

STATE OF NEW YORK

S. 2007

A. 3007

SENATE - ASSEMBLY

January 23, 2017

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

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

AN ACT to amend the insurance law and the public health law, in relation to the early intervention program for infants and toddlers with disabilities and their families (Part A); to amend the public health law, in relation to the general public health work program (Part B); to amend the social services law, in relation to requiring monthly premium payments for the Essential Plan (Part C); to amend the public health law, in relation to high cost drugs; to amend the tax law, in relation to surcharges on high priced drugs; to amend the tax law, in relation to secrecy provisions; to amend the state finance law, in relation to the high priced drug reimbursement fund; to amend the social services law, in relation to the drug utilization review board; to amend the social services law, in relation to Medicaid reimbursement of covered outpatient drugs; to authorize the suspension of a provider's Medicaid enrollment for inappropriate prescribing of opioids; to amend the social services law, in relation to refills of controlled substances; to amend the public health law and the social services law, in relation to eliminating prescriber prevails with the exception of mental health medications; to amend the public health law, in relation to authorizing for comprehensive medication management by pharmacists; to amend the social services law, in relation to reducing Medicaid coverage and increasing copayments for non-prescription drugs, to aligning pharmacy copayment requirements with federal regulations, and to adjusting consumer price index penalties for generic drugs; and to repeal subdivision 25-a of section 364-j of the social services law, relating to the coverage of certain medically necessary prescription drugs by managed care providers (Part D); to amend the public health law, in relation to restricting enrollment in the Medicaid managed long term care program to individuals who require a nursing home level of care and to eliminate payments to nursing homes for bed hold days; to amend the social services law, in relation

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

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to conforming with federal law with regard to spousal contributions; to amend the social services law, in relation to hospice services covered under title XVIII of the federal social security act; and to repeal subdivision 25 of section 2808 of the public health law relating to reserved bed days (Part E); to amend the social services law, in relation to carving out transportation from the managed long term care benefit; to repeal subdivision 5 of section 365-h of the social services law, relating to rural transit assistance payments to counties; and to repeal section 367-s of the social services law, relating to emergency medical transportation services (Part F); to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the Medicaid global cap; to create an avenue for contract staff and student assistants in the department of health's office of health insurance programs to qualify for open competitive positions and to establish a health care service career internship program; and to amend part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, in relation to an administrative cap on such program (Part G); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to the distribution of pool allocations and graduate medical education; to amend the public health law, in relation to health care initiative pool distributions; to amend the social services law, in relation to extending payment provisions for general hospitals; and to amend the public health law, in relation to the assessments on covered lives (Part H); to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 60 of the laws of 2014 amending the social services law relating to eliminating prescriber prevails for brand name drugs with generic equivalents, in relation to the effectiveness thereof; to amend the public health law, in relation to extending the nursing home cash assessment; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to delay of certain administrative cost; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend chapter 109 of the laws of 2010, amending the social services law relating to transportation costs, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to the effectiveness thereof; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness thereof;

to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to extending the provisions thereof; to amend chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to the effectiveness thereof; and to amend chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof (Part I); to amend the insurance law, in relation to pharmacy benefit managers (Part J); to amend the public health law, in relation to the health care facility transformation program (Part K); to amend the public health law, in relation to establishing a health care regulation modernization team within the department of health (Part L); to amend the public health law, in relation to creating the "Emerging Contaminant Monitoring Act" (Part M); to amend the public health law, the real property law, and the environmental conservation law, in relation to creating the "residential well testing act" (Part N); to amend the criminal procedure law, in relation to authorizing restorations to competency within correctional facility based residential settings; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to extending government rates for behavioral services and adding a value based payment requirement; and to amend chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to extending government rates for behavioral services and adding a value based payment requirement (Part P); and to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to forgoing such adjustment during the 2017-2018 state fiscal year and the effectiveness thereof (Part Q)

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 2017-2018
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Q. The effective date for each particular
5 provision contained within such Part is set forth in the last section of

1 such Part. Any provision in any section contained within a Part, includ-
2 ing the effective date of the Part, which makes a reference to a section
3 "of this act", when used in connection with that particular component,
4 shall be deemed to mean and refer to the corresponding section of the
5 Part in which it is found. Section three of this act sets forth the
6 general effective date of this act.

7

PART A

8 Section 1. Paragraph 2 of subsection (d) of section 3224-a of the
9 insurance law, as amended by section 57-b of part A of chapter 56 of the
10 laws of 2013, is amended to read as follows:

11 (2) "health care provider" shall mean an entity licensed or certified
12 pursuant to article twenty-eight, thirty-six or forty of the public
13 health law, a facility licensed pursuant to article nineteen or thirty-
14 one of the mental hygiene law, a fiscal intermediary operating under
15 section three hundred sixty five-f of the social services law, an indi-
16 vidual or agency approved by the department of health pursuant to title
17 two-A of article twenty-five of the public health law, a health care
18 professional licensed, registered or certified pursuant to title eight
19 of the education law, a dispenser or provider of pharmaceutical
20 products, services or durable medical equipment, or a representative
21 designated by such entity or person.

22 § 2. Section 3235-a of the insurance law, as added by section 3 of
23 part C of chapter 1 of the laws of 2002, subsection (c) as amended by
24 section 17 of part A of chapter 56 of the laws of 2012, is amended to
25 read as follows:

26 § 3235-a. Payment for early intervention services. (a) No policy of
27 accident and health insurance, including contracts issued pursuant to
28 article forty-three of this chapter, shall exclude coverage for other-
29 wise covered services solely on the basis that the services constitute
30 early intervention program services under title two-A of article twen-
31 ty-five of the public health law.

32 (b) Where a policy of accident and health insurance, including a
33 contract issued pursuant to article forty-three of this chapter,
34 provides coverage for an early intervention program service, such cover-
35 age shall not be applied against any maximum annual or lifetime monetary
36 limits set forth in such policy or contract. When such policy of acci-
37 dent and health insurance, including a contract issued pursuant to arti-
38 cle forty-three of this chapter, provides coverage for services that
39 constitutes early intervention services as set forth in paragraph (h) of
40 subdivision seven of section twenty five-hundred forty-one of the public
41 health law or early intervention evaluation services as set forth in
42 subdivision nine of section twenty-five hundred forty-one of the public
43 health law, or provides coverage for autism spectrum disorder pursuant
44 to paragraph twenty-five of subsection (i) of section thirty-two hundred
45 sixteen, paragraph seventeen of subsection (l) of section thirty-two
46 hundred twenty-one, or subsection (ee) of section forty-three hundred
47 three of this chapter, the insurer shall pay for such services to the
48 extent that the services are a covered benefit under the policy. Any
49 documentation obtained pursuant to clause (ii) of paragraph (a) of
50 subdivision three of section twenty-five hundred fifty-nine of the
51 public health law and submitted to the insurer shall be sufficient to
52 meet precertification, preauthorization and/or medical necessity
53 requirements imposed under such policy of accident and health insurance,
54 including a contract issued pursuant to article forty-three of this

1 chapter. Visit limitations and other terms and conditions of the policy
2 will continue to apply to early intervention services. However, any
3 visits used for early intervention program services shall not reduce the
4 number of visits otherwise available under the policy or contract for
5 such services.

6 (c) A policy of accident and health insurance, including a contract
7 issued pursuant to article forty-three of this chapter, shall not deny
8 coverage based upon the following:

9 (i) the location where services are provided; or

10 (ii) the duration of the child's condition and/or that the child's
11 condition is not amendable to significant improvement within a certain
12 period of time as specified in the policy.

13 (d) Any right of subrogation to benefits which a municipality or
14 provider is entitled in accordance with paragraph (d) of subdivision
15 three of section twenty-five hundred fifty-nine of the public health law
16 shall be valid and enforceable to the extent benefits are available
17 under any accident and health insurance policy. The right of subrogation
18 does not attach to insurance benefits paid or provided under any acci-
19 dent and health insurance policy prior to receipt by the insurer of
20 written notice from the municipality or provider, as applicable. [~~The~~]
21 An insurer shall, within fifteen business days of receipt of a notice of
22 right of subrogation, notify the provider, in a format determined by the
23 department of health, through the department of health's designated
24 fiscal agent, whether the policy is fully insured or whether the insurer
25 is acting as a third party administrator.

26 (e) Upon receipt of written request and notice from the municipality
27 and service coordinator the insurer shall provide [~~the~~] such muni-
28 city and service coordinator with information on the extent of bene-
29 fits available to the covered person under such policy, including wheth-
30 er the policy is fully insured or whether the insurer is acting as a
31 third party administrator, within fifteen days of the insurer's receipt
32 of written request and notice authorizing such release. The service
33 coordinator shall provide such information to the rendering provider
34 assigned to provide services to the child.

35 [~~(d)~~] (f) No insurer, including a health maintenance organization
36 issued a certificate of authority under article forty-four of the public
37 health law and a corporation organized under article forty-three of this
38 chapter, shall refuse to issue an accident and health insurance policy
39 or contract or refuse to renew an accident and health insurance policy
40 or contract solely because the applicant or insured is receiving
41 services under the early intervention program.

42 § 3. Subdivision 3 of section 2543 of the public health law, as added
43 by section 2 of part B3 of chapter 62 of the laws of 2003, is amended to
44 read as follows:

45 3. [~~The~~] In a format prescribed by the department, the parent of the
46 eligible child shall provide and the early intervention official,
47 service coordinator, and provider shall collect such information and or
48 documentation as is necessary and sufficient to determine the eligible
49 child's third party payor coverage and to seek payment from all third
50 party payors including the medical assistance program and other govern-
51 mental agency payors.

52 § 4. Subdivision 3-a of section 2557 of the public health law, as
53 added by section 3 of part L1 of chapter 63 of the laws of 2003, is
54 amended to read as follows:

55 3-a. Each municipality may perform an audit, which may include site
56 visitation, of evaluators and providers of such services within its

1 municipality in accordance with standards established by the commission-
2 er. The municipality shall submit the results of any such audit to the
3 commissioner for review and, if warranted, adjustments in state aid
4 reimbursement pursuant to subdivision three of this section[~~, as well as~~
5 ~~for~~]. The results shall also include any recovery by the municipality of
6 its share of any disallowances identified in such audit.

7 § 5. Paragraph (a) of subdivision 3 of section 2559 of the public
8 health law, as amended by section 11 of part A of chapter 56 of the laws
9 of 2012, is amended to read as follows:

10 (a) Providers of evaluations and early intervention services, herein-
11 after collectively referred to in this subdivision as "provider" or
12 "providers", shall in the first instance and where applicable, seek
13 payment from all third party payors including governmental agencies
14 prior to claiming payment from a given municipality for evaluations
15 conducted under the program and for services rendered to eligible chil-
16 dren, provided that, the obligation to seek payment shall not apply to a
17 payment from a third party payor who is not prohibited from applying
18 such payment, and will apply such payment, to an annual or lifetime
19 limit specified in the insured's policy.

20 (i) [~~Parents~~] In a form prescribed by the department, parents shall
21 provide the municipality [~~and~~], service coordinator and provider infor-
22 mation on any insurance policy, plan or contract under which an eligible
23 child has coverage.

24 (ii) [~~Parents~~] In a timeline and format as prescribed by the depart-
25 ment, the municipality shall request from the parent, and the parent
26 shall provide the municipality [~~and the service coordinator~~], who shall
27 provide such documentation to the service coordinator and provider,
28 with: (A) a written order, referral [~~from a~~] or recommendation, signed
29 by the child's primary health care provider, for the medical necessity
30 of early intervention evaluation services to determine program eligibil-
31 ity or early intervention services;

32 (B) a copy of an individualized family service plan agreed upon pursu-
33 ant to section twenty-five hundred forty-five of this title that
34 contains documentation, signed by the child's primary [~~care~~] health care
35 provider [~~as documentation, for eligible children, of~~] on the medical
36 necessity of early intervention services included in the individualized
37 family services plan;

38 (C) written consent to contact the child's primary health care provid-
39 er for purposes of obtaining a signed written order, referral, or recom-
40 mendation as documentation for the medical necessity of early inter-
41 vention evaluation services to determine program eligibility or early
42 intervention services; or

43 (D) written consent to contact the child's primary health care provid-
44 er for purposes of obtaining a signed documentation of the medical
45 necessity of early intervention services contained within the individ-
46 ualized family service plan agreed upon pursuant to section twenty-five
47 hundred forty-five of this title.

48 (iii) providers shall utilize the department's fiscal agent and data
49 system for claiming payment for evaluations and services rendered under
50 the early intervention program.

51 (iv) In accordance with criteria established by the department, which
52 may include, but not be limited to, medical necessity, coordination of
53 benefits, or utilization review, for pursuit of appeals by a provider to
54 an insurer when a claim has been denied by such insurer, the department
55 or the department's fiscal agent may request the provider appeal a
56 denial for payment by a third party payor prior to claiming payment to

1 the municipality for the services provided in accordance with section
2 twenty-five hundred fifty-seven of this title. Providers shall not
3 discontinue or delay services to eligible children pending payment of
4 the claim or determinations of any appeal denials.

5 § 6. Paragraph (d) of subdivision 3 of section 2559 of the public
6 health law, as amended by section 11 of part A of chapter 56 of the laws
7 of 2012, is amended to read as follows:

8 (d) A municipality, or its designee, and a provider shall be subrogat-
9 ed, to the extent of the expenditures by such municipality or for early
10 intervention services furnished to persons eligible for benefits under
11 this title, to any rights such person may have or be entitled to from
12 third party reimbursement. The provider shall submit any documentation
13 obtained pursuant to clause (ii) of paragraph (a) of this subdivision
14 and shall submit notice to the insurer or plan administrator of his or
15 her exercise of such right of subrogation upon the provider's assignment
16 as the early intervention service provider for the child. The right of
17 subrogation does not attach to benefits paid or provided under any
18 health insurance policy or health benefits plan prior to receipt of
19 written notice of the exercise of subrogation rights by the insurer or
20 plan administrator providing such benefits.

21 § 7. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on or after April 1, 2017; provided
23 however, that the amendments to section 3224-a of the insurance law as
24 made by section one of this act and the amendments to section 3235-a of
25 the insurance law as made by section two of this act shall apply only to
26 policies and contracts issued, renewed, modified, altered or amended on
27 or after such date.

28 PART B

29 Section 1. Subdivision 2 of section 605 of the public health law, as
30 amended by section 20 of part E of chapter 56 of the laws of 2013, is
31 amended to read as follows:

32 2. State aid reimbursement for public health services provided by a
33 municipality under this title, shall be made if the municipality is
34 providing some or all of the core public health services identified in
35 section six hundred two of this title, pursuant to an approved applica-
36 tion for state aid, at a rate of no less than thirty-six per centum,
37 except for a city with a population of one million or more persons,
38 which shall receive no less than twenty-nine per centum, of the differ-
39 ence between the amount of moneys expended by the municipality for
40 public health services required by section six hundred two of this title
41 during the fiscal year and the base grant provided pursuant to subdivi-
42 sion one of this section. No such reimbursement shall be provided for
43 services that are not eligible for state aid pursuant to this article.

44 § 2. Subdivision 1 of section 616 of the public health law, as amended
45 by section 27 of part E of chapter 56 of the laws of 2013, is amended to
46 read as follows:

47 1. The total amount of state aid provided pursuant to this article
48 shall be limited to the amount of the annual appropriation made by the
49 legislature. In no event, however, shall such state aid be less than an
50 amount to provide the full base grant and, as otherwise provided by
51 ~~[paragraph (a) of]~~ subdivision two of section six hundred five of this
52 article, at least thirty-six per centum, except for a city with a popu-
53 lation of one million or more persons, which shall receive no less than
54 twenty-nine per centum, of the difference between the amount of moneys

1 expended by the municipality for eligible public health services pursu-
2 ant to an approved application for state aid during the fiscal year and
3 the base grant provided pursuant to subdivision one of section six
4 hundred five of this article.

5 § 3. This act shall take effect July 1, 2017.

6 PART C

7 Section 1. Subdivision 5 of section 369-gg of the social services law,
8 as added by section 51 of part C of chapter 60 of the laws of 2014, is
9 amended to read as follows:

10 5. Premiums and cost sharing. (a) Subject to federal approval, the
11 commissioner shall establish premium payments enrollees shall pay to
12 approved organizations for coverage of health care services pursuant to
13 this title. Such premium payments shall be established in the following
14 manner:

15 (i) up to twenty dollars monthly for an individual with a household
16 income above one hundred and [~~fifty~~] thirty-eight percent of the federal
17 poverty line but at or below two hundred percent of the federal poverty
18 line defined and annually revised by the United States department of
19 health and human services for a household of the same size; beginning in
20 two thousand eighteen and annually thereafter, such amount shall be
21 increased based on the percentage increase in the medical consumer price
22 index, rounded up to the nearest dollar; and

23 (ii) no payment is required for individuals with a household income at
24 or below one hundred and [~~fifty~~] thirty-eight percent of the federal
25 poverty line defined and annually revised by the United States depart-
26 ment of health and human services for a household of the same size.

27 (b) The commissioner shall establish cost sharing obligations for
28 enrollees, subject to federal approval.

29 § 2. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect on and after January 1, 2018.

31 PART D

32 Section 1. The public health law is amended by adding a new section
33 280 to read as follows:

34 § 280. High cost drugs. 1. Legislative purpose. There is hereby
35 declared to be a significant public interest in the transparency of the
36 costs and prices of drugs, and in being able to review the economic
37 value of certain drugs to the public. This would benefit the citizens of
38 the state who have a medical need for such drugs and whose tax dollars
39 contribute to making such drugs available to the recipients of public
40 health insurance programs. It is therefore intended that the department
41 collect information related to drug costs and prices, and with the
42 assistance of the drug utilization review board established by section
43 three hundred sixty-nine-bb of the social services law, identify high
44 priced drugs for which a per-unit benchmark price can be determined.
45 Such drugs will be subject to the rebate provisions of subdivision six
46 of this section if the drugs are paid for by the Medicaid program, and
47 to a surcharge in accordance with the provisions of article twenty-C of
48 the tax law.

49 2. High priced drugs. (a) The department may identify, for review,
50 drugs which:

51 (i) when first introduced on the market, are prohibitively expensive
52 for patients who could benefit from the drug; or

1 (ii) suddenly or over a relatively brief period of time experience a
2 large price increase and such increase is not explained by a significant
3 increase in ingredient costs or by some other relevant factor; or

4 (iii) are priced disproportionately given that they offer limited ther-
5 apeutic benefits.

6 (b) Drugs identified by the department for review may include:

7 (i) brand name or generic drugs;

8 (ii) drugs produced by multiple manufacturers or by a single manufac-
9 turer;

10 (iii) drugs reimbursed by commercial and/or public payers; and

11 (iv) prescription and non-prescription drugs.

12 3. Reporting requirements. (a) Drug manufacturers shall provide the
13 department, upon request, the following information with respect to
14 drugs identified by the department for review:

15 (i) the actual cost of developing, manufacturing, producing (including
16 the cost per dose of production), and distributing the drug;

17 (ii) research and development costs of the drug, including payments to
18 predecessor entities conducting research and development, such as
19 biotechnology companies, universities and medical schools, and private
20 research institutions;

21 (iii) administrative, marketing, and advertising costs for the drug,
22 apportioned by marketing activities that are directed to consumers,
23 marketing activities that are directed to prescribers, and the total
24 cost of all marketing and advertising that is directed primarily to
25 consumers and prescribers in New York, including but not limited to
26 prescriber detailing, copayment discount programs, and direct-to-consum-
27 er marketing;

28 (iv) the extent of utilization of the drug;

29 (v) prices for the drug that are charged to purchasers outside the
30 United States;

31 (vi) prices charged to typical purchasers in the state, including but
32 not limited to pharmacies, pharmacy chains, pharmacy wholesalers, or
33 other direct purchasers;

34 (vii) the average rebates and discounts provided per payer type; and

35 (viii) the average profit margin of each drug over the prior five-year
36 period and the projected profit margin anticipated for such drug.

37 (b) The department shall develop a standard reporting form that satis-
38 fies the requirements of paragraph (a) of this subdivision.

39 (c) All information disclosed pursuant to paragraph (a) of this subdi-
40 vision shall be considered confidential and shall not be disclosed by
41 the department in a form that identifies a specific manufacturer or
42 prices charged for drugs by such manufacturer, except as the commission-
43 er determines is necessary to carry out this section, or to allow the
44 department, the attorney general, the state comptroller, or the centers
45 for Medicare and Medicaid services to perform audits or investigations
46 authorized by law.

47 4. Review of drug cost and pricing. The department may refer cost and
48 pricing information collected pursuant to subdivision three of this
49 section with respect to a particular drug to the drug utilization review
50 board, and request the board to recommend a value-based, per-unit bench-
51 mark price for the drug, taking into consideration such cost and pricing
52 information as well as other factors, including but not limited to:

53 (a) the seriousness and prevalence of the disease or condition that is
54 treated by the drug;

55 (b) the extent of utilization of the drug;

1 (c) the effectiveness of the drug in treating the conditions for which
2 it is prescribed;

3 (d) the likelihood that use of the drug will reduce the need for other
4 medical care, including hospitalization;

5 (e) the average wholesale price and retail price of the drug;

6 (f) the number of pharmaceutical manufacturers that produce the drug;
7 and

8 (g) whether there are pharmaceutical equivalents to the drug.

9 5. Designation of high priced drugs. If the price at which a drug is
10 being sold by a manufacturer exceeds the benchmark price for the drug
11 determined by the department pursuant to this section, the commissioner
12 shall designate such drug a high priced drug. The commissioner shall
13 publish on the department website a list of drugs designated as high
14 priced drugs pursuant to this subdivision, along with the date on which
15 each drug first appeared on such list and the benchmark price for such
16 drug determined by the department.

17 6. Rebates. (a) The commissioner may require a drug manufacturer to
18 provide rebates to the department for a drug determined to be a high
19 priced drug pursuant to subdivision four of this section when such drug
20 is paid for under the Medicaid program. In determining the amount of any
21 such rebate, the commissioner may consider information provided by the
22 drug manufacturer with respect to surcharges paid by the manufacturer,
23 or decreases in the price of the drug as a result of surcharges paid by
24 others, pursuant to article twenty-C of the tax law.

