-  
41 nation which sets forth the basis for such denial. NOTHING IN THIS  
42 SECTION SHALL BE CONSTRUED TO REQUIRE THE SOCIAL SERVICES DISTRICT OR  
43 ANY STATE AGENCY TO PROVIDE A MONETARY OR OTHER GRANT PURSUANT TO THIS  
44 SECTION FOR THE PURPOSE OF OBTAINING MEDICAL CARE, HOME CARE, OR RELATED  
45 SERVICES.

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

49 7. Notwithstanding [section one hundred thirty-three of this chapter]  
50 ANY OTHER SECTION OF LAW, where care [or], services, OR SUPPLIES are  
51 received prior to the date [the] AN individual is determined eligible  
52 for assistance under this title, medical assistance reimbursement shall  
53 be available for such care [or], services, OR SUPPLIES only (a) if the  
54 care [or], services, OR SUPPLIES are received during the three month  
55 period preceding the month of application for medical assistance and the  
56 recipient is determined to have been eligible in the month in which the

1 care [or], service, OR SUPPLY was received, or (b) [as] IF provided [for  
2 in] DURING A PERIOD OF PRESUMPTIVE ELIGIBILITY PURSUANT TO this section  
3 [or regulations of the department]. NO MEDICAL ASSISTANCE UNDER THIS  
4 TITLE, REGARDLESS OF FUNDING SOURCE, SHALL BE AVAILABLE TO MEET THE  
5 IMMEDIATE NEEDS OF INDIVIDUALS PRIOR TO A DETERMINATION THAT THEY MEET  
6 THE ELIGIBILITY REQUIREMENTS OF THIS TITLE, EXCEPT DURING A PERIOD OF  
7 PRESUMPTIVE ELIGIBILITY AS PROVIDED IN THIS SUBDIVISION.

8 S 37. Notwithstanding any provision of law to the contrary, enhanced  
9 federal medical assistance percentage monies available as a result of  
10 the state's participation in the community first choice state plan  
11 option under section 1915 of title XIX of the federal social security  
12 act shall be used to implement the state's comprehensive plan for serv-  
13 ing New Yorkers with disabilities in the most integrated setting, also  
14 known as the state's Olmstead plan. Such monies shall be expended for  
15 the purposes consistent with the Olmstead plan. The Department of Health  
16 shall consult with stakeholders, relevant state agencies, the Division  
17 of Budget and the Olmstead cabinet in determining the level of invest-  
18 ment for each of the programs under the Olmstead plan.

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

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

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

30 Notwithstanding any law to the contrary, the commissioner shall,  
31 subject to the availability of federal financial participation, adjust  
32 medical assistance rates of payment for certified home health agencies  
33 for such services provided to children under eighteen years of age and  
34 for services provided to a special needs population of medically complex  
35 and fragile children, adolescents and young disabled adults by a CHHA  
36 operating under a pilot program approved by the department, long term  
37 home health care programs, AIDS home care programs established pursuant  
38 to this article, AND hospice programs established under article forty of  
39 this chapter [and for managed long term care plans and approved managed  
40 long term care operating demonstrations as defined in section forty-four  
41 hundred three-f of this chapter]. Such adjustments shall be for purposes  
42 of improving recruitment, training and retention of home health aides or  
43 other personnel with direct patient care responsibility in the following  
44 aggregate amounts for the following periods:

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

48 (a) Such adjustments to rates of payments shall be allocated propor-  
49 tionally based on each certified home health agency, long term home  
50 health care program, AIDS home care and hospice program's home health  
51 aide or other direct care services total annual hours of service  
52 provided to medicaid patients, as reported in each such agency's most  
53 recently available cost report as submitted to the department [or for  
54 the purpose of the managed long term care program a suitable proxy  
55 developed by the department in consultation with the interested  
56 parties]. Payments made pursuant to this section shall not be subject to

1 subsequent adjustment or reconciliation; provided that such adjustments  
2 to rates of payments to certified home health agencies shall only be for  
3 that portion of services provided to children under eighteen years of  
4 age and for services provided to a special needs population of medically  
5 complex and fragile children, adolescents and young disabled adults by a  
6 CHHA operating under a pilot program approved by the department.

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

9 S 66. TERM APPOINTMENTS IN HEALTH INSURANCE PROGRAM-RELATED POSITIONS.  
10 1. THE DEPARTMENT OF HEALTH'S OFFICE OF HEALTH INSURANCE PROGRAMS IS  
11 TASKED WITH IMPLEMENTING SIGNIFICANT HEALTH INSURANCE PROGRAM REFORMS,  
12 INITIATIVES AND MANDATES. AS THE STATE CONTINUES TO IMPLEMENT THESE  
13 CHANGES, THE OFFICE OF HEALTH INSURANCE PROGRAMS MAY NEED TO RELY UPON  
14 THE EXPERTISE OF INDIVIDUALS FROM EITHER INSIDE OR OUTSIDE THE EXISTING  
15 STATE WORKFORCE THAT POSSESS HIGHLY SPECIALIZED EXPERTISE IN ASSESSING  
16 AND LEVERAGING EMERGING HEALTH INSURANCE PROGRAMS AND RELATED ISSUES.

17 TO THIS END, NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHAPTER, THE  
18 DEPARTMENT MAY AUTHORIZE TERM APPOINTMENTS WITHOUT EXAMINATION TO TEMPO-  
19 RARY POSITIONS REQUIRING SPECIAL EXPERTISE OR QUALIFICATIONS IN HEALTH  
20 INSURANCE PROGRAMS. SUCH APPOINTMENTS MAY BE AUTHORIZED ONLY IN SUCH  
21 CASES WHERE THE OFFICE OF HEALTH INSURANCE PROGRAMS CERTIFIES TO THE  
22 DEPARTMENT THAT BECAUSE OF THE TYPE OF SERVICES TO BE RENDERED OR THE  
23 TEMPORARY OR OCCASIONAL CHARACTER OF SUCH SERVICES, IT WOULD NOT BE  
24 PRACTICABLE TO HOLD AN EXAMINATION OF ANY KIND. SUCH CERTIFICATION SHALL  
25 BE A PUBLIC DOCUMENT PURSUANT TO THE PUBLIC OFFICERS LAW AND SHALL IDEN-  
26 TIFY THE SPECIAL EXPERTISE OR QUALIFICATIONS THAT ARE REQUIRED AND WHY  
27 THEY CANNOT BE OBTAINED THROUGH AN APPOINTMENT FROM AN ELIGIBLE LIST.  
28 THE MAXIMUM PERIOD FOR A TERM APPOINTMENT ESTABLISHED PURSUANT TO THIS  
29 SUBDIVISION SHALL NOT EXCEED SIXTY MONTHS AND SHALL NOT BE EXTENDED, AND  
30 THE MAXIMUM NUMBER OF SUCH APPOINTMENTS SHALL NOT EXCEED THREE HUNDRED.  
31 AT LEAST FIFTEEN DAYS PRIOR TO MAKING A TERM APPOINTMENT PURSUANT TO  
32 THIS SECTION THE APPOINTING AUTHORITY SHALL PUBLICLY AND CONSPICUOUSLY  
33 POST IN ITS OFFICES INFORMATION ABOUT THE TEMPORARY POSITION AND THE  
34 REQUIRED QUALIFICATIONS AND SHALL ALLOW ANY QUALIFIED EMPLOYEE TO APPLY  
35 FOR SAID POSITION. AN EMPLOYEE APPOINTED PURSUANT TO THIS PROVISION WHO  
36 HAS COMPLETED TWO YEARS OF CONTINUOUS SERVICE UNDER THIS PROVISION SHALL  
37 BE ABLE TO COMPETE IN ONE PROMOTIONAL EXAMINATION THAT IS ALSO OPEN TO  
38 EMPLOYEES WHO HAVE PERMANENT CIVIL SERVICE APPOINTMENTS AND APPROPRIATE  
39 QUALIFICATIONS.

40 2. A TEMPORARY POSITION ESTABLISHED PURSUANT TO SUBDIVISION ONE OF  
41 THIS SECTION MAY BE ABOLISHED FOR REASONS OF ECONOMY, CONSOLIDATION OR  
42 ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE. UPON  
43 SUCH ABOLITION OR AT THE END OF THE TERM OF THE APPOINTMENT, THE  
44 PROVISIONS OF SECTIONS SEVENTY-EIGHT, SEVENTY-NINE, EIGHTY AND  
45 EIGHTY-ONE OF THIS CHAPTER SHALL NOT APPLY. IN THE EVENT OF A REDUCTION  
46 OF WORKFORCE PURSUANT TO SECTION EIGHTY OF THIS CHAPTER AFFECTING HEALTH  
47 INSURANCE PROGRAM-RELATED POSITIONS, THE TERM APPOINTMENTS PURSUANT TO  
48 THIS SECTION AT THE DEPARTMENT OF HEALTH'S OFFICE OF HEALTH INSURANCE  
49 PROGRAMS SHALL BE ABOLISHED PRIOR TO THE ABOLITION OF PERMANENT COMPET-  
50 ITIVE CLASS HEALTH INSURANCE PROGRAM-RELATED POSITIONS AT THE OFFICE OF  
51 HEALTH INSURANCE PROGRAMS INVOLVING COMPARABLE SKILLS AND RESPONSIBIL-  
52 ITIES.

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

1 12. Prior to receiving medical assistance under subparagraphs [twelve]  
2 FIVE and [thirteen] SIX of paragraph [(a)] (C) of subdivision one of  
3 section three hundred sixty-six of this title, a person whose net avail-  
4 able income is at least one hundred fifty percent of the applicable  
5 federal income official poverty line, as defined and updated by the  
6 United States department of health and human services, must pay a month-  
7 ly premium, in accordance with a procedure to be established by the  
8 commissioner. The amount of such premium shall be twenty-five dollars  
9 for an individual who is otherwise eligible for medical assistance under  
10 such subparagraphs, and fifty dollars for a couple, both of whom are  
11 otherwise eligible for medical assistance under such subparagraphs. No  
12 premium shall be required from a person whose net available income is  
13 less than one hundred fifty percent of the applicable federal income  
14 official poverty line, as defined and updated by the United States  
15 department of health and human services.

16 S 43. Subparagraph 6 of paragraph (b) of subdivision 1 of section 366  
17 of the social services law, as added by section 1 of part D of chapter  
18 56 of the laws of 2013, is amended to read as follows:

19 (6) An individual who is not otherwise eligible for medical assistance  
20 under this section is eligible for coverage of family planning services  
21 reimbursed by the federal government at a rate of ninety percent, and  
22 for coverage of those services identified by the commissioner of health  
23 as services generally performed as part of or as a follow-up to a  
24 service eligible for such ninety percent reimbursement, including treat-  
25 ment for sexually transmitted diseases, if his or her income does not  
26 exceed the MAGI-equivalent of two hundred percent of the federal poverty  
27 line for the applicable family size, which shall be calculated in  
28 accordance with guidance issued by the secretary of the United States  
29 department of health and human services[.]; PROVIDED FURTHER THAT THE  
30 COMMISSIONER OF HEALTH IS AUTHORIZED TO ESTABLISH CRITERIA FOR PRESUMP-  
31 TIVE ELIGIBILITY FOR SERVICES PROVIDED PURSUANT TO THIS SUBPARAGRAPH IN  
32 ACCORDANCE WITH ALL APPLICABLE REQUIREMENTS OF FEDERAL LAW OR REGULATION  
33 PERTAINING TO SUCH ELIGIBILITY.

