

9007--B

I N A S S E M B L Y

January 14, 2016

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

AN ACT intentionally omitted (Part A); to amend the social services law, in relation to provisions relating to transportation in the managed long term care program; to amend the public health law, in relation to restricting the managed long term care benefit to those who are nursing home eligible; to amend the social services law, in relation to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, to facilitate supplemental rebates for fee-for-service pharmaceuticals, to apply prior authorization requirements for opioid drugs, to impose penalties on managed care plans for reporting late or incorrect encounter data, and to authorize funding for the criminal justice pilot program within health home rates; to amend the public health law, in relation to participation in managed long term care plans by medical assistance recipients in the traumatic brain injury waiver program and the nursing home transition and diversion waiver program; to amend the social services law, in relation to fiscal intermediaries in the consumer directed personal assistance program; to amend the public health law, in relation to payment rate; to amend the social services law, in relation to medical assistance for certain inmates at local or state correctional facilities; to amend the social services law, in relation to school-based health centers in the managed care program; to amend the social services law, in relation to services provided by behavioral health and reproductive health care services; to amend the public health law, in relation to ambulatory care training; to amend the public health law, in relation to public general hospital indigent care adjustment; to amend the social services law and the public health law, in relation to extending the preferred drug program to medicaid managed care providers and offering the program to other health plans; and to repeal certain provisions of the social services law relating thereto; and to authorize the increase of certain payments made to certain managed care providers (Part B); to amend

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

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chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; and to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending certain provisions concerning the hospital excess liability pool (Part C); 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 extending the authority of the department of health to make disproportionate share payments to public hospitals outside of New York City; to amend chapter 649 of the laws of 1996, amending the public health law, the mental hygiene law and the social services law relating to authorizing the establishment of special needs plans, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013, amending the public health law and other laws relating to general hospital reimbursement for annual rates, relating to the effectiveness thereof; to amend chapter 58 of the laws of 2009, amending the public health law relating to payment by governmental agencies for general hospital inpatient services, relating to the effectiveness thereof; and to amend chapter 56 of the laws of 2013, amending the public health law relating to the general public health work program, relating to the effectiveness thereof (Part D); intentionally omitted (Part E); to amend the public health law, in relation to establishing the statewide health care facility transformation program (Part F); to amend the public health law, in relation to retail clinics (Part G); to amend part D of chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs, in relation to the effectiveness thereof (Part H); to amend chapter 723 of the laws of 1989 amending the mental hygiene law and other laws relating to comprehensive psychiatric emergency programs, in relation to the effectiveness of certain provisions thereof (Part I); to amend the education law, in relation to permissible assistance in the creation, development and implementation of service plans relating to the practice of psychology, mental health and social work, to amend chapter 420 of the laws of 2002, amending the education law relating to the profession of social work, in relation to extending certain provisions thereof, to amend chapter 676 of the laws of 2002, amending the education law and other laws relating to defining the practice of psychology, in relation to extending certain provisions thereof, and to amend chapter 130 of the laws of 2010 amending the education law and other laws relating to registration of entities providing certain professional services and licensure of certain professions, in relation to extending certain provisions thereof (Part J); intentionally omitted (Part K); to amend the mental hygiene law, in relation to the appointment of temporary operators for the continued operation of programs and the provision of services for persons with serious mental illness and/or developmental disabilities (Part L); to amend the mental hygiene law, in relation to sharing clinical records with managed care organizations (Part M); to amend the facilities development corporation act, in relation to the definition of mental hygiene facility (Part N); to amend chapter 495 of the laws of 2004 amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the

effectiveness thereof (Part O); to amend the mental hygiene law, in relation to the reporting of comprehensive plans of services for persons with mental disabilities; relating to the office for people with developmental disabilities omnibus reporting and providing for the repeal of certain provisions relating thereto upon expiration thereof (Part P); to amend the social services law, in relation to the use of EQUAL program funds for adult care facilities; to amend the public health law, in relation to changes in the application process for physician loan repayment and physician practice support; and to amend the public health law, in relation to registering registered organizations that manufacture medical marihuana (Part Q); to amend the mental hygiene law, in relation to the preparation of educational materials relating to substance abuse among students; and to amend the education law, in relation to the designation of employees to provide information regarding substance abuse and referrals to students, parents and staff (Subpart A); to amend the mental hygiene law, in relation to the distribution of educational materials regarding the misuse of and addiction to prescription drugs (Subpart B); to amend the mental hygiene law, in relation to requiring the office of alcoholism and substance abuse services to develop training materials for health care providers and qualified health professionals to encourage implementation of the screening, brief intervention, and referral to treatment program (Subpart C); to amend the public health law, in relation to establishing guidelines for hospital substance use disorder policies and procedures; and to amend the mental hygiene law, in relation to the preparation of educational materials to be provided to health care providers to be disseminated to individuals with confirmed or suspected substance abuse disorders (Subpart D); to amend the penal law, in relation to criminal possession of a controlled substance in the seventh degree; to amend the general business law, in relation to drug-related paraphernalia; to amend the public health law, in relation to the sale and possession of hypodermic syringes and needles; and to repeal section 220.45 of the penal law relating to criminally possessing a hypodermic instrument (Subpart E); to amend the mental hygiene law, in relation to the heroin and opioid addiction wraparound services program and to amend chapter 32 of the laws of 2014, amending the mental hygiene law relating to the heroin and opioid addiction wraparound services program, in relation to the effectiveness thereof (Subpart F); to amend the mental hygiene law, in relation to establishing the sober living task force; and providing for the repeal of such provisions upon expiration thereof (Subpart G); to amend the criminal procedure law, in relation to a judicial diversion program for certain felony offenders (Subpart H); to amend the executive law, in relation to law enforcement assisted diversion (Subpart I); to amend the criminal procedure law, the civil practice law and rules and the executive law, in relation to the possession of opioid antagonists (Subpart J); and to amend the public health law, in relation to adding cannabimimetic agents to the schedule of controlled substances (Subpart K)(Part R); and to amend the elder law, in relation to the supportive service program for classic and neighborhood naturally occurring retirement communities (Part S)

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

1 Section 1. This act enacts into law major components of legislation
 2 which are necessary to implement the state fiscal plan for the 2016-2017
 3 state fiscal year. Each component is wholly contained within a Part
 4 identified as Parts A through S. The effective date for each particular
 5 provision contained within such Part is set forth in the last section of
 6 such Part. Any provision in any section contained within a Part, includ-
 7 ing the effective date of the Part, which makes a reference to a section
 8 "of this act", when used in connection with that particular component,
 9 shall be deemed to mean and refer to the corresponding section of the
 10 Part in which it is found. Section three of this act sets forth the
 11 general effective date of this act.

12 PART A

13 Intentionally Omitted

14 PART B

15 Section 1. Subdivision 4 of section 365-h of the social services law,
 16 as separately amended by section 50 of part B and section 24 of part D
 17 of chapter 57 of the laws of 2015, is amended to read as follows:

18 4. The commissioner of health is authorized to assume responsibility
 19 from a local social services official for the provision and reimburse-
 20 ment of transportation costs under this section. If the commissioner
 21 elects to assume such responsibility, the commissioner shall notify the
 22 local social services official in writing as to the election, the date
 23 upon which the election shall be effective and such information as to
 24 transition of responsibilities as the commissioner deems prudent. The
 25 commissioner is authorized to contract with a transportation manager or
 26 managers to manage transportation services in any local social services
 27 district, other than transportation services provided or arranged for:
 28 enrollees of managed long term care plans issued certificates of author-
 29 ity under section forty-four hundred three-f of the public health law;
 30 NURSING HOMES AS DEFINED BY SECTION TWENTY-EIGHT HUNDRED ONE OF THE
 31 PUBLIC HEALTH LAW; AND ADULT DAY HEALTH CARE PROGRAMS LOCATED AT A
 32 LICENSED RESIDENTIAL HEALTH CARE FACILITY AS DEFINED BY SECTION TWENTY-
 33 EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW OR AN APPROVED EXTENSION SITE
 34 THEREOF. Any transportation manager or managers selected by the commis-
 35 sioner to manage transportation services shall have proven experience in
 36 coordinating transportation services in a geographic and demographic
 37 area similar to the area in New York state within which the contractor
 38 would manage the provision of services under this section. Such a
 39 contract or contracts may include responsibility for: review, approval
 40 and processing of transportation orders; management of the appropriate
 41 level of transportation based on documented patient medical need; and
 42 development of new technologies leading to efficient transportation
 43 services. If the commissioner elects to assume such responsibility from
 44 a local social services district, the commissioner shall examine and, if
 45 appropriate, adopt quality assurance measures that may include, but are
 46 not limited to, global positioning tracking system reporting require-
 47 ments and service verification mechanisms. Any and all reimbursement
 48 rates developed by transportation managers under this subdivision shall
 49 be subject to the review and approval of the commissioner.

50 S 2. Subparagraph (i) of paragraph (b) of subdivision 7 of section
 51 4403-f of the public health law, as amended by section 41-b of part H of
 52 chapter 59 of the laws of 2011, is amended to read as follows:

1 (i) The commissioner shall, to the extent necessary, submit the appro-
2 priate waivers, including, but not limited to, those authorized pursuant
3 to sections eleven hundred fifteen and nineteen hundred fifteen of the
4 federal social security act, or successor provisions, and any other
5 waivers necessary to achieve the purposes of high quality, integrated,
6 and cost effective care and integrated financial eligibility policies
7 under the medical assistance program or pursuant to title XVIII of the
8 federal social security act. In addition, the commissioner is authorized
9 to submit the appropriate waivers, including but not limited to those
10 authorized pursuant to sections eleven hundred fifteen and nineteen
11 hundred fifteen of the federal social security act or successor
12 provisions, and any other waivers necessary to require on or after April
13 first, two thousand twelve, medical assistance recipients who are twen-
14 ty-one years of age or older and who require community-based long term
15 care services, as specified by the commissioner, for more than one
16 hundred and twenty days, to receive such services through an available
17 plan certified pursuant to this section or other program model that
18 meets guidelines specified by the commissioner that support coordination
19 and integration of services. THE COMMISSIONER MAY, THROUGH SUCH WAIVERS,
20 LIMIT ELIGIBILITY TO AVAILABLE PLANS TO ENROLLEES THAT (A) REQUIRE NURS-
21 ING FACILITY LEVEL OF CARE, OR (B) ARE ELIGIBLE FOR COMMUNITY-BASED LONG
22 TERM CARE SERVICES WHERE THE SERVICES REQUIRED BY THE ENROLLEE ARE ONLY
23 AVAILABLE TO THE ENROLLEE THROUGH A PLAN CERTIFIED PURSUANT TO THIS
24 SECTION. NOTWITHSTANDING THE FOREGOING, MEDICAL ASSISTANCE RECIPIENTS
25 ENROLLED IN A MANAGED LONG TERM CARE PLAN ON APRIL FIRST, TWO THOUSAND
26 SIXTEEN MAY CONTINUE TO BE ELIGIBLE FOR SUCH PLANS, IRRESPECTIVE OF
27 WHETHER THE ENROLLEE MEETS ANY APPLICABLE NURSING FACILITY LEVEL OF CARE
28 REQUIREMENTS. Such guidelines shall address the requirements of para-
29 graphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) of subdivision
30 three of this section as well as payment methods that ensure provider
31 accountability for cost effective quality outcomes. Such other program
32 models may include long term home health care programs that comply with
33 such guidelines. Copies of such original waiver applications and amend-
34 ments thereto shall be provided to the chairs of the senate finance
35 committee, the assembly ways and means committee and the senate and
36 assembly health committees simultaneously with their submission to the
37 federal government.

38 S 3. Intentionally omitted.

39 S 4. Intentionally omitted.

40 S 5. Intentionally omitted.

41 S 6. Intentionally omitted.

42 S 7. Intentionally omitted.

43 S 8. Intentionally omitted.

44 S 9. Intentionally omitted.

45 S 10. Intentionally omitted.

46 S 11. Intentionally omitted.

47 S 12. Intentionally omitted.

48 S 13. Intentionally omitted.

49 S 14. Section 364-j of the social services law is amended by adding a
50 new subdivision 26-a to read as follows:

51 26-A. MANAGED CARE PROVIDERS SHALL REQUIRE PRIOR AUTHORIZATION OF
52 PRESCRIPTIONS OF OPIOID ANALGESICS IN EXCESS OF FOUR PRESCRIPTIONS IN A
53 THIRTY-DAY PERIOD, PROVIDED, HOWEVER, THAT THIS SUBDIVISION SHALL NOT
54 APPLY IF THE PATIENT IS A RECIPIENT OF HOSPICE CARE, HAS A DIAGNOSIS OF
55 CANCER OR SICKLE CELL DISEASE, OR ANY OTHER CONDITION OR DIAGNOSIS FOR

1 WHICH THE COMMISSIONER OF HEALTH DETERMINES PRIOR AUTHORIZATION IS NOT
2 REQUIRED.

3 S 15. Section 364-j of the social services law is amended by adding a
4 new subdivision 32 to read as follows:

5 32. (A) THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, APPLY PENAL-
6 TIES TO MANAGED CARE ORGANIZATIONS SUBJECT TO THIS SECTION AND ARTICLE
7 FORTY-FOUR OF THE PUBLIC HEALTH LAW FOR UNTIMELY OR INACCURATE
8 SUBMISSION OF ENCOUNTER DATA. FOR PURPOSES OF THIS SECTION, "ENCOUNTER
9 DATA" SHALL MEAN THE TRANSACTIONS REQUIRED TO BE REPORTED UNDER THE
10 MODEL CONTRACT. ANY PENALTY ASSESSED UNDER THIS SUBDIVISION SHALL BE
11 CALCULATED AS A PERCENTAGE OF THE ADMINISTRATIVE COMPONENT OF THE MEDI-
12 CAID PREMIUM CALCULATED BY THE DEPARTMENT.

13 (B) SUCH PENALTIES SHALL BE AS FOLLOWS:

14 (I) FOR ENCOUNTER DATA SUBMITTED OR RESUBMITTED PAST THE DEADLINES SET
15 FORTH IN THE MODEL CONTRACT, MEDICAID PREMIUMS SHALL BE REDUCED BY ONE
16 AND ONE-HALF PERCENT; AND

17 (II) FOR INCOMPLETE OR INACCURATE ENCOUNTER DATA THAT FAILS TO CONFORM
18 TO DEPARTMENT DEVELOPED BENCHMARKS FOR COMPLETENESS AND ACCURACY, MEDI-
19 CAID PREMIUMS SHALL BE REDUCED BY ONE-HALF PERCENT; AND

20 (III) FOR SUBMITTED DATA THAT RESULTS IN A REJECTION RATE IN EXCESS OF
21 TEN PERCENT OF DEPARTMENT DEVELOPED VOLUME BENCHMARKS, MEDICAID PREMIUMS
22 SHALL BE REDUCED BY ONE HALF-PERCENT.

23 (C) PENALTIES UNDER THIS SUBDIVISION MAY BE APPLIED TO ANY AND ALL
24 CIRCUMSTANCES DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION FOR A DURA-
25 TION DETERMINED BY THE COMMISSIONER. IN DETERMINING WHAT, IF ANY, PENAL-
26 TY TO ASSESS UNDER THIS SUBDIVISION, THE COMMISSIONER SHALL CONSIDER
27 SUCH MANAGED CARE ORGANIZATIONS' GOOD FAITH ATTEMPT TO SUBMIT ON-TIME,
28 COMPLETE AND ACCURATE ENCOUNTER DATA.

29 S 16. Intentionally omitted.

30 S 17. Subdivision 2-b of section 365-1 of the social services law, as
31 added by section 25 of part B of chapter 57 of the laws of 2015, is
32 amended to read as follows:

33 2-b. The commissioner is authorized to make [grants] LUMP SUM
34 PAYMENTS OR ADJUST RATES OF PAYMENT TO PROVIDERS up to a gross amount of
35 five million dollars, to establish coordination between the health homes
36 and the criminal justice system and for the integration of information
37 of health homes with state and local correctional facilities, to the
38 extent permitted by law. SUCH RATE ADJUSTMENTS MAY BE MADE TO HEALTH
39 HOMES PARTICIPATING IN A CRIMINAL JUSTICE PILOT PROGRAM WITH THE PURPOSE
40 OF ENROLLING INCARCERATED INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, TWO
41 OR MORE CHRONIC CONDITIONS, INCLUDING SUBSTANCE ABUSE DISORDERS, OR
42 HIV/AIDS, INTO SUCH HEALTH HOME. Health homes receiving funds under this
43 subdivision shall be required to document and demonstrate the effective
44 use of funds distributed herein.

45 S 18. Intentionally omitted.

46 S 19. Clauses 2 and 3 of subparagraph (v) of paragraph (b) of subdivi-
47 sion 7 of section 4403-f of the public health law, as amended by section
48 48 of part A of chapter 56 of the laws of 2013, are amended and three
49 new subparagraphs (v-a), (v-b) and (v-c) are added to read as follows:

50 (2) a participant in the traumatic brain injury waiver program OR A
51 PERSON WHOSE CIRCUMSTANCES WOULD QUALIFY HIM OR HER FOR THE PROGRAM AS
52 IT EXISTED ON JANUARY FIRST, TWO THOUSAND FIFTEEN;

53 (3) a participant in the nursing home transition and diversion waiver
54 program OR A PERSON WHOSE CIRCUMSTANCES WOULD QUALIFY HIM OR HER FOR THE
55 PROGRAM AS IT EXISTED ON JANUARY FIRST, TWO THOUSAND FIFTEEN;

1 (V-A) FOR PURPOSES OF CLAUSE (2) OF SUBPARAGRAPH (V) OF THIS PARA-
2 GRAPH, PROGRAM FEATURES SHALL BE SUBSTANTIALLY COMPARABLE TO THOSE
3 SERVICES OFFERED TO TRAUMATIC BRAIN INJURY WAIVER PARTICIPANTS AS OF
4 JANUARY FIRST, TWO THOUSAND FIFTEEN, INCLUDING BUT NOT LIMITED TO:

5 (1) FULL-TIME SERVICE COORDINATORS WHO MAY NOT EXCEED CASELOADS OF
6 SEVENTEEN PROGRAM PATIENTS PER COORDINATOR AND MAY NOT BE EMPLOYEES OF
7 THE PARTICIPANT'S MANAGED CARE PLAN;

8 (2) HOME AND COMMUNITY SUPPORT SERVICES;

9 (3) POSITIVE BEHAVIORAL INTERVENTIONS AND CAREGIVER SUPPORT SERVICES;

10 (4) COMMUNITY INTEGRATION COUNSELING SERVICES PROVIDED IN AN INDIVID-
11 UAL OR GROUP SETTING;

12 (5) APPROPRIATELY STRUCTURED DAY PROGRAM SERVICES;

13 (6) INDEPENDENT LIVING SKILLS TRAINING AND DEVELOPMENT SERVICES
14 PROVIDED IN AN INDIVIDUAL OR GROUP SETTING;

15 (7) SUBSTANCE ABUSE PROGRAM SERVICES;

16 (8) ENVIRONMENTAL MODIFICATIONS SERVICES;

17 (9) ASSISTIVE TECHNOLOGY SERVICES;

18 (10) TRANSPORTATION SUPPLEMENTS FOR NON-MEDICAL ACTIVITIES THAT
19 SUPPORT LIVING IN THE COMMUNITY;

20 (11) COMMUNITY TRANSITIONAL SERVICES;

21 (12) RESPIRE CARE; AND

22 (13) HOUSING SUBSIDIES SUBJECT TO APPROPRIATION.

23 THE COMMISSIONER MAY APPLY FOR FEDERAL FINANCIAL PARTICIPATION.

24 (V-B) FOR PURPOSES OF CLAUSE (3) OF SUBPARAGRAPH (V) OF THIS PARA-
25 GRAPH, PROGRAM FEATURES SHALL BE SUBSTANTIALLY COMPARABLE TO THOSE
26 SERVICES OFFERED TO NURSING HOME TRANSITION AND DIVERSION WAIVER PARTIC-
27 IPANTS AS OF JANUARY FIRST, TWO THOUSAND FIFTEEN, INCLUDING BUT NOT
28 LIMITED TO:

29 (1) THOSE SERVICES IDENTIFIED IN SUBPARAGRAPH (V-A) OF THIS SUBPARA-
30 GRAPH; AND

31 (2) HOME DELIVERED AND CONGREGATE MEALS.

32 (V-C) ANY MANAGED LONG TERM CARE PROGRAM OR OTHER CARE COORDINATION
33 MODEL PROVIDING SERVICES UNDER CLAUSE (2) OR (3) OF SUBPARAGRAPH (V) OF
34 THIS PARAGRAPH SHALL HAVE AN ADEQUATE NETWORK OF PROVIDERS TO MEET THE
35 NEEDS OF ENROLLEES AND PROVIDE SERVICES UNDER THIS SUBDIVISION. THEY
36 SHALL ALSO ENSURE THAT PROVIDERS OF SERVICES TO INDIVIDUALS WITH BRAIN
37 INJURY HAVE APPROPRIATE AND ADEQUATE TRAINING AND COMPETENCY TO MEET THE
38 NEEDS OF THIS POPULATION AND PROVIDE A STANDARD OF CARE THAT IS AT LEAST
39 SUBSTANTIALLY COMPARABLE TO THE 2008 TRAUMATIC BRAIN INJURY WAIVER MANU-
40 AL OR 2009 NURSING HOME TRANSITION AND DIVERSION WAIVER MANUAL, AS
41 APPROPRIATE TO THE NEEDS OF THE INDIVIDUAL.

42 S 20. The department of health shall study and report to the legisla-
43 ture by December 31, 2017 on the need for and feasibility of repatria-
44 tion of complex-needs patients placed in out-of-state facilities.

45 S 21. Section 365-f of the social services law is amended by adding
46 two new subdivisions 4-a and 4-b to read as follows:

47 4-A. FISCAL INTERMEDIARY SERVICES. (A) FOR THE PURPOSES OF THIS SUBDI-
48 VISION:

49 (I) "FISCAL INTERMEDIARY" MEANS AN ENTITY THAT PROVIDES FISCAL INTER-
50 MEDIARY SERVICES AND HAS A CONTRACT FOR PROVIDING SUCH SERVICES WITH:

51 (A) A LOCAL DEPARTMENT OF SOCIAL SERVICES,

52 (B) AN ORGANIZATION LICENSED UNDER ARTICLE FORTY-FOUR OF THE PUBLIC
53 HEALTH LAW, OR

54 (C) AN ACCOUNTABLE CARE ORGANIZATION CERTIFIED UNDER ARTICLE
55 TWENTY-NINE-E OF THE PUBLIC HEALTH LAW OR AN INTEGRATED DELIVERY SYSTEM
56 COMPOSED PRIMARILY OF HEALTH CARE PROVIDERS RECOGNIZED BY THE DEPARTMENT

1 AS A PERFORMING PROVIDER SYSTEM UNDER THE DELIVERY SYSTEM REFORM INCEN-
2 TIVE PAYMENT PROGRAM.

3 (II) FISCAL INTERMEDIARY SERVICES SHALL INCLUDE THE FOLLOWING
4 SERVICES, PERFORMED ON BEHALF OF THE CONSUMER TO FACILITATE HIS OR HER
5 ROLE AS THE EMPLOYER:

6 (A) WAGE AND BENEFIT PROCESSING FOR CONSUMER DIRECTED PERSONAL ASSIST-
7 ANTS;

8 (B) PROCESSING ALL INCOME TAX AND OTHER REQUIRED WAGE WITHHOLDINGS;

9 (C) COMPLYING WITH WORKERS' COMPENSATION, DISABILITY AND UNEMPLOYMENT
10 REQUIREMENTS;

11 (D) MAINTAINING PERSONNEL RECORDS FOR EACH CONSUMER DIRECTED PERSONAL
12 ASSISTANT, INCLUDING TIME SHEETS AND OTHER DOCUMENTATION NEEDED FOR
13 WAGES AND BENEFIT PROCESSING AND A COPY OF THE MEDICAL DOCUMENTATION
14 REQUIRED PURSUANT TO REGULATIONS ESTABLISHED BY THE COMMISSIONER;

15 (E) ENSURING THAT THE HEALTH STATUS OF EACH CONSUMER DIRECTED PERSONAL
16 ASSISTANT IS ASSESSED PRIOR TO SERVICE DELIVERY PURSUANT TO REGULATIONS
17 ISSUED BY THE COMMISSIONER;

18 (F) MAINTAINING RECORDS OF AUTHORIZATIONS OR REAUTHORIZATIONS OF
19 SERVICES;

20 (G) MONITORING THE CONSUMER'S OR, IF APPLICABLE, THE DESIGNATED REPRE-
21 SENTATIVE'S CONTINUING ABILITY TO FULFILL THE CONSUMER'S RESPONSIBIL-
22 ITIES UNDER THE PROGRAM AND PROMPTLY NOTIFYING THE AUTHORIZING ENTITY OF
23 ANY CIRCUMSTANCE THAT MAY AFFECT THE CONSUMER'S OR, IF APPLICABLE, THE
24 DESIGNATED REPRESENTATIVE'S ABILITY TO FULFILL SUCH RESPONSIBILITIES;

25 (H) COMPLYING WITH REGULATIONS ESTABLISHED BY THE COMMISSIONER SPECI-
26 FYING THE RESPONSIBILITIES OF PROVIDERS PROVIDING SERVICES UNDER THIS
27 TITLE; AND

28 (I) ENTERING INTO A DEPARTMENT APPROVED MEMORANDUM OF UNDERSTANDING
29 WITH THE CONSUMER THAT DESCRIBES THE PARTIES' RESPONSIBILITIES UNDER
30 THIS PROGRAM.

31 (III) FISCAL INTERMEDIARIES ARE NOT RESPONSIBLE FOR, AND FISCAL INTER-
32 MEDIARY SERVICES SHALL NOT INCLUDE, FULFILLMENT OF THE RESPONSIBILITIES
33 OF THE CONSUMER OR, IF APPLICABLE, THE CONSUMER'S DESIGNATED REPRESEN-
34 TATIVE AS ESTABLISHED BY THE COMMISSIONER. A FISCAL INTERMEDIARY'S
35 RESPONSIBILITIES SHALL NOT INCLUDE: MANAGING THE PLAN OF CARE INCLUDING
36 RECRUITING AND HIRING A SUFFICIENT NUMBER OF INDIVIDUALS WHO MEET THE
37 DEFINITION OF CONSUMER DIRECTED PERSONAL ASSISTANT, AS SUCH TERM IS
38 DEFINED BY THE COMMISSIONER, TO PROVIDE AUTHORIZED SERVICES THAT ARE
39 INCLUDED ON THE CONSUMER'S PLAN OF CARE; TRAINING, SUPERVISING AND SCHE-
40 DULING EACH ASSISTANT; TERMINATING THE ASSISTANT'S EMPLOYMENT; AND
41 ASSURING THAT EACH CONSUMER DIRECTED PERSONAL ASSISTANT COMPETENTLY AND
42 SAFELY PERFORMS THE PERSONAL CARE SERVICES, HOME HEALTH AIDE SERVICES
43 AND SKILLED NURSING TASKS THAT ARE INCLUDED ON THE CONSUMER'S PLAN OF
44 CARE. A FISCAL INTERMEDIARY SHALL EXERCISE REASONABLE CARE IN PROPERLY
45 CARRYING OUT ITS RESPONSIBILITIES UNDER THE PROGRAM.

46 (B) NO ENTITY SHALL PROVIDE, DIRECTLY OR THROUGH CONTRACT, FISCAL
47 INTERMEDIARY SERVICES WITHOUT A LICENSE AS A FISCAL INTERMEDIARY ISSUED
48 BY THE COMMISSIONER IN ACCORDANCE WITH THIS SUBDIVISION.

49 (C) AN APPLICATION FOR LICENSURE AS A FISCAL INTERMEDIARY SHALL BE
50 FILED WITH THE COMMISSIONER, TOGETHER WITH SUCH OTHER FORMS AND INFORMA-
51 TION AS SHALL BE PRESCRIBED BY, OR ACCEPTABLE TO THE COMMISSIONER. THE
52 COMMISSIONER SHALL NOT APPROVE AN APPLICATION FOR LICENSURE UNLESS HE OR
53 SHE IS SATISFIED AS TO THE CHARACTER, COMPETENCE AND STANDING IN THE
54 COMMUNITY OF THE APPLICANT'S INCORPORATORS, DIRECTORS, SPONSORS, STOCK-
55 HOLDERS OR OPERATORS AND FINDS THAT THE PERSONNEL, RULES, CONSUMER
56 CONTRACTS OR AGREEMENTS, AND FISCAL INTERMEDIARY SERVICES ARE FIT AND

1 ADEQUATE, AND THAT THE FISCAL INTERMEDIARY SERVICES WILL BE PROVIDED IN
2 THE MANNER REQUIRED BY THIS SUBDIVISION AND THE RULES AND REGULATIONS
3 THEREUNDER, IN A MANNER DETERMINED BY THE COMMISSIONER.

4 (D) NEITHER PUBLIC NEED, TAX STATUS, PROFIT-MAKING STATUS, NOR LICEN-
5 SURE OR CERTIFICATION PURSUANT TO ARTICLE THIRTY-SIX OF THE PUBLIC
6 HEALTH LAW SHALL BE CRITERIA FOR LICENSURE. ORGANIZATIONS AUTHORIZED
7 PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW SHALL NOT BE
8 GRANTED A LICENSE AS A FISCAL INTERMEDIARY.

9 (E) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR THE LICENSURE OF
10 FISCAL INTERMEDIARIES AN APPLICATION FEE OF TWO THOUSAND DOLLARS.

11 4-B. PROCEEDINGS INVOLVING THE LICENSE OF A FISCAL INTERMEDIARY. (A) A
12 LICENSE OF A FISCAL INTERMEDIARY MAY BE REVOKED, SUSPENDED, LIMITED OR
13 ANNULLED BY THE COMMISSIONER ON PROOF THAT IT HAS FAILED TO COMPLY WITH
14 THE PROVISIONS OF SUBDIVISION FOUR-A OF THIS SECTION OR REGULATIONS
15 PROMULGATED HEREUNDER.

16 (B) NO SUCH LICENSE SHALL BE REVOKED, SUSPENDED, LIMITED, ANNULLED OR
17 DENIED WITHOUT A HEARING. HOWEVER, A LICENSE MAY BE TEMPORARILY
18 SUSPENDED OR LIMITED WITHOUT A HEARING FOR A PERIOD NOT IN EXCESS OF
19 THIRTY DAYS UPON WRITTEN NOTICE TO THE FISCAL INTERMEDIARY FOLLOWING A
20 FINDING BY THE DEPARTMENT THAT THE PUBLIC HEALTH OR SAFETY IS IN IMMI-
21 NENT DANGER. SUCH PERIOD MAY BE RENEWED FOR UP TO TWO ADDITIONAL PERIODS
22 NOT IN EXCESS OF THIRTY DAYS, EACH UPON WRITTEN NOTICE, INCLUDING AN
23 OPPORTUNITY TO SUBMIT EVIDENCE AND WRITTEN ARGUMENT IN OPPOSITION TO THE
24 RENEWAL, AND A CONTINUED FINDING UNDER THIS PARAGRAPH.

25 (C) THE COMMISSIONER SHALL FIX A TIME AND PLACE FOR THE HEARING. A
26 COPY OF THE CHARGES, TOGETHER WITH THE NOTICE OF THE TIME AND PLACE OF
27 THE HEARING, SHALL BE SERVED IN PERSON OR MAILED BY REGISTERED OR CERTI-
28 FIED MAIL TO THE FISCAL INTERMEDIARY AT LEAST TWENTY-ONE DAYS BEFORE THE
29 DATE FIXED FOR THE HEARING. THE FISCAL INTERMEDIARY SHALL FILE WITH THE
30 DEPARTMENT NOT LESS THAN EIGHT DAYS PRIOR TO THE HEARING, A WRITTEN
31 ANSWER TO THE CHARGES.

32 (D) ALL ORDERS OR DETERMINATIONS UNDER THIS SUBDIVISION SHALL BE
33 SUBJECT TO REVIEW AS PROVIDED IN ARTICLE SEVENTY-EIGHT OF THE CIVIL
34 PRACTICE LAW AND RULES.