25 (b) Rebates required by this section shall be in addition to any
26 rebates payable to the department pursuant to any other provision of
27 federal or state law. The additional rebates authorized pursuant to
28 this subparagraph shall apply to drugs dispensed to enrollees of managed
29 care providers pursuant to section three hundred sixty-four-j of the
30 social services law and to drugs dispensed to Medicaid recipients who
31 are not enrollees of such providers.

32 § 2. The tax law is amended by adding a new article 20-C to read as
33 follows:

34 ARTICLE 20-C

35 SURCHARGE ON HIGH PRICED DRUGS

36 Section 492. Definitions.

37 493. Imposition of surcharge.

38 494. Returns to be secret.

39 § 492. Definitions. 1. The following terms shall have the following
40 meanings when used in this section.

41 (a) "High priced drug" shall mean a drug determined to be a high
42 priced drug pursuant to section two hundred eighty of the public health
43 law, but not until the fifteenth day after the day the drug first
44 appeared on a list of such drugs to be maintained by the state depart-
45 ment of health on its website pursuant to subdivision seven of section
46 four hundred ninety-three of this article.

47 (b) "Gross receipt" shall mean the amount received in or by reason of
48 any sale of a high priced drug, conditional or otherwise, or in or by
49 reason of the furnishing of such high priced drug. Gross receipt is
50 expressed in money, whether paid in cash, credit or property of any kind
51 or nature, and shall be determined without any deduction therefrom on
52 account of the cost of the service sold or the cost of materials, labor
53 or services used or other costs, interest or discount paid, or any other
54 expenses whatsoever. "Amount received" for the purpose of the definition
55 of gross receipt, as used throughout this article, means the amount
56 charged for the sale or provision of a high priced drug.

1 (c) "Establishment" shall mean any person, firm, corporation or asso-
2 ciation required to be registered with the education department pursuant
3 to section six thousand eight hundred eight or section six thousand
4 eight hundred eight-b of the education law and any person, firm, corpo-
5 ration or association that would be required to be registered with the
6 education department pursuant to section six thousand eight hundred
7 eight-b of the education law but for the exception in subdivision two of
8 such section.

9 (d) "Excess charge amount of the gross receipt" shall mean the differ-
10 ence between the price charged by an establishment for a high priced
11 drug and the benchmark price for such drug as determined by the depart-
12 ment of health pursuant to section two hundred eighty of the public
13 health law.

14 (e) "Invoice" shall mean the invoice, sales slip, memorandum of sale,
15 or other document evidencing a sale of a high priced drug.

16 § 493. Imposition of surcharge. 1. There is hereby imposed a surcharge
17 on the excess charge amount of the gross receipt from the first sale in
18 the state of a high priced drug by an establishment at the rate of sixty
19 percent. The surcharge imposed by this article shall be charged against
20 and be paid by the establishment making such first sale and shall not be
21 added as a separate charge or line item on any invoice given to the
22 customer or otherwise passed down to the customer. However, an estab-
23 lishment liable for the surcharge imposed by this article shall clearly
24 note on the invoice for the first sale of such high priced drug in the
25 state its liability for the surcharge imposed by this article with
26 regard to such sale, along with its name, address, and taxpayer iden-
27 tification number. Any sale of a high priced drug in this state shall be
28 presumed to be the first sale of such drug in the state unless the sell-
29 er with regard to such sale can prove that the surcharge imposed by this
30 article is due from another establishment in the chain of title of such
31 drug, which burden can be satisfied, among other ways, by producing an
32 invoice from the establishment owing such surcharge in which such estab-
33 lishment has noted its liability for such surcharge.

34 2. Every establishment liable for the surcharge imposed by this arti-
35 cle shall, on or before the twentieth date of each month, file with the
36 commissioner a return, on forms to be prescribed by the commissioner,
37 showing the total excess charge amount of its gross receipt from the
38 first sale in the state of high priced drugs during the preceding calen-
39 dar month and the amount of surcharge due thereon. Such returns shall
40 contain such further information as the commissioner may require. Every
41 establishment required to file a return under this section shall, at the
42 time of filing such return, pay to the commissioner the total amount of
43 surcharge due on such first sales of high priced drugs for the period
44 covered by such return. If a return is not filed when due, the surcharge
45 shall be due on the day on which the return is required to be filed.

46 3. Establishments making sales of high priced drugs in this state
47 shall maintain all invoices pertaining to such sales for three years
48 after such sales unless the commissioner provides for a different
49 retention period by rule or regulation. The establishment shall produce
50 such records upon demand by the department.

51 4. Whenever the commissioner shall determine that any moneys received
52 under the provisions of this article were paid in error, he may cause
53 the same to be refunded, with interest, in accordance with such rules
54 and regulations as he or she may prescribe, except that no interest
55 shall be allowed or paid if the amount thereof would be less than one
56 dollar. Such interest shall be at the overpayment rate set by the

1 commissioner pursuant to subdivision twenty-sixth of section one hundred
2 seventy-one of this chapter, or if no rate is set, at the rate of six
3 percent per annum, from the date when the surcharge, penalty or interest
4 to be refunded was paid to a date preceding the date of the refund check
5 by not more than thirty days. Provided, however, that for the purposes
6 of this subdivision, any surcharge paid before the last day prescribed
7 for its payment shall be deemed to have been paid on such last day. Such
8 moneys received under the provisions of this article that the commis-
9 sioner shall determine were paid in error, may be refunded out of funds
10 in the custody of the comptroller to the credit of such surcharges
11 provided an application therefor is filed with the commissioner within
12 two years from the time the erroneous payment was made.

13 5. The provisions of article twenty-seven of this chapter shall apply
14 to the surcharge imposed by this article in the same manner and with the
15 same force and effect as if the language of such article had been incor-
16 porated in full into this section and had expressly referred to the
17 surcharge imposed by this article, except to the extent that any
18 provision of such article is either inconsistent with a provision of
19 this article or is not relevant to this article.

20 6. (a) The surcharges, interest, and penalties imposed by this article
21 and collected or received by the commissioner shall be deposited daily
22 with such responsible banks, banking houses or trust companies, as may
23 be designated by the superintendent of financial services, to the credit
24 of the high priced drug reimbursement fund established pursuant to
25 section eighty-nine-j of the state finance law. An account may be estab-
26 lished in one or more of such depositories. Such deposits will be kept
27 separate and apart from all other money in the possession of the super-
28 intendent of financial services. The superintendent of financial
29 services shall require adequate security from all such depositories. Of
30 the total revenue collected or received under this article, the super-
31 intendent of financial services shall retain such amount as the commis-
32 sioner may determine to be necessary for refunds under this article. The
33 commissioner is authorized and directed to deduct from the amounts it
34 receives under this article, before deposit into the trust accounts
35 designated by the superintendent of financial services, a reasonable
36 amount necessary to effectuate refunds of appropriations of the depart-
37 ment to reimburse the department for the costs incurred to administer,
38 collect and distribute the surcharges imposed by this article.

39 (b) On or before the twelfth and twenty-sixth day of each succeeding
40 month, after reserving such amount for such refunds and deducting such
41 amounts for such costs, as provided for in paragraph (a) of this
42 subsection, the commissioner shall certify to the superintendent of
43 financial services the amount of all revenues so received during the
44 prior month as a result of the surcharges, interest and penalties so
45 imposed. The amount of revenues so certified shall be paid over by the
46 fifteenth and the final business day of each succeeding month from such
47 account into the high priced drug reimbursement fund established pursu-
48 ant to section eighty-nine-j of the state finance law.

49 7. The state department of health shall maintain and publish on its
50 website a list of drugs determined, pursuant to section two hundred
51 eighty of the public health law, to be high priced drugs, along with the
52 date on which each drug first appeared on that list and the benchmark
53 price for such drug determined pursuant to section two hundred eighty of
54 the public health law by the department of health. Promptly after
55 including a high priced drug on such list, the state department of

1 health shall notify the manufacturer of such drug and the department
2 that the drug has been determined to be a high priced drug.

3 8. The state department of education and the state department of
4 health shall cooperate with the department in administering this
5 surcharge, including sharing with the department pertinent information
6 about establishments upon the request of the commissioner.

7 9. The commissioner may make, adopt and amend rules, regulations,
8 procedures and forms necessary for the proper administration of this
9 article.

10 § 494. Returns to be secret. 1. Except in accordance with proper judi-
11 cial order or as in this section or otherwise provided by law, it shall
12 be unlawful for the commissioner, any officer or employee of the depart-
13 ment, or any officer or person who, pursuant to this section, is permit-
14 ted to inspect any return or report or to whom a copy, an abstract or a
15 portion of any return or report is furnished, or to whom any information
16 contained in any return or report is furnished, or any person engaged or
17 retained by such department on an independent contract basis or any
18 person who in any manner may acquire knowledge of the contents of a
19 return or report filed pursuant to this article to divulge or make known
20 in any manner the contents or any other information relating to the
21 business of an establishment contained in any return or report required
22 under this article. The officers charged with the custody of such
23 returns or reports shall not be required to produce any of them or
24 evidence of anything contained in them in any action or proceeding in
25 any court, except on behalf of the state, the state department of
26 health, the state department of education or the commissioner in an
27 action or proceeding under the provisions of this chapter or on behalf
28 of the state or the commissioner in any other action or proceeding
29 involving the collection of a tax due under this chapter to which the
30 state or the commissioner is a party or a claimant or on behalf of any
31 party to any action or proceeding under the provisions of this article,
32 when the returns or the reports or the facts shown thereby are directly
33 involved in such action or proceeding, or in an action or proceeding
34 relating to the regulation or surcharge of high priced drugs on behalf
35 of officers to whom information shall have been supplied as provided in
36 subsection two of this section, in any of which events the court may
37 require the production of, and may admit in evidence so much of said
38 returns or reports or of the facts shown thereby as are pertinent to the
39 action or proceeding and no more. Nothing herein shall be construed to
40 prohibit the commissioner, in his or her discretion, from allowing the
41 inspection or delivery of a certified copy of any return or report filed
42 under this article or of any information contained in any such return or
43 report by or to a duly authorized officer or employee of the state
44 department of health or the state department of education; or by or to
45 the attorney general or other legal representatives of the state when an
46 action shall have been recommended or commenced pursuant to this chapter
47 in which such returns or reports or the facts shown thereby are directly
48 involved; or the inspection of the returns or reports required under
49 this article by the comptroller or duly designated officer or employee
50 of the state department of audit and control, for purposes of the audit
51 of a refund of any surcharge paid by an establishment or other person
52 under this article; nor to prohibit the delivery to an establishment, or
53 a duly authorized representative of such establishment, a certified copy
54 of any return or report filed by such establishment pursuant to this
55 article, nor to prohibit the publication of statistics so classified as

1 to prevent the identification of particular returns or reports and the
2 items thereof.

3 2. The commissioner, in his or her discretion and pursuant to such
4 rules and regulations as he or she may adopt, may permit the commission-
5 er of internal revenue of the United States, or the appropriate officers
6 of any other state which regulates or surcharges high priced drugs, or
7 the duly authorized representatives of such commissioner or of any such
8 officers, to inspect returns or reports made pursuant to this article,
9 or may furnish to such commissioner or other officers, or duly author-
10 ized representatives, a copy of any such return or report or an abstract
11 of the information therein contained, or any portion thereof, or may
12 supply such commissioner or any such officers or such representatives
13 with information relating to the business of an establishment making
14 returns or reports hereunder. The commissioner may refuse to supply
15 information pursuant to this subsection to the commissioner of internal
16 revenue of the United States or to the officers of any other state if
17 the statutes of the United States, or of the state represented by such
18 officers, do not grant substantially similar privileges to the commis-
19 sioner, but such refusal shall not be mandatory. Information shall not
20 be supplied to the commissioner of internal revenue of the United States
21 or the appropriate officers of any other state which regulates or
22 surcharges high priced drugs, or the duly authorized representatives of
23 such commissioner or of any of such officers, unless such commissioner,
24 officer or other representatives shall agree not to divulge or make
25 known in any manner the information so supplied, but such officers may
26 transmit such information to their employees or legal representatives
27 when necessary, who in turn shall be subject to the same restrictions as
28 those hereby imposed upon such commissioner, officer or other represen-
29 tatives.

30 3. (a) Any officer or employee of the state who willfully violates the
31 provisions of subsection one or two of this section shall be dismissed
32 from office and be incapable of holding any public office in this state
33 for a period of five years thereafter.

34 (b) Cross-reference: For criminal penalties, see article thirty-seven
35 of this chapter.

36 § 3. Section 1825 of the tax law, as amended by section 89 of part A
37 of chapter 59 of the laws of 2014, is amended to read as follows:

38 § 1825. Violation of secrecy provisions of the tax law.--Any person
39 who violates the provisions of subdivision (b) of section twenty-one,
40 subdivision one of section two hundred two, subdivision eight of section
41 two hundred eleven, subdivision (a) of section three hundred fourteen,
42 subdivision one or two of section four hundred thirty-seven, section
43 four hundred eighty-seven, section four hundred ninety-four, subdivision
44 one or two of section five hundred fourteen, subsection (e) of section
45 six hundred ninety-seven, subsection (a) of section nine hundred nine-
46 ty-four, subdivision (a) of section eleven hundred forty-six, section
47 twelve hundred eighty-seven, subdivision (a) of section fourteen hundred
48 eighteen, subdivision (a) of section fifteen hundred eighteen, subdivi-
49 sion (a) of section fifteen hundred fifty-five of this chapter, and
50 subdivision (e) of section 11-1797 of the administrative code of the
51 city of New York shall be guilty of a misdemeanor.

52 § 4. The state finance law is amended by adding a new section 89-j to
53 read as follows:

54 § 89-j. High Priced Drug Reimbursement Fund. 1. There is hereby
55 established in the sole custody of the superintendent of financial

1 services an agency fund, to be known as the "High Priced Drug Reimburse-
2 ment Fund."

3 2. Such fund shall consist of revenues derived from the surcharge on
4 high priced drugs imposed by article twenty-C of the tax law and all
5 other moneys credited or transferred thereto from any other fund or
6 source pursuant to law.

7 3. All moneys retained in such fund shall be held on behalf of health
8 insurers and the New York Medicaid program, and paid out by the super-
9 intendent of financial services to health insurers and the New York
10 Medicaid program in proportion to health insurers' and the New York
11 Medicaid program's respective costs attributable to each pharmaceutical
12 product for which the surcharge on high price drugs was imposed. The
13 superintendent of financial services shall establish regulations to
14 apportion such revenues derived to reflect health insurers' and the New
15 York Medicaid program's respective costs for such drugs.

16 4. All moneys distributed from the high priced drug reimbursement fund
17 to a health insurer shall be, at the discretion of the superintendent of
18 financial services, either (1) credited to the premiums charged by such
19 health insurer for the next policy period or (2) credited to policyhold-
20 ers pursuant to procedures that the superintendent of financial services
21 shall establish by regulations.

22 5. For purposes of this section: (a) "health insurer" shall mean an
23 insurance company authorized in this state to write accident and health
24 insurance, a company organized pursuant to article forty-three of the
25 insurance law, a municipal cooperative health benefit plan established
26 pursuant to article forty-seven of the insurance law, a health mainte-
27 nance organization certified pursuant to article forty-four of the
28 public health law, an institution of higher education certified pursuant
29 to section one thousand one hundred twenty-four of the insurance law,
30 the New York state health insurance plan established under article elev-
31 en of the civil service law, or an employer with an employee benefit
32 plan, as defined by the federal Employee Retirement Income Security Act
33 of 1974, provided that the employer voluntarily elects;

34 (b) "New York Medicaid program" shall mean the medical assistance
35 program for needy persons established pursuant to title eleven of arti-
36 cle five of the social services law.

37 6. The superintendent of financial services may issue such rules and
38 regulations as he or she shall deem necessary to implement this section
39 and administer the high priced drug reimbursement fund.

40 7. The funds so received and deposited in the high priced drug
41 reimbursement fund shall not be deemed to be state funds.

42 8. Moneys distributed from the fund shall not be subject to appropri-
43 ation.

44 9. No amounts may be paid out of this fund prior to April first, two
45 thousand eighteen.

46 § 5. Subdivision 1 and paragraph (f) of subdivision 2 of section 369-
47 bb of the social services law, subdivision 1 as amended and paragraph
48 (f) of subdivision 2 as added by section 20 of part A of chapter 56 of
49 the laws of 2013, are amended and two new paragraphs (g) and (h) are
50 added to subdivision 2 to read as follows:

51 1. A [~~nineteen-member~~] twenty-three member drug utilization review
52 board is hereby created in the department. The board is responsible for
53 the establishment and implementation of medical standards and criteria
54 for the retrospective and prospective DUR program.

55 (f)(i) The commissioner shall designate a person from the department
56 to serve as chairperson of the board.

1 (ii) Two persons who are health care economists.

2 (g) One person who is an actuary.

3 (h) One person representing the department of financial services.

4 § 6. Paragraphs (g), (h) and (i) of subdivision 8 of section 369-bb of
5 the social services law are relettered paragraphs (h), (i) and (j) and a
6 new paragraph (g) is added to read as follows:

7 (g) The review of the drug cost and pricing of specific drugs submit-
8 ted to the board pursuant to section two hundred eighty of the public
9 health law, and the formulation of recommendations as to a value-based,
10 per-unit benchmark price for such drugs, in accordance with the
11 provisions of such section.

12 § 7. The opening paragraph and subparagraphs (i) and (ii) of paragraph
13 (b) and paragraph (d) of subdivision 9 of section 367-a of the social
14 services law, the opening paragraph and paragraph (d) as amended by
15 chapter 19 of the laws of 1998, subparagraphs (i) and (ii) of paragraph
16 (b) as amended by section 2 of part C of chapter 60 of the laws of 2014,
17 subparagraph (i) of paragraph (d) as amended by section 10-a of part H
18 of chapter 59 of the laws of 2011 and subparagraph (ii) of paragraph (d)
19 as amended by section 48 of part C of chapter 58 of the laws of 2009,
20 are amended to read as follows:

21 Notwithstanding any inconsistent provision of law or regulation to the
22 contrary, for those drugs which may not be dispensed without a
23 prescription as required by section sixty-eight hundred ten of the
24 education law and for which payment is authorized pursuant to paragraph
25 (g) of subdivision two of section three hundred sixty-five-a of this
26 title, and for those drugs that are available without a prescription as
27 required by section sixty-eight hundred ten of the education law but are
28 reimbursed as items of medical assistance pursuant to paragraph (a) of
29 subdivision four of section three hundred sixty-five-a of this title,
30 payments under this title shall be made at the following amounts:

31 (i) [~~if the drug dispensed is a multiple source prescription drug for~~
32 ~~which an upper limit has been set by the federal centers for medicare~~
33 ~~and medicaid services, the lower of: (A) an amount equal to the specific~~
34 ~~upper limit set by such federal agency for the multiple source~~
35 ~~prescription drug; (B) the estimated acquisition cost of such drug to~~
36 ~~pharmacies which, for purposes of this subparagraph, shall mean the~~
37 ~~average wholesale price of a prescription drug based on the package size~~
38 ~~dispensed from, as reported by the prescription drug pricing service~~
39 ~~used by the department, less twenty-five percent thereof; (C) the maxi-~~
40 ~~imum acquisition cost, if any, established pursuant to paragraph (e) of~~
41 ~~this subdivision, provided that the methodology used by the department~~
42 ~~to establish a maximum acquisition cost shall not include average acqui-~~
43 ~~sition cost as determined by department surveys; or (D) the dispensing~~
44 ~~pharmacy's usual and customary price charged to the general public; and]~~
45 if the drug dispensed is a generic prescription drug, or is a drug that
46 is available without a prescription as required by section sixty-eight
47 hundred ten of the education law but is reimbursed as an item of medical
48 assistance pursuant to paragraph (a) of subdivision four of section
49 three hundred sixty-five-a of this title, the lower of: (A) an amount
50 equal to the national average drug acquisition cost set by the federal
51 centers for medicare and medicaid services for the drug, if any, or if
52 such amount if not available, the wholesale acquisition cost of the drug
53 based on the package size dispensed from, as reported by the
54 prescription drug pricing service used by the department, less seventeen
55 and one-half percent thereof; (B) the federal upper limit, if any,
56 established by the federal centers for medicare and medicaid services;

1 (C) the state maximum acquisition cost, if any, established pursuant to
2 paragraph (e) of this subdivision; or (D) the dispensing pharmacy's
3 usual and customary price charged to the general public;

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

25 (A) an amount equal to the national average drug acquisition cost set
26 by the federal centers for medicare and medicaid services for the drug,
27 if any, or if such amount is not available, the wholesale acquisition
28 cost of the drug based on the package size dispensed from, as reported
29 by the prescription drug pricing service used by the department, less
30 three and three-tenths percent thereof; or (B) the dispensing pharmacy's
31 usual and customary price charged to the general public; and

32 (d) In addition to the amounts paid pursuant to paragraph (b) of this
33 subdivision [~~to pharmacies for those drugs which may not be dispensed~~
34 ~~without a prescription, as required by section sixty-eight hundred ten~~
35 ~~of the education law and for which payment is authorized pursuant to~~
36 ~~paragraph (g) of subdivision two of section three hundred sixty-five-a~~
37 ~~of this title], the department shall pay a professional pharmacy
38 dispensing fee for each such [~~prescription~~] drug dispensed[~~, which~~
39 ~~dispensing fee shall not be less than the following amounts:~~~~

40 ~~(i) for prescription drugs categorized as generic by the prescription~~
41 ~~drug pricing service used by the department, three dollars and fifty~~
42 ~~cents per prescription; and~~

43 ~~(ii) for prescription drugs categorized as brand-name prescription~~
44 ~~drugs by the prescription drug pricing service used by the department,~~
45 ~~three dollars and fifty cents per prescription, provided, however, that~~
46 ~~for brand name prescription drugs reimbursed pursuant to subparagraph~~
47 ~~(ii) of paragraph (a-1) of subdivision four of section three hundred~~
48 ~~sixty-five-a of this title, the dispensing fee shall be four dollars and~~
49 ~~fifty cents per prescription] in the amount of ten dollars per
50 prescription or written order of a practitioner; provided, however that
51 this professional dispensing fee will not apply to drugs that are avail-
52 able without a prescription as required by section sixty-eight hundred
53 ten of the education law but do not meet the definition of a covered
54 outpatient drug pursuant to Section 1927K of the Social Security Act.~~

55 § 8. It shall be an unacceptable practice in the Medicaid program
56 established pursuant to title 11 of article 5 of the social services law

1 for a provider to prescribe opioids in violation of the requirements of
2 paragraph (g-1) of subdivision 2 of section 365-a of such law, in
3 violation of any other applicable law limiting or restricting the
4 prescribing of opioids, and/or contrary to recommendations issued by the
5 drug utilization review board established by section 369-bb of the
6 social services law, and such practice may result in the provider being
7 excluded from participation in the Medicaid program.