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

37 1. Notwithstanding any inconsistent provision of law to the contrary  
38 and subject to the availability of federal financial participation, the  
39 commissioner is authorized to make grants [from] UP TO a gross amount of  
40 five million dollars FOR STATE FISCAL YEAR TWO THOUSAND FOURTEEN--FIF-  
41 TEEN AND UP TO A GROSS AMOUNT OF FIFTEEN MILLION DOLLARS FOR STATE  
42 FISCAL YEAR TWO THOUSAND FIFTEEN--SIXTEEN to facilitate the transition  
43 of foster care children placed with voluntary foster care agencies to  
44 managed care. The use of such funds may include providing training and  
45 consulting services to voluntary agencies to [access] ASSESS readiness  
46 and make necessary infrastructure and organizational modifications,  
47 collecting service utilization and other data from voluntary agencies  
48 and other entities, and making investments in health information tech-  
49 nology, including the infrastructure necessary to establish and maintain  
50 electronic health records. Such funds shall be distributed pursuant to a  
51 formula to be developed by the commissioner of health, in consultation  
52 with the commissioner of the office of CHILDREN AND family [and child]  
53 services. In developing such formula the commissioners may take into  
54 account size and scope of provider operations as a factor relevant to  
55 eligibility for such funds. Each recipient of such funds shall be  
56 required to document and demonstrate the effective use of funds distrib-

1 uted herein. IF FEDERAL FINANCIAL PARTICIPATION IS UNAVAILABLE, THEN  
2 THE NONFEDERAL SHARE OF PAYMENTS PURSUANT TO THIS SUBDIVISION MAY BE  
3 MADE AS STATE GRANTS.

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

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

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

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

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

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

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

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

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

52 S 48. Notwithstanding any inconsistent provision of law, rule or regu-  
53 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
54 the public health law, section 18 of chapter 2 of the laws of 1988, and  
55 18 NYCRR 505.14(h), as they relate to time frames for notice, approval

1 or certification of rates of payment, are hereby suspended and without  
2 force or effect for purposes of implementing the provisions of this act.

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

12 S 50. 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, section  
14 eight of this act shall expire and be deemed repealed March 31, 2017 and  
15 section thirty-eight of this act shall expire and be deemed repealed  
16 March 31, 2018 provided that:

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

18 2. sections six, nine and thirteen of this act shall take effect June  
19 1, 2015;

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

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

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

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

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

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

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

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

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

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

1

## PART C

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

8 S 48-a. 1. Notwithstanding any contrary provision of law, the commis-  
9 sioners of the office of alcoholism and substance abuse services and the  
10 office of mental health are authorized, subject to the approval of the  
11 director of the budget, to transfer to the commissioner of health state  
12 funds to be utilized as the state share for the purpose of increasing  
13 payments under the medicaid program to managed care organizations  
14 licensed under article 44 of the public health law or under article 43  
15 of the insurance law. Such managed care organizations shall utilize such  
16 funds for the purpose of reimbursing providers licensed pursuant to  
17 article 28 of the public health law or article 31 or 32 of the mental  
18 hygiene law for ambulatory behavioral health services, as determined by  
19 the commissioner of health, in consultation with the commissioner of  
20 alcoholism and substance abuse services and the commissioner of the  
21 office of mental health, provided to medicaid eligible outpatients. Such  
22 reimbursement shall be in the form of fees for such services which are  
23 equivalent to the payments established for such services under the ambu-  
24 latory patient group (APG) rate-setting methodology as utilized by the  
25 department of health, the office of alcoholism and substance abuse  
26 services, or the office of mental health for rate-setting purposes;  
27 provided, however, that the increase to such fees that shall result from  
28 the provisions of this section shall not, in the aggregate and as deter-  
29 mined by the commissioner of health, in consultation with the commis-  
30 sioner of alcoholism and substance abuse services and the commissioner  
31 of the office of mental health, be greater than the increased funds made  
32 available pursuant to this section. The increase of such ambulatory  
33 behavioral health fees to providers available under this section shall  
34 be for all rate periods on and after the effective date of [the] SECTION  
35 13 OF PART C OF chapter 60 of the laws of 2014 [which amended this  
36 section] through December 31, 2016 for patients in the city of New York,  
37 for all rate periods on and after the effective date of [the] SECTION 13  
38 OF PART C OF chapter 60 of the laws of 2014 [which amended this section]  
39 through June 30, 2017 for patients outside the city of New York, and for  
40 all rate periods on and after the effective date of such chapter [of the  
41 laws of 2014 which amended this section] through December 31, 2017 for  
42 all services provided to persons under the age of twenty-one; provided,  
43 however, that managed care organizations and providers may negotiate  
44 different rates and methods of payment during such periods described  
45 above, subject to the approval of the department of health. The depart-  
46 ment of health shall consult with the office of alcoholism and substance  
47 abuse services and the office of mental health in determining whether  
48 such alternative rates shall be approved. The commissioner of health  
49 may, in consultation with the commissioner of alcoholism and substance  
50 abuse services and the commissioner of the office of mental health,  
51 promulgate regulations, including emergency regulations promulgated  
52 prior to October 1, 2015 to establish rates for ambulatory behavioral  
53 health services, as are necessary to implement the provisions of this  
54 section. Rates promulgated under this section shall be included in the  
55 report required under section 45-c of part A of this chapter.

1 2. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, THE FEES PAID BY  
2 MANAGED CARE ORGANIZATIONS LICENSED UNDER ARTICLE 44 OF THE PUBLIC  
3 HEALTH LAW OR UNDER ARTICLE 43 OF THE INSURANCE LAW, TO PROVIDERS  
4 LICENSED PURSUANT TO ARTICLE 28 OF THE PUBLIC HEALTH LAW OR ARTICLE 31  
5 OR 32 OF THE MENTAL HYGIENE LAW, FOR AMBULATORY BEHAVIORAL HEALTH  
6 SERVICES PROVIDED TO PATIENTS ENROLLED IN THE CHILD HEALTH INSURANCE  
7 PROGRAM PURSUANT TO TITLE ONE-A OF ARTICLE 25 OF THE PUBLIC HEALTH LAW,  
8 SHALL BE IN THE FORM OF FEES FOR SUCH SERVICES WHICH ARE EQUIVALENT TO  
9 THE PAYMENTS ESTABLISHED FOR SUCH SERVICES UNDER THE AMBULATORY PATIENT  
10 GROUP (APG) RATE-SETTING METHODOLOGY. THE COMMISSIONER OF HEALTH SHALL  
11 CONSULT WITH THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES  
12 AND THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH IN DETERMINING SUCH  
13 SERVICES AND ESTABLISHING SUCH FEES. SUCH AMBULATORY BEHAVIORAL HEALTH  
14 FEES TO PROVIDERS AVAILABLE UNDER THIS SECTION SHALL BE FOR ALL RATE  
15 PERIODS ON AND AFTER THE EFFECTIVE DATE OF THIS CHAPTER THROUGH DECEMBER  
16 31, 2016 FOR PATIENTS IN THE CITY OF NEW YORK, AND FOR ALL RATE PERIODS  
17 ON AND AFTER THE EFFECTIVE DATE OF THIS CHAPTER THROUGH JUNE 30, 2017  
18 FOR PATIENTS OUTSIDE THE CITY OF NEW YORK, PROVIDED, HOWEVER, THAT  
19 MANAGED CARE ORGANIZATIONS AND PROVIDERS MAY NEGOTIATE DIFFERENT RATES  
20 AND METHODS OF PAYMENT DURING SUCH PERIODS DESCRIBED ABOVE, SUBJECT TO  
21 THE APPROVAL OF THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF HEALTH  
22 SHALL CONSULT WITH THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES  
23 AND THE OFFICE OF MENTAL HEALTH IN DETERMINING WHETHER SUCH ALTERNATIVE  
24 RATES SHALL BE APPROVED.

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

30 Section 1. A. Notwithstanding any contrary provision of law, the  
31 commissioners of mental health and alcoholism and substance abuse  
32 services are authorized, subject to the approval of the director of the  
33 budget, to transfer to the commissioner of health state funds to be  
34 utilized as the state share for the purpose of increasing payments under  
35 the medicaid program to managed care organizations licensed under arti-  
36 cle 44 of the public health law or under article 43 of the insurance  
37 law. Such managed care organizations shall utilize such funds for the  
38 purpose of reimbursing providers licensed pursuant to article 28 of the  
39 public health law, or pursuant to article 31 or article 32 of the mental  
40 hygiene law for ambulatory behavioral health services, as determined by  
41 the commissioner of health in consultation with the commissioner of  
42 mental health and commissioner of alcoholism and substance abuse  
43 services, provided to medicaid eligible outpatients. Such reimbursement  
44 shall be in the form of fees for such services which are equivalent to  
45 the payments established for such services under the ambulatory patient  
46 group (APG) rate-setting methodology as utilized by the department of  
47 health or by the office of mental health or office of alcoholism and  
48 substance abuse services for rate-setting purposes; provided, however,  
49 that the increase to such fees that shall result from the provisions of  
50 this section shall not, in the aggregate and as determined by the  
51 commissioner of health in consultation with the commissioners of mental  
52 health and alcoholism and substance abuse services, be greater than the  
53 increased funds made available pursuant to this section. The increase of  
54 such behavioral health fees to providers available under this section  
55 shall be for all rate periods on and after the effective date of [the]  
56 SECTION 15 OF PART C OF chapter 60 of the laws of 2014 [which amended

1 this section] through December 31, 2016 for patients in the city of New  
2 York, for all rate periods on and after the effective date of [the]  
3 SECTION 15 OF PART C OF chapter 60 of the laws of 2014 [which amended  
4 this section] through June 30, 2017 for patients outside the city of New  
5 York, and for all rate periods on and after the effective date of [the]  
6 SECTION 15 OF PART C OF chapter 60 of the laws of 2014 [which amended  
7 this section] through December 31, 2017 for all services provided to  
8 persons under the age of twenty-one; provided, however, that managed  
9 care organizations and providers may negotiate different rates and meth-  
10 ods of payment during such periods described, subject to the approval of  
11 the department of health. The department of health shall consult with  
12 the office of alcoholism and substance abuse services and the office of  
13 mental health in determining whether such alternative rates shall be  
14 approved. The commissioner of health may, in consultation with the  
15 commissioners of mental health and alcoholism and substance abuse  
16 services, promulgate regulations, including emergency regulations  
17 promulgated prior to October 1, 2013 that establish rates for behavioral  
18 health services, as are necessary to implement the provisions of this  
19 section. Rates promulgated under this section shall be included in the  
20 report required under section 45-c of part A of chapter 56 of the laws  
21 of 2013.

