

STATE OF NEW YORK

S. 7507--A

A. 9507--A

SENATE - ASSEMBLY

January 18, 2018

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

AN ACT to amend the public health law, in relation to establishing a temporary workgroup on capital rate methodology for capital expenditures to hospitals and residential nursing facilities; and to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs (Part A); to amend the public health law, in relation to payments to residential health care facilities; to amend the social services law and the public health law, in relation to assisted living program providers licensed in the state; to amend the social services law, in relation to payments for certain medical assistance provided to eligible persons participating in the New York traumatic brain injury waiver program; and to repeal certain provisions of section 366 of the social services law relating to furnishing medical assistance (Part B); to amend the social services law and the public health law, in relation to health homes and penalties for managed care providers (Part C); to amend the social services law and the public health law, in relation to drug coverage, updating the professional dispensing fee, copayments, pharmacist physician collaboration and comprehensive medication management; and to repeal certain provisions of the social services law relating thereto (Part D); to amend the social services law, in relation to reimbursement of transportation costs, reimbursement of emergency transportation services and supplemental transportation payments; and repealing certain provisions of such law relating thereto (Part E); providing for not-for-profit and tax exempt corporations' Medicaid capitation rates (Part F); to amend the public health law, in relation to authorizing certain retail practices to offer health services (Part G); to amend the education law, in

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

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relation to the practice of nursing by certified registered nurse anesthetists (Part H); to amend the social services law and the public health law, in relation to managed care organizations (Part I); to amend the state finance law, in relation to the false claims act (Part J); authorizing the department of health to require certain health care providers to report on costs incurred; and to amend 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 (Part K); to amend the social services law and the public health law, in relation to the child health insurance program (Part L); to amend chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part M); to amend part C of chapter 57 of the laws of 2006, establishing a cost of living adjustment for designated human services, in relation to the determination thereof; and to repeal certain provisions thereof relating to eligible programs (Part N); to amend the public health law and the insurance law, in relation to the early intervention program for infants and toddlers with disabilities and their families (Part O); to amend the public health law, in relation to the empire clinical research investigator program and hospital resident hour audits; and to repeal certain provisions of the public health law relating thereto (Part P); to amend the public health law, in relation to the health care facility transformation program (Part Q); to amend the public health law, the executive law, and the real property law, in relation to areas at a high risk for lead paint (Part R); to amend the public health law and the social services law, in relation to the establishment of community paramedicine collaboratives (Subpart A); to amend the public health law and the mental hygiene law, in relation to integrated services (Subpart B); and to amend the public health law, in relation to the definitions of telehealth provider, originating site and remote patient monitoring (Subpart C)(Part S); to amend chapter 59 of the laws of 2016, amending the social services law and other laws relating to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, and authorizing the commissioner of health to impose penalties on managed care plans for reporting late or incorrect encounter data, in relation to the effectiveness of certain provisions of such chapter; to amend chapter 58 of the laws of 2007, amending the social services law and other laws relating to adjustments of rates, in relation to the effectiveness of certain provisions of such chapter; to amend chapter 54 of the laws of 2016, amending 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 administration thereof, in relation to the effectiveness thereof; to amend chapter 906 of the laws of 1984, amending the social services

law relating to expanding medical assistance eligibility and the scope of services available to certain persons with disabilities, in relation to the effectiveness thereof; and 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 rates of payments (Part T); to amend part NN of chapter 58 of the laws of 2015 amending the mental hygiene law relating to clarifying the authority of the commissioners in the department of mental hygiene to design and implement time-limited demonstration programs, in relation to the effectiveness thereof (Part U); to amend chapter 62 of the laws of 2003, amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to extending such provisions relating thereto (Part V); to amend the criminal procedure law, in relation to amending the definition of appropriate institution; and providing for the repeal of such provisions upon expiration thereof (Part W); to amend chapter 111 of the laws of 2010 amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part X); to amend the education law, in relation to persons practicing in certain licensed programs or services who are exempt from practice requirements of professionals licensed by the department of education; to amend chapter 420 of the laws of 2002, amending the education law relating to the profession of social work, in relation to extending the expiration of certain provisions thereof; to amend chapter 676 of the laws of 2002, amending the education law relating to the practice of psychology, in relation to extending the expiration of certain provisions; and to amend chapter 130 of the laws of 2010, amending the education law and other laws relating to the registration of entities providing certain professional services and licensure of certain professions, in relation to extending certain provisions thereof (Part Y); to amend the social services law, in relation to adding demonstration waivers to waivers allowable for home and community-based services; to amend the social services law, in relation to adding successor federal waivers to waivers granted under subsection (c) of section 1915 of the federal social security law, in relation to nursing facility services; to amend the social services law, in relation to waivers for high quality and integrated care; to amend the mental hygiene law, in relation to adding new and successor federal waivers to waivers in relation to home and community-based services; to amend part A of chapter 56 of the laws of 2013, 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 2013-2014 state fiscal year, in relation to the effectiveness of certain provisions thereof; to amend the public health law, in relation to expansion of comprehensive health services plans; to amend chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, in relation to extending provisions thereof; to amend the public health law, in relation to managed long term care plans, health and long term care services and

developmental disability individual support and care coordination organizations; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to extending the provisions thereof; to amend the mental hygiene law, in relation to reimbursement rates; and to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to extending the provisions thereof (Part Z); to amend part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to the inclusion and development of certain cost of living adjustments (Part AA); to amend the public health law and the penal law, in relation to expanding the list of controlled substances (Part BB); to amend the education law and the public health law, in relation to inquiries or complaints of professional misconduct (Part CC); and to amend the education law, in relation to authorizing a licensed pharmacist to administer influenza vaccine to children between two and eighteen years of age pursuant to a non-patient specific regimen; to amend chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists, in relation to making the provisions permanent; to amend chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing agents, in relation to making certain provisions permanent; and to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to making certain provisions permanent (Part DD)

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 2018-2019
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through DD. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

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PART A

13 Section 1. The public health law is amended by adding a new section
14 2827 to read as follows:

15 **§ 2827. Temporary workgroup on capital rate methodology. (a) The**
16 **commissioner shall convene a temporary workgroup comprised of represen-**
17 **tatives of hospitals and residential nursing facilities, as well as**
18 **representatives from the department, to develop recommendations for**
19 **streamlining the capital reimbursement methodology to achieve a one**

1 percent reduction in capital expenditures to hospitals and residential
2 nursing facilities, including associated specialty and adult day health
3 care units. Pending the development of the workgroup's recommendations
4 and the implementation of any such recommendations accepted by the
5 commissioner, the commissioner shall be authorized to reduce the overall
6 amount of capital reimbursement as necessary to achieve a one percent
7 reduction in capital expenditures beginning with state fiscal year two
8 thousand eighteen--two thousand nineteen.

9 (b) The commissioner may promulgate regulations to effectuate the
10 provisions of this section.

11 § 2. Subdivision 5-d of section 2807-k of the public health law, as
12 amended by section 1 of part E of chapter 57 of the laws of 2015, is
13 amended to read as follows:

14 5-d. (a) Notwithstanding any inconsistent provision of this section,
15 section twenty-eight hundred seven-w of this article or any other
16 contrary provision of law, and subject to the availability of federal
17 financial participation, for periods on and after January first, two
18 thousand thirteen, through December thirty-first, two thousand [~~eigh-~~
19 ~~teen~~] nineteen, all funds available for distribution pursuant to this
20 section, except for funds distributed pursuant to subparagraph (v) of
21 paragraph (b) of subdivision five-b of this section, and all funds
22 available for distribution pursuant to section twenty-eight hundred
23 seven-w of this article, shall be reserved and set aside and distributed
24 in accordance with the provisions of this subdivision.

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

29 (i) Such regulations shall establish methodologies for determining
30 each facility's relative uncompensated care need amount based on unin-
31 sured inpatient and outpatient units of service from the cost reporting
32 year two years prior to the distribution year, multiplied by the appli-
33 cable medicaid rates in effect January first of the distribution year,
34 as summed and adjusted by a statewide cost adjustment factor and reduced
35 by the sum of all payment amounts collected from such uninsured
36 patients, and as further adjusted by application of a nominal need
37 computation that shall take into account each facility's medicaid inpa-
38 tient share.

39 (ii) Annual distributions pursuant to such regulations for the two
40 thousand thirteen through two thousand [~~eighteen~~] nineteen calendar
41 years shall be in accord with the following:

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

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

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

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

8 (C) No facility shall experience a reduction in indigent care pool
9 payments pursuant to this subdivision that: for the calendar year begin-
10 ning January first, two thousand thirteen, is greater than two and one-
11 half percent; for the calendar year beginning January first, two thou-
12 sand fourteen, is greater than five percent; and, for the calendar year
13 beginning on January first, two thousand fifteen[7]; is greater than
14 seven and one-half percent, and for the calendar year beginning on Janu-
15 ary first, two thousand sixteen, is greater than ten percent; and for
16 the calendar year beginning on January first, two thousand seventeen, is
17 greater than twelve and one-half percent; and for the calendar year
18 beginning on January first, two thousand eighteen, is greater than
19 fifteen percent; and for the calendar year beginning on January first,
20 two thousand nineteen, is greater than seventeen and one-half percent.

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

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

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

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

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

39 § 3. Subdivision 14-a of section 2807 of the public health law, as
40 added by section 11 of part B of chapter 57 of the laws of 2015, is
41 amended to read as follows:

42 14-a. (a) Notwithstanding any provision of law to the contrary, and
43 subject to federal financial participation, the commissioner is author-
44 ized to establish, pursuant to regulations, a statewide general hospital
45 quality pool for the purpose of incentivizing and facilitating quality
46 improvements in general hospitals.

47 (b) Such regulations shall include provisions:

48 (i) to create a performance target to reduce potentially preventable
49 emergency department visits;

50 (ii) to reduce or eliminate the payment of the rates, published by the
51 department on the hospital inpatient publication schedules and hospital
52 ambulatory patient group schedules, which are paid by contractors to
53 hospitals, based on the quality and safety scores of a hospital as
54 determined by the department; and

55 (iii) to facilitate necessary quality improvements in hospitals, as
56 determined by the commissioner.

1 (c) Awards from such pool shall be subject to approval by the director
2 of budget. If federal financial participation is unavailable, then the
3 non-federal share of awards made pursuant to this subdivision may be
4 made as state grants.

5 ~~(a)~~ (d) Thirty days prior to adopting or applying a methodology or
6 procedure for making an allocation or modification to an allocation made
7 pursuant to this subdivision, the commissioner shall provide written
8 notice to the chairs of the senate finance committee, the assembly ways
9 and means committee, and the senate and assembly health committees with
10 regard to the intent to adopt or apply the methodology or procedure,
11 including a detailed explanation of the methodology or procedure.

12 ~~(b)~~ (e) Thirty days prior to executing an allocation or modification
13 to an allocation made pursuant to this subdivision, the commissioner
14 shall provide written notice to the chairs of the senate finance commit-
15 tee, the assembly ways and means committee, and the senate and assembly
16 health committees with regard to the intent to distribute such funds.
17 Such notice shall include, but not be limited to, information on the
18 methodology used to distribute the funds, the facility specific allo-
19 cations of the funds, any facility specific project descriptions or
20 requirements for receiving such funds, the multi-year impacts of these
21 allocations, and the availability of federal matching funds. The commis-
22 sioner shall provide quarterly reports to the chair of the senate
23 finance committee and the chair of the assembly ways and means committee
24 on the distribution and disbursement of such funds.

25 (f) Notwithstanding any inconsistent provision of law or regulation to
26 the contrary, the hospital quality pool shall allocate ten million
27 dollars annually to expand preventative services as the commissioner may
28 determine in regulation. Such preventative services may include but not
29 be limited to mental health counseling provided by a licensed clinical
30 social worker or a licensed master social worker, physical therapy,
31 diabetes prevention, or treatment by an applied behavior analyst.

32 § 4. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section
33 2807 of the public health law, as amended by section 43 of part B of
34 chapter 58 of the laws of 2010, is amended to read as follows:

35 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this
36 subdivision, for periods on and after January first, two thousand nine,
37 the following services provided by general hospital outpatient depart-
38 ments and diagnostic and treatment centers shall be reimbursed with
39 rates of payment based entirely upon the ambulatory patient group meth-
40 odology as described in paragraph (e) of this subdivision, provided,
41 however, that the commissioner may utilize existing payment methodol-
42 ogies or may promulgate regulations establishing alternative payment
43 methodologies for one or more of the services specified in this subpara-
44 graph, effective for periods on and after March first, two thousand
45 nine:

46 (A) services provided in accordance with the provisions of paragraphs
47 (q) and (r) of subdivision two of section three hundred sixty-five-a of
48 the social services law; and

49 (B) all services, but only with regard to additional payment amounts,
50 as determined in accordance with regulations issued in accordance with
51 paragraph (e) of this subdivision, for the provision of such services
52 during times outside the facility's normal hours of operation, as deter-
53 mined in accordance with criteria set forth in such regulations; and

54 (C) individual psychotherapy services provided by licensed social
55 workers, in accordance with licensing criteria set forth in applicable
56 regulations~~[, to persons under the age of twenty-one and to persons~~

1 ~~requiring such services as a result of or related to pregnancy or giving~~
2 ~~birth~~]; and

3 (D) individual psychotherapy services provided by licensed social
4 workers, in accordance with licensing criteria set forth in applicable
5 regulations, at diagnostic and treatment centers that provided, billed
6 for, and received payment for these services between January first, two
7 thousand seven and December thirty-first, two thousand seven;

8 (E) services provided to pregnant women pursuant to paragraph (s) of
9 subdivision two of section three hundred sixty-five-a of the social
10 services law and, for periods on and after January first, two thousand
11 ten, all other services provided pursuant to such paragraph (s) and
12 services provided pursuant to paragraph (t) of subdivision two of
13 section three hundred sixty-five-a of the social services law;

14 (F) wheelchair evaluation services and eyeglass dispensing services;
15 and

16 (G) immunization services, effective for services rendered on and
17 after June tenth, two thousand nine.