35 S 22. Intentionally omitted.

36 S 22-a. Subdivision 8 of section 4403-f of the public health law, as
37 amended by section 40-a of part B of chapter 57 of the laws of 2015, is
38 amended to read as follows:

39 8. Payment rates for managed long term care plan enrollees eligible
40 for medical assistance. The commissioner shall establish payment rates
41 for services provided to enrollees eligible under title XIX of the
42 federal social security act. Such payment rates shall be subject to
43 approval by the director of the division of the budget and shall reflect
44 savings to both state and local governments when compared to costs which
45 would be incurred by such program if enrollees were to receive compara-
46 ble health and long term care services on a fee-for-service basis in the
47 geographic region in which such services are proposed to be provided.
48 EFFECTIVE FOR RATES ESTABLISHED ON AND AFTER APRIL FIRST, TWO THOUSAND
49 SIXTEEN, WHERE COSTS ARE INCREASED IN A REGION DUE TO ELEMENTS OF
50 GEOGRAPHY, REGIONAL RESOURCE LIMITATIONS, POPULATION DENSITY AND/OR
51 OTHER REGIONAL FACTORS THE COMMISSIONER SHALL APPLY A POSITIVE REGIONAL
52 ADJUSTMENT TO THE RATES FOR PROGRAMS SERVING SUCH REGIONS. Payment rates
53 shall be risk-adjusted to take into account the characteristics of
54 enrollees, or proposed enrollees, including, but not limited to: frail-
55 ty, disability level, health and functional status, age, gender, the
56 nature of services provided to such enrollees, and other factors as

1 determined by the commissioner. The risk adjusted premiums may also be
2 combined with disincentives or requirements designed to mitigate any
3 incentives to obtain higher payment categories. In setting such payment
4 rates, the commissioner shall consider costs borne by the managed care
5 program PLANS AND SERVICE PROVIDERS to ensure actuarially sound and
6 adequate rates of payment to ensure quality of care. SOUND AND ADEQUATE
7 RATES SHALL INCLUDE BUT NOT BE LIMITED TO:

8 (A) COMPENSATION NECESSARY FOR RECRUITMENT AND RETENTION OF SUFFICIENT
9 DIRECT CARE AND SUPPORT STAFF IN COMPLIANCE WITH STATE AND FEDERAL WAGE,
10 MINIMUM WAGE, AND OVERTIME COMPENSATION BENEFITS, AS WELL AS WORKERS'
11 COMPENSATION, OTHER LABOR MANDATES, AND THE EXIGENCIES OF COMPETITIVE
12 LABOR MARKET;

13 (B) COMPLIANCE WITH STATE AND FEDERAL PROGRAM MANDATES, INCLUDING BUT
14 NOT LIMITED TO: "CONDITIONS OF PARTICIPATION" UNDER 42 CODE OF FEDERAL
15 REGULATIONS, CH. IV, PART 484;

16 (C) QUALITY ASSURANCE AND IMPROVEMENT PROGRAMS OF PROVIDERS AND
17 MANAGED LONG TERM CARE PLANS; AND

18 (D) OTHER COSTS AS THE COMMISSIONER SHALL DETERMINE ARE NECESSARY FOR
19 ENROLLEE NEEDS AND QUALITY MANAGED LONG TERM CARE PLAN AND PROVIDER
20 OPERATIONS, INCLUDING COSTS INCURRED FOR PARTICIPATION IN THE DELIVERY
21 SYSTEM REFORM INCENTIVE PAYMENT PROGRAM, FULLY INTEGRATED DUALS ADVAN-
22 TAGE PLANS, VALUE BASED PAYMENT METHODS AND OTHER STATE MEDICAID REFORM
23 INITIATIVES.

24 S 22-b. Subdivision 13 of section 3614 of the public health law, as
25 added by section 4 of part H of chapter 59 of the laws of 2011, para-
26 graph (a) as amended by section 22 of part D of chapter 57 of the laws
27 of 2015, is amended to read as follows:

28 13. (a) Notwithstanding any inconsistent provision of law or regu-
29 lation and subject to the availability of federal financial partic-
30 ipation, effective April first, two thousand twelve through March thir-
31 ty-first, two thousand nineteen, payments by government agencies for
32 services provided by certified home health agencies, except for such
33 services provided to children under eighteen years of age and other
34 discreet groups as may be determined by the commissioner pursuant to
35 regulations, shall be based on episodic payments. In establishing such
36 payments, a statewide base price shall be established for each sixty day
37 episode of care and adjusted by a regional wage index factor and an
38 individual patient case mix index. Such episodic payments may be further
39 adjusted: (I) for low utilization cases and to reflect a percentage
40 limitation of the cost for high-utilization cases that exceed outlier
41 thresholds of such payments; AND (II) TO REFLECT ADDITIONAL COSTS
42 CONSISTENT WITH SUBDIVISION EIGHT OF SECTION FORTY-FOUR HUNDRED THREE-F
43 OF THIS CHAPTER.

44 (b) Initial base year episodic payments shall be based on Medicaid
45 paid claims, as determined and adjusted by the commissioner to achieve
46 savings comparable to the prior state fiscal year, for services provided
47 by all certified home health agencies in the base year two thousand
48 nine. Subsequent base year episodic payments may be based on Medicaid
49 paid claims for services provided by all certified home health agencies
50 in a base year subsequent to two thousand nine, as determined by the
51 commissioner, provided, however, that such base year adjustment shall be
52 made not less frequently than every three years AND BE SUBJECT TO
53 FURTHER ADJUSTMENTS FOR ADDITIONAL COSTS UNDER PARAGRAPH (A) OF THIS
54 SUBDIVISION. In determining case mix, each patient shall be classified
55 using a system based on measures which may include, but not limited to,

1 clinical and functional measures, as reported on the federal Outcome and
2 Assessment Information Set (OASIS), as may be amended.

3 (c) The commissioner may require agencies to collect and submit any
4 data required to implement this subdivision. The commissioner may
5 promulgate regulations to implement the provisions of this subdivision.

6 S 22-c. Paragraph (c) of subdivision 18 of section 364-j of the social
7 services law, as added by section 40-c of part B of chapter 57 of the
8 laws of 2015, is amended to read as follows:

9 (c) In setting such reimbursement methodologies, the department shall
10 consider costs borne by the managed care program PLANS AND SERVICE
11 PROVIDERS to ensure actuarially sound and adequate rates of payment to
12 ensure quality of care CONSISTENT WITH SUBDIVISION EIGHT OF SECTION
13 FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW.

14 S 23. Subdivision 1-a of section 366 of the social services law, as
15 added by chapter 355 of the laws of 2007, is amended to read as follows:

16 1-a. Notwithstanding any other provision of law, in the event that a
17 person who is an inmate of a state or local correctional facility, as
18 defined in section two of the correction law, was in receipt of medical
19 assistance pursuant to this title immediately prior to being admitted to
20 such facility, such person shall remain eligible for medical assistance
21 while an inmate, except that no medical assistance shall be furnished
22 pursuant to this title for any care, services, or supplies provided
23 during such time as the person is an inmate; provided, however, that
24 nothing herein shall be deemed as preventing the provision of medical
25 assistance for inpatient hospital services furnished to an inmate at a
26 hospital outside of the premises of such correctional facility OR PURSU-
27 ANT TO OTHER FEDERAL AUTHORITY AUTHORIZING THE PROVISION OF MEDICAL
28 ASSISTANCE TO AN INMATE OF A STATE OR LOCAL CORRECTIONAL FACILITY DURING
29 THE THIRTY DAYS PRIOR TO RELEASE, to the extent that federal financial
30 participation is available for the costs of such services. Upon release
31 from such facility, such person shall continue to be eligible for
32 receipt of medical assistance furnished pursuant to this title until
33 such time as the person is determined to no longer be eligible for
34 receipt of such assistance. To the extent permitted by federal law, the
35 time during which such person is an inmate shall not be included in any
36 calculation of when the person must recertify his or her eligibility for
37 medical assistance in accordance with this article. THE STATE SHALL SEEK
38 FEDERAL AUTHORITY TO PROVIDE MEDICAL ASSISTANCE FOR TRANSITIONAL
39 SERVICES INCLUDING BUT NOT LIMITED TO MEDICAL, PRESCRIPTION, AND CARE
40 COORDINATION SERVICES FOR HIGH NEEDS INMATES IN STATE AND LOCAL CORREC-
41 TIONAL FACILITIES DURING THE THIRTY DAYS PRIOR TO RELEASE.

42 S 24. Section 369-gg of the social services law is amended by adding a
43 new subdivision 8-a to read as follows:

44 8-A. AN INDIVIDUAL WHO IS PERMANENTLY RESIDING IN THE UNITED STATES
45 UNDER COLOR OF LAW, AND WHOSE IMMIGRATION STATUS RENDERS HIM OR HER
46 INELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION IN THE BASIC HEALTH
47 PROGRAM UNDER 42 U.S.C. SECTION 18051, BUT OTHERWISE MEETS THE ELIGIBIL-
48 ITY REQUIREMENTS IN SUBDIVISION THREE OF THIS SECTION, SHALL BE ELIGIBLE
49 FOR THE BASIC HEALTH PROGRAM, WITHOUT REGARD TO FEDERAL FINANCIAL
50 PARTICIPATION.

51 S 25. Subdivision 1 of section 364-j of the social services law is
52 amended by adding a new paragraph (w) to read as follows:

53 (W) "SCHOOL-BASED HEALTH CENTER". A CLINIC LICENSED UNDER ARTICLE
54 TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR SPONSORED BY A FACILITY
55 LICENSED UNDER THE PUBLIC HEALTH LAW WHICH PROVIDES PRIMARY HEALTH CARE
56 SERVICES INCLUDING URGENT CARE, WELL CHILD CARE, REPRODUCTIVE HEALTH

1 CARE, DENTAL CARE, BEHAVIORAL HEALTH SERVICES, VISION CARE, AND MANAGE-
2 MENT OF CHRONIC DISEASES TO CHILDREN AND ADOLESCENTS WITHIN AN ELEMENTA-
3 RY, SECONDARY OR PREKINDERGARTEN PUBLIC SCHOOL SETTING.

4 S 26. Subdivision 2 of section 364-j of the social services law is
5 amended by adding a new paragraph (d) to read as follows:

6 (D) THE COMMISSIONER OF HEALTH SHALL BE AUTHORIZED TO INCLUDE THE
7 SERVICES OF A SCHOOL-BASED HEALTH CENTER IN THE MANAGED CARE PROGRAM
8 PURSUANT TO THIS SECTION ON AND AFTER JULY FIRST, TWO THOUSAND SEVEN-
9 TEEN.

10 S 27. Subdivision 3 of section 364-j of the social services law is
11 amended by adding a new paragraph (d-2) to read as follows:

12 (D-2) BEHAVIORAL HEALTH AND REPRODUCTIVE HEALTH CARE SERVICES PROVIDED
13 BY SCHOOL-BASED-HEALTH CENTERS SHALL NOT BE PROVIDED TO MEDICAL ASSIST-
14 ANCE RECIPIENTS THROUGH MANAGED CARE PROGRAMS ESTABLISHED PURSUANT TO
15 THIS SECTION, AND SHALL CONTINUE TO BE PROVIDED OUTSIDE OF MANAGED CARE
16 PROGRAMS IN ACCORDANCE WITH APPLICABLE REIMBURSEMENT METHODOLOGIES.
17 APPLICABLE REIMBURSEMENT METHODOLOGIES SHALL MEAN:

18 (I) FOR SCHOOL-BASED HEALTH CENTERS SPONSORED BY A FEDERALLY QUALIFIED
19 HEALTH CENTER, RATES OF REIMBURSEMENT AND REQUIREMENTS IN ACCORDANCE
20 WITH THOSE MANDATED BY 42 U.S.C. SECS. 1396A(BB), 1396(M)(2)(A)(IX) AND
21 1936(A)(13)(C); AND

22 (II) FOR SCHOOL-BASED HEALTH CENTERS SPONSORED BY AN ENTITY LICENSED
23 PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW THAT IS NOT A
24 FEDERALLY QUALIFIED HEALTH CENTER, RATES OF REIMBURSEMENT AT THE FEE FOR
25 SERVICE RATE FOR SUCH SERVICES IN EFFECT PRIOR TO THE ENACTMENT OF THIS
26 CHAPTER FOR THE AMBULATORY PATIENT GROUP RATE FOR THE APPLICABLE
27 SERVICE.

28 (III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "BEHAVIORAL HEALTH
29 SERVICES" SHALL MEAN PRIMARY PREVENTION, INDIVIDUAL MENTAL HEALTH
30 ASSESSMENT, TREATMENT AND FOLLOW-UP, CRISIS INTERVENTION, GROUP AND
31 FAMILY COUNSELING, AND SHORT AND LONG-TERM COUNSELING.

32 S 28. Paragraph (c) of subdivision 5-a of section 2807-m of the public
33 health law, as amended by section 9 of part B of chapter 60 of the laws
34 of 2014, is amended to read as follows:

35 (c) (I) Ambulatory care training. Four million nine hundred thousand
36 dollars for the period January first, two thousand eight through Decem-
37 ber thirty-first, two thousand eight, four million nine hundred thousand
38 dollars for the period January first, two thousand nine through December
39 thirty-first, two thousand nine, four million nine hundred thousand
40 dollars for the period January first, two thousand ten through December
41 thirty-first, two thousand ten, one million two hundred twenty-five
42 thousand dollars for the period January first, two thousand eleven
43 through March thirty-first, two thousand eleven, four million three
44 hundred thousand dollars each state fiscal year for the period April
45 first, two thousand eleven through March thirty-first, two thousand
46 fourteen, and up to four million sixty thousand dollars each state
47 fiscal year for the period April first, two thousand fourteen through
48 March thirty-first, two thousand seventeen, shall be set aside and
49 reserved by the commissioner from the regional pools established pursu-
50 ant to subdivision two of this section and shall be available for
51 distributions to sponsoring institutions to be directed to support clin-
52 ical training of medical students and residents in free-standing ambula-
53 tory care settings, including community health centers and private prac-
54 tices. Such funding shall be allocated regionally with two-thirds of the
55 available funding going to New York city and one-third of the available
56 funding going to the rest of the state and shall be distributed to spon-

1 soring institutions in each region pursuant to a request for application
2 or request for proposal process with preference being given to sponsor-
3 ing institutions which provide training in sites located in underserved
4 rural or inner-city areas and those that include medical students in
5 such training.

6 (II) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS
7 ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW,
8 OR ANY OTHER CONTRARY PROVISION OF LAW, ANY FUNDING NOT AWARDED IN
9 ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DISTRIBUTED
10 ON A PER RESIDENT BASIS TO TEACHING HEALTH CENTERS IN NEW YORK STATE
11 AWARDED FUNDING PURSUANT TO SECTION 5508 OF THE PATIENT AND PROTECTION
12 AFFORDABLE CARE ACT AMENDING TITLE VII OF THE UNITED STATES PUBLIC
13 HEALTH SERVICE ACT WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL
14 PROCESS.

15 S 29. Subdivision 14-f of section 2807-c of the public health law, as
16 amended by section 2 of part C of chapter 56 of the laws of 2013, is
17 amended to read as follows:

18 14-f. Public general hospital indigent care adjustment. Notwithstand-
19 ing any inconsistent provision of this section and subject to the avail-
20 ability of federal financial participation, payment for inpatient hospi-
21 tal services for persons eligible for payments made by state
22 governmental agencies for the period January first, nineteen hundred
23 ninety-seven through December thirty-first, nineteen hundred ninety-nine
24 and periods on and after January first, two thousand applicable to
25 patients eligible for federal financial participation under title XIX of
26 the federal social security act in medical assistance provided pursuant
27 to title eleven of article five of the social services law determined in
28 accordance with this section shall include for eligible public general
29 hospitals a public general hospital indigent care adjustment equal to
30 the aggregate amount of the adjustments provided for such public general
31 hospital for the period January first, nineteen hundred ninety-six
32 through December thirty-first, nineteen hundred ninety-six pursuant to
33 subdivisions fourteen-a and fourteen-d of this section on an annualized
34 basis, provided, however, that for periods on and after January first,
35 two thousand thirteen an annual amount of four hundred twelve million
36 dollars shall be allocated to eligible major public hospitals [based on
37 each hospital's proportionate share of medicaid and uninsured losses to
38 total medicaid and uninsured losses for all eligible major public hospi-
39 tals, net of any disproportionate share hospital payments received
40 pursuant to sections twenty-eight hundred seven-k and twenty-eight
41 hundred seven-w of this article] IN ACCORDANCE WITH SUBPARAGRAPH (I) OF
42 PARAGRAPH (B) OF SUBDIVISION FIVE-D OF SECTION TWENTY-EIGHT HUNDRED
43 SEVEN-K OF THIS ARTICLE AND REGULATIONS ESTABLISHED THEREUNDER. The
44 adjustment may be made to rates of payment or as aggregate payments to
45 an eligible hospital.

46 S 30. The social services law is amended by adding a new section 365-i
47 to read as follows:

48 S 365-I. PRESCRIPTION DRUGS IN MEDICAID MANAGED CARE PROGRAMS. 1.
49 DEFINITIONS. (A) THE DEFINITIONS OF TERMS IN SECTION TWO HUNDRED SEVENTY
50 OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS SECTION.

51 (B) AS USED IN THIS SECTION, UNLESS THE CONTEXT CLEARLY REQUIRES
52 OTHERWISE:

53 (I) "MANAGED CARE PROVIDER" MEANS A MANAGED CARE PROVIDER UNDER
54 SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS ARTICLE, A MANAGED LONG TERM
55 CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH
56 LAW, OR ANY OTHER ENTITY THAT PROVIDES OR ARRANGES FOR THE PROVISION OF

1 MEDICAL ASSISTANCE SERVICES AND SUPPLIES TO PARTICIPANTS DIRECTLY OR
2 INDIRECTLY (INCLUDING BY REFERRAL), INCLUDING CASE MANAGEMENT, INCLUDING
3 THE MANAGED CARE PROVIDER'S AUTHORIZED AGENTS.

4 (II) "PARTICIPANT" MEANS A MEDICAL ASSISTANCE RECIPIENT WHO RECEIVES,
5 IS REQUIRED TO RECEIVE OR ELECTS TO RECEIVE HIS OR HER MEDICAL ASSIST-
6 ANCE SERVICES FROM A MANAGED CARE PROVIDER.

7 2. PROVIDING AND PAYMENT FOR PRESCRIPTION DRUGS FOR MEDICAID MANAGED
8 CARE PROVIDER PARTICIPANTS. NOTWITHSTANDING ANY INCONSISTENT PROVISION
9 OF LAW OR REGULATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINAN-
10 CIAL PARTICIPATION, WHICH THE COMMISSIONER OF THE DEPARTMENT OF HEALTH
11 SHALL SEEK, PRESCRIPTION DRUGS ELIGIBLE FOR REIMBURSEMENT UNDER THIS
12 ARTICLE PRESCRIBED IN RELATION TO A SERVICE PROVIDED BY A MANAGED CARE
13 PROVIDER SHALL BE PROVIDED AND PAID FOR UNDER THE PREFERRED DRUG PROGRAM
14 AND THE CLINICAL DRUG REVIEW PROGRAM UNDER TITLE ONE OF ARTICLE TWO-A OF
15 THE PUBLIC HEALTH LAW. THE MANAGED CARE PROVIDER SHALL ACCOUNT TO AND
16 REIMBURSE THE DEPARTMENT FOR THE NET COST TO THE DEPARTMENT FOR
17 PRESCRIPTION DRUGS PROVIDED TO THE MANAGED CARE PROVIDER'S PARTICIPANTS.
18 PAYMENT FOR PRESCRIPTION DRUGS SHALL BE INCLUDED IN THE CAPITATION
19 PAYMENTS TO THE MANAGED CARE PROVIDER FOR SERVICES OR SUPPLIES PROVIDED
20 TO A MANAGED CARE PROVIDER'S PARTICIPANTS.

21 S 31. Section 270 of the public health law is amended by adding a new
22 subdivision 15 to read as follows:

23 15. "THIRD-PARTY HEALTH CARE PAYER" HAS ITS ORDINARY MEANINGS AND
24 INCLUDES AN ENTITY SUCH AS A FISCAL ADMINISTRATOR, OR ADMINISTRATIVE
25 SERVICES PROVIDER THAT PARTICIPATES IN THE ADMINISTRATION OF A
26 THIRD-PARTY HEALTH CARE PAYER SYSTEM.

27 S 32. The public health law is amended by adding a new section 274-a
28 to read as follows:

29 S 274-A. USE OF PREFERRED DRUG PROGRAM AND CLINICAL DRUG REVIEW
30 PROGRAM. THE COMMISSIONER SHALL CONTRACT WITH ANY THIRD-PARTY HEALTH
31 CARE PAYER THAT SO CHOOSES, TO USE THE PREFERRED DRUG PROGRAM AND THE
32 CLINICAL DRUG REVIEW PROGRAM TO PROVIDE AND PAY FOR PRESCRIPTION DRUGS
33 FOR THE THIRD-PARTY HEALTH CARE PAYER'S ENROLLEES. TO CONTRACT UNDER
34 THIS SECTION, THE THIRD-PARTY HEALTH CARE PAYER SHALL PROVIDE COVERAGE
35 FOR PRESCRIPTION DRUGS AUTHORIZED UNDER THIS TITLE. THE THIRD-PARTY
36 HEALTH CARE PAYER SHALL ACCOUNT TO AND REIMBURSE THE DEPARTMENT FOR THE
37 NET COST TO THE DEPARTMENT FOR PRESCRIPTION DRUGS PROVIDED TO THE
38 THIRD-PARTY HEALTH CARE PAYER'S ENROLLEES. THE CONTRACT SHALL INCLUDE
39 TERMS REQUIRED BY THE COMMISSIONER.

40 S 33. Subdivisions 25 and 25-a of section 364-j of the social services
41 law are REPEALED.

42 S 34. Notwithstanding any provision of law, rule or regulation to the
43 contrary, and subject to the availability of federal financial partic-
44 ipation, for periods on and after April 1, 2015, payments made to
45 managed care providers, as defined in section 364-j of the social
46 services law, that have been approved to participate, together with
47 hospitals operated by a public benefit corporation located in a city of
48 more than one million persons, in the department's Value Based Payment
49 Quality Improvement Program may, at the election of the social services
50 district in which such public benefit corporation is located, be
51 increased by an annual aggregate amount of up to one hundred twenty
52 million dollars, which amount shall not be reduced by the amount of any
53 applicable tax or surcharge; provided, however that, notwithstanding the
54 social services district medicaid cap provisions of part C of chapter
55 fifty-eight of the laws of two thousand five, as amended, such social

1 services district shall be responsible for payment of one hundred
2 percent of the non-federal share of such increase.

3 S 35. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2016; provided
5 that:

6 (a) sections one and two of this act shall take effect October 1,
7 2016;

8 (b) the amendments to subdivision 4 of section 365-h of the social
9 services law, made by section one of this act, shall not affect the
10 expiration and repeal of certain provisions of such section, and shall
11 expire and be deemed repealed therewith;

12 (c) the amendments to subparagraph (i) of paragraph (b) of subdivision
13 7 of section 4403-f of the public health law, made by section two of
14 this act, shall not affect the expiration of such paragraph or the
15 repeal of such section, and shall expire or be deemed repealed there-
16 with;

17 (d) Intentionally omitted.

18 (e) Intentionally omitted.

19 (f) Intentionally omitted.

20 (g) Intentionally omitted.

21 (h) Intentionally omitted.

22 (i) subdivisions 26-a, 32, paragraph (w) of subdivision 1, paragraph
23 (d) of subdivision 2 and paragraph (d-2) of subdivision 3 of section
24 364-j of the social services law, as added by sections fourteen,
25 fifteen, twenty-five, twenty-six and twenty-seven of this act shall be
26 deemed repealed on the same date and in the same manner as such section
27 is repealed.

28 (j) the amendments to paragraph (b) of subdivision 7 of section 4403-f
29 of the public health law made by section nineteen of this act shall not
30 affect the expiration and reversion of such paragraph and shall be
31 deemed to expire therewith; and provided further that such amendments to
32 section 4403-f of the public health law made by section nineteen of this
33 act shall not affect the repeal of such section and shall be deemed
34 repealed therewith;

35 (k) section twenty-one of this act shall take effect on the first of
36 July after it shall have become a law; provided that, effective imme-
37 diately, the commissioner of health shall make regulations and take
38 other actions, including issuing licenses under section 365-f of the
39 social services law as amended by this act, to implement this act on
40 that date;

41 (l) the amendments to subdivision 8 of section 4403-f of the public
42 health law made by section twenty-two-a of this act shall not affect the
43 repeal of such section and shall be deemed repealed therewith;

44 (m) the amendments to paragraph (c) of subdivision 18 of section 364-j
45 of the social services law made by section twenty-two-c of this act
46 shall not affect the repeal of such section and shall be deemed repealed
47 therewith;

48 (n) section twenty-three of this act shall take effect on the one
49 hundred eightieth day after it shall have become a law.

50 (o) the amendments to subdivision 14-f of section 2807-c of the public
51 health law made by section twenty-nine of this act shall not affect the
52 expiration of such subdivision and shall be deemed to expire therewith.

53

PART C

54 Section 1. Intentionally omitted.

1 S 2. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of
2 the laws of 1986, amending the civil practice law and rules and other
3 laws relating to malpractice and professional medical conduct, as
4 amended by section 1 of part Y of chapter 57 of the laws of 2015, is
5 amended to read as follows:

6 (a) The superintendent of financial services and the commissioner of
7 health or their designee shall, from funds available in the hospital
8 excess liability pool created pursuant to subdivision 5 of this section,
9 purchase a policy or policies for excess insurance coverage, as author-
10 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
11 law; or from an insurer, other than an insurer described in section 5502
12 of the insurance law, duly authorized to write such coverage and actual-
13 ly writing medical malpractice insurance in this state; or shall
14 purchase equivalent excess coverage in a form previously approved by the
15 superintendent of financial services for purposes of providing equiv-
16 alent excess coverage in accordance with section 19 of chapter 294 of
17 the laws of 1985, for medical or dental malpractice occurrences between
18 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
19 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
20 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
21 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
22 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
23 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
24 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
25 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
26 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
27 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
28 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
29 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
30 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
31 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
32 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
33 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
34 1, 2014 and June 30, 2015, [and] between July 1, 2015 and June 30, 2016,
35 AND BETWEEN JULY 1, 2016 AND JUNE 30, 2017 or reimburse the hospital
36 where the hospital purchases equivalent excess coverage as defined in
37 subparagraph (i) of paragraph (a) of subdivision 1-a of this section for
38 medical or dental malpractice occurrences between July 1, 1987 and June
39 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
40 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
41 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
42 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
43 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
44 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
45 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
46 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
47 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
48 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
49 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
50 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
51 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
52 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
53 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
54 between July 1, 2014 and June 30, 2015, [and] between July 1, 2015 and
55 June 30, 2016, AND BETWEEN JULY 1, 2016 AND JUNE 30, 2017 for physicians
56 or dentists certified as eligible for each such period or periods pursu-

1 ant to subdivision 2 of this section by a general hospital licensed
2 pursuant to article 28 of the public health law; provided that no single
3 insurer shall write more than fifty percent of the total excess premium
4 for a given policy year; and provided, however, that such eligible
5 physicians or dentists must have in force an individual policy, from an
6 insurer licensed in this state of primary malpractice insurance coverage
7 in amounts of no less than one million three hundred thousand dollars
8 for each claimant and three million nine hundred thousand dollars for
9 all claimants under that policy during the period of such excess cover-
10 age for such occurrences or be endorsed as additional insureds under a
11 hospital professional liability policy which is offered through a volun-
12 tary attending physician ("channeling") program previously permitted by
13 the superintendent of financial services during the period of such
14 excess coverage for such occurrences. During such period, such policy
15 for excess coverage or such equivalent excess coverage shall, when
16 combined with the physician's or dentist's primary malpractice insurance
17 coverage or coverage provided through a voluntary attending physician
18 ("channeling") program, total an aggregate level of two million three
19 hundred thousand dollars for each claimant and six million nine hundred
20 thousand dollars for all claimants from all such policies with respect
21 to occurrences in each of such years provided, however, if the cost of
22 primary malpractice insurance coverage in excess of one million dollars,
23 but below the excess medical malpractice insurance coverage provided
24 pursuant to this act, exceeds the rate of nine percent per annum, then
25 the required level of primary malpractice insurance coverage in excess
26 of one million dollars for each claimant shall be in an amount of not
27 less than the dollar amount of such coverage available at nine percent
28 per annum; the required level of such coverage for all claimants under
29 that policy shall be in an amount not less than three times the dollar
30 amount of coverage for each claimant; and excess coverage, when combined
31 with such primary malpractice insurance coverage, shall increase the
32 aggregate level for each claimant by one million dollars and three
33 million dollars for all claimants; and provided further, that, with
34 respect to policies of primary medical malpractice coverage that include
35 occurrences between April 1, 2002 and June 30, 2002, such requirement
36 that coverage be in amounts no less than one million three hundred thou-
37 sand dollars for each claimant and three million nine hundred thousand
38 dollars for all claimants for such occurrences shall be effective April
39 1, 2002.

40 S 3. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
41 amending the civil practice law and rules and other laws relating to
42 malpractice and professional medical conduct, as amended by section 2 of
43 part Y of chapter 57 of the laws of 2015, is amended to read as follows:

44 (3)(a) The superintendent of financial services shall determine and
45 certify to each general hospital and to the commissioner of health the
46 cost of excess malpractice insurance for medical or dental malpractice
47 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
48 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
49 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
50 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
51 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
52 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
53 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
54 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
55 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
56 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July

1 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
2 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
3 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
4 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
5 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
6 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
7 30, 2015, [and] between July 1, 2015 and June 30, 2016, AND BETWEEN JULY
8 1, 2016 AND JUNE 30, 2017 allocable to each general hospital for physi-
9 cians or dentists certified as eligible for purchase of a policy for
10 excess insurance coverage by such general hospital in accordance with
11 subdivision 2 of this section, and may amend such determination and
12 certification as necessary.

13 (b) The superintendent of financial services shall determine and
14 certify to each general hospital and to the commissioner of health the
15 cost of excess malpractice insurance or equivalent excess coverage for
16 medical or dental malpractice occurrences between July 1, 1987 and June
17 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
18 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
19 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
20 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
21 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
22 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
23 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
24 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
25 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
26 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
27 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
28 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
29 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
30 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
31 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
32 between July 1, 2014 and June 30, 2015, [and] between July 1, 2015 and
33 June 30, 2016, AND BETWEEN JULY 1, 2016 AND JUNE 30, 2017 allocable to
34 each general hospital for physicians or dentists certified as eligible
35 for purchase of a policy for excess insurance coverage or equivalent
36 excess coverage by such general hospital in accordance with subdivision
37 2 of this section, and may amend such determination and certification as
38 necessary. The superintendent of financial services shall determine and
39 certify to each general hospital and to the commissioner of health the
40 ratable share of such cost allocable to the period July 1, 1987 to
41 December 31, 1987, to the period January 1, 1988 to June 30, 1988, to
42 the period July 1, 1988 to December 31, 1988, to the period January 1,
43 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989,
44 to the period January 1, 1990 to June 30, 1990, to the period July 1,
45 1990 to December 31, 1990, to the period January 1, 1991 to June 30,
46 1991, to the period July 1, 1991 to December 31, 1991, to the period
47 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
48 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
49 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
50 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
51 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
52 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
53 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
54 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
55 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
56 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period

1 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
2 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
3 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,
4 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
5 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
6 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
7 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
8 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
9 June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the
10 period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and
11 June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the
12 period July 1, 2014 and June 30, 2015, [and] to the period July 1, 2015
13 and June 30, 2016, AND TO THE PERIOD JULY 1, 2016 AND JUNE 30, 2017.

14 S 4. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
15 18 of chapter 266 of the laws of 1986, amending the civil practice law
16 and rules and other laws relating to malpractice and professional
17 medical conduct, as amended by section 3 of part Y of chapter 57 of the
18 laws of 2015, are amended to read as follows:

19 (a) To the extent funds available to the hospital excess liability
20 pool pursuant to subdivision 5 of this section as amended, and pursuant
21 to section 6 of part J of chapter 63 of the laws of 2001, as may from
22 time to time be amended, which amended this subdivision, are insuffi-
23 cient to meet the costs of excess insurance coverage or equivalent
24 excess coverage for coverage periods during the period July 1, 1992 to
25 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
26 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
27 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
28 during the period July 1, 1997 to June 30, 1998, during the period July
29 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
30 2000, during the period July 1, 2000 to June 30, 2001, during the period
31 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
32 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
33 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
34 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
35 during the period July 1, 2006 to June 30, 2007, during the period July
36 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
37 2009, during the period July 1, 2009 to June 30, 2010, during the period
38 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
39 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
40 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
41 June 30, 2015, [and] during the period July 1, 2015 and June 30, 2016,
42 AND DURING THE PERIOD JULY 1, 2016 AND JUNE 30, 2017 allocated or real-
43 located in accordance with paragraph (a) of subdivision 4-a of this
44 section to rates of payment applicable to state governmental agencies,
45 each physician or dentist for whom a policy for excess insurance cover-
46 age or equivalent excess coverage is purchased for such period shall be
47 responsible for payment to the provider of excess insurance coverage or
48 equivalent excess coverage of an allocable share of such insufficiency,
49 based on the ratio of the total cost of such coverage for such physician
50 to the sum of the total cost of such coverage for all physicians applied
51 to such insufficiency.

52 (b) Each provider of excess insurance coverage or equivalent excess
53 coverage covering the period July 1, 1992 to June 30, 1993, or covering
54 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
55 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
56 1996, or covering the period July 1, 1996 to June 30, 1997, or covering

1 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
2 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
3 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
4 the period July 1, 2001 to October 29, 2001, or covering the period
5 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
6 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
7 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
8 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
9 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
10 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
11 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
12 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
13 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
14 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
15 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, OR
16 COVERING THE PERIOD JULY 1, 2016 TO JUNE 30, 2017 shall notify a covered
17 physician or dentist by mail, mailed to the address shown on the last
18 application for excess insurance coverage or equivalent excess coverage,
19 of the amount due to such provider from such physician or dentist for
20 such coverage period determined in accordance with paragraph (a) of this
21 subdivision. Such amount shall be due from such physician or dentist to
22 such provider of excess insurance coverage or equivalent excess coverage
23 in a time and manner determined by the superintendent of financial
24 services.