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

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

52 S 4. Notwithstanding any inconsistent provision of law, rule or regu-  
53 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
54 the public health law, section 18 of chapter 2 of the laws of 1988, and  
55 18 NYCRR 505.14(h), as they relate to time frames for notice, approval

1 or certification of rates of payment, are hereby suspended and without  
2 force or effect for purposes of implementing the provisions of this act.

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

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

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

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

25 4. notwithstanding any inconsistent provision of the state administra-  
26 tive procedure act or any other provision of law, rule or regulation,  
27 the commissioner of health and the superintendent of the department of  
28 financial services and any appropriate council is authorized to adopt or  
29 amend or promulgate on an emergency basis any regulation he or she or  
30 such council determines necessary to implement any provision of this act  
31 on its effective date;

32 5. the provisions of this act shall become effective notwithstanding  
33 the failure of the commissioner of health or the superintendent of the  
34 department of financial services or any council to adopt or amend or  
35 promulgate regulations implementing this act; and

36 6. the amendments to section 48-a of part A of chapter 56 of the laws  
37 of 2013 made by section one of this act shall not affect the repeal of  
38 such section and shall be deemed repealed therewith and the amendments  
39 to section 1 of part H of chapter 111 of the laws of 2010 made by  
40 section two of this act shall not affect the expiration of such section  
41 and shall be deemed to expire therewith.

42

## PART D

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

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

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

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

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

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

5 2. Sections five, seven through nine, twelve through fourteen, and  
6 eighteen of this act shall be deemed to have been in full force and  
7 effect on and after April 1, 1995 through March 31, 1999 and on and  
8 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000  
9 through March 31, 2003 and on and after April 1, 2003 through March 31,  
10 2006 and on and after April 1, 2006 through March 31, 2007 and on and  
11 after April 1, 2007 through March 31, 2009 and on and after April 1,  
12 2009 through March 31, 2011 and sections twelve, thirteen and fourteen  
13 of this act shall be deemed to be in full force and effect on and after  
14 April 1, 2011 [through March 31, 2015];

15 S 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section  
16 2807-d of the public health law, as amended by section 5 of part B of  
17 chapter 56 of the laws of 2013, is amended to read as follows:

18 (vi) Notwithstanding any contrary provision of this paragraph or any  
19 other provision of law or regulation to the contrary, for residential  
20 health care facilities the assessment shall be six percent of each resi-  
21 dential health care facility's gross receipts received from all patient  
22 care services and other operating income on a cash basis for the period  
23 April first, two thousand two through March thirty-first, two thousand  
24 three for hospital or health-related services, including adult day  
25 services; provided, however, that residential health care facilities'  
26 gross receipts attributable to payments received pursuant to title XVIII  
27 of the federal social security act (medicare) shall be excluded from the  
28 assessment; provided, however, that for all such gross receipts received  
29 on or after April first, two thousand three through March thirty-first,  
30 two thousand five, such assessment shall be five percent, and further  
31 provided that for all such gross receipts received on or after April  
32 first, two thousand five through March thirty-first, two thousand nine,  
33 and on or after April first, two thousand nine through March thirty-  
34 first, two thousand eleven such assessment shall be six percent, and  
35 further provided that for all such gross receipts received on or after  
36 April first, two thousand eleven through March thirty-first, two thou-  
37 sand thirteen such assessment shall be six percent, and further provided  
38 that for all such gross receipts received on or after April first, two  
39 thousand thirteen through March thirty-first, two thousand fifteen such  
40 assessment shall be six percent, AND FURTHER PROVIDED THAT FOR ALL SUCH  
41 GROSS RECEIPTS RECEIVED ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN  
42 SUCH ASSESSMENT SHALL BE SIX PERCENT.

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

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

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

1 1. Notwithstanding any inconsistent provision of law or regulation,  
2 the trend factors used to project reimbursable operating costs to the  
3 rate period for purposes of determining rates of payment pursuant to  
4 article 28 of the public health law for residential health care facili-  
5 ties for reimbursement of inpatient services provided to patients eligi-  
6 ble for payments made by state governmental agencies on and after April  
7 1, 1996 through March 31, 1999 and for payments made on and after July  
8 1, 1999 through March 31, 2000 and on and after April 1, 2000 through  
9 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and  
10 on and after April 1, 2007 through March 31, 2009 and on and after April  
11 1, 2009 through March 31, 2011 and on and after April 1, 2011 through  
12 March 31, 2013 and on and after April 1, 2013 through March 31, 2015 ,  
13 AND FOR EACH STATE FISCAL YEAR THEREAFTER shall reflect no trend factor  
14 projections or adjustments for the period April 1, 1996, through March  
15 31, 1997.

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

22 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c  
23 of the public health law and section 21 of chapter 1 of the laws of  
24 1999, as amended, and any other inconsistent provision of law or regu-  
25 lation to the contrary, in determining rates of payments by state  
26 governmental agencies effective for services provided beginning April 1,  
27 2006, [through March 31, 2009, and on and after April 1, 2009 through  
28 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,  
29 and on and after April 1, 2013 through March 31, 2015] for inpatient and  
30 outpatient services provided by general hospitals and for inpatient  
31 services and outpatient adult day health care services provided by resi-  
32 dential health care facilities pursuant to article 28 of the public  
33 health law, the commissioner of health shall apply a trend factor  
34 projection of two and twenty-five hundredths percent attributable to the  
35 period January 1, 2006 through December 31, 2006, and on and after Janu-  
36 ary 1, 2007, provided, however, that on reconciliation of such trend  
37 factor for the period January 1, 2006 through December 31, 2006 pursuant  
38 to paragraph (c) of subdivision 10 of section 2807-c of the public  
39 health law, such trend factor shall be the final US Consumer Price Index  
40 (CPI) for all urban consumers, as published by the US Department of  
41 Labor, Bureau of Labor Statistics less twenty-five hundredths of a  
42 percentage point.

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

47 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,  
48 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,  
49 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,  
50 February 1, 2012, February 1, 2013 [and], February 1, 2014 [and], Febru-  
51 ary 1, 2015 AND PRIOR TO EACH FEBRUARY FIRST THEREAFTER the commissioner  
52 of health shall calculate the result of the statewide total of residen-  
53 tial health care facility days of care provided to beneficiaries of  
54 title XVIII of the federal social security act (medicare), divided by  
55 the sum of such days of care plus days of care provided to residents  
56 eligible for payments pursuant to title 11 of article 5 of the social

1 services law minus the number of days provided to residents receiving  
2 hospice care, expressed as a percentage, for the period commencing Janu-  
3 ary 1, through November 30, of the prior year respectively, based on  
4 such data for such period. This value shall be called the 2000, 2001,  
5 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,  
6 2014 [and], 2015 AND FOR EACH SUBSEQUENT YEAR SUCH PERCENTAGE SHALL BE  
7 CALLED THE statewide target percentage [respectively] OF THE RESPECTIVE  
8 YEAR.

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

14 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
15 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR SUBSEQUENT  
16 YEARS' statewide target percentages are not for each year at least three  
17 percentage points higher than the statewide base percentage, the commis-  
18 sioner of health shall determine the percentage by which the statewide  
19 target percentage for each year is not at least three percentage points  
20 higher than the statewide base percentage. The percentage calculated  
21 pursuant to this paragraph shall be called the 1997, 1998, 2000, 2001,  
22 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,  
23 2014 [and], 2015 AND FOR EACH SUBSEQUENT YEAR SUCH PERCENTAGE SHALL BE  
24 CALLED THE statewide reduction percentage [respectively] OF THE RESPEC-  
25 TIVE YEAR. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
26 2007, 2008, 2009, 2010, 2011, 2012, 2013[;], 2014 [and], 2015 OR SUBSE-  
27 QUENT YEARS' statewide target percentage for the respective year is at  
28 least three percentage points higher than the statewide base percentage,  
29 the statewide reduction percentage for the respective year shall be  
30 zero.

31 S 9. Subparagraph (iii) of paragraph (b) of subdivision 4 of section  
32 64 of chapter 81 of the laws of 1995, amending the public health law and  
33 other laws relating to medical reimbursement and welfare reform, as  
34 amended by section 13 of part B of chapter 56 of the laws of 2013, is  
35 amended to read as follows:

36 (iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,  
37 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 OR SUBSEQUENT YEARS'  
38 statewide reduction percentage shall be multiplied by one hundred two  
39 million dollars respectively to determine the 1998, 2000, 2001, 2002,  
40 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014  
41 [and], 2015 OR RESPECTIVE SUBSEQUENT YEARS' statewide aggregate  
42 reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004,  
43 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015  
44 OR RESPECTIVE SUBSEQUENT YEARS' statewide reduction percentage shall be  
45 zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004,  
46 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015  
47 OR RESPECTIVE SUBSEQUENT YEARS' reduction amount.

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

52 S 228. 1. Definitions. (a) Regions, for purposes of this section,  
53 shall mean a downstate region to consist of Kings, New York, Richmond,  
54 Queens, Bronx, Nassau and Suffolk counties and an upstate region to  
55 consist of all other New York state counties. A certified home health  
56 agency or long term home health care program shall be located in the

1 same county utilized by the commissioner of health for the establishment  
2 of rates pursuant to article 36 of the public health law.

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

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

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

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

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

17 (g) Target period. For purposes of this section, the 1996 target peri-  
18 od shall mean August 1, 1996 through March 31, 1997, the 1997 target  
19 period shall mean January 1, 1997 through November 30, 1997, the 1998  
20 target period shall mean January 1, 1998 through November 30, 1998, the  
21 1999 target period shall mean January 1, 1999 through November 30, 1999,  
22 the 2000 target period shall mean January 1, 2000 through November 30,  
23 2000, the 2001 target period shall mean January 1, 2001 through November  
24 30, 2001, the 2002 target period shall mean January 1, 2002 through  
25 November 30, 2002, the 2003 target period shall mean January 1, 2003  
26 through November 30, 2003, the 2004 target period shall mean January 1,  
27 2004 through November 30, 2004, and the 2005 target period shall mean  
28 January 1, 2005 through November 30, 2005, the 2006 target period shall  
29 mean January 1, 2006 through November 30, 2006, and the 2007 target  
30 period shall mean January 1, 2007 through November 30, 2007 and the 2008  
31 target period shall mean January 1, 2008 through November 30, 2008, and  
32 the 2009 target period shall mean January 1, 2009 through November 30,  
33 2009 and the 2010 target period shall mean January 1, 2010 through  
34 November 30, 2010 and the 2011 target period shall mean January 1, 2011  
35 through November 30, 2011 and the 2012 target period shall mean January  
36 1, 2012 through November 30, 2012 and the 2013 target period shall mean  
37 January 1, 2013 through November 30, 2013, and the 2014 target period  
38 shall mean January 1, 2014 through November 30, 2014 and the 2015 target  
39 period shall mean January 1, 2015 through November 30, 2015 AND EACH  
40 JANUARY 1 THROUGH EACH NOVEMBER 30 OF A CALENDAR YEAR THEREAFTER SHALL  
41 MEAN SUCH YEARS' RESPECTIVE TARGET PERIOD.