8 § 9. Paragraph (g-1) of subdivision 2 of section 365-a of the social
9 services law, as amended by section 5 of part C of chapter 60 of the
10 laws of 2014, is amended to read as follows:

11 (g-1) drugs provided on an in-patient basis, those drugs contained on
12 the list established by regulation of the commissioner of health pursu-
13 ant to subdivision four of this section, and those drugs which may not
14 be dispensed without a prescription as required by section sixty-eight
15 hundred ten of the education law and which the commissioner of health
16 shall determine to be reimbursable based upon such factors as the avail-
17 ability of such drugs or alternatives at low cost if purchased by a
18 medicaid recipient, or the essential nature of such drugs as described
19 by such commissioner in regulations, provided, however, that such drugs,
20 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
21 ties no greater than a thirty day supply or one hundred doses, whichever
22 is greater; provided further that the commissioner of health is author-
23 ized to require prior authorization for any refill of a prescription
24 when more than a ten day supply of the previously dispensed amount
25 should remain were the product used as normally indicated, or in the
26 case of a controlled substance, as defined in section thirty-three
27 hundred two of the public health law, when more than a seven day supply
28 of the previously dispensed amount should remain were the product used
29 as normally indicated; provided further that the commissioner of health
30 is authorized to require prior authorization of prescriptions of opioid
31 analgesics in excess of four prescriptions in a thirty-day period in
32 accordance with section two hundred seventy-three of the public health
33 law; medical assistance shall not include any drug provided on other
34 than an in-patient basis for which a recipient is charged or a claim is
35 made in the case of a prescription drug, in excess of the maximum reim-
36 bursable amounts to be established by department regulations in accord-
37 ance with standards established by the secretary of the United States
38 department of health and human services, or, in the case of a drug not
39 requiring a prescription, in excess of the maximum reimbursable amount
40 established by the commissioner of health pursuant to paragraph (a) of
41 subdivision four of this section;

42 § 10. Paragraph (b) of subdivision 3 of section 273 of the public
43 health law, as added by section 10 of part C of chapter 58 of the laws
44 of 2005, is amended to read as follows:

45 (b) In the event that the patient does not meet the criteria in para-
46 graph (a) of this subdivision, the prescriber may provide additional
47 information to the program to justify the use of a prescription drug
48 that is not on the preferred drug list. The program shall provide a
49 reasonable opportunity for a prescriber to reasonably present his or her
50 justification of prior authorization. ~~[If, after consultation with the~~
51 ~~program, the prescriber, in his or her reasonable professional judgment,~~
52 ~~determines that the use of a prescription drug that is not on the~~
53 ~~preferred drug list is warranted, the prescriber's determination shall~~
54 ~~be final.] The program shall consider the additional information and the~~
55 justification presented to determine whether the use of a prescription
56 drug that is not on the preferred drug list is warranted. In the case of

1 atypical antipsychotics and antidepressants, if, after consultation with
2 the program, the prescriber, in his or her reasonable professional judg-
3 ment, determines that the use of a prescription drug that is not on the
4 preferred drug list is warranted, the prescriber's determination shall
5 be final.

6 § 11. Subdivision 25 of section 364-j of the social services law, as
7 added by section 55 of part D of chapter 56 of the laws of 2012, is
8 amended to read as follows:

9 25. [~~Effective January first, two thousand thirteen, notwithstanding~~]
10 Notwithstanding any provision of law to the contrary, managed care
11 providers shall cover medically necessary prescription drugs in the
12 atypical antipsychotic and antidepressant therapeutic [~~class~~] classes,
13 including non-formulary drugs, upon demonstration by the prescriber,
14 after consulting with the managed care provider, that such drugs, in the
15 prescriber's reasonable professional judgment, are medically necessary
16 and warranted.

17 § 12. Subdivision 25-a of section 364-j of the social services law is
18 REPEALED.

19 § 13. The public health law is amended by adding a new section 280-c
20 to read as follows:

21 § 280-c. Comprehensive medication management. 1. Definitions. For
22 purposes of this section:

23 (a) "qualified pharmacist" means a pharmacist who maintains a current
24 unrestricted license pursuant to article one hundred thirty-seven of the
25 education law and who has completed one or more programs, accredited by
26 the Accreditation Council for Pharmacy Education, for the medication
27 management of a chronic disease or diseases;

28 (b) "comprehensive medication management" means a program that ensures
29 a patient's medications, whether prescription or nonprescription, are
30 individually assessed to determine that each medication is appropriate
31 for the patient, effective for the medical condition, safe given comor-
32 bidities and other medications being taken, and able to be taken by the
33 patient as intended;

34 (c) "comprehensive medication management protocol" means a written
35 document pursuant to and consistent with any applicable state and feder-
36 al requirements, that is entered into voluntarily by either a physician
37 licensed pursuant to article one hundred thirty-one of the education law
38 or a nurse practitioner certified pursuant to section sixty-nine hundred
39 ten of the education law, and a qualified pharmacist which addresses a
40 chronic disease or diseases and that describes the nature and scope of
41 the comprehensive medication management services to be performed by the
42 qualified pharmacist, in accordance with the provisions of this section;
43 comprehensive medication management protocols between physicians or
44 nurse practitioners and qualified pharmacists shall be made available to
45 the department for review and to ensure compliance with this article,
46 upon request.

47 2. A physician licensed pursuant to article one hundred thirty-one of
48 the education law or a nurse practitioner certified pursuant to section
49 sixty-nine hundred ten of the education law shall be authorized to
50 voluntarily establish a comprehensive medication management protocol
51 with a qualified pharmacist to provide comprehensive medication manage-
52 ment services for a patient who has not met clinical goals of therapy,
53 is at risk for hospitalization, or for whom the physician or nurse prac-
54 titioner deems it is necessary to receive comprehensive medication
55 management services. Participation by the patient in comprehensive medi-
56 cation management services shall be voluntary.

1 3. Under a comprehensive medication management protocol, a qualified
2 pharmacist shall be permitted to:

3 (a) adjust or manage a drug regimen of the patient, which may include
4 adjusting drug strength, frequency of administration or route of admin-
5 istration, discontinuance of therapy or initiation of a drug which
6 differs from that initially prescribed by the patient's physician or
7 nurse practitioner;

8 (b) evaluate and only to the next extent necessary to discharge the
9 responsibility set forth in this section, order or perform routine
10 patient monitoring functions or disease state laboratory tests related
11 to comprehensive medication management for the specific chronic disease
12 or diseases, specified within the comprehensive medication management
13 protocol;

14 (c) access the complete patient medical record maintained by the
15 physician or nurse practitioner with whom he or she has the comprehen-
16 sive medication management protocol and shall document any adjustments
17 made pursuant to the protocol in the patient's medical record and shall
18 notify the patient's treating physician or nurse practitioner in a time-
19 ly manner electronically or by other means. Under no circumstances,
20 shall the qualified pharmacist be permitted to delegate comprehensive
21 medication management services to any other licensed pharmacist or other
22 pharmacy personnel.

23 4. Any medication adjustments made by the qualified pharmacist pursu-
24 ant to the comprehensive medication management protocol, including
25 adjustments in drug strength, frequency or route of administration, or
26 initiation of a drug which differs from that initially prescribed and as
27 documented in the patient medical record, shall be deemed an oral
28 prescription authorized by an agent of the patient's treating physician
29 or nurse practitioner and shall be dispensed consistent with section
30 sixty-eight hundred ten of the education law.

31 5. A physician licensed pursuant to article one hundred thirty-one of
32 the education law or a nurse practitioner certified pursuant to section
33 sixty-nine hundred ten of the education law, who has responsibility for
34 the treatment and care of a patient for a chronic disease or diseases
35 may refer the patient to a qualified pharmacist for comprehensive medi-
36 cation management services, pursuant to the comprehensive medication
37 management protocol that the physician or nurse practitioner has estab-
38 lished with the qualified pharmacist. Such referral shall be documented
39 in the patient's medical record. Participation by the patient in compre-
40 hensive medication management services shall be voluntary.

41 § 14. Paragraph (a) of subdivision 4 of section 365-a of the social
42 services law, as amended by chapter 493 of the laws of 2010, is amended
43 to read as follows:

44 (a) drugs which may be dispensed without a prescription as required by
45 section sixty-eight hundred ten of the education law; provided, however,
46 that the state commissioner of health may by regulation specify certain
47 of such drugs which may be reimbursed as an item of medical assistance
48 in accordance with the price schedule established by such commissioner.
49 Notwithstanding any other provision of law, [additions] modifications
50 to the list of drugs reimbursable under this paragraph may be filed as
51 regulations by the commissioner of health without prior notice and
52 comment;

53 § 15. Paragraph (c) of subdivision 6 of section 367-a of the social
54 services law is amended by adding a new subparagraph (v) to read as
55 follows:

1 (v) Notwithstanding any other provision of this paragraph, co-payments
2 charged for drugs dispensed without a prescription as required by
3 section sixty-eight hundred ten of the education law but which are reim-
4 bursed as an item of medical assistance pursuant to paragraph (a) of
5 subdivision four of section three hundred sixty-five-a of this title
6 shall be one dollar.

7 § 16. Subparagraph (iii) of paragraph (c) of subdivision 6 of section
8 367-a of the social services law, as amended by section 9 of part C of
9 chapter 60 of the laws of 2014, is amended to read as follows:

10 (iii) Notwithstanding any other provision of this paragraph, co-pay-
11 ments charged for each generic prescription drug dispensed shall be one
12 dollar and for each brand name prescription drug dispensed shall be
13 [~~three dollars~~] two dollars and fifty cents; provided, however, that the
14 co-payments charged for [~~each brand name prescription drug on the~~
15 ~~preferred drug list established pursuant to section two hundred seven-~~
16 ~~ty-two of the public health law or, for managed care providers operating~~
17 ~~pursuant to section three hundred sixty four-j of this title, for each~~
18 ~~brand name prescription drug on a managed care provider's formulary that~~
19 ~~such provider has designated as a preferred drug, and the co-payments~~
20 ~~charged for~~] each brand name prescription drug reimbursed pursuant to
21 subparagraph (ii) of paragraph (a-1) of subdivision four of section
22 three hundred sixty-five-a of this title shall be one dollar.

23 § 17. Subparagraphs 1 and 5 of paragraph (f) of subdivision 7 of
24 section 367-a of the social services law, as added by section 11 of part
25 B of chapter 59 of the laws of 2016, are amended to read as follows:

26 (1) The department may require manufacturers of drugs other than
27 single source drugs and innovator multiple source drugs, as such terms
28 are defined in 42 U.S.C. § 1396r-8(k), to provide rebates to the depart-
29 ment for any drug that has increased more than three hundred percent of
30 its state maximum acquisition cost (SMAC) [~~, on or after~~] during the
31 period April 1, 2016 through March 31, 2017, or that has increased more
32 than seventy-five percent of its SMAC on or after April 1, 2017, in
33 comparison to its SMAC at any time during the course of the preceding
34 twelve months. The required rebate shall be limited to the amount by
35 which the current SMAC for the drug exceeds [~~three hundred percent~~] the
36 applicable percentage of the SMAC for the same drug at any time during
37 the course of the preceding twelve months. Such rebates shall be in
38 addition to any rebates payable to the department pursuant to any other
39 provision of federal or state law. Nothing herein shall affect the
40 department's obligation to reimburse for covered outpatient drugs pursu-
41 ant to paragraph (d) of this subdivision.

42 (5) Beginning in two thousand seventeen, the department shall provide
43 an annual report to the legislature no later than February first setting
44 forth:

45 (i) The number of drugs that exceeded the ceiling price established in
46 this paragraph during the preceding year in comparison to the number of
47 drugs that experienced at least a three hundred percent price increase
48 during two thousand fourteen and two thousand fifteen, or at least a
49 seventy-five percent price increase during two thousand fifteen and two
50 thousand sixteen;

51 (ii) The average percent amount above the ceiling price of drugs that
52 exceeded the ceiling price in the preceding year in comparison to the
53 number of drugs that experienced a price increase more than three
54 hundred percent during two thousand fourteen and two thousand fifteen,
55 or at least a seventy-five percent price increase during two thousand
56 fifteen and two thousand sixteen;

1 (iii) The number of generic drugs available to enrollees in Medicaid
2 fee for service or Medicaid managed care, by fiscal quarter, in the
3 preceding year in comparison to the drugs available, by fiscal quarter,
4 during two thousand fourteen [~~and~~], two thousand fifteen, and two thou-
5 sand sixteen; and

6 (iv) The total drug spend on generic drugs for the preceding year in
7 comparison to the total drug spend on generic drugs during two thousand
8 fourteen [~~and~~], two thousand fifteen, and two thousand sixteen.

9 § 18. Severability. If any clause, sentence, paragraph, or subdivi-
10 sion of this section shall be adjudged by any court of competent juris-
11 diction to be invalid, such judgment shall not affect, impair, or inval-
12 idate the remainder thereof, but shall be confined in its operation to
13 the clause, sentence, paragraph, or subdivision directly involved in the
14 controversy in which such judgment shall have been rendered. It is here-
15 by declared to be the intent of the legislature that this section would
16 have been enacted even if such invalid provisions had not been included
17 herein.

18 § 19. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2017; provided,
20 however, that sections nine, fourteen, fifteen, sixteen, and seventeen
21 of this act shall take effect July 1, 2017; provided, further, that the
22 amendments to section 364-j of the social services law made by section
23 eleven of this act shall not affect the repeal of such section and shall
24 be deemed repealed therewith; provided, further, that the amendments to
25 paragraph (c) of subdivision 6 of section 367-a of the social services
26 law made by sections fifteen and sixteen of this act shall not affect
27 the repeal of such paragraph and shall be deemed repealed therewith;
28 provided, further, that the amendments to paragraph (f) of subdivision 7
29 of section 367-a of the social services law made by section seventeen of
30 this act shall not affect the repeal of such paragraph and shall be
31 deemed repealed therewith; and provided, further, that the amendments to
32 subdivision 9 of section 367-a of the social services law made by
33 section seven of this act shall not affect the expiration of such subdivi-
34 sion and shall be deemed to expire therewith.

35

PART E

36 Section 1. Subparagraph (i) of paragraph (b) of subdivision 7 of
37 section 4403-f of the public health law, as amended by section 41-b of
38 part H of chapter 59 of the laws of 2011, is amended to read as follows:

39 (i) The commissioner shall, to the extent necessary, submit the appro-
40 priate waivers, including, but not limited to, those authorized pursuant
41 to sections eleven hundred fifteen and nineteen hundred fifteen of the
42 federal social security act, or successor provisions, and any other
43 waivers necessary to achieve the purposes of high quality, integrated,
44 and cost effective care and integrated financial eligibility policies
45 under the medical assistance program or pursuant to title XVIII of the
46 federal social security act. In addition, the commissioner is authorized
47 to submit the appropriate waivers, including but not limited to those
48 authorized pursuant to sections eleven hundred fifteen and nineteen
49 hundred fifteen of the federal social security act or successor
50 provisions, and any other waivers necessary to require on or after April
51 first, two thousand twelve, medical assistance recipients who are twen-
52 ty-one years of age or older and who require community-based long term
53 care services, as specified by the commissioner, for a continuous period
54 of more than one hundred and twenty days from date of enrollment, to

1 receive such services through an available plan certified pursuant to
2 this section or other program model that meets guidelines specified by
3 the commissioner that support coordination and integration of services,
4 provided, however, that on or after October first, two thousand seven-
5 teen, the commissioner may, through such an approved waiver, further
6 limit eligibility to available plans to enrollees that require nursing
7 facility level of care. Notwithstanding the foregoing, medical assist-
8 ance recipients enrolled in a managed long term care plan on October
9 first, two thousand seventeen may continue to be eligible for such
10 plans, irrespective of whether the enrollee meets any applicable nursing
11 facility level of care requirements, provided, however, that once such
12 recipients are disenrolled from their managed long term care plan, any
13 applicable nursing facility level of care requirements would apply to
14 future eligibility determinations. Such guidelines shall address the
15 requirements of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and
16 (i) of subdivision three of this section as well as payment methods that
17 ensure provider accountability for cost effective quality outcomes. Such
18 other program models may include long term home health care programs
19 that comply with such guidelines. Copies of such original waiver appli-
20 cations and amendments thereto shall be provided to the chairs of the
21 senate finance committee, the assembly ways and means committee and the
22 senate and assembly health committees simultaneously with their
23 submission to the federal government.

24 § 2. Subdivision 25 of section 2808 of the public health law is
25 REPEALED.

26 § 3. Paragraph (b) of subdivision 5 of section 2801-e of the public
27 health law, as amended by chapter 257 of the laws of 2005, is amended to
28 read as follows:

29 (b) Notwithstanding any inconsistent provision of law or regulation to
30 the contrary, for purposes of determining medical assistance payments by
31 government agencies for residential health care facility services
32 provided pursuant to title eleven of article five of the social services
33 law for facilities that have temporarily decertified beds:

34 (i) the facility's capital cost reimbursement shall be adjusted to
35 appropriately take into account the new bed capacity of the facility;
36 and

37 (ii) the facility's peer group assignment for indirect cost reimburse-
38 ment shall be based on its total certified beds less the number of beds
39 that have been temporarily decertified[~~, and~~

40 ~~(iii) the facility's vacancy rate shall be calculated on the basis of~~
41 ~~its total certified beds less the number of beds that have been tempo-~~
42 ~~rarily decertified for purposes of determining eligibility for payments~~
43 ~~for reserved bed days for residents of residential health care facili-~~
44 ~~ties, provided, however, that such payments for reserved bed days for~~
45 ~~facilities that have temporarily decertified beds shall be in an amount~~
46 ~~that is fifty percent of the otherwise applicable payment amount for~~
47 ~~such beds].~~

48 § 4. Subdivision 2-c of section 2808 of the public health law is
49 amended by adding a new paragraph (f) to read as follows:

50 (f) The commissioner shall establish a prospective per diem adjustment
51 for all nursing homes, other than nursing homes providing services
52 primarily to children under the age of twenty-one, beginning April
53 first, two thousand seventeen and each year thereafter sufficient to
54 achieve eighteen million dollars in savings in each state fiscal year.

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

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

15 § 6. Paragraph (m) of subdivision 2 of section 365-a of the social
16 services law, as amended by chapter 725 of the laws of 1989, is amended
17 to read as follows:

18 (m) hospice services provided by a hospice certified pursuant to arti-
19 cle forty of the public health law, to the extent that federal financial
20 participation is available and that such services are covered under
21 title XVIII of the federal social security act, and, notwithstanding
22 federal financial participation, coverage under title XVIII of the
23 federal social security act, and any provision of law or regulation to
24 the contrary, for hospice services provided pursuant to the hospice
25 supplemental financial assistance program for persons with special needs
26 as provided for in article forty of the public health law.

27 § 7. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2017; provided
29 however, that the amendments to section 4403-f of the public health law
30 made by section one of this act shall take effect October 1, 2017;
31 provided further, that the amendments to paragraph (m) of subdivision
32 two of section 365-a of the social services law made by section six of
33 this act shall take effect June 1, 2017; provided, further, that the
34 amendments to subparagraph (i) of paragraph (b) of subdivision 7 of
35 section 4403-f of the public health law made by section one of this act
36 shall not affect the repeal of such section and shall be deemed repealed
37 therewith; and provided, further, that the amendments to subparagraph
38 (i) of paragraph (b) of subdivision 7 of section 4403-f of the public
39 health law made by section one of this act shall not affect the expira-
40 tion of such paragraph and shall be deemed to expire therewith.

41

PART F

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

45 4. The commissioner of health is authorized to assume responsibility
46 from a local social services official for the provision and reimburse-
47 ment of transportation costs under this section. If the commissioner
48 elects to assume such responsibility, the commissioner shall notify the
49 local social services official in writing as to the election, the date
50 upon which the election shall be effective and such information as to
51 transition of responsibilities as the commissioner deems prudent. The
52 commissioner is authorized to contract with a transportation manager or
53 managers to manage transportation services in any local social services
54 district[~~, other than transportation services provided or arranged for~~

~~enrollees of managed long term care plans issued certificates of authority under section forty four hundred three f of the public health law~~].

Any transportation manager or managers selected by the commissioner to manage transportation services shall have proven experience in coordinating transportation services in a geographic and demographic area similar to the area in New York state within which the contractor would manage the provision of services under this section. Such a contract or contracts may include responsibility for: review, approval and processing of transportation orders; management of the appropriate level of transportation based on documented patient medical need; and development of new technologies leading to efficient transportation services. If the commissioner elects to assume such responsibility from a local social services district, the commissioner shall examine and, if appropriate, adopt quality assurance measures that may include, but are not limited to, global positioning tracking system reporting requirements and service verification mechanisms. Any and all reimbursement rates developed by transportation managers under this subdivision shall be subject to the review and approval of the commissioner.

§ 2. Subdivision 5 of section 365-h of the social services law is REPEALED.