18 § 5. Paragraph (h) of subdivision 2 of section 365-a of the social
19 services law, as amended by chapter 220 of the laws of 2011, is amended
20 to read as follows:

21 (h) speech therapy, and when provided at the direction of a physician
22 or nurse practitioner, physical therapy including related rehabilitative
23 services and occupational therapy; provided, however, that speech thera-
24 py[~~physical therapy~~] and occupational therapy [~~each~~] shall be limited
25 to coverage of twenty visits per year; physical therapy shall be limited
26 to coverage of forty visits per year; such limitation shall not apply to
27 persons with developmental disabilities or, notwithstanding any other
28 provision of law to the contrary, to persons with traumatic brain inju-
29 ry;

30 § 6. This act shall take effect immediately.

31 PART B

32 Section 1. Subdivision 2-c of section 2808 of the public health law is
33 amended by adding a new paragraph (g) to read as follows:

34 (g) The commissioner shall reduce Medicaid revenue to a residential
35 health care facility in a payment year by two percent if in each of the
36 two most recent payment years for which New York state nursing home
37 quality initiative data is available, the facility was ranked in the
38 lowest two quintiles of facilities based on its nursing home quality
39 initiative performance, and was ranked in the lowest quintile in the
40 most recent payment year. The commissioner may waive the application of
41 this paragraph to a facility if the commissioner determines that the
42 facility is in extreme financial distress.

43 § 2. Subdivision 3 of section 461-1 of the social services law is
44 amended by adding four new paragraphs (k), (l), (m) and (n) to read as
45 follows:

46 (k)(i) Existing assisted living program providers licensed on or
47 before April first, two thousand eighteen may apply to the department
48 for up to nine additional assisted living program beds, by a deadline to
49 be determined by the department. The department may utilize an expedited
50 review process to allow eligible applicants in good standing the ability
51 to be licensed for the additional beds within ninety days of the depart-
52 ment's receipt of a satisfactory application. Eligible applicants are
53 those that: do not require major renovation or construction; serve only

1 public pay individuals; and are in substantial compliance with appropriate state and local requirements as determined by the department.

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3 (ii) Existing assisted living program providers licensed on or before April first, two thousand twenty may submit additional applications for up to nine additional assisted living program beds on June thirtieth, two thousand twenty, and by a deadline to be determined by the department. Every two years thereafter, existing providers licensed on or before April first of such year may submit such applications on June thirtieth of such year, and by a deadline to be determined by the department. The number of additional assisted living program beds shall be based on the total number of previously awarded beds either withdrawn by the applicant or denied by the department.

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13 (l) The commissioner of health is authorized to solicit and award applications for up to a total of five hundred new assisted living program beds in those counties where there is one or no assisted living program providers, pursuant to criteria to be determined by the commissioner.

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18 (m) The commissioner of health is authorized to solicit and award applications for up to five hundred new assisted living program beds in counties where utilization of existing assisted living program beds exceeds eighty-five percent. All applicants shall comply with federal home and community-based settings requirements, as set forth in 42 CFR Part 441 Subpart G. To be eligible for an award, an applicant must agree to:

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25 (i) Serve only public pay individuals;

26 (ii) Develop and execute collaborative agreements within twenty-four months of an application being made to the department, in accordance with guidance to be published by the department, between at least one of each of the following entities: an adult care facility; a residential health care facility; and a general hospital;

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31 (iii) Enter into an agreement with an existing managed care entity; and

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33 (iv) Participate in value based payment models, where such models are available for participation.

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35 (n) The commissioner of health is authorized to create a program to subsidize the cost of assisted living for those individuals living with Alzheimer's disease and dementia who are not eligible for medical assistance pursuant to title eleven of article five of this chapter. The program shall authorize up to two hundred vouchers to individuals through an application process and pay for up to seventy-five percent of the average private pay rate in the respective region. The commissioner may propose rules and regulations to effectuate this provision.

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

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46 (i) The commissioner shall, to the extent necessary, submit the appropriate waivers, including, but not limited to, those authorized pursuant to sections eleven hundred fifteen and nineteen hundred fifteen of the federal social security act, or successor provisions, and any other waivers necessary to achieve the purposes of high quality, integrated, and cost effective care and integrated financial eligibility policies under the medical assistance program or pursuant to title XVIII of the federal social security act. In addition, the commissioner is authorized to submit the appropriate waivers, including but not limited to those authorized pursuant to sections eleven hundred fifteen and nineteen hundred fifteen of the federal social security act or successor

1 provisions, and any other waivers necessary to require on or after April
2 first, two thousand twelve, medical assistance recipients who are twen-
3 ty-one years of age or older and who require community-based long term
4 care services, as specified by the commissioner, for more than one
5 hundred and twenty days, to receive such services through an available
6 plan certified pursuant to this section or other program model that
7 meets guidelines specified by the commissioner that support coordination
8 and integration of services. Such guidelines shall address the require-
9 ments of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) of
10 subdivision three of this section as well as payment methods that ensure
11 provider accountability for cost effective quality outcomes. Such other
12 program models may include long term home health care programs that
13 comply with such guidelines. Copies of such original waiver applications
14 and amendments thereto shall be provided to the chairs of the senate
15 finance committee, the assembly ways and means committee and the senate
16 and assembly health committees simultaneously with their submission to
17 the federal government.

18 On or after October first, two thousand eighteen, the commissioner
19 may, through such an approved waiver, limit enrollment in a plan certi-
20 fied under this section to individuals who achieve a score of nine or
21 above when assessed using the Uniform Assessment System for New York
22 assessment tool and who require community-based long term care services
23 for a continuous period of more than one hundred twenty days from the
24 date of enrollment and from the dates when continuing enrollment is
25 reauthorized; however, medical assistance recipients enrolled in a
26 managed long term care plan on October first, two thousand eighteen may
27 continue to be eligible for such plans, irrespective of whether the
28 enrollee meets these level of care requirements, provided that once such
29 recipients are disenrolled from their managed long term care plan, any
30 applicable level of care requirements would apply to future eligibility
31 determinations.

32 § 4. Subparagraphs (vii) and (viii) of paragraph (b) of subdivision 7
33 of section 4403-f of the public health law are redesignated as subpara-
34 graphs (viii) and (ix) and a new subparagraph (vii) is added to read as
35 follows:

36 (vii) If another managed long term care plan certified under this
37 section is available, medical assistance recipients required to enroll
38 in such plans pursuant to this section may change plans without cause
39 within thirty days of notification of enrollment or the effective date
40 of enrollment into a plan, whichever is later, by making a request of
41 the local social services district or entity designated by the depart-
42 ment, except that such period shall be forty-five days for recipients
43 who have been assigned to a provider by the commissioner. However, after
44 such thirty or forty-five day period, whichever is applicable, a recipi-
45 ent may be prohibited from changing plans more frequently than once
46 every twelve months, as permitted by federal law, except for good cause
47 as determined by the commissioner.

48 § 5. Clauses 11 and 12 of subparagraph (v) of paragraph (b) of subdivi-
49 sion 7 of section 4403-f of the public health law, as amended by
50 section 48 of part A of chapter 56 of the laws of 2013, are amended to
51 read as follows:

52 (11) a person who is eligible for medical assistance pursuant to para-
53 graph (b) of subdivision four of section three hundred sixty-six of the
54 social services law; ~~and~~

55 (12) Native Americans; and

1 (13) a person who is permanently placed in a nursing home for a
2 consecutive period of six months or more.

3 § 6. Paragraph (a) of subdivision 3 of section 366 of the social
4 services law is REPEALED and a new paragraph (a) is added to read as
5 follows:

6 (a) Medical assistance shall be furnished without consideration of the
7 income and resources of an applicant's legally responsible relative if
8 the applicant's eligibility would normally be determined by comparing
9 the amount of available income and/or resources of the applicant,
10 including amounts deemed available to the applicant from legally respon-
11 sible relatives, to an applicable eligibility standard, and:

12 (1) (i) the legally responsible relative is a community spouse, as
13 defined in section three hundred sixty-six-c of this title;

14 (ii) such relative is refusing to make his or her income and/or
15 resources available to meet the cost of necessary medical care,
16 services, and supplies; and

17 (iii) the applicant executes an assignment of support from the commu-
18 nity spouse in favor of the social services district and the department,
19 unless the applicant is unable to execute such assignment due to phys-
20 ical or mental impairment or to deny assistance would create an undue
21 hardship, as defined by the commissioner; or

22 (2) the legally responsible relative is absent from the applicant's
23 household, and fails or refuses to make his or her income and/or
24 resources available to meet the cost of necessary medical care,
25 services, and supplies.

26 In such cases, however, the furnishing of such assistance shall create
27 an implied contract with such relative, and the cost thereof may be
28 recovered from such relative in accordance with title six of article
29 three of this chapter and other applicable provisions of law.

30 § 7. Subparagraph (i) of paragraph (d) of subdivision 2 of section
31 366-c of the social services law is amended by adding a new clause (C)
32 to read as follows:

33 (C) on and after July first, two thousand eighteen, twenty-four thou-
34 sand one hundred eighty dollars or such greater amount as may be
35 required under federal law;

36 § 8. Subdivision 1 of section 367-a of the social services law is
37 amended by adding a new paragraph (h) to read as follows:

38 (h) Amounts payable under this title for medical assistance in the
39 form of freestanding clinic services pursuant to article twenty-eight of
40 the public health law provided to eligible persons participating in the
41 New York traumatic brain injury waiver program who are also benefi-
42 ciaries under part B of title XVIII of the federal social security act or
43 who are qualified medicare beneficiaries under part B of title XVIII of
44 such act shall not be less than the approved medical assistance payment
45 level less the amount payable under part B.

46 § 9. The commissioner of health shall conduct a study of home and
47 community based services available to recipients of the Medicaid program
48 in rural areas of the state. Such study shall include a review and anal-
49 ysis of factors affecting such availability, including but not limited
50 to transportation costs, costs of direct care personnel including home
51 health aides, personal care attendants and other direct service person-
52 nel, opportunities for telehealth services, and technological advances
53 to improve efficiencies. Consistent with the results of the study, the
54 commissioner of health is authorized to provide a targeted Medicaid rate
55 enhancement to fee-for-service personal care rates and rates under Medi-
56 caid waiver programs such as the nursing home transition and diversion

1 waiver and the traumatic brain injury program waiver, in an aggregate
2 amount of three million dollars minus the cost of conducting the study;
3 provided further, that nothing in this section shall be deemed to affect
4 payment for the costs of the study and any related Medicaid rate
5 enhancement if federal participation is not available for such costs.

6 § 10. This act shall take effect immediately; provided, however, that
7 the amendments made to paragraph (b) of subdivision 7 of section 4403-f
8 of the public health law made by sections three, four and five of this
9 act shall not affect the expiration of such paragraph pursuant to subdivi-
10 sion (i) of section 111 of part H of chapter 59 of the laws of 2011,
11 as amended, and shall be deemed to expire therewith; provided, further,
12 that the amendments to paragraph (b) of subdivision 7 of section 4403-f
13 of the public health law made by sections three, four and five of this
14 act shall not affect the repeal of such section pursuant to chapter 659
15 of the laws of 1997, as amended, and shall be deemed repealed therewith;
16 provided, further, that section four of this act shall take effect on
17 October 1, 2018.

18

PART C

19 Section 1. Subdivision 2 of section 365-1 of the social services law,
20 as amended by section 1 of part S of chapter 57 of the laws of 2017, is
21 amended to read as follows:

22 2. In addition to payments made for health home services pursuant to
23 subdivision one of this section, the commissioner is authorized to pay
24 additional amounts: (a) to providers of health home services that meet
25 process or outcome standards specified by the commissioner; and (b) to
26 Medicaid managed care enrollees who are members of health homes in the
27 form of incentive payments to reward such enrollees for participating in
28 wellness activities and for avoiding unnecessary hospitalizations and
29 unnecessary utilization of hospital emergency department services. Such
30 additional amounts may be paid with state funds only if federal finan-
31 cial participation for such payments is unavailable.