25 (c) If a physician or dentist liable for payment of a portion of the
26 costs of excess insurance coverage or equivalent excess coverage cover-
27 ing the period July 1, 1992 to June 30, 1993, or covering the period
28 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
29 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
30 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
31 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
32 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
33 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
34 od July 1, 2001 to October 29, 2001, or covering the period April 1,
35 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
36 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
37 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
38 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
39 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
40 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
41 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
42 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
43 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
44 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
45 2015, or covering the period July 1, 2015 to June 30, 2016, OR COVERING
46 THE PERIOD JULY 1, 2016 TO JUNE 30, 2017 determined in accordance with
47 paragraph (a) of this subdivision fails, refuses or neglects to make
48 payment to the provider of excess insurance coverage or equivalent
49 excess coverage in such time and manner as determined by the superinten-
50 dent of financial services pursuant to paragraph (b) of this subdivi-
51 sion, excess insurance coverage or equivalent excess coverage purchased
52 for such physician or dentist in accordance with this section for such
53 coverage period shall be cancelled and shall be null and void as of the
54 first day on or after the commencement of a policy period where the
55 liability for payment pursuant to this subdivision has not been met.

1 (d) Each provider of excess insurance coverage or equivalent excess
2 coverage shall notify the superintendent of financial services and the
3 commissioner of health or their designee of each physician and dentist
4 eligible for purchase of a policy for excess insurance coverage or
5 equivalent excess coverage covering the period July 1, 1992 to June 30,
6 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
7 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
8 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
9 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
10 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
11 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
12 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
13 ing the period April 1, 2002 to June 30, 2002, or covering the period
14 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
15 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
16 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
17 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
18 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
19 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
20 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
21 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
22 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
23 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
24 June 30, 2016, OR COVERING THE PERIOD JULY 1, 2016 TO JUNE 30, 2017 that
25 has made payment to such provider of excess insurance coverage or equiv-
26 alent excess coverage in accordance with paragraph (b) of this subdivi-
27 sion and of each physician and dentist who has failed, refused or
28 neglected to make such payment.

29 (e) A provider of excess insurance coverage or equivalent excess
30 coverage shall refund to the hospital excess liability pool any amount
31 allocable to the period July 1, 1992 to June 30, 1993, and to the period
32 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
33 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
34 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
35 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
36 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
37 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
38 and to the period April 1, 2002 to June 30, 2002, and to the period July
39 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
40 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
41 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
42 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
43 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
44 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
45 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
46 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
47 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
48 2015 to June 30, 2016, AND TO THE PERIOD JULY 1, 2016 TO JUNE 30, 2017
49 received from the hospital excess liability pool for purchase of excess
50 insurance coverage or equivalent excess coverage covering the period
51 July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to
52 June 30, 1994, and covering the period July 1, 1994 to June 30, 1995,
53 and covering the period July 1, 1995 to June 30, 1996, and covering the
54 period July 1, 1996 to June 30, 1997, and covering the period July 1,
55 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30,
56 1999, and covering the period July 1, 1999 to June 30, 2000, and cover-

1 ing the period July 1, 2000 to June 30, 2001, and covering the period
2 July 1, 2001 to October 29, 2001, and covering the period April 1, 2002
3 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003,
4 and covering the period July 1, 2003 to June 30, 2004, and covering the
5 period July 1, 2004 to June 30, 2005, and covering the period July 1,
6 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30,
7 2007, and covering the period July 1, 2007 to June 30, 2008, and cover-
8 ing the period July 1, 2008 to June 30, 2009, and covering the period
9 July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to
10 June 30, 2011, and covering the period July 1, 2011 to June 30, 2012,
11 and covering the period July 1, 2012 to June 30, 2013, and covering the
12 period July 1, 2013 to June 30, 2014, and covering the period July 1,
13 2014 to June 30, 2015, and covering the period July 1, 2015 to June 30,
14 2016, AND COVERING THE PERIOD JULY 1, 2016 TO JUNE 30, 2017 for a physi-
15 cian or dentist where such excess insurance coverage or equivalent
16 excess coverage is cancelled in accordance with paragraph (c) of this
17 subdivision.

18 S 5. Section 40 of chapter 266 of the laws of 1986, amending the civil
19 practice law and rules and other laws relating to malpractice and
20 professional medical conduct, as amended by section 4 of part Y of chap-
21 ter 57 of the laws of 2015, is amended to read as follows:

22 S 40. The superintendent of financial services shall establish rates
23 for policies providing coverage for physicians and surgeons medical
24 malpractice for the periods commencing July 1, 1985 and ending June 30,
25 [2016] 2017; provided, however, that notwithstanding any other provision
26 of law, the superintendent shall not establish or approve any increase
27 in rates for the period commencing July 1, 2009 and ending June 30,
28 2010. The superintendent shall direct insurers to establish segregated
29 accounts for premiums, payments, reserves and investment income attrib-
30 utable to such premium periods and shall require periodic reports by the
31 insurers regarding claims and expenses attributable to such periods to
32 monitor whether such accounts will be sufficient to meet incurred claims
33 and expenses. On or after July 1, 1989, the superintendent shall impose
34 a surcharge on premiums to satisfy a projected deficiency that is
35 attributable to the premium levels established pursuant to this section
36 for such periods; provided, however, that such annual surcharge shall
37 not exceed eight percent of the established rate until July 1, [2016]
38 2017, at which time and thereafter such surcharge shall not exceed twen-
39 ty-five percent of the approved adequate rate, and that such annual
40 surcharges shall continue for such period of time as shall be sufficient
41 to satisfy such deficiency. The superintendent shall not impose such
42 surcharge during the period commencing July 1, 2009 and ending June 30,
43 2010. On and after July 1, 1989, the surcharge prescribed by this
44 section shall be retained by insurers to the extent that they insured
45 physicians and surgeons during the July 1, 1985 through June 30, [2016]
46 2017 policy periods; in the event and to the extent physicians and
47 surgeons were insured by another insurer during such periods, all or a
48 pro rata share of the surcharge, as the case may be, shall be remitted
49 to such other insurer in accordance with rules and regulations to be
50 promulgated by the superintendent. Surcharges collected from physicians
51 and surgeons who were not insured during such policy periods shall be
52 apportioned among all insurers in proportion to the premium written by
53 each insurer during such policy periods; if a physician or surgeon was
54 insured by an insurer subject to rates established by the superintendent
55 during such policy periods, and at any time thereafter a hospital,
56 health maintenance organization, employer or institution is responsible

1 for responding in damages for liability arising out of such physician's
2 or surgeon's practice of medicine, such responsible entity shall also
3 remit to such prior insurer the equivalent amount that would then be
4 collected as a surcharge if the physician or surgeon had continued to
5 remain insured by such prior insurer. In the event any insurer that
6 provided coverage during such policy periods is in liquidation, the
7 property/casualty insurance security fund shall receive the portion of
8 surcharges to which the insurer in liquidation would have been entitled.
9 The surcharges authorized herein shall be deemed to be income earned for
10 the purposes of section 2303 of the insurance law. The superintendent,
11 in establishing adequate rates and in determining any projected defi-
12 ciency pursuant to the requirements of this section and the insurance
13 law, shall give substantial weight, determined in his discretion and
14 judgment, to the prospective anticipated effect of any regulations
15 promulgated and laws enacted and the public benefit of stabilizing
16 malpractice rates and minimizing rate level fluctuation during the peri-
17 od of time necessary for the development of more reliable statistical
18 experience as to the efficacy of such laws and regulations affecting
19 medical, dental or podiatric malpractice enacted or promulgated in 1985,
20 1986, by this act and at any other time. Notwithstanding any provision
21 of the insurance law, rates already established and to be established by
22 the superintendent pursuant to this section are deemed adequate if such
23 rates would be adequate when taken together with the maximum authorized
24 annual surcharges to be imposed for a reasonable period of time whether
25 or not any such annual surcharge has been actually imposed as of the
26 establishment of such rates.

27 S 6. Section 5 and subdivisions (a) and (e) of section 6 of part J of
28 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
29 1986, amending the civil practice law and rules and other laws relating
30 to malpractice and professional medical conduct, as amended by section 5
31 of part Y of chapter 57 of the laws of 2015, are amended to read as
32 follows:

33 S 5. The superintendent of financial services and the commissioner of
34 health shall determine, no later than June 15, 2002, June 15, 2003, June
35 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
36 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
37 2013, June 15, 2014, June 15, 2015, [and] June 15, 2016, AND JUNE 15,
38 2017 the amount of funds available in the hospital excess liability
39 pool, created pursuant to section 18 of chapter 266 of the laws of 1986,
40 and whether such funds are sufficient for purposes of purchasing excess
41 insurance coverage for eligible participating physicians and dentists
42 during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June
43 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
44 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
45 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
46 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
47 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
48 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
49 2015, or July 1, 2015 to June 30, 2016, OR JULY 1, 2016 TO JUNE 30,
50 2017, as applicable.

51 (a) This section shall be effective only upon a determination, pursu-
52 ant to section five of this act, by the superintendent of financial
53 services and the commissioner of health, and a certification of such
54 determination to the state director of the budget, the chair of the
55 senate committee on finance and the chair of the assembly committee on
56 ways and means, that the amount of funds in the hospital excess liabil-

1 ity pool, created pursuant to section 18 of chapter 266 of the laws of
2 1986, is insufficient for purposes of purchasing excess insurance cover-
3 age for eligible participating physicians and dentists during the period
4 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
5 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
6 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
7 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
8 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
9 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
10 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
11 2016, OR JULY 1, 2016 TO JUNE 30, 2017, as applicable.

12 (e) The commissioner of health shall transfer for deposit to the
13 hospital excess liability pool created pursuant to section 18 of chapter
14 266 of the laws of 1986 such amounts as directed by the superintendent
15 of financial services for the purchase of excess liability insurance
16 coverage for eligible participating physicians and dentists for the
17 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
18 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
19 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
20 2007, as applicable, and the cost of administering the hospital excess
21 liability pool for such applicable policy year, pursuant to the program
22 established in chapter 266 of the laws of 1986, as amended, no later
23 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
24 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
25 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
26 2015, [and] June 15, 2016, AND JUNE 15, 2017, as applicable.

27 S 7. Notwithstanding any law, rule or regulation to the contrary, only
28 physicians or dentists who were eligible, and for whom the superinten-
29 dent of financial services and the commissioner of health, or their
30 designee, purchased, with funds available in the hospital excess liabil-
31 ity pool, a full or partial policy for excess coverage or equivalent
32 excess coverage for the coverage period ending the thirtieth of June,
33 two thousand sixteen, shall be eligible to apply for such coverage for
34 the coverage period beginning the first of July, two thousand sixteen;
35 provided, however, if the total number of physicians or dentists for
36 whom such excess coverage or equivalent excess coverage was purchased
37 for the policy year ending the thirtieth of June, two thousand sixteen
38 exceeds the total number of physicians or dentists certified as eligible
39 for the coverage period beginning the first of July, two thousand
40 sixteen, then the general hospitals may certify additional eligible
41 physicians or dentists in a number equal to such general hospital's
42 proportional share of the total number of physicians or dentists for
43 whom excess coverage or equivalent excess coverage was purchased with
44 funds available in the hospital excess liability pool as of the thirti-
45 eth of June, two thousand sixteen, as applied to the difference between
46 the number of eligible physicians or dentists for whom a policy for
47 excess coverage or equivalent excess coverage was purchased for the
48 coverage period ending the thirtieth of June, two thousand sixteen and
49 the number of such eligible physicians or dentists who have applied for
50 excess coverage or equivalent excess coverage for the coverage period
51 beginning the first of July, two thousand sixteen.

52 S 8. This act shall take effect immediately and shall be deemed to
53 have been in full force and effect on and after April 1, 2016, provided,
54 however, section two of this act shall take effect July 1, 2016.

1 Section 1. Paragraph (a) of subdivision 1 of section 212 of chapter
2 474 of the laws of 1996, amending the education law and other laws
3 relating to rates for residential healthcare facilities, as amended by
4 section 2 of part B of chapter 56 of the laws of 2013, is amended to
5 read as follows:

6 (a) Notwithstanding any inconsistent provision of law or regulation to
7 the contrary, effective beginning August 1, 1996, for the period April
8 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
9 1998 through March 31, 1999, August 1, 1999, for the period April 1,
10 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
11 through March 31, 2001, April 1, 2001, for the period April 1, 2001
12 through March 31, 2002, April 1, 2002, for the period April 1, 2002
13 through March 31, 2003, and for the state fiscal year beginning April 1,
14 2005 through March 31, 2006, and for the state fiscal year beginning
15 April 1, 2006 through March 31, 2007, and for the state fiscal year
16 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
17 year beginning April 1, 2008 through March 31, 2009, and for the state
18 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
19 state fiscal year beginning April 1, 2010 through March 31, [2016,]
20 2019, the department of health is authorized to pay public general
21 hospitals, as defined in subdivision 10 of section 2801 of the public
22 health law, operated by the state of New York or by the state university
23 of New York or by a county, which shall not include a city with a popu-
24 lation of over one million, of the state of New York, and those public
25 general hospitals located in the county of Westchester, the county of
26 Erie or the county of Nassau, additional payments for inpatient hospital
27 services as medical assistance payments pursuant to title 11 of article
28 5 of the social services law for patients eligible for federal financial
29 participation under title XIX of the federal social security act in
30 medical assistance pursuant to the federal laws and regulations govern-
31 ing disproportionate share payments to hospitals up to one hundred
32 percent of each such public general hospital's medical assistance and
33 uninsured patient losses after all other medical assistance, including
34 disproportionate share payments to such public general hospital for
35 1996, 1997, 1998, and 1999, based initially for 1996 on reported 1994
36 reconciled data as further reconciled to actual reported 1996 reconciled
37 data, and for 1997 based initially on reported 1995 reconciled data as
38 further reconciled to actual reported 1997 reconciled data, for 1998
39 based initially on reported 1995 reconciled data as further reconciled
40 to actual reported 1998 reconciled data, for 1999 based initially on
41 reported 1995 reconciled data as further reconciled to actual reported
42 1999 reconciled data, for 2000 based initially on reported 1995 recon-
43 ciled data as further reconciled to actual reported 2000 data, for 2001
44 based initially on reported 1995 reconciled data as further reconciled
45 to actual reported 2001 data, for 2002 based initially on reported 2000
46 reconciled data as further reconciled to actual reported 2002 data, and
47 for state fiscal years beginning on April 1, 2005, based initially on
48 reported 2000 reconciled data as further reconciled to actual reported
49 data for 2005, and for state fiscal years beginning on April 1, 2006,
50 based initially on reported 2000 reconciled data as further reconciled
51 to actual reported data for 2006, for state fiscal years beginning on
52 and after April 1, 2007 through March 31, 2009, based initially on
53 reported 2000 reconciled data as further reconciled to actual reported
54 data for 2007 and 2008, respectively, for state fiscal years beginning
55 on and after April 1, 2009, based initially on reported 2007 reconciled
56 data, adjusted for authorized Medicaid rate changes applicable to the

1 state fiscal year, and as further reconciled to actual reported data for
2 2009, for state fiscal years beginning on and after April 1, 2010, based
3 initially on reported reconciled data from the base year two years prior
4 to the payment year, adjusted for authorized Medicaid rate changes
5 applicable to the state fiscal year, and further reconciled to actual
6 reported data from such payment year, and to actual reported data for
7 each respective succeeding year. The payments may be added to rates of
8 payment or made as aggregate payments to an eligible public general
9 hospital.

10 S 2. Section 10 of chapter 649 of the laws of 1996, amending the
11 public health law, the mental hygiene law and the social services law
12 relating to authorizing the establishment of special needs plans, as
13 amended by section 20 of part D of chapter 59 of the laws of 2011, is
14 amended to read as follows:

15 S 10. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after July 1, 1996; provided,
17 however, that sections one, two and three of this act shall expire and
18 be deemed repealed on March 31, [2016] 2020 provided, however that the
19 amendments to section 364-j of the social services law made by section
20 four of this act shall not affect the expiration of such section and
21 shall be deemed to expire therewith and provided, further, that the
22 provisions of subdivisions 8, 9 and 10 of section 4401 of the public
23 health law, as added by section one of this act; section 4403-d of the
24 public health law as added by section two of this act and the provisions
25 of section seven of this act, except for the provisions relating to the
26 establishment of no more than twelve comprehensive HIV special needs
27 plans, shall expire and be deemed repealed on July 1, 2000.

28 S 3. Subdivision 8 of section 84 of part A of chapter 56 of the laws
29 of 2013, amending the public health law and other laws relating to
30 general hospital reimbursement for annual rates, as amended by section
31 14 of part C of chapter 60 of the laws of 2014, is amended to read as
32 follows:

33 8. section forty-eight-a of this act shall expire and be deemed
34 repealed [January 1, 2018] MARCH 31, 2020;

35 S 4. Subdivision (f) of section 129 of part C of chapter 58 of the
36 laws of 2009, amending the public health law relating to payment by
37 governmental agencies for general hospital inpatient services, as
38 amended by section 1 of part B of chapter 56 of the laws of 2013, is
39 amended to read as follows:

40 (f) section twenty-five of this act shall expire and be deemed
41 repealed April 1, [2016] 2019;

42 S 5. Subdivision (c) of section 122 of part E of chapter 56 of the
43 laws of 2013 amending the public health law relating to the general
44 public health work program is amended to read as follows:

45 (c) section fifty of this act shall take effect immediately and shall
46 expire [three] SIX years after it becomes law;

47 S 6. This act shall take effect immediately and shall be deemed to
48 have been in full force and effect on and after April 1, 2016.

49 PART E

50 Intentionally Omitted

51 PART F

1 Section 1. The public health law is amended by adding a new section
2 2825-d to read as follows:

3 S 2825-D. HEALTH CARE FACILITY TRANSFORMATION PROGRAM: STATEWIDE. 1.
4 A STATEWIDE HEALTH CARE FACILITY TRANSFORMATION PROGRAM IS HEREBY ESTAB-
5 LISHED UNDER THE JOINT ADMINISTRATION OF THE COMMISSIONER AND THE PRESI-
6 DENT OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK FOR THE PURPOSE
7 OF STRENGTHENING AND PROTECTING CONTINUED ACCESS TO HEALTH CARE SERVICES
8 IN COMMUNITIES. THE PROGRAM SHALL PROVIDE CAPITAL FUNDING IN SUPPORT OF
9 PROJECTS THAT REPLACE INEFFICIENT AND OUTDATED FACILITIES AS PART OF A
10 MERGER, CONSOLIDATION, ACQUISITION OR OTHER SIGNIFICANT CORPORATE
11 RESTRUCTURING ACTIVITY THAT IS PART OF AN OVERALL TRANSFORMATION PLAN
12 INTENDED TO CREATE A FINANCIALLY SUSTAINABLE SYSTEM OF CARE. THE ISSU-
13 ANCE OF ANY BONDS OR NOTES HEREUNDER SHALL BE SUBJECT TO THE APPROVAL OF
14 THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND ANY PROJECTS FUNDED
15 THROUGH THE ISSUANCE OF BONDS OR NOTES HEREUNDER SHALL BE APPROVED BY
16 THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, AS REQUIRED UNDER
17 SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW.

18 2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER
19 INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET,
20 AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORI-
21 TIES LAW, FOR THE PURPOSES OF AWARDING, DISTRIBUTING, AND ADMINISTERING
22 THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE
23 DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR
24 CAPITAL GRANTS TO GENERAL HOSPITALS, RESIDENTIAL HEALTH CARE FACILITIES,
25 DIAGNOSTIC AND TREATMENT CENTERS AND CLINICS LICENSED PURSUANT TO THIS
26 CHAPTER OR THE MENTAL HYGIENE LAW, PRIMARY CARE PROVIDERS, AND HOME CARE
27 PROVIDERS CERTIFIED OR LICENSED PURSUANT TO ARTICLE THIRTY-SIX OF THIS
28 CHAPTER, FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE
29 PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY
30 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE
31 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE
32 DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO
33 THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS
34 PROGRAM. PROJECTS AWARDED, IN WHOLE OR IN PART, UNDER SECTION
35 TWENTY-EIGHT HUNDRED TWENTY-FIVE OF THIS ARTICLE SHALL NOT BE ELIGIBLE
36 FOR GRANTS OR AWARDS MADE AVAILABLE UNDER THIS SECTION.

37 3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE
38 FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO
39 TWO HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM
40 SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-
41 ESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLI-
42 CANTS"). ELIGIBLE APPLICANTS SHALL BE THOSE DEEMED BY THE COMMISSIONER
43 TO BE A PROVIDER THAT FULFILLS OR WILL FULFILL A HEALTH CARE NEED FOR
44 ACUTE INPATIENT, OUTPATIENT, PRIMARY, HOME CARE OR RESIDENTIAL HEALTH
45 CARE SERVICES IN A COMMUNITY.

46 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,
47 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER
48 CRITERIA INCLUDING, BUT NOT LIMITED TO:

49 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE
50 TO THE INTEGRATION OF HEALTH CARE SERVICES AND LONG TERM SUSTAINABILITY
51 OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH SERVICES IN THE
52 COMMUNITY OR COMMUNITIES SERVED BY THE APPLICANT;

53 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
54 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
55 AND OBJECTIVES;

56 (C) CONSIDERATION OF GEOGRAPHIC DISTRIBUTION OF FUNDS;

1 (D) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-
2 FIED COMMUNITY NEED;

3 (E) THE EXTENT TO WHICH THE APPLICANT HAS ACCESS TO ALTERNATIVE
4 FINANCING;

5 (F) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOP-
6 MENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

7 (G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID
8 ENROLLEES AND UNINSURED INDIVIDUALS;

9 (H) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY
10 AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMU-
11 NITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

12 (I) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTEN-
13 TIAL RISK TO PATIENT SAFETY AND WELFARE.

14 5. DISBURSEMENT OF AWARDS MADE PURSUANT TO THIS SECTION SHALL BE
15 CONDITIONED ON THE AWARDEE ACHIEVING CERTAIN PROCESS AND PERFORMANCE
16 METRICS AND MILESTONES AS DETERMINED IN THE SOLE DISCRETION OF THE
17 COMMISSIONER. SUCH METRICS AND MILESTONES SHALL BE STRUCTURED TO ENSURE
18 THAT THE HEALTH CARE TRANSFORMATION AND PROVIDER SUSTAINABILITY GOALS OF
19 THE PROJECT ARE ACHIEVED, AND SUCH METRICS AND MILESTONES SHALL BE
20 INCLUDED IN GRANT DISBURSEMENT AGREEMENTS OR OTHER CONTRACTUAL DOCUMENTS
21 AS REQUIRED BY THE COMMISSIONER.

22 6. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
23 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
24 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
25 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE, FOR
26 EACH AWARD, THE NAME OF THE APPLICANT, A DESCRIPTION OF THE PROJECT OR
27 PURPOSE, THE AMOUNT OF THE AWARD, DISBURSEMENT DATE, AND STATUS OF
28 ACHIEVEMENT OF PROCESS AND PERFORMANCE METRICS AND MILESTONES PURSUANT
29 TO SUBDIVISION FIVE OF THIS SECTION.

30 S 2. This act shall take effect immediately and shall be deemed to
31 have been in full force and effect on and after April 1, 2016.

32

PART G

33 Section 1. The public health law is amended by adding a new section
34 230-e to read as follows:

35 S 230-E. RETAIL CLINICS. 1. AS USED IN THIS SECTION, "RETAIL CLINIC"
36 MEANS A FACILITY OR PORTION OF A FACILITY THAT IS OPERATED BY ANY ENTITY
37 THAT IS AUTHORIZED UNDER THE LAWS OF THIS STATE TO PROVIDE PROFESSIONAL
38 SERVICES TO THE PUBLIC AND THAT PROVIDES HEALTH CARE SERVICES OR TREAT-
39 MENT, OTHER THAN PHARMACY, BY A HEALTH CARE PRACTITIONER LICENSED,
40 CERTIFIED, REGISTERED OR AUTHORIZED TO PRACTICE UNDER TITLE EIGHT OF THE
41 EDUCATION LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE, THAT:

42 (A) OPERATES WITHIN THE SPACE OF A RETAIL BUSINESS OPERATION, SUCH AS A
43 PHARMACY OR A STORE OPEN TO THE GENERAL PUBLIC; (B) IS LABELED, BRANDED,
44 ADVERTISED OR MARKETED WITH THE NAME OR SYMBOL OF A RETAIL BUSINESS
45 ENTITY; OR (C) IS LABELED, BRANDED, ADVERTISED OR MARKETED WITH THE NAME
46 OR SYMBOL OF A BUSINESS ENTITY, OTHER THAN A BUSINESS ENTITY THAT
47 PROVIDES HEALTH CARE SERVICES OR TREATMENT PROVIDED AT THE FACILITY.
48 HOWEVER, PROVISION OF SUCH HEALTH CARE SERVICES OR TREATMENT PROVIDED BY
49 SUCH ENTITIES SHALL NOT BE DEEMED TO BE A RETAIL CLINIC IF IT IS USED
50 ONLY FOR PROVIDING HEALTH CARE SERVICES TO EMPLOYEES OF THE RETAIL BUSI-
51 NESS OPERATION.

52 2. THE TREATMENTS AND SERVICES THAT MAY BE PROVIDED BY A RETAIL CLINIC
53 SHALL BE LIMITED TO THE PROVISION OF TREATMENT AND SERVICES TO PATIENTS
54 FOR ACUTE EPISODIC ILLNESS OR CONDITION; EPISODIC PREVENTIVE TREATMENT

1 AND SERVICES SUCH AS IMMUNIZATIONS; OPHTHALMIC DISPENSING AND OPHTHALMO-
2 LOGIC OR OPTOMETRIC SERVICES PROVIDED IN CONNECTION WITH OPHTHALMIC
3 DISPENSING; OR TREATMENT AND SERVICES FOR MINOR INJURIES THAT ARE NOT
4 REASONABLY LIKELY TO BE LIFE-THREATENING OR POTENTIALLY DISABLING OR
5 HAVE COMPLICATIONS IF AMBULATORY CARE WITHIN THE CAPACITY OF THE RETAIL
6 CLINIC IS PROVIDED; THE TREATMENTS AND SERVICES PROVIDED BY A RETAIL
7 CLINIC SHALL NOT INCLUDE MONITORING OR TREATMENT AND SERVICES OVER
8 MULTIPLE VISITS OR PROLONGED PERIODS.

9 3. A RETAIL CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE PROVIDER" FOR
10 THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAPTER. A PRESCRIBER
11 PRACTICING IN A RETAIL CLINIC SHALL NOT BE DEEMED TO BE IN THE EMPLOY OF
12 A PHARMACY OR PRACTICING IN A HOSPITAL FOR PURPOSES OF SUBDIVISION TWO
13 OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE EDUCATION LAW.

14 4. REGULATIONS OF THE COMMISSIONER. (A) THE COMMISSIONER SHALL
15 PROMULGATE REGULATIONS SETTING FORTH OPERATIONAL AND PHYSICAL PLANT
16 STANDARDS FOR RETAIL CLINICS, WHICH MAY BE DIFFERENT FROM THE REGU-
17 LATIONS OTHERWISE APPLICABLE TO DIAGNOSTIC OR TREATMENT CENTERS, INCLUD-
18 ING, BUT NOT LIMITED TO:

19 (I) REQUIRING THAT RETAIL CLINICS ATTAIN AND MAINTAIN ACCREDITATION BY
20 AN APPROPRIATE ACCREDITING ENTITY APPROVED BY THE COMMISSIONER AND
21 REQUIRING TIMELY REPORTING TO THE DEPARTMENT IF A RETAIL CLINIC LOSES
22 ITS ACCREDITATION;

23 (II) DESIGNATING OR LIMITING THE TREATMENTS AND SERVICES THAT MAY BE
24 PROVIDED, INCLUDING LIMITING THE SCOPE OF SERVICES TO THE FOLLOWING,
25 PROVIDED THAT SUCH SERVICES SHALL NOT INCLUDE MONITORING OR TREATMENT
26 AND SERVICES OVER MULTIPLE VISITS OR PROLONGED PERIODS:

27 (A) THE PROVISION OF TREATMENT AND SERVICES TO PATIENTS FOR MINOR
28 ACUTE EPISODIC ILLNESSES OR CONDITIONS;

29 (B) EPISODIC PREVENTIVE AND WELLNESS TREATMENTS AND SERVICES SUCH AS
30 IMMUNIZATIONS;

31 (C) TREATMENT AND SERVICES FOR MINOR INJURIES THAT ARE NOT REASONABLY
32 LIKELY TO BE LIFE THREATENING OR POTENTIALLY DISABLING OR HAVE COMPLI-
33 CATIONS IF AMBULATORY CARE WITHIN THE CAPACITY OF THE RETAIL CLINIC IS
34 PROVIDED;

35 (D) PROHIBITING THE PROVISION OF SERVICES TO PATIENTS TWENTY-FOUR
36 MONTHS OF AGE OR YOUNGER;

37 (III) REQUIRING RETAIL CLINICS TO ACCEPT WALK-INS AND OFFER EXTENDED
38 BUSINESS HOURS;

39 (IV) SETTING FORTH GUIDELINES FOR ADVERTISING AND SIGNAGE, WHICH SHALL
40 INCLUDE SIGNAGE INDICATING THAT PRESCRIPTIONS AND OVER-THE-COUNTER
41 SUPPLIES MAY BE PURCHASED BY A PATIENT FROM ANY BUSINESS AND DO NOT NEED
42 TO BE PURCHASED ON-SITE; AND

43 (V) SETTING FORTH GUIDELINES FOR INFORMED CONSENT, RECORD KEEPING,
44 REFERRAL FOR TREATMENT AND CONTINUITY OF CARE, CASE REPORTING TO THE
45 PATIENT'S PRIMARY CARE OR OTHER HEALTH CARE PROVIDERS, DESIGN,
46 CONSTRUCTION, FIXTURES, AND EQUIPMENT.

47 (B) SUCH REGULATIONS ALSO SHALL PROMOTE AND STRENGTHEN PRIMARY CARE BY
48 REQUIRING RETAIL CLINICS TO:

49 (I) INQUIRE OF EACH PATIENT WHETHER HE OR SHE HAS A PRIMARY CARE
50 PROVIDER;

51 (II) MAINTAIN AND REGULARLY UPDATE A LIST OF LOCAL PRIMARY CARE
52 PROVIDERS AND PROVIDE SUCH LIST TO EACH PATIENT WHO INDICATES THAT HE OR
53 SHE DOES NOT HAVE A PRIMARY CARE PROVIDER. SUCH ROSTER (A) SHALL BE
54 DRAWN FROM A LIST OF PRIMARY CARE PROVIDERS AND PERIODICALLY UPDATED BY
55 THE DEPARTMENT ON ITS WEBSITE (IN A SEARCHABLE FORM) INCLUDING THE
56 INFORMATION REQUIRES IN CLAUSES (B) AND (C) OF THIS SUBPARAGRAPH,

1 LOCATED IN THE ZIP CODE AREA AND ADJACENT ZIP CODE AREAS OF THE RETAIL
2 CLINIC, AND MAY INCLUDE ADDITIONAL PRIMARY CARE PROVIDERS ADDED BY THE
3 RETAIL CLINIC; (B) SHALL IDENTIFY PREFERRED PROVIDERS WHO HAVE ACHIEVED
4 RECOGNITION AS A PATIENT CENTERED MEDICAL HOME (PCMH) OR OTHER SIMILAR
5 DESIGNATION AND A DESCRIPTION OF WHAT SUCH DESIGNATION MEANS; AND (C)
6 SHALL INCLUDE FEDERALLY QUALIFIED HEALTH CENTERS AND OTHER PROVIDERS WHO
7 SERVE MEDICAID, LOW-INCOME, AND UNINSURED PATIENTS, AND PEOPLE WITH
8 DISABILITIES, AND SHALL IDENTIFY CULTURAL AND LINGUISTIC CAPABILITIES
9 WHEN AVAILABLE;

10 (III) REFER PATIENTS TO THEIR PRIMARY CARE PROVIDERS OR OTHER HEALTH
11 CARE PROVIDERS AS APPROPRIATE;

12 (IV) TRANSMIT, BY ELECTRONIC MEANS WHENEVER POSSIBLE, RECORDS OF
13 SERVICES TO PATIENTS' PRIMARY CARE PROVIDERS;

14 (V) DECLINE TO TREAT ANY PATIENT FOR THE SAME CONDITION OR ILLNESS
15 MORE THAN THREE TIMES IN A YEAR; AND

16 (VI) REPORT TO THE DEPARTMENT RELEVANT DATA, AS MAY BE DEEMED NECES-
17 SARY BY THE DEPARTMENT, RELATED TO SERVICES PROVIDED AND PATIENTS
18 SERVED, PROVIDED THAT SUCH REPORTING SHALL COMPLY WITH ALL PRIVACY LAWS
19 RELATED TO PATIENT DATA.

20 (C) RETAIL CLINICS ALREADY IN OPERATION AT THE TIME THIS SECTION TAKES
21 EFFECT MUST COMPLY WITH ACCREDITATION REQUIREMENTS UNDER THIS SUBDIVI-
22 SION WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

23 (D) THE DEPARTMENT SHALL ROUTINELY REVIEW THE COMPLIANCE BY RETAIL
24 CLINICS WITH THE PROVISIONS OF THIS SECTION AND IF A RETAIL CLINIC FAILS
25 TO COMPLY WITH THE PROVISIONS OF THIS SECTION, OR REGULATIONS ADOPTED
26 PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL HAVE THE AUTHORITY TO
27 TAKE ENFORCEMENT ACTIONS UNDER TITLE TWO OF ARTICLE ONE OF THIS CHAPTER.

28 (E) IN MAKING REGULATIONS UNDER THIS SECTION, THE COMMISSIONER MAY
29 CONSULT WITH A WORKGROUP INCLUDING, BUT NOT LIMITED TO, REPRESENTATIVES
30 OF HEALTH CARE CONSUMERS AND REPRESENTATIVES OF PROFESSIONAL SOCIETIES
31 OF APPROPRIATE HEALTH CARE PROFESSIONALS, INCLUDING THOSE IN PRIMARY
32 CARE AND OTHER SPECIALTIES.