§ 3. Section 367-s of the social services law, as amended by section 43-a of part C of chapter 109 of the laws of 2006, is REPEALED.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017; provided however, that the amendments to subdivision 4 of section 365-h of the social services law made by section one of this act shall take effect October 1, 2017; provided, further, that the amendments to section 365-h of the social services law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART G

Section 1. Subdivision 1 of section 92 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, as separately amended by section 1 of part JJ of chapter 54 and section 18 of part B of chapter 59 of the laws of 2016, is amended to read as follows:

1. For state fiscal years 2011-12 through ~~2017-18~~ 2018-19, the director of the budget, in consultation with the commissioner of health referenced as "commissioner" for purposes of this section, shall assess on a monthly basis, as reflected in monthly reports pursuant to subdivision five of this section known and projected department of health state funds medicaid expenditures by category of service and by geographic regions, as defined by the commissioner, and if the director of the budget determines that such expenditures are expected to cause medicaid disbursements for such period to exceed the projected department of health medicaid state funds disbursements in the enacted budget financial plan pursuant to subdivision 3 of section 23 of the state finance law, the commissioner of health, in consultation with the director of the budget, shall develop a medicaid savings allocation plan to limit such spending to the aggregate limit level specified in the enacted budget financial plan, provided, however, such projections may be adjusted by the director of the budget to account for any changes in the New York state federal medical assistance percentage amount established

1 pursuant to the federal social security act, changes to the availability
2 of federal financial participation in medicaid expenditures, or change
3 in federal medicaid eligibility criteria, changes in provider revenues,
4 reductions to local social services district medical assistance adminis-
5 tration, minimum wage increases, and beginning April 1, 2012 the opera-
6 tional costs of the New York state medical indemnity fund and state
7 costs or savings from the basic health plan. Such projections may be
8 adjusted by the director of the budget to account for increased or expe-
9 dited department of health state funds medicaid expenditures as a result
10 of a natural or other type of disaster, including a governmental decla-
11 ration of emergency.

12 § 2. Notwithstanding sections 61, 63, 70, 78, 79, 81 and 81-a of the
13 civil service law or any provisions to the contrary contained in any
14 general, special, or local laws:

15 1. staff contracted by the office of health insurance programs within
16 the department of health to assist with health insurance program initi-
17 atives, including under a contract authorized by subdivision 29 of
18 section 364-j of the social services law, who meet the open competitive
19 qualifications for positions established to perform these functions will
20 be eligible for appointment to appropriate positions, designated by the
21 office of health insurance programs in the department, that are classi-
22 fied to perform such functions without further examination or qualifica-
23 tion; and, upon such appointment and satisfactory completion of a proba-
24 tionary period, will have all the rights and privileges of the
25 jurisdictional classification to which such positions are allocated in
26 the classified service of the state;

27 2. student assistants working in the department of health's office of
28 health insurance programs through the department of civil service
29 student assistant classification who meet the open competitive quali-
30 fications for traineeship classifications in titles approved by the
31 department of civil service will be eligible for appointment to such
32 appropriate traineeship positions, designated by the office of health
33 insurance programs in the department of health, without further examina-
34 tion or qualification; and, upon such appointment and satisfactory
35 completion of a probationary period, will have all the rights and privi-
36 leges of the jurisdictional classification to which such traineeship
37 positions are allocated in the classified service of the state; and

38 3. within 90 days of the effective date of this section, the depart-
39 ment of civil service, in consultation with the department of health,
40 shall establish a health care service career internship program. This
41 program will be designed to prepare individuals with master's degrees in
42 public administration or a related health care field for management
43 positions within the department of health's office of health insurance
44 programs. The program will offer career tracks in the health insurance
45 program management areas of budget and finance, long term care, health
46 homes, outpatient patient care, and health care public policy. During a
47 two-year internship, interns will serve in a variety of professional
48 positions within the department of health's office of health insurance
49 programs and be provided specialized training, rotational assignments,
50 and mentoring. After satisfactory completion of the internship, interns
51 will advance to a permanent competitive class grade 18 position in the
52 various titles utilized within the department of health's office of
53 health insurance programs for health insurance program management with-
54 out further examination or qualification; and, upon such appointment and
55 satisfactory completion of a probationary period, will have all the

1 rights and privileges of the jurisdictional classification to which such
2 positions are allocated in the classified service of the state.

3 § 3. Section 4-a of part C of chapter 58 of the laws of 2005, author-
4 izing reimbursements for expenditures made by or on behalf of social
5 services districts for medical assistance for needy persons and the
6 administration thereof, is amended by adding a new subdivision (e) to
7 read as follows:

8 (e) Beginning with state fiscal year 2017-18, the amount due to be
9 reimbursed under subdivision (a) of this section to a social services
10 district which includes a city with a population of more than five
11 million shall be reduced annually by 50 million dollars unless:

12 (i) By June 30, 2017, such district has a shared savings allocation
13 plan approved by the commissioner of health to increase by 100 million
14 dollars the current annual dollar amount of the city's finally submitted
15 and payable Medicaid claims for preschool and school supportive health
16 services eligible for federal financial participation; the department of
17 health will provide technical assistance as needed to assist the social
18 services district in implementing the plan, which must detail: how the
19 city will identify preschool and school-aged children who are receiving
20 preschool and school supportive health services reimbursable under the
21 current Medicaid state plan and submit claims for reimbursement; and how
22 the plan will generate fifty million dollars in state savings to the
23 Medicaid program. Such plan may be revised, subject to the review and
24 approval of the commissioner of health, as necessary to maintain the
25 increased level of claiming and to generate the required Medicaid state
26 savings in subsequent fiscal years; and

27 (ii) On October 1, 2017 and annually thereafter, the commissioner of
28 health determines that ongoing activities under the approved shared
29 savings allocation plan approved pursuant to subparagraph (i) of this
30 paragraph are likely to achieve the targeted dollar amount of payable
31 Medicaid claims for preschool and school supportive health services for
32 the applicable fiscal year; the social services district and city shall
33 provide such information and documentation as the commissioner of health
34 may require in order to make such determination.

35 (iii) The non-federal share of the costs of services for which claims
36 are submitted as a result of the implementation of the shared savings
37 allocation plan established pursuant to this paragraph shall be the
38 responsibility of the social services district.

39 (iv) Any reduction in the amount due to be reimbursed under subdivi-
40 sion (a) of this section as a result of the operation of this subdivi-
41 sion shall be in addition to any reduction imposed pursuant to subdivi-
42 sion (c) of this section or authorized pursuant to any other applicable
43 law.

44 § 4. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after April 1, 2017.

46

PART H

47 Section 1. Subdivision 5 of section 168 of chapter 639 of the laws of
48 1996, constituting the New York Health Care Reform Act of 1996, as
49 amended by section 1 of part B of chapter 60 of the laws of 2014, is
50 amended to read as follows:

51 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
52 law, as amended or as added by this act, shall expire on December 31,
53 ~~2017~~ 2020, and shall be thereafter effective only in respect to any
54 act done on or before such date or action or proceeding arising out of

1 such act including continued collections of funds from assessments and
2 allowances and surcharges established pursuant to sections 2807-c,
3 2807-j, 2807-s and 2807-t of the public health law, and administration
4 and distributions of funds from pools established pursuant to sections
5 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
6 health law related to patient services provided before December 31,
7 [~~2017~~] 2020, and continued expenditure of funds authorized for programs
8 and grants until the exhaustion of funds therefor;

9 § 2. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,
10 constituting the New York Health Care Reform Act of 2000, as amended by
11 section 2 of part B of chapter 60 of the laws of 2014, is amended to
12 read as follows:

13 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
14 law, as amended by this act, shall expire on December 31, [~~2017~~] 2020,
15 and shall be thereafter effective only in respect to any act done before
16 such date or action or proceeding arising out of such act including
17 continued collections of funds from assessments and allowances and
18 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
19 2807-t of the public health law, and administration and distributions of
20 funds from pools established pursuant to sections 2807-c, 2807-j,
21 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
22 health law, as amended or added by this act, related to patient services
23 provided before December 31, [~~2017~~] 2020, and continued expenditure of
24 funds authorized for programs and grants until the exhaustion of funds
25 therefor;

26 § 3. Subparagraph (xv) of paragraph (a) of subdivision 6 of section
27 2807-s of the public health law, as amended by section 3 of part B of
28 chapter 60 of the laws of 2014, is amended to read as follows:

29 (xv) A gross annual statewide amount for the period January first, two
30 thousand fifteen through December thirty-first, two thousand [~~seventeen~~]
31 twenty, shall be one billion forty-five million dollars.

32 § 4. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section
33 2807-s of the public health law, as amended by section 4 of part B of
34 chapter 60 of the laws of 2014, is amended to read as follows:

35 (xiii) twenty-three million eight hundred thirty-six thousand dollars
36 each state fiscal year for the period April first, two thousand twelve
37 through March thirty-first, two thousand [~~seventeen~~] twenty;

38 § 5. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of
39 section 2807-j of the public health law, as amended by section 5 of part
40 B of chapter 60 of the laws of 2014, are amended to read as follows:

41 (iv) seven hundred sixty-five million dollars annually of the funds
42 accumulated for the periods January first, two thousand through December
43 thirty-first, two thousand [~~sixteen~~] nineteen, and

44 (v) one hundred ninety-one million two hundred fifty thousand dollars
45 of the funds accumulated for the period January first, two thousand
46 [~~seventeen~~] twenty through March thirty-first, two thousand [~~seventeen~~]
47 twenty.

48 § 6. Subdivisions 5-a and 7 of section 2807-m of the public health
49 law, as amended by section 9 of part B of chapter 60 of the laws of
50 2014, subparagraphs (iv), (v) and (vi) of paragraph (d) of subdivision
51 5-a as added by section 4 of part W of chapter 57 of the laws of 2015,
52 are amended to read as follows:

53 5-a. Graduate medical education innovations pool. (a) Supplemental
54 distributions. (i) Thirty-one million dollars for the period January
55 first, two thousand eight through December thirty-first, two thousand
56 eight, shall be set aside and reserved by the commissioner from the

1 regional pools established pursuant to subdivision two of this section
2 and shall be available for distributions pursuant to subdivision five of
3 this section and in accordance with section 86-1.89 of title 10 of the
4 codes, rules and regulations of the state of New York as in effect on
5 January first, two thousand eight; provided, however, for purposes of
6 funding the empire clinical research investigation program (ECRIP) in
7 accordance with paragraph eight of subdivision (e) and paragraph two of
8 subdivision (f) of section 86-1.89 of title 10 of the codes, rules and
9 regulations of the state of New York, distributions shall be made using
10 two regions defined as New York city and the rest of the state and the
11 dollar amount set forth in subparagraph (i) of paragraph two of subdivi-
12 sion (f) of section 86-1.89 of title 10 of the codes, rules and regu-
13 lations of the state of New York shall be increased from sixty thousand
14 dollars to seventy-five thousand dollars.

15 (ii) For periods on and after January first, two thousand nine,
16 supplemental distributions pursuant to subdivision five of this section
17 and in accordance with section 86-1.89 of title 10 of the codes, rules
18 and regulations of the state of New York shall no longer be made and the
19 provisions of section 86-1.89 of title 10 of the codes, rules and regu-
20 lations of the state of New York shall be null and void.

21 (b) Empire clinical research investigator program (ECRIP). Nine
22 million one hundred twenty thousand dollars annually for the period
23 January first, two thousand nine through December thirty-first, two
24 thousand ten, and two million two hundred eighty thousand dollars for
25 the period January first, two thousand eleven, through March thirty-
26 first, two thousand eleven, nine million one hundred twenty thousand
27 dollars each state fiscal year for the period April first, two thousand
28 eleven through March thirty-first, two thousand fourteen, [~~and~~] up to
29 eight million six hundred twelve thousand dollars each state fiscal year
30 for the period April first, two thousand fourteen through March thirty-
31 first, two thousand seventeen, and within amounts appropriated for each
32 state fiscal year for periods on and after April first, two thousand
33 seventeen, shall be set aside and reserved by the commissioner from the
34 regional pools established pursuant to subdivision two of this section
35 to be allocated regionally with two-thirds of the available funding
36 going to New York city and one-third of the available funding going to
37 the rest of the state and shall be available for distribution as
38 follows:

39 Distributions shall first be made to consortia and teaching general
40 hospitals for the empire clinical research investigator program (ECRIP)
41 to help secure federal funding for biomedical research, train clinical
42 researchers, recruit national leaders as faculty to act as mentors, and
43 train residents and fellows in biomedical research skills based on
44 hospital-specific data submitted to the commissioner by consortia and
45 teaching general hospitals in accordance with clause (G) of this subpar-
46 agraph. Such distributions shall be made in accordance with the follow-
47 ing methodology:

48 (A) The greatest number of clinical research positions for which a
49 consortium or teaching general hospital may be funded pursuant to this
50 subparagraph shall be one percent of the total number of residents
51 training at the consortium or teaching general hospital on July first,
52 two thousand eight for the period January first, two thousand nine
53 through December thirty-first, two thousand nine rounded up to the near-
54 est one position.

55 (B) Distributions made to a consortium or teaching general hospital
56 shall equal the product of the total number of clinical research posi-

1 tions submitted by a consortium or teaching general hospital and
2 accepted by the commissioner as meeting the criteria set forth in para-
3 graph (b) of subdivision one of this section, subject to the reduction
4 calculation set forth in clause (C) of this subparagraph, times one
5 hundred ten thousand dollars.

6 (C) If the dollar amount for the total number of clinical research
7 positions in the region calculated pursuant to clause (B) of this
8 subparagraph exceeds the total amount appropriated for purposes of this
9 paragraph, including clinical research positions that continue from and
10 were funded in prior distribution periods, the commissioner shall elimi-
11 nate one-half of the clinical research positions submitted by each
12 consortium or teaching general hospital rounded down to the nearest one
13 position. Such reduction shall be repeated until the dollar amount for
14 the total number of clinical research positions in the region does not
15 exceed the total amount appropriated for purposes of this paragraph. If
16 the repeated reduction of the total number of clinical research posi-
17 tions in the region by one-half does not render a total funding amount
18 that is equal to or less than the total amount reserved for that region
19 within the appropriation, the funding for each clinical research posi-
20 tion in that region shall be reduced proportionally in one thousand
21 dollar increments until the total dollar amount for the total number of
22 clinical research positions in that region does not exceed the total
23 amount reserved for that region within the appropriation. Any reduction
24 in funding will be effective for the duration of the award. No clinical
25 research positions that continue from and were funded in prior distrib-
26 ution periods shall be eliminated or reduced by such methodology.

27 (D) Each consortium or teaching general hospital shall receive its
28 annual distribution amount in accordance with the following:

29 (I) Each consortium or teaching general hospital with a one-year ECRIP
30 award shall receive its annual distribution amount in full upon
31 completion of the requirements set forth in items (I) and (II) of clause
32 (G) of this subparagraph. The requirements set forth in items (IV) and
33 (V) of clause (G) of this subparagraph must be completed by the consor-
34 tium or teaching general hospital in order for the consortium or teach-
35 ing general hospital to be eligible to apply for ECRIP funding in any
36 subsequent funding cycle.

37 (II) Each consortium or teaching general hospital with a two-year
38 ECRIP award shall receive its first annual distribution amount in full
39 upon completion of the requirements set forth in items (I) and (II) of
40 clause (G) of this subparagraph. Each consortium or teaching general
41 hospital will receive its second annual distribution amount in full upon
42 completion of the requirements set forth in item (III) of clause (G) of
43 this subparagraph. The requirements set forth in items (IV) and (V) of
44 clause (G) of this subparagraph must be completed by the consortium or
45 teaching general hospital in order for the consortium or teaching gener-
46 al hospital to be eligible to apply for ECRIP funding in any subsequent
47 funding cycle.

48 (E) Each consortium or teaching general hospital receiving distrib-
49 utions pursuant to this subparagraph shall reserve seventy-five thousand
50 dollars to primarily fund salary and fringe benefits of the clinical
51 research position with the remainder going to fund the development of
52 faculty who are involved in biomedical research, training and clinical
53 care.

54 (F) Undistributed or returned funds available to fund clinical
55 research positions pursuant to this paragraph for a distribution period

1 shall be available to fund clinical research positions in a subsequent
2 distribution period.

3 (G) In order to be eligible for distributions pursuant to this subpar-
4 agraph, each consortium and teaching general hospital shall provide to
5 the commissioner by July first of each distribution period, the follow-
6 ing data and information on a hospital-specific basis. Such data and
7 information shall be certified as to accuracy and completeness by the
8 chief executive officer, chief financial officer or chair of the consor-
9 tium governing body of each consortium or teaching general hospital and
10 shall be maintained by each consortium and teaching general hospital for
11 five years from the date of submission:

12 (I) For each clinical research position, information on the type,
13 scope, training objectives, institutional support, clinical research
14 experience of the sponsor-mentor, plans for submitting research outcomes
15 to peer reviewed journals and at scientific meetings, including a meet-
16 ing sponsored by the department, the name of a principal contact person
17 responsible for tracking the career development of researchers placed in
18 clinical research positions, as defined in paragraph (c) of subdivision
19 one of this section, and who is authorized to certify to the commission-
20 er that all the requirements of the clinical research training objec-
21 tives set forth in this subparagraph shall be met. Such certification
22 shall be provided by July first of each distribution period;

23 (II) For each clinical research position, information on the name,
24 citizenship status, medical education and training, and medical license
25 number of the researcher, if applicable, shall be provided by December
26 thirty-first of the calendar year following the distribution period;

27 (III) Information on the status of the clinical research plan, accom-
28 plishments, changes in research activities, progress, and performance of
29 the researcher shall be provided upon completion of one-half of the
30 award term;

31 (IV) A final report detailing training experiences, accomplishments,
32 activities and performance of the clinical researcher, and data, meth-
33 ods, results and analyses of the clinical research plan shall be
34 provided three months after the clinical research position ends; and

35 (V) Tracking information concerning past researchers, including but
36 not limited to (A) background information, (B) employment history, (C)
37 research status, (D) current research activities, (E) publications and
38 presentations, (F) research support, and (G) any other information
39 necessary to track the researcher; and

40 (VI) Any other data or information required by the commissioner to
41 implement this subparagraph.

42 (H) Notwithstanding any inconsistent provision of this subdivision,
43 for periods on and after April first, two thousand thirteen, ECRIP grant
44 awards shall be made in accordance with rules and regulations promulgat-
45 ed by the commissioner. Such regulations shall, at a minimum:

46 (1) provide that ECRIP grant awards shall be made with the objective
47 of securing federal funding for biomedical research, training clinical
48 researchers, recruiting national leaders as faculty to act as mentors,
49 and training residents and fellows in biomedical research skills;

50 (2) provide that ECRIP grant applicants may include interdisciplinary
51 research teams comprised of teaching general hospitals acting in collab-
52 oration with entities including but not limited to medical centers,
53 hospitals, universities and local health departments;

54 (3) provide that applications for ECRIP grant awards shall be based on
55 such information requested by the commissioner, which shall include but
56 not be limited to hospital-specific data;

1 (4) establish the qualifications for investigators and other staff
2 required for grant projects eligible for ECRIP grant awards; and

3 (5) establish a methodology for the distribution of funds under ECRIP
4 grant awards.

5 (c) Ambulatory care training. Four million nine hundred thousand
6 dollars for the period January first, two thousand eight through Decem-
7 ber thirty-first, two thousand eight, four million nine hundred thousand
8 dollars for the period January first, two thousand nine through December
9 thirty-first, two thousand nine, four million nine hundred thousand
10 dollars for the period January first, two thousand ten through December
11 thirty-first, two thousand ten, one million two hundred twenty-five
12 thousand dollars for the period January first, two thousand eleven
13 through March thirty-first, two thousand eleven, four million three
14 hundred thousand dollars each state fiscal year for the period April
15 first, two thousand eleven through March thirty-first, two thousand
16 fourteen, [~~and~~] up to four million sixty thousand dollars each state
17 fiscal year for the period April first, two thousand fourteen through
18 March thirty-first, two thousand seventeen, and within amounts appropri-
19 ated for each state fiscal year for periods on and after April first,

20 two thousand seventeen, shall be set aside and reserved by the commis-
21 sioner from the regional pools established pursuant to subdivision two
22 of this section and shall be available for distributions to sponsoring
23 institutions to be directed to support clinical training of medical
24 students and residents in free-standing ambulatory care settings,
25 including community health centers and private practices. Such funding
26 shall be allocated regionally with two-thirds of the available funding
27 going to New York city and one-third of the available funding going to
28 the rest of the state and shall be distributed to sponsoring insti-
29 tutions in each region pursuant to a request for application or request
30 for proposal process with preference being given to sponsoring insti-
31 tutions which provide training in sites located in underserved rural or
32 inner-city areas and those that include medical students in such train-
33 ing.

34 (d) Physician loan repayment program. One million nine hundred sixty
35 thousand dollars for the period January first, two thousand eight
36 through December thirty-first, two thousand eight, one million nine
37 hundred sixty thousand dollars for the period January first, two thou-
38 sand nine through December thirty-first, two thousand nine, one million
39 nine hundred sixty thousand dollars for the period January first, two
40 thousand ten through December thirty-first, two thousand ten, four
41 hundred ninety thousand dollars for the period January first, two thou-
42 sand eleven through March thirty-first, two thousand eleven, one million
43 seven hundred thousand dollars each state fiscal year for the period
44 April first, two thousand eleven through March thirty-first, two thou-
45 sand fourteen, [~~and~~] up to one million seven hundred five thousand
46 dollars each state fiscal year for the period April first, two thousand
47 fourteen through March thirty-first, two thousand seventeen, and within
48 amounts appropriated for each state fiscal year for periods on and after

49 April first, two thousand seventeen, shall be set aside and reserved by
50 the commissioner from the regional pools established pursuant to subdivi-
51 sion two of this section and shall be available for purposes of physi-
52 cian loan repayment in accordance with subdivision ten of this section.
53 Notwithstanding any contrary provision of this section, sections one
54 hundred twelve and one hundred sixty-three of the state finance law, or
55 any other contrary provision of law, such funding shall be allocated
56 regionally with one-third of available funds going to New York city and

1 two-thirds of available funds going to the rest of the state and shall
2 be distributed in a manner to be determined by the commissioner without
3 a competitive bid or request for proposal process as follows:

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

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

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

18 (iv) In addition to the funds allocated under this paragraph, for the
19 period April first, two thousand fifteen through March thirty-first, two
20 thousand sixteen, two million dollars shall be available for the
21 purposes described in subdivision ten of this section;

22 (v) In addition to the funds allocated under this paragraph, for the
23 period April first, two thousand sixteen through March thirty-first, two
24 thousand seventeen, two million dollars shall be available for the
25 purposes described in subdivision ten of this section;

26 (vi) Notwithstanding any provision of law to the contrary, and subject
27 to the extension of the Health Care Reform Act of 1996, sufficient funds
28 shall be available for the purposes described in subdivision ten of this
29 section in amounts necessary to fund the remaining year commitments for
30 awards made pursuant to subparagraphs (iv) and (v) of this paragraph.