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

46 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to  
47 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,  
48 prior to February 1, 2003, prior to February 1, 2004, prior to February  
49 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to  
50 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,  
51 prior to February 1, 2011, prior to February 1, 2012, prior to February  
52 1, 2013, prior to February 1, 2014 and prior to February 1, 2015, AND  
53 PRIOR TO FEBRUARY FIRST EACH YEAR THEREAFTER, for each regional group  
54 the commissioner of health shall calculate the prior year's medicaid  
55 revenue percentages for the period commencing January 1 through November  
56 30 of such prior year.

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

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

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

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

13 (iii) one and eight-tenths percentage points for LTHHCPS located with-  
14 in the downstate region; and

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

17 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
18 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND EACH YEAR  
19 THEREAFTER, for each regional group, the target medicaid revenue  
20 percentage for the respective year shall be calculated by subtracting  
21 the respective year's medicaid revenue reduction percentage from the  
22 base period medicaid revenue percentage. The medicaid revenue reduction  
23 percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
24 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND EACH  
25 YEAR THEREAFTER, taking into account regional and program differences in  
26 utilization of medicaid and medicare services, for the following  
27 regional groups shall be equal to for each such year:

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

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

32 (iii) one and eight-tenths percentage points for LTHHCPS located with-  
33 in the downstate region; and

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

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

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

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

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

48 (iv) one and two hundred seventy-five thousandths percentage points  
49 (1.275) for LTHHCPS located within the upstate region.

50 5. (a) For each regional group, if the 1996 medicaid revenue percent-  
51 age is not equal to or less than the 1996 target medicaid revenue  
52 percentage, the commissioner of health shall compare the 1996 medicaid  
53 revenue percentage to the 1996 target medicaid revenue percentage to  
54 determine the amount of the shortfall which, when divided by the 1996  
55 medicaid revenue reduction percentage, shall be called the 1996  
56 reduction factor. These amounts, expressed as a percentage, shall not

1 exceed one hundred percent. If the 1996 medicaid revenue percentage is  
2 equal to or less than the 1996 target medicaid revenue percentage, the  
3 1996 reduction factor shall be zero.

4 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
5 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH  
6 YEAR THEREAFTER, for each regional group, if the medicaid revenue  
7 percentage for the respective year is not equal to or less than the  
8 target medicaid revenue percentage for such respective year, the commis-  
9 sioner of health shall compare such respective year's medicaid revenue  
10 percentage to such respective year's target medicaid revenue percentage  
11 to determine the amount of the shortfall which, when divided by the  
12 respective year's medicaid revenue reduction percentage, shall be called  
13 the reduction factor for such respective year. These amounts, expressed  
14 as a percentage, shall not exceed one hundred percent. If the medicaid  
15 revenue percentage for a particular year is equal to or less than the  
16 target medicaid revenue percentage for that year, the reduction factor  
17 for that year shall be zero.

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

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

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

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

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

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

31 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
32 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH YEAR  
33 THEREAFTER, for each regional group, the reduction factor for the  
34 respective year shall be multiplied by the following amounts to deter-  
35 mine each regional group's applicable state share reduction amount for  
36 such respective year:

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

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

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

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

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

48 (c) For each regional group, the 1999 reduction factor shall be multi-  
49 plied by the following amounts to determine each regional group's appli-  
50 cable 1999 state share reduction amount:

51 (i) one million seven hundred ninety-two thousand five hundred dollars  
52 (\$1,792,500) for CHHAs located within the downstate region;

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

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

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

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

5 7. (a) For each regional group, the 1996 state share reduction amount  
6 shall be allocated by the commissioner of health among CHHAs and LTHHCPS  
7 on the basis of the extent of each CHHA's and LTHHCPS's failure to  
8 achieve the 1996 target medicaid revenue percentage, calculated on a  
9 provider specific basis utilizing revenues for this purpose, expressed  
10 as a proportion of the total of each CHHA's and LTHHCPS's failure to  
11 achieve the 1996 target medicaid revenue percentage within the applica-  
12 ble regional group. This proportion shall be multiplied by the applica-  
13 ble 1996 state share reduction amount calculation pursuant to paragraph  
14 (a) of subdivision 6 of this section. This amount shall be called the  
15 1996 provider specific state share reduction amount.

16 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
17 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH  
18 YEAR THEREAFTER, for each regional group, the state share reduction  
19 amount for the respective year shall be allocated by the commissioner of  
20 health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's  
21 and LTHHCPS's failure to achieve the target medicaid revenue percentage  
22 for the applicable year, calculated on a provider specific basis utiliz-  
23 ing revenues for this purpose, expressed as a proportion of the total of  
24 each CHHA's and LTHHCPS's failure to achieve the target medicaid revenue  
25 percentage for the applicable year within the applicable regional group.  
26 This proportion shall be multiplied by the applicable year's state share  
27 reduction amount calculation pursuant to paragraph (b) or (c) of subdivi-  
28 sion 6 of this section. This amount shall be called the provider  
29 specific state share reduction amount for the applicable year.

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

35 (b) The provider specific state share reduction amount for 1997, 1998,  
36 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,  
37 2011, 2012, 2013, 2014 [and], 2015, AND FOR EACH YEAR THEREAFTER,  
38 respectively, shall be due to the state from each CHHA and LTHHCPS and  
39 each year the amount due for such year may be recouped by the state by  
40 March 31 of the following year in a lump sum amount or amounts from  
41 payments due to the CHHA and LTHHCPS pursuant to title 11 of article 5 of  
42 the social services law.

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

47 10. On or about June 1, 1997, for each regional group the commissioner  
48 of health shall calculate for the period August 1, 1996 through March  
49 31, 1997 a medicaid revenue percentage, a reduction factor, a state  
50 share reduction amount, and a provider specific state share reduction  
51 amount in accordance with the methodology provided in paragraph (a) of  
52 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-  
53 sion 6 and paragraph (a) of subdivision 7 of this section. The provider  
54 specific state share reduction amount calculated in accordance with this  
55 subdivision shall be compared to the 1996 provider specific state share  
56 reduction amount calculated in accordance with paragraph (a) of subdivi-

1 sion 7 of this section. Any amount in excess of the amount determined in  
2 accordance with paragraph (a) of subdivision 7 of this section shall be  
3 due to the state from each CHHA and LTHHCP and may be recouped in  
4 accordance with paragraph (a) of subdivision 8 of this section. If the  
5 amount is less than the amount determined in accordance with paragraph  
6 (a) of subdivision 7 of this section, the difference shall be refunded  
7 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs  
8 and LTHHCPs shall submit data for the period August 1, 1996 through  
9 March 31, 1997 to the commissioner of health by April 15, 1997.

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

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

16 (b) the commissioner of health shall reduce the current rate paid to  
17 such CHHA and such LTHHCP by state governmental agencies pursuant to  
18 article 36 of the public health law by one percent for a period begin-  
19 ning on the first day of the calendar month following the applicable due  
20 date as established by the commissioner of health and continuing until  
21 the last day of the calendar month in which the required data and infor-  
22 mation are submitted.

23 12. The commissioner of health shall inform in writing the director of  
24 the budget and the chair of the senate finance committee and the chair  
25 of the assembly ways and means committee of the results of the calcu-  
26 lations pursuant to this section.

27 S 11. Subdivision 5-a of section 246 of chapter 81 of the laws of  
28 1995, amending the public health law and other laws relating to medical  
29 reimbursement and welfare reform, as amended by section 15 of part B of  
30 chapter 56 of the laws of 2013, is amended to read as follows:

31 5-a. Section sixty-four-a of this act shall be deemed to have been in  
32 full force and effect on and after April 1, 1995 [through March 31, 1999  
33 and on and after July 1, 1999 through March 31, 2000 and on and after  
34 April 1, 2000 through March 31, 2003 and on and after April 1, 2003  
35 through March 31, 2007, and on and after April 1, 2007 through March 31,  
36 2009, and on and after April 1, 2009 through March 31, 2011, and on and  
37 after April 1, 2011 through March 31, 2013, and on and after April 1,  
38 2013 through March 31, 2015];

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

43 S 64-b. Notwithstanding any inconsistent provision of law, the  
44 provisions of subdivision 7 of section 3614 of the public health law, as  
45 amended, shall remain and be in full force and effect on April 1, 1995  
46 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on  
47 and after April 1, 2000 through March 31, 2003 and on and after April 1,  
48 2003 through March 31, 2007, and on and after April 1, 2007 through  
49 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,  
50 and on and after April 1, 2011 through March 31, 2013, and on and after  
51 April 1, 2013 through March 31, 2015, AND FOR EACH YEAR THEREAFTER.

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

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

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

6 Notwithstanding any inconsistent provision of law or regulation, for  
7 the purposes of establishing rates of payment by governmental agencies  
8 for long term home health care programs for the period April first, two  
9 thousand five, through December thirty-first, two thousand five, and for  
10 the period January first, two thousand six through March thirty-first,  
11 two thousand seven, and on and after April first, two thousand seven  
12 through March thirty-first, two thousand nine, and on and after April  
13 first, two thousand nine through March thirty-first, two thousand elev-  
14 en, and on and after April first, two thousand eleven through March  
15 thirty-first, two thousand thirteen and on and after April first, two  
16 thousand thirteen through March thirty-first, two thousand fifteen, AND  
17 FOR EACH YEAR THEREAFTER, the reimbursable base year administrative and  
18 general costs of a provider of services shall not exceed the statewide  
19 average of total reimbursable base year administrative and general costs  
20 of such providers of services.

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

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

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

31 S 3. This act shall take effect immediately[, provided, however, that  
32 subdivision 15-a of section 5 of section 1 of chapter 392 of the laws of  
33 1973, as added by section one of this act, shall expire and be deemed  
34 repealed June 30, 2015; and provided further, however, that the expira-  
35 tion and repeal of such subdivision 15-a shall not affect or impair in  
36 any manner any health facilities bonds issued, or any lease or purchase  
37 of a health facility executed, pursuant to such subdivision 15-a prior  
38 to its expiration and repeal and that, with respect to any such bonds  
39 issued and outstanding as of June 30, 2015, the provisions of such  
40 subdivision 15-a as they existed immediately prior to such expiration  
41 and repeal shall continue to apply through the latest maturity date of  
42 any such bonds, or their earlier retirement or redemption, for the sole  
43 purpose of authorizing the issuance of refunding bonds to refund bonds  
44 previously issued pursuant thereto].