32 § 2. Section 365-1 of the social services law is amended by adding a
33 new subdivision 2-d to read as follows:

34 2-d. The commissioner shall establish targets for health home partic-
35 ipation by enrollees of special needs managed care plans designated
36 pursuant to subdivision four of section three hundred sixty-five-m of
37 this title and by high-risk enrollees of other Medicaid managed care
38 plans operating pursuant to section three hundred sixty-four-j of this
39 title, and shall require the managed care providers to work collabora-
40 tively with health homes to achieve such targets. The commissioner may
41 assess penalties under this subdivision against managed care providers
42 that fail to meet the participation targets established pursuant to this
43 subdivision, except that managed care providers shall not be penalized
44 for the failure of a health home to work collaboratively toward meeting
45 the participation targets.

46 § 3. Subdivision 6 of section 2899 of the public health law, as
47 amended by chapter 471 of the laws of 2016, is amended to read as
48 follows:

49 6. "Provider" shall mean (a) any residential health care facility
50 licensed under article twenty-eight of this chapter; or any certified
51 home health agency, licensed home care services agency or long term home
52 health care program certified under article thirty-six of this chapter;
53 any hospice program certified pursuant to article forty of this chapter;
54 or any adult home, enriched housing program or residence for adults

1 licensed under article seven of the social services law; or (b) a health
2 home, or any subcontractor of such health home, who contracts with or is
3 approved or otherwise authorized by the department to provide health
4 home services to all those enrolled pursuant to a diagnosis of a devel-
5 opmental disability as defined in subdivision twenty-two of section 1.03
6 of the mental hygiene law and enrollees who are under twenty-one years
7 of age under section three hundred sixty-five-1 of the social services
8 law, or any entity that provides home and community based services to
9 enrollees who are under twenty-one years of age under a demonstration
10 program pursuant to section eleven hundred fifteen of the federal social
11 security act.

12 § 4. Paragraph (b) of subdivision 9 of section 2899-a of the public
13 health law, as added by chapter 331 of the laws of 2006, is amended to
14 read as follows:

15 (b) Residential health care facilities licensed pursuant to article
16 twenty-eight of this chapter and certified home health care agencies and
17 long-term home health care programs certified or approved pursuant to
18 article thirty-six of this chapter or a health home, or any subcontrac-
19 tor of such health home, who contracts with or is approved or otherwise
20 authorized by the department to provide health home services to all
21 those enrolled pursuant to a diagnosis of a developmental disability as
22 defined in subdivision twenty-two of section 1.03 of the mental hygiene
23 law and enrollees who are under twenty-one years of age under section
24 three hundred sixty-five-1 of the social services law, or any entity
25 that provides home and community based services to enrollees who are
26 under twenty-one years of age under a demonstration program pursuant to
27 section eleven hundred fifteen of the federal social security act, may,
28 subject to the availability of federal financial participation, claim as
29 reimbursable costs under the medical assistance program, costs reflect-
30 ing the fee established pursuant to law by the division of criminal
31 justice services for processing a criminal history information check,
32 the fee imposed by the federal bureau of investigation for a national
33 criminal history check, and costs associated with obtaining the finger-
34 prints, provided, however, that for the purposes of determining rates of
35 payment pursuant to article twenty-eight of this chapter for residential
36 health care facilities, such reimbursable fees and costs shall be
37 reflected as timely as practicable in such rates within the applicable
38 rate period.

39 § 5. Subdivision 10 of section 2899-a of the public health law, as
40 amended by chapter 206 of the laws of 2017, is amended to read as
41 follows:

42 10. Notwithstanding subdivision eleven of section eight hundred
43 forty-five-b of the executive law, a certified home health agency,
44 licensed home care services agency or long term home health care program
45 certified, licensed or approved under article thirty-six of this chapter
46 or a home care services agency exempt from certification or licensure
47 under article thirty-six of this chapter, a hospice program under arti-
48 cle forty of this chapter, or an adult home, enriched housing program or
49 residence for adults licensed under article seven of the social services
50 law, or a health home, or any subcontractor of such health home, who
51 contracts with or is approved or otherwise authorized by the department
52 to provide health home services to all enrollees enrolled pursuant to a
53 diagnosis of a developmental disability as defined in subdivision twen-
54 ty-two of section 1.03 of the mental hygiene law and enrollees who are
55 under twenty-one years of age under section three hundred sixty-five-1
56 of the social services law, or any entity that provides home and commu-

1 nity based services to enrollees who are under twenty-one years of age
2 under a demonstration program pursuant to section eleven hundred fifteen
3 of the federal social security act may temporarily approve a prospective
4 employee while the results of the criminal history information check and
5 the determination are pending, upon the condition that the provider
6 conducts appropriate direct observation and evaluation of the temporary
7 employee, while he or she is temporarily employed, and the care recipi-
8 ent. The results of such observations shall be documented in the tempo-
9 rary employee's personnel file and shall be maintained. For purposes of
10 providing such appropriate direct observation and evaluation, the
11 provider shall utilize an individual employed by such provider with a
12 minimum of one year's experience working in an agency certified,
13 licensed or approved under article thirty-six of this chapter or an
14 adult home, enriched housing program or residence for adults licensed
15 under article seven of the social services law, a health home, or any
16 subcontractor of such health home, who contracts with or is approved or
17 otherwise authorized by the department to provide health home services
18 to those enrolled pursuant to a diagnosis of a developmental disability
19 as defined in subdivision twenty-two of section 1.03 of the mental
20 hygiene law and enrollees who are under twenty-one years of age under
21 section three hundred sixty-five-1 of the social services law, or any
22 entity that provides home and community based services to enrollees who
23 are under twenty-one years of age under a demonstration program pursuant
24 to section eleven hundred fifteen of the federal social security act. If
25 the temporary employee is working under contract with another provider
26 certified, licensed or approved under article thirty-six of this chap-
27 ter, such contract provider's appropriate direct observation and evalu-
28 ation of the temporary employee, shall be considered sufficient for the
29 purposes of complying with this subdivision.

30 § 6. Subdivision 3 of section 424-a of the social services law, as
31 amended by section 3 of part Q of chapter 56 of the laws of 2017, is
32 amended to read as follows:

33 3. For purposes of this section, the term "provider" or "provider
34 agency" shall mean: an authorized agency; the office of children and
35 family services; juvenile detention facilities subject to the certifi-
36 cation of the office of children and family services; programs estab-
37 lished pursuant to article nineteen-H of the executive law; non-residen-
38 tial or residential programs or facilities licensed or operated by the
39 office of mental health or the office for people with developmental
40 disabilities except family care homes; licensed child day care centers,
41 including head start programs which are funded pursuant to title V of
42 the federal economic opportunity act of nineteen hundred sixty-four, as
43 amended; early intervention service established pursuant to section
44 twenty-five hundred forty of the public health law; preschool services
45 established pursuant to section forty-four hundred ten of the education
46 law; school-age child care programs; special act school districts as
47 enumerated in chapter five hundred sixty-six of the laws of nineteen
48 hundred sixty-seven, as amended; programs and facilities licensed by the
49 office of alcoholism and substance abuse services; residential schools
50 which are operated, supervised or approved by the education department;
51 health homes, or any subcontract or of such health homes, who contracts
52 with or is approved or otherwise authorized by the department of health
53 to provide health home services to all those enrolled pursuant to a
54 diagnosis of a developmental disability as defined in subdivision twen-
55 ty-two of section 1.03 of the mental hygiene law and enrollees who are
56 under twenty-one years of age under section three hundred sixty-five-1

1 of this chapter, or any entity that provides home and community based
2 services to enrollees who are under twenty-one years of age under a
3 demonstration program pursuant to section eleven hundred fifteen of the
4 federal social security act; publicly-funded emergency shelters for
5 families with children, provided, however, for purposes of this section,
6 when the provider or provider agency is a publicly-funded emergency
7 shelter for families with children, then all references in this section
8 to the "potential for regular and substantial contact with individuals
9 who are cared for by the agency" shall mean the potential for regular
10 and substantial contact with children who are served by such shelter;
11 and any other facility or provider agency, as defined in subdivision
12 four of section four hundred eighty-eight of this chapter, in regard to
13 the employment of staff, or use of providers of goods and services and
14 staff of such providers, consultants, interns and volunteers.

15 § 7. Paragraph (a) of subdivision 1 of section 413 of the social
16 services law, as amended by section 2 of part Q of chapter 56 of the
17 laws of 2017, is amended to read as follows:

18 (a) The following persons and officials are required to report or
19 cause a report to be made in accordance with this title when they have
20 reasonable cause to suspect that a child coming before them in their
21 professional or official capacity is an abused or maltreated child, or
22 when they have reasonable cause to suspect that a child is an abused or
23 maltreated child where the parent, guardian, custodian or other person
24 legally responsible for such child comes before them in their profes-
25 sional or official capacity and states from personal knowledge facts,
26 conditions or circumstances which, if correct, would render the child an
27 abused or maltreated child: any physician; registered physician assist-
28 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
29 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
30 psychologist; registered nurse; social worker; emergency medical techni-
31 cian; licensed creative arts therapist; licensed marriage and family
32 therapist; licensed mental health counselor; licensed psychoanalyst;
33 licensed behavior analyst; certified behavior analyst assistant; hospi-
34 tal personnel engaged in the admission, examination, care or treatment
35 of persons; a Christian Science practitioner; school official, which
36 includes but is not limited to school teacher, school guidance counse-
37 lor, school psychologist, school social worker, school nurse, school
38 administrator or other school personnel required to hold a teaching or
39 administrative license or certificate; full or part-time compensated
40 school employee required to hold a temporary coaching license or profes-
41 sional coaching certificate; social services worker; employee of a publ-
42 ically-funded emergency shelter for families with children; director of a
43 children's overnight camp, summer day camp or traveling summer day camp,
44 as such camps are defined in section thirteen hundred ninety-two of the
45 public health law; day care center worker; school-age child care worker;
46 provider of family or group family day care; employee or volunteer in a
47 residential care facility for children that is licensed, certified or
48 operated by the office of children and family services; or any other
49 child care or foster care worker; mental health professional; substance
50 abuse counselor; alcoholism counselor; all persons credentialed by the
51 office of alcoholism and substance abuse services; employees of a health
52 home or health home care management agency contracting with a health
53 home as designated by the department of health and authorized under
54 section three hundred sixty-five-1 of this chapter or such employees who
55 provide home and community based services under a demonstration program
56 pursuant to section eleven hundred fifteen of the federal social securi-

1 ty act; peace officer; police officer; district attorney or assistant
2 district attorney; investigator employed in the office of a district
3 attorney; or other law enforcement official.

4 § 8. Section 364-j of the social services law is amended by adding a
5 new subdivision 34 to read as follows:

6 34. (a) The commissioner may, in his or her discretion, apply penal-
7 ties to managed care providers that do not submit a performing provider
8 system partnership plan by July first, two thousand eighteen, in accord-
9 ance with any submission guidelines issued by the department prior ther-
10 eto. For purposes of this subdivision, "performing provider system part-
11 nership plan" shall mean a plan submitted by such managed care providers
12 to the department that includes both short and long term approaches for
13 effective collaboration with each performing provider system within its
14 service area.

15 (b) Such penalties shall be as follows: for managed care providers
16 that do not submit a performing provider system partnership plan in
17 accordance with this subdivision, Medicaid premiums shall be reduced by
18 eighty-five one-hundredths of one percent for the rate period from April
19 first, two thousand eighteen through March thirty-first, two thousand
20 nineteen.

21 § 9. This act shall take effect immediately; provided, however, that
22 the amendments made to subdivision 6 of section 2899 of the public
23 health law made by section three of this act shall take effect on the
24 same date and in the same manner as section 8 of chapter 471 of the laws
25 of 2016, as amended, takes effect and shall not affect the expiration of
26 such subdivision and shall be deemed expired therewith; provided
27 further, however, that the amendments made to section 364-j of the
28 social services law made by section eight of this act shall not affect
29 the repeal of such section and shall be deemed repealed therewith.

30 PART D

31 Section 1. Paragraph (d) of subdivision 9 of section 367-a of the
32 social services law, as amended by section 7 of part D of chapter 57 of
33 the laws of 2017, is amended to read as follows:

34 (d) In addition to the amounts paid pursuant to paragraph (b) of this
35 subdivision, the department shall pay a professional pharmacy dispensing
36 fee for each such drug dispensed in the amount of ten dollars and eight
37 cents per prescription or written order of a practitioner; provided,
38 however that this professional dispensing fee will not apply to drugs
39 that are available without a prescription as required by section sixty-
40 eight hundred ten of the education law but do not meet the definition of
41 a covered outpatient drug pursuant to Section 1927K of the Social Secu-
42 rity Act.

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

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

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

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

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

13 (b) In the event that the patient does not meet the criteria in para-
14 graph (a) of this subdivision, the prescriber may provide additional
15 information to the program to justify the use of a prescription drug
16 that is not on the preferred drug list. The program shall provide a
17 reasonable opportunity for a prescriber to reasonably present his or her
18 justification of prior authorization. [~~If, after consultation with the~~
19 ~~program, the prescriber, in his or her reasonable professional judgment,~~
20 ~~determines that the use of a prescription drug that is not on the~~
21 ~~preferred drug list is warranted, the prescriber's determination shall~~
22 ~~be final.] The program will consider the additional information and the
23 justification presented to determine whether the use of a prescription
24 drug that is not on the preferred drug list is warranted.~~

25 § 5. Subdivisions 25 and 25-a of section 364-j of the social services
26 law are REPEALED.