33 5. A RETAIL CLINIC SHALL PROVIDE TREATMENT WITHOUT DISCRIMINATION AS
34 TO SOURCE OF PAYMENT.

35 6. THE DEPARTMENT SHALL PROVIDE AN ANNUAL REPORT WHICH IT SHALL MAKE
36 AVAILABLE ON ITS WEBSITE; THE REPORT SHALL INCLUDE LOCATIONS OF RETAIL
37 CLINICS IN THE STATE AND SHALL INDICATE WHICH CLINICS ARE LOCATED IN
38 MEDICALLY UNDERSERVED AREAS; SUCH REPORT SHALL ALSO INCLUDE AN ANALYSIS
39 AS TO WHETHER RETAIL CLINICS HAVE IMPROVED ACCESS TO HEALTH CARE IN
40 UNDERSERVED AREAS, RECOMMENDATIONS RELATED THERETO AND ANY OTHER INFOR-
41 MATION THE DEPARTMENT MAY DEEM NECESSARY.

42 7. THIS SECTION DOES NOT AUTHORIZE ANY FORM OF OWNERSHIP OR ORGANIZA-
43 TION OF A RETAIL CLINIC OR PRACTICE OF ANY PROFESSION THAT WOULD NOT
44 OTHERWISE BE LEGAL, AND DOES NOT EXPAND THE SCOPE OF PRACTICE OF ANY
45 HEALTH CARE PRACTITIONER. WHERE ANY REGULATION UNDER THIS SECTION WOULD
46 LIMIT THE SCOPE OF SERVICES THAT MAY BE PROVIDED IN A RETAIL CLINIC BY A
47 HEALTH CARE PRACTITIONER LICENSED, REGISTERED, CERTIFIED OR AUTHORIZED
48 TO PRACTICE UNDER TITLE EIGHT OF THE EDUCATION LAW, THE REGULATION SHALL
49 BE MADE BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF
50 EDUCATION.

51 8. THE HOST BUSINESS ENTITY OF A RETAIL CLINIC SHALL NOT, DIRECTLY OR
52 INDIRECTLY, BY CONTRACT, POLICY, COMMUNICATION, INCENTIVE OR OTHERWISE,
53 INFLUENCE OR SEEK TO INFLUENCE ANY CLINICAL DECISION, POLICY OR PRACTICE
54 OF ANY HEALTH CARE PRACTITIONER PROVIDING ANY HEALTH CARE SERVICE IN THE
55 RETAIL CLINIC, INCLUDING PRESCRIBING OR RECOMMENDING DRUGS, DEVICES OR
56 SUPPLIES OR RECOMMENDING A SOURCE FOR OBTAINING DRUGS, DEVICES OR

1 SUPPLIES. THIS SUBDIVISION SHALL NOT PRECLUDE THE HOST BUSINESS ENTITY
2 FROM ESTABLISHING, CONSISTENT WITH THIS SECTION AND APPLICABLE LAW,
3 LIMITATIONS ON OR REQUIREMENTS AS TO THE SCOPE OF HEALTH CARE SERVICES
4 TO BE PROVIDED IN THE RETAIL CLINIC OR ACTIVITIES TO ASSURE MAINTAINING
5 QUALITY STANDARDS OF HEALTH CARE SERVICES. AS USED IN THIS SECTION,
6 "HOST BUSINESS ENTITY" MEANS THE RETAIL BUSINESS ORGANIZATION, RETAIL
7 BUSINESS ENTITY, OR BUSINESS ENTITY WITHIN WHOSE SPACE THE RETAIL CLINIC
8 IS LOCATED OR WITH WHOSE NAME OR SYMBOL THE RETAIL CLINIC IS LABELED,
9 BRANDED, ADVERTISED OR MARKETED.

10 S 2. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law; provided that effective immediately, the
12 commissioner of health shall make regulations and take other actions
13 reasonably necessary to implement the provisions of this act on or
14 before such effective date.

15 PART H

16 Section 1. Section 1 of part D of chapter 111 of the laws of 2010
17 relating to the recovery of exempt income by the office of mental health
18 for community residences and family-based treatment programs, as amended
19 by section 1 of part JJ of chapter 58 of the laws of 2015, is amended to
20 read as follows:

21 Section 1. The office of mental health is authorized to recover fund-
22 ing from community residences and family-based treatment providers
23 licensed by the office of mental health, consistent with contractual
24 obligations of such providers, and notwithstanding any other inconsis-
25 tent provision of law to the contrary, in an amount equal to 50 percent
26 of the income received by such providers which exceeds the fixed amount
27 of annual Medicaid revenue limitations, as established by the commis-
28 sioner of mental health. Recovery of such excess income shall be for the
29 following fiscal periods: for programs in counties located outside of
30 the city of New York, the applicable fiscal periods shall be January 1,
31 2003 through December 31, 2009 and January 1, 2011 through December 31,
32 [2016] 2017; and for programs located within the city of New York, the
33 applicable fiscal periods shall be July 1, 2003 through June 30, 2010
34 and July 1, 2011 through June 30, [2016] 2017.

35 S 2. This act shall take effect immediately.

36 PART I

37 Section 1. Sections 19 and 21 of chapter 723 of the laws of 1989
38 amending the mental hygiene law and other laws relating to comprehensive
39 psychiatric emergency programs, as amended by section 1 of part K of
40 chapter 56 of the laws of 2012, are amended to read as follows:

41 S 19. Notwithstanding any other provision of law, the commissioner of
42 mental health shall, until July 1, [2016] 2020, be solely authorized, in
43 his or her discretion, to designate those general hospitals, local
44 governmental units and voluntary agencies which may apply and be consid-
45 ered for the approval and issuance of an operating certificate pursuant
46 to article 31 of the mental hygiene law for the operation of a compre-
47 hensive psychiatric emergency program.

48 S 21. This act shall take effect immediately, and sections one, two
49 and four through twenty of this act shall remain in full force and
50 effect, until July 1, [2016] 2020, at which time the amendments and
51 additions made by such sections of this act shall be deemed to be
52 repealed, and any provision of law amended by any of such sections of

1 this act shall revert to its text as it existed prior to the effective
2 date of this act.

3 S 2. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2016.

5

PART J

6 Section 1. Subdivision 10 of Section 7605 of the education law, as
7 added by section 4 of part AA of chapter 57 of the laws of 2013, is
8 amended and a new subdivision 12 is added to read as follows:

9 10. A person without a license from performing assessments such as
10 basic information collection, gathering of demographic data, and
11 informal observations, screening and referral used for general eligibil-
12 ity for a program or service and determining the functional status of an
13 individual for the purpose of determining need for services [unrelated
14 to a behavioral health diagnosis or treatment plan]. Such licensure
15 shall not be required to [create, develop or implement] PARTICIPATE AS A
16 MEMBER OF THE TREATMENT TEAM IN THE CREATION, DEVELOPMENT OR IMPLEMENTA-
17 TION OF a service plan [unrelated to a behavioral health diagnosis or
18 treatment plan]. Such service plans shall include, but are not limited
19 to, job training and employability, housing, general public assistance,
20 in home services and supports or home-delivered meals, investigations
21 conducted or assessments made by adult or child protective services,
22 adoption home studies and assessments, family service plans, transition
23 plans and permanency planning activities, de-escalation techniques, peer
24 services or skill development. A license under this article shall not be
25 required for persons to participate as a member of a multi-disciplinary
26 team to implement a behavioral health services or treatment plan;
27 provided however, that such team shall include one or more professionals
28 licensed under this article or articles one hundred thirty-one, one
29 hundred fifty-four or one hundred sixty-three of this chapter WHO MUST
30 HAVE A FACE TO FACE VISIT WITH EACH PATIENT PRIOR TO THE RENDERING OF A
31 DIAGNOSIS; and provided, further, that the activities performed by
32 members of the team shall be consistent with the scope of practice for
33 each team member licensed or authorized under title VIII of this chap-
34 ter, and those who are not so authorized may not engage in the following
35 restricted practices BUT MAY ASSIST LICENSED PROFESSIONALS AND/OR
36 MULTI-DISCIPLINARY TEAM MEMBERS WITH: the diagnosis of mental,
37 emotional, behavioral, addictive and developmental disorders and disa-
38 bilities; [patient assessment and evaluating;] the provision of
39 psychotherapeutic treatment; the provision of treatment other than
40 psychotherapeutic treatment; and/or the development and implementation
41 of assessment-based treatment plans as defined in section seventy-seven
42 hundred one of this [chapter] TITLE. AS USED IN THIS SUBDIVISION, THE
43 TERM "ASSIST" SHALL INCLUDE THOSE FUNCTIONS WHICH ARE EXEMPT UNDER THIS
44 SUBDIVISION. Provided, further, that nothing in this subdivision shall
45 be construed as requiring a license for any particular activity or func-
46 tion based solely on the fact that the activity or function is not list-
47 ed in this subdivision.

48 12. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR LIMIT
49 THE ACTIVITIES OR SERVICES PROVIDED UNDER THIS ARTICLE ON THE PART OF
50 ANY PERSON WHO, UPON THE EFFECTIVE DATE OF THIS SUBDIVISION, IS IN THE
51 EMPLOY OF A PROGRAM OR SERVICE, AS DEFINED IN SUBDIVISION B OF SECTION
52 SEVENTEEN-A OF CHAPTER SIX HUNDRED SEVENTY-SIX OF THE LAWS OF TWO THOU-
53 SAND TWO, AS AMENDED, FOR THE PERIOD DURING WHICH SUCH PERSON MAINTAINS
54 EMPLOYMENT IN SUCH PROGRAM; ACTIVITIES AND SERVICES THAT MAY BE

1 PERFORMED ARE LIMITED TO THOSE PROVIDED BY SUCH INDIVIDUAL WITHIN THE
2 PRACTICE OF PSYCHOLOGY, AS DEFINED IN THIS ARTICLE, PRIOR TO THE EFFEC-
3 TIVE DATE OF THIS SUBDIVISION. THIS SUBDIVISION SHALL NOT AUTHORIZE THE
4 USE OF ANY TITLE AUTHORIZED PURSUANT TO THIS ARTICLE BY ANY SUCH
5 EMPLOYED PERSON, EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE RESPEC-
6 TIVELY.

7 PROVIDED, HOWEVER, THAT ANY PERSON THAT COMMENCES EMPLOYMENT IN SUCH
8 PROGRAM OR SERVICE ON OR AFTER JULY FIRST, TWO THOUSAND NINETEEN AND
9 PERFORMS SERVICES THAT ARE RESTRICTED UNDER THIS ARTICLE SHALL BE APPRO-
10 PRIATELY LICENSED OR AUTHORIZED UNDER THIS ARTICLE.

11 S 2. Subdivision 7 of section 7706 of the education law, as added by
12 section 5 of part AA of chapter 57 of the laws of 2013, is amended and a
13 new subdivision 8 is added to read as follows:

14 7. Prevent a person without a license from performing assessments such
15 as basic information collection, gathering of demographic data, and
16 informal observations, screening and referral used for general eligibil-
17 ity for a program or service and determining the functional status of an
18 individual for the purpose of determining need for services [unrelated
19 to a behavioral health diagnosis or treatment plan]. Such licensure
20 shall not be required to [create, develop or implement] PARTICIPATE AS A
21 MEMBER OF THE TREATMENT TEAM IN THE CREATION, DEVELOPMENT OR IMPLEMENTA-
22 TION OF a service plan [unrelated to a behavioral health diagnosis or
23 treatment plan]. Such service plans shall include, but are not limited
24 to, job training and employability, housing, general public assistance,
25 in home services and supports or home-delivered meals, investigations
26 conducted or assessments made by adult or child protective services,
27 adoption home studies and assessments, family service plans, transition
28 plans and permanency planning activities, de-escalation techniques, peer
29 services or skill development. A license under this article shall not be
30 required for persons to participate as a member of a multi-disciplinary
31 team to implement a behavioral health services or treatment plan;
32 provided however, that such team shall include one or more professionals
33 licensed under this article or articles one hundred thirty-one, one
34 hundred fifty-three or one hundred sixty-three of this chapter WHO MUST
35 HAVE A FACE TO FACE VISIT WITH EACH PATIENT PRIOR TO THE RENDERING OF A
36 DIAGNOSIS; and provided, further, that the activities performed by
37 members of the team shall be consistent with the scope of practice for
38 each team member licensed or authorized under title VIII of this chap-
39 ter, and those who are not so authorized may not engage in the following
40 restricted practices BUT MAY ASSIST LICENSED PROFESSIONALS AND/OR
41 MULTI-DISCIPLINARY TEAM MEMBERS WITH: the diagnosis of mental,
42 emotional, behavioral, addictive and developmental disorders and disa-
43 bilities; [patient assessment and evaluating;] the provision of
44 psychotherapeutic treatment; the provision of treatment other than
45 psychotherapeutic treatment; and/or the development and implementation
46 of assessment-based treatment plans as defined in section seventy-seven
47 hundred one of this article. AS USED IN THIS SUBDIVISION, THE TERM
48 "ASSIST" SHALL INCLUDE THOSE FUNCTIONS WHICH ARE EXEMPT UNDER THIS
49 SUBDIVISION. Provided, further, that nothing in this subdivision shall
50 be construed as requiring a license for any particular activity or func-
51 tion based solely on the fact that the activity or function is not list-
52 ed in this subdivision.

53 8. NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT OR LIMIT THE ACTIV-
54 ITIES OR SERVICES PROVIDED UNDER THIS ARTICLE ON THE PART OF ANY PERSON
55 WHO, UPON THE EFFECTIVE DATE OF THIS SUBDIVISION, IS IN THE EMPLOY OF A
56 PROGRAM OR SERVICE, AS DEFINED IN SECTION NINE OF CHAPTER FOUR HUNDRED

1 TWENTY OF THE LAWS OF TWO THOUSAND TWO, AS AMENDED, FOR THE PERIOD
2 DURING WHICH SUCH PERSON MAINTAINS EMPLOYMENT IN SUCH PROGRAM; ACTIV-
3 ITIES AND SERVICES THAT MAY BE PERFORMED ARE LIMITED TO THOSE PROVIDED
4 BY SUCH INDIVIDUAL WITHIN THE PRACTICE OF LICENSED MASTER SOCIAL WORK OR
5 LICENSED CLINICAL SOCIAL WORK, AS DEFINED IN THIS ARTICLE, PRIOR TO THE
6 EFFECTIVE DATE OF THIS SUBDIVISION. THIS SUBDIVISION SHALL NOT AUTHORIZE
7 THE USE OF ANY TITLE AUTHORIZED PURSUANT TO THIS ARTICLE BY ANY SUCH
8 EMPLOYED PERSON, EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE RESPEC-
9 TIVELY.

10 PROVIDED, HOWEVER, THAT ANY PERSON THAT COMMENCES EMPLOYMENT IN SUCH
11 PROGRAM OR SERVICE ON OR AFTER JULY FIRST, TWO THOUSAND NINETEEN AND
12 PERFORMS SERVICES THAT ARE RESTRICTED UNDER THIS ARTICLE SHALL BE APPRO-
13 PRIATELY LICENSED OR AUTHORIZED UNDER THIS ARTICLE.

14 S 3. Section 7707 of the education law is amended by adding a new
15 subdivision 2-a to read as follows:

16 2-A. ANY PERSON WHO POSSESSES A MASTER'S OF SOCIAL WORK DEGREE,
17 ACCEPTABLE TO THE DEPARTMENT, ON THE EFFECTIVE DATE OF THIS SUBDIVISION
18 AND WHO HAS TWO YEARS OF POST-GRADUATE SOCIAL WORK EMPLOYMENT, AS VERI-
19 FIED BY A LICENSED SUPERVISOR OR COLLEAGUE ON FORMS ACCEPTABLE TO THE
20 DEPARTMENT, AND WHO, IN THE DETERMINATION OF THE DEPARTMENT, MEETS ALL
21 OTHER REQUIREMENTS FOR LICENSURE AS A LICENSED MASTER SOCIAL WORKER AS
22 DEFINED IN THIS ARTICLE, EXCEPT FOR EXAMINATION, AND WHO FILES WITH THE
23 DEPARTMENT THE APPLICATION, FEE AND REQUIRED DOCUMENTATION WITHIN ONE
24 YEAR OF THE EFFECTIVE DATE OF THIS SECTION, SHALL BE LICENSED AS A
25 LICENSED MASTER SOCIAL WORKER.

26 S 4. Subdivision 8 of section 8410 of the education law, as added by
27 section 6 of part AA of chapter 57 of the laws of 2013, is amended and a
28 new subdivision 9 is added to read as follows:

29 8. Prevent a person without a license from performing assessments such
30 as basic information collection, gathering of demographic data, and
31 informal observations, screening and referral used for general eligibil-
32 ity for a program or service and determining the functional status of an
33 individual for the purpose of determining need for services [unrelated
34 to a behavioral health diagnosis or treatment plan]. Such licensure
35 shall not be required to [create, develop or implement] PARTICIPATE AS A
36 MEMBER OF THE TREATMENT TEAM IN THE CREATION, DEVELOPMENT OR IMPLEMENTA-
37 TION OF a service plan [unrelated to a behavioral health diagnosis or
38 treatment plan]. Such service plans shall include, but are not limited
39 to, job training and employability, housing, general public assistance,
40 in home services and supports or home-delivered meals, investigations
41 conducted or assessments made by adult or child protective services,
42 adoption home studies and assessments, family service plans, transition
43 plans and permanency planning activities, de-escalation techniques, peer
44 services or skill development. A license under this article shall not be
45 required for persons to participate as a member of a multi-disciplinary
46 team to implement a behavioral health services or treatment plan;
47 provided however, that such team shall include one or more professionals
48 licensed under this article or articles one hundred thirty-one, one
49 hundred fifty-three or one hundred fifty-four of this chapter WHO MUST
50 HAVE A FACE TO FACE VISIT WITH EACH PATIENT PRIOR TO THE RENDERING OF A
51 DIAGNOSIS; and provided, further, that the activities performed by
52 members of the team shall be consistent with the scope of practice for
53 each team member licensed or authorized under title VIII of this chap-
54 ter, and those who are not so authorized may not engage in the following
55 restricted practices BUT MAY ASSIST LICENSED PROFESSIONALS AND/OR
56 MULTI-DISCIPLINARY TEAM MEMBERS WITH: the diagnosis of mental,

1 emotional, behavioral, addictive and developmental disorders and disa-
2 bilities; [patient assessment and evaluating;] the provision of
3 psychotherapeutic treatment; the provision of treatment other than
4 psychotherapeutic treatment; and/or the development and implementation
5 of assessment-based treatment plans as defined in section seventy-seven
6 hundred one of this chapter. AS USED IN THIS SUBDIVISION, THE TERM
7 "ASSIST" SHALL INCLUDE THOSE FUNCTIONS THAT ARE EXEMPT UNDER THIS SUBDI-
8 VISION. Provided, further, that nothing in this subdivision shall be
9 construed as requiring a license for any particular activity or function
10 based solely on the fact that the activity or function is not listed in
11 this subdivision.

12 9. NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT OR LIMIT THE ACTIV-
13 ITIES OR SERVICES PROVIDED UNDER THIS ARTICLE ON THE PART OF ANY PERSON
14 WHO, UPON THE EFFECTIVE DATE OF THIS SUBDIVISION, IS IN THE EMPLOY OF A
15 PROGRAM OR SERVICE, AS DEFINED IN SUBDIVISION B OF SECTION SEVENTEEN-A
16 OF CHAPTER SIX HUNDRED SEVENTY-SIX OF THE LAWS OF TWO THOUSAND TWO, AS
17 AMENDED, FOR THE PERIOD DURING WHICH SUCH PERSON MAINTAINS EMPLOYMENT IN
18 SUCH PROGRAM; ACTIVITIES AND SERVICES THAT MAY BE PERFORMED ARE LIMITED
19 TO THOSE PROVIDED BY SUCH INDIVIDUAL WITHIN THE PRACTICE OF MENTAL
20 HEALTH COUNSELING, MARRIAGE AND FAMILY THERAPY, CREATIVE ARTS THERAPY
21 AND PSYCHOANALYSIS, AS DEFINED IN THIS ARTICLE, PRIOR TO THE EFFECTIVE
22 DATE OF THIS SECTION. THIS SECTION SHALL NOT AUTHORIZE THE USE OF ANY
23 TITLE AUTHORIZED PURSUANT TO THIS ARTICLE BY ANY SUCH EMPLOYED PERSON,
24 EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE RESPECTIVELY.

25 PROVIDED, HOWEVER, THAT ANY PERSON THAT COMMENCES EMPLOYMENT IN SUCH
26 PROGRAM OR SERVICE ON OR AFTER JULY FIRST, TWO THOUSAND NINETEEN AND
27 PERFORMS SERVICES THAT ARE RESTRICTED UNDER THIS ARTICLE SHALL BE APPRO-
28 PRIATELY LICENSED OR AUTHORIZED UNDER THIS ARTICLE.

29 S 5. No later than July 1, 2017, the department of mental hygiene, the
30 office of children and family services, the office of temporary and
31 disability assistance, the department of corrections and community
32 supervision, the state office for the aging, the department of health,
33 or a local governmental unit as that term is defined in article 41 of
34 the mental hygiene law or a social services district as defined in
35 section 61 of the social services law (hereinafter referred to as "agen-
36 cies") shall individually or collectively consult with the department to
37 develop formal guidance for service providers authorized to operate
38 under the respective agencies to identify the following: (a) the tasks
39 and functions performed by each agency's service provider workforce
40 categorized as tasks and functions restricted to licensed personnel
41 including tasks and functions that do not require a license under arti-
42 cles 153, 154 and 163 of the education law; (b) costs associated with
43 employing appropriately licensed or otherwise authorized personnel to
44 perform tasks and functions that require licensure under such articles
45 153, 154 and 163 including salary costs and costs associated with
46 providing support to unlicensed personnel in obtaining appropriate
47 licensure and funding for costs associated with service providers reach-
48 ing compliance with applicable licensing laws; (c) any changes in law,
49 rule or regulation that are necessary to implement the applicable
50 licensing laws; and (d) an action plan detailing measures that each
51 state or local agency shall implement to ensure that service providers
52 and their workforce shall be in compliance with professional licensure
53 laws applicable to services provided as it relates to each employee
54 hired on July 1, 2019.

55 S 6. Subdivision a of section 9 of chapter 420 of the laws of 2002,
56 amending the education law relating to the profession of social work, as

1 amended by section 1 of part AA of chapter 57 of the laws of 2013, is
2 amended to read as follows:

3 a. Nothing in this act shall prohibit or limit the activities or
4 services on the part of any person in the employ of a program or service
5 operated, regulated, funded, or approved by the department of mental
6 hygiene, the office of children and family services, the office of
7 temporary and disability assistance, the department of corrections and
8 community supervision, the state office for the aging, the department of
9 health, or a local governmental unit as that term is defined in article
10 41 of the mental hygiene law or a social services district as defined in
11 section 61 of the social services law, provided, however, this section
12 shall not authorize the use of any title authorized pursuant to article
13 154 of the education law, PROVIDED, FURTHER, THAT ANY PERSON THAT
14 COMMENCES EMPLOYMENT IN SUCH PROGRAM OR SERVICE ON OR AFTER JULY 1, 2019
15 AND PERFORMS SERVICES THAT ARE RESTRICTED UNDER ARTICLE 154 OF THE
16 EDUCATION LAW SHALL BE APPROPRIATELY LICENSED OR AUTHORIZED UNDER THIS
17 ARTICLE except that this section shall be deemed repealed on July 1,
18 [2016] 2021.

19 S 7. Subdivision a of section 17-a of chapter 676 of the laws of 2002
20 amending the education law relating to the practice of psychology, as
21 amended by section 2 of part AA of chapter 57 of the laws of 2013, is
22 amended to read as follows:

23 a. In relation to activities and services provided under article 153
24 of the education law, nothing in this act shall prohibit or limit such
25 activities or services on the part of any person in the employ of a
26 program or service operated, regulated, funded, or approved by the
27 department of mental hygiene or the office of children and family
28 services, or a local governmental unit as that term is defined in arti-
29 cle 41 of the mental hygiene law or a social services district as
30 defined in section 61 of the social services law. In relation to activ-
31 ities and services provided under article 163 of the education law,
32 nothing in this act shall prohibit or limit such activities or services
33 on the part of any person in the employ of a program or service oper-
34 ated, regulated, funded, or approved by the department of mental
35 hygiene, the office of children and family services, the department of
36 corrections and community supervision, the office of temporary and disa-
37 bility assistance, the state office for the aging and the department of
38 health or a local governmental unit as that term is defined in article
39 41 of the mental hygiene law or a social services district as defined in
40 section 61 of the social services law, pursuant to authority granted by
41 law. This section shall not authorize the use of any title authorized
42 pursuant to article 153 or 163 of the education law by any such employed
43 person, except as otherwise provided by such articles respectively.
44 PROVIDED, FURTHER, THAT ANY PERSON THAT COMMENCES EMPLOYMENT IN SUCH
45 PROGRAM OR SERVICE ON OR AFTER JULY 1, 2019 AND PERFORMS SERVICES THAT
46 ARE RESTRICTED UNDER ARTICLE 153 OR 163 OF THE EDUCATION LAW SHALL BE
47 APPROPRIATELY LICENSED OR AUTHORIZED UNDER THIS ARTICLE. This section
48 shall be deemed repealed July 1, [2016] 2021.

49 S 8. Section 16 of chapter 130 of the laws of 2010 amending the educa-
50 tion law and other laws relating to the registration of entities provid-
51 ing certain professional services and the licensure of certain
52 professions, as amended by section 3 of part AA of chapter 57 of the
53 laws of 2013, is amended to read as follows:

54 S 16. This act shall take effect immediately; provided that sections
55 thirteen, fourteen and fifteen of this act shall take effect immediately
56 and shall be deemed to have been in full force and effect on and after

1 June 1, 2010 and such sections shall be deemed repealed July 1, [2016]
2 2021; PROVIDED, HOWEVER, THAT ANY PERSON THAT COMMENCES EMPLOYMENT IN
3 SUCH PROGRAM OR SERVICE ON OR AFTER JULY 1, 2019 AND PERFORMS SERVICES
4 THAT ARE RESTRICTED UNDER ARTICLE 153, 154 OR 163 OF THE EDUCATION LAW
5 SHALL BE APPROPRIATELY LICENSED OR AUTHORIZED UNDER THIS ARTICLE;
6 provided further that the amendments to section 9 of chapter 420 of the
7 laws of 2002 amending the education law relating to the profession of
8 social work made by section thirteen of this act shall repeal on the
9 same date as such section repeals; provided further that the amendments
10 to section 17-a of chapter 676 of the laws of 2002 amending the educa-
11 tion law relating to the practice of psychology made by section fourteen
12 of this act shall repeal on the same date as such section repeals.
13 S 9. This act shall take effect immediately.

PART K

Intentionally Omitted

PART L

17 Section 1. The mental hygiene law is amended by adding a new section
18 16.25 to read as follows:

19 S 16.25 TEMPORARY OPERATOR.

20 (A) FOR THE PURPOSES OF THIS SECTION:

21 (1) "ESTABLISHED OPERATOR" SHALL MEAN THE PROVIDER OF SERVICES THAT
22 HAS BEEN ESTABLISHED AND ISSUED AN OPERATING CERTIFICATE PURSUANT TO
23 THIS ARTICLE.

24 (2) "EXTRAORDINARY FINANCIAL ASSISTANCE" SHALL MEAN STATE FUNDS
25 PROVIDED TO, OR REQUESTED BY, A PROGRAM FOR THE EXPRESS PURPOSE OF
26 PREVENTING THE CLOSURE OF THE PROGRAM THAT THE COMMISSIONER FINDS
27 PROVIDES ESSENTIAL AND NECESSARY SERVICES WITHIN THE COMMUNITY.

28 (3) "SERIOUS FINANCIAL INSTABILITY" SHALL INCLUDE BUT NOT BE LIMITED
29 TO DEFAULTING OR VIOLATING MATERIAL COVENANTS OF BOND ISSUES, MISSED
30 MORTGAGE PAYMENTS, MISSED RENT PAYMENTS, A PATTERN OF UNTIMELY PAYMENT
31 OF DEBTS, FAILURE TO PAY ITS EMPLOYEES OR VENDORS, INSUFFICIENT FUNDS TO
32 MEET THE GENERAL OPERATING EXPENSES OF THE PROGRAM, FAILURE TO MAINTAIN
33 REQUIRED DEBT SERVICE COVERAGE RATIOS AND/OR, AS APPLICABLE, FACTORS
34 THAT HAVE TRIGGERED A WRITTEN EVENT OF DEFAULT NOTICE TO THE OFFICE BY
35 THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK.

36 (4) "OFFICE" SHALL MEAN THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISA-
37 BILITIES.

38 (5) "TEMPORARY OPERATOR" SHALL MEAN ANY PROVIDER OF SERVICES THAT HAS
39 BEEN ESTABLISHED AND ISSUED AN OPERATING CERTIFICATE PURSUANT TO THIS
40 ARTICLE OR WHICH IS DIRECTLY OPERATED BY THE OFFICE, THAT:

41 A. AGREES TO PROVIDE SERVICES CERTIFIED PURSUANT TO THIS ARTICLE ON A
42 TEMPORARY BASIS IN THE BEST INTERESTS OF ITS INDIVIDUALS SERVED BY THE
43 PROGRAM; AND

44 B. HAS A HISTORY OF COMPLIANCE WITH APPLICABLE LAWS, RULES, AND REGU-
45 LATIONS AND A RECORD OF PROVIDING CARE OF GOOD QUALITY, AS DETERMINED BY
46 THE COMMISSIONER; AND

47 C. PRIOR TO APPOINTMENT AS TEMPORARY OPERATOR, DEVELOPS A PLAN DETER-
48 MINED TO BE SATISFACTORY BY THE COMMISSIONER TO ADDRESS THE PROGRAM'S
49 DEFICIENCIES.

50 (B) (1) IN THE EVENT THAT: (I) THE ESTABLISHED OPERATOR IS SEEKING
51 EXTRAORDINARY FINANCIAL ASSISTANCE; (II) OFFICE COLLECTED DATA DEMON-
52 STRATES THAT THE ESTABLISHED OPERATOR IS EXPERIENCING SERIOUS FINANCIAL

1 INSTABILITY ISSUES; (III) OFFICE COLLECTED DATA DEMONSTRATES THAT THE
2 ESTABLISHED OPERATOR'S BOARD OF DIRECTORS OR ADMINISTRATION IS UNABLE OR
3 UNWILLING TO ENSURE THE PROPER OPERATION OF THE PROGRAM; OR (IV) OFFICE
4 COLLECTED DATA INDICATES THERE ARE CONDITIONS THAT SERIOUSLY ENDANGER OR
5 JEOPARDIZE CONTINUED ACCESS TO NECESSARY SERVICES WITHIN THE COMMUNITY,
6 THE COMMISSIONER SHALL NOTIFY THE ESTABLISHED OPERATOR OF HIS OR HER
7 INTENTION TO APPOINT A TEMPORARY OPERATOR TO ASSUME SOLE RESPONSIBILITY
8 FOR THE PROVIDER OF SERVICES' OPERATIONS FOR A LIMITED PERIOD OF TIME.
9 THE APPOINTMENT OF A TEMPORARY OPERATOR SHALL BE EFFECTUATED PURSUANT TO
10 THIS SECTION, AND SHALL BE IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY
11 LAW.

12 (2) THE ESTABLISHED OPERATOR MAY AT ANY TIME REQUEST THE COMMISSIONER
13 TO APPOINT A TEMPORARY OPERATOR. UPON RECEIVING SUCH A REQUEST, THE
14 COMMISSIONER MAY, IF HE OR SHE DETERMINES THAT SUCH AN ACTION IS NECES-
15 SARY, ENTER INTO AN AGREEMENT WITH THE ESTABLISHED OPERATOR FOR THE
16 APPOINTMENT OF A TEMPORARY OPERATOR TO RESTORE OR MAINTAIN THE PROVISION
17 OF QUALITY CARE TO THE INDIVIDUALS UNTIL THE ESTABLISHED OPERATOR CAN
18 RESUME OPERATIONS WITHIN THE DESIGNATED TIME PERIOD OR OTHER ACTION IS
19 TAKEN AS DESCRIBED IN SECTION 16.17 OF THIS ARTICLE.

20 (C) (1) A TEMPORARY OPERATOR APPOINTED PURSUANT TO THIS SECTION SHALL
21 USE HIS OR HER BEST EFFORTS TO IMPLEMENT THE PLAN DEEMED SATISFACTORY BY
22 THE COMMISSIONER TO CORRECT OR ELIMINATE ANY DEFICIENCIES IN THE PROGRAM
23 AND TO PROMOTE THE QUALITY AND ACCESSIBILITY OF SERVICES IN THE COMMUNI-
24 TY SERVED BY THE PROVIDER OF SERVICES.

25 (2) DURING THE TERM OF APPOINTMENT, THE TEMPORARY OPERATOR SHALL HAVE
26 THE AUTHORITY TO DIRECT THE STAFF OF THE ESTABLISHED OPERATOR AS NECES-
27 SARY TO APPROPRIATELY PROVIDE SERVICES FOR INDIVIDUALS. THE TEMPORARY
28 OPERATOR SHALL, DURING THIS PERIOD, PROVIDE SERVICES IN SUCH A MANNER AS
29 TO PROMOTE SAFETY AND THE QUALITY AND ACCESSIBILITY OF SERVICES IN THE
30 COMMUNITY SERVED BY THE ESTABLISHED OPERATOR UNTIL EITHER THE ESTAB-
31 LISHED OPERATOR CAN RESUME OPERATIONS OR UNTIL THE OFFICE REVOKES THE
32 OPERATING CERTIFICATE FOR THE SERVICES ISSUED UNDER THIS ARTICLE.