45 S 17. Subdivision (c) of section 62 of chapter 165 of the laws of  
46 1991, amending the public health law and other laws relating to estab-  
47 lishing payments for medical assistance, as amended by section 26 of  
48 part D of chapter 59 of the laws of 2011, is amended to read as follows:

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

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

4 3. Notwithstanding any law to the contrary, and in accordance with  
5 section four of the state finance law, the comptroller is hereby author-  
6 ized and directed to transfer from the health care reform act (HCRA)  
7 resources fund (061) to the general fund, upon the request of the direc-  
8 tor of the budget, up to \$6,500,000 on or before March 31, 2006, and the  
9 comptroller is further hereby authorized and directed to transfer from  
10 the healthcare reform act (HCRA); Resources fund (061) to the Capital  
11 Projects Fund, upon the request of the director of budget, up to  
12 \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to  
13 \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to  
14 \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to  
15 \$151,600,000 for the period April 1, 2009 through March 31, 2010, up to  
16 \$215,743,000 for the period April 1, 2010 through March 31, 2011, up to  
17 \$433,366,000 for the period April 1, 2011 through March 31, 2012, up to  
18 \$150,806,000 for the period April 1, 2012 through March 31, 2013, up to  
19 \$78,071,000 for the period April 1, 2013 through March 31, 2014, and up  
20 to \$86,005,000 for the period April 1, 2014 through March 31, 2015, AND  
21 UP TO \$86,005,000 FOR THE PERIOD APRIL 1, 2015 THROUGH DECEMBER 31,  
22 2017.

23 S 19. Subdivision (i) of section 111 of part H of chapter 59 of the  
24 laws of 2011, relating to enacting into law major components of legis-  
25 lation necessary to implement the health and mental hygiene budget for  
26 the 2011-2012 state fiscal plan, is REPEALED.

27 S 20. Section 97 of chapter 659 of the laws of 1997, amending the  
28 public health law and other laws relating to creation of continuing care  
29 retirement communities, as amended by section 65-b of part A of chapter  
30 57 of the laws of 2006, is amended to read as follows:

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

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

47 (b) Notwithstanding any inconsistent provision of law or regulation to  
48 the contrary, for the state fiscal [year] YEARS beginning April first,  
49 two thousand ten and ending March thirty-first, two thousand [fifteen]  
50 NINETEEN, the commissioner shall not be required to revise certified  
51 rates of payment established pursuant to this article for rate periods  
52 prior to April first, two thousand [fifteen] NINETEEN, based on consid-  
53 eration of rate appeals filed by residential health care facilities or  
54 based upon adjustments to capital cost reimbursement as a result of  
55 approval by the commissioner of an application for construction under  
56 section twenty-eight hundred two of this article, in excess of an aggre-

1 gate annual amount of eighty million dollars for each such state fiscal  
2 year provided, however, that for the period April first, two thousand  
3 eleven through March thirty-first, two thousand twelve such aggregate  
4 annual amount shall be fifty million dollars. In revising such rates  
5 within such fiscal limit, the commissioner shall, in prioritizing such  
6 rate appeals, include consideration of which facilities the commissioner  
7 determines are facing significant financial hardship as well as such  
8 other considerations as the commissioner deems appropriate and, further,  
9 the commissioner is authorized to enter into agreements with such facil-  
10 ities or any other facility to resolve multiple pending rate appeals  
11 based upon a negotiated aggregate amount and may offset such negotiated  
12 aggregate amounts against any amounts owed by the facility to the  
13 department, including, but not limited to, amounts owed pursuant to  
14 section twenty-eight hundred seven-d of this article; provided, however,  
15 that the commissioner's authority to negotiate such agreements resolving  
16 multiple pending rate appeals as hereinbefore described shall continue  
17 on and after April first, two thousand [fifteen] NINETEEN. Rate adjust-  
18 ments made pursuant to this paragraph remain fully subject to approval  
19 by the director of the budget in accordance with the provisions of  
20 subdivision two of section twenty-eight hundred seven of this article.

21 S 22. Paragraph (a) of subdivision 13 of section 3614 of the public  
22 health law, as added by section 4 of part H of chapter 59 of the laws of  
23 2011, is amended to read as follows:

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

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

41 (a) sections two, three, three-a, three-b, three-c, three-d, three-e  
42 and twenty-one of this act shall take effect July 1, 2010; sections  
43 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall  
44 take effect January 1, 2011; [and provided further that section twenty  
45 of this act shall be deemed repealed four years after the date the  
46 contract entered into pursuant to section 365-h of the social services  
47 law, as amended by section twenty of this act, is executed; provided  
48 that the commissioner of health shall notify the legislative bill draft-  
49 ing commission upon the execution of the contract entered into pursuant  
50 to section 367-h of the social services law in order that the commission  
51 may maintain an accurate and timely effective data base of the official  
52 text of the laws of the state of New York in furtherance of effectuating  
53 the provisions of section 44 of the legislative law and section 70-b of  
54 the public officers law;]

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

4 4. The commissioner of health is authorized to assume responsibility  
5 from a local social services official for the provision and reimburse-  
6 ment of transportation costs under this section. If the commissioner  
7 elects to assume such responsibility, the commissioner shall notify the  
8 local social services official in writing as to the election, the date  
9 upon which the election shall be effective and such information as to  
10 transition of responsibilities as the commissioner deems prudent. The  
11 commissioner is authorized to contract with a transportation manager or  
12 managers to manage transportation services in any local social services  
13 district. Any transportation manager or managers selected by the commis-  
14 sioner to manage transportation services shall have proven experience in  
15 coordinating transportation services in a geographic and demographic  
16 area similar to the area in New York state within which the contractor  
17 would manage the provision of services under this section. Such a  
18 contract or contracts may include responsibility for: review, approval  
19 and processing of transportation orders; management of the appropriate  
20 level of transportation based on documented patient medical need; and  
21 development of new technologies leading to efficient transportation  
22 services. If the commissioner elects to assume such responsibility from  
23 a local social services district, the commissioner shall examine and, if  
24 appropriate, adopt quality assurance measures that may include, but are  
25 not limited to, global positioning tracking system reporting require-  
26 ments and service verification mechanisms. Any and all reimbursement  
27 rates developed by transportation managers under this subdivision shall  
28 be subject to the review and approval of the commissioner. [Notwith-  
29 standing any inconsistent provision of sections one hundred twelve and  
30 one hundred sixty-three of the state finance law, or section one hundred  
31 forty-two of the economic development law, or any other law, the commis-  
32 sioner is authorized to enter into a contract or contracts under this  
33 subdivision without a competitive bid or request for proposal process,  
34 provided, however, that:

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

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

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

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

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

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

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

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

55 S 5. This act shall take effect on the one hundred twentieth day after  
56 it shall have become a law and shall expire [4] 7 years after such

1 effective date when upon such date the provisions of this act shall be  
2 deemed repealed; provided, however, that the amendments to subdivision 1  
3 of section 6801 of the education law made by section one of this act  
4 shall be subject to the expiration and reversion of such subdivision  
5 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such  
6 date the provisions of section one-a of this act shall take effect;  
7 provided, further, that effective immediately, the addition, amendment  
8 and/or repeal of any rule or regulation necessary for the implementation  
9 of this act on its effective date is authorized and directed to be made  
10 and completed on or before such effective date.

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

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

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

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

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

30 S 29. Section 4-a of part A of chapter 56 of the laws of 2013 is  
31 amended to read as follows:

32 S 4-a. Notwithstanding paragraph (c) of subdivision 10 of section  
33 2807-c of the public health law, section 21 of chapter 1 of the laws of  
34 1999, or any other contrary provision of law, in determining rates of  
35 payments by state governmental agencies effective for services provided  
36 on and after January 1, 2015 [through March 31, 2015,] for inpatient and  
37 outpatient services provided by general hospitals, for inpatient  
38 services and adult day health care outpatient services provided by resi-  
39 dential health care facilities pursuant to article 28 of the public  
40 health law, except for residential health care facilities or units of  
41 such facilities providing services primarily to children under twenty-  
42 one years of age, for home health care services provided pursuant to  
43 article 36 of the public health law by certified home health agencies,  
44 long term home health care programs and AIDS home care programs, and for  
45 personal care services provided pursuant to section 365-a of the social  
46 services law, the commissioner of health shall apply no greater than  
47 zero trend factors [attributable to the 2015 calendar year] in accord-  
48 ance with paragraph (c) of subdivision 10 of section 2807-c of the  
49 public health law, provided, however, that such no greater than zero  
50 trend factors [attributable to such 2015 calendar year] shall also be  
51 applied to rates of payment provided on and after January 1, 2015  
52 [through March 31, 2015] for personal care services provided in those  
53 local social services districts, including New York city, whose rates of  
54 payment for such services are established by such local social services  
55 districts pursuant to a rate-setting exemption issued by the commission-  
56 er of health to such local social services districts in accordance with

1 applicable regulations, and provided further, however, that for rates of  
2 payment for assisted living program services provided on and after Janu-  
3 ary 1, 2015 [through March 31, 2015,] such trend factors [attributable  
4 to the 2015 calendar year] shall be established at no greater than zero  
5 percent.

6 S 30. Notwithstanding any inconsistent provision of law, rule or regu-  
7 lation, for purposes of implementing the provisions of the public health  
8 law and the social services law, references to titles XIX and XXI of the  
9 federal social security act in the public health law and the social  
10 services law shall be deemed to include and also to mean any successor  
11 titles thereto under the federal social security act.

12 S 31. Notwithstanding any inconsistent provision of law, rule or regu-  
13 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
14 the public health law, section 18 of chapter 2 of the laws of 1988, and  
15 18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
16 or certification of rates of payment, are hereby suspended and without  
17 force or effect for purposes of implementing the provisions of this act.

18 S 32. Severability clause. If any clause, sentence, paragraph, subdi-  
19 vision, section or part of this act shall be adjudged by any court of  
20 competent jurisdiction to be invalid, such judgment shall not affect,  
21 impair or invalidate the remainder thereof, but shall be confined in its  
22 operation to the clause, sentence, paragraph, subdivision, section or  
23 part thereof directly involved in the controversy in which such judgment  
24 shall have been rendered. It is hereby declared to be the intent of the  
25 legislature that this act would have been enacted even if such invalid  
26 provisions had not been included herein.

27 S 33. This act shall take effect immediately and shall be deemed to  
28 have been in full force and effect on and after April 1, 2015 provided,  
29 that:

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

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

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

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

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

51 6. the provisions of this act shall become effective notwithstanding  
52 the failure of the commissioner of health or the superintendent of the  
53 department of financial services or any council to adopt or amend or  
54 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.