27 § 6. The public health law is amended by adding a new section 280-c to
28 read as follows:

29 § 280-c. Comprehensive medication management. 1. Definitions. For
30 purposes of this section:

31 (a) Qualified pharmacist. The term "qualified pharmacist" shall mean a
32 pharmacist who maintains a current unrestricted license pursuant to
33 article one hundred thirty-seven of the education law, who has a minimum
34 of two years of experience in patient care as a practicing pharmacist
35 within the last five years, and who has demonstrated competency in the
36 medication management of patients with a chronic disease or diseases,
37 including but not limited to, the completion of one or more programs
38 which are accredited by the accreditation council for pharmacy educa-
39 tion, recognized by the education department and acceptable to the
40 patient's treating physician.

41 (b) Comprehensive medication management. The term "comprehensive medi-
42 cation management" shall mean a program conducted by a qualified pharma-
43 cist that ensures a patient's medications, whether prescription or
44 nonprescription, are individually assessed to determine that each medi-
45 cation is appropriate for the patient, effective for the medical condi-
46 tion, safe given comorbidities and other medications being taken, and
47 able to be taken by the patient as intended. Comprehensive medication
48 management conducted by a qualified pharmacist shall include sharing of
49 applicable patient clinical information with the treating physician as
50 specified in the comprehensive medication management protocol.

51 (c) Comprehensive medication management protocol. The term "comprehen-
52 sive medication management protocol" means a written document pursuant
53 to and consistent with any applicable state and federal requirements,
54 that is entered into voluntarily by either a physician licensed pursuant
55 to article one hundred thirty-one of the education law or a nurse prac-
56 titioner certified pursuant to section sixty-nine hundred ten of the

1 education law, and a qualified pharmacist which addresses a chronic
2 disease or diseases as determined by the treating physician or nurse
3 practitioner and that describes the nature and scope of the comprehen-
4 sive medication management services to be performed by the qualified
5 pharmacist, in accordance with the provisions of this section. Compre-
6 hensive medication management protocols between licensed physicians or
7 nurse practitioners and qualified pharmacists shall be made available to
8 the department for review and to ensure compliance with this article,
9 upon request.

10 2. Authorization to establish comprehensive medication management
11 protocols. A physician licensed pursuant to article one hundred thirty-
12 one of the education law or a nurse practitioner certified pursuant to
13 section sixty-nine hundred ten of the education law shall be authorized
14 to voluntarily establish a comprehensive medication management protocol
15 with a qualified pharmacist to provide comprehensive medication manage-
16 ment services for a patient who has not met clinical goals of therapy,
17 is at risk for hospitalization, or for whom the physician or nurse prac-
18 titioner deems it is necessary to receive comprehensive medication
19 management services. Participation by the patient in comprehensive medi-
20 cation management services shall be voluntary.

21 3. Scope of comprehensive medication management protocols. (a) Under a
22 comprehensive medication management protocol, a qualified pharmacist
23 shall be permitted to:

24 (i) adjust or manage a drug regimen for the patient, pursuant to the
25 patient specific order or protocol established by the patient's treating
26 physician or nurse practitioner, which may include adjusting drug
27 strength, frequency of administration or route of administration.
28 Adjusting the drug regimen shall not include substituting or selecting a
29 different drug which differs from that initially prescribed by the
30 patient's treating physician or nurse practitioner unless such substi-
31 tution is expressly authorized in the written order or protocol. The
32 qualified pharmacist shall be required to immediately document in the
33 patient's medical record changes made to the drug therapy. The patient's
34 treating physician or nurse practitioner may prohibit, by written
35 instruction, any adjustment or change in the patient's drug regimen by
36 the qualified pharmacist;

37 (ii) evaluate and only if specifically authorized by the protocol, and
38 only to the extent necessary to discharge the responsibility set forth
39 in this section, order or perform routine patient monitoring functions
40 or disease state laboratory tests related to the drug therapy comprehen-
41 sive medication management for the specific chronic disease or diseases
42 specified within the written agreement or comprehensive medication
43 management protocol;

44 (iii) only if specifically authorized by the written order or protocol
45 and only to the extent necessary to discharge the responsibilities set
46 forth in this section, order or perform routine patient monitoring func-
47 tions as may be necessary in the drug therapy management, including the
48 collecting and reviewing of patient histories, and ordering or checking
49 patient vital signs, including pulse, temperature, blood pressure,
50 weight and respiration; and

51 (iv) access the complete patient medical record maintained by the
52 treating physician or nurse practitioner with whom the qualified pharma-
53 cist has the comprehensive medication management protocol and shall
54 document any adjustments made pursuant to the protocol in the patient's
55 medical record and shall notify the patient's treating physician or

1 nurse practitioner of any adjustments in a timely manner electronically
2 or by other means.

3 (b) Under no circumstances shall the qualified pharmacist be permitted
4 to delegate comprehensive medication management services to any other
5 licensed pharmacist or other pharmacy personnel.

6 4. Medication adjustments. Any medication adjustments made by the
7 qualified pharmacist pursuant to the comprehensive medication management
8 protocol, including adjustments in drug strength, frequency or route of
9 administration, or initiation of a drug which differs from that initial-
10 ly prescribed and as documented in the patient medical record, shall be
11 deemed an oral prescription authorized by an agent of the patient's
12 treating physician or nurse practitioner and shall be dispensed consist-
13 ent with section sixty-eight hundred ten of the education law. For the
14 purposes of this section, a pharmacist who is not an employee of the
15 physician or nurse practitioner may be authorized to serve as an agent
16 of the physician or nurse practitioner.

17 5. Referrals. A physician licensed pursuant to article one hundred
18 thirty-one of the education law or a nurse practitioner certified pursu-
19 ant to section sixty-nine hundred ten of the education law, who has
20 responsibility for the treatment and care of a patient for a chronic
21 disease or diseases as determined by the physician or nurse practitioner
22 may refer the patient to a qualified pharmacist for comprehensive medi-
23 cation management services, pursuant to the comprehensive medication
24 management protocol that the physician or nurse practitioner has estab-
25 lished with the qualified pharmacist. The protocol agreement shall
26 authorize the pharmacist to serve as an agent of the physician or nurse
27 practitioner as defined by the protocol. Such referral shall be docu-
28 mented in the patient's medical record.

29 6. Patient participation. Participation in comprehensive medication
30 management services shall be voluntary, and no patient, physician, nurse
31 practitioner or pharmacist shall be required to participate. The refer-
32 ral of a patient for comprehensive medication management services and
33 the patient's right to choose not to participate shall be disclosed to
34 the patient. Comprehensive medication management services shall not be
35 utilized unless the patient or the patient's authorized representative
36 consents, in writing, to such services. Such consent shall be noted in
37 the patient's medical record. If the patient or the patient's authorized
38 representative who consented chooses to no longer participate in such
39 services, at any time, the services shall be discontinued and it shall
40 be noted in the patient's medical record.

41 § 7. Subdivision 4 of section 365-a of the social services law is
42 amended by adding a new paragraph (h) to read as follows:

43 (h) opioids prescribed to a patient initiating or being maintained on
44 opioid treatment for pain which has lasted more than three months or
45 past the time of normal tissue healing, unless the medical record
46 contains a written treatment plan that includes: goals for pain manage-
47 ment and functional improvement based on diagnosis; information on
48 whether non-opioid therapies have been tried and optimized or are
49 contraindicated; a statement that the prescriber has explained to the
50 patient the risks of and alternatives to opioid treatment; an evaluation
51 of the patient for risk factors of harm and misuse of opioids; an
52 assessment of the patient's adherence to treatment with respect to other
53 conditions treated by the same provider; the signature of the patient
54 and/or an attestation by the prescriber that the patient verbally agreed
55 to the treatment plan; and any other information required by the depart-
56 ment. Such treatment plan shall be updated twice within the year imme-

1 diately following its initiation and annually thereafter. The require-
2 ments of this paragraph shall not apply in the case of patients who are
3 being treated for cancer that is not in remission, who are in hospice or
4 other end-of-life care, or whose pain is being treated as part of palli-
5 ative care practices.

6 § 8. Subdivision 2 of section 280 of the public health law, as amended
7 by section 1 of part D of chapter 57 of the laws of 2017, is amended to
8 read as follows:

9 2. The commissioner shall establish a year to year department of
10 health state-funds Medicaid drug spending growth target as follows:

11 (a) for state fiscal year two thousand seventeen--two thousand eigh-
12 teen, be limited to the ten-year rolling average of the medical compo-
13 nent of the consumer price index plus five percent and minus a pharmacy
14 savings target of fifty-five million dollars; ~~and~~

15 (b) for state fiscal year two thousand eighteen--two thousand nine-
16 teen, be limited to the ten-year rolling average of the medical compo-
17 nent of the consumer price index plus four percent and minus a pharmacy
18 savings target of eighty-five million dollars~~[-]; and~~

19 (c) for state fiscal year two thousand nineteen--two thousand twenty,
20 be limited to the ten-year rolling average of the medical component of
21 the consumer price index plus four percent and minus a pharmacy savings
22 target of eighty-five million dollars.

23 § 9. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2018; provided,
25 however, that sections two and three of this act shall take effect July
26 1, 2018; and provided further, however, that the amendments to paragraph
27 (d) of subdivision 9 and paragraph (c) of subdivision 6 of section
28 367-a of the social services law made by sections one and three, respec-
29 tively, of this act shall not affect the expiration or repeal of such
30 provisions and shall expire or be deemed repealed therewith.

31 PART E

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

35 4. The commissioner of health is authorized to assume responsibility
36 from a local social services official for the provision and reimburse-
37 ment of transportation costs under this section. If the commissioner
38 elects to assume such responsibility, the commissioner shall notify the
39 local social services official in writing as to the election, the date
40 upon which the election shall be effective and such information as to
41 transition of responsibilities as the commissioner deems prudent. The
42 commissioner is authorized to contract with a transportation manager or
43 managers to manage transportation services in any local social services
44 district, other than transportation services provided or arranged for
45 enrollees of ~~[managed long term care plans issued certificates of~~
46 ~~authority under section forty four hundred three f of the public health~~
47 ~~law]~~ a program designated as a Program of All-Inclusive Care for the
48 Elderly (PACE) as authorized by Federal Public law 105-33, subtitle I of
49 title IV of the Balanced Budget Act of 1997. Any transportation manager
50 or managers selected by the commissioner to manage transportation
51 services shall have proven experience in coordinating transportation
52 services in a geographic and demographic area similar to the area in New
53 York state within which the contractor would manage the provision of
54 services under this section. Such a contract or contracts may include

1 responsibility for: review, approval and processing of transportation
2 orders; management of the appropriate level of transportation based on
3 documented patient medical need; and development of new technologies
4 leading to efficient transportation services. If the commissioner elects
5 to assume such responsibility from a local social services district, the
6 commissioner shall examine and, if appropriate, adopt quality assurance
7 measures that may include, but are not limited to, global positioning
8 tracking system reporting requirements and service verification mech-
9 anisms. Any and all reimbursement rates developed by transportation
10 managers under this subdivision shall be subject to the review and
11 approval of the commissioner.

12 § 2. The opening paragraph of subdivision 1 and subdivision 3 of
13 section 367-s of the social services law, as amended by section 53 of
14 part B of chapter 57 of the laws of 2015, are amended to read as
15 follows:

16 Notwithstanding any provision of law to the contrary, a supplemental
17 medical assistance payment shall be made on an annual basis to providers
18 of emergency medical transportation services in an aggregate amount not
19 to exceed four million dollars for two thousand six, six million dollars
20 for two thousand seven, six million dollars for two thousand eight, six
21 million dollars for the period May first, two thousand fourteen through
22 March thirty-first, two thousand fifteen, and six million dollars [~~annu-~~
23 ~~ally beginning with~~] on an annual basis for the period April first, two
24 thousand fifteen through March thirty-first, two thousand [~~sixteen~~]
25 eighteen pursuant to the following methodology:

26 3. If all necessary approvals under federal law and regulation are not
27 obtained to receive federal financial participation in the payments
28 authorized by this section, payments under this section shall be made in
29 an aggregate amount not to exceed two million dollars for two thousand
30 six, three million dollars for two thousand seven, three million dollars
31 for two thousand eight, three million dollars for the period May first,
32 two thousand fourteen through March thirty-first, two thousand fifteen,
33 and three million dollars [~~annually beginning with~~] on an annual basis
34 for the period April first, two thousand fifteen through March thirty-
35 first, two thousand [~~sixteen~~] eighteen. In such case, the multiplier
36 set forth in paragraph (b) of subdivision one of this section shall be
37 deemed to be two million dollars or three million dollars as applicable
38 to the annual period.

39 § 3. Subdivision 5 of section 365-h of the social services law is
40 REPEALED.