33 (3) THE ESTABLISHED OPERATOR SHALL GRANT ACCESS TO THE TEMPORARY OPER-
34 ATOR TO THE ESTABLISHED OPERATOR'S ACCOUNTS AND RECORDS IN ORDER TO
35 ADDRESS ANY DEFICIENCIES RELATED TO THE PROGRAM EXPERIENCING SERIOUS
36 FINANCIAL INSTABILITY OR AN ESTABLISHED OPERATOR REQUESTING FINANCIAL
37 ASSISTANCE IN ACCORDANCE WITH THIS SECTION. THE TEMPORARY OPERATOR SHALL
38 APPROVE ANY FINANCIAL DECISION RELATED TO AN ESTABLISHED PROVIDER'S DAY
39 TO DAY OPERATIONS OR THE ESTABLISHED PROVIDER'S ABILITY TO PROVIDE
40 SERVICES.

41 (4) THE TEMPORARY OPERATOR SHALL NOT BE REQUIRED TO FILE ANY BOND. NO
42 SECURITY INTEREST IN ANY REAL OR PERSONAL PROPERTY COMPRISING THE ESTAB-
43 LISHED OPERATOR OR CONTAINED WITHIN THE ESTABLISHED OPERATOR OR IN ANY
44 FIXTURE OF THE PROGRAM, SHALL BE IMPAIRED OR DIMINISHED IN PRIORITY BY
45 THE TEMPORARY OPERATOR. NEITHER THE TEMPORARY OPERATOR NOR THE OFFICE
46 SHALL ENGAGE IN ANY ACTIVITY THAT CONSTITUTES A CONFISCATION OF PROPER-
47 TY.

48 (D) THE TEMPORARY OPERATOR SHALL BE ENTITLED TO A REASONABLE FEE, AS
49 DETERMINED BY THE COMMISSIONER AND SUBJECT TO THE APPROVAL OF THE DIREC-
50 TOR OF THE DIVISION OF THE BUDGET, AND NECESSARY EXPENSES INCURRED WHILE
51 SERVING AS A TEMPORARY OPERATOR. THE TEMPORARY OPERATOR SHALL BE LIABLE
52 ONLY IN ITS CAPACITY AS TEMPORARY OPERATOR FOR INJURY TO PERSON AND
53 PROPERTY BY REASON OF ITS OPERATION OF SUCH PROGRAM; NO LIABILITY SHALL
54 INCUR IN THE TEMPORARY OPERATOR'S PERSONAL CAPACITY, EXCEPT FOR GROSS
55 NEGLIGENCE AND INTENTIONAL ACTS.

1 (E) (1) THE INITIAL TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR
2 SHALL NOT EXCEED NINETY DAYS. AFTER NINETY DAYS, IF THE COMMISSIONER
3 DETERMINES THAT TERMINATION OF THE TEMPORARY OPERATOR WOULD CAUSE
4 SIGNIFICANT DETERIORATION OF THE QUALITY OF, OR ACCESS TO, CARE IN THE
5 COMMUNITY OR THAT REAPPOINTMENT IS NECESSARY TO CORRECT THE DEFICIENCIES
6 THAT REQUIRED THE APPOINTMENT OF THE TEMPORARY OPERATOR, THE COMMISSIONER
7 MAY AUTHORIZE AN ADDITIONAL NINETY-DAY TERM. HOWEVER, SUCH AUTHORI-
8 ZATION SHALL INCLUDE THE COMMISSIONER'S REQUIREMENTS FOR CONCLUSION OF
9 THE TEMPORARY OPERATORSHIP TO BE SATISFIED WITHIN THE ADDITIONAL TERM.

10 (2) WITHIN FOURTEEN DAYS PRIOR TO THE TERMINATION OF EACH TERM OF THE
11 APPOINTMENT OF THE TEMPORARY OPERATOR, THE TEMPORARY OPERATOR SHALL
12 SUBMIT TO THE COMMISSIONER AND TO THE ESTABLISHED OPERATOR A REPORT
13 DESCRIBING:

14 A. THE ACTIONS TAKEN DURING THE APPOINTMENT TO ADDRESS THE IDENTIFIED
15 PROGRAM DEFICIENCIES, THE RESUMPTION OF PROGRAM OPERATIONS BY THE ESTAB-
16 LISHED OPERATOR, OR THE REVOCATION OF AN OPERATING CERTIFICATE ISSUED BY
17 THE OFFICE;

18 B. OBJECTIVES FOR THE CONTINUATION OF THE TEMPORARY OPERATORSHIP IF
19 NECESSARY AND A SCHEDULE FOR SATISFACTION OF SUCH OBJECTIVES; AND

20 C. IF APPLICABLE, THE RECOMMENDED ACTIONS FOR THE ONGOING PROVISION OF
21 SERVICES SUBSEQUENT TO THE TEMPORARY OPERATORSHIP.

22 (3) THE TERM OF THE INITIAL APPOINTMENT AND OF ANY SUBSEQUENT REAP-
23 POINTMENT MAY BE TERMINATED PRIOR TO THE EXPIRATION OF THE DESIGNATED
24 TERM, IF THE ESTABLISHED OPERATOR AND THE COMMISSIONER AGREE ON A PLAN
25 OF CORRECTION AND THE IMPLEMENTATION OF SUCH PLAN.

26 (F) (1) THE COMMISSIONER SHALL, UPON MAKING A DETERMINATION OF AN
27 INTENTION TO APPOINT A TEMPORARY OPERATOR PURSUANT TO PARAGRAPH ONE OF
28 SUBDIVISION (B) OF THIS SECTION, CAUSE THE ESTABLISHED OPERATOR TO BE
29 NOTIFIED OF THE INTENTION BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO
30 THE PRINCIPAL OFFICE OF THE ESTABLISHED OPERATOR. SUCH NOTIFICATION
31 SHALL INCLUDE A DETAILED DESCRIPTION OF THE FINDINGS UNDERLYING THE
32 INTENTION TO APPOINT A TEMPORARY OPERATOR, AND THE DATE AND TIME OF A
33 REQUIRED MEETING WITH THE COMMISSIONER AND/OR HIS OR HER DESIGNEE WITHIN
34 TEN BUSINESS DAYS OF THE RECEIPT OF SUCH NOTICE. AT SUCH MEETING, THE
35 ESTABLISHED OPERATOR SHALL HAVE THE OPPORTUNITY TO REVIEW AND DISCUSS
36 ALL RELEVANT FINDINGS. AT SUCH MEETING, THE COMMISSIONER AND THE ESTAB-
37 LISHED OPERATOR SHALL ATTEMPT TO DEVELOP A MUTUALLY SATISFACTORY PLAN OF
38 CORRECTION AND SCHEDULE FOR IMPLEMENTATION. IN SUCH EVENT, THE COMMIS-
39 SIONER SHALL NOTIFY THE ESTABLISHED OPERATOR THAT THE COMMISSIONER WILL
40 ABSTAIN FROM APPOINTING A TEMPORARY OPERATOR CONTINGENT UPON THE ESTAB-
41 LISHED OPERATOR REMEDIATING THE IDENTIFIED DEFICIENCIES WITHIN THE
42 AGREED UPON TIMEFRAME.

43 (2) SHOULD THE COMMISSIONER AND THE ESTABLISHED OPERATOR BE UNABLE TO
44 ESTABLISH A PLAN OF CORRECTION PURSUANT TO PARAGRAPH ONE OF THIS SUBDI-
45 VISION, OR SHOULD THE ESTABLISHED OPERATOR FAIL TO RESPOND TO THE
46 COMMISSIONER'S INITIAL NOTIFICATION, THERE SHALL BE AN ADMINISTRATIVE
47 HEARING ON THE COMMISSIONER'S DETERMINATION TO APPOINT A TEMPORARY OPER-
48 ATOR TO BEGIN NO LATER THAN THIRTY DAYS FROM THE DATE OF THE NOTICE TO
49 THE ESTABLISHED OPERATOR. ANY SUCH HEARING SHALL BE STRICTLY LIMITED TO
50 THE ISSUE OF WHETHER THE DETERMINATION OF THE COMMISSIONER TO APPOINT A
51 TEMPORARY OPERATOR IS SUPPORTED BY SUBSTANTIAL EVIDENCE. A COPY OF THE
52 DECISION SHALL BE SENT TO THE ESTABLISHED OPERATOR.

53 (3) IF THE DECISION TO APPOINT A TEMPORARY OPERATOR IS UPHELD SUCH
54 TEMPORARY OPERATOR SHALL BE APPOINTED AS SOON AS IS PRACTICABLE AND
55 SHALL PROVIDE SERVICES PURSUANT TO THE PROVISIONS OF THIS SECTION.

1 (G) NOTWITHSTANDING THE APPOINTMENT OF A TEMPORARY OPERATOR, THE
2 ESTABLISHED OPERATOR SHALL REMAIN OBLIGATED FOR THE CONTINUED PROVISION
3 OF SERVICES. NO PROVISION CONTAINED IN THIS SECTION SHALL BE DEEMED TO
4 RELIEVE THE ESTABLISHED OPERATOR OR ANY OTHER PERSON OF ANY CIVIL OR
5 CRIMINAL LIABILITY INCURRED, OR ANY DUTY IMPOSED BY LAW, BY REASON OF
6 ACTS OR OMISSIONS OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON PRIOR
7 TO THE APPOINTMENT OF ANY TEMPORARY OPERATOR OF THE PROGRAM HEREUNDER;
8 NOR SHALL ANYTHING CONTAINED IN THIS SECTION BE CONSTRUED TO SUSPEND
9 DURING THE TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR OF THE
10 PROGRAM ANY OBLIGATION OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON
11 FOR THE MAINTENANCE AND REPAIR OF THE FACILITY, PROVISION OF UTILITY
12 SERVICES, PAYMENT OF TAXES OR OTHER OPERATING AND MAINTENANCE EXPENSES
13 OF THE FACILITY, NOR OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON FOR
14 THE PAYMENT OF MORTGAGES OR LIENS.

15 S 2. The mental hygiene law is amended by adding a new section 31.20
16 to read as follows:

17 S 31.20 TEMPORARY OPERATOR.

18 (A) FOR THE PURPOSES OF THIS SECTION:

19 (1) "ESTABLISHED OPERATOR" SHALL MEAN THE OPERATOR OF A MENTAL HEALTH
20 PROGRAM THAT HAS BEEN ESTABLISHED AND ISSUED AN OPERATING CERTIFICATE
21 PURSUANT TO THIS ARTICLE.

22 (2) "EXTRAORDINARY FINANCIAL ASSISTANCE" SHALL MEAN STATE FUNDS
23 PROVIDED TO, OR REQUESTED BY, A PROGRAM FOR THE EXPRESS PURPOSE OF
24 PREVENTING THE CLOSURE OF THE PROGRAM THAT THE COMMISSIONER FINDS
25 PROVIDES ESSENTIAL AND NECESSARY SERVICES WITHIN THE COMMUNITY.

26 (3) "MENTAL HEALTH PROGRAM" SHALL MEAN A PROVIDER OF SERVICES FOR
27 PERSONS WITH SERIOUS MENTAL ILLNESS, AS SUCH TERMS ARE DEFINED IN
28 SECTION 1.03 OF THIS CHAPTER, WHICH IS LICENSED OR OPERATED BY THE
29 OFFICE.

30 (4) "OFFICE" SHALL MEAN THE OFFICE OF MENTAL HEALTH.

31 (5) "SERIOUS FINANCIAL INSTABILITY" SHALL INCLUDE BUT NOT BE LIMITED
32 TO DEFAULTING OR VIOLATING MATERIAL COVENANTS OF BOND ISSUES, MISSED
33 MORTGAGE PAYMENTS, A PATTERN OF UNTIMELY PAYMENT OF DEBTS, FAILURE TO
34 PAY ITS EMPLOYEES OR VENDORS, INSUFFICIENT FUNDS TO MEET THE GENERAL
35 OPERATING EXPENSES OF THE PROGRAM, FAILURE TO MAINTAIN REQUIRED DEBT
36 SERVICE COVERAGE RATIOS AND/OR, AS APPLICABLE, FACTORS THAT HAVE TRIG-
37 GERED A WRITTEN EVENT OF DEFAULT NOTICE TO THE OFFICE BY THE DORMITORY
38 AUTHORITY OF THE STATE OF NEW YORK.

39 (6) "TEMPORARY OPERATOR" SHALL MEAN ANY OPERATOR OF A MENTAL HEALTH
40 PROGRAM THAT HAS BEEN ESTABLISHED AND ISSUED AN OPERATING CERTIFICATE
41 PURSUANT TO THIS ARTICLE OR WHICH IS DIRECTLY OPERATED BY THE OFFICE OF
42 MENTAL HEALTH, THAT:

43 A. AGREES TO OPERATE A MENTAL HEALTH PROGRAM ON A TEMPORARY BASIS IN
44 THE BEST INTERESTS OF ITS PATIENTS SERVED BY THE PROGRAM; AND

45 B. HAS A HISTORY OF COMPLIANCE WITH APPLICABLE LAWS, RULES, AND REGU-
46 LATIONS AND A RECORD OF PROVIDING CARE OF GOOD QUALITY, AS DETERMINED BY
47 THE COMMISSIONER; AND

48 C. PRIOR TO APPOINTMENT AS TEMPORARY OPERATOR, DEVELOPS A PLAN DETER-
49 MINED TO BE SATISFACTORY BY THE COMMISSIONER TO ADDRESS THE PROGRAM'S
50 DEFICIENCIES.

51 (B) (1) IN THE EVENT THAT: (I) THE ESTABLISHED OPERATOR IS SEEKING
52 EXTRAORDINARY FINANCIAL ASSISTANCE; (II) OFFICE COLLECTED DATA DEMON-
53 STRATES THAT THE ESTABLISHED OPERATOR IS EXPERIENCING SERIOUS FINANCIAL
54 INSTABILITY ISSUES; (III) OFFICE COLLECTED DATA DEMONSTRATES THAT THE
55 ESTABLISHED OPERATOR'S BOARD OF DIRECTORS OR ADMINISTRATION IS UNABLE OR
56 UNWILLING TO ENSURE THE PROPER OPERATION OF THE PROGRAM; OR (IV) OFFICE

1 COLLECTED DATA INDICATES THERE ARE CONDITIONS THAT SERIOUSLY ENDANGER OR
2 JEOPARDIZE CONTINUED ACCESS TO NECESSARY MENTAL HEALTH SERVICES WITHIN
3 THE COMMUNITY, THE COMMISSIONER SHALL NOTIFY THE ESTABLISHED OPERATOR OF
4 HIS OR HER INTENTION TO APPOINT A TEMPORARY OPERATOR TO ASSUME SOLE
5 RESPONSIBILITY FOR THE PROGRAM'S TREATMENT OPERATIONS FOR A LIMITED
6 PERIOD OF TIME. THE APPOINTMENT OF A TEMPORARY OPERATOR SHALL BE EFFEC-
7 TUATED PURSUANT TO THIS SECTION, AND SHALL BE IN ADDITION TO ANY OTHER
8 REMEDIES PROVIDED BY LAW.

9 (2) THE ESTABLISHED OPERATOR MAY AT ANY TIME REQUEST THE COMMISSIONER
10 TO APPOINT A TEMPORARY OPERATOR. UPON RECEIVING SUCH A REQUEST, THE
11 COMMISSIONER MAY, IF HE OR SHE DETERMINES THAT SUCH AN ACTION IS NECES-
12 SARY, ENTER INTO AN AGREEMENT WITH THE ESTABLISHED OPERATOR FOR THE
13 APPOINTMENT OF A TEMPORARY OPERATOR TO RESTORE OR MAINTAIN THE PROVISION
14 OF QUALITY CARE TO THE PATIENTS UNTIL THE ESTABLISHED OPERATOR CAN
15 RESUME OPERATIONS WITHIN THE DESIGNATED TIME PERIOD; THE PATIENTS MAY BE
16 TRANSFERRED TO OTHER MENTAL HEALTH PROGRAMS OPERATED OR LICENSED BY THE
17 OFFICE; OR THE OPERATIONS OF THE MENTAL HEALTH PROGRAM SHOULD BE
18 COMPLETELY DISCONTINUED.

19 (C) (1) A TEMPORARY OPERATOR APPOINTED PURSUANT TO THIS SECTION SHALL
20 USE HIS OR HER BEST EFFORTS TO IMPLEMENT THE PLAN DEEMED SATISFACTORY BY
21 THE COMMISSIONER TO CORRECT OR ELIMINATE ANY DEFICIENCIES IN THE MENTAL
22 HEALTH PROGRAM AND TO PROMOTE THE QUALITY AND ACCESSIBILITY OF MENTAL
23 HEALTH SERVICES IN THE COMMUNITY SERVED BY THE MENTAL HEALTH PROGRAM.

24 (2) IF THE IDENTIFIED DEFICIENCIES CANNOT BE ADDRESSED IN THE TIME
25 PERIOD DESIGNATED IN THE PLAN, THE PATIENTS SHALL BE TRANSFERRED TO
26 OTHER APPROPRIATE MENTAL HEALTH PROGRAMS LICENSED OR OPERATED BY THE
27 OFFICE.

28 (3) DURING THE TERM OF APPOINTMENT, THE TEMPORARY OPERATOR SHALL HAVE
29 THE AUTHORITY TO DIRECT THE STAFF OF THE ESTABLISHED OPERATOR AS NECES-
30 SARY TO APPROPRIATELY TREAT AND/OR TRANSFER THE PATIENTS. THE TEMPORARY
31 OPERATOR SHALL, DURING THIS PERIOD, OPERATE THE MENTAL HEALTH PROGRAM IN
32 SUCH A MANNER AS TO PROMOTE SAFETY AND THE QUALITY AND ACCESSIBILITY OF
33 MENTAL HEALTH SERVICES IN THE COMMUNITY SERVED BY THE ESTABLISHED OPERA-
34 TOR UNTIL EITHER THE ESTABLISHED OPERATOR CAN RESUME PROGRAM OPERATIONS
35 OR UNTIL THE PATIENTS ARE APPROPRIATELY TRANSFERRED TO OTHER PROGRAMS
36 LICENSED OR OPERATED BY THE OFFICE.

37 (4) THE ESTABLISHED OPERATOR SHALL GRANT ACCESS TO THE TEMPORARY OPER-
38 ATOR TO THE ESTABLISHED OPERATOR'S ACCOUNTS AND RECORDS IN ORDER TO
39 ADDRESS ANY DEFICIENCIES RELATED TO A MENTAL HEALTH PROGRAM EXPERIENCING
40 SERIOUS FINANCIAL INSTABILITY OR AN ESTABLISHED OPERATOR REQUESTING
41 FINANCIAL ASSISTANCE IN ACCORDANCE WITH THIS SECTION. THE TEMPORARY
42 OPERATOR SHALL APPROVE ANY FINANCIAL DECISION RELATED TO A PROGRAM'S DAY
43 TO DAY OPERATIONS OR PROGRAM'S ABILITY TO PROVIDE MENTAL HEALTH
44 SERVICES.

45 (5) THE TEMPORARY OPERATOR SHALL NOT BE REQUIRED TO FILE ANY BOND. NO
46 SECURITY INTEREST IN ANY REAL OR PERSONAL PROPERTY COMPRISING THE ESTAB-
47 LISHED OPERATOR OR CONTAINED WITHIN THE ESTABLISHED OPERATOR OR IN ANY
48 FIXTURE OF THE MENTAL HEALTH PROGRAM, SHALL BE IMPAIRED OR DIMINISHED IN
49 PRIORITY BY THE TEMPORARY OPERATOR. NEITHER THE TEMPORARY OPERATOR NOR
50 THE OFFICE SHALL ENGAGE IN ANY ACTIVITY THAT CONSTITUTES A CONFISCATION
51 OF PROPERTY.

52 (D) THE TEMPORARY OPERATOR SHALL BE ENTITLED TO A REASONABLE FEE, AS
53 DETERMINED BY THE COMMISSIONER AND SUBJECT TO THE APPROVAL OF THE DIREC-
54 TOR OF THE DIVISION OF THE BUDGET, AND NECESSARY EXPENSES INCURRED WHILE
55 SERVING AS A TEMPORARY OPERATOR. THE TEMPORARY OPERATOR SHALL BE LIABLE
56 ONLY IN ITS CAPACITY AS TEMPORARY OPERATOR OF THE MENTAL HEALTH PROGRAM

1 FOR INJURY TO PERSON AND PROPERTY BY REASON OF ITS OPERATION OF SUCH
2 PROGRAM; NO LIABILITY SHALL INCUR IN THE TEMPORARY OPERATOR'S PERSONAL
3 CAPACITY, EXCEPT FOR GROSS NEGLIGENCE AND INTENTIONAL ACTS.

4 (E) (1) THE INITIAL TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR
5 SHALL NOT EXCEED NINETY DAYS. AFTER NINETY DAYS, IF THE COMMISSIONER
6 DETERMINES THAT TERMINATION OF THE TEMPORARY OPERATOR WOULD CAUSE
7 SIGNIFICANT DETERIORATION OF THE QUALITY OF, OR ACCESS TO, MENTAL HEALTH
8 CARE IN THE COMMUNITY OR THAT REAPPOINTMENT IS NECESSARY TO CORRECT THE
9 DEFICIENCIES THAT REQUIRED THE APPOINTMENT OF THE TEMPORARY OPERATOR,
10 THE COMMISSIONER MAY AUTHORIZE AN ADDITIONAL NINETY-DAY TERM. HOWEVER,
11 SUCH AUTHORIZATION SHALL INCLUDE THE COMMISSIONER'S REQUIREMENTS FOR
12 CONCLUSION OF THE TEMPORARY OPERATORSHIP TO BE SATISFIED WITHIN THE
13 ADDITIONAL TERM.

14 (2) WITHIN FOURTEEN DAYS PRIOR TO THE TERMINATION OF EACH TERM OF THE
15 APPOINTMENT OF THE TEMPORARY OPERATOR, THE TEMPORARY OPERATOR SHALL
16 SUBMIT TO THE COMMISSIONER AND TO THE ESTABLISHED OPERATOR A REPORT
17 DESCRIBING:

18 A. THE ACTIONS TAKEN DURING THE APPOINTMENT TO ADDRESS THE IDENTIFIED
19 MENTAL HEALTH PROGRAM DEFICIENCIES, THE RESUMPTION OF MENTAL HEALTH
20 PROGRAM OPERATIONS BY THE ESTABLISHED OPERATOR, OR THE TRANSFER OF THE
21 PATIENTS TO OTHER PROVIDERS LICENSED OR OPERATED BY THE OFFICE;

22 B. OBJECTIVES FOR THE CONTINUATION OF THE TEMPORARY OPERATORSHIP IF
23 NECESSARY AND A SCHEDULE FOR SATISFACTION OF SUCH OBJECTIVES; AND

24 C. IF APPLICABLE, THE RECOMMENDED ACTIONS FOR THE ONGOING OPERATION OF
25 THE MENTAL HEALTH PROGRAM SUBSEQUENT TO THE TEMPORARY OPERATORSHIP.

26 (3) THE TERM OF THE INITIAL APPOINTMENT AND OF ANY SUBSEQUENT REAP-
27 POINTMENT MAY BE TERMINATED PRIOR TO THE EXPIRATION OF THE DESIGNATED
28 TERM, IF THE ESTABLISHED OPERATOR AND THE COMMISSIONER AGREE ON A PLAN
29 OF CORRECTION AND THE IMPLEMENTATION OF SUCH PLAN.

30 (F) (1) THE COMMISSIONER SHALL, UPON MAKING A DETERMINATION OF AN
31 INTENTION TO APPOINT A TEMPORARY OPERATOR PURSUANT TO PARAGRAPH ONE OF
32 SUBDIVISION (B) OF THIS SECTION CAUSE THE ESTABLISHED OPERATOR TO BE
33 NOTIFIED OF THE INTENTION BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO
34 THE PRINCIPAL OFFICE OF THE ESTABLISHED OPERATOR. SUCH NOTIFICATION
35 SHALL INCLUDE A DETAILED DESCRIPTION OF THE FINDINGS UNDERLYING THE
36 INTENTION TO APPOINT A TEMPORARY OPERATOR, AND THE DATE AND TIME OF A
37 REQUIRED MEETING WITH THE COMMISSIONER AND/OR HIS OR HER DESIGNEE WITHIN
38 TEN BUSINESS DAYS OF THE RECEIPT OF SUCH NOTICE. AT SUCH MEETING, THE
39 ESTABLISHED OPERATOR SHALL HAVE THE OPPORTUNITY TO REVIEW AND DISCUSS
40 ALL RELEVANT FINDINGS. AT SUCH MEETING, THE COMMISSIONER AND THE ESTAB-
41 LISHED OPERATOR SHALL ATTEMPT TO DEVELOP A MUTUALLY SATISFACTORY PLAN OF
42 CORRECTION AND SCHEDULE FOR IMPLEMENTATION. IN SUCH EVENT, THE COMMIS-
43 SIONER SHALL NOTIFY THE ESTABLISHED OPERATOR THAT THE COMMISSIONER WILL
44 ABSTAIN FROM APPOINTING A TEMPORARY OPERATOR CONTINGENT UPON THE ESTAB-
45 LISHED OPERATOR REMEDIATING THE IDENTIFIED DEFICIENCIES WITHIN THE
46 AGREED UPON TIMEFRAME.

47 (2) SHOULD THE COMMISSIONER AND THE ESTABLISHED OPERATOR BE UNABLE TO
48 ESTABLISH A PLAN OF CORRECTION PURSUANT TO PARAGRAPH ONE OF THIS SUBDI-
49 VISION, OR SHOULD THE ESTABLISHED OPERATOR FAIL TO RESPOND TO THE
50 COMMISSIONER'S INITIAL NOTIFICATION, THERE SHALL BE AN ADMINISTRATIVE
51 HEARING ON THE COMMISSIONER'S DETERMINATION TO APPOINT A TEMPORARY OPER-
52 ATOR TO BEGIN NO LATER THAN THIRTY DAYS FROM THE DATE OF THE NOTICE TO
53 THE ESTABLISHED OPERATOR. ANY SUCH HEARING SHALL BE STRICTLY LIMITED TO
54 THE ISSUE OF WHETHER THE DETERMINATION OF THE COMMISSIONER TO APPOINT A
55 TEMPORARY OPERATOR IS SUPPORTED BY SUBSTANTIAL EVIDENCE. A COPY OF THE
56 DECISION SHALL BE SENT TO THE ESTABLISHED OPERATOR.

1 (3) IF THE DECISION TO APPOINT A TEMPORARY OPERATOR IS UPHeld SUCH
2 TEMPORARY OPERATOR SHALL BE APPOINTED AS SOON AS IS PRACTICABLE AND
3 SHALL OPERATE THE MENTAL HEALTH PROGRAM PURSUANT TO THE PROVISIONS OF
4 THIS SECTION.

5 (G) NOTWITHSTANDING THE APPOINTMENT OF A TEMPORARY OPERATOR, THE
6 ESTABLISHED OPERATOR SHALL REMAIN OBLIGATED FOR THE CONTINUED OPERATION
7 OF THE MENTAL HEALTH PROGRAM SO THAT SUCH PROGRAM CAN FUNCTION IN A
8 NORMAL MANNER. NO PROVISION CONTAINED IN THIS SECTION SHALL BE DEEMED TO
9 RELIEVE THE ESTABLISHED OPERATOR OR ANY OTHER PERSON OF ANY CIVIL OR
10 CRIMINAL LIABILITY INCURRED, OR ANY DUTY IMPOSED BY LAW, BY REASON OF
11 ACTS OR OMISSIONS OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON PRIOR
12 TO THE APPOINTMENT OF ANY TEMPORARY OPERATOR OF THE PROGRAM HEREUNDER;
13 NOR SHALL ANYTHING CONTAINED IN THIS SECTION BE CONSTRUED TO SUSPEND
14 DURING THE TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR OF THE
15 PROGRAM ANY OBLIGATION OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON
16 FOR THE MAINTENANCE AND REPAIR OF THE FACILITY, PROVISION OF UTILITY
17 SERVICES, PAYMENT OF TAXES OR OTHER OPERATING AND MAINTENANCE EXPENSES
18 OF THE FACILITY, NOR OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON FOR
19 THE PAYMENT OF MORTGAGES OR LIENS.

20 S 3. Intentionally omitted.

21 S 4. Intentionally omitted.

22 S 5. Intentionally omitted.

23 S 6. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2016.

25

PART M

26 Section 1. Subdivision (d) of section 33.13 of the mental hygiene law,
27 as amended by section 3 of part E of chapter 111 of the laws of 2010, is
28 amended to read as follows:

29 (d) Nothing in this section shall prevent the electronic or other
30 exchange of information concerning patients or clients, including iden-
31 tification, between and among (i) facilities or others providing
32 services for such patients or clients pursuant to an approved local
33 services plan, as defined in article forty-one of this chapter, or
34 pursuant to agreement with the department, and (ii) the department or
35 any of its licensed or operated facilities. NEITHER SHALL ANYTHING IN
36 THIS SECTION PREVENT THE EXCHANGE OF INFORMATION CONCERNING PATIENTS OR
37 CLIENTS, INCLUDING IDENTIFICATION, BETWEEN FACILITIES AND MANAGED CARE
38 ORGANIZATIONS, BEHAVIORAL HEALTH ORGANIZATIONS, HEALTH HOMES OR OTHER
39 ENTITIES AUTHORIZED BY THE DEPARTMENT OR THE DEPARTMENT OF HEALTH TO
40 PROVIDE, ARRANGE FOR OR COORDINATE HEALTH CARE SERVICES FOR SUCH
41 PATIENTS OR CLIENTS WHO ARE ENROLLED IN OR RECEIVING SERVICES FROM SUCH
42 ORGANIZATIONS OR ENTITIES. PROVIDED HOWEVER, WRITTEN PATIENT OR CLIENT
43 CONSENT SHALL BE OBTAINED PRIOR TO THE EXCHANGE OF INFORMATION WHERE
44 REQUIRED BY 42 USC 290DD-2 AS AMENDED, AND ANY REGULATIONS PROMULGATED
45 THEREUNDER. Furthermore, subject to the prior approval of the commis-
46 sioner of mental health, hospital emergency services licensed pursuant
47 to article twenty-eight of the public health law shall be authorized to
48 exchange information concerning patients or clients electronically or
49 otherwise with other hospital emergency services licensed pursuant to
50 article twenty-eight of the public health law and/or hospitals licensed
51 or operated by the office of mental health; provided that such exchange
52 of information is consistent with standards, developed by the commis-
53 sioner of mental health, which are designed to ensure confidentiality of
54 such information. Additionally, information so exchanged shall be kept

1 confidential and any limitations on the release of such information
2 imposed on the party giving the information shall apply to the party
3 receiving the information.

4 S 2. Subdivision (d) of section 33.13 of the mental hygiene law, as
5 amended by section 4 of part E of chapter 111 of the laws of 2010, is
6 amended to read as follows:

7 (d) Nothing in this section shall prevent the exchange of information
8 concerning patients or clients, including identification, between (i)
9 facilities or others providing services for such patients or clients
10 pursuant to an approved local services plan, as defined in article
11 forty-one, or pursuant to agreement with the department and (ii) the
12 department or any of its facilities. NEITHER SHALL ANYTHING IN THIS
13 SECTION PREVENT THE EXCHANGE OF INFORMATION CONCERNING PATIENTS OR
14 CLIENTS, INCLUDING IDENTIFICATION, BETWEEN FACILITIES AND MANAGED CARE
15 ORGANIZATIONS, BEHAVIORAL HEALTH ORGANIZATIONS, HEALTH HOMES OR OTHER
16 ENTITIES AUTHORIZED BY THE DEPARTMENT OR THE DEPARTMENT OF HEALTH TO
17 PROVIDE, ARRANGE FOR OR COORDINATE HEALTH CARE SERVICES FOR SUCH
18 PATIENTS OR CLIENTS WHO ARE ENROLLED IN OR RECEIVING SERVICES FOR SUCH
19 ORGANIZATIONS OR ENTITIES. PROVIDED HOWEVER, WRITTEN PATIENT OR CLIENT
20 CONSENT SHALL BE OBTAINED PRIOR TO THE EXCHANGE OF INFORMATION WHERE
21 REQUIRED BY 42 USC 290DD-2 AS AMENDED, AND ANY REGULATIONS PROMULGATED
22 THEREUNDER. Information so exchanged shall be kept confidential and any
23 limitations on the release of such information imposed on the party
24 giving the information shall apply to the party receiving the informa-
25 tion.