1 (B) FOR ANY REDUCTIONS IN PAYMENTS UNDER PARAGRAPH (I) OF SUBDIVISION  
2 THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE  
3 RESULTING FROM AGGREGATE UPPER PAYMENT LIMIT CALCULATIONS, THE COMMIS-  
4 SIONER MAY REDUCE OR REDISTRIBUTE PAYMENTS UNDER THIS SECTION OR SECTION  
5 TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE IN A MANNER TO BE DETER-  
6 MINED IN HIS OR HER DISCRETION.

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

13 S 4. Notwithstanding any inconsistent provision of law, rule or regu-  
14 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
15 the public health law, section 18 of chapter 2 of the laws of 1988, and  
16 18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
17 or certification of rates of payment, are hereby suspended and without  
18 force or effect for purposes of implementing the provisions of this act.

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

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

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

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

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

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

48 e. the provisions of this act shall become effective notwithstanding  
49 the failure of the commissioner of health or the superintendent of  
50 financial services or any council to adopt or amend or promulgate regu-  
51 lations implementing this act.

52 PART F

53 Section 1. The public health law is amended by adding a new section  
54 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

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

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

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

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

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

19 4. notwithstanding any inconsistent provision of the state administra-  
20 tive procedure act or any other provision of law, rule or regulation,  
21 the commissioner of health and the superintendent of financial services  
22 and any appropriate council are authorized to adopt or amend or promul-  
23 gate on an emergency basis any regulation he or she or such council  
24 determines necessary to implement any provision of this act on its  
25 effective date; and

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

30

## PART G

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

33 S 208. ASSESSMENT FOR THE OPERATING EXPENSES OF THE NEW YORK HEALTH  
34 BENEFIT EXCHANGE. (A) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER APRIL  
35 FIRST, TWO THOUSAND FIFTEEN, ASSESSMENTS FOR THE OPERATING EXPENSES  
36 ATTRIBUTABLE TO QUALIFIED HEALTH PLAN COVERAGE OF THE NEW YORK HEALTH  
37 BENEFIT EXCHANGE, ESTABLISHED WITHIN THE DEPARTMENT OF HEALTH BY EXECU-  
38 TIVE ORDER 42 SIGNED BY GOVERNOR ANDREW M. CUOMO ON APRIL 12, 2012 IN  
39 CONFORMITY WITH THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, PUBLIC  
40 LAW 111-14 AND THE HEALTH CARE AND EDUCATION RECONCILIATION ACT, PUBLIC  
41 LAW 111-152, AND DOING BUSINESS AS THE NY STATE OF HEALTH, THE OFFICIAL  
42 HEALTH PLAN MARKETPLACE (NY STATE OF HEALTH) SHALL BE ASSESSED BY THE  
43 SUPERINTENDENT IN ACCORDANCE WITH THIS SECTION. A DOMESTIC ACCIDENT AND  
44 HEALTH INSURER SHALL BE ASSESSED BY THE SUPERINTENDENT PURSUANT TO THIS  
45 SECTION FOR THE OPERATING EXPENSES OF THE NY STATE OF HEALTH ATTRIBUT-  
46 ABLE TO QUALIFIED HEALTH PLANS' COVERAGE, WHICH SHALL INCLUDE DIRECT AND  
47 INDIRECT EXPENSES RELATED TO THE OPERATION OF THE NEW YORK STATE OF  
48 HEALTH ATTRIBUTABLE TO SUCH QUALIFIED HEALTH PLAN COVERAGE WITH THE  
49 ASSESSMENTS ALLOCATED PRO RATA UPON ALL DOMESTIC ACCIDENT AND HEALTH  
50 INSURERS IN THE INDIVIDUAL, SMALL GROUP AND LARGE GROUP MARKETS, IN  
51 PROPORTION TO THE GROSS DIRECT PREMIUMS, EXCLUSIVE OF FEDERAL TAX CRED-  
52 ITS AND OTHER CONSIDERATIONS, WRITTEN OR RECEIVED BY THEM IN THIS STATE  
53 DURING THE CALENDAR YEAR ENDING DECEMBER THIRTY-FIRST IMMEDIATELY  
54 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-

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

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

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

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

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

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

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

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

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

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

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

50 S 5. Severability clause. If any clause, sentence, paragraph, subdivi-  
51 sion, section or part of this act shall be adjudged by any court of  
52 competent jurisdiction to be invalid, such judgment shall not affect,  
53 impair or invalidate the remainder thereof, but shall be confined in its  
54 operation to the clause, sentence, paragraph, subdivision, section or  
55 part thereof directly involved in the controversy in which such judgment  
56 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.

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

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

8 (E) "URGENT CARE PROVIDER" SHALL MEAN A LICENSEE PRACTICE THAT ADVER-  
9 TISES OR HOLDS ITSELF OUT AS A PROVIDER OF URGENT CARE.

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

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

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

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

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

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

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

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

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

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

3 (C) CONSIDERING WHETHER SETTINGS PERFORMING SUCH PROCEDURES OR ADMIN-  
4 ISTERING SUCH ANESTHESIA/SEDATION ARE SUBJECT TO SUFFICIENT OVERSIGHT;

5 (D) CONSIDERING WHETHER SETTINGS PERFORMING SUCH PROCEDURES OR ADMIN-  
6 ISTERING SUCH ANESTHESIA/SEDATION ARE SUBJECT TO AN EQUIVALENT LEVEL OF  
7 OVERSIGHT REGARDLESS OF SETTING; AND

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

9 S 6. This act shall take effect immediately, provided, however, that  
10 subdivision 2 of section 230-e of the public health law, as added by  
11 section two of this act, shall take effect January 1, 2017; subdivision  
12 3 of section 230-e of the public health law, as added by section two of  
13 this act, shall take effect January 1, 2016; and regulations shall be  
14 adopted or amended pursuant to subdivision 5 of section 230-e of the  
15 public health law, as added by section two of this act, on or before  
16 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 PROSE-  
25 CUTION FOR SECTION 230.00 OR SECTION 240.37 OF THE PENAL LAW FOR THE  
26 PURPOSE OF ESTABLISHING PROBABLE CAUSE FOR AN ARREST OR PROVING ANY  
27 PERSON'S COMMISSION OR ATTEMPTED COMMISSION OF SUCH OFFENSE.

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 misdemea-  
39 nor.

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 experi-  
4 encing 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-

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

5 4. THE COMMISSIONER IS HEREBY AUTHORIZED, WITHIN AMOUNTS APPROPRIATED  
6 THEREFOR, TO MAKE GRANTS TO COUNTIES, CITIES, TOWNS OR VILLAGES THAT OWN  
7 THEIR PUBLIC WATER SYSTEM AND THE WATER SUPPLY FOR SUCH SYSTEM, INCLUD-  
8 ING A COUNTY WHEREIN A PUBLIC AUTHORITY OWNS BOTH ITS PUBLIC WATER  
9 SYSTEM AND THE WATER SUPPLY FOR SUCH SYSTEM, FOR THE PURPOSE OF PROVID-  
10 ING ASSISTANCE TOWARDS THE COSTS OF INSTALLATION, INCLUDING BUT NOT  
11 LIMITED TO TECHNICAL AND ADMINISTRATIVE COSTS ASSOCIATED WITH PLANNING,  
12 DESIGN AND CONSTRUCTION, AND START-UP OF FLUORIDATION SYSTEMS, AND  
13 REPLACING, REPAIRING OR UPGRADING OF FLUORIDATION EQUIPMENT FOR SUCH  
14 PUBLIC WATER SYSTEMS. GRANT FUNDING SHALL NOT BE AVAILABLE FOR ASSIST-  
15 ANCE TOWARDS THE COSTS AND EXPENSES OF OPERATION OF THE FLUORIDATION  
16 SYSTEM, AS DETERMINED BY THE DEPARTMENT. THE GRANT APPLICATIONS SHALL  
17 INCLUDE SUCH INFORMATION AS REQUIRED BY THE COMMISSIONER. IN MAKING THE  
18 GRANT AWARDS, THE COMMISSIONER SHALL CONSIDER THE DEMONSTRATED NEED FOR  
19 INSTALLATION OF NEW FLUORIDATION EQUIPMENT OR REPLACING, REPAIRING OR  
20 UPGRADING OF EXISTING FLUORIDATION EQUIPMENT, AND SUCH OTHER CRITERIA AS  
21 DETERMINED BY THE COMMISSIONER. GRANT AWARDS SHALL BE MADE ON A COMPET-  
22 ITIVE BASIS AND BE SUBJECT TO SUCH CONDITIONS AS MAY BE DETERMINED BY  
23 THE COMMISSIONER.

24 S 2. This act shall take effect immediately.

25

#### PART N

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

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

46 S 3. Reporting. The director of the state office for the aging shall  
47 submit to the governor, and to the temporary president of the senate and  
48 the speaker of the assembly, a report and recommendations by December  
49 15, 2015, that outlines the results and findings associated with the  
50 aforementioned collection of data and solicitation of feedback. Such  
51 report shall include discussion regarding the potential impact and the  
52 feasibility of the expansion of the agency's community living inte-  
53 gration services beginning April 1, 2016.

54 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. Intentionally omitted.

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

14 (4) THE PROVISION OF HOME AND COMMUNITY BASED SERVICES APPROVED UNDER  
15 A WAIVER PROGRAM AUTHORIZED PURSUANT TO SUBDIVISION (C) OF SECTION NINE-  
16 TEEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT AND SUBDIVISIONS  
17 SEVEN AND SEVEN-A OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL  
18 SERVICES LAW.

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

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

27 S 8. Subdivision (a), paragraphs 2, 3, and 6 of subdivision (c), para-  
28 graphs 1 and 4 of subdivision (d), subdivision (e), and subdivision (i)  
29 of section 16.05 of the mental hygiene law, subdivision (a), paragraphs  
30 2, 3, and 6 of subdivision (c), paragraphs 1 and 4 of subdivision (d)  
31 and subdivision (e) as added by chapter 786 of the laws of 1983, para-  
32 graph 6 of subdivision (c) and paragraph 4 of subdivision (d) as renum-  
33 bered by chapter 618 of the laws of 1990, and subdivision (i) as amended  
34 by chapter 37 of the laws of 2011, are amended to read as follows:

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

37 (2) Application shall be made by the person or entity responsible for  
38 operation of the facility OR PROVISION OF SERVICES AS DESCRIBED IN  
39 SUBDIVISION FOUR OF SECTION 16.03 OF THIS ARTICLE. Applications shall  
40 be in writing, shall be verified and shall contain such information as  
41 required by the commissioner.