41 § 4. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2018; provided,
43 however, that section one of this act shall take effect October 1, 2018;
44 provided, further that the amendments to subdivision 4 of section 365-h
45 of the social services law made by section one of this act shall not
46 affect the repeal of such section and shall expire and be deemed
47 repealed therewith.

48

PART F

49 Section 1. Notwithstanding any inconsistent provision of law, rule or
50 regulation to the contrary, if a Medicaid managed care plan or managed
51 long term care plan that has been issued a certificate of authority
52 pursuant to article 44 of the public health law and that satisfies the
53 definition of corporation in subparagraph 5 of paragraph (a) of section
54 102 of the not-for-profit corporation law or is exempt from taxation

1 under section 501 of the Internal Revenue Code of 1986 has an aggregate
 2 accumulated contingent reserve, across all of its Medicaid lines of
 3 business, in an amount that exceeds the minimum contingent reserve
 4 amount required by regulations of the department of health, the commis-
 5 sioner of health shall be authorized to make prospective adjustments to
 6 the Medicaid capitation rates of such plan and shall apply any relevant
 7 criteria as determined necessary in his or her discretion, in order to
 8 achieve a reduction in Medicaid reimbursement to the plan equal to the
 9 amount of the excess, or such lesser amount as determined by the commis-
 10 sioner of health.

11 § 2. This act shall take effect April 1, 2018.

12 PART G

13 Section 1. The public health law is amended by adding a new article
 14 29-J to read as follows:

15 ARTICLE 29-J

16 HEALTH SERVICES OFFERED BY RETAIL PRACTICES

17 Section 2999-hh. Definitions.

18 2999-ii. Retail practice sponsors.

19 2999-jj. Retail practices.

20 2999-kk. Accreditation.

21 2999-ll. Other laws.

22 § 2999-hh. Definitions. For purposes of this article:

23 1. "Reportable event" shall mean:

24 (a) the transfer of an individual who visits a retail practice to a
 25 hospital or emergency department during such visit; or

26 (b) the death of an individual who visits a retail practice during
 27 such visit.

28 2. "Collaborative relationship" shall mean an arrangement between a
 29 retail practice and one or more of the following entities located within
 30 the same geographic region as the retail practice, designed to facili-
 31 tate development and implementation of strategies that support the
 32 provision of coordinated care within the population served by the
 33 parties to such relationship:

34 (a) a hospital licensed pursuant to article twenty-eight of this chap-
 35 ter;

36 (b) a physician practice;

37 (c) an accountable care organization certified pursuant to article
 38 twenty-nine-E of this chapter; or

39 (d) a performing provider system under the delivery system reform
 40 incentive payment program.

41 3. "Retail health services" shall mean the services offered and
 42 provided by a retail practice.

43 (a) Retail health services shall include:

44 (i) the provision of treatment and services to patients for minor
 45 acute episodic illnesses or conditions;

46 (ii) episodic preventive and wellness treatments and services such as
 47 immunizations, except as otherwise specified in paragraph (c) of this
 48 subdivision;

49 (iii) treatment and services for minor traumas that are not reasonably
 50 likely to be life threatening or potentially disabling if ambulatory
 51 care within the capacity of the retail practice is provided;

52 (iv) administration of an opioid antagonist in the event of an emer-
 53 gency; and

54 (v) limited screening and referral for behavioral health conditions.

1 (b) Retail health services may include laboratory tests at the option
2 of the retail practice, provided that:

3 (i) such tests are administered solely as an adjunct to treatment of
4 patients visiting the retail practice, with all specimens collected and
5 testing performed on-site;

6 (ii) such tests are "waived tests", meaning a clinical laboratory test
7 that has been designated as a waived test or is otherwise subject to
8 certificate of waiver requirements pursuant to the federal clinical
9 laboratory improvement act of nineteen hundred eighty-eight, as amended;
10 and

11 (iii) the retail practice obtains approval from the department pursu-
12 ant to section five hundred seventy-nine of this chapter.

13 (c) Retail health services shall not include:

14 (i) the performance of procedures involving the provision of sedation
15 or anesthesia;

16 (ii) the provision of services to patients twenty-four months of age
17 or younger;

18 (iii) the provision of immunizations to patients between twenty-four
19 months and eighteen years of age, other than immunizations against
20 influenza;

21 (iv) services provided by pharmacists pursuant to article one hundred
22 thirty-seven of the education law;

23 (v) health services provided on-site by an employer to its employees
24 in a retail business operation;

25 (v) health services provided on a time-limited basis such as flu clin-
26 ics or health fairs; or

27 (vi) educational courses offered to individuals on health topics,
28 including instruction in self-management of medical conditions.

29 4. "Retail practice" shall mean an entity which:

30 (a) is located within the space of a retail business operation open to
31 the general public, such that customer access to the retail practice
32 location is available within the main premises of the retail operation;

33 (b) provides retail health services, as defined in subdivision three
34 of this section;

35 (c) is established and overseen by a retail practice sponsor, as
36 defined in subdivision five of this section;

37 (d) is staffed at all times by, at a minimum, one or more of the
38 following: a physician licensed pursuant to article one hundred thir-
39 ty-one of the education law, a physician assistant licensed pursuant to
40 article one hundred thirty-one-A of the education law, and/or a nurse
41 practitioner licensed pursuant to article one hundred thirty-nine of the
42 education law; provided that no more than four physician assistants
43 employed by a retail practice sponsor shall be supervised by a single
44 physician; and

45 (e) is accredited as set forth in section twenty-nine hundred ninety-
46 nine-kk of this article.

47 5. "Retail practice sponsor" shall mean an entity formed under the
48 laws of the state of New York, which may include stockholders or members
49 which are not natural persons, and which operates one or more retail
50 practices. Retail practice sponsors may include business corporations,
51 and general hospitals, nursing homes, and diagnostic and treatment
52 centers licensed pursuant to article twenty-eight of this chapter.

53 § 2999-ii. Retail practice sponsors. 1. Notwithstanding any law to the
54 contrary, a retail practice sponsor may operate one or more retail prac-
55 tices to provide retail health services in accordance with this article.

56 2. A retail practice sponsor shall:

1 (a) employ or otherwise retain the services of a medical director who
2 is licensed and currently registered to practice medicine in the state
3 of New York to oversee the development of and adherence to medical poli-
4 cies and procedures used in the retail practices operated by the retail
5 practice sponsor;

6 (b) establish and maintain policies and procedures requiring retail
7 practices to comply with the provisions of section twenty-nine hundred
8 ninety-nine-jj of this article;

9 (c) notify the department when it is prepared to commence operation of
10 a retail practice by:

11 (i) identifying the corporate name of the retail practice sponsor,
12 providing documentation of its organization under the laws of the state
13 of New York, and identifying the individual who will serve as the point
14 of contact between the retail practice sponsor and the department;

15 (ii) identifying the location of the retail practice, the services to
16 be offered by the retail practice, the name of the individual employed
17 with the overall responsibility for the on-site management of the retail
18 practice, and the staffing plan for the retail practice;

19 (iii) identifying the entities with which the retail practice will
20 collaborate pursuant to subdivision two of section twenty-nine hundred
21 ninety-nine-hh of this article; and

22 (iv) identifying the date on which it anticipates that the retail
23 practice will be open for business;

24 (d) promptly update the department as to any changes in the informa-
25 tion required under subdivision three of this section; and

26 (e) provide information to the department at a frequency and in a
27 manner determined by the department, which at a minimum shall include an
28 annual report that provides data, for each retail practice operated by
29 the retail practice, on:

30 (i) the number of visits that occurred during the timeframe identified
31 by the department;

32 (ii) the services provided to patients;

33 (iii) the source of payment for services provided;

34 (iv) the number of referrals to primary care practitioners made; and

35 (v) the number of reportable events that occurred.

36 3. (a) In discharging the duties of their respective positions, the
37 board of directors, committees of the board, and individual directors
38 and officers of a retail practice sponsor that operates three or more
39 retail practices shall consider the effects of any action upon:

40 (i) the ability of the business corporation to accomplish its purpose;

41 (ii) the shareholders of the business corporation;

42 (iii) the interests of patients of the retail practices;

43 (iv) community and societal considerations, including those of the
44 communities in which retail practices are located.

45 (b) The consideration of interests and factors in the manner required
46 in paragraph (a) of this subdivision:

47 (i) shall not constitute a violation of the provisions of section
48 seven hundred fifteen or seven hundred seventeen of the business corpo-
49 ration law; and

50 (ii) is in addition to the ability of directors to consider interests
51 and factors as provided in section seven hundred seventeen of the busi-
52 ness corporation law.

53 (c) A retail practice sponsor that operates three or more retail prac-
54 tices shall publish on a publicly available website a description of how
55 its operation of existing and planned retail practices:

1 (i) will improve access to services in the communities where they are
2 located;

3 (ii) supports a commitment to offer assistance to individuals who do
4 not have health care coverage;

5 (iii) supports an overall commitment by the retail practice sponsor to
6 operate some of its retail practices in medically underserved areas of
7 the state as defined by the commissioner; and

8 (iv) will otherwise benefit the communities where they are located.

9 § 2999-jj. Retail practices. 1. Retail health services shall not be
10 provided in a retail business operation open to the public except in
11 accordance with this article.

12 2. Notwithstanding any law to the contrary, a retail practice shall:

13 (a) provide retail health services and only retail health services;

14 (b) provide treatment without discrimination as to source of payment;

15 (c) maintain a policy offering a sliding scale for payment for
16 patients who do not have health care coverage and publish such policy on
17 a publicly available website;

18 (d) provide to patients who indicate that they do not have health care
19 coverage information on the state health benefit exchange, including the
20 website address for the exchange and contact information for local navi-
21 gators offering in-person enrollment assistance;

22 (e) accept walk-in patients without previously scheduled appointments;

23 (f) offer business hours for a minimum of twelve hours per day and six
24 days per week or, if the retail business in which the retail practice is
25 located is open for less than twelve hours per day and six days per
26 week, then the retail practice shall offer the same business hours as
27 the retail business;

28 (g) publish a list of the retail health services it offers on a
29 publicly available website together with the prices of such services;

30 (h) post signs in a conspicuous location in large type stating that
31 prescriptions and over-the-counter supplies may be purchased by a
32 patient from any business and do not need to be purchased on-site;

33 (i) enter into and maintain at least one collaborative relationship as
34 defined in subdivision two of section twenty-nine hundred ninety-nine-hh
35 of this article;

36 (j) inquire of each patient whether he or she has a primary care
37 provider;

38 (k) maintain and regularly update a list of local primary care provid-
39 ers and provide such list to each patient who indicates that he or she
40 does not have a primary care provider;

41 (l) refer patients to their primary care providers or other health
42 care providers as appropriate;

43 (m) transmit, by electronic means whenever possible, records of
44 services to patients' primary care providers and maintain records of
45 services for a minimum of six years;

46 (n) execute participation agreements with health information organiza-
47 tions, also known as qualified entities, pursuant to which the retail
48 practice shall agree to participate in the statewide health information
49 network for New York (SHIN-NY);

50 (o) attain and maintain accreditation pursuant to section twenty-nine
51 hundred ninety-nine-kk of this section; and

52 (p) report reportable events to the accrediting entity within three
53 business days of the occurrence of such reportable event.

54 3. Entities meeting the definition of a retail practice as set forth
55 in this article and providing services on or before the effective date

1 of this article shall have one hundred twenty days after such effective
2 date to notify the department of compliance therewith.

3 § 2999-kk. Accreditation. 1. A retail practice shall be required to
4 attain and maintain accreditation by a nationally recognized accrediting
5 entity as determined by the department.

6 2. The accrediting entity shall be required to notify the department
7 promptly if a retail practice loses its accreditation.

8 3. The accrediting entity shall be required to report data on all
9 retail practices accredited by such entity to the commissioner.

10 § 2999-ll. Other laws. 1. Nothing in this article shall be deemed to
11 alter the scope of practice of any practitioner licensed or certified
12 under title eight of the education law.

13 2. Nothing in this article shall be deemed to mitigate the responsi-
14 bility of any individual practitioner licensed or certified under title
15 eight of the education law from accountability for his or her actions
16 under applicable provisions of law.

17 3. A retail practice shall be deemed to be a "health care provider"
18 for the purposes of title two-D of article two of this chapter.

19 4. A prescriber practicing in a retail practice shall not be deemed to
20 be in the employ of a pharmacy or practicing in a hospital for purposes
21 of subdivision two of section sixty-eight hundred seven of the education
22 law.

23 § 2. This act shall take effect immediately.

24 PART H

25 Section 1. Section 6902 of the education law is amended by adding a
26 new subdivision 4 to read as follows:

27 4. (a) The practice of registered professional nursing by a certified
28 registered nurse anesthetist, certified under section sixty-nine hundred
29 twelve of this article may include the practice of nurse anesthesia.

30 (i) Subject to the provisions of paragraph (e) of this subdivision,
31 nurse anesthesia includes: the administration of anesthesia and anes-
32 thesia related care to patients; pre-anesthesia evaluation and prepara-
33 tion; anesthetic induction, maintenance and emergence; post anesthesia
34 care; perianesthesia nursing and clinical support functions; and pain
35 management.