26 S 3. Subdivision (f) of section 33.13 of the mental hygiene law, as
27 amended by chapter 330 of the laws of 1993, is amended to read as
28 follows:

29 (f) ALL RECORDS OF IDENTITY, DIAGNOSIS, PROGNOSIS, TREATMENT, CARE
30 COORDINATION OR ANY OTHER INFORMATION CONTAINED IN A PATIENT OR CLIENT'S
31 RECORD SHALL BE CONFIDENTIAL UNLESS DISCLOSURE IS PERMITTED UNDER SUBDI-
32 VISION (C) OF THIS SECTION. Any disclosure made pursuant to this section
33 shall be limited to that information necessary AND REQUIRED in light of
34 the reason for disclosure. Information so disclosed shall be kept confi-
35 dential by the party receiving such information and the limitations on
36 disclosure in this section shall apply to such party. Except for disclo-
37 sures made to the mental hygiene legal service, to persons reviewing
38 information or records in the ordinary course of insuring that a facili-
39 ty is in compliance with applicable quality of care standards, or to
40 governmental agents requiring information necessary for payments to be
41 made to or on behalf of patients or clients pursuant to contract or in
42 accordance with law, a notation of all such disclosures shall be placed
43 in the clinical record of that individual who shall be informed of all
44 such disclosures upon request; provided, however, that for disclosures
45 made to insurance companies licensed pursuant to the insurance law, such
46 a notation need only be entered at the time the disclosure is first
47 made.

48 S 4. This act shall take effect immediately; provided that the amend-
49 ments to subdivision (d) of section 33.13 of the mental hygiene law made
50 by section one of this act shall be subject to the expiration and rever-
51 sion of such subdivision pursuant to section 18 of chapter 408 of the
52 laws of 1999, as amended, when upon such date the provisions of section
53 two of this act shall take effect.

1 Section 1. Subdivision 10 of section 3 of section 1 of chapter 359 of
2 the laws of 1968, constituting the facilities development corporation
3 act, as amended by chapter 723 of the laws of 1993, is amended to read
4 as follows:

5 10. "Mental hygiene facility" shall mean a building, a unit within a
6 building, a laboratory, a classroom, a housing unit, a dining hall, an
7 activities center, a library, real property of any kind or description,
8 or any structure on or improvement to real property, or an interest in
9 real property, of any kind or description, owned by or under the juris-
10 diction of the corporation, including fixtures and equipment which are
11 an integral part of any such building, unit, structure or improvement, a
12 walkway, a roadway or a parking lot, and improvements and connections
13 for water, sewer, gas, electrical, telephone, heating, air conditioning
14 and other utility services, or a combination of any of the foregoing,
15 whether for patient care and treatment or staff, staff family or service
16 use, located at or related to any psychiatric center, any developmental
17 center, or any state psychiatric or research institute or other facility
18 now or hereafter established under the department. A mental hygiene
19 facility shall also mean and include a residential care center for
20 adults, a "community mental health and retardation facility" and a
21 treatment facility for use in the conduct of an alcoholism or substance
22 abuse treatment program as defined in the mental hygiene law unless such
23 residential care center for adults, community mental health and retarda-
24 tion facility or alcoholism or substance abuse facility is expressly
25 excepted, or the context clearly requires otherwise, AND SHALL ALSO MEAN
26 AND INCLUDE ANY TREATMENT FACILITY FOR USE IN THE CONDUCT OF AN ALCOHOL-
27 ISM OR SUBSTANCE ABUSE TREATMENT PROGRAM THAT IS ALSO OPERATED AS AN
28 ASSOCIATED HEALTH CARE FACILITY. The definition contained in this subdivi-
29 sion shall not be construed to exclude therefrom a facility owned or
30 leased by one or more voluntary agencies that is to be financed, refi-
31 nanced, designed, constructed, acquired, reconstructed, rehabilitated or
32 improved under any lease, sublease, loan or other financing agreement
33 entered into with such voluntary agencies, and shall not be construed to
34 exclude therefrom a facility to be made available from the corporation
35 to a voluntary agency at the request of the commissioners of the offices
36 of the department having jurisdiction thereof. The definition contained
37 in this subdivision shall not be construed to exclude therefrom a facil-
38 ity with respect to which a voluntary agency has an ownership interest
39 in, and proprietary lease from, an organization formed for the purpose
40 of the cooperative ownership of real estate.

41 S 2. Section 3 of section 1 of chapter 359 of the laws of 1968,
42 constituting the facilities development corporation act, is amended by
43 adding a new subdivision 20 to read as follows:

44 20. "ASSOCIATED HEALTH CARE FACILITY" SHALL MEAN A FACILITY LICENSED
45 UNDER AND OPERATED PURSUANT TO ARTICLE 28 OF THE PUBLIC HEALTH LAW OR
46 ANY HEALTH CARE FACILITY LICENSED UNDER AND OPERATED IN ACCORDANCE WITH
47 ANY OTHER PROVISIONS OF THE PUBLIC HEALTH LAW OR THE MENTAL HYGIENE LAW
48 THAT PROVIDES HEALTH CARE SERVICES AND/OR TREATMENT TO ALL PERSONS,
49 REGARDLESS OF WHETHER SUCH PERSONS ARE PERSONS RECEIVING TREATMENT OR
50 SERVICES FOR ALCOHOL, SUBSTANCE ABUSE, OR CHEMICAL DEPENDENCY.

51 S 3. This act shall take effect immediately.

52

PART O

53 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the
54 insurance law and the public health law relating to the New York state

1 health insurance continuation assistance demonstration project, as
2 amended by section 1 of part GG of chapter 58 of the laws of 2015, is
3 amended to read as follows:

- 4 S 4. This act shall take effect on the sixtieth day after it shall
5 have become a law; provided, however, that this act shall remain in
6 effect until July 1, [2016] 2017 when upon such date the provisions of
7 this act shall expire and be deemed repealed; provided, further, that a
8 displaced worker shall be eligible for continuation assistance retroac-
9 tive to July 1, 2004.
- 10 S 2. This act shall take effect immediately.

11 PART P

12 Section 1. Residential registration list. (a) The office for people
13 with developmental disabilities shall issue a report as a result of its
14 statewide review of individuals with developmental disabilities current-
15 ly on the residential registration list, including information regarding
16 services currently provided to such individuals, and any available
17 regional information on priority placement approaches and housing needs
18 for such individuals. The report shall include an update as to the
19 progress the office has made in meeting the following transformational
20 housing goals as it relates to the individuals with developmental disa-
21 bilities currently on the residential registration list:

- 22 (1) expanding housing alternatives;
23 (2) increasing access to rental housing;
24 (3) building understanding and awareness of housing options for inde-
25 pendent living among people with developmental disabilities, families,
26 public and private organizations, developers and direct support profes-
27 sionals;
28 (4) assisting with the creation of a sustainable living environment
29 through funding for home modifications, down payment assistance and home
30 repairs; and
31 (5) providing recommendations that can improve housing alternatives.

32 (b) Using data collected during the statewide review required by this
33 section, the commissioner of the office for people with developmental
34 disabilities, in consultation with state agencies, local governmental
35 units, stakeholders, including individuals with developmental disabili-
36 ties, parents and guardians of individuals with developmental disabili-
37 ties, advocates and providers of services for individuals with develop-
38 mental disabilities, and others as determined appropriate by such
39 commissioner, shall establish a plan to increase housing alternatives
40 for such individuals. To the extent possible, the plan shall also
41 address the housing needs of individuals not currently on the residen-
42 tial registration list. The plan shall advance the five transformational
43 housing goals listed in this section.

44 (c) An update on the plan including any related recommendations and
45 strategies developed and any policy, rule, or regulation change and
46 estimated dates and timeframe to implement any recommendation or strate-
47 gy shall be included in the office's statewide comprehensive plan pursu-
48 ant to paragraph three of subdivision (b) of section 5.07 of the mental
49 hygiene law.

50 S 2. Development of a plan to provide choice of work settings for
51 individuals with developmental disabilities. (a) The office for people
52 with developmental disabilities shall provide an update of the plan to
53 assist individuals currently working in sheltered workshop programs to
54 transition to integrated community work settings, including any related

1 recommendations and strategies, and any policy, rule, or regulation
2 change and estimated dates and timeframe to implement any recommendation
3 or strategy, which must be included in the office's statewide comprehen-
4 sive plan pursuant to paragraph three of subdivision (b) of section 5.07
5 of the mental hygiene law.

6 (b) Such plan shall solicit and analyze input from stakeholders of
7 sheltered workshops, including, but not limited to, individuals current-
8 ly working in sheltered workshops, providers of workshops, families, and
9 guardians. The plan shall:

10 (1) include outreach and education to individuals with developmental
11 disabilities and their families or guardians throughout the transition
12 process;

13 (2) set forth a detailed analysis of options available to meet the
14 needs and goals of those individuals who currently cannot or choose not
15 to transition to integrated community work settings;

16 (3) maximize the ability of an individual to participate in meaningful
17 community-based activities as part of the individual's person-centered
18 plan; and

19 (4) provide for ongoing review of employment goals for each individual
20 as part of the person-centered planning process.

21 S 3. Transformation panel. (a) The commissioner of the office for
22 people with developmental disabilities shall establish a transformation
23 panel for the purpose of developing a transformation plan which will
24 include recommendations and strategies for maintaining the fiscal
25 viability of service and support delivery system for persons with devel-
26 opmental disabilities and include strategies that will enable the office
27 to comply with federal and state service delivery requirements and
28 provide appropriate levels of care.

29 (b) The panel shall be comprised of the commissioner of the office for
30 people with developmental disabilities or his or her designee; organiza-
31 tions or associations which represent the interests of persons with
32 disabilities, which may include providers of services, consumer repre-
33 sentatives, advocacy groups, persons with developmental disabilities or
34 their parents or guardians; and at the discretion of such commissioner
35 any other individual, entity, or state agency able to support the panel
36 in completing its tasks described under this section. The panel shall
37 collaborate with local governmental units.

38 (c) Panel members shall receive no compensation for their services as
39 members of the workgroup, but may be reimbursed for actual and necessary
40 expenses incurred in the performance of their duties.

41 (d) Transformation plan. The panel shall assist in the development of
42 a transformation plan by the commissioner of the office for people with
43 developmental disabilities, as well as make recommendations for the
44 execution of such plan. The plan will include but not be limited to an
45 analysis of the following:

46 (1) increasing and supporting access to self-directed models of care;

47 (2) enhancing opportunities for individuals to access community inte-
48 grated housing;

49 (3) increasing integrated employment opportunities; and

50 (4) examining the program design and fiscal model for managed care to
51 appropriately address the needs of individuals with disabilities.

52 (e) The commissioner of the office for people with developmental disa-
53 bilities shall include in the office's statewide comprehensive plan
54 pursuant to paragraph three of subdivision (b) of section 5.07 of the
55 mental hygiene law, a summary of recommendations and strategies devel-
56 oped by the panel including any policy, rule, or regulation change and

1 estimated dates and timeframe to implement any recommendation or strate-
2 gy.

3 S 4. Office for people with developmental disabilities monthly
4 reports. (a) The commissioner of the office for people with develop-
5 mental disabilities shall provide monthly status reports to the chairs
6 of the senate and assembly fiscal committees. Such report shall include
7 but not be limited to:

8 (1) current developmental center census by facility;

9 (2) the number of admissions and discharges to developmental centers
10 in the prior month;

11 (3) an explanation of any significant developmental center census
12 reductions; and

13 (4) community services provided to individuals leaving developmental
14 centers, including services provided to individuals with complex needs
15 as well as the number of individuals receiving community services from
16 state and from not-for-profit providers.

17 (b) Such report shall not contain any information made confidential
18 under federal and/or state law.

19 S 5. The front door process. (a) The commissioner of the office for
20 people with developmental disabilities shall make available on the
21 office website, information regarding the front door process, including
22 the approach for determining priority residential placements and the
23 process for individuals to seek access to services.

24 (b) No later than December 15, 2016, the commissioner of the office
25 for people with developmental disabilities shall include in the office's
26 statewide comprehensive plan pursuant to paragraph three of subdivision
27 (b) of section 5.07 of the mental hygiene law, the extent to which the
28 front door policy, as it has been implemented, has improved community
29 education and available service options, connected individual needs to
30 available services, and enhanced opportunities for self-direction.

31 S 6. Paragraph 3 of subdivision (b) of section 5.07 of the mental
32 hygiene law, as amended by section 3 of part N of chapter 56 of the laws
33 of 2012, is amended to read as follows:

34 (3) The commissioners of each of the offices shall be responsible for
35 the development of such statewide five-year plan for services within the
36 jurisdiction of their respective offices and after giving due notice
37 shall conduct one or more public hearings on such plan. The behavioral
38 health services advisory council and the advisory council on develop-
39 mental disabilities shall review the statewide five year comprehensive
40 plan developed by such office or offices and report its recommendations
41 thereon to such commissioner or commissioners. Each commissioner shall
42 submit the plan, with appropriate modifications, to the governor no
43 later than the first day of November of each year in order that such
44 plan may be considered with the estimates of the offices for the prepa-
45 ration of the executive budget of the state of New York for the next
46 succeeding state fiscal year. Such comprehensive plan shall be submitted
47 to the legislature NO LATER THAN THE FIFTEENTH OF DECEMBER OF EACH YEAR
48 and also be posted to the website of each office. Statewide plans shall
49 ensure responsiveness to changing needs and goals and shall reflect the
50 development of new information and the completion of program evalu-
51 ations. An interim report detailing the commissioner's actions in
52 fulfilling the requirements of this section in preparation of the plan
53 and modifications in the plan of services being considered by the
54 commissioner shall be submitted to the governor and the legislature on
55 or before the fifteenth day of March of each year. Such interim report
56 shall include, but need not be limited to:

1 S 7. This act shall take effect immediately and shall be subject to
2 appropriations made specifically available for this purpose; provided,
3 however that this act shall expire and be deemed repealed April 1, 2017.

4 PART Q

5 Section 1. Subdivision 4 of section 461-s of the social services law,
6 as added by section 6 of part A of chapter 57 of the laws of 2015, is
7 amended to read as follows:

8 4. EQUAL program funds shall not be expended for a facility's daily
9 operating expenses, including employee salaries or benefits[, or for
10 expenses incurred retrospectively]. EQUAL PROGRAM FUNDS MAY BE USED FOR
11 EXPENSES INCURRED AT ANY TIME DURING THE FISCAL YEAR FOR WHICH THE FUNDS
12 WERE APPROPRIATED, PROVIDED THAT, CONSISTENT WITH SUBDIVISION THREE OF
13 THIS SECTION, THE RESIDENTS' COUNCIL APPROVES SUCH EXPENDITURE PRIOR TO
14 THE EXPENDITURE BEING INCURRED. EQUAL program funds may be used for
15 expenditures related to corrective action as required by an inspection
16 report, provided such expenditure is consistent with subdivision three
17 of this section.

18 S 2. Section 2807-m of the public health law is amended by adding a
19 new subdivision 12 to read as follows:

20 12. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, APPLICATIONS
21 FOR PHYSICIAN LOAN REPAYMENT AND PHYSICIAN PRACTICE SUPPORT, SUBMITTED
22 PURSUANT TO PARAGRAPHS (D) AND (E) OF SUBDIVISION FIVE-A OF THIS
23 SECTION AND SUBDIVISION TEN OF THIS SECTION, ON OR AFTER APRIL FIRST,
24 TWO THOUSAND SIXTEEN, SHALL BE SUBJECT TO THE FOLLOWING CHANGES:

25 (A) FOR THE PERIOD APRIL FIRST, TWO THOUSAND SIXTEEN THROUGH MARCH
26 THIRTY-FIRST, TWO THOUSAND SEVENTEEN, EIGHT MILLION SIXTY-FIVE THOUSAND
27 DOLLARS SHALL BE SET ASIDE AND RESERVED BY THE COMMISSIONER FROM THE
28 REGIONAL POOLS ESTABLISHED IN ACCORDANCE WITH SUBDIVISION TWO OF THIS
29 SECTION AND SHALL BE AVAILABLE FOR PURPOSES OF BOTH NEW AWARDS FOR
30 PHYSICIAN LOAN REPAYMENT AND NEW AWARDS FOR PHYSICIAN PRACTICE SUPPORT,
31 BASED ON APPLICATIONS SUBMITTED IN ACCORDANCE WITH THIS SUBDIVISION.
32 NEITHER OF THE AWARD PROGRAMS SHALL BE LIMITED TO A SPECIFIC FUNDING
33 AMOUNT WITHIN THE TOTAL AMOUNT MADE AVAILABLE PURSUANT TO THIS PARA-
34 GRAPH.

35 (B) AN APPLICANT MAY APPLY FOR AN AWARD FOR EITHER PHYSICIAN LOAN
36 REPAYMENT OR PHYSICIAN PRACTICE SUPPORT, BUT NOT BOTH.

37 (C) AN APPLICANT SHALL AGREE TO PRACTICE FOR THREE YEARS IN AN UNDER-
38 SERVED AREA AND EACH AWARD SHALL PROVIDE FORTY THOUSAND DOLLARS FOR EACH
39 OF THE THREE YEARS.

40 (D) REFERENCES IN PARAGRAPHS (B) THROUGH (E) OF SUBDIVISION TEN OF
41 THIS SECTION TO PARAGRAPH (A) OF SUBDIVISION TEN OF THIS SECTION SHALL
42 INSTEAD BE REFERENCES TO THE THREE YEAR PHYSICIAN LOAN REPAYMENT AWARDS
43 MADE UNDER THIS SUBDIVISION.

44 (E) THE FUNDING ALLOCATION AND DISTRIBUTION PROVIDED FOR IN PARAGRAPHS
45 (D) AND (E) OF SUBDIVISION FIVE-A OF THIS SECTION SHALL APPLY TO THE
46 COMBINED FUNDING AMOUNT PROVIDED FOR IN PARAGRAPH (A) OF THIS SUBDIVI-
47 SION.

48 (F) AWARDS SHALL BE MADE ANNUALLY AND TIMED TO BE OF USE FOR JOB
49 OFFERS MADE TO APPLICANTS.

50 S 3. Subdivision 9 of section 3365 of the public health law, as added
51 by chapter 90 of the laws of 2014, is amended to read as follows:

52 9. (A) The commissioner shall register no more than five registered
53 organizations that manufacture medical marijuana with no more than
54 [four] EIGHT dispensing sites wholly owned and operated by such regis-

1 tered organization. The commissioner shall ensure that [such] registered
2 organizations and dispensing sites are geographically distributed across
3 the state. The [commission] COMMISSIONER may register additional regis-
4 tered organizations.

5 (B) THE COMMISSIONER SHALL, BY JANUARY FIRST, TWO THOUSAND SEVENTEEN,
6 REGISTER AT LEAST FIVE ADDITIONAL REGISTERED ORGANIZATIONS THAT MANUFAC-
7 TURE MEDICAL MARIHUANA, EACH OF WHICH MAY OPERATE NO MORE THAN EIGHT
8 DISPENSING SITES. IN DETERMINING WHICH APPLICANTS TO SELECT UNDER THIS
9 PARAGRAPH:

10 (I) THE COMMISSIONER SHALL SEEK TO PROVIDE DISPENSARIES IN UNDERSERVED
11 AREAS; AND (II) WHERE AN APPLICANT WAS AN APPLICANT IN THE COMMISSION-
12 ER'S INITIAL SELECTION PROCESS UNDER PARAGRAPH (A) OF THIS SUBDIVISION,
13 THE COMMISSIONER SHALL CONSIDER THE INFORMATION PROVIDED BY THE APPLI-
14 CANT IN THAT INITIAL PROCESS, TO THE EXTENT IT IS CURRENTLY APPLICABLE,
15 AND GIVE APPROPRIATE WEIGHT TO THE COMMISSIONER'S EVALUATION OF THE
16 APPLICANT IN THAT INITIAL PROCESS.

17 S 4. This act shall take effect immediately; provided, however that
18 (a) the amendments to section 2807-m of the public health law made by
19 section two of this act shall be deemed to have been in full force and
20 effect on and after April 1, 2016; and (b) the amendments to subdivision
21 9 of section 3365 of the public health law made by section three of this
22 act shall not affect the repeal of such section and shall be deemed
23 repealed therewith.

24

PART R

25 Section 1. This act enacts into law components of legislation which
26 are necessary to implement legislation relating to substance abuse. Each
27 component is wholly contained within a Subpart identified as Subparts A
28 through K. The effective date for each particular provision contained
29 within such Subpart is set forth in the last section of such Subpart.
30 Any provision in any section contained within a Subpart, including the
31 effective date of the Subpart, which makes a reference to a section "of
32 this act", when used in connection with that particular component, shall
33 be deemed to mean and refer to the corresponding section of the Subpart
34 in which it is found. Section three of this act sets forth the general
35 effective date of this act.

36

SUBPART A

37 Section 1. Section 19.07 of the mental hygiene law is amended by
38 adding a new subdivision (m) to read as follows:

39 (M) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSUL-
40 TATION WITH THE STATE EDUCATION DEPARTMENT, SHALL DEVELOP OR UTILIZE
41 EXISTING EDUCATIONAL MATERIALS TO BE PROVIDED TO SCHOOL DISTRICTS AND
42 BOARDS OF COOPERATIVE EDUCATIONAL SERVICES FOR USE IN ADDITION TO OR IN
43 CONJUNCTION WITH ANY DRUG AND ALCOHOL RELATED CURRICULUM REGARDING THE
44 MISUSE AND ABUSE OF ALCOHOL, TOBACCO, PRESCRIPTION MEDICATION AND OTHER
45 DRUGS WITH AN INCREASED FOCUS ON SUBSTANCES THAT ARE MOST PREVALENT
46 AMONG SCHOOL AGED YOUTH AS SUCH TERM IS DEFINED IN SECTION EIGHT HUNDRED
47 FOUR OF THE EDUCATION LAW. SUCH MATERIALS SHALL BE AGE APPROPRIATE FOR
48 SCHOOL AGE CHILDREN, AND TO THE EXTENT PRACTICABLE, SHALL INCLUDE INFOR-
49 MATION OR RESOURCES FOR PARENTS TO IDENTIFY THE WARNING SIGNS AND
50 ADDRESS THE RISKS OF SUBSTANCE ABUSE.

51 S 2. The education law is amended by adding a new section 3037 to read
52 as follows:

1 S 3037. THE SUPERINTENDENT OF EACH SCHOOL DISTRICT, IN CONSULTATION
2 WITH THE DISTRICT SUPERINTENDENT OF A BOARD OF COOPERATIVE EDUCATIONAL
3 SERVICES, WHERE APPLICABLE, SHALL DESIGNATE AN EMPLOYEE WHO IS A MEMBER
4 OF THE SCHOOL DISTRICT STAFF OR AN EMPLOYEE OF THE BOARD OF COOPERATIVE
5 EDUCATIONAL SERVICES STAFF TO PROVIDE INFORMATION AND REFERRALS TO ANY
6 STUDENT, PARENT, OR STAFF REGARDING SERVICES AVAILABLE TO SUCH STUDENT
7 OR STAFF RELATED TO SUBSTANCE USE. WHERE POSSIBLE, SUCH DESIGNATED INDI-
8 VIDUAL SHALL BE A SCHOOL SOCIAL WORKER, SCHOOL GUIDANCE COUNSELOR, OR
9 ANY OTHER HEALTH PRACTITIONER OR COUNSELOR EMPLOYED BY THE SCHOOL. ANY
10 INFORMATION PROVIDED BY A STUDENT, PARENT OR TEACHER TO SUCH DESIGNATED
11 INDIVIDUAL SHALL BE CONFIDENTIAL, SHALL NOT BE USED IN ANY SCHOOL DISCI-
12 PLINARY PROCEEDING AND SHALL, IN ADDITION TO ANY OTHER APPLICABLE PRIVI-
13 LEGE, BE CONSIDERED CONFIDENTIAL IN THE SAME MANNER AS INFORMATION
14 PROVIDED PURSUANT TO SECTION FORTY-FIVE HUNDRED EIGHT OF THE CIVIL PRAC-
15 TICE LAW AND RULES. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION
16 SHALL RELIEVE SUCH DESIGNATED INDIVIDUAL OF ANY LEGAL DUTY TO OTHERWISE
17 REPORT SUCH INFORMATION. SUCH DESIGNATED INDIVIDUAL OR INDIVIDUALS SHALL
18 UNDERGO ANY NECESSARY TRAINING AS MAY BE REQUIRED BY THE COMMISSIONER.

19 S 3. This act shall take effect on the one hundred twentieth day after
20 it shall have become law; provided, however, that effective immediately
21 the commissioner of education, in consultation with the commissioner of
22 the office of alcoholism and substance abuse services, shall be author-
23 ized to adopt regulations necessary to implement the provisions of this
24 act on or before such effective date.

25

SUBPART B

26 Section 1. Section 19.09 of the mental hygiene law is amended by
27 adding a new subdivision (j) to read as follows:

28 (J) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
29 SHALL CREATE OR UTILIZE EXISTING EDUCATIONAL MATERIALS WHICH SHALL
30 INCLUDE INFORMATION REGARDING THE DANGERS OF MISUSE AND THE POTENTIAL
31 FOR ADDICTION TO PRESCRIPTION DRUGS, TREATMENT RESOURCES AVAILABLE, THE
32 PROPER WAY TO DISPOSE OF UNUSED PRESCRIPTION DRUGS AND INFORMATION ON
33 DRUG DISPOSAL SITES. SUCH MATERIALS SHALL BE MADE AVAILABLE TO PHARMA-
34 CIES LICENSED BY THE STATE TO DISPENSE PRESCRIPTION DRUGS TO THE PUBLIC
35 AND HEALTH CARE PROVIDERS, AND MAY BE DISTRIBUTED WITH ANY PRESCRIBED OR
36 DISPENSED CONTROLLED SUBSTANCE. THE INFORMATION CONTAINED IN SUCH MATE-
37 RIALS SHALL ALSO BE POSTED ON THE WEBSITE OF THE OFFICE AND THE DEPART-
38 MENT OF HEALTH. SUCH MATERIALS SHALL BE PROVIDED IN LANGUAGES OTHER THAN
39 ENGLISH AS DEEMED APPROPRIATE BY SUCH COMMISSIONERS.

40 S 2. This act shall take effect on the sixtieth day after it shall
41 become a law.

42

SUBPART C

43 Section 1. Section 19.07 of the mental hygiene law is amended by
44 adding a new subdivision (l) to read as follows:

45 (L) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSUL-
46 TATION WITH THE COMMISSIONER OF HEALTH, SHALL PROVIDE AND PUBLISH, IN
47 ELECTRONIC OR OTHER FORMAT, TRAINING MATERIALS FOR HEALTH CARE PROVID-
48 ERS, AS DEFINED BY SUBDIVISION SIX OF SECTION TWO HUNDRED THIRTY-EIGHT
49 OF THE PUBLIC HEALTH LAW, AND QUALIFIED HEALTH PROFESSIONALS, RECOGNIZED
50 BY THE OFFICE TO ENABLE THE IMPLEMENTATION OF THE SCREENING, BRIEF
51 INTERVENTION, AND REFERRAL TO TREATMENT PROGRAM (SBIRT). SUCH TRAINING
52 MATERIALS SHALL INCLUDE ANY AND ALL MATERIALS NECESSARY TO INFORM HEALTH

1 CARE PROVIDERS AND QUALIFIED HEALTH PROFESSIONALS OF THE METHOD FOR
2 ADMINISTERING THE SBIRT PROGRAM TO A PATIENT IN THE CARE OF HEALTH CARE
3 PROVIDERS OR QUALIFIED HEALTH PROFESSIONALS. SUCH TRAINING MATERIALS
4 SHALL BE MADE AVAILABLE TO HEALTH CARE PROVIDERS AND QUALIFIED HEALTH
5 PROFESSIONALS THROUGH THE OFFICIAL WEBSITES OF THE OFFICE AND THE
6 DEPARTMENT OF HEALTH AND BY ANY OTHER MEANS DEEMED APPROPRIATE BY THE
7 COMMISSIONER.

8 S 2. This act shall take effect immediately.

9

SUBPART D

10 Section 1. The public health law is amended by adding a new section
11 2803-u to read as follows:

12 S 2803-U. HOSPITAL SUBSTANCE USE DISORDER POLICIES AND PROCEDURES. 1.
13 EVERY GENERAL HOSPITAL SHALL:

14 (A) DEVELOP, MAINTAIN AND DISSEMINATE WRITTEN POLICIES AND PROCEDURES
15 FOR THE IDENTIFICATION, ASSESSMENT AND REFERRAL OF CONFIRMED OR
16 SUSPECTED CASES OF SUBSTANCE USE DISORDERS AS DEFINED IN SECTION 1.03 OF
17 THE MENTAL HYGIENE LAW;

18 (B) ESTABLISH AND IMPLEMENT A TRAINING PROGRAM FOR ALL CURRENT AND NEW
19 EMPLOYEES ENGAGED IN PROVIDING DIRECT CLINICAL SERVICES TO PATIENTS
20 REGARDING THE POLICIES AND PROCEDURES ESTABLISHED PURSUANT TO THIS
21 SECTION; AND

22 (C) IF THE HOSPITAL DOES NOT HAVE OTHER ARRANGEMENTS FOR PROVIDING OR
23 COORDINATING SERVICES TO INDIVIDUALS WITH SUBSTANCE USE DISORDERS,
24 CONTACT A SUBSTANCE USE DISORDER SERVICES PROGRAM THAT PROVIDES BEHAV-
25 IORAL HEALTH SERVICES, AS DEFINED IN SECTION 1.03 OF THE MENTAL HYGIENE
26 LAW, IN THE GEOGRAPHIC AREA SERVED BY SUCH HOSPITAL TO SEEK AND ESTAB-
27 LISH THE COORDINATION OF SERVICES TO INDIVIDUALS WITH SUBSTANCE USE
28 DISORDERS.

29 2. UPON ADMITTANCE, COMMENCEMENT OF TREATMENT, OR DISCHARGE OF A
30 CONFIRMED OR SUSPECTED INDIVIDUAL WITH A SUBSTANCE USE DISORDER, SUCH
31 HOSPITAL SHALL INFORM THE INDIVIDUAL OF THE AVAILABILITY OF THE
32 SUBSTANCE USE DISORDER TREATMENT SERVICES THAT MAY BE AVAILABLE TO THEM
33 THROUGH A SUBSTANCE USE DISORDER SERVICES PROGRAM.

34 3. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF THE
35 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, SHALL MAKE REGU-
36 LATIONS AS MAY BE NECESSARY AND PROPER TO CARRY OUT THE PROVISIONS OF
37 THIS SECTION.

38 S 2. Section 19.07 of the mental hygiene law is amended by adding a
39 new subdivision (l) to read as follows:

40 (L) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSUL-
41 TATION WITH THE DEPARTMENT OF HEALTH, SHALL DEVELOP OR UTILIZE EXISTING
42 EDUCATIONAL MATERIALS TO BE PROVIDED TO HEALTH CARE PROVIDERS TO DISSEM-
43 INATE TO CONFIRMED OR SUSPECTED INDIVIDUALS WITH SUBSTANCE USE DISORDERS
44 DURING DISCHARGE PLANNING PURSUANT TO SECTION TWENTY-EIGHT HUNDRED
45 THREE-I OF THE PUBLIC HEALTH LAW FROM A GENERAL HOSPITAL. SUCH MATERIALS
46 SHALL INCLUDE INFORMATION REGARDING TREATMENT AND RECOVERY SERVICES,
47 INCLUDING BUT NOT LIMITED TO HOW TO RECOGNIZE THE NEED FOR TREATMENT
48 SERVICES, INFORMATION FOR INDIVIDUALS TO DETERMINE WHAT TREATMENT
49 RESOURCES ARE AVAILABLE TO THEM, AND ANY OTHER INFORMATION THE COMMIS-
50 SIONER DEEMS APPROPRIATE.

51 S 3. This act shall take effect on the one hundred eightieth day after
52 it shall have become a law; provided, however, that the commissioner of
53 health, the commissioner of alcohol and substance abuse services, and

1 general hospitals shall, respectively, make regulations and take other
2 actions reasonably necessary to implement this act on such date.

3 SUBPART E

4 Section 1. The opening paragraph of section 220.03 of the penal law,
5 as amended by section 4 of part I of chapter 57 of the laws of 2015, is
6 amended to read as follows:

7 A person is guilty of criminal possession of a controlled substance in
8 the seventh degree when he or she knowingly and unlawfully possesses a
9 controlled substance; provided, however, that it shall not be a
10 violation of this section when a person possesses a residual amount of a
11 controlled substance and that residual amount is in or on a hypodermic
12 syringe or hypodermic needle [obtained and possessed pursuant to section
13 thirty-three hundred eighty-one of the public health law, which includes
14 the state's syringe exchange and pharmacy and medical provider-based
15 expanded syringe access programs]; nor shall it be a violation of this
16 section when a person's unlawful possession of a controlled substance is
17 discovered as a result of seeking immediate health care as defined in
18 paragraph (b) of subdivision three of section 220.78 of [the penal law]
19 THIS ARTICLE, for either another person or him or herself because such
20 person is experiencing a drug or alcohol overdose or other life threat-
21 ening medical emergency as defined in paragraph (a) of subdivision three
22 of section 220.78 of the [penal law] THIS ARTICLE.

23 S 2. Section 220.45 of the penal law is REPEALED.

24 S 3. Subdivision 2 of section 850 of the general business law, as
25 amended by chapter 812 of the laws of 1980, is amended to read as
26 follows:

27 2. (A) "Drug-related paraphernalia" consists of the following objects
28 used for the following purposes:

29 [(a)] (I) Kits, used or designed for the purpose of planting, propa-
30 gating, cultivating, growing or harvesting of any species of plant which
31 is a controlled substance or from which a controlled substance can be
32 derived;

33 [(b)] (II) Kits, used or designed for the purpose of manufacturing,
34 compounding, converting, producing, or preparing controlled substances;

35 [(c)] (III) Isomerization devices, used or designed for the purpose of
36 increasing the potency of any species of plant which is a controlled
37 substance;

38 [(d)] (IV) Scales and balances, used or designed for the purpose of
39 weighing or measuring controlled substances;

40 [(e)] (V) Diluents and adulterants, including but not limited to
41 quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or
42 designed for the purpose of cutting controlled substances;

43 [(f)] (VI) Separation gins, used or designed for the purpose of remov-
44 ing twigs and seeds in order to clean or refine marihuana;

45 [(g) Hypodermic syringes, needles and other objects, used or designed
46 for the purpose of parenterally injecting controlled substances into the
47 human body;

48 (h)] AND

49 (VII) Objects, used or designed for the purpose of ingesting, inhal-
50 ing, or otherwise introducing marihuana, cocaine, hashish, or hashish
51 oil into the human body.