31 (e) Physician practice support. Four million nine hundred thousand
32 dollars for the period January first, two thousand eight through Decem-
33 ber thirty-first, two thousand eight, four million nine hundred thousand
34 dollars annually for the period January first, two thousand nine through
35 December thirty-first, two thousand ten, one million two hundred twen-
36 ty-five thousand dollars for the period January first, two thousand
37 eleven through March thirty-first, two thousand eleven, four million
38 three hundred thousand dollars each state fiscal year for the period
39 April first, two thousand eleven through March thirty-first, two thou-
40 sand fourteen, ~~and~~ up to four million three hundred sixty thousand
41 dollars each state fiscal year for the period April first, two thousand
42 fourteen through March thirty-first, two thousand seventeen, and within
43 amounts appropriated for each state fiscal year for periods on and after
44 April first, two thousand seventeen, shall be set aside and reserved by
45 the commissioner from the regional pools established pursuant to subdi-
46 vision two of this section and shall be available for purposes of physi-
47 cian practice support. Notwithstanding any contrary provision of this
48 section, sections one hundred twelve and one hundred sixty-three of the
49 state finance law, or any other contrary provision of law, such funding
50 shall be allocated regionally with one-third of available funds going to
51 New York city and two-thirds of available funds going to the rest of the
52 state and shall be distributed in a manner to be determined by the
53 commissioner without a competitive bid or request for proposal process
54 as follows:

55 (i) Preference in funding shall first be accorded to teaching general
56 hospitals for up to twenty-five awards, to support costs incurred by

1 physicians trained in primary or specialty tracks who thereafter estab-
2 lish or join practices in underserved communities, as determined by the
3 commissioner.

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

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

13 (e-1) Work group. For funding available pursuant to paragraphs (d) and
14 (e) of this subdivision:

15 (i) The department shall appoint a work group from recommendations
16 made by associations representing physicians, general hospitals and
17 other health care facilities to develop a streamlined application proc-
18 ess by June first, two thousand twelve.

19 (ii) Subject to available funding, applications shall be accepted on a
20 continuous basis. The department shall provide technical assistance to
21 applicants to facilitate their completion of applications. An applicant
22 shall be notified in writing by the department within ten days of
23 receipt of an application as to whether the application is complete and
24 if the application is incomplete, what information is outstanding. The
25 department shall act on an application within thirty days of receipt of
26 a complete application.

27 (f) Study on physician workforce. Five hundred ninety thousand dollars
28 annually for the period January first, two thousand eight through Decem-
29 ber thirty-first, two thousand ten, one hundred forty-eight thousand
30 dollars for the period January first, two thousand eleven through March
31 thirty-first, two thousand eleven, five hundred sixteen thousand dollars
32 each state fiscal year for the period April first, two thousand eleven
33 through March thirty-first, two thousand fourteen, [~~and~~] up to four
34 hundred eighty-seven thousand dollars each state fiscal year for the
35 period April first, two thousand fourteen through March thirty-first,
36 two thousand seventeen, and within amounts appropriated for each state
37 fiscal year for periods on and after April first, two thousand
38 seventeen, shall be set aside and reserved by the commissioner from the
39 regional pools established pursuant to subdivision two of this section
40 and shall be available to fund a study of physician workforce needs and
41 solutions including, but not limited to, an analysis of residency
42 programs and projected physician workforce and community needs. The
43 commissioner shall enter into agreements with one or more organizations
44 to conduct such study based on a request for proposal process.

45 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding
46 any inconsistent provision of section one hundred twelve or one hundred
47 sixty-three of the state finance law or any other law, one million nine
48 hundred sixty thousand dollars annually for the period January first,
49 two thousand eight through December thirty-first, two thousand ten, four
50 hundred ninety thousand dollars for the period January first, two thou-
51 sand eleven through March thirty-first, two thousand eleven, one million
52 seven hundred thousand dollars each state fiscal year for the period
53 April first, two thousand eleven through March thirty-first, two thou-
54 sand fourteen, [~~and~~] up to one million six hundred five thousand dollars
55 each state fiscal year for the period April first, two thousand fourteen
56 through March thirty-first, two thousand seventeen, and within amounts

1 appropriated for each state fiscal year for periods on and after April
2 first, two thousand seventeen, shall be set aside and reserved by the
3 commissioner from the regional pools established pursuant to subdivision
4 two of this section and shall be available for distributions to the
5 Associated Medical Schools of New York to fund its diversity program
6 including existing and new post-baccalaureate programs for minority and
7 economically disadvantaged students and encourage participation from all
8 medical schools in New York. The associated medical schools of New York
9 shall report to the commissioner on an annual basis regarding the use of
10 funds for such purpose in such form and manner as specified by the
11 commissioner.

12 (h) In the event there are undistributed funds within amounts made
13 available for distributions pursuant to this subdivision, such funds may
14 be reallocated and distributed in current or subsequent distribution
15 periods in a manner determined by the commissioner for any purpose set
16 forth in this subdivision.

17 7. Notwithstanding any inconsistent provision of section one hundred
18 twelve or one hundred sixty-three of the state finance law or any other
19 law, up to one million dollars for the period January first, two thou-
20 sand through December thirty-first, two thousand, one million six
21 hundred thousand dollars annually for the periods January first, two
22 thousand one through December thirty-first, two thousand eight, one
23 million five hundred thousand dollars annually for the periods January
24 first, two thousand nine through December thirty-first, two thousand
25 ten, three hundred seventy-five thousand dollars for the period January
26 first, two thousand eleven through March thirty-first, two thousand
27 eleven, one million three hundred twenty thousand dollars each state
28 fiscal year for the period April first, two thousand eleven through
29 March thirty-first, two thousand fourteen, [~~and~~] up to two million
30 seventy-seven thousand dollars each state fiscal year for the period
31 April first, two thousand fourteen through March thirty-first, two thou-
32 sand seventeen, and within amounts appropriated for each state fiscal
33 year for periods on and after April first, two thousand seventeen, shall
34 be set aside and reserved by the commissioner from the regional pools
35 established pursuant to subdivision two of this section and shall be
36 available for distributions to the New York state area health education
37 center program for the purpose of expanding community-based training of
38 medical students. In addition, one million dollars annually for the
39 period January first, two thousand eight through December thirty-first,
40 two thousand ten, two hundred fifty thousand dollars for the period
41 January first, two thousand eleven through March thirty-first, two thou-
42 sand eleven, and eight hundred eighty thousand dollars each state fiscal
43 year for the period April first, two thousand eleven through March thir-
44 ty-first, two thousand fourteen, shall be set aside and reserved by the
45 commissioner from the regional pools established pursuant to subdivision
46 two of this section and shall be available for distributions to the New
47 York state area health education center program for the purpose of post-
48 secondary training of health care professionals who will achieve specif-
49 ic program outcomes within the New York state area health education
50 center program. The New York state area health education center program
51 shall report to the commissioner on an annual basis regarding the use of
52 funds for each purpose in such form and manner as specified by the
53 commissioner.

54 § 7. Paragraph (a) of subdivision 12 of section 367-b of the social
55 services law, as amended by section 10 of part B of chapter 60 of the
56 laws of 2014, is amended to read as follows:

1 (a) For the purpose of regulating cash flow for general hospitals, the
2 department shall develop and implement a payment methodology to provide
3 for timely payments for inpatient hospital services eligible for case
4 based payments per discharge based on diagnosis-related groups provided
5 during the period January first, nineteen hundred eighty-eight through
6 March thirty-first two thousand ~~seventeen~~ **twenty**, by such hospitals
7 which elect to participate in the system.

8 § 8. Subdivision 6 of section 2807-t of the public health law, as
9 amended by section 15 of part B of chapter 60 of the laws of 2014, is
10 amended to read as follows:

11 6. Prospective adjustments. (a) The commissioner shall annually recon-
12 cile the sum of the actual payments made to the commissioner or the
13 commissioner's designee for each region pursuant to section twenty-eight
14 hundred seven-s of this article and pursuant to this section for the
15 prior year with the regional allocation of the gross annual statewide
16 amount specified in subdivision six of section twenty-eight hundred
17 seven-s of this article for such prior year. The difference between the
18 actual amount raised for a region and the regional allocation of the
19 specified gross annual amount for such prior year shall be applied as a
20 prospective adjustment to the regional allocation of the specified gross
21 annual payment amount for such region for the year next following the
22 calculation of the reconciliation. The authorized dollar value of the
23 adjustments shall be the same as if calculated retrospectively.

24 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
25 sion, for covered lives assessment rate periods on and after January
26 first, two thousand fifteen through December thirty-first, two thousand
27 ~~seventeen~~ **twenty**, for amounts collected in the aggregate in excess of
28 one billion forty-five million dollars on an annual basis, prospective
29 adjustments shall be suspended if the annual reconciliation calculation
30 from the prior year would otherwise result in a decrease to the regional
31 allocation of the specified gross annual payment amount for that region,
32 provided, however, that such suspension shall be lifted upon a determi-
33 nation by the commissioner, in consultation with the director of the
34 budget, that sixty-five million dollars in aggregate collections on an
35 annual basis over and above one billion forty-five million dollars on an
36 annual basis have been reserved and set aside for deposit in the HCRA
37 resources fund. Any amounts collected in the aggregate at or below one
38 billion forty-five million dollars on an annual basis, shall be subject
39 to regional adjustments reconciling any decreases or increases to the
40 regional allocation in accordance with paragraph (a) of this subdivi-
41 sion.

42 § 9. This act shall take effect immediately; provided, however, that:

43 (a) the amendments made to sections 2807-s and 2807-j of the public
44 health law made by sections three, four and five of this act shall not
45 affect the expiration of such sections and shall expire therewith; and

46 (b) the amendments to subdivision 6 of section 2807-t of the public
47 health law made by section eight of this act shall not affect the expi-
48 ration of such section and shall be deemed to expire therewith.

49

PART I

50 Section 1. Section 11 of chapter 884 of the laws of 1990, amending the
51 public health law relating to authorizing bad debt and charity care
52 allowances for certified home health agencies, as amended by section 1
53 of part D of chapter 57 of the laws of 2015, is amended to read as
54 follows:

1 § 11. This act shall take effect immediately and:

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

3 (b) sections four through ten shall expire on June 30, [~~2017~~] 2020,

4 and

5 (c) provided that the amendment to section 2807-b of the public health
6 law by section two of this act shall not affect the expiration of such
7 section 2807-b as otherwise provided by law and shall be deemed to
8 expire therewith.

9 § 2. Subdivision 4-a of section 71 of part C of chapter 60 of the laws
10 of 2014 amending the social services law relating to eliminating pres-
11 criber prevails for brand name drugs with generic equivalent, as amended
12 by section 6 of part D of chapter 59 of the laws of 2016, is amended to
13 read as follows:

14 4-a. section twenty-two of this act shall take effect April 1, 2014,
15 and shall be deemed expired January 1, [~~2018~~] 2020;

16 § 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
17 2807-d of the public health law, as amended by section 3 of part D of
18 chapter 57 of the laws of 2015, is amended to read as follows:

19 (vi) Notwithstanding any contrary provision of this paragraph or any
20 other provision of law or regulation to the contrary, for residential
21 health care facilities the assessment shall be six percent of each resi-
22 dential health care facility's gross receipts received from all patient
23 care services and other operating income on a cash basis for the period
24 April first, two thousand two through March thirty-first, two thousand
25 three for hospital or health-related services, including adult day
26 services; provided, however, that residential health care facilities'
27 gross receipts attributable to payments received pursuant to title XVIII
28 of the federal social security act (medicare) shall be excluded from the
29 assessment; provided, however, that for all such gross receipts received
30 on or after April first, two thousand three through March thirty-first,
31 two thousand five, such assessment shall be five percent, and further
32 provided that for all such gross receipts received on or after April
33 first, two thousand five through March thirty-first, two thousand nine,
34 and on or after April first, two thousand nine through March thirty-
35 first, two thousand eleven such assessment shall be six percent, and
36 further provided that for all such gross receipts received on or after
37 April first, two thousand eleven through March thirty-first, two thou-
38 sand thirteen such assessment shall be six percent, and further provided
39 that for all such gross receipts received on or after April first, two
40 thousand thirteen through March thirty-first, two thousand fifteen such
41 assessment shall be six percent, and further provided that for all such
42 gross receipts received on or after April first, two thousand fifteen
43 through March thirty-first, two thousand seventeen such assessment shall
44 be six percent, and further provided that for all such gross receipts
45 received on or after April first, two thousand seventeen through March
46 thirty-first, two thousand twenty such assessment shall be six percent.

47 § 4. Subdivision 1 of section 194 of chapter 474 of the laws of 1996,
48 amending the education law and other laws relating to rates for residen-
49 tial health care facilities, as amended by section 5 of part D of chap-
50 ter 57 of the laws of 2015, is amended to read as follows:

51 1. Notwithstanding any inconsistent provision of law or regulation,
52 the trend factors used to project reimbursable operating costs to the
53 rate period for purposes of determining rates of payment pursuant to
54 article 28 of the public health law for residential health care facili-
55 ties for reimbursement of inpatient services provided to patients eligi-
56 ble for payments made by state governmental agencies on and after April

1 1, 1996 through March 31, 1999 and for payments made on and after July
2 1, 1999 through March 31, 2000 and on and after April 1, 2000 through
3 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and
4 on and after April 1, 2007 through March 31, 2009 and on and after April
5 1, 2009 through March 31, 2011 and on and after April 1, 2011 through
6 March 31, 2013 and on and after April 1, 2013 through March 31, 2015,
7 and on and after April 1, 2015 through March 31, 2017, and on and after
8 April 1, 2017 through March 31, 2020 shall reflect no trend factor
9 projections or adjustments for the period April 1, 1996, through March
10 31, 1997.

11 § 5. Subdivision 1 of section 89-a of part C of chapter 58 of the laws
12 of 2007, amending the social services law and other laws relating to
13 enacting the major components of legislation necessary to implement the
14 health and mental hygiene budget for the 2007-2008 state fiscal year, as
15 amended by section 6 of part D of chapter 57 of the laws of 2015, is
16 amended to read as follows:

17 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
18 of the public health law and section 21 of chapter 1 of the laws of
19 1999, as amended, and any other inconsistent provision of law or regu-
20 lation to the contrary, in determining rates of payments by state
21 governmental agencies effective for services provided beginning April 1,
22 2006, through March 31, 2009, and on and after April 1, 2009 through
23 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,
24 and on and after April 1, 2013 through March 31, 2015, and on and after
25 April 1, 2015 through March 31, 2017, and on and after April 1, 2017
26 through March 31, 2020 for inpatient and outpatient services provided by
27 general hospitals and for inpatient services and outpatient adult day
28 health care services provided by residential health care facilities
29 pursuant to article 28 of the public health law, the commissioner of
30 health shall apply a trend factor projection of two and twenty-five
31 hundredths percent attributable to the period January 1, 2006 through
32 December 31, 2006, and on and after January 1, 2007, provided, however,
33 that on reconciliation of such trend factor for the period January 1,
34 2006 through December 31, 2006 pursuant to paragraph (c) of subdivision
35 10 of section 2807-c of the public health law, such trend factor shall
36 be the final US Consumer Price Index (CPI) for all urban consumers, as
37 published by the US Department of Labor, Bureau of Labor Statistics less
38 twenty-five hundredths of a percentage point.

39 § 6. Subdivision 5-a of section 246 of chapter 81 of the laws of 1995,
40 amending the public health law and other laws relating to medical
41 reimbursement and welfare reform, as amended by section 11 of part D of
42 chapter 57 of the laws of 2015, is amended to read as follows:

43 5-a. Section sixty-four-a of this act shall be deemed to have been in
44 full force and effect on and after April 1, 1995 through March 31, 1999
45 and on and after July 1, 1999 through March 31, 2000 and on and after
46 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
47 through March 31, 2007, and on and after April 1, 2007 through March 31,
48 2009, and on and after April 1, 2009 through March 31, 2011, and on and
49 after April 1, 2011 through March 31, 2013, and on and after April 1,
50 2013 through March 31, 2015, and on and after April 1, 2015 through
51 March 31, 2017 and on and after April 1, 2017 through March 31, 2020;

52 § 7. Section 64-b of chapter 81 of the laws of 1995, amending the
53 public health law and other laws relating to medical reimbursement and
54 welfare reform, as amended by section 12 of part D of chapter 57 of the
55 laws of 2015, is amended to read as follows:

1 § 64-b. Notwithstanding any inconsistent provision of law, the
2 provisions of subdivision 7 of section 3614 of the public health law, as
3 amended, shall remain and be in full force and effect on April 1, 1995
4 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
5 and after April 1, 2000 through March 31, 2003 and on and after April 1,
6 2003 through March 31, 2007, and on and after April 1, 2007 through
7 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
8 and on and after April 1, 2011 through March 31, 2013, and on and after
9 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
10 through March 31, 2017 and on and after April 1, 2017 through March 31,
11 2020.

12 § 8. Subdivision (a) of section 40 of part B of chapter 109 of the
13 laws of 2010, amending the social services law relating to transporta-
14 tion costs, as amended by section 23 of part D of chapter 57 of the laws
15 of 2015, is amended to read as follows:

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

30 § 9. Section 4-a of part A of chapter 56 of the laws of 2013 amending
31 chapter 59 of the laws of 2011 amending the public health law and other
32 laws relating to general hospital reimbursement for annual rates relat-
33 ing to the cap on local Medicaid expenditures, as amended by section 29
34 of part D of chapter 57 of the laws of 2015, is amended to read as
35 follows:

36 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
37 2807-c of the public health law, section 21 of chapter 1 of the laws of
38 1999, or any other contrary provision of law, in determining rates of
39 payments by state governmental agencies effective for services provided
40 on and after January 1, [~~2017~~] 2020 through March 31, [~~2017~~] 2020, for
41 inpatient and outpatient services provided by general hospitals, for
42 inpatient services and adult day health care outpatient services
43 provided by residential health care facilities pursuant to article 28 of
44 the public health law, except for residential health care facilities or
45 units of such facilities providing services primarily to children under
46 twenty-one years of age, for home health care services provided pursuant
47 to article 36 of the public health law by certified home health agen-
48 cies, long term home health care programs and AIDS home care programs,
49 and for personal care services provided pursuant to section 365-a of the
50 social services law, the commissioner of health shall apply no greater
51 than zero trend factors attributable to the [~~2017~~] 2020 calendar year in
52 accordance with paragraph (c) of subdivision 10 of section 2807-c of the
53 public health law, provided, however, that such no greater than zero
54 trend factors attributable to such [~~2017~~] 2020 calendar year shall also
55 be applied to rates of payment provided on and after January 1, [~~2017~~]
56 2020 through March 31, [~~2017~~] 2020 for personal care services provided

1 in those local social services districts, including New York city, whose
2 rates of payment for such services are established by such local social
3 services districts pursuant to a rate-setting exemption issued by the
4 commissioner of health to such local social services districts in
5 accordance with applicable regulations, and provided further, however,
6 that for rates of payment for assisted living program services provided
7 on and after January 1, [~~2017~~] 2020 through March 31, [~~2017~~] 2020, such
8 trend factors attributable to the [~~2017~~] 2020 calendar year shall be
9 established at no greater than zero percent.

10 § 10. Subdivisions 3 and 5 of section 47 of chapter 2 of the laws of
11 1998, amending the public health law and other laws relating to expand-
12 ing the child health insurance plan, as amended by section 61 of part C
13 of chapter 60 of the laws of 2014, are amended to read as follows:

14 3. section six of this act shall take effect January 1, 1999;
15 provided, however, that subparagraph (iii) of paragraph (c) of subdivi-
16 sion 9 of section 2510 of the public health law, as added by this act,
17 shall expire on July 1, [~~2017~~] 2020;

18 5. section twelve of this act shall take effect January 1, 1999;
19 provided, however, paragraphs (g) and (h) of subdivision 2 of section
20 2511 of the public health law, as added by such section, shall expire on
21 July 1, [~~2017~~] 2020;

22 § 11. Section 4 of chapter 19 of the laws of 1998, amending the social
23 services law relating to limiting the method of payment for prescription
24 drugs under the medical assistance program, as amended by section 65 of
25 part C of chapter 60 of the laws of 2014, is amended to read as follows:

26 § 4. This act shall take effect 120 days after it shall have become a
27 law and shall expire and be deemed repealed March 31, [~~2017~~] 2020.

28 § 12. Paragraph (e-1) of subdivision 12 of section 2808 of the public
29 health law, as amended by section 66 of part C of chapter 60 of the laws
30 of 2014, is amended to read as follows:

31 (e-1) Notwithstanding any inconsistent provision of law or regulation,
32 the commissioner shall provide, in addition to payments established
33 pursuant to this article prior to application of this section, addi-
34 tional payments under the medical assistance program pursuant to title
35 eleven of article five of the social services law for non-state operated
36 public residential health care facilities, including public residential
37 health care facilities located in the county of Nassau, the county of
38 Westchester and the county of Erie, but excluding public residential
39 health care facilities operated by a town or city within a county, in
40 aggregate annual amounts of up to one hundred fifty million dollars in
41 additional payments for the state fiscal year beginning April first, two
42 thousand six and for the state fiscal year beginning April first, two
43 thousand seven and for the state fiscal year beginning April first, two
44 thousand eight and of up to three hundred million dollars in such aggre-
45 gate annual additional payments for the state fiscal year beginning
46 April first, two thousand nine, and for the state fiscal year beginning
47 April first, two thousand ten and for the state fiscal year beginning
48 April first, two thousand eleven, and for the state fiscal years begin-
49 ning April first, two thousand twelve and April first, two thousand
50 thirteen, and of up to five hundred million dollars in such aggregate
51 annual additional payments for the state fiscal years beginning April
52 first, two thousand fourteen, April first, two thousand fifteen and
53 April first, two thousand sixteen and of up to five hundred million
54 dollars in such aggregate annual additional payments for the state
55 fiscal years beginning April first, two thousand seventeen, April first,
56 two thousand eighteen, and April first, two thousand nineteen. The

1 amount allocated to each eligible public residential health care facili-
2 ty for this period shall be computed in accordance with the provisions
3 of paragraph (f) of this subdivision, provided, however, that patient
4 days shall be utilized for such computation reflecting actual reported
5 data for two thousand three and each representative succeeding year as
6 applicable, and provided further, however, that, in consultation with
7 impacted providers, of the funds allocated for distribution in the state
8 fiscal year beginning April first, two thousand thirteen, up to thirty-
9 two million dollars may be allocated in accordance with paragraph (f-1)
10 of this subdivision.