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

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

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

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

54 (4) in the case of residential facilities, that arrangements have been  
55 made with other providers of services for the provision of health,  
56 habilitation, day treatment, education, sheltered workshop, transporta-

1 tion or other services as may be necessary to meet the needs of  
2 [clients] INDIVIDUALS who will reside in the facility; and

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

11 (i) In the event that the holder of an operating certificate for a  
12 residential facility issued by the commissioner pursuant to this article  
13 wishes to cease the operation or conduct of any of the activities, as  
14 defined in paragraph one OR FOUR of subdivision (a) of section 16.03 of  
15 this article, for which such certificate has been issued or to cease  
16 operation of any one or more of facilities for which such certificate  
17 has been issued; wishes to transfer ownership, possession or operation  
18 of the premises and facilities upon which such activities are being  
19 conducted or to transfer ownership, possession or operation of any one  
20 or more of the premises or facilities for which such certificate has  
21 been issued; or elects not to apply to the commissioner for re-certifi-  
22 cation upon the expiration of any current period of certification, it  
23 shall be the duty of such certificate holder to give to the commissioner  
24 written notice of such intention not less than sixty days prior to the  
25 intended effective date of such transaction. Such notice shall set forth  
26 a detailed plan which makes provision for the safe and orderly transfer  
27 of each person with a developmental disability served by such certif-  
28 icate holder pursuant to such certificate into a program of services  
29 appropriate to such person's on-going needs and/or for the continuous  
30 provision of a lawfully operated program of such activities and services  
31 at the premises and facilities to be conveyed by the certificate holder.  
32 Such certificate holder shall not cease to provide any such services to  
33 any such person with a developmental disability under any of the circum-  
34 stances described in this section until the notice and plan required  
35 hereby are received, reviewed and approved by the commissioner. For the  
36 purposes of this paragraph, the requirement of prior notice and contin-  
37 uous provision of programs and services by the certificate holder shall  
38 not apply to those situations and changes in circumstances directly  
39 affecting the certificate holder that are not reasonably foreseeable at  
40 the time of occurrence, including, but not limited to, death or other  
41 sudden incapacitating disability or infirmity. Written notice shall be  
42 given to the commissioner as soon as reasonably possible thereafter in  
43 the manner set forth within this subdivision.

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

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

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

1 OVERSIGHT OF FACILITIES AND SERVICES. (A) THE COMMISSIONER SHALL  
2 PROVIDE FOR THE OVERSIGHT OF FACILITIES AND PROVIDERS OF SERVICES HOLD-  
3 ING OPERATING CERTIFICATES PURSUANT TO SECTION 16.03 OF THIS ARTICLE AND  
4 SHALL PROVIDE FOR THE ANNUAL REVIEW OF SUCH FACILITIES AND PROVIDERS IN  
5 IMPLEMENTING THE REQUIREMENTS OF THE OFFICE AND IN PROVIDING QUALITY  
6 CARE AND PERSON CENTERED AND COMMUNITY BASED SERVICES.

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

13 (2) THE REVIEW OF PROVIDERS OF SERVICES, AS DEFINED IN PARAGRAPH FOUR  
14 OF SUBDIVISION (A) OF SECTION 16.03 OF THIS ARTICLE, SHALL ENSURE THAT  
15 THE PROVIDER OF SERVICES COMPLIES WITH ALL THE REQUIREMENTS OF THE  
16 APPLICABLE FEDERAL HOME AND COMMUNITY BASED SERVICES WAIVER PROGRAM AND  
17 APPLICABLE FEDERAL REGULATION, SUBDIVISIONS SEVEN AND SEVEN-A OF SECTION  
18 THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW AND RULES AND REGU-  
19 LATIONS ADOPTED BY THE COMMISSIONER.

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

24 (b) The commissioner shall have the power to conduct investigations  
25 into the operations of any PROVIDER OF SERVICE, person or entity which  
26 holds an operating certificate issued by the office, into the operation  
27 of any facility, SERVICE or program issued an operating certificate by  
28 the office and into the operations, related to the provision of services  
29 regulated by this chapter, of any person or entity providing a residence  
30 for one or more unrelated persons with developmental disabilities.

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

38 (d) In conducting any inspection or investigation under this chapter,  
39 the commissioner or his OR HER authorized representative is empowered to  
40 subpoena witnesses, compel their attendance, administer oaths to  
41 witnesses, examine witnesses under oath, and require the production of  
42 any books or papers deemed relevant to the investigation, inspection, or  
43 hearing. A subpoena issued under this section shall be regulated by the  
44 civil practice law and rules.

45 (e) The supreme court may enjoin persons or entities subject to  
46 inspection or investigation pursuant to this article to cooperate with  
47 the commissioner and to allow the commissioner access to PROVIDERS OF  
48 SERVICES, facilities, records, clients and personnel as necessary to  
49 enable the commissioner to conduct the inspection or investigation.

50 S 12. Section 16.17 of the mental hygiene law, as added by chapter 786  
51 of the laws of 1983, subdivision (a) and paragraph 2 and subparagraph b  
52 of paragraph 1 of subdivision (b) as amended and subparagraph d of para-  
53 graph 1 of subdivision (b) as relettered by chapter 169 of the laws of  
54 1992, subdivision (b) as amended by chapter 856 of the laws of 1985, the  
55 opening paragraph and subparagraph c of paragraph 1 of subdivision (b)  
56 as amended by chapter 37 of the laws of 2011, subparagraph d of para-

1 graph 1 of subdivision (b) as added by chapter 618 of the laws of 1990,  
2 paragraph 4 of subdivision (b) as amended by chapter 168 of the laws of  
3 2010, paragraph 1 of subdivision (f) as amended by chapter 601 of the  
4 laws of 2007, subdivision (g) as amended by chapter 24 of the laws of  
5 2007, and subdivision (h) as amended by chapter 306 of the laws of 1995,  
6 is amended to read as follows:

7 S 16.17 Suspension, revocation, or limitation of an operating certif-  
8 icate.

9 (a) The commissioner may revoke, suspend, or limit an operating  
10 certificate or impose the penalties described in subparagraph a, b, c or  
11 d of paragraph one of subdivision (b) or in subdivision (g) of this  
12 section upon a determination that the holder of the certificate has  
13 failed to comply with the terms of its operating certificate or with the  
14 provisions of any applicable statute, rule or regulation. The holder of  
15 the certificate shall be given notice and an opportunity to be heard  
16 prior to any such determination except that no such notice and opportu-  
17 nity to be heard shall be necessary prior to an emergency suspension or  
18 limitation of the facility's OR PROVIDER OF SERVICES' operating certif-  
19 icate imposed pursuant to paragraph one of subdivision (b) of this  
20 section, nor shall such notice and opportunity to be heard be necessary  
21 should the commissioner, in his OR HER discretion, decide to issue sepa-  
22 rate operating certificates to each facility OR PROVIDER OF SERVICES  
23 formerly included under the services authorized by one operating certif-  
24 icate to the provider of services.

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

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

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

37 c. Suspend or limit or cause to be suspended or limited the payment of  
38 any governmental funds to the facility OR PROVIDER OF SERVICES provided  
39 that such action shall not in any way jeopardize the health, safety and  
40 welfare of any person with a developmental disability in such program or  
41 facility OR SERVICES;

42 d. Prohibit or limit the placement of new [clients] INDIVIDUALS,  
43 remove or cause to be removed some or all [clients] INDIVIDUALS, or  
44 suspend or limit or cause to be suspended or limited the payment of any  
45 governmental funds, in or to any one or more of the facilities OR  
46 PROVIDER OF SERVICES authorized pursuant to an operating certificate  
47 [issued to a provider of services].

48 (2) At any time subsequent to the suspension or limitation of any  
49 operating certificate pursuant to paragraph one of this subdivision  
50 where said suspension or limitation is the result of correctable phys-  
51 ical plant, staffing or program deficiencies, the facility OR PROVIDER  
52 OF SERVICES may request the office to [reinspect] REVIEW the facility OR  
53 PROVIDER OF SERVICES to redetermine whether a physical plant, staffing  
54 or program deficiency continues to exist. After the receipt of such a  
55 request, the office shall [reinspect] REVIEW the facility OR PROVIDER OF  
56 SERVICES within ten days and in the event that the previously found

1 physical plant, staffing or program deficiency has been corrected, the  
2 suspension or limitation shall be withdrawn. If the physical plant,  
3 staffing or program deficiency has not been corrected, the commissioner  
4 shall not thereafter be required to [reinspect] REVIEW the facility OR  
5 PROVIDER OF SERVICES during the emergency period of suspension or limi-  
6 tation.

7 (3) During the sixty day suspension or limitation period provided for  
8 in paragraph one of this subdivision the commissioner shall determine  
9 whether to reinstate or remove the limitations on the facility's OR  
10 PROVIDER OF SERVICES' operating certificate or to revoke, suspend or  
11 limit the operating certificate pursuant to subdivision (a) of this  
12 section. Should the commissioner choose to revoke, suspend or limit the  
13 operating certificate, then the emergency suspension or limitation  
14 provided for in this subdivision shall remain in effect pending the  
15 outcome of an administrative hearing on the revocation, suspension or  
16 limitation.

17 (4) The facility operator OR PROVIDER OF SERVICES, within ten days of  
18 the date when the emergency suspension or limitation pursuant to para-  
19 graph one of this subdivision is first imposed, may request an evidenti-  
20 ary hearing to contest the validity of the emergency suspension or limi-  
21 tation. Such an evidentiary hearing shall commence within ten days of  
22 the facility operator's OR PROVIDER'S request and no request for an  
23 adjournment shall be granted without the concurrence of the facility  
24 operator OR PROVIDER OF SERVICE, office for people with developmental  
25 disabilities, and the hearing officer. The evidentiary hearing shall be  
26 limited to those violations of federal and state law and regulations  
27 that existed at the time of the emergency suspension or limitation and  
28 which gave rise to the emergency suspension or limitation. The emergency  
29 suspension or limitation shall be upheld upon a determination that the  
30 office for people with developmental disabilities had reasonable cause  
31 to believe that a [client's] INDIVIDUAL'S health or safety was in immi-  
32 nent danger. A record of such hearing shall be made available to the  
33 facility operator OR PROVIDER OF SERVICE upon request. Should the  
34 commissioner determine to revoke, suspend or limit [the facility's] AN  
35 operating certificate pursuant to subdivision (a) of this section, no  
36 administrative hearing on that action shall commence prior to the  
37 conclusion of the evidentiary hearing. The commissioner shall issue a  
38 ruling within ten days after the receipt of the hearing officer's  
39 report.

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

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

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

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

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

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

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

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

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

20 (f) (1) Except as provided in paragraph two of this subdivision,  
21 anything contained in this section to the contrary notwithstanding, an  
22 operating certificate of a facility OR PROVIDER OF SERVICE shall be  
23 revoked upon a finding by the office that any individual, member of a  
24 partnership or shareholder of a corporation to whom or to which an oper-  
25 ating certificate has been issued, has been convicted of a class A, B or  
26 C felony or a felony related in any way to any activity or program  
27 subject to the regulations, supervision, or administration of the office  
28 or of the office of temporary and disability assistance, the department  
29 of health, or another office of the department of mental hygiene, or in  
30 violation of the public officers law in a court of competent jurisdic-  
31 tion of the state, or in a court in another jurisdiction for an act  
32 which would have been a class A, B or C felony in this state or a felony  
33 in any way related to any activity or program which would be subject to  
34 the regulations, supervision, or administration of the office or of the  
35 office of temporary and disability assistance, the department of health,  
36 or another office of the department of mental hygiene, or for an act  
37 which would be in violation of the public officers law. The commissioner  
38 shall not revoke or limit the operating certificate of any facility OR  
39 PROVIDER OF SERVICE, solely because of the conviction, whether in the  
40 courts of this state or in the courts of another jurisdiction, more than  
41 ten years prior to the effective date of such revocation or limitation,  
42 of any person of a felony, or what would amount to a felony if committed  
43 within the state, unless the commissioner makes a determination that  
44 such conviction was related to an activity or program subject to the  
45 regulations, supervision, and administration of the office or of the  
46 office of temporary and disability assistance, the department of health,  
47 or another office of the department of mental hygiene, or in violation  
48 of the public officers law.