36 (ii) Nurse anesthesia must be provided in collaboration with a
37 licensed physician qualified to determine the need for anesthesia
38 services, provided such services are performed in accordance with a
39 written practice agreement and written practice protocols as set forth
40 in paragraph (b) of this subdivision or pursuant to collaborative
41 relationships as set forth in paragraph (c) of this subdivision, which-
42 ever is applicable.

43 (iii) Prescriptions for drugs, devices, and anesthetic agents, anes-
44 thesia related agents, and pain management agents may be issued by a
45 certified registered nurse anesthetist, in accordance with the written
46 practice agreement and written practice protocols described in paragraph
47 (b) of this subdivision if applicable. The certified registered nurse
48 anesthetist shall obtain a certificate from the department upon success-
49 fully completing a program including an appropriate pharmacology compo-
50 nent, or its equivalent, as established by the commissioner's regu-
51 lations, prior to prescribing under this subparagraph. The certificate
52 issued under section sixty-nine hundred twelve of this article shall
53 state whether the certified registered nurse anesthetist has successful-

1 ly completed such a program or equivalent and is authorized to prescribe
2 under this subdivision.

3 (b) A certified registered nurse anesthetist certified under section
4 sixty-nine hundred twelve of this article and practicing for thirty-six
5 hundred hours or less shall do so in accordance with a written practice
6 agreement and written practice protocols agreed upon by a licensed
7 physician qualified by education and experience to determine the need
8 for anesthesia.

9 (i) The written practice agreement shall include explicit provisions
10 for the resolution of any disagreement between the collaborating physi-
11 cian and the certified registered nurse anesthetist regarding a matter
12 of anesthesia or pain management treatment that is within the scope of
13 practice of both. To the extent the practice agreement does not so
14 provide, then the collaborating physician's treatment shall prevail.

15 (ii) Each practice agreement shall provide for patient records review
16 by the collaborating physician in a timely fashion but in no event less
17 often than every three months. The names of the certified registered
18 nurse anesthetist and the collaborating physician shall be clearly post-
19 ed in the practice setting of the certified registered nurse anes-
20 tist.

21 (iii) The practice protocol shall reflect current accepted medical and
22 nursing practice. The protocols shall be filed with the department
23 within ninety days of the commencement of the practice and may be
24 updated periodically. The commissioner shall make regulations establish-
25 ing the procedure for the review of protocols and the disposition of any
26 issues arising from such review.

27 (c) A certified registered nurse anesthetist certified under section
28 sixty-nine hundred twelve of this article and practicing for more than
29 thirty-six hundred hours shall have collaborative relationships with one
30 or more licensed physicians qualified to determine the need for anes-
31 thetia services or a hospital, licensed under article twenty-eight of
32 the public health law, that provides services through licensed physi-
33 cians qualified to determine the need for anesthesia services and having
34 privileges at such institution.

35 (i) For purposes of this paragraph, "collaborative relationships"
36 shall mean that the certified registered nurse anesthetist shall commu-
37 nicate, whether in person, by telephone or through written (including
38 electronic) means, with a licensed physician qualified to determine the
39 need for anesthesia services or, in the case of a hospital, communicate
40 with a licensed physician qualified to determine the need for anesthesia
41 services and having privileges at such hospital, for the purposes of
42 exchanging information, as needed, in order to provide comprehensive
43 patient care and to make referrals as necessary.

44 (ii) As evidence that the certified registered nurse anesthetist main-
45 tains collaborative relationships, the certified registered nurse
46 anesthetist shall complete and maintain a form, created by the depart-
47 ment, to which the certified registered nurse anesthetist shall attest,
48 that describes such collaborative relationships. Such form shall also
49 reflect the certified registered nurse anesthetist's acknowledgement
50 that if reasonable efforts to resolve any dispute that may arise with
51 the collaborating physician or, in the case of a collaboration with a
52 hospital, with a licensed physician qualified to determine the need for
53 anesthesia services and having privileges at such hospital, about a
54 patient's care are not successful, the recommendation of the physician
55 shall prevail. Such form shall be updated as needed and may be subject
56 to review by the department. The certified registered nurse anesthetist

1 shall maintain documentation that supports such collaborative relation-
2 ships.

3 (d) Nothing in this subdivision shall be deemed to limit or diminish
4 the practice of the profession of nursing as a registered professional
5 nurse under this article or any other law, rule, regulation or certifi-
6 cation, nor to deny any registered professional nurse the right to do
7 any act or engage in any practice authorized by this article or any
8 other law, rule, regulation or certification.

9 (e)(i) Anesthesia services may be provided by certified registered
10 nurse anesthetists only in the following settings:

11 (A) general hospitals, hospital outpatient surgical departments, and
12 diagnostic and treatment centers licensed by the department of health
13 pursuant to article twenty-eight of the public health law and authorized
14 to provide sedation, anesthesia services, and/or pain management
15 services in connection with such licensure;

16 (B) practices where office-based surgery, as defined by section two
17 hundred-thirty-d of the public health law, is performed and/or pain
18 management services are provided; and

19 (C) dentists' and periodontists' offices where sedation and/or anes-
20 thetia services are provided.

21 (ii) Anesthesia services offered in such settings, including services
22 provided by certified registered nurse anesthetists, shall be directed
23 by a physician, dentist, or periodontist, as applicable, who is respon-
24 sible for the clinical aspects of all anesthesia services offered by the
25 provider and is qualified to determine the need for and administer anes-
26 thetia. Such physician shall have the discretion to establish parameters
27 for supervision of certified registered nurse anesthetists where he or
28 she makes a reasonable determination that the circumstances of a partic-
29 ular case or type of cases, although within the scope of practice of a
30 certified registered nurse anesthetist as set forth in paragraph (a) of
31 this subdivision, are of such complexity that they should be conducted
32 under supervision. In such cases, such supervision shall be provided by
33 an anesthesiologist who is immediately available as needed or by the
34 operating physician who is qualified to determine the need for anes-
35 thetia services and supervise the administration of anesthesia.

36 § 2. The education law is amended by adding a new section 6912 to read
37 as follows:

38 § 6912. Certificates for nurse anesthesia practice. 1. For issuance
39 of a certificate to practice as a certified registered nurse anesthetist
40 under subdivision four of section sixty-nine hundred two of this arti-
41 cle, the applicant shall fulfill the following requirements:

42 (a) Application: file an application with the department;

43 (b) License: be licensed as a registered professional nurse in the
44 state;

45 (c) Education: (i) have satisfactorily completed educational prepara-
46 tion for provision of these services in a program registered by the
47 department or in a program accredited by a national body recognized by
48 the department or determined by the department to be the equivalent; and
49 (ii) submit evidence of current certification or recertification by a
50 national certifying body, recognized by the department;

51 (d) Fees: pay a fee to the department of fifty dollars for an initial
52 certificate authorizing nurse anesthesia practice and a triennial regis-
53 tration fee of thirty dollars; and

54 (e) Information and documentation: in conjunction with and as a condi-
55 tion of each triennial registration, provide to the department, and the
56 department shall collect, such information and documentation required by

1 the department, in consultation with the department of health, as is
2 necessary to enable the department of health to evaluate access to need-
3 ed services in this state, including, but not limited to, the location
4 and type of setting wherein the certified registered nurse anesthetist
5 practices and other information the department, in consultation with the
6 department of health, deems relevant. The department of health, in
7 consultation with the department, shall make such data available in
8 aggregate, de-identified form on a publicly accessible website. Addi-
9 tionally, in conjunction with each triennial registration, the depart-
10 ment, in consultation with the department of health, shall provide
11 information on registering in the donate life registry for organ and
12 tissue donation, including the website address for such registry.

13 After a certified registered nurse anesthetist's initial registration,
14 registration under this section shall be coterminous with the certified
15 registered nurse anesthetist's registration as a professional nurse.

16 2. Only a person certified under this section shall use the title
17 "certified registered nurse anesthetist," except as set forth in subdi-
18 vision three of this section.

19 3. Nothing in this section shall be deemed from preventing any other
20 professional licensed or certified under this chapter or the public
21 health law from carrying out any responsibilities established by rele-
22 vant sections of such chapters.

23 4. An individual who meets the requirements for certification as a
24 certified registered nurse anesthetist and who has been performing the
25 duties of a certified registered nurse anesthetist for two of the five
26 years prior to the effective date of this article may be certified with-
27 out meeting additional requirements, provided that such individual
28 submits an application, including an attestation from the applicant's
29 supervising physician as to the applicant's experience and competence,
30 to the department within two years of the effective date of this
31 section. Such individual may use the title "certified registered nurse
32 anesthetist" in connection with that practice while such application is
33 pending.

34 5. (a) A registered professional nurse licensed under section sixty-
35 nine hundred five of this article who has satisfactorily completed a
36 program of educational preparation as provided in subdivision one of
37 this section may, for a period not to exceed twenty-four months imme-
38 diately following the completion of such educational program, practice
39 nurse anesthesia under subdivision four of section sixty-nine hundred
40 two of this article as a graduate nurse anesthetist in the same manner
41 as a certified registered nurse anesthetist under that subdivision.

42 (b) A registered professional nurse licensed under section sixty-nine
43 hundred five of this article who is duly enrolled in a program of educa-
44 tional preparation may practice nurse anesthesia as a student nurse
45 anesthetist under the supervision of an anesthesiologist or a certified
46 registered nurse anesthetist, who is immediately available as needed.

47 § 3. This act shall take effect immediately.

48 PART I

49 Section 1. Section 364-j of the social services law is amended by
50 adding a new subdivision 34 to read as follows:

51 34. Monies paid by the department to managed care organizations are
52 public funds and retain their status as public funds regardless of any
53 payments made by the managed care organization to subcontractors or
54 providers.

1 § 2. Section 364-j of the social services law is amended by adding a
2 new subdivision 35 to read as follows:

3 35. Recovery of overpayments from network providers. (a) Where the
4 Medicaid inspector general, during the course of an audit or investi-
5 gation, identifies improper medical assistance payments made by a
6 managed care organization to its subcontractor or subcontractors or
7 provider or providers, the state shall have the right to recover the
8 improper payment from the subcontractor or subcontractors, provider or
9 providers, or the managed care organization.

10 (b) Where the state is unsuccessful in recovering the improper payment
11 from the subcontractor or subcontractors or provider or providers, the
12 Medicaid inspector general may require the managed care organization to
13 recover the improper medical assistance payments identified in paragraph
14 (a) of this subdivision. The managed care organization shall remit to
15 the state the full amount of the identified improper payment no later
16 than six months after receiving notice of the overpayment.

17 (c) The managed care organization may charge its subcontractor or
18 subcontractors or provider or providers a collection fee to account for
19 the reasonable costs incurred by the managed care organization to
20 collect the debt. Any collection fee imposed shall not exceed five
21 percent of the total amount owed.

22 § 3. Section 364-j of the social services law is amended by adding a
23 new subdivision 36 to read as follows:

24 36. Reporting acts of fraud. (a) All managed care organizations shall
25 promptly refer to the office of the Medicaid inspector general all cases
26 of potential fraud, waste, or abuse.

27 (b) Any managed care organization making a complaint or furnishing a
28 report, referral, information or records in good faith pursuant to this
29 section shall be immune from civil liability for making such complaint,
30 referral, or report to the office of the Medicaid inspector general.

31 (c) A managed care organization that willfully fails to promptly make
32 a referral to the Medicaid inspector general when there is actual know-
33 ledge that an act of fraud is being or has been committed may be fined
34 in an amount not exceeding one hundred thousand dollars for each deter-
35 mination.

36 § 4. The public health law is amended by adding a new section 37 to
37 read as follows:

38 § 37. Violations of medical assistance program laws, regulations or
39 directives; fines. 1. (a) Any individual or entity participating in the
40 medical assistance program that fails to comply with or violates any
41 statute, rule, regulation, or directive of the medical assistance
42 program, may be fined in an amount not exceeding the sum of five thou-
43 sand dollars for each violation.

44 (b) Every failure to comply with or violation of any statute, rule,
45 regulation, or directive of the medical assistance program shall be a
46 separate and distinct offense and, in the case of a continuing
47 violation, every day's continuance thereof shall be a separate and
48 distinct offense.

49 2. (a) Any entity authorized to operate under article forty-four of
50 this chapter or article forty-three of the insurance law, including any
51 subcontractor or provider thereof, and participating in the medical
52 assistance program that fails to comply with or violates any statute,
53 rule, regulation, or directive of the medical assistance program, or any
54 term of its contract with the department, may be fined in an amount not
55 exceeding the sum of five thousand dollars for each violation.

1 (b) Every failure to comply with or violation of any statute, rule,
2 regulation, or directive of the medical assistance program, or term of
3 the entity's contract with the department shall be a separate and
4 distinct offense and, in the case of a continuing violation, every day's
5 continuance thereof shall be a separate and distinct offense.

6 3. Any entity participating in the medical assistance program and
7 authorized to operate under article forty-four of this chapter or arti-
8 cle forty-three of the insurance law that submits a cost report to the
9 medical assistance program that contains data which is intentionally or
10 systematically inaccurate or improper, may be fined in an amount not
11 exceeding one hundred thousand dollars for each determination.