11 § 13. Section 18 of chapter 904 of the laws of 1984, amending the
12 public health law and the social services law relating to encouraging
13 comprehensive health services, as amended by section 67-c of part C of
14 chapter 60 of the laws of 2014, is amended to read as follows:

15 § 18. This act shall take effect immediately, except that sections
16 six, nine, ten and eleven of this act shall take effect on the sixtieth
17 day after it shall have become a law, [~~sections two, three, four and~~
18 ~~nine of this act shall expire and be of no further force or effect on or~~
19 ~~after March 31, 2017,~~] section two of this act shall take effect on
20 April 1, 1985 or seventy-five days following the submission of the
21 report required by section one of this act, whichever is later, and
22 sections eleven and thirteen of this act shall expire and be of no
23 further force or effect on or after March 31, 1988.

24 § 14. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
25 the public health law relating to allowing for the use of funds of the
26 office of professional medical conduct for activities of the patient
27 health information and quality improvement act of 2000, as amended by
28 section 4-b of part A of chapter 57 of the laws of 2015, is amended to
29 read as follows:

30 § 4. This act shall take effect immediately; provided that the
31 provisions of section one of this act shall be deemed to have been in
32 full force and effect on and after April 1, 2003, and shall expire March
33 31, [~~2017~~] 2020 when upon such date the provisions of such section shall
34 be deemed repealed.

35 § 15. Subdivision (o) of section 111 of part H of chapter 59 of the
36 laws of 2011, amending the public health law relating to the statewide
37 health information network of New York and the statewide planning and
38 research cooperative system and general powers and duties, as amended by
39 section 28 of part D of chapter 57 of the laws of 2015, is amended to
40 read as follows:

41 (o) sections thirty-eight and thirty-eight-a of this act shall expire
42 and be deemed repealed March 31, [~~2017~~] 2020;

43 § 16. Section 32 of part A of chapter 58 of the laws of 2008, amending
44 the elder law and other laws relating to reimbursement to participating
45 provider pharmacies and prescription drug coverage, as amended by
46 section 13 of part A of chapter 57 of the laws of 2015, is amended to
47 read as follows:

48 § 32. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after April 1, 2008; provided
50 however, that sections one, six-a, nineteen, twenty, twenty-four, and
51 twenty-five of this act shall take effect July 1, 2008; provided however
52 that sections sixteen, seventeen and eighteen of this act shall expire
53 April 1, [~~2017~~] 2020; provided, however, that the amendments made by
54 section twenty-eight of this act shall take effect on the same date as
55 section 1 of chapter 281 of the laws of 2007 takes effect; provided
56 further, that sections twenty-nine, thirty, and thirty-one of this act

1 shall take effect October 1, 2008; provided further, that section twenty-seven of this act shall take effect January 1, 2009; and provided
2 further, that section twenty-seven of this act shall expire and be
3 deemed repealed March 31, [~~2017~~] 2020; and provided, further, however,
4 that the amendments to subdivision 1 of section 241 of the education law
5 made by section twenty-nine of this act shall not affect the expiration
6 of such subdivision and shall be deemed to expire therewith and provided
7 that the amendments to section 272 of the public health law made by
8 section thirty of this act shall not affect the repeal of such section
9 and shall be deemed repealed therewith.

10 § 17. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after April 1, 2017.
12

13 PART J

14 Section 1. The insurance law is amended by adding a new article 29 to
15 read as follows:

16 ARTICLE 29

17 PHARMACY BENEFIT MANAGERS

18 Section 2901. Definitions.

19 2902. Acting without a registration.

20 2903. Registration requirements for pharmacy benefit managers.

21 2904. Reporting requirements for pharmacy benefit managers.

22 2905. Acting without a license.

23 2906. Licensing of a pharmacy benefit manager.

24 2907. Revocation or suspension of a registration or license of a
25 pharmacy benefit manager.

26 2908. Penalties for violations.

27 2909. Stay or suspension of superintendent's determination.

28 2910. Revoked registrations.

29 2911. Change of address.

30 2912. Assessment.

31 2913. Applicability of other laws.

32 § 2901. Definitions. For purposes of this article:

33 (a) "Controlling person" is any person or other entity who or which
34 directly or indirectly has the power to direct or cause to be directed
35 the management, control or activities of a pharmacy benefit manager.

36 (b) "Health insurer" means an insurance company authorized in this
37 state to write accident and health insurance, a company organized pursu-
38 ant to article forty-three of this chapter, a municipal cooperative
39 health benefit plan established pursuant to article forty-seven of this
40 chapter, a health maintenance organization certified pursuant to article
41 forty-four of the public health law, an institution of higher education
42 certified pursuant to section one thousand one hundred twenty-four of
43 this chapter, or the New York state health insurance plan established
44 under article eleven of the civil service law.

45 (c) "Pharmacy benefit management services" means directly or through
46 an intermediary, managing the prescription drug coverage provided by a
47 health insurer under a policy delivered or issued for delivery in this
48 state or an employer that has its principal place of business in this
49 state, including the processing and payment of claims for prescription
50 drugs, the performance of drug utilization review, the processing of
51 drug prior authorization requests, the adjudication of appeals or griev-
52 ances related to prescription drug coverage, contracting with network
53 pharmacies, and controlling the cost of covered prescription drugs. The
54 term "pharmacy benefit management services" shall not include services

1 provided to a plan subject to section three hundred sixty-four-j of the
2 social services law.

3 (d) "Pharmacy benefit manager" means a person, firm, association,
4 corporation or other entity that, pursuant to a contract with a health
5 insurer or an employer that has its principal place of business in this
6 state and establishes or maintains an employee benefit plan, as defined
7 by the federal Employee Retirement Income Security Act of 1974, provides
8 pharmacy benefit management services, except that term shall not
9 include:

10 (1) an officer or employee of a registered or licensed pharmacy bene-
11 fit manager;

12 (2) a health insurer, or any manager thereof, individual or corporate,
13 or any officer, director or regular salaried employee thereof, providing
14 pharmacy benefit management services under a policy or contract issued
15 by the health insurer; or

16 (3) an employer or its employees with respect to the employee benefit
17 plan, as defined by the federal Employee Retirement Income Security Act
18 of 1974, established or maintained by the employer.

19 (e) "Principal place of business" means the state or country where an
20 employer maintains its headquarters and where the employer's high-level
21 officers direct, control, and coordinate the business activities;
22 provided, however, that if the employer's high-level officers direct,
23 control, and coordinate the business activities in more than one state
24 or country, then the state or country where the greatest number of
25 employees are located.

26 § 2902. Acting without a registration. (a) No person, firm, associ-
27 ation, corporation or other entity may act as a pharmacy benefits manag-
28 er prior to January first, two thousand nineteen without having a valid
29 registration as a pharmacy benefit manager filed with the superintendent
30 in accordance with this article and any regulations promulgated there-
31 under.

32 (b) Prior to January first, two thousand nineteen, no health insurer
33 may pay any fee or other compensation to any person, firm, association,
34 corporation or other entity for performing pharmacy benefit management
35 services unless the person, firm, association, corporation or other
36 entity is registered as a pharmacy benefit manager in accordance with
37 this article.

38 (c) Any person, firm, association, corporation or other entity that
39 violates this section shall, in addition to any other penalty provided
40 by law, be subject to a penalty of the greater of: (1) one thousand
41 dollars for the first violation and two thousand five hundred dollars
42 for each subsequent violation; or (2) the aggregate gross receipts
43 attributable to all violations.

44 § 2903. Registration requirements for pharmacy benefit managers. (a)
45 Every pharmacy benefit manager that performs pharmacy benefit management
46 services prior to January first, two thousand nineteen shall register
47 with the superintendent in a manner acceptable to the superintendent,
48 and shall pay a fee of one thousand dollars for each year or fraction of
49 a year in which the registration shall be valid. Every registration will
50 expire on December thirty-first, two thousand eighteen regardless of
51 when registration was first made.

52 (b) Every pharmacy benefit manager that performs pharmacy benefit
53 management services at any time between January first, two thousand
54 seventeen and June first, two thousand seventeen, shall make the regis-
55 tration and fee payment required by subsection (a) of this section on or
56 before June first, two thousand seventeen.

1 (c) Every pharmacy benefit manager not subject to subsection (b) of
2 this section shall make the registration and fee payment required by
3 subsection (a) of this section prior to performing pharmacy benefit
4 management services.

5 (d) Each pharmacy benefit manager shall renew its registration and
6 make the required fee payment by February first, two thousand eighteen
7 for the two thousand eighteen calendar year.

8 § 2904. Reporting requirements for pharmacy benefit managers. (a)(1)
9 On or before July first of each year, beginning in two thousand seven-
10 teen, every pharmacy benefit manager shall report to the superintendent,
11 in a statement subscribed and affirmed as true under penalties of perju-
12 ry, the information requested by the superintendent. Such information
13 may include, without limitation, disclosure of any financial incentive
14 or benefit for promoting the use of certain drugs and other financial
15 arrangements affecting health insurers or their policyholders or
16 insureds.

17 (2) The superintendent also may address to any pharmacy benefit manag-
18 er or its officers any inquiry in relation to its provision of pharmacy
19 benefit management services or any matter connected therewith. Every
20 pharmacy benefit manager or person so addressed shall reply in writing
21 to such inquiry promptly and truthfully, and such reply shall be, if
22 required by the superintendent, subscribed by such individual, or by
23 such officer or officers of the pharmacy benefit manager, as the super-
24 intendent shall designate, and affirmed by them as true under the penal-
25 ties of perjury.

26 (3) In addition to the other reports required by this subsection, the
27 superintendent also may require the filing of quarterly or other state-
28 ments, which shall be in such form and shall contain such matters as the
29 superintendent shall prescribe.

30 (b) In the event any pharmacy benefit manager or person does not
31 submit the report required by paragraph one or three of subsection (a)
32 of this section or does not provide a good faith response to an inquiry
33 from the superintendent pursuant to paragraph two of subsection (a) of
34 this section within a time period specified by the superintendent of not
35 less than fifteen business days, the superintendent is authorized to
36 levy a civil penalty, after notice and hearing, against such pharmacy
37 benefit manager or person not to exceed five hundred dollars per day for
38 each day beyond the date the report is due or the date specified by the
39 superintendent for response to the inquiry.

40 (c) All information disclosed by a pharmacy benefit manager shall be
41 deemed confidential and not subject to disclosure unless the superinten-
42 dent determines that such disclosure is in the public interest, or is
43 necessary to carry out this chapter or to allow the department to
44 perform examinations or investigations authorized by law.

45 § 2905. Acting without a license. (a) No person, firm, association,
46 corporation or other entity may act as a pharmacy benefit manager on or
47 after January first, two thousand nineteen without having authority to
48 do so by virtue of a license issued in force pursuant to the provisions
49 of this chapter.

50 (b) No health insurer may pay any fee or other compensation to any
51 person, firm, association, corporation or other entity for performing
52 pharmacy benefit management services unless the person, firm, associ-
53 ation, corporation or other entity is licensed as a pharmacy benefit
54 manager in accordance with this article.

55 (c) Any person, firm, association, corporation or other entity that
56 violates this section shall, in addition to any other penalty provided

1 by law, be subject to a penalty of the greater of: (1) one thousand
2 dollars for the first violation and two thousand five hundred dollars
3 for each subsequent violation; or (2) the aggregate gross receipts
4 attributable to all violations.

5 § 2906. Licensing of a pharmacy benefit manager. (a) The superinten-
6 dent may issue a pharmacy benefit manager's license to any person, firm,
7 association or corporation who or that has complied with the require-
8 ments of this chapter, including regulations promulgated by the super-
9 intendent. The superintendent may establish, by regulation, minimum
10 standards for the issuance of a license to a pharmacy benefit manager.

11 (b) The superintendent may establish, by regulation, minimum standards
12 for the delivery of pharmacy benefit management services. The minimum
13 standards established under this subsection may address:

14 (1) the elimination of conflicts of interest between pharmacy benefit
15 managers and health insurers or employee benefit plans, as defined by
16 the federal Employee Retirement Income Security Act of 1974, for whom
17 they perform pharmacy benefit management services;

18 (2) the elimination of deceptive practices in connection with the
19 performance of pharmacy benefit management services;

20 (3) the elimination of anti-competitive practices in connection with
21 the performance of pharmacy benefit management services; and

22 (4) the elimination of unfair claims practices in connection with the
23 performance of pharmacy benefit management services.

24 (c)(1) Any such license issued to a firm or association shall author-
25 ize all of the members of the firm or association and any designated
26 employees to act as pharmacy benefit managers under the license, and all
27 such persons shall be named in the application and supplements thereto.

28 (2) Any such license issued to a corporation shall authorize all of
29 the officers and any designated employees and directors thereof to act
30 as pharmacy benefit managers on behalf of such corporation, and all such
31 persons shall be named in the application and supplements thereto.

32 (3) For each business entity, the officer or officers and director or
33 directors named in the application shall be designated responsible for
34 the business entity's compliance with the insurance laws, rules and
35 regulations of this state.

36 (d)(1) Before a pharmacy benefit manager's license shall be issued or
37 renewed, the prospective licensee shall properly file in the office of
38 the superintendent a written application therefor in such form or forms
39 and supplements thereto as the superintendent prescribes, and pay a fee
40 of one thousand dollars for each year or fraction of a year in which a
41 license shall be valid.

42 (2) Every pharmacy benefit manager's license issued to a business
43 entity pursuant to this section shall expire on the thirtieth day of
44 November of even-numbered years. Every license issued pursuant to this
45 section to an individual pharmacy benefit manager who was born in an
46 odd-numbered year, shall expire on the individual's birthday in each
47 odd-numbered year. Every license issued pursuant to this section to an
48 individual pharmacy benefit manager who was born in an even-numbered
49 year, shall expire on the individual's birthday in each even-numbered
50 year. Every license issued pursuant to this section may be renewed for
51 the ensuing period of twenty-four months upon the filing of an applica-
52 tion in conformity with this subsection.

53 (e)(1) If an application for a renewal license shall have been filed
54 with the superintendent before October first of the year of expiration,
55 then the license sought to be renewed shall continue in full force and
56 effect either until the issuance by the superintendent of the renewal

1 license applied for or until five days after the superintendent shall
2 have refused to issue such renewal license and given notice of such
3 refusal to the applicant.

4 (2) Before refusing to renew any license pursuant to this section, the
5 superintendent shall notify the applicant of the superintendent's inten-
6 tion so to do and shall give such applicant a hearing.

7 (f) The superintendent may refuse to issue a pharmacy benefit manag-
8 er's license if, in the superintendent's judgment, the applicant or any
9 member, principal, officer or director of the applicant, is not trust-
10 worthy and competent to act as or in connection with a pharmacy benefit
11 manager, or that any of the foregoing has given cause for revocation or
12 suspension of such license, or has failed to comply with any prerequi-
13 site for the issuance of such license.

14 (g) Licensees under this section shall be subject to examination by
15 the superintendent as often as the superintendent may deem it expedient.
16 The superintendent may promulgate regulations establishing methods and
17 procedures for facilitating and verifying compliance with the require-
18 ments of this section and such other regulations as necessary.

19 (h) The superintendent may issue a replacement for a currently
20 in-force license that has been lost or destroyed. Before the replacement
21 license shall be issued, there shall be on file in the office of the
22 superintendent a written application for the replacement license,
23 affirming under penalty of perjury that the original license has been
24 lost or destroyed, together with a fee of one hundred dollars.

25 § 2907. Revocation or suspension of a registration or license of a
26 pharmacy benefit manager. (a) The superintendent may refuse to renew,
27 revoke, or may suspend for a period the superintendent determines the
28 registration or license of any pharmacy benefit manager if, after notice
29 and hearing, the superintendent determines that the registrant or licen-
30 see or any member, principal, officer, director, or controlling person
31 of the registrant or licensee, has:

32 (1) violated any insurance laws, or violated any regulation, subpoena
33 or order of the superintendent or of another state's insurance commis-
34 sioner, or has violated any law in the course of his or her dealings in
35 such capacity;

36 (2) provided materially incorrect, materially misleading, materially
37 incomplete or materially untrue information in the registration or
38 license application;

39 (3) obtained or attempted to obtain a registration or license through
40 misrepresentation or fraud;

41 (4)(A) used fraudulent, coercive or dishonest practices;

42 (B) demonstrated incompetence;

43 (C) demonstrated untrustworthiness; or

44 (D) demonstrated financial irresponsibility in the conduct of business
45 in this state or elsewhere;

46 (5) improperly withheld, misappropriated or converted any monies or
47 properties received in the course of business in this state or else-
48 where;

49 (6) intentionally misrepresented the terms of an actual or proposed
50 insurance contract;

51 (7) has been convicted of a felony;

52 (8) admitted or been found to have committed any insurance unfair
53 trade practice or fraud;

54 (9) had a pharmacy benefit manager registration or license, or its
55 equivalent, denied, suspended or revoked in any other state, province,
56 district or territory;

1 (10) failed to pay state income tax or comply with any administrative
2 or court order directing payment of state income tax; or

3 (11) ceased to meet the requirements for registration or licensure
4 under this article.

5 (b) Before revoking or suspending the registration or license of any
6 pharmacy benefit manager pursuant to the provisions of this article, the
7 superintendent shall give notice to the registrant or licensee and to
8 every sub-licensee and shall hold, or cause to be held, a hearing not
9 less than ten days after the giving of such notice.

10 (c) If a registration or license pursuant to the provisions of this
11 article is revoked or suspended by the superintendent, then the super-
12 intendent shall forthwith give notice to the registrant or licensee.

13 (d) The revocation or suspension of any registration or license pursu-
14 ant to the provisions of this article shall terminate forthwith such
15 registration or license and the authority conferred thereby upon all
16 sub-licensees.

17 (e)(1) No individual, corporation, firm or association whose registra-
18 tion or license as a pharmacy benefit manager subject to subsection (a)
19 of this section has been revoked, and no firm or association of which
20 such individual is a member, and no corporation of which such individual
21 is an officer or director, and no controlling person of the registrant
22 or licensee shall be entitled to obtain any registration or license
23 under the provisions of this chapter for a period of one year after such
24 revocation, or, if such revocation be judicially reviewed, for one year
25 after the final determination thereof affirming the action of the super-
26 intendent in revoking such license.

27 (2) If any such registration or license held by a firm, association or
28 corporation be revoked, no member of such firm or association and no
29 officer or director of such corporation or any controlling person of the
30 registrant or licensee shall be entitled to obtain any registration or
31 license, or to be named as a sub-licensee in any such license, under
32 this chapter for the same period of time, unless the superintendent
33 determines, after notice and hearing, that such member, officer or
34 director was not personally at fault in the matter on account of which
35 such registration or license was revoked.

36 (f) If any registered or licensed pharmacy benefit manager or any
37 person aggrieved shall file with the superintendent a verified complaint
38 setting forth facts tending to show sufficient ground for the revocation
39 or suspension of any pharmacy benefit manager's registration or license,
40 then the superintendent shall, after notice and a hearing, determine
41 whether such registration or license shall be suspended or revoked.

42 (g) The superintendent shall retain the authority to enforce the
43 provisions of and impose any penalty or remedy authorized by this chap-
44 ter against any person or entity who is under investigation for or
45 charged with a violation of this chapter, even if the person's or enti-
46 ty's registration or license has been surrendered, or has expired or has
47 lapsed by operation of law.

48 (h) A registrant or licensee subject to this article shall report to
49 the superintendent any administrative action taken against the regis-
50 trant or licensee in another jurisdiction or by another governmental
51 agency in this state within thirty days of the final disposition of the
52 matter. This report shall include a copy of the order, consent to order
53 or other relevant legal documents.

54 (i) Within thirty days of the initial pretrial hearing date, a regis-
55 trant or licensee subject to this article shall report to the super-
56 intendent any criminal prosecution of the registrant or licensee taken

1 in any jurisdiction. The report shall include a copy of the initial
2 complaint filed, the order resulting from the hearing and any other
3 relevant legal documents.

4 § 2908. Penalties for violations. (a) The superintendent, in lieu of
5 revoking or suspending the registration or license of a registrant or
6 licensee in accordance with the provisions of this article, may in any
7 one proceeding by order, require the registrant or licensee to pay to
8 the people of this state a penalty in a sum not exceeding the greater
9 of: (1) one thousand dollars for each offense, not exceeding twenty-five
10 hundred dollars in the aggregate for all offenses; or (2) the aggregate
11 gross receipts attributable to all offenses.

12 (b) Upon the failure of such a registrant or licensee to pay the
13 penalty ordered pursuant to subsection (a) of this section within twenty
14 days after the mailing of the order, postage prepaid, registered, and
15 addressed to the last known place of business of the licensee, unless
16 the order is stayed by an order of a court of competent jurisdiction,
17 the superintendent may revoke the registration or license of the regis-
18 trant or licensee or may suspend the same for such period as the super-
19 intendent determines.

20 § 2909. Stay or suspension of superintendent's determination. The
21 commencement of a proceeding under article seventy-eight of the civil
22 practice law and rules, to review the action of the superintendent in
23 suspending or revoking or refusing to renew any certificate under this
24 article, shall stay such action of the superintendent for a period of
25 thirty days. Such stay shall not be extended for a longer period unless
26 the court shall determine, after a preliminary hearing of which the
27 superintendent is notified forty-eight hours in advance, that a stay of
28 the superintendent's action, pending the final determination or further
29 order of the court, will not unduly injure the interests of the people
30 of the state.

31 § 2910. Revoked registrations. (a)(1) No person, firm, association,
32 corporation or other entity subject to the provisions of this article
33 whose registration or license under this article has been revoked, or
34 whose registration or license to engage in the business of pharmacy
35 benefit management in any capacity has been revoked by any other state
36 or territory of the United States, shall become employed or appointed by
37 a pharmacy benefit manager as an officer, director, manager, controlling
38 person or for other services, without the prior written approval of the
39 superintendent, unless such services are for maintenance or are clerical
40 or ministerial in nature.