52 (B) "DRUG-RELATED PARAPHERNALIA" SHALL NOT INCLUDE HYPODERMIC NEEDLES,
53 HYPODERMIC SYRINGES AND OTHER OBJECTS USED FOR THE PURPOSE OF PARENTER-
54 ALLY INJECTING CONTROLLED SUBSTANCES INTO THE HUMAN BODY.

1 S 4. Section 3381 of the public health law, as amended by section 9-a
2 of part B of chapter 58 of the laws of 2007, subdivisions 1, 2 and 3 as
3 amended by chapter 178 of the laws of 2010, is amended to read as
4 follows:

5 S 3381. Sale and possession of hypodermic syringes and hypodermic
6 needles. 1. It shall be unlawful for any person to sell or furnish to
7 another person or persons, a hypodermic syringe or hypodermic needle
8 except:

9 (a) pursuant to a prescription of a practitioner, which for the
10 purposes of this section shall include a patient specific prescription
11 form as provided for in the education law; or

12 (b) to persons who have been authorized by the commissioner to obtain
13 and possess such instruments; or

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

23 (D) UNDER SUBDIVISION THREE OF THIS SECTION.

24 2. [It shall be unlawful for any person to obtain or possess a hypo-
25 dermic syringe or hypodermic needle unless such possession has been
26 authorized by the commissioner or is pursuant to a prescription, or is
27 pursuant to subdivision five of this section.

28 3.] Any person selling or furnishing a hypodermic syringe or hypoderm-
29 ic needle pursuant to a prescription shall record upon the prescription,
30 his or her signature or electronic signature, and the date of the sale
31 or furnishing of the hypodermic syringe or hypodermic needle. Such
32 prescription shall be retained on file for a period of five years and be
33 readily accessible for inspection by any public officer or employee
34 engaged in the enforcement of this section. Such prescription may be
35 refilled not more than the number of times specifically authorized by
36 the prescriber upon the prescription, provided however no such authori-
37 zation shall be effective for a period greater than two years from the
38 date the prescription is signed.

39 [4] 3. The commissioner shall, subject to subdivision [five] FOUR of
40 this section, designate persons, or by regulation, classes of persons
41 who may obtain hypodermic syringes and hypodermic needles without
42 prescription and the manner in which such transactions may take place
43 and the records thereof which shall be maintained.

44 [5] 4. (a) A person eighteen years of age or older may obtain and
45 possess a hypodermic syringe or hypodermic needle pursuant to paragraph
46 (c) of subdivision one of this section.

47 (b) Subject to regulations of the commissioner, a pharmacy licensed
48 under article one hundred thirty-seven of the education law, a health
49 care facility licensed under article twenty-eight of this chapter or a
50 health care practitioner who is otherwise authorized to prescribe the
51 use of hypodermic needles or syringes within his or her scope of prac-
52 tice, may obtain and possess hypodermic needles or syringes for the
53 purpose of selling or furnishing them pursuant to paragraph (c) of
54 subdivision one of this section or for the purpose of disposing of
55 them[, provided that such pharmacy, health care facility or health care
56 practitioner has registered with the department].

1 (c) Sale or furnishing of hypodermic syringes or hypodermic needles to
2 direct consumers pursuant to this subdivision by a pharmacy, health care
3 facility, or health care practitioner shall be accompanied by a safety
4 insert. Such safety insert shall be developed or approved by the commis-
5 sioner and shall include, but not be limited to, (i) information on the
6 proper use of hypodermic syringes and hypodermic needles; (ii) the risk
7 of blood borne diseases that may result from the use of hypodermic
8 syringes and hypodermic needles; (iii) methods for preventing the trans-
9 mission or contraction of blood borne diseases; (iv) proper hypodermic
10 syringe and hypodermic needle disposal practices; (v) information on the
11 dangers of injection drug use, and how to access drug treatment; (vi) a
12 toll-free phone number for information on the human immunodeficiency
13 virus; and (vii) information on the safe disposal of hypodermic syringes
14 and hypodermic needles including the relevant provisions of the environ-
15 mental conservation law relating to the unlawful release of regulated
16 medical waste. The safety insert shall be attached to or included in the
17 hypodermic syringe and hypodermic needle packaging, or shall be given to
18 the purchaser at the point of sale or furnishing in brochure form.

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

28 (e) The commissioner shall promulgate rules and regulations necessary
29 to implement the provisions of this subdivision which shall include: (I)
30 STANDARDS FOR ADVERTISING TO THE PUBLIC THE AVAILABILITY FOR RETAIL SALE
31 OR FURNISHING OF HYPODERMIC SYRINGES OR NEEDLES; AND (II) a requirement
32 that such pharmacies, health care facilities and health care practition-
33 ers cooperate in a safe disposal of used hypodermic needles or syringes.

34 (f) The commissioner may, upon the finding of a violation of this
35 section, suspend for a determinate period of time the sale or furnishing
36 of syringes by a specific entity.

37 [6] 5. The provisions of this section shall not apply to farmers
38 engaged in livestock production or to those persons supplying farmers
39 engaged in livestock production, provided that:

40 (a) Hypodermic syringes and needles shall be stored in a secure,
41 locked storage container.

42 (b) At any time the department may request a document outlining:

43 (i) the number of hypodermic needles and syringes purchased over the
44 past calendar year;

45 (ii) a record of all hypodermic needles used over the past calendar
46 year; and

47 (iii) a record of all hypodermic needles and syringes destroyed over
48 the past calendar year.

49 (c) Hypodermic needles and syringes shall be destroyed in a manner
50 consistent with the provisions set forth in section thirty-three hundred
51 eighty-one-a of this article.

52 S 5. This act shall take effect immediately.

1 Section 1. Section 19.18-a of the mental hygiene law, as added by
2 chapter 32 of the laws of 2014, is amended to read as follows:

3 S 19.18-a Heroin and opioid addiction wraparound services [demon-
4 stration] program.

5 1. The commissioner, in consultation with the department of health
6 shall develop a heroin and opioid addiction wraparound services [demon-
7 stration] program. This program shall provide wraparound services to
8 adolescent and adult patients during treatment and shall be available to
9 such patients for a clinically appropriate period for up to nine months
10 after completion of such treatment program. The commissioner shall iden-
11 tify and establish where the wraparound services [demonstration] program
12 will be provided.

13 2. Wraparound services shall include;

14 (a) Case management services which address:

15 (i) Educational resources;

16 (ii) Legal services;

17 (iii) Financial services;

18 (iv) Social services;

19 (v) Family services; and

20 (vi) Childcare services;

21 (b) Peer supports, including peer to peer support groups;

22 (c) Employment support; and

23 (d) Transportation assistance.

24 3. [Not later than two years after the effective date of this section,
25 the] THE commissioner shall provide the governor, the temporary presi-
26 dent of the senate, the speaker of the assembly, the chair of the senate
27 standing committee on alcoholism and drug abuse and the chair of the
28 assembly committee on alcoholism and drug abuse with a written evalu-
29 ation of the [demonstration] program. Such evaluation shall address the
30 overall effectiveness of this [demonstration] program and whether
31 continuation or expansion of this [demonstration] program is recom-
32 mended.

33 S 2. Section 2 of chapter 32 of the laws of 2014, amending the mental
34 hygiene law relating to the heroin and opioid addiction wraparound
35 services demonstration program, is amended to read as follows:

36 S 2. This act shall take effect immediately [and shall expire and be
37 deemed repealed three years after such effective date].

38 S 3. This act shall take effect immediately.

39 SUBPART G

40 Section 1. The mental hygiene law is amended by adding a new section
41 19.04 to read as follows:

42 S 19.04 SOBER LIVING TASK FORCE.

43 1. DEFINITIONS. AS USED IN THIS SECTION:

44 (A) "SOBER LIVING RESIDENCE" SHALL MEAN ANY RESIDENCE LOCATED IN NEW
45 YORK STATE WHERE THE OWNER OR OPERATOR OF SUCH RESIDENCE HOLDS THE RESI-
46 DENCE OUT TO THE PUBLIC AS AN ALCOHOL AND DRUG FREE LIVING ENVIRONMENT
47 FOR PERSONS RECOVERING FROM A CHEMICAL DEPENDENCY, WHERE NO FORMAL
48 TREATMENT SERVICES ARE PROVIDED ON-SITE.

49 (B) "SOBER LIVING NETWORK" SHALL MEAN A GROUP OF INDEPENDENTLY OPER-
50 ATED AND SELF-REGULATED SOBER LIVING RESIDENCES LOCATED IN NEW YORK
51 STATE WHICH COMPLY WITH THE GUIDELINES ISSUED PURSUANT TO THIS SECTION.

52 2. THE SOBER LIVING TASK FORCE IS HEREBY CREATED, WHICH PURSUANT TO
53 THE PROVISIONS OF THIS SECTION, SHALL ESTABLISH BEST PRACTICE GUIDELINES

1 FOR SOBER LIVING RESIDENCES THAT ILLUSTRATE THE MOST APPROPRIATE AND
2 EFFECTIVE ENVIRONMENT FOR PERSONS RECOVERING FROM A CHEMICAL DEPENDENCY.

3 3. THE TASK FORCE SHALL UTILIZE INFORMATION COLLECTED FROM ORGANIZA-
4 TIONS AND PROGRAMS BOTH IN NEW YORK STATE AND THROUGHOUT THE COUNTRY TO:

5 (A) ISSUE RECOMMENDATIONS AND GUIDELINES ESTABLISHING BEST PRACTICES
6 FOR SOBER LIVING RESIDENCES TO PROVIDE AN ALCOHOL AND DRUG FREE SOBER
7 LIVING ENVIRONMENT;

8 (B) DEVELOP A PLAN TO ESTABLISH A STATEWIDE SOBER LIVING NETWORK AS
9 DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION; AND

10 (C) IDENTIFY BARRIERS FOR INDIVIDUALS TO ACCESS RECOVERY SERVICES,
11 RESIDENTIAL TREATMENT FOR CHEMICAL DEPENDENCY AND APPROPRIATE HOUSING
12 WHERE INDIVIDUALS ARE PROVIDED AN ALCOHOL AND DRUG FREE LIVING ENVIRON-
13 MENT.

14 4. (A) THE MEMBERS OF THE TASK FORCE SHALL INCLUDE THE COMMISSIONER OF
15 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES OR HIS OR HER
16 DESIGNEE; THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH OR HIS OR HER
17 DESIGNEE; THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY
18 ASSISTANCE OR HIS OR HER DESIGNEE; THE COMMISSIONER OF THE OFFICE OF
19 HOMES AND COMMUNITY RENEWAL OR HIS OR HER DESIGNEE; ONE REPRESENTATIVE
20 OF THE NEW YORK STATE LOCAL MENTAL HYGIENE DIRECTORS; AT LEAST TWO
21 REPRESENTATIVES OF REPUTABLE OWNERS OR OPERATORS OF A RESIDENCE WHICH
22 CURRENTLY PROVIDES ALCOHOL AND DRUG FREE HOUSING FOR PERSONS IN RECOVERY
23 WHERE NO FORMAL TREATMENT SERVICES ARE PROVIDED ON-SITE; AT LEAST TWO
24 REPRESENTATIVES OF CHEMICAL DEPENDENCE RESIDENTIAL TREATMENT PROVIDERS
25 LICENSED BY THE OFFICE; AT LEAST ONE REPRESENTATIVE WHO IS NOT A PROVID-
26 ER OF CHEMICAL DEPENDENCE OR MENTAL HEALTH SERVICES AND WHO REPRESENT
27 NON-GOVERNMENTAL ORGANIZATIONS, SUCH AS NOT-FOR-PROFIT ENTITIES OR OTHER
28 ORGANIZATIONS CONCERNED WITH THE PROVISION OF HOUSING AND RECOVERY
29 SERVICES; AND ANY OTHER RELEVANT AGENCY OR PARTICIPANT THAT IS DEEMED
30 APPROPRIATE. THE COMMISSIONER SHALL BE DESIGNATED AS THE CHAIRPERSON OF
31 SUCH TASK FORCE AND SHALL SELECT A VICE-CHAIRPERSON AND A SECRETARY.
32 PRIOR TO THE FIRST MEETING OF THE TASK FORCE, IN CONSULTATION WITH THE
33 STATE AGENCY MEMBERS OF SUCH TASK FORCE, THE CHAIRPERSON SHALL SELECT UP
34 TO EIGHT ADDITIONAL MEMBERS WHOM SHALL BE REPRESENTATIVES OF LOCAL
35 GOVERNMENT AGENCIES IN NEW YORK STATE WHERE THE NEED FOR ALCOHOL AND
36 DRUG FREE HOUSING IS MOST PREVALENT.

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

40 (C) NO CIVIL ACTION SHALL BE BROUGHT IN ANY COURT AGAINST ANY MEMBER
41 OF THE SOBER LIVING TASK FORCE FOR ANY ACT OR OMISSION NECESSARY TO THE
42 DISCHARGE OF HIS OR HER DUTIES AS A MEMBER OF THE TASK FORCE, EXCEPT AS
43 PROVIDED HEREIN. SUCH MEMBER MAY BE LIABLE FOR DAMAGES IN ANY SUCH
44 ACTION IF HE OR SHE FAILED TO ACT IN GOOD FAITH AND EXERCISE REASONABLE
45 CARE. ANY INFORMATION OBTAINED BY A MEMBER OF THE TASK FORCE WHILE
46 CARRYING OUT HIS OR HER LIMITED DUTIES AS PRESCRIBED IN SUBDIVISION
47 THREE OF THIS SECTION SHALL ONLY BE UTILIZED IN THEIR CAPACITY AS A
48 MEMBER OF THE TASK FORCE.

49 5. NO LATER THAN DECEMBER THIRTY-FIRST IN THE YEAR FOLLOWING THE
50 EFFECTIVE DATE OF THIS SECTION THE TASK FORCE SHALL PROVIDE A REPORT TO
51 THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
52 SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEM-
53 BLY, AND THE CHAIRMAN OF THE APPROPRIATE LEGISLATIVE COMMITTEES. SUCH
54 REPORT SHALL INCLUDE BUT NOT BE LIMITED TO THE BEST PRACTICES ESTAB-
55 LISHED FOR SOBER LIVING RESIDENCES; A DESCRIPTION OF THE PLAN THAT
56 ESTABLISHES A STATEWIDE SOBER LIVING NETWORK; RECOMMENDATIONS BY THE

1 TASK FORCE TO REDUCE ACCESS BARRIERS FOR INDIVIDUALS SEEKING RESIDENTIAL
2 TREATMENT FOR CHEMICAL DEPENDENCY; AND RECOMMENDATIONS FOR ANY OTHER
3 PROGRAM OR POLICY INITIATIVE THE TASK FORCE DEEMS APPROPRIATE. THE
4 REPORT SHALL BE POSTED ON THE WEBSITES OF THE APPROPRIATE AGENCIES.

5 S 2. This act shall take effect on the thirtieth day after it shall
6 have become a law and shall expire and be deemed repealed one year after
7 such effective date.

8

SUBPART H

9 Section 1. The opening paragraph of subdivision 1 and subdivision 2 of
10 section 216.00 of the criminal procedure law, the opening paragraph of
11 subdivision 1 as amended by chapter 90 of the laws of 2014 and subdivi-
12 sion 2 as added by section 4 of part AAA of chapter 56 of the laws of
13 2009, are amended to read as follows:

14 "Eligible defendant" means any person who stands charged in an indict-
15 ment or a superior court information with a class B, C, D or E felony
16 offense defined in article one hundred seventy-nine, two hundred twenty
17 or two hundred twenty-one of the penal law, AN OFFENSE DEFINED IN
18 SECTIONS 105.10, 105.13, 105.15 AND 105.17 OF THE PENAL LAW PROVIDED
19 THAT THE UNDERLYING CRIME FOR THE CONSPIRACY CHARGE IS A CLASS B, C, D
20 OR E FELONY OFFENSE DEFINED IN ARTICLE ONE HUNDRED SEVENTY-NINE, TWO
21 HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW, AUTO STRIP-
22 PING IN THE SECOND DEGREE AS DEFINED IN SECTION 165.10 OF THE PENAL LAW,
23 AUTO STRIPPING IN THE FIRST DEGREE AS DEFINED IN SECTION 165.11 OF THE
24 PENAL LAW, IDENTITY THEFT IN THE SECOND DEGREE AS DEFINED IN SECTION
25 190.79 OF THE PENAL LAW, IDENTITY THEFT IN THE FIRST DEGREE AS DEFINED
26 IN SECTION 190.80 OF THE PENAL LAW, or any other specified offense as
27 defined in subdivision [four] FIVE of section 410.91 of this chapter,
28 provided, however, a defendant is not an "eligible defendant" if he or
29 she:

30 2. "Alcohol and substance [abuse] USE evaluation" means a written
31 assessment and report by a court-approved entity or licensed health care
32 professional experienced in the treatment of alcohol and substance
33 [abuse] USE DISORDER, or by an addiction and substance [abuse] USE coun-
34 selor credentialed by the office of alcoholism and substance abuse
35 services pursuant to section 19.07 of the mental hygiene law, which
36 shall include:

37 (a) an evaluation as to whether the defendant has a history of alcohol
38 or substance [abuse or alcohol or substance dependence] USE DISORDER, as
39 such terms are defined in the diagnostic and statistical manual of
40 mental disorders, [fourth] FIFTH edition, and a co-occurring mental
41 disorder or mental illness and the relationship between such [abuse or
42 dependence] USE and mental disorder or mental illness, if any;

43 (b) a recommendation as to whether the defendant's alcohol or
44 substance [abuse or dependence] USE, if any, could be effectively
45 addressed by judicial diversion in accordance with this article;

46 (c) a recommendation as to the treatment modality, level of care and
47 length of any proposed treatment to effectively address the defendant's
48 alcohol or substance [abuse or dependence] USE and any co-occurring
49 mental disorder or illness; and

50 (d) any other information, factor, circumstance, or recommendation
51 deemed relevant by the assessing entity or specifically requested by the
52 court.

1 S 2. The opening paragraph of subdivision 1 of section 216.00 of the
2 criminal procedure law, as added by section 4 of part AAA of chapter 56
3 of the laws of 2009, is amended to read as follows:

4 "Eligible defendant" means any person who stands charged in an indict-
5 ment or a superior court information with a class B, C, D or E felony
6 offense defined in article two hundred twenty or two hundred twenty-one
7 of the penal law, AN OFFENSE DEFINED IN SECTIONS 105.10, 105.13, 105.15
8 AND 105.17 OF THE PENAL LAW PROVIDED THAT THE UNDERLYING CRIME FOR THE
9 CONSPIRACY CHARGE IS A CLASS B, C, D OR E FELONY OFFENSE DEFINED IN
10 ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW,
11 AUTO STRIPPING IN THE SECOND DEGREE AS DEFINED IN SECTION 165.10 OF THE
12 PENAL LAW, AUTO STRIPPING IN THE FIRST DEGREE AS DEFINED IN SECTION
13 165.11 OF THE PENAL LAW, IDENTITY THEFT IN THE SECOND DEGREE AS DEFINED
14 IN SECTION 190.79 OF THE PENAL LAW, IDENTITY THEFT IN THE FIRST DEGREE
15 AS DEFINED IN SECTION 190.80 OF THE PENAL LAW, or any other specified
16 offense as defined in subdivision [four] FIVE of section 410.91 of this
17 chapter, provided, however, a defendant is not an "eligible defendant"
18 if he or she:

19 S 3. Section 216.05 of the criminal procedure law, as added by section
20 4 of part AAA of chapter 56 of the laws of 2009, subdivision 5 and para-
21 graph (a) of subdivision 9 as amended by chapter 258 of the laws of
22 2015, and subdivision 8 as amended by chapter 347 of the laws of 2012,
23 is amended to read as follows:

24 S 216.05 Judicial diversion program; court procedures.

25 1. At any time after the arraignment of an eligible defendant, but
26 prior to the entry of a plea of guilty or the commencement of trial, the
27 court at the request of the eligible defendant, may order an alcohol and
28 substance [abuse] USE evaluation. An eligible defendant may decline to
29 participate in such an evaluation at any time. The defendant shall
30 provide a written authorization, in compliance with the requirements of
31 any applicable state or federal laws, rules or regulations authorizing
32 disclosure of the results of the assessment to the defendant's attorney,
33 the prosecutor, the local probation department, the court, authorized
34 court personnel and other individuals specified in such authorization
35 for the sole purpose of determining whether the defendant should be
36 offered judicial diversion for treatment for substance [abuse or depend-
37 ence] USE, alcohol [abuse or dependence] USE and any co-occurring mental
38 disorder or mental illness.

39 2. Upon receipt of the completed alcohol and substance [abuse] USE
40 evaluation report, the court shall provide a copy of the report to the
41 eligible defendant and the prosecutor.

42 3. (a) Upon receipt of the evaluation report either party may request
43 a hearing on the issue of whether the eligible defendant should be
44 offered alcohol or substance [abuse] USE treatment pursuant to this
45 article. At such a proceeding, which shall be held as soon as practica-
46 ble so as to facilitate early intervention in the event that the defend-
47 ant is found to need alcohol or substance [abuse] USE treatment, the
48 court may consider oral and written arguments, may take testimony from
49 witnesses offered by either party, and may consider any relevant
50 evidence including, but not limited to, evidence that:

51 (i) the defendant had within the preceding ten years (excluding any
52 time during which the offender was incarcerated for any reason between
53 the time of the acts that led to the youthful offender adjudication and
54 the time of commission of the present offense) been adjudicated a youth-
55 ful offender for: (A) a violent felony offense as defined in section
56 70.02 of the penal law; or (B) any offense for which a merit time allow-

1 ance is not available pursuant to subparagraph (ii) of paragraph (d) of
2 subdivision one of section eight hundred three of the correction law;
3 and

4 (ii) in the case of a felony offense defined in subdivision [four]
5 FIVE of section 410.91 of this chapter, OR SECTION 165.09, 165.10,
6 190.79 OR 190.80 OF THE PENAL LAW, any statement of or submitted by the
7 victim, as defined in paragraph (a) of subdivision two of section 380.50
8 of this chapter.

9 (b) Upon completion of such a proceeding, the court shall consider and
10 make findings of fact with respect to whether:

11 (i) the defendant is an eligible defendant as defined in subdivision
12 one of section 216.00 of this article;

13 (ii) the defendant has a history of alcohol or substance [abuse or
14 dependence] USE;

15 (iii) such alcohol or substance [abuse or dependence] USE is a
16 contributing factor to the defendant's criminal behavior;

17 (iv) the defendant's participation in judicial diversion could effec-
18 tively address such [abuse or dependence] USE; and

19 (v) institutional confinement of the defendant is or may not be neces-
20 sary for the protection of the public.

21 4. When an authorized court determines, pursuant to paragraph (b) of
22 subdivision three of this section, that an eligible defendant should be
23 offered alcohol or substance [abuse] USE treatment, or when the parties
24 and the court agree to an eligible defendant's participation in alcohol
25 or substance [abuse] USE treatment, an eligible defendant may be allowed
26 to participate in the judicial diversion program offered by this arti-
27 cle. Prior to the court's issuing an order granting judicial diversion,
28 the eligible defendant shall be required to enter a plea of guilty to
29 the charge or charges; provided, however, that no such guilty plea shall
30 be required when:

31 (a) the people and the court consent to the entry of such an order
32 without a plea of guilty; or

33 (b) based on a finding of exceptional circumstances, the court deter-
34 mines that a plea of guilty shall not be required. For purposes of this
35 subdivision, exceptional circumstances exist when, regardless of the
36 ultimate disposition of the case, the entry of a plea of guilty is like-
37 ly to result in severe collateral consequences.

38 5. The defendant shall agree on the record or in writing to abide by
39 the release conditions set by the court, which, shall include: partic-
40 ipation in a specified period of alcohol or substance [abuse] USE treat-
41 ment at a specified program or programs identified by the court, which
42 may include periods of detoxification, residential or outpatient treat-
43 ment, or both, as determined after taking into account the views of the
44 health care professional who conducted the alcohol and substance [abuse]
45 USE evaluation and any health care professionals responsible for provid-
46 ing such treatment or monitoring the defendant's progress in such treat-
47 ment; and may include: (i) periodic court appearances, which may include
48 periodic urinalysis; (ii) a requirement that the defendant refrain from
49 engaging in criminal behaviors; (iii) if the defendant needs treatment
50 for opioid [abuse or dependence] USE, that he or she may participate in
51 and receive medically prescribed drug treatments under the care of a
52 health care professional licensed or certified under title eight of the
53 education law, acting within his or her lawful scope of practice.

54 6. Upon an eligible defendant's agreement to abide by the conditions
55 set by the court, the court shall issue a securing order providing for
56 bail or release on the defendant's own recognizance and conditioning any

1 release upon the agreed upon conditions. The period of alcohol or
2 substance [abuse] USE treatment shall begin as specified by the court
3 and as soon as practicable after the defendant's release, taking into
4 account the availability of treatment, so as to facilitate early inter-
5 vention with respect to the defendant's abuse or condition and the
6 effectiveness of the treatment program. In the event that a treatment
7 program is not immediately available or becomes unavailable during the
8 course of the defendant's participation in the judicial diversion
9 program, the court may release the defendant pursuant to the securing
10 order.

11 7. When participating in judicial diversion treatment pursuant to this
12 article, any resident of this state who is covered under a private
13 health insurance policy or contract issued for delivery in this state
14 pursuant to article thirty-two, forty-three or forty-seven of the insur-
15 ance law or article forty-four of the public health law, or who is
16 covered by a self-funded plan which provides coverage for the diagnosis
17 and treatment of chemical abuse and chemical dependence however defined
18 in such policy; shall first seek reimbursement for such treatment in
19 accordance with the provisions of such policy or contract.

20 8. During the period of a defendant's participation in the judicial
21 diversion program, the court shall retain jurisdiction of the defendant,
22 provided, however, that the court may allow such defendant to reside in
23 another jurisdiction while participating in a judicial diversion program
24 under conditions set by the court and agreed to by the defendant pursu-
25 ant to subdivisions five and six of this section. The court may require
26 the defendant to appear in court at any time to enable the court to
27 monitor the defendant's progress in alcohol or substance [abuse] USE
28 treatment. The court shall provide notice, reasonable under the circum-
29 stances, to the people, the treatment provider, the defendant and the
30 defendant's counsel whenever it orders or otherwise requires the appear-
31 ance of the defendant in court. Failure to appear as required without
32 reasonable cause therefor shall constitute a violation of the conditions
33 of the court's agreement with the defendant.

34 9. (a) If at any time during the defendant's participation in the
35 judicial diversion program, the court has reasonable grounds to believe
36 that the defendant has violated a release condition or has failed to
37 appear before the court as requested, the court shall direct the defend-
38 ant to appear or issue a bench warrant to a police officer or an appro-
39 priate peace officer directing him or her to take the defendant into
40 custody and bring the defendant before the court without unnecessary
41 delay; provided, however, that under no circumstances shall a defendant
42 who requires treatment for opioid [abuse or dependence] USE be deemed to
43 have violated a release condition on the basis of his or her partic-
44 ipation in medically prescribed drug treatments under the care of a
45 health care professional licensed or certified under title eight of the
46 education law, acting within his or her lawful scope of practice. The
47 provisions of subdivision one of section 530.60 of this chapter relating
48 to revocation of recognizance or bail shall apply to such proceedings
49 under this subdivision.

50 (b) In determining whether a defendant violated a condition of his or
51 her release under the judicial diversion program, the court may conduct
52 a summary hearing consistent with due process and sufficient to satisfy
53 the court that the defendant has, in fact, violated the condition.

54 (c) If the court determines that the defendant has violated a condi-
55 tion of his or her release under the judicial diversion program, the
56 court may modify the conditions thereof, reconsider the order of recog-

1 nizance or bail pursuant to subdivision two of section 510.30 of this
2 chapter, or terminate the defendant's participation in the judicial
3 diversion program; and when applicable proceed with the defendant's
4 sentencing in accordance with the agreement. Notwithstanding any
5 provision of law to the contrary, the court may impose any sentence
6 authorized for the crime of conviction in accordance with the plea
7 agreement, or any lesser sentence authorized to be imposed on a felony
8 drug offender pursuant to paragraph (b) or (c) of subdivision two of
9 section 70.70 of the penal law taking into account the length of time
10 the defendant spent in residential treatment and how best to continue
11 treatment while the defendant is serving that sentence. In determining
12 what action to take for a violation of a release condition, the court
13 shall consider all relevant circumstances, including the views of the
14 prosecutor, the defense and the alcohol or substance [abuse] USE treat-
15 ment provider, and the extent to which persons who ultimately success-
16 fully complete a drug treatment regimen sometimes relapse by not
17 abstaining from alcohol or substance [abuse] USE or by failing to comply
18 fully with all requirements imposed by a treatment program. The court
19 shall also consider using a system of graduated and appropriate
20 responses or sanctions designed to address such inappropriate behaviors,
21 protect public safety and facilitate, where possible, successful
22 completion of the alcohol or substance [abuse] USE treatment program.

23 (d) Nothing in this subdivision shall be construed as preventing a
24 court from terminating a defendant's participation in the judicial
25 diversion program for violating a release condition when such a termi-
26 nation is necessary to preserve public safety. Nor shall anything in
27 this subdivision be construed as precluding the prosecution of a defend-
28 ant for the commission of a different offense while participating in the
29 judicial diversion program.

30 (e) A defendant may at any time advise the court that he or she wishes
31 to terminate participation in the judicial diversion program, at which
32 time the court shall proceed with the case and, where applicable, shall
33 impose sentence in accordance with the plea agreement. Notwithstanding
34 any provision of law to the contrary, the court may impose any sentence
35 authorized for the crime of conviction in accordance with the plea
36 agreement, or any lesser sentence authorized to be imposed on a felony
37 drug offender pursuant to paragraph (b) or (c) of subdivision two of
38 section 70.70 of the penal law taking into account the length of time
39 the defendant spent in residential treatment and how best to continue
40 treatment while the defendant is serving that sentence.

41 10. Upon the court's determination that the defendant has successfully
42 completed the required period of alcohol or substance [abuse] USE treat-
43 ment and has otherwise satisfied the conditions required for successful
44 completion of the judicial diversion program, the court shall comply
45 with the terms and conditions it set for final disposition when it
46 accepted the defendant's agreement to participate in the judicial diver-
47 sion program. Such disposition may include, but is not limited to: (a)
48 requiring the defendant to undergo a period of interim probation super-
49 vision and, upon the defendant's successful completion of the interim
50 probation supervision term, notwithstanding the provision of any other
51 law, permitting the defendant to withdraw his or her guilty plea and
52 dismissing the indictment; or (b) requiring the defendant to undergo a
53 period of interim probation supervision and, upon successful completion
54 of the interim probation supervision term, notwithstanding the provision
55 of any other law, permitting the defendant to withdraw his or her guilty
56 plea, enter a guilty plea to a misdemeanor offense and sentencing the

1 defendant as promised in the plea agreement, which may include a period
2 of probation supervision pursuant to section 65.00 of the penal law; or
3 (c) allowing the defendant to withdraw his or her guilty plea and
4 dismissing the indictment.

5 11. Nothing in this article shall be construed as restricting or
6 prohibiting courts or district attorneys from using other lawful proce-
7 dures or models for placing appropriate persons into alcohol or
8 substance [abuse] USE treatment.

9 S 4. This act shall take effect immediately; provided, that the amend-
10 ments to the opening paragraph of subdivision 1 of section 216.00 of the
11 criminal procedure law made by section one of this act shall be subject
12 to the expiration and reversion of such paragraph pursuant to section 12
13 of chapter 90 of the laws of 2014, as amended, when upon such date the
14 provisions of section two of this act shall take effect.

15 SUBPART I

16 Section 1. The executive law is amended by adding a new section 837-s
17 to read as follows:

18 S 837-S. LAW ENFORCEMENT ASSISTED DIVERSION. 1. IN COORDINATION WITH
19 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE DIVISION
20 SHALL BY REGULATION:

21 (A) DEVELOP BEST PRACTICES REGARDING LAW ENFORCEMENT ASSISTED DIVER-
22 SION, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO A PROCEDURE FOR DIVERT-
23 ING INDIVIDUALS WITH SUBSTANCE USE DISORDERS TO TREATMENT IN LIEU OF
24 ARREST, AND METHODS FOR MONITORING AND ASSURING THAT SUCH PROCEDURES ARE
25 USED IN A MANNER THAT IS NON-DISCRIMINATORY WITH RESPECT TO PERSONAL
26 CHARACTERISTICS OF THE INDIVIDUAL THAT ARE UNRELATED TO THE COMMISSION
27 OF THE ALLEGED OFFENSE; AND

28 (B) COLLECT AND ANALYZE STATISTICAL DATA AND ALL OTHER INFORMATION AND
29 DATA WITH RESPECT TO LAW ENFORCEMENT ASSISTED DIVERSION PROGRAMS ENACTED
30 BY ANY LAW ENFORCEMENT ENTITY IN THE STATE.