12 4. Any entity authorized to operate under article forty-four of this
13 chapter or article forty-three of the insurance law, and participating
14 in the medical assistance program that intentionally or systematically
15 submits inaccurate encounter data to the state may be fined in an amount
16 not exceeding one hundred thousand dollars for each determination.

17 5. The Medicaid inspector general shall, in consultation with the
18 commissioner, consider the following prior to assessing a fine against
19 an individual or entity under this section and have the discretion to
20 reduce or eliminate a fine under this section:

21 (a) the effect, if any, on the quality of medical care provided to or
22 arranged for recipients of medical assistance as a result of the acts of
23 the individual or entity;

24 (b) the amount of damages to the program;

25 (c) the degree of culpability of the individual or entity in commit-
26 ting the proscribed actions and any mitigating circumstances;

27 (d) any prior violations committed by the individual or entity relat-
28 ing to the medical assistance program, Medicare or any other social
29 services programs which resulted in either criminal or administrative
30 sanction, penalty, or fine;

31 (e) the degree to which factors giving rise to the proscribed actions
32 were out of the control of the individual or entity;

33 (f) the number and nature of the violations or other related offenses;

34 (g) any other facts relating to the nature and seriousness of the
35 violations including any exculpatory facts; and/or

36 (h) any other relevant factors.

37 6. The Medicaid inspector general shall, in consultation with the
38 commissioner, promulgate regulations enumerating those violations which
39 may result in a fine pursuant to subdivisions one and two of this
40 section, the amounts of any fines which may be assessed under this
41 section, and the appeal rights afforded to individuals or entities
42 subject to a fine.

43 § 5. Paragraph (d) of subdivision 32 of section 364-j of the social
44 services law, as added by section 15 of part B of chapter 59 of the laws
45 of 2016, is amended to read as follows:

46 (d) (i) Penalties under this subdivision may be applied to any and all
47 circumstances described in paragraph (b) of this subdivision until the
48 managed care organization complies with the requirements for submission
49 of encounter data. (ii) No penalties for late, incomplete or inaccurate
50 encounter data shall be assessed against managed care organizations in
51 addition to those provided for in this subdivision, provided, however,
52 that nothing in this paragraph shall prohibit the imposition of penal-
53 ties, in cases of fraud or abuse, otherwise authorized by law.

54 § 6. This act shall take effect on the ninetieth day after it shall
55 have become a law; provided, however, that the amendments to section
56 364-j of the social services law made by sections one, two, three and

1 five of this act shall not affect the repeal of such section and shall
2 be deemed repealed therewith.

3 PART J

4 Section 1. Paragraph (h) of subdivision 1 of section 189 of the state
5 finance law, as amended by section 8 of part A of chapter 56 of the laws
6 of 2013, is amended to read as follows:

7 (h) knowingly conceals or knowingly and improperly avoids or decreases
8 an obligation to pay or transmit money or property to the state or a
9 local government, or conspires to do the same; shall be liable to the
10 state or a local government, as applicable, for a civil penalty of not
11 less than six thousand dollars and not more than twelve thousand
12 dollars, as adjusted to be equal to the civil penalty allowed under the
13 federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as amended, as
14 adjusted for inflation by the Federal Civil Penalties Inflation Adjust-
15 ment Act of 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410),
16 plus three times the amount of all damages, including consequential
17 damages, which the state or local government sustains because of the act
18 of that person.

19 § 2. This act shall take effect immediately.

20 PART K

21 Section 1. Notwithstanding any contrary provision of law, the depart-
22 ment of health is authorized to require any Medicaid-enrolled provider,
23 and any health care provider that is part of a network of providers of a
24 managed care organization operating pursuant to section 364-j of the
25 social services law or section 4403-f of the public health law, to
26 report on costs incurred by the provider in rendering health care
27 services to Medicaid beneficiaries. The department of health may specify
28 the frequency and format of such reports, determine the type and amount
29 of information to be submitted, and require the submission of supporting
30 documentation. In the case of a provider in a managed care network, the
31 department of health may require the managed care organization to obtain
32 the required information from the network provider on behalf of the
33 department.

34 § 2. Subdivision 1 of section 92 of part H of chapter 59 of the laws
35 of 2011, amending the public health law and other laws relating to known
36 and projected department of health state fund medicaid expenditures, as
37 amended by section 1 of part G of chapter 57 of the laws of 2017, is
38 amended to read as follows:

39 1. For state fiscal years 2011-12 through [~~2018-19~~] 2019-20, the
40 director of the budget, in consultation with the commissioner of health
41 referenced as "commissioner" for purposes of this section, shall assess
42 on a monthly basis, as reflected in monthly reports pursuant to subdivi-
43 sion five of this section known and projected department of health state
44 funds medicaid expenditures by category of service and by geographic
45 regions, as defined by the commissioner, and if the director of the
46 budget determines that such expenditures are expected to cause medicaid
47 disbursements for such period to exceed the projected department of
48 health medicaid state funds disbursements in the enacted budget finan-
49 cial plan pursuant to subdivision 3 of section 23 of the state finance
50 law, the commissioner of health, in consultation with the director of
51 the budget, shall develop a medicaid savings allocation plan to limit
52 such spending to the aggregate limit level specified in the enacted

1 budget financial plan, provided, however, such projections may be
2 adjusted by the director of the budget to account for any changes in the
3 New York state federal medical assistance percentage amount established
4 pursuant to the federal social security act, changes in provider reven-
5 ues, reductions to local social services district medical assistance
6 administration, minimum wage increases, and beginning April 1, 2012 the
7 operational costs of the New York state medical indemnity fund and state
8 costs or savings from the basic health plan. Such projections may be
9 adjusted by the director of the budget to account for increased or exp-
10 dited department of health state funds medicaid expenditures as a result
11 of a natural or other type of disaster, including a governmental decla-
12 ration of emergency.

13 § 3. This act shall take effect immediately.

14

PART L

15 Section 1. Subdivision 7 of section 369 of the social services law, as
16 amended by section 7 of part F of chapter 56 of the laws of 2012, is
17 amended to read as follows:

18 7. Notwithstanding any provision of law to the contrary, the depart-
19 ment shall, when it determines necessary program features are in place,
20 assume sole responsibility for commencing actions or proceedings in
21 accordance with the provisions of this section, sections one hundred
22 one, one hundred four, one hundred four-b, paragraph (a) of subdivision
23 three of section three hundred sixty-six, subparagraph one of paragraph
24 (h) of subdivision four of section three hundred sixty-six, and para-
25 graph (b) of subdivision two of section three hundred sixty-seven-a of
26 this chapter, to recover the cost of medical assistance furnished pursu-
27 ant to this title and title eleven-D of this article. The department is
28 authorized to contract with an entity that shall conduct activities on
29 behalf of the department pursuant to this subdivision, and may contract
30 with an entity to conduct similar activities on behalf of the child
31 health insurance program established pursuant to title one-A of article
32 twenty-five of the public health law to the extent allowed by law.

33 Prior to assuming such responsibility from a social services district,
34 the department of health shall, in consultation with the district,
35 define the scope of the services the district will be required to
36 perform on behalf of the department of health pursuant to this subdivi-
37 sion.

38 § 2. Section 2511 of the public health law is amended by adding a new
39 subdivision 22 to read as follows:

40 22. Notwithstanding the provisions of this section, section twenty-
41 five hundred ten of this title, and any other inconsistent provision of
42 law, in the event federal funding pursuant to Title XXI of the federal
43 social security act is reduced or eliminated on and after October first,
44 two thousand seventeen:

45 (a) The director of the division of the budget, in consultation with
46 the commissioner, shall identify the amount of such reduction or elimi-
47 nation and notify the temporary president of the senate and the speaker
48 of the assembly in writing that the federal actions will reduce or elimi-
49 minate expected funding to New York state by such amount.

50 (b) The director of the division of the budget, in consultation with
51 the commissioner, shall determine if programmatic changes are necessary
52 to continue covering eligible children within state-only funding levels,
53 identify available resources or actions, identify specific changes need-
54 ed to align the program with current funding levels, and establish a

1 plan for implementing such changes which may include emergency regu-
2 lations promulgated by the commissioner. Such plan shall be submitted to
3 the legislature prior to its implementation.

4 § 3. This act shall take effect immediately.

5 PART M

6 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter
7 266 of the laws of 1986, amending the civil practice law and rules and
8 other laws relating to malpractice and professional medical conduct, as
9 amended by section 15 of part H of chapter 57 of the laws of 2017, is
10 amended to read as follows:

11 (a) The superintendent of financial services and the commissioner of
12 health or their designee shall, from funds available in the hospital
13 excess liability pool created pursuant to subdivision 5 of this section,
14 purchase a policy or policies for excess insurance coverage, as author-
15 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
16 law; or from an insurer, other than an insurer described in section 5502
17 of the insurance law, duly authorized to write such coverage and actual-
18 ly writing medical malpractice insurance in this state; or shall
19 purchase equivalent excess coverage in a form previously approved by the
20 superintendent of financial services for purposes of providing equiv-
21 alent excess coverage in accordance with section 19 of chapter 294 of
22 the laws of 1985, for medical or dental malpractice occurrences between
23 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
24 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
25 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
26 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
27 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
28 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
29 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
30 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
31 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
32 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
33 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
34 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
35 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
36 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
37 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
38 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
39 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
40 between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and
41 June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse
42 the hospital where the hospital purchases equivalent excess coverage as
43 defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this
44 section for medical or dental malpractice occurrences between July 1,
45 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
46 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
47 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
48 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
49 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July
50 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
51 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
52 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
53 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
54 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,

1 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
2 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
3 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
4 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
5 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
6 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015
7 and June 30, 2016, between July 1, 2016 and June 30, 2017, [~~and~~] between
8 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
9 2019 for physicians or dentists certified as eligible for each such
10 period or periods pursuant to subdivision 2 of this section by a general
11 hospital licensed pursuant to article 28 of the public health law;
12 provided that no single insurer shall write more than fifty percent of
13 the total excess premium for a given policy year; and provided, however,
14 that such eligible physicians or dentists must have in force an individ-
15 ual policy, from an insurer licensed in this state of primary malprac-
16 tice insurance coverage in amounts of no less than one million three
17 hundred thousand dollars for each claimant and three million nine
18 hundred thousand dollars for all claimants under that policy during the
19 period of such excess coverage for such occurrences or be endorsed as
20 additional insureds under a hospital professional liability policy which
21 is offered through a voluntary attending physician ("channeling")
22 program previously permitted by the superintendent of financial services
23 during the period of such excess coverage for such occurrences. During
24 such period, such policy for excess coverage or such equivalent excess
25 coverage shall, when combined with the physician's or dentist's primary
26 malpractice insurance coverage or coverage provided through a voluntary
27 attending physician ("channeling") program, total an aggregate level of
28 two million three hundred thousand dollars for each claimant and six
29 million nine hundred thousand dollars for all claimants from all such
30 policies with respect to occurrences in each of such years provided,
31 however, if the cost of primary malpractice insurance coverage in excess
32 of one million dollars, but below the excess medical malpractice insur-
33 ance coverage provided pursuant to this act, exceeds the rate of nine
34 percent per annum, then the required level of primary malpractice insur-
35 ance coverage in excess of one million dollars for each claimant shall
36 be in an amount of not less than the dollar amount of such coverage
37 available at nine percent per annum; the required level of such coverage
38 for all claimants under that policy shall be in an amount not less than
39 three times the dollar amount of coverage for each claimant; and excess
40 coverage, when combined with such primary malpractice insurance cover-
41 age, shall increase the aggregate level for each claimant by one million
42 dollars and three million dollars for all claimants; and provided
43 further, that, with respect to policies of primary medical malpractice
44 coverage that include occurrences between April 1, 2002 and June 30,
45 2002, such requirement that coverage be in amounts no less than one
46 million three hundred thousand dollars for each claimant and three
47 million nine hundred thousand dollars for all claimants for such occur-
48 rences shall be effective April 1, 2002.

49 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
50 amending the civil practice law and rules and other laws relating to
51 malpractice and professional medical conduct, as amended by section 16
52 of part H of chapter 57 of the laws of 2017, is amended to read as
53 follows:

54 (3)(a) The superintendent of financial services shall determine and
55 certify to each general hospital and to the commissioner of health the
56 cost of excess malpractice insurance for medical or dental malpractice

1 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
2 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
3 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
4 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
5 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
6 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
7 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
8 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
9 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
10 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
11 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
12 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
13 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
14 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
15 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
16 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
17 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,
18 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and June 30, 2018,
19 and between July 1, 2018 and June 30, 2019 allocable to each general
20 hospital for physicians or dentists certified as eligible for purchase
21 of a policy for excess insurance coverage by such general hospital in
22 accordance with subdivision 2 of this section, and may amend such deter-
23 mination and certification as necessary.