41 (2) No person, firm, association, corporation or other entity subject
42 to the provisions of this article shall knowingly employ or appoint any
43 person or entity whose registration or license issued under this article
44 has been revoked, or whose registration or license to engage in the
45 business of pharmacy benefit management in any capacity has been revoked
46 by any other state or territory of the United States, as an officer,
47 director, manager, controlling person or for other services, without the
48 prior written approval of the superintendent, unless such services are
49 for maintenance or are clerical or ministerial in nature.

50 (3) No corporation or partnership subject to the provisions of this
51 article shall knowingly permit any person whose registration or license
52 issued under this article has been revoked, or whose registration or
53 license to engage in the business of pharmacy benefit management in any
54 capacity has been revoked by any other state, or territory of the United
55 States, to be a shareholder or have an interest in such corporation or
56 partnership, nor shall any such person become a shareholder or partner

1 in such corporation or partnership, without the prior written approval
2 of the superintendent.

3 (b) The superintendent may approve the employment, appointment or
4 participation of any such person whose registration or license has been
5 revoked:

6 (1) if the superintendent determines that the duties and responsibil-
7 ities of such person are subject to appropriate supervision and that
8 such duties and responsibilities will not have an adverse effect upon
9 the public, other registrants or licensees, or the registrant or licen-
10 see proposing employment or appointment of such person; or

11 (2) if such person has filed an application for reregistration or
12 relicensing pursuant to this article and the application for reregistra-
13 tion or relicensing has not been approved or denied within one hundred
14 twenty days following the filing thereof, unless the superintendent
15 determines within the said time that employment or appointment of such
16 person by a registrant or licensee in the conduct of a pharmacy benefit
17 management business would not be in the public interest.

18 (c) The provisions of this section shall not apply to the ownership of
19 shares of any corporation registered or licensed pursuant to this arti-
20 cle if the shares of such corporation are publicly held and traded in
21 the over-the-counter market or upon any national or regional securities
22 exchange.

23 § 2911. Change of address. A registrant or licensee under this arti-
24 cle shall inform the superintendent by a means acceptable to the super-
25 intendent of a change of address within thirty days of the change.

26 § 2912. Assessment. Pharmacy benefit managers that file a registra-
27 tion with the department or are licensed by the department shall be
28 assessed by the superintendent for the operating expenses of the depart-
29 ment that are solely attributable to regulating such pharmacy benefit
30 managers in such proportions as the superintendent shall deem just and
31 reasonable.

32 § 2913. Applicability of other laws. Nothing in this article shall be
33 construed to exempt a pharmacy benefit manager from complying with the
34 provisions of articles twenty-one and forty-nine of this chapter and
35 article forty-nine of the public health law or any other provision of
36 this chapter or the financial services law.

37 § 2. Subsection (b) of section 2402 of the insurance law, as amended
38 by section 71 of part A of chapter 62 of the laws of 2011, is amended to
39 read as follows:

40 (b) "Defined violation" means the commission by a person of an act
41 prohibited by: subsection (a) of section one thousand one hundred two,
42 section one thousand two hundred fourteen, one thousand two hundred
43 seventeen, one thousand two hundred twenty, one thousand three hundred
44 thirteen, subparagraph (B) of paragraph two of subsection (i) of section
45 one thousand three hundred twenty-two, subparagraph (B) of paragraph two
46 of subsection (i) of section one thousand three hundred twenty-four, two
47 thousand one hundred two, two thousand one hundred seventeen, two thou-
48 sand one hundred twenty-two, two thousand one hundred twenty-three,
49 subsection (p) of section two thousand three hundred thirteen, section
50 two thousand three hundred twenty-four, two thousand five hundred two,
51 two thousand five hundred three, two thousand five hundred four, two
52 thousand six hundred one, two thousand six hundred two, two thousand six
53 hundred three, two thousand six hundred four, two thousand six hundred
54 six, two thousand seven hundred three, two thousand nine hundred two,
55 two thousand nine hundred five, three thousand one hundred nine, three
56 thousand two hundred twenty-four-a, three thousand four hundred twenty-

1 nine, three thousand four hundred thirty-three, paragraph seven of
2 subsection (e) of section three thousand four hundred twenty-six, four
3 thousand two hundred twenty-four, four thousand two hundred twenty-five,
4 four thousand two hundred twenty-six, seven thousand eight hundred nine,
5 seven thousand eight hundred ten, seven thousand eight hundred eleven,
6 seven thousand eight hundred thirteen, seven thousand eight hundred
7 fourteen and seven thousand eight hundred fifteen of this chapter; or
8 section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one
9 hundred five of the penal law.

10 § 3. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law; provided, however, that effective immediate-
12 ly, the superintendent of financial services may repeal, amend, or
13 promulgate any rules and regulations necessary for the implementation of
14 the provisions of this act on its effective date.

15 PART K

16 Section 1. The public health law is amended by adding a new section
17 2825-e to read as follows:

18 § 2825-e. Health care facility transformation program: statewide II.
19 1. A statewide health care facility transformation program is hereby
20 established under the joint administration of the commissioner and the
21 president of the dormitory authority of the state of New York for the
22 purpose of strengthening and protecting continued access to health care
23 services in communities. The program shall provide funding in support of
24 capital projects, debt retirement, working capital or other non-capital
25 projects that facilitate health care transformation activities includ-
26 ing, but not limited to, merger, consolidation, acquisition or other
27 activities intended to create financially sustainable systems of care or
28 preserve or expand essential health care services. Grants shall not be
29 available to support general operating expenses. The issuance of any
30 bonds or notes hereunder shall be subject to section sixteen hundred
31 eighty-r of the public authorities law and the approval of the director
32 of the division of the budget, and any projects funded through the issu-
33 ance of bonds or notes hereunder shall be approved by the New York state
34 public authorities control board, as required under section fifty-one of
35 the public authorities law.

36 2. The commissioner and the president of the dormitory authority shall
37 enter into an agreement, subject to approval by the director of the
38 budget, and subject to section sixteen hundred eighty-r of the public
39 authorities law, for the purposes of awarding, distributing, and admin-
40 istering the funds made available pursuant to this section. Such funds
41 may be distributed by the commissioner for capital grants to general
42 hospitals, residential health care facilities, diagnostic and treatment
43 centers and clinics licensed pursuant to this chapter or the mental
44 hygiene law, and community-based health care providers as defined in
45 subdivision three of this section for works or purposes that support the
46 purposes set forth in this section. A copy of such agreement, and any
47 amendments thereto, shall be provided to the chair of the senate finance
48 committee, the chair of the assembly ways and means committee, and the
49 director of the division of the budget no later than thirty days prior
50 to the release of a request for applications for funding under this
51 program. Priority shall be given to projects not funded under section
52 twenty-eight hundred twenty-five-d of this article. Projects awarded, in
53 whole or part, under sections twenty-eight hundred twenty-five-a and

1 twenty-eight hundred twenty-five-b of this article shall not be eligible
2 for grants or awards made available under this section.

3 3. Notwithstanding section one hundred sixty-three of the state
4 finance law or any inconsistent provision of law to the contrary, up to
5 five hundred million dollars of the funds appropriated for this program
6 shall be awarded without a competitive bid or request for proposal proc-
7 ess for grants to health care providers (hereafter "applicants").
8 Provided, however, that a minimum of thirty million dollars of total
9 awarded funds shall be made to community-based health care providers,
10 which for purposes of this section shall be defined as a diagnostic and
11 treatment center licensed or granted an operating certificate under this
12 article; a mental health clinic licensed or granted an operating certif-
13 icate under article thirty-one of the mental hygiene law; an alcohol and
14 substance abuse treatment clinic licensed or granted an operating
15 certificate under article thirty-two of the mental hygiene law; a prima-
16 ry care provider or a home care provider certified or licensed pursuant
17 to article thirty-six of this chapter. Eligible applicants shall be
18 those deemed by the commissioner to be a provider that fulfills or will
19 fulfill a health care need for acute inpatient, outpatient, primary,
20 home care or residential health care services in a community.

21 4. Notwithstanding subdivision two of this section or any inconsistent
22 provision of law to the contrary, and upon approval of the director of
23 the budget, the commissioner may award all or a portion of the funds
24 made available pursuant to this section for unfunded project applica-
25 tions submitted in response to the request for applications number
26 1607010255 issued by the department on July twentieth, two thousand
27 sixteen pursuant to section twenty-eight hundred twenty-five-d of this
28 article, provided however that the provisions of subdivision three of
29 this section shall apply. The commissioner shall notify the chair of the
30 senate finance committee and the chair of the assembly ways and means
31 committee no later than thirty days prior to awarding funds pursuant to
32 this subdivision.

33 5. In determining awards for eligible applicants under this section,
34 the commissioner shall consider criteria including, but not limited to:

35 (a) The extent to which the proposed project will contribute to the
36 integration of health care services or the long term sustainability of
37 the applicant or preservation of essential health services in the commu-
38 nity or communities served by the applicant;

39 (b) The extent to which the proposed project or purpose is aligned
40 with delivery system reform incentive payment ("DSRIP") program goals
41 and objectives;

42 (c) Consideration of geographic distribution of funds;

43 (d) The relationship between the proposed project and identified
44 community need;

45 (e) The extent to which the applicant has access to alternative
46 financing;

47 (f) The extent that the proposed project furthers the development of
48 primary care and other outpatient services;

49 (g) The extent to which the proposed project benefits Medicaid enrol-
50 lees and uninsured individuals;

51 (h) The extent to which the applicant has engaged the community
52 affected by the proposed project and the manner in which community
53 engagement has shaped such project; and

54 (i) The extent to which the proposed project addresses potential risk
55 to patient safety and welfare.

1 6. Disbursement of awards made pursuant to this section shall be
2 conditioned on the awardee achieving certain process and performance
3 metrics and milestones as determined in the sole discretion of the
4 commissioner. Such metrics and milestones shall be structured to ensure
5 that the goals of the project are achieved, and such metrics and mile-
6 stones shall be included in grant disbursement agreements or other
7 contractual documents as required by the commissioner.

8 7. The department shall provide a report on a quarterly basis to the
9 chairs of the senate finance, assembly ways and means, and senate health
10 and assembly health committees. Such reports shall be submitted no later
11 than sixty days after the close of the quarter, and shall include, for
12 each award, the name of the applicant, a description of the project or
13 purpose, the amount of the award, disbursement date, and status of
14 achievement of process and performance metrics and milestones pursuant
15 to subdivision five of this section.

16 § 2. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2017.

18 PART L

19 Section 1. The public health law is amended by adding a new article
20 29-H to read as follows:

21 ARTICLE 29-H

22 HEALTH CARE REGULATION MODERNIZATION

23 Section 2999-ee. Health care regulation modernization team.

24 § 2999-ee. Health care regulation modernization team. 1. A health care
25 regulation modernization team is hereby created within the department
26 for the purpose of providing guidance for, and advice to, the governor
27 toward a fundamental restructuring of the statutes, policies and regu-
28 lations that govern the licensure and oversight of health care facili-
29 ties and home care to better align with recent and ongoing changes in
30 the health care delivery system that are designed to increase quality,
31 reduce costs and improve health outcomes.

32 2. Definitions. For the purpose of this article, unless the context
33 clearly requires otherwise:

34 (a) "State agency" or "agency" shall mean any state agency, depart-
35 ment, office, board, bureau, division, committee, council or office.

36 (b) "Public authority" or "authority" shall mean a public authority or
37 public benefit corporation created by or existing under any New York
38 state law, with one or more of its members appointed by the governor, or
39 who serve as members by virtue of holding a civil office of New York
40 state, other than an interstate or international authority or public
41 benefit corporation, and including any subsidiaries of such public
42 authority or public benefit corporation.

43 (c) "State officer or employee" shall have the meaning given in
44 section seventy-three of the public officers law.

45 (d) "Public health and health planning council" shall have the meaning
46 given in section two hundred twenty of this chapter.

47 3. (a) The governor shall appoint up to twenty-five voting members of
48 the health care regulation modernization team. The members of the health
49 care regulation modernization team shall include: state officers or
50 employees with relevant expertise; the chair and co-chair of the public
51 health and health planning council; two members of the New York state
52 assembly, one recommended by the speaker of the assembly and one recom-
53 ended by the minority leader of the assembly, or their representatives;
54 two members of the New York state senate, one recommended by the tempo-

1 rary president of the senate and one recommended by the minority leader
2 of the senate, or their representatives; and stakeholders with expertise
3 in areas, including but not limited to: inpatient and outpatient health
4 care delivery; behavioral health care delivery; home health care; commu-
5 nity based organizations; health care insurance; health care workforce;
6 health care facility design and construction; consumer rights; and other
7 relevant areas.

8 (b) Vacancies shall be filled by the governor, and the governor may
9 appoint additional voting and non-voting members to the health care
10 regulation modernization team as necessary.

11 (c) Members of the team shall serve at the pleasure of the governor.

12 (d) The governor shall designate a chair or co-chairs from among the
13 members of the health care regulation modernization team.

14 (e) The governor shall appoint a state officer or employee with rele-
15 vant experience as executive director of the health care regulation
16 modernization team.

17 (f) A majority of the total members of the health care regulation
18 modernization team who have been appointed shall constitute a quorum,
19 and all recommendations of the health care regulation modernization team
20 shall require approval of a majority of its total members.

21 (g) The health care regulation modernization team shall attempt to
22 engage and solicit the input of a broad and diverse range of groups,
23 organizations and individuals.

24 4. Every agency or authority of New York state shall provide the
25 health care regulation modernization team with assistance and cooper-
26 ation which may be necessary or desirable to fulfill the purposes of
27 this article, including the use of New York state facilities. Staff
28 support necessary for the conduct of the work of the health care modern-
29 ization team may be furnished by agencies and authorities, subject to
30 the approval of the boards of directors of such authorities.

31 5. The health care regulation modernization team shall deliberate and
32 engage health care industry stakeholders for the purpose of conducting a
33 comprehensive review of and making recommendations to address matters
34 that may include, but are not limited to:

35 (a) streamlining state agency certificate of need and other licensure
36 or construction approval processes to support system-level planning and
37 restructuring activities, including reviewing the applicability of
38 current health care service and facility need methodologies in the
39 context of ongoing changes in the health care system delivery system;

40 (b) identifying, streamlining, and aligning statutes, regulations and
41 polices where there is duplication and inconsistency in federal and
42 state standards for physical environment, quality of care, information
43 technology, reporting, surveillance, and licensure;

44 (c) creating more flexible rules on licensing and scope of practice
45 for clinicians and caregivers, which shall be considered in collab-
46 oration with the workforce workgroup convened by the department in
47 relation to the state health innovation plan and the delivery system
48 reform incentive payment program;

49 (d) streamlining and simplifying the provision of primary care, mental
50 health and substance use disorder services in an integrated clinic
51 setting;

52 (e) integrating, standardizing and increasing flexibility of state
53 agency regulations governing the delivery of and reimbursement for tele-
54 health programs;

55 (f) allowing more flexible use of observation beds, ambulatory surgery
56 centers, diagnostic and treatment centers, nursing homes, assisted

1 living, home health care, off campus emergency departments, community
2 paramedicine and other models of delivering health care services;

3 (g) modernizing the licensing and regulation of services provided in
4 the home, including home care, care management and other services to
5 better support the adoption of new models of care;

6 (h) aligning care models around home and community based services
7 consistent with the report issued by the Olmstead Development and Imple-
8 mentation Cabinet;

9 (i) exploring circumstances where statewide regulatory requirements
10 may not be appropriate for regions or communities characterized by
11 isolation, poverty, or other factors impacting access;

12 (j) calibrating facility and home care inspections and the scope of
13 certificate of need reviews based on provider performance on quality and
14 other outcome metrics;

15 (k) increasing the opportunities for public notification, consumer
16 education and community engagement prior to major community health
17 system changes;

18 (l) evaluating where changes in statute, regulation and policy can
19 support timely and effective emergency medical services and pre-hospital
20 care throughout the state; and

21 (m) notwithstanding any other provision of law, where permanent chang-
22 es in statute or regulation may not yet be appropriate, authorizing the
23 commissioner, the commissioner of mental health, and the commissioner of
24 the office of alcoholism and substance abuse services to implement time-
25 limited demonstration programs to test and evaluate new and innovative
26 procedures and processes for organizing, financing and delivering health
27 care services that are not permissible under current statute or regu-
28 lation, provided that no such demonstration program shall be implemented
29 without prior public notice and a thirty day period of comment.

30 6. At the direction of the health care regulation modernization team,
31 the executive director shall notify stakeholders of the purposes of the
32 health care regulation modernization team, the opportunities for stake-
33 holder participation and the means and schedule for such participation.
34 Meetings with stakeholders shall be held in various regions of the
35 state. Participating stakeholders may be assigned to specific working
36 groups, consistent with their areas of expertise and interest.

37 7. The health care regulation modernization team shall commence its
38 work no later than July first, two thousand seventeen and shall submit a
39 report to the governor of its findings and recommendations no later than
40 December thirty-first, two thousand seventeen. A copy of such report
41 shall be provided to the chair of the senate health committee and the
42 chair of the assembly health committee.

43 8. No later than January thirty-first, two thousand eighteen, the
44 commissioner shall recommend to the governor whether the health care
45 regulation modernization team should continue or terminate its duties
46 and responsibilities pursuant to this article.

47 § 2. This act shall take effect immediately and shall be deemed to
48 have been in full force and effect on and after April 1, 2017.

49

PART M

50 Section 1. This act shall be known and may be cited as the "Emerging
51 Contaminant Monitoring Act."

52 § 2. The public health law is amended by adding a new section 1112 to
53 read as follows:

1 § 1112. Emerging contaminant monitoring. 1. Industry and modern tech-
2 nology have created thousands of new chemicals that would not otherwise
3 exist in nature. Although some of these chemicals have proven benefits,
4 the effect of many such chemicals on human health is unknown or not
5 fully understood. Furthermore, with the advance of science and technolo-
6 gy, public health scientists and experts are able to identify naturally
7 occurring contaminants that pose previously unknown hazards to human
8 health. Where these chemicals or contaminants, collectively referred to
9 as "emerging contaminants," enter drinking water supplies, they can
10 present unknown but potentially serious risks to public health. New
11 Yorkers served by public water supplies have the right to know when
12 potentially hazardous substances contaminate their drinking water and
13 the department must be equipped to monitor and protect the public from
14 these emerging contaminants.

15 2. a. "Emerging contaminants" shall mean any physical, chemical,
16 microbiological or radiological substance listed as an emerging contam-
17 inant pursuant to subdivision three of this section.

18 b. "Notification level" means the concentration level of an emerging
19 contaminant in drinking water that the commissioner has determined,
20 based on available scientific information, warrants public notification
21 pursuant to this section.

22 c. "Covered public water system" shall mean a community or nontran-
23 sient noncommunity water system, as defined in the state sanitary code.

24 3. The commissioner shall promulgate regulations that list substances
25 identified as emerging contaminants that meet the following criteria:

26 a. are not subject to any other substance-specific drinking water
27 regulation of the department that establishes a maximum contaminant
28 level or other threshold concentration;

29 b. are known or anticipated to occur in public water systems; and

30 c. because of their quantity, concentration, or physical, chemical or
31 infectious characteristics, may cause physical injury or illness, or
32 otherwise pose a potential hazard to human health when present in drink-
33 ing water.

34 4. Every covered public water system shall test drinking water for the
35 presence of emerging contaminants in the state and unregulated contami-
36 nents monitored under the federal Safe Drinking Water Act as amended
37 from time to time, at least once every three years as determined by the
38 department.

39 5. Every test conducted in accordance with this section shall be
40 conducted by a laboratory certified by the department pursuant to
41 section five hundred two of this chapter. Laboratories shall submit such
42 results to the department electronically in the manner prescribed pursu-
43 ant to section five hundred two of this chapter.

44 6. The commissioner may promulgate regulations establishing notifica-
45 tion levels for any emerging contaminant listed pursuant to subdivision
46 three of this section.

47 7. The commissioner may, by declaration, add any physical, chemical,
48 microbiological or radiological substance to the list of emerging
49 contaminants established pursuant to subdivision three of this section,
50 or establish a notification level for such substance, if the commission-
51 er determines that such substance poses or has the potential to pose a
52 hazard to human health when present in drinking water, provided that the
53 commissioner must promulgate regulations adding the new emerging contam-
54 inant or establishing such notification level within one year of such
55 declaration.

1 8. Whenever a covered public water system determines or is advised by
2 the state that one or more emerging contaminants is present in drinking
3 water at concentrations above a notification level established pursuant
4 to this section:

5 a. the covered public water system shall notify the state and all
6 owners of real property served by the covered public water system in a
7 time and manner to be prescribed by the department; and

8 b. the commissioner may require that the covered public water system
9 take such actions as may be appropriate to reduce exposure to emerging
10 contaminants.

11 9. Any owner of real property, including any owner's agent, to whom a
12 covered public water system has provided notification of the exceedance
13 of a notification level established pursuant to subdivision six of this
14 section, shall take all reasonable and necessary steps to provide, with-
15 in ten days, any tenants with copies of the notification provided by the
16 covered public water system.

17 10. The commissioner may promulgate regulations pursuant to which the
18 department may provide financial assistance for compliance with the
19 testing requirements of this section, to any covered public water system
20 upon a showing that the costs associated with testing drinking water in
21 compliance with this section would impose an unreasonable financial
22 hardship.

23 § 3. Section 502 of the public health law is amended by adding a new
24 subdivision 10 to read as follows:

25 10. The department may require an environmental laboratory to report
26 laboratory test results to the department, or to any full-time city,
27 county or part-county health department in an electronic manner
28 prescribed by the department.

29 § 4. This act shall take effect immediately.

30 PART N

31 Section 1. This act shall be known and may be cited as the "residen-
32 tial well testing act".

33 § 2. The public health law is amended by adding a new section 1111 to
34 read as follows:

35 § 1111. Testing of individual onsite water supply systems. 1. a. The
36 commissioner shall promulgate regulations establishing standards for the
37 testing of new or existing individual onsite water supply systems for
38 characteristics and contaminants, including listing the characteristics
39 and contaminants that each individual onsite water supply shall be test-
40 ed for. Such regulations may require additional testing, limit testing
41 or exclude from testing a characteristic or contaminant on a county,
42 regional or local basis if the commissioner determines that such charac-
43 teristic or contaminant is significant or not significant in that area.