31 2. THE DIVISION SHALL MAKE AN ANNUAL REPORT TO THE GOVERNOR AND LEGIS-
32 LATURE, WHICH INCLUDES BUT IS NOT LIMITED TO THE NUMBER OF LAW ENFORCE-
33 MENT ENTITIES IN THE STATE WHICH HAVE ADOPTED SUCH BEST PRACTICES, THE
34 EFFICACY OF SUCH BEST PRACTICES, DEMOGRAPHIC AND GEOGRAPHIC INFORMATION,
35 THE NUMBER OF JURISDICTIONS THAT HAVE IMPLEMENTED LAW ENFORCEMENT
36 ASSISTED DIVERSION, AND ANY OTHER RELEVANT DATA.

37 S 2. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law; provided, however, that effective immediate-
39 ly, the addition, amendment and/or repeal of any rule or regulation
40 necessary for the implementation of this act on its effective date are
41 authorized to be made and completed on or before such effective date.

42 SUBPART J

43 Section 1. Section 60.48 of the criminal procedure law is renumbered
44 section 60.49 and a new section 60.48 is added to read as follows:
45 S 60.48 POSSESSION OF OPIOID ANTAGONISTS; RECEIPT INTO EVIDENCE.

46 1. EVIDENCE THAT A PERSON WAS IN POSSESSION OF AN OPIOID ANTAGONIST
47 MAY NOT BE ADMITTED AT ANY TRIAL, HEARING OR OTHER PROCEEDING IN A PROS-
48 ECUTION FOR ANY OFFENSE UNDER SECTIONS 220.03, 220.06, 220.09, 220.16,
49 220.18, OR 220.21 OF THE PENAL LAW FOR THE PURPOSE OF ESTABLISHING PROB-
50 ABLE CAUSE FOR AN ARREST OR PROVING ANY PERSON'S COMMISSION OF SUCH
51 OFFENSE.

1 2. FOR THE PURPOSES OF THIS SECTION, OPIOID ANTAGONIST IS DEFINED AS A
2 DRUG APPROVED BY THE FOOD AND DRUG ADMINISTRATION THAT, WHEN ADMINIS-
3 TERED, NEGATES OR NEUTRALIZES IN WHOLE OR IN PART THE PHARMACOLOGICAL
4 EFFECTS OF AN OPIOID IN THE BODY AND SHALL BE LIMITED TO NALOXONE AND
5 OTHER MEDICATIONS APPROVED BY THE DEPARTMENT OF HEALTH FOR SUCH PURPOSE.

6 S 2. The civil practice law and rules is amended by adding a new
7 section 4519-a to read as follows:

8 S 4519-A. POSSESSION OF OPIOID ANTAGONISTS; RECEIPT INTO EVIDENCE. 1.
9 POSSESSION OF AN OPIOID ANTAGONIST MAY NOT BE RECEIVED IN EVIDENCE IN
10 ANY TRIAL, HEARING OR PROCEEDING PURSUANT TO SUBDIVISION ONE OF SECTION
11 TWO HUNDRED THIRTY-ONE AND PARAGRAPH THREE OF SUBDIVISION B OF SECTION
12 TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY LAW OR SUBDIVISION FIVE OF
13 SECTION SEVEN HUNDRED ELEVEN AND SUBDIVISION ONE OF SECTION SEVEN
14 HUNDRED FIFTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW AS
15 EVIDENCE THAT THE BUILDING OR PREMISES ARE BEING USED FOR ILLEGAL TRADE,
16 MANUFACTURE, OR OTHER ILLEGAL BUSINESS.

17 2. FOR THE PURPOSES OF THIS SECTION, OPIOID ANTAGONIST SHALL HAVE THE
18 SAME MEANING AS SET FORTH IN SUBDIVISION TWO OF SECTION 60.48 OF THE
19 CRIMINAL PROCEDURE LAW.

20 S 3. The executive law is amended by adding a new section 214-e to
21 read as follows:

22 S 214-E. OPIOID ANTAGONIST AWARENESS. THE SUPERINTENDENT, IN COOPER-
23 ATION WITH THE DEPARTMENT OF HEALTH AND THE OFFICE OF ALCOHOLISM AND
24 SUBSTANCE ABUSE SERVICES, SHALL, FOR ALL MEMBERS OF THE DIVISION OF
25 STATE POLICE: (1) DEVELOP, MAINTAIN AND DISSEMINATE APPROPRIATE INSTRU-
26 CTION REGARDING SECTION 60.48 OF THE CRIMINAL PROCEDURE LAW, AND (2)
27 ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES AND POLICIES IN THE EVENT A
28 MEMBER OF THE DIVISION OF STATE POLICE ENCOUNTERS A PERSON WHO POSSESSES
29 OPIOID ANTAGONISTS.

30 S 4. Section 841 of the executive law is amended by adding a new
31 subdivision 7-b to read as follows:

32 7-B. TAKE SUCH STEPS AS MAY BE NECESSARY TO ENSURE THAT ALL POLICE
33 OFFICERS AND PEACE OFFICERS CERTIFIED PURSUANT TO SUBDIVISION THREE OF
34 THIS SECTION RECEIVE APPROPRIATE INSTRUCTION REGARDING SECTION 60.48 OF
35 THE CRIMINAL PROCEDURE LAW RELATING TO THE INTRODUCTION OF OPIOID ANTAG-
36 ONISTS INTO EVIDENCE IN CERTAIN CASES.

37 S 5. This act shall take effect on the sixtieth day after it shall
38 have become a law and shall apply to all cases pending on and after such
39 date.

40 SUBPART K

41 Section 1. Schedule I of section 3306 of the public health law is
42 amended by adding a new subdivision (g) to read as follows:

43 (G) (1) CANNABIMIMETIC AGENTS. UNLESS SPECIFICALLY EXEMPTED OR UNLESS
44 LISTED IN ANOTHER SCHEDULE, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARA-
45 TION THAT IS NOT APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION
46 (FDA) WHICH CONTAINS ANY QUANTITY OF CANNABIMIMETIC AGENTS, OR WHICH
47 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-
48 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE
49 SPECIFIC CHEMICAL DESIGNATION.

50 (2) AS USED IN THIS SUBDIVISION, THE TERM "CANNABIMIMETIC AGENTS"
51 MEANS ANY SUBSTANCE THAT IS A CANNABINOID RECEPTOR TYPE 1 (CB1 RECEPTOR)
52 AGONIST AS DEMONSTRATED BY BINDING STUDIES AND FUNCTIONAL ASSAYS WITHIN
53 ANY OF THE FOLLOWING STRUCTURAL CLASSES:

- 1 (I) 2-(3-HYDROXYCYCLOHEXYL)PHENOL WITH SUBSTITUTION AT THE 5-POSITION
2 OF THE PHENOLIC RING BY ALKYL OR ALKENYL, WHETHER OR NOT SUBSTITUTED ON
3 THE CYCLOHEXYL RING TO ANY EXTENT.
- 4 (II) 3-(1-NAPHTHOYL)INDOLE OR 3-(1-NAPHTHYLMETHANE)INDOLE BY SUBSTI-
5 TUTION AT THE NITROGEN ATOM OF THE INDOLE RING, WHETHER OR NOT FURTHER
6 SUBSTITUTED ON THE INDOLE RING TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED
7 ON THE NAPHTHOYL OR NAPHTHYL RING TO ANY EXTENT.
- 8 (III) 3-(1-NAPHTHOYL)PYRROLE BY SUBSTITUTION AT THE NITROGEN ATOM OF
9 THE PYRROLE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE PYRROLE RING
10 TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED ON THE NAPHTHOYL RING TO ANY
11 EXTENT.
- 12 (IV) 1-(1-NAPHTHYLMETHYLENE)INDENE BY SUBSTITUTION OF THE 3-POSITION
13 OF THE INDENE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE INDENE
14 RING TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED ON THE NAPHTHYL RING TO
15 ANY EXTENT.
- 16 (V) 3-PHENYLACETYLINDOLE OR 3-BENZOYLINDOLE BY SUBSTITUTION AT THE
17 NITROGEN ATOM OF THE INDOLE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN
18 THE INDOLE RING TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED ON THE PHENYL
19 RING TO ANY EXTENT.
- 20 (3) SUCH TERM INCLUDES:
- 21 (I) 5-(1,1-DIMETHYLHEPTYL)-2-{(1R,3S)-3-HYDROXYCYCLOHEXYL}-PHENOL
22 (CP-47,497);
- 23 (II) 5-(1,1-DIMETHYLOCTYL)-2-{(1R,3S)-3-HYDROXYCYCLOHEXYL}-PHENOL
24 (CANNABICYCLOHEXANOL OR CP-47,497 C8-HOMOLOG);
- 25 (III) 1-PENTYL-3-(1-NAPHTHOYL)INDOLE (JWH-018 AND AM678);
- 26 (IV) 1-BUTYL-3-(1-NAPHTHOYL)INDOLE (JWH-073);
- 27 (V) 1-HEXYL-3-(1-NAPHTHOYL)INDOLE (JWH-019);
- 28 (VI) 1-{2-(4-MORPHOLINYL)ETHYL}-3-(1-NAPHTHOYL)INDOLE (JWH-200);
- 29 (VII) 1-PENTYL-3-(2-METHOXYPHENYLACETYL)INDOLE (JWH-250);
- 30 (VIII) 1-PENTYL-3-{1-(4-METHOXYNAPHTHOYL)}INDOLE (JWH-081);
- 31 (IX) 1-PENTYL-3-(4-METHYL-1-NAPHTHOYL)INDOLE (JWH-122);
- 32 (X) 1-PENTYL-3-(4-CHLORO-1-NAPHTHOYL)INDOLE (JWH-398);
- 33 (XI) 1-(5-FLUOROPENTYL)-3-(1-NAPHTHOYL)INDOLE (AM2201);
- 34 (XII) 1-(5-FLUOROPENTYL)-3-(2-IODOBENZOYL)INDOLE (AM694);
- 35 (XIII) 1-PENTYL-3-{(4-METHOXY)-BENZOYL}INDOLE (SR-19 AND RCS-4);
- 36 (XIV) 1-CYCLOHEXYLETHYL-3-(2-METHOXYPHENYLACETYL)INDOLE (SR-18 AND
37 RCS-8); AND
- 38 (XV) 1-PENTYL-3-(2-CHLOROPHENYLACETYL)INDOLE (JWH-203).

39 S 2. This act shall take effect on the ninetieth day after it shall
40 have become a law.

41 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
42 sion, section or part of this act shall be adjudged by a court of compe-
43 tent jurisdiction to be invalid, such judgment shall not affect, impair,
44 or invalidate the remainder thereof, but shall be confined in its opera-
45 tion to the clause, sentence, paragraph, subdivision, section or part
46 thereof directly involved in the controversy in which such judgment
47 shall have been rendered. It is hereby declared to be the intent of the
48 legislature that this act would have been enacted even if such invalid
49 provisions had not been included herein.

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

1 Section 1. Section 209 of the elder law, as amended by section 41 of
2 part A of chapter 58 of the laws of 2010, paragraph (b) of subdivision 1
3 as separately amended by chapter 348 of the laws of 2010, paragraph (d)
4 of subdivision 1 as amended by chapter 271 of the laws of 2014, para-
5 graph (d) of subdivision 4 as separately amended by chapter 410 of the
6 laws of 2010, and paragraph (k) of subdivision 4, subparagraph (6) of
7 paragraph (c) of subdivision 5-a, and subdivision 6 as amended by chap-
8 ter 320 of the laws of 2011, is amended to read as follows:

9 S 209. Naturally occurring retirement community supportive service
10 program. 1. As used in this section:

11 (a) "Advisory committee" or "committee" shall mean the advisory
12 committee convened by the director for the purposes specified in this
13 section. Such committee shall be broadly representative of housing and
14 senior citizen groups, and all geographic areas of the state.

15 (b) "Older adults" shall mean persons who are sixty years of age or
16 older.

17 (c) "Eligible applicant" shall mean a not-for-profit agency specializ-
18 ing in housing, health or other human services which serves or would
19 serve the community within which a naturally occurring retirement commu-
20 nity is located.

21 (d) "Eligible services" shall mean services including, but not limited
22 to: case management, care coordination, counseling, health assessment
23 and monitoring, transportation, socialization activities, home care
24 facilitation and monitoring, education regarding the signs of elder
25 abuse and exploitation and available resources for a senior who is a
26 suspected victim of elder abuse or exploitation, chemical dependence
27 counseling provided by credentialed alcoholism and substance abuse coun-
28 selors as defined in paragraph three of subdivision (d) of section 19.07
29 of the mental hygiene law and referrals to appropriate chemical depend-
30 ence counseling providers, and other services designed to address the
31 needs of residents of naturally occurring retirement communities by
32 helping them extend their independence, improve their quality of life,
33 and avoid unnecessary hospital and nursing home stays.

34 (e) "Government assistance" shall mean and be broadly interpreted to
35 mean any monetary assistance provided by the federal, the state or a
36 local government, or any agency thereof, or any authority or public
37 benefit corporation, in any form, including loans or loan subsidies, for
38 the construction of an apartment building or housing complex for low and
39 moderate income persons, as such term is defined by the United States
40 Department of Housing and Urban Development.

41 (f) "Naturally occurring retirement community", "CLASSIC NATURALLY
42 OCCURRING RETIREMENT COMMUNITY" OR "CLASSIC NORC" shall mean an apart-
43 ment building or housing complex which:

44 (1) [was constructed with government assistance;

45 (2)] was not originally built for older adults;

46 [(3)] (2) does not restrict admissions solely to older adults;

47 [(4)] (3) (A) at least [fifty] FORTY percent of the units have an
48 occupant who is an older adult [or]; AND

49 (B) in which at least [twenty-five hundred] TWO HUNDRED FIFTY of the
50 residents OF AN APARTMENT BUILDING are older adults OR FIVE HUNDRED
51 RESIDENTS OF A HOUSING COMPLEX ARE OLDER ADULTS; and

52 [(5)] (4) a majority of the older adults to be served are low or
53 moderate income, as defined by the United States Department of Housing
54 and Urban Development.

55 (G) "NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY" OR "NEIGH-
56 BORHOOD NORC" SHALL MEAN A RESIDENTIAL DWELLING OR GROUP OF RESIDENTIAL

1 DWELLINGS IN A GEOGRAPHICALLY DEFINED NEIGHBORHOOD OF A MUNICIPALITY
2 WHICH:

3 (1) WAS NOT PREDOMINANTLY DEVELOPED FOR OLDER ADULTS;

4 (2) DOES NOT PREDOMINANTLY RESTRICT ADMISSION TO OLDER ADULTS;

5 (3) AT LEAST THIRTY PERCENT OF THE UNITS HAVE AN OCCUPANT WHO IS AN
6 OLDER ADULT;

7 (4) IS MADE UP OF LOW-RISE BUILDINGS SIX STORIES OR LESS IN HEIGHT
8 AND/OR SINGLE AND MULTI-FAMILY HOMES.

9 2. A naturally occurring retirement community supportive service
10 program is established as a [demonstration] program to be administered
11 by the director.

12 3. The director shall be assisted by the advisory committee in the
13 development of appropriate criteria for the selection of grantees of
14 funds provided pursuant to this section and programmatic issues as
15 deemed appropriate by the director.

16 4. The criteria recommended by the committee and adopted by the direc-
17 tor for the award of grants shall be consistent with the provisions of
18 this section and shall include, at a minimum:

19 (a) the number, size, type and location of the projects to be served,
20 INCLUDING THE NUMBER, SIZE, TYPE AND LOCATION OF RESIDENTIAL DWELLINGS
21 OR GROUP OF RESIDENTIAL DWELLINGS SELECTED AS CANDIDATES FOR INCLUSION
22 IN A NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY; provided,
23 that the committee and director shall make reasonable efforts to assure
24 that geographic balance in the distribution of such projects is main-
25 tained, consistent with the needs to be addressed, funding available,
26 applications for eligible applicants, ABILITY TO COORDINATE SERVICES,
27 other requirements of this section, and other criteria developed by the
28 committee and director;

29 (b) the appropriate number and concentration of older adult residents
30 to be served by an individual project; provided, that such criteria need
31 not specify, in the case of a project which includes several buildings,
32 the number of older adults to be served in any individual building;

33 (c) the demographic characteristics of the residents to be served;

34 (d) A REQUIREMENT THAT THE APPLICANT DEMONSTRATE THE DEVELOPMENT OR
35 INTENT TO DEVELOP COMMUNITY WIDE SUPPORT FROM RESIDENTS, NEIGHBORHOOD
36 ASSOCIATIONS, COMMUNITY GROUPS, NONPROFIT ORGANIZATIONS AND OTHERS;

37 (E) IN THE CASE OF NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMU-
38 NITIES, A REQUIREMENT THAT THE BOUNDARIES OF THE GEOGRAPHIC AREA TO BE
39 SERVED ARE CLEAR AND COHERENT AND CREATE AN IDENTIFIABLE PROGRAM AND
40 SUPPORTIVE COMMUNITY;

41 (F) the financial or in-kind support required to be provided to the
42 project by the owners, managers and residents of the housing development
43 OR GEOGRAPHICALLY DEFINED AREA; provided, however, that such criteria
44 need not address whether the funding is public or private, or the source
45 of such support;

46 [(e)] (G) the scope and intensity of the services to be provided, and
47 their appropriateness for the residents proposed to be served. THE
48 APPLICANT SHALL CONDUCT OR HAVE CONDUCTED A NEEDS ASSESSMENT ON THE
49 BASIS OF WHICH SUCH APPLICANT SHALL ESTABLISH THE NATURE AND EXTENT OF
50 SERVICES TO BE PROVIDED; AND FURTHER THAT SUCH SERVICES SHALL PROVIDE A
51 MIX OF APPROPRIATE SERVICES THAT PROVIDE ACTIVE AND MEANINGFUL PARTIC-
52 IPATION FOR RESIDENTS. The criteria shall not require that the applicant
53 agency be the sole provider of such services, but shall require that the
54 applicant at a minimum actively manage the provision of such services.
55 SUCH SERVICES MAY BE THE SAME AS SERVICES PROVIDED BY THE LOCAL MUNICI-
56 PALITY OR OTHER COMMUNITY-BASED ORGANIZATION PROVIDED THAT THOSE

1 SERVICES ARE NOT AVAILABLE TO OR DO NOT ENTIRELY MEET THE NEEDS OF THE
2 RESIDENTS OF THE CLASSIC OR NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT
3 COMMUNITY;

4 [(f)] (H) the experience and financial stability of the applicant
5 agency, provided that the criteria shall require that priority be given
6 to programs already in operation, including those projects participating
7 in the resident advisor program administered by the office, [and]
8 enriched housing programs which meet the requirements of this section,
9 and PROGRAMS IN EXISTENCE PRIOR TO APRIL FIRST, TWO THOUSAND FIVE WHICH,
10 EXCEPT FOR DESIGNATION AND FUNDING REQUIREMENTS ESTABLISHED HEREIN,
11 WOULD HAVE OTHERWISE GENERALLY QUALIFIED AS A NEIGHBORHOOD NATURALLY
12 OCCURRING RETIREMENT COMMUNITY which have demonstrated to the satisfac-
13 tion of the director and the committee their fiscal and managerial
14 stability and programmatic success in serving residents;

15 [(g)] (I) the [nature and extent of requirements proposed to be estab-
16 lished] PLAN for active, meaningful participation for residents proposed
17 to be served in project design, implementation, monitoring, evaluation,
18 and governance;

19 [(h)] (J) an agreement by the applicant to participate in the data
20 collection and evaluation project necessary to complete the report
21 required by this section;

22 [(i)] (K) the policy and program roles of the applicant agency and any
23 other agencies involved in the provision of services or the management
24 of the project, including the housing development governing body, or
25 other owners or managers of the apartment buildings and housing
26 complexes and the residents of such apartment buildings and housing
27 complexes. The criteria shall require a clear delineation of such policy
28 and program roles;

29 [(j)] (L) a requirement that each eligible agency document the need
30 for the project and financial commitments to it from such sources as the
31 committee and the director shall deem appropriate given the character
32 and nature of the proposed project, and written evidence of support from
33 the appropriate housing development governing body or other owners or
34 managers of the apartment buildings and housing complexes IN THE CASE OF
35 CLASSIC NATURALLY OCCURRING RETIREMENT COMMUNITIES, OR THE GEOGRAPH-
36 ICALLY DEFINED NEIGHBORHOOD IN THE CASE OF NEIGHBORHOOD NATURALLY OCCUR-
37 RING RETIREMENT COMMUNITIES. The purpose of such documentation shall be
38 to demonstrate the need for the project, support for it in the areas to
39 be served, and the financial and managerial ability to sustain the
40 project;

41 [(k)] (M) a requirement that any aid provided pursuant to this section
42 be matched by an [equal] amount EQUAL TO ONE QUARTER OF THE AID
43 PROVIDED, CONSISTING OF MONETARY SUPPORT, in-kind support [of equal
44 value], or some combination thereof from other sources, provided that
45 such in-kind support [to] be utilized only upon approval from the direc-
46 tor and only to the extent matching funds are not available[,] and that
47 at least [twenty-five] FIFTY percent of such [amount] REQUIRED MATCH be
48 contributed by the housing development governing body or other owners or
49 managers and residents of the apartment buildings and housing complexes,
50 OR GEOGRAPHICALLY DEFINED AREA, in which the project is proposed, or,
51 upon approval by the director, sources in neighborhoods contiguous to
52 the boundaries of the geographic areas served where services may also be
53 provided pursuant to subdivision [six] SEVEN of this section; [and]

54 [(l)] (N) the circumstances under which the director may waive all or
55 part of the requirement for provision of an equal amount of funding from
56 other sources required pursuant to paragraph [(k)] (M) of this subdivi-

1 sion, provided that such criteria shall include provision for waiver at
2 the discretion of the director upon a finding by the director that the
3 program will serve a low income or hardship community, and that such
4 waiver is required to assure that such community receive a fair share of
5 the funding available. The committee shall develop appropriate criteria
6 for determining whether a community is a low income or hardship communi-
7 ty[.];

8 (O) THE POLICY AND PROGRAM ROLES OF THE APPLICANT AGENCY AND ANY OTHER
9 AGENCIES INVOLVED IN THE PROVISION OF SERVICES OR THE MANAGEMENT OF THE
10 NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY, PROVIDED THAT THE
11 CRITERIA SHALL REQUIRE A CLEAR DELINEATION OF SUCH POLICY AND PROGRAM
12 ROLES; AND

13 (P) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, NO CHANGES
14 MADE PURSUANT TO THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN WHICH
15 AMENDED THIS SECTION SHALL AFFECT THE CONTINUATION OF CONTRACTS PURSUANT
16 TO THIS SECTION AS THEY EXISTED PRIOR TO THE AMENDMENTS MADE BY SUCH
17 CHAPTER.

18 (Q) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DIRECTOR
19 OF THE OFFICE FOR THE AGING SHALL CONTINUE CONTRACTS WITH CLASSIC NORCS
20 AND NEIGHBORHOOD NORCS FOR ALL SUCH CONTRACTS WHICH WERE EXECUTED ON OR
21 BEFORE APRIL FIRST, TWO THOUSAND SIXTEEN, WITHOUT ANY ADDITIONAL
22 REQUIREMENTS THAT SUCH CONTRACTS BE SUBJECT TO COMPETITIVE BIDDING OR A
23 REQUEST FOR PROPOSALS PROCESS. NOTHING HEREIN SHALL PRECLUDE SUCH CLAS-
24 SIC NORCS AND NEIGHBORHOOD NORCS FROM RECEIVING ADDITIONAL FUNDING
25 AWARDS FOR SUCH PROGRAMS.

26 5. (A) Within amounts specifically appropriated therefor and consist-
27 ent with the criteria developed and required pursuant to this section
28 the director shall approve grants to eligible applicants in amounts not
29 to exceed [one] TWO hundred [fifty] thousand dollars for a project in
30 any twelve month period. [The director shall not approve more than ten
31 grants in the first twelve month period after the effective date of this
32 section.

33 5-a. The director may, in addition recognize neighborhood naturally
34 occurring retirement communities, or Neighborhood NORCs, and provide
35 program support within amounts specifically available by appropriation
36 therefor, which shall be subject to the requirements, rules and regu-
37 lations of this section, provided however that:

38 (a) the term Neighborhood NORC as used in this subdivision shall mean
39 and refer to a residential dwelling or group of residential dwellings in
40 a geographically defined neighborhood of a municipality containing not
41 more than two thousand persons who are older adults reside in at least
42 forty percent of the units and which is made up of low-rise buildings
43 six stories or less in height and/or single and multi-family homes and
44 which area was not originally developed for older adults, and which does
45 not restrict admission strictly to older adults;

46 (b) grants to an eligible Neighborhood NORC shall be no less than
47 sixty thousand dollars for any twelve-month period;

48 (c) the director shall be assisted by the advisory committee in the
49 development of criteria for the selection of grants provided pursuant to
50 this section and programmatic issues as deemed appropriate by the direc-
51 tor. The criteria recommended by the committee and adopted by the direc-
52 tor for the award of grants shall be consistent with the provisions of
53 this subdivision and shall include, at a minimum, the following require-
54 ments or items of information using such criteria as the advisory
55 committee and the director shall approve:

1 (1) the number, size, type and location of residential dwellings or
2 group of residential dwellings selected as candidates for neighborhood
3 NORCs funding. The director shall make reasonable efforts to assure that
4 geographic balance in the distribution of such grants is maintained,
5 consistent with the needs to be addressed, funding available, applica-
6 tions from eligible applicants, ability to coordinate services and other
7 requirements of this section;

8 (2) the appropriate number and concentration of older adult residents
9 to be served by an individual Neighborhood NORC. The criteria need not
10 specify the number of older adults to be served in any individual build-
11 ing;

12 (3) the demographic characteristics of the residents to be served;

13 (4) a requirement that the applicant demonstrate the development or
14 intent to develop community wide support from residents, neighborhood
15 associations, community groups, nonprofit organizations and others;

16 (5) a requirement that the boundaries of the geographic area to be
17 served are clear and coherent and create an identifiable program and
18 supportive community;

19 (6) a requirement that the applicant commit to raising matching funds,
20 in-kind support, or some combination thereof from non-state sources,
21 provided that such in-kind support be utilized only upon approval from
22 the director and only to the extent matching funds are not available,
23 equal to fifteen percent of the state grant in the second year after the
24 program is approved, twenty-five percent in the third year, forty
25 percent in the fourth year, and fifty percent in the fifth year, and
26 further commit that in each year, twenty-five percent of such required
27 matching funds, in-kind support, or combination thereof be raised within
28 the community served and, upon approval by the director, in neighbor-
29 hoods contiguous to the boundaries of the geographic areas served where
30 services may also be provided pursuant to subdivision six of this
31 section. Such local community matching funds, in-kind support, or combi-
32 nation thereof shall include but not be limited to: dues, fees for
33 service, individual and community contributions, and such other funds as
34 the advisory committee and the director shall deem appropriate;

35 (7) a requirement that the applicant demonstrate experience and finan-
36 cial stability;

37 (8) a requirement that priority in selection be given to programs in
38 existence prior to the effective date of this subdivision which, except
39 for designation and funding requirements established herein, would have
40 otherwise generally qualified as a Neighborhood NORC;

41 (9) a requirement that the applicant conduct or have conducted a needs
42 assessment on the basis of which such applicant shall establish the
43 nature and extent of services to be provided; and further that such
44 services shall provide a mix of appropriate services that provide active
45 and meaningful participation for residents;

46 (10) a requirement that residents to be served shall be involved in
47 design, implementation, monitoring, evaluation and governance of the
48 Neighborhood NORC;

49 (11) an agreement by the applicant that it will participate in the
50 data collection and evaluation necessary to complete the reporting
51 requirements as established by the director;

52 (12) the policy and program roles of the applicant agency and any
53 other agencies involved in the provision of services or the management
54 of the Neighborhood NORC, provided that the criteria shall require a
55 clear delineation of such policy and program roles;

1 (13) a requirement that each applicant document the need for the grant
2 and financial commitments to it from such sources as the advisory
3 committee and the director shall deem appropriate given the character
4 and nature of the proposed Neighborhood NORC and written evidence of
5 support from the community;

6 (14) the circumstances under which the director may waive all or part
7 of the requirement for provision of an equal amount of funding from
8 other sources required pursuant to this subdivision, provided that such
9 criteria shall include provision for waiver at the discretion of the
10 director upon a finding by the director that the Neighborhood NORC will
11 serve a low income or hardship community, and that such waiver is
12 required to assure that such community receive a fair share of the fund-
13 ing available. For purposes of this paragraph, a hardship community may
14 be one that has developed a successful model but which needs additional
15 time to raise matching funds required herein. An applicant applying for
16 a hardship exception shall submit a written plan in a form and manner
17 determined by the director detailing its plans to meet the matching
18 funds requirement in the succeeding year;

19 (15) a requirement that any proposed Neighborhood NORC in a geograph-
20 ically defined neighborhood of a municipality containing more than two
21 thousand older adults shall require the review and recommendation by the
22 advisory committee before being approved by the director;

23 (d) on or before March first, two thousand eight, the director shall
24 report to the governor and the fiscal and aging committees of the senate
25 and the assembly concerning the effectiveness of Neighborhood NORCs in
26 achieving the objectives set forth by this subdivision. Such report
27 shall address each of the items required for Neighborhood NORCs in
28 achieving the objectives set forth in this section and such other items
29 of information as the director shall deem appropriate, including recom-
30 mendations concerning continuation or modification of the program, and
31 any recommendations from the advisory committee.

32 (e) in] GRANTS TO AN ELIGIBLE NEIGHBORHOOD NATURALLY OCCURRING RETIRE-
33 MENT COMMUNITY SHALL BE NO LESS THAN SIXTY THOUSAND DOLLARS FOR ANY
34 TWELVE-MONTH PERIOD.

35 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY
36 FUNDING PROVIDED FOR CLASSIC NORCS AND NEIGHBORHOOD NORCS IN ADDITION TO
37 THE FUNDING ALLOCATED FOR CONTRACTS IN PLACE ON OR BEFORE APRIL FIRST,
38 TWO THOUSAND SIXTEEN SHALL BE APPORTIONED AS FOLLOWS: (1) HALF OF THE
39 FUNDING SHALL BE MADE AVAILABLE THROUGH A COMPETITIVE PROCESS FOR
40 PROGRAMS THAT HAVE AN EXISTING CONTRACT; AND (2) HALF OF THE FUNDING
41 SHALL BE MADE AVAILABLE THROUGH A COMPETITIVE PROCESS FOR PROPOSALS TO
42 START NEW PROGRAMS.

43 6. IN providing program support for [Neighborhood NORCs] NEIGHBORHOOD
44 NATURALLY OCCURRING RETIREMENT COMMUNITIES as authorized by this subdi-
45 vision, the director shall in no event divert or transfer funding for
46 grants or program support from any naturally occurring retirement commu-
47 nity supportive service programs authorized pursuant to other provisions
48 of this section.

49 [6.] 7. The director may allow services provided by a naturally occur-
50 ring retirement community supportive service program or by a neighbor-
51 hood naturally occurring retirement community to also include services
52 to residents who live in neighborhoods contiguous to the boundaries of
53 the geographic area served by such programs if: (a) the persons served
54 are older adults; (b) the services affect the health and welfare of such
55 persons; and (c) the services are provided on a one-time basis in the
56 year in which they are provided, and not in a manner which is said or

1 intended to be continuous. The director may also consent to the
2 provision of such services by such program if the program has received a
3 grant which requires services to be provided beyond the geographic boun-
4 daries of the program. The director shall establish procedures under
5 which a program may request the ability to provide such services. The
6 provision of such services shall not affect the funding provided to the
7 program by the department pursuant to this section.

8 [7.] 8. The director shall promulgate rules and regulations as neces-
9 sary to carry out the provisions of this section.

10 [8.] 9. On or before March first, two thousand [five] EIGHTEEN, AND
11 EVERY FIVE YEARS THEREAFTER, the director shall report to the governor
12 and the finance committee of the senate and the ways and means committee
13 of the assembly concerning the effectiveness of the naturally occurring
14 retirement community supportive services program[, other than Neighbor-
15 hood NORCs, as defined in subdivision five-a of this section,] in
16 achieving the objectives set forth by this section, which include help-
17 ing to address the needs of residents in such CLASSIC AND NEIGHBORHOOD
18 naturally occurring retirement communities, assuring access to a contin-
19 uum of necessary services, increasing private, philanthropic and other
20 public funding for programs, and preventing unnecessary hospital and
21 nursing home stays. The report shall also include recommendations
22 concerning continuation or modification of the program from the director
23 and the committee, and shall note any divergence between the recommenda-
24 tions of the director and the committee. The director shall provide the
25 required information and any other information deemed appropriate to the
26 report in such form and detail as will be helpful to the legislature and
27 the governor in determining to extend, eliminate or modify the program
28 including, but not limited to, the following:

29 (a) the number, size, type and location of the projects developed and
30 funded, including the number, kinds and functions of staff in each
31 program;

32 (b) the number, size, type and location of the projects proposed but
33 not funded, and the reasons for denial of funding for such projects;

34 (c) the age, sex, religion and other appropriate demographic informa-
35 tion concerning the residents served;

36 (d) the services provided to residents, reported in such manner as to
37 allow comparison of services by demographic group and region;

38 (e) a listing of the services provided by eligible applicants, includ-
39 ing the number, kind and intensity of such services; and

40 (f) a listing of other organizations providing services, the number,
41 kind and intensity of such services, the number of referrals to such
42 organizations and, to the extent practicable, the outcomes of such
43 referrals.

44 S 2. This act shall take effect immediately.

45 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

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