24 (b) The superintendent of financial services shall determine and
25 certify to each general hospital and to the commissioner of health the
26 cost of excess malpractice insurance or equivalent excess coverage for
27 medical or dental malpractice occurrences between July 1, 1987 and June
28 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
29 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
30 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
31 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
32 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
33 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
34 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
35 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
36 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
37 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
38 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
39 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
40 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
41 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
42 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
43 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
44 30, 2016, [~~and~~] between July 1, 2016 and June 30, 2017, [~~and~~] between
45 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
46 2019 allocable to each general hospital for physicians or dentists
47 certified as eligible for purchase of a policy for excess insurance
48 coverage or equivalent excess coverage by such general hospital in
49 accordance with subdivision 2 of this section, and may amend such deter-
50 mination and certification as necessary. The superintendent of financial
51 services shall determine and certify to each general hospital and to the
52 commissioner of health the ratable share of such cost allocable to the
53 period July 1, 1987 to December 31, 1987, to the period January 1, 1988
54 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to
55 the period January 1, 1989 to June 30, 1989, to the period July 1, 1989
56 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to

1 the period July 1, 1990 to December 31, 1990, to the period January 1,
2 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991,
3 to the period January 1, 1992 to June 30, 1992, to the period July 1,
4 1992 to December 31, 1992, to the period January 1, 1993 to June 30,
5 1993, to the period July 1, 1993 to December 31, 1993, to the period
6 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
7 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
8 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
9 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
10 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
11 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
12 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
13 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
14 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
15 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
16 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
17 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
18 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
19 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
20 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
21 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
22 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
23 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
24 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
25 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June
26 30, 2017, and to the period July 1, 2017 ~~[and]~~ to June 30, 2018, and to
27 the period July 1, 2018 to June 30, 2019.

28 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
29 18 of chapter 266 of the laws of 1986, amending the civil practice law
30 and rules and other laws relating to malpractice and professional
31 medical conduct, as amended by section 17 of part H of chapter 57 of the
32 laws of 2017, are amended to read as follows:

33 (a) To the extent funds available to the hospital excess liability
34 pool pursuant to subdivision 5 of this section as amended, and pursuant
35 to section 6 of part J of chapter 63 of the laws of 2001, as may from
36 time to time be amended, which amended this subdivision, are insuffi-
37 cient to meet the costs of excess insurance coverage or equivalent
38 excess coverage for coverage periods during the period July 1, 1992 to
39 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
40 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
41 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
42 during the period July 1, 1997 to June 30, 1998, during the period July
43 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
44 2000, during the period July 1, 2000 to June 30, 2001, during the period
45 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
46 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
47 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
48 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
49 during the period July 1, 2006 to June 30, 2007, during the period July
50 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
51 2009, during the period July 1, 2009 to June 30, 2010, during the period
52 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
53 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
54 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
55 June 30, 2015, during the period July 1, 2015 ~~[and]~~ to June 30, 2016,
56 during the period July 1, 2016 ~~[and]~~ to June 30, 2017, ~~[and]~~ during the

1 period July 1, 2017 [~~and~~] to June 30, 2018, and during the period July
2 1, 2018 to June 30, 2019 allocated or reallocated in accordance with
3 paragraph (a) of subdivision 4-a of this section to rates of payment
4 applicable to state governmental agencies, each physician or dentist for
5 whom a policy for excess insurance coverage or equivalent excess cover-
6 age is purchased for such period shall be responsible for payment to the
7 provider of excess insurance coverage or equivalent excess coverage of
8 an allocable share of such insufficiency, based on the ratio of the
9 total cost of such coverage for such physician to the sum of the total
10 cost of such coverage for all physicians applied to such insufficiency.

11 (b) Each provider of excess insurance coverage or equivalent excess
12 coverage covering the period July 1, 1992 to June 30, 1993, or covering
13 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
14 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
15 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
16 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
17 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
18 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
19 the period July 1, 2001 to October 29, 2001, or covering the period
20 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
21 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
22 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
23 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
24 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
25 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
26 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
27 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
28 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
29 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
30 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
31 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
32 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
33 June 30, 2019 shall notify a covered physician or dentist by mail,
34 mailed to the address shown on the last application for excess insurance
35 coverage or equivalent excess coverage, of the amount due to such
36 provider from such physician or dentist for such coverage period deter-
37 mined in accordance with paragraph (a) of this subdivision. Such amount
38 shall be due from such physician or dentist to such provider of excess
39 insurance coverage or equivalent excess coverage in a time and manner
40 determined by the superintendent of financial services.

41 (c) If a physician or dentist liable for payment of a portion of the
42 costs of excess insurance coverage or equivalent excess coverage cover-
43 ing the period July 1, 1992 to June 30, 1993, or covering the period
44 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
45 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
46 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
47 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
48 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
49 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
50 od July 1, 2001 to October 29, 2001, or covering the period April 1,
51 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
52 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
53 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
54 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
55 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
56 the period July 1, 2008 to June 30, 2009, or covering the period July 1,

1 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
2 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
3 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
4 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
5 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
6 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
7 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
8 2019 determined in accordance with paragraph (a) of this subdivision
9 fails, refuses or neglects to make payment to the provider of excess
10 insurance coverage or equivalent excess coverage in such time and manner
11 as determined by the superintendent of financial services pursuant to
12 paragraph (b) of this subdivision, excess insurance coverage or equiv-
13 alent excess coverage purchased for such physician or dentist in accord-
14 ance with this section for such coverage period shall be cancelled and
15 shall be null and void as of the first day on or after the commencement
16 of a policy period where the liability for payment pursuant to this
17 subdivision has not been met.

18 (d) Each provider of excess insurance coverage or equivalent excess
19 coverage shall notify the superintendent of financial services and the
20 commissioner of health or their designee of each physician and dentist
21 eligible for purchase of a policy for excess insurance coverage or
22 equivalent excess coverage covering the period July 1, 1992 to June 30,
23 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
24 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
25 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
26 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
27 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
28 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
29 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
30 ing the period April 1, 2002 to June 30, 2002, or covering the period
31 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
32 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
33 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
34 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
35 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
36 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
37 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
38 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
39 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
40 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
41 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
42 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
43 od July 1, 2018 to June 30, 2019 that has made payment to such provider
44 of excess insurance coverage or equivalent excess coverage in accordance
45 with paragraph (b) of this subdivision and of each physician and dentist
46 who has failed, refused or neglected to make such payment.

47 (e) A provider of excess insurance coverage or equivalent excess
48 coverage shall refund to the hospital excess liability pool any amount
49 allocable to the period July 1, 1992 to June 30, 1993, and to the period
50 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
51 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
52 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
53 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
54 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
55 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
56 and to the period April 1, 2002 to June 30, 2002, and to the period July

1 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
2 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
3 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
4 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
5 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
6 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
7 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
8 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
9 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
10 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
11 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
12 2018 to June 30, 2019 received from the hospital excess liability pool
13 for purchase of excess insurance coverage or equivalent excess coverage
14 covering the period July 1, 1992 to June 30, 1993, and covering the
15 period July 1, 1993 to June 30, 1994, and covering the period July 1,
16 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
17 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
18 ing the period July 1, 1997 to June 30, 1998, and covering the period
19 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
20 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
21 and covering the period July 1, 2001 to October 29, 2001, and covering
22 the period April 1, 2002 to June 30, 2002, and covering the period July
23 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
24 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
25 covering the period July 1, 2005 to June 30, 2006, and covering the
26 period July 1, 2006 to June 30, 2007, and covering the period July 1,
27 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
28 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
29 ing the period July 1, 2010 to June 30, 2011, and covering the period
30 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
31 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
32 and covering the period July 1, 2014 to June 30, 2015, and covering the
33 period July 1, 2015 to June 30, 2016, and covering the period July 1,
34 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,
35 2018, and covering the period July 1, 2018 to June 30, 2019 for a physi-
36 cian or dentist where such excess insurance coverage or equivalent
37 excess coverage is cancelled in accordance with paragraph (c) of this
38 subdivision.

39 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
40 practice law and rules and other laws relating to malpractice and
41 professional medical conduct, as amended by section 18 of part H of
42 chapter 57 of the laws of 2017, is amended to read as follows:

43 § 40. The superintendent of financial services shall establish rates
44 for policies providing coverage for physicians and surgeons medical
45 malpractice for the periods commencing July 1, 1985 and ending June 30,
46 [~~2018~~ 2019; provided, however, that notwithstanding any other provision
47 of law, the superintendent shall not establish or approve any increase
48 in rates for the period commencing July 1, 2009 and ending June 30,
49 2010. The superintendent shall direct insurers to establish segregated
50 accounts for premiums, payments, reserves and investment income attrib-
51 utable to such premium periods and shall require periodic reports by the
52 insurers regarding claims and expenses attributable to such periods to
53 monitor whether such accounts will be sufficient to meet incurred claims
54 and expenses. On or after July 1, 1989, the superintendent shall impose
55 a surcharge on premiums to satisfy a projected deficiency that is
56 attributable to the premium levels established pursuant to this section

1 for such periods; provided, however, that such annual surcharge shall
2 not exceed eight percent of the established rate until July 1, [~~2018~~
3 2019, at which time and thereafter such surcharge shall not exceed twen-
4 ty-five percent of the approved adequate rate, and that such annual
5 surcharges shall continue for such period of time as shall be sufficient
6 to satisfy such deficiency. The superintendent shall not impose such
7 surcharge during the period commencing July 1, 2009 and ending June 30,
8 2010. On and after July 1, 1989, the surcharge prescribed by this
9 section shall be retained by insurers to the extent that they insured
10 physicians and surgeons during the July 1, 1985 through June 30, [~~2018~~
11 2019 policy periods; in the event and to the extent physicians and
12 surgeons were insured by another insurer during such periods, all or a
13 pro rata share of the surcharge, as the case may be, shall be remitted
14 to such other insurer in accordance with rules and regulations to be
15 promulgated by the superintendent. Surcharges collected from physicians
16 and surgeons who were not insured during such policy periods shall be
17 apportioned among all insurers in proportion to the premium written by
18 each insurer during such policy periods; if a physician or surgeon was
19 insured by an insurer subject to rates established by the superintendent
20 during such policy periods, and at any time thereafter a hospital,
21 health maintenance organization, employer or institution is responsible
22 for responding in damages for liability arising out of such physician's
23 or surgeon's practice of medicine, such responsible entity shall also
24 remit to such prior insurer the equivalent amount that would then be
25 collected as a surcharge if the physician or surgeon had continued to
26 remain insured by such prior insurer. In the event any insurer that
27 provided coverage during such policy periods is in liquidation, the
28 property/casualty insurance security fund shall receive the portion of
29 surcharges to which the insurer in liquidation would have been entitled.
30 The surcharges authorized herein shall be deemed to be income earned for
31 the purposes of section 2303 of the insurance law. The superintendent,
32 in establishing adequate rates and in determining any projected defi-
33 ciency pursuant to the requirements of this section and the insurance
34 law, shall give substantial weight, determined in his discretion and
35 judgment, to the prospective anticipated effect of any regulations
36 promulgated and laws enacted and the public benefit of stabilizing
37 malpractice rates and minimizing rate level fluctuation during the peri-
38 od of time necessary for the development of more reliable statistical
39 experience as to the efficacy of such laws and regulations affecting
40 medical, dental or podiatric malpractice enacted or promulgated in 1985,
41 1986, by this act and at any other time. Notwithstanding any provision
42 of the insurance law, rates already established and to be established by
43 the superintendent pursuant to this section are deemed adequate if such
44 rates would be adequate when taken together with the maximum authorized
45 annual surcharges to be imposed for a reasonable period of time whether
46 or not any such annual surcharge has been actually imposed as of the
47 establishment of such rates.

48 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
49 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
50 1986, amending the civil practice law and rules and other laws relating
51 to malpractice and professional medical conduct, relating to the effec-
52 tiveness of certain provisions of such chapter, as amended by section 19
53 of part H of chapter 57 of the laws of 2017, are amended to read as
54 follows:

55 § 5. The superintendent of financial services and the commissioner of
56 health shall determine, no later than June 15, 2002, June 15, 2003, June

1 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
2 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
3 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [~~and~~]
4 June 15, 2018, and June 15, 2019 the amount of funds available in the
5 hospital excess liability pool, created pursuant to section 18 of chap-
6 ter 266 of the laws of 1986, and whether such funds are sufficient for
7 purposes of purchasing excess insurance coverage for eligible partic-
8 ipating physicians and dentists during the period July 1, 2001 to June
9 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,
10 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
11 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
12 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
13 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
14 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
15 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
16 2016, or July 1, 2016 to June 30, 2017, or [~~to~~] July 1, 2017 to June 30,
17 2018, or July 1, 2018 to June 30, 2019 as applicable.

18 (a) This section shall be effective only upon a determination, pursu-
19 ant to section five of this act, by the superintendent of financial
20 services and the commissioner of health, and a certification of such
21 determination to the state director of the budget, the chair of the
22 senate committee on finance and the chair of the assembly committee on
23 ways and means, that the amount of funds in the hospital excess liabil-
24 ity pool, created pursuant to section 18 of chapter 266 of the laws of
25 1986, is insufficient for purposes of purchasing excess insurance cover-
26 age for eligible participating physicians and dentists during the