49 (2) In the event one or more members of a partnership or shareholders  
50 of a corporation shall have been convicted of a felony as described in  
51 paragraph one of this subdivision, the commissioner shall, in addition  
52 to his OR HER other powers, limit the existing operating certificate of  
53 such partnership or corporation so that it shall apply only to the  
54 remaining partner or shareholders, as the case may be, provided that  
55 every such convicted person immediately and completely ceases and with-  
56 draws from participation in the management and operation of the facility

1 OR PROVIDER OF SERVICES and further provided that a change of ownership  
2 or transfer of stock is completed without delay, and provided that such  
3 partnership or corporation shall immediately reapply for a certificate  
4 of operation pursuant to subdivision (a) of section 16.05 of this arti-  
5 cle.

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

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

14 Such penalty may be released or compromised by the commissioner before  
15 the matter has been referred to the attorney general. Any such penalty  
16 may be released or compromised and any action commenced to recover the  
17 same may be settled or discontinued by the attorney general with the  
18 consent of the commissioner.

19 (h) Where a proceeding has been brought pursuant to section 16.27 of  
20 this article, and a receiver appointed pursuant thereto, the commission-  
21 er may assume operation of the facility subject to such receivership,  
22 upon termination of such receivership, and upon showing to the court  
23 having jurisdiction over such receivership that no voluntary associ-  
24 ation, not-for-profit corporation or other appropriate provider is will-  
25 ing to assume operation of the facility subject to receivership and is  
26 capable of meeting the requirements of this article; provided that the  
27 commissioner notifies the chairman of the assembly ways and means  
28 committee, the chairman of the senate finance committee and the director  
29 of the budget of his intention to assume operation of such facility upon  
30 service of the order to show cause upon the owner or operator of the  
31 facility, pursuant to subdivision (b) of section 16.27 of this article.

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

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

38 S 14. Paragraph (ii) of subdivision (c) of section 16.29 of the mental  
39 hygiene law, as amended by section 9 of part C of chapter 501 of the  
40 laws of 2012, is amended to read as follows:

41 (ii) development and implementation of a plan of prevention and reme-  
42 diation, in the event an investigation of a report of an alleged report-  
43 able incident exists and such reportable incident may be attributed in  
44 whole or in part to noncompliance by the facility OR PROVIDER OF  
45 SERVICES with the provisions of this chapter or regulations of the  
46 office applicable to the operation of such facility OR PROVIDER OF  
47 SERVICES. Any plan of prevention and remediation required to be devel-  
48 oped pursuant to this subdivision by a facility supervised by the office  
49 shall be submitted to and approved by such office in accordance with  
50 time limits established by regulations of such office. Implementation of  
51 the plan shall be monitored by such office. In reviewing the continued  
52 qualifications of a residential facility OR PROVIDER OF SERVICES or  
53 program for an operating certificate, the office shall evaluate such  
54 facility's OR PROVIDER OF SERVICE'S compliance with plans of prevention  
55 and remediation developed and implemented pursuant to this subdivision.

56 S 15. This act shall take effect immediately.

1

## PART T

2 Section 1. Subdivision (a) of section 41.35 of the mental hygiene law,  
3 as amended by chapter 658 of the laws of 1977, is amended to read as  
4 follows:

5 (a) The commissioners of the offices in the department shall cause to  
6 be developed plans for three or more time-limited demonstration  
7 programs, the purpose of which shall be to test and evaluate new methods  
8 or arrangements for organizing, financing, staffing and providing  
9 services for the mentally disabled in order to determine the desirabil-  
10 ity of such methods or arrangements. Subject to regulations established  
11 by the commissioners and notwithstanding SECTIONS ONE HUNDRED TWELVE AND  
12 ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, SECTION ONE HUNDRED  
13 FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR any other provision of  
14 law, such programs may include but shall not be limited to comprehensive  
15 organizational structures to serve all mentally disabled persons within  
16 the purview of a local governmental unit, innovative financing and  
17 staffing arrangements and specific programs to serve the mentally disa-  
18 bled. Such demonstration programs shall be consistent with established  
19 statewide goals and objectives and local comprehensive plans, shall be  
20 developed in conjunction with the local comprehensive planning process,  
21 and shall be submitted to the single agent jointly designated by the  
22 commissioners of the department for review and approval by the commis-  
23 sioner or commissioners having jurisdiction of the services.

24 S 2. This act shall take effect immediately.

25

## PART U

26 Section 1. Subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i),  
27 (j), (k), (l), (m) and (o) of section 41.36 of the mental hygiene law  
28 are REPEALED.

29 S 2. Subdivision (n) of section 41.36 of the mental hygiene law, as  
30 amended by chapter 525 of the laws of 1985, is amended to read as  
31 follows:

32 [(n)] The commissioner OF DEVELOPMENTAL DISABILITIES shall establish a  
33 procedure, subject to the approval of the state comptroller, whereby  
34 payments in addition to the [client's] personal allowance OF AN INDIVID-  
35 UAL LIVING IN A COMMUNITY RESIDENTIAL FACILITY may be made to providers  
36 of services for one or more of the following needs of [clients] INDIVID-  
37 UALS residing in such facilities, limited to two hundred fifty dollars  
38 per [client] INDIVIDUAL per year and paid semi-annually in the manner  
39 specified by such procedures:

40 [1.] (A) Replacement of necessary clothing;

41 [2.] (B) Personal requirements and incidental needs of [clients] INDI-  
42 VIDUALS RESIDING IN THE FACILITY;

43 [3.] (C) Recreational and cultural activities of [clients] INDIVIDUALS  
44 RESIDING IN THE FACILITY. Such payments may be made from monies appro-  
45 priated to the office for this purpose. Such payments shall be audited  
46 by the office pursuant to an audit plan approved by the comptroller.

47 S 3. Section 43.02 of the mental hygiene law, as amended by chapter  
48 168 of the laws of 2010, is amended to read as follows:

49 S 43.02 Rates or methods of payment for services at facilities subject  
50 to licensure or certification by the office of mental health,  
51 the office for people with developmental disabilities or the  
52 office of alcoholism and substance abuse services.

1 (a) Notwithstanding any inconsistent provision of law, payment made by  
2 government agencies pursuant to title eleven of article five of the  
3 social services law for services provided by any facility licensed by  
4 the office of mental health pursuant to article thirty-one of this chap-  
5 ter [or licensed or operated by the office for people with developmental  
6 disabilities pursuant to article sixteen of this chapter] or certified  
7 by the office of alcoholism and substance abuse services pursuant to  
8 this chapter to provide inpatient chemical dependence services, as  
9 defined in section 1.03 of this chapter, shall be at rates or fees  
10 certified by the commissioner of the respective office and approved by  
11 the director of the division of the budget, provided, however, the  
12 commissioner of mental health shall annually certify such rates or fees  
13 which may vary for distinct geographical areas of the state and,  
14 provided, further, that rates or fees for service for inpatient psychi-  
15 atric services or inpatient chemical dependence services, at hospitals  
16 otherwise licensed pursuant to article twenty-eight of the public health  
17 law shall be established in accordance with section two thousand eight  
18 hundred seven of the public health law AND, PROVIDED, FURTHER, THAT  
19 RATES OR FEES FOR SERVICES PROVIDED BY ANY FACILITY OR PROGRAM LICENSED,  
20 OPERATED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISA-  
21 BILITIES, SHALL BE CERTIFIED BY THE COMMISSIONER OF HEALTH; PROVIDED,  
22 HOWEVER, THAT SUCH METHODOLOGIES SHALL BE SUBJECT TO APPROVAL BY THE  
23 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES AND SHALL TAKE INTO  
24 ACCOUNT THE POLICIES AND GOALS OF SUCH OFFICE.

25 (b) Operators of facilities licensed by the office of mental health  
26 pursuant to article thirty-one of this chapter, licensed by the office  
27 for people with developmental disabilities pursuant to article sixteen  
28 of this chapter or certified by the office of alcoholism and substance  
29 abuse services pursuant to this chapter to provide inpatient chemical  
30 dependence services shall provide to the commissioner of the respective  
31 office such financial, statistical and program information as the  
32 commissioner may determine to be necessary. The commissioner of the  
33 appropriate office shall have the power to conduct on-site audits of  
34 books and records of such facilities.

35 (c) The commissioner of the office of mental health, the commissioner  
36 of the office for people with developmental disabilities and the commis-  
37 sioner of the office of alcoholism and substance abuse services shall  
38 adopt rules and regulations to effectuate the provisions of this  
39 section. Such rules and regulations shall include, but not be limited  
40 to, provisions relating to:

41 (i) the establishment of a uniform statewide system of reports and  
42 audits relating to the quality of care provided, facility utilization  
43 and costs of providing services; such a uniform statewide system may  
44 provide for appropriate variation in the application of the system to  
45 different classes or subclasses of facilities licensed by the office of  
46 mental health pursuant to article thirty-one of this chapter or licensed  
47 or operated by the office for people with developmental disabilities  
48 pursuant to article sixteen of this chapter, or certified by the office  
49 of alcoholism and substance abuse services pursuant to this chapter to  
50 provide inpatient chemical dependence services; and

51 (ii) methodologies used in the establishment of the schedules of rates  
52 or fees pursuant to this section PROVIDED, HOWEVER, THAT THE COMMISSION-  
53 ER OF HEALTH SHALL ADOPT RULES AND REGULATIONS INCLUDING METHODOLOGIES  
54 DEVELOPED BY HIM OR HER FOR SERVICES PROVIDED BY ANY FACILITY OR PROGRAM  
55 LICENSED, OPERATED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOP-  
56 MENTAL DISABILITIES.

1 S 4. This act shall take effect immediately.

2 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
3 sion, section or part of this act shall be adjudged by a court of compo-  
4 nent jurisdiction to be invalid, such judgment shall not affect, impair  
5 or invalidate the remainder thereof, but shall be confined in its opera-  
6 tion to the clause, sentence, paragraph, subdivision, section or part  
7 thereof directly involved in the controversy in which such judgment  
8 shall have been rendered. It is hereby declared to be in the intent of  
9 the legislature that this act would have been enacted even if such  
10 invalid provisions had not been included herein.

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