44 b. The commissioner may, by declaration, add any characteristic or
45 contaminant to the list promulgated pursuant to paragraph a of this
46 subdivision, provided that the commissioner shall promulgate regulations
47 adding such characteristic or contaminant within one year of such decla-
48 ration.

49 2. a. Any real estate purchase contract for the sale of residential
50 real property, as defined in section four hundred sixty-one of the real
51 property law, which is served by an individual onsite water supply
52 system, shall include a provision requiring, prior to and as a condition
53 of sale, the testing of such individual onsite water supply system in a
54 manner that meets or exceeds the standards prescribed pursuant to this

1 section. This section shall not apply to public water systems, as
2 defined in regulations promulgated by the department.

3 b. Within one year after the effective date of this section, and at
4 least once every five years thereafter, the lessor of any residential
5 real property which is served by an individual onsite water supply
6 system shall test such water supply in accordance with this section for
7 at least the characteristics and contaminants required pursuant to this
8 section. Within thirty days after the receipt of validated test
9 results, the lessor shall provide a written copy thereof to each current
10 tenant of a rental unit on the property. The lessor shall also provide a
11 written copy of the most recent validated test results to a prospective
12 tenant prior to the signing of the lease or other agreement for the
13 rental of a residential unit on the property or to any former tenant
14 upon request. The department or the department's designee shall have the
15 authority to request and receive such test results from the lessor.

16 3. Every test conducted in accordance with this section shall be
17 conducted by a laboratory certified by the department pursuant to
18 section five hundred two of this chapter. Any test results provided by
19 the laboratory, pursuant to this section, shall include the maximum
20 contaminant levels or other established values, if any, prescribed by
21 the department for each characteristic or contaminant tested. Laborato-
22 ries shall submit such results to the department electronically in the
23 manner prescribed pursuant to section five hundred two of this chapter.

24 4. The commissioner may promulgate regulations pursuant to which the
25 department may provide financial assistance to owners of residential
26 property served by an individual onsite water supply system, upon a
27 showing that the costs associated with testing drinking water in compli-
28 ance with this section would impose an unreasonable financial hardship.

29 5. Nothing contained in this section shall prohibit or limit the test-
30 ing of individual onsite water supply systems pursuant to any other
31 statutory or regulatory authority.

32 § 3. Section 502 of the public health law is amended by adding a new
33 subdivision 10 to read as follows:

34 10. The department may require an environmental laboratory to report
35 laboratory test results to the department, or to any full-time city,
36 county or part-county health department in an electronic manner
37 prescribed by the department.

38 § 4. The real property law is amended by adding a new section 468 to
39 read as follows:

40 § 468. Individual onsite water supply testing requirements. 1. Every
41 real estate purchase contract for the sale of residential real property,
42 which is served by an individual onsite water supply system, shall
43 include a provision requiring as a condition of sale, the testing of
44 such water supply for at least the standards prescribed pursuant to
45 section eleven hundred eleven of the public health law. This section
46 shall not apply to property that is served by a public water system, as
47 defined in regulations promulgated by the commissioner.

48 2. Closing of title on the sale of such real property shall not occur
49 unless both the buyer and the seller have received and reviewed a copy
50 of the water test results. At closing, the buyer and seller both shall
51 certify in writing that they have received and reviewed the water test
52 results.

53 3. The requirements of this section may not be waived.

54 § 5. Subdivision 3 of section 15-1525 of the environmental conserva-
55 tion law, as amended by section 2 of part F of chapter 59 of the laws of
56 2006, is amended to read as follows:

1 3. The certificate of registration shall require that, before the
2 commencement of drilling of any well or wells, the water well driller
3 shall file a preliminary notice with the department; it shall also
4 provide that upon the completion of the drilling of any water well or
5 water wells, a completion report be filed with the department, giving
6 the log of the well, the size and depth thereof, the capacity of the
7 pump or pumps attached or to be attached thereto, the laboratory results
8 of the water sample tested in accordance with section eleven hundred
9 eleven of the public health law, and such other information pertaining
10 to the withdrawal of water and operation of such water well or water
11 wells as the department by its rules and regulations may require. The
12 water well driller shall provide a copy of such completion report to the
13 water well owner and the department of health and department of environ-
14 mental conservation. The number of the certificate of registration must
15 be displayed on the well drilling machinery of the registrant. The
16 certificate of registration shall also contain a notice to the certif-
17 icate holder that the business activities authorized by such certificate
18 are subject to the provisions of article thirty-six-A of the general
19 business law. The fee for such certificate of registration shall be ten
20 dollars annually. The commissioner shall promulgate a water well
21 completion report form which shall be utilized by all water well dril-
22 lers in satisfying the requirements of this section and any other
23 provision of state or local law which requires the submission of a water
24 well completion report or water well log.

25 § 6. This act shall take effect on the one hundred eightieth day after
26 it shall have become a law; provided, however, that effective immediate-
27 ly, the commissioner of health and commissioner of environmental conser-
28 vation shall be authorized to promulgate any and all rules and regu-
29 lations necessary to implement the provisions of this act on its
30 effective date.

31 PART O

32 Section 1. Subdivision 9 of section 730.10 of the criminal procedure
33 law, as added by section 1 of part Q of chapter 56 of the laws of 2012,
34 is amended to read as follows:

35 9. "Appropriate institution" means: (a) a hospital operated by the
36 office of mental health or a developmental center operated by the office
37 for people with developmental disabilities; ~~(b)~~ (b) a hospital licensed
38 by the department of health which operates a psychiatric unit licensed
39 by the office of mental health, as determined by the commissioner
40 provided, however, that any such hospital that is not operated by the
41 state shall qualify as an "appropriate institution" only pursuant to the
42 terms of an agreement between the commissioner and the hospital; or (c)
43 a mental health unit operating within a correctional facility or local
44 correctional facility; provided however, that any such mental health
45 unit operating within a local correctional facility shall qualify as an
46 "appropriate institution" only pursuant to the terms of an agreement
47 between the commissioner of mental health, director of community
48 services and the sheriff for the respective locality, and any such
49 mental health unit operating within a correctional facility shall quali-
50 fy as an "appropriate institution" only pursuant to the terms of an
51 agreement between the commissioner of mental health and the commissioner
52 of the department of corrections and community supervision. Nothing in
53 this article shall be construed as requiring a hospital, correctional
54 facility or local correctional facility to consent to providing care and

1 treatment to an incapacitated person at such hospital, correctional
2 facility or local correctional facility. In a city with a population of
3 more than one million, any such unit shall be limited to twenty-five
4 beds. The commissioner of mental health shall promulgate regulations for
5 demonstration programs to implement restoration to competency within a
6 correctional facility or local correctional facility. Subject to annual
7 appropriation, the commissioner of mental health may, at the commission-
8 er's discretion, make funds available for state aid grants to any county
9 that develops and operates a mental health unit within a local correc-
10 tional facility pursuant to this section. Nothing in this article shall
11 be construed as requiring a hospital, correctional facility or local
12 correctional facility to consent to providing care and treatment to an
13 incapacitated person at such hospital, correctional facility or local
14 correctional facility.

15 § 2. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after April 1, 2017; provided,
17 however, that this act shall expire and be deemed repealed March 31,
18 2022.

19 PART P

20 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
21 amending chapter 59 of the laws of 2011 amending the public health law
22 and other laws relating to general hospital reimbursement for annual
23 rates relating to the cap on local Medicaid expenditures, as amended by
24 section 29 part B of chapter 59 of the laws of 2016, is amended to read
25 as follows:

26 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
27 sioners of the office of alcoholism and substance abuse services and the
28 office of mental health are authorized, subject to the approval of the
29 director of the budget, to transfer to the commissioner of health state
30 funds to be utilized as the state share for the purpose of increasing
31 payments under the medicaid program to managed care organizations
32 licensed under article 44 of the public health law or under article 43
33 of the insurance law. Such managed care organizations shall utilize such
34 funds for the purpose of reimbursing providers licensed pursuant to
35 article 28 of the public health law or article 31 or 32 of the mental
36 hygiene law for ambulatory behavioral health services, as determined by
37 the commissioner of health, in consultation with the commissioner of
38 alcoholism and substance abuse services and the commissioner of the
39 office of mental health, provided to medicaid [~~eligible~~] enrolled outpa-
40 tients and for all other behavioral health services except inpatient
41 included in New York state's Medicaid redesign waiver approved by the
42 centers for medicare and Medicaid services (CMS). Such reimbursement
43 shall be in the form of fees for such services which are equivalent to
44 the payments established for such services under the ambulatory patient
45 group (APG) rate-setting methodology as utilized by the department of
46 health, the office of alcoholism and substance abuse services, or the
47 office of mental health for rate-setting purposes or any such other fees
48 pursuant to the Medicaid state plan or otherwise approved by CMS in the
49 Medicaid redesign waiver; provided, however, that the increase to such
50 fees that shall result from the provisions of this section shall not, in
51 the aggregate and as determined by the commissioner of health, in
52 consultation with the commissioner of alcoholism and substance abuse
53 services and the commissioner of the office of mental health, be greater
54 than the increased funds made available pursuant to this section. The

1 increase of such ambulatory behavioral health fees to providers avail-
2 able under this section shall be for all rate periods on and after the
3 effective date of section [~~1~~] 29 of part [~~C~~] B of chapter [~~57~~] 59 of the
4 laws of [~~2015~~] 2016 through March 31, [~~2018~~] 2020 for patients in the
5 city of New York, for all rate periods on and after the effective date
6 of section [~~1~~] 29 of part [~~C~~] B of chapter [~~57~~] 59 of the laws of [~~2015~~]
7 2016 through [~~June 30, 2018~~] March 31, 2020 for patients outside the
8 city of New York, and for all rate periods on and after the effective
9 date of such chapter through [~~June 30, 2018~~] March 31, 2020 for all
10 services provided to persons under the age of twenty-one; provided,
11 however, [~~eligible providers may work with managed care plans to achieve~~
12 ~~quality and efficiency objectives and engage in shared savings~~] the
13 commissioner of health, in consultation with the commissioner of alco-
14 holism and substance abuse services and the commissioner of mental
15 health, may require, as a condition of approval of such ambulatory
16 behavioral health fees, that aggregate managed care expenditures to
17 eligible providers meet the following value based payment metrics for
18 the following periods: (i) for the period from April 1, 2017 through
19 March 31, 2018, at least ten percent of such managed care expenditures
20 are paid through level one value based payment arrangements, as such
21 level is defined in the department of health's value based payment road-
22 map (ii) for the period April 1, 2018 through March 31, 2019, at least
23 fifty percent of such managed care expenditures are paid through level
24 one value based payment arrangements and fifteen percent are paid
25 through level two value based payment arrangements, as such levels are
26 defined in the department of health's value based payment roadmap and
27 (iii) for the period April 1, 2019 through March 31, 2020, at least
28 eighty percent of such managed care expenditures are paid through level
29 one value based payment arrangements and thirty-five percent are paid
30 through level two value based payment arrangements, as such levels are
31 defined in the department of health's value based payment roadmap. The
32 commissioner of health may, in consultation with the commissioner of
33 alcoholism and substance abuse services and the commissioner of the
34 office of mental health, waive such conditions if a sufficient number of
35 providers, as determined by the commissioner, suffer a financial hard-
36 ship as a consequence of such value based payment arrangements, or if he
37 or she shall determine that such value based payment arrangements
38 significantly threaten individuals' access to ambulatory behavioral
39 health services. Such waiver may be applied on a provider specific or
40 industry wide basis. Nothing in this section shall prohibit managed
41 care organizations and providers from negotiating different rates and
42 methods of payment during such periods described above, subject to the
43 approval of the department of health. The department of health shall
44 consult with the office of alcoholism and substance abuse services and
45 the office of mental health in determining whether such alternative
46 rates shall be approved. The commissioner of health may, in consultation
47 with the commissioner of alcoholism and substance abuse services and the
48 commissioner of the office of mental health, promulgate regulations,
49 including emergency regulations promulgated prior to October 1, 2015 to
50 establish rates for ambulatory behavioral health services, as are neces-
51 sary to implement the provisions of this section. Rates promulgated
52 under this section shall be included in the report required under
53 section 45-c of part A of this chapter.

54 2. Notwithstanding any contrary provision of law, the fees paid by
55 managed care organizations licensed under article 44 of the public
56 health law or under article 43 of the insurance law, to providers

1 licensed pursuant to article 28 of the public health law or article 31
2 or 32 of the mental hygiene law, for ambulatory behavioral health
3 services provided to patients enrolled in the child health insurance
4 program pursuant to title one-A of article 25 of the public health law,
5 shall be in the form of fees for such services which are equivalent to
6 the payments established for such services under the ambulatory patient
7 group (APG) rate-setting methodology or any such other fees established
8 pursuant to the Medicaid state plan. The commissioner of health shall
9 consult with the commissioner of alcoholism and substance abuse services
10 and the commissioner of the office of mental health in determining such
11 services and establishing such fees. Such ambulatory behavioral health
12 fees to providers available under this section shall be for all rate
13 periods on and after the effective date of this chapter through [~~June~~
14 ~~30, 2018~~] March 31, 2020, provided, however, that managed care organiza-
15 tions and providers may negotiate different rates and methods of payment
16 during such periods described above, subject to the approval of the
17 department of health. The department of health shall consult with the
18 office of alcoholism and substance abuse services and the office of
19 mental health in determining whether such alternative rates shall be
20 approved. The report required under section 16-a of part C of chapter
21 60 of the laws of 2014 shall also include the population of patients
22 enrolled in the child health insurance program pursuant to title one-A
23 of article 25 of the public health law in its examination on the transi-
24 tion of behavioral health services into managed care.

25 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
26 to increasing Medicaid payments to providers through managed care organ-
27 izations and providing equivalent fees through an ambulatory patient
28 group methodology, as amended by section 30 of part B of chapter 59 of
29 the laws of 2016, is amended to read as follows:

30 Section 1. a. Notwithstanding any contrary provision of law, the
31 commissioners of mental health and alcoholism and substance abuse
32 services are authorized, subject to the approval of the director of the
33 budget, to transfer to the commissioner of health state funds to be
34 utilized as the state share for the purpose of increasing payments under
35 the Medicaid program to managed care organizations licensed under arti-
36 cle 44 of the public health law or under article 43 of the insurance
37 law. Such managed care organizations shall utilize such funds for the
38 purpose of reimbursing providers licensed pursuant to article 28 of the
39 public health law, or pursuant to article 31 or article 32 of the mental
40 hygiene law for ambulatory behavioral health services, as determined by
41 the commissioner of health in consultation with the commissioner of
42 mental health and commissioner of alcoholism and substance abuse
43 services, provided to Medicaid [~~eligible~~] enrolled outpatients and for
44 all other behavioral health services except inpatient included in New
45 York state's Medicaid redesign waiver approved by the centers for medi-
46 care and Medicaid services (CMS). Such reimbursement shall be in the
47 form of fees for such services which are equivalent to the payments
48 established for such services under the ambulatory patient group (APG)
49 rate-setting methodology as utilized by the department of health or by
50 the office of mental health or office of alcoholism and substance abuse
51 services for rate-setting purposes or any such other fees pursuant to
52 the Medicaid state plan or otherwise approved by CMS in the Medicaid
53 redesign waiver; provided, however, that the increase to such fees that
54 shall result from the provisions of this section shall not, in the
55 aggregate and as determined by the commissioner of health in consulta-
56 tion with the commissioners of mental health and alcoholism and

1 substance abuse services, be greater than the increased funds made
2 available pursuant to this section. The increase of such behavioral
3 health fees to providers available under this section shall be for all
4 rate periods on and after the effective date of section [2] 30 of part
5 [E] B of chapter [57] 59 of the laws of [2015] 2016 through March 31,
6 [2018] 2020 for patients in the city of New York, for all rate periods
7 on and after the effective date of section [2] 30 of part [E] B of chap-
8 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] March 31,
9 2020 for patients outside the city of New York, and for all rate periods
10 on and after the effective date of section [2] 30 of part [E] B of chap-
11 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] March 31,
12 2020 for all services provided to persons under the age of twenty-one;
13 provided, however, [~~eligible providers may work with managed care plans
14 to achieve quality and efficiency objectives and engage in shared
15 savings~~] the commissioner of health, in consultation with the commis-
16 sioner of alcoholism and substance abuse services and the commissioner
17 of mental health, may require, as a condition of approval of such ambu-
18 latory behavioral health fees, that aggregate managed care expenditures
19 to eligible providers meet the following value based payment metrics for
20 the following periods: (i) for the period from April 1, 2017 through
21 March 31, 2018, at least ten percent of such managed care expenditures
22 are paid through level one value based payment arrangements, as such
23 level is defined in the department of health's value based payment road-
24 map (ii) for the period April 1, 2018 through March 31, 2019, at least
25 fifty percent of such managed care expenditures are paid through level
26 one value based payment arrangements and fifteen percent are paid
27 through level two value based payment arrangements, as such levels are
28 defined in the department of health's value based payment roadmap and
29 (iii) for the period April 1, 2019 through March 31, 2020, at least
30 eighty percent of such managed care expenditures are paid through level
31 one value based payment arrangements and thirty-five percent are paid
32 through level two value based payment arrangements, as such levels are
33 defined in the department of health's value based payment roadmap. The
34 commissioner of health may, in consultation with the commissioner of
35 alcoholism and substance abuse services and the commissioner of the
36 office of mental health, waive such conditions if a sufficient number of
37 providers, as determined by the commissioner, suffer a financial hard-
38 ship as a consequence of such value based payment arrangements, or if he
39 or she shall determine that such value based payment arrangements
40 significantly threaten individuals' access to ambulatory behavioral
41 health services. Such waiver may be applied on a provider specific or
42 industry wide basis. Nothing in this section shall prohibit managed care
43 organizations and providers from negotiating different rates and methods
44 of payment during such periods described, subject to the approval of the
45 department of health. The department of health shall consult with the
46 office of alcoholism and substance abuse services and the office of
47 mental health in determining whether such alternative rates shall be
48 approved. The commissioner of health may, in consultation with the
49 commissioners of mental health and alcoholism and substance abuse
50 services, promulgate regulations, including emergency regulations
51 promulgated prior to October 1, 2013 that establish rates for behavioral
52 health services, as are necessary to implement the provisions of this
53 section. Rates promulgated under this section shall be included in the
54 report required under section 45-c of part A of chapter 56 of the laws
55 of 2013.

1 b. Notwithstanding any contrary provision of law, the fees paid by
2 managed care organizations licensed under article 44 of the public
3 health law or under article 43 of the insurance law, to providers
4 licensed pursuant to article 28 of the public health law or article 31
5 or 32 of the mental hygiene law, for ambulatory behavioral health
6 services provided to patients enrolled in the child health insurance
7 program pursuant to title one-A of article 25 of the public health law,
8 shall be in the form of fees for such services which are equivalent to
9 the payments established for such services under the ambulatory patient
10 group (APG) rate-setting methodology. The commissioner of health shall
11 consult with the commissioner of alcoholism and substance abuse services
12 and the commissioner of the office of mental health in determining such
13 services and establishing such fees. Such ambulatory behavioral health
14 fees to providers available under this section shall be for all rate
15 periods on and after the effective date of this chapter through [~~June~~
16 ~~30, 2018~~] March 31, 2020, provided, however, that managed care organiza-
17 tions and providers may negotiate different rates and methods of payment
18 during such periods described above, subject to the approval of the
19 department of health. The department of health shall consult with the
20 office of alcoholism and substance abuse services and the office of
21 mental health in determining whether such alternative rates shall be
22 approved. The report required under section 16-a of part C of chapter
23 60 of the laws of 2014 shall also include the population of patients
24 enrolled in the child health insurance program pursuant to title one-A
25 of article 25 of the public health law in its examination on the transi-
26 tion of behavioral health services into managed care.

27 § 3. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2017; provided,
29 however, that the amendments to section 48-a of part A of chapter 56 of
30 the laws of 2013 made by section one of this act shall not affect the
31 repeal of such section and shall be deemed repealed therewith; provided
32 further, that the amendments to section 1 of part H of chapter 111 of
33 the laws of 2010 made by section two of this act shall not affect the
34 expiration of such section and shall be deemed to expire therewith.

35

PART Q

36 Section 1. Subdivisions 3-b and 3-c of section 1 and section 4 of part
37 C of chapter 57 of the laws of 2006, relating to establishing a cost of
38 living adjustment for designated human services programs, as amended by
39 section 1 of part I of chapter 60 of the laws of 2014, are amended to
40 read as follows:

41 3-b. Notwithstanding any inconsistent provision of law, beginning
42 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
43 ending March 31, 2018, the commissioners shall not include a COLA for
44 the purpose of establishing rates of payments, contracts or any other
45 form of reimbursement.

46 3-c. Notwithstanding any inconsistent provision of law, beginning
47 April 1, [~~2016~~] 2018 and ending March 31, [~~2019~~] 2021, the commissioners
48 shall develop the COLA under this section using the actual U.S. consumer
49 price index for all urban consumers (CPI-U) published by the United
50 States department of labor, bureau of labor statistics for the twelve
51 month period ending in July of the budget year prior to such state
52 fiscal year, for the purpose of establishing rates of payments,
53 contracts or any other form of reimbursement.

1 § 4. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2006; provided
3 section one of this act shall expire and be deemed repealed April 1,
4 [~~2019~~ 2021]; provided, further, that sections two and three of this act
5 shall expire and be deemed repealed December 31, 2009.

6 § 2. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2017; provided,
8 however, that the amendments to subdivisions 3-b and 3-c of section 1 of
9 part C of chapter 57 of the laws of 2006, relating to establishing a
10 cost of living adjustment for designated human services programs, made
11 by section one of this act, shall not affect the repeal of such subdivi-
12 sions and shall be deemed repealed therewith.

13 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
14 sion, section or part of this act shall be adjudged by any court of
15 competent jurisdiction to be invalid, such judgment shall not affect,
16 impair, or invalidate the remainder thereof, but shall be confined in
17 its operation to the clause, sentence, paragraph, subdivision, section
18 or part thereof directly involved in the controversy in which such judg-
19 ment shall have been rendered. It is hereby declared to be the intent of
20 the legislature that this act would have been enacted even if such
21 invalid provisions had not been included herein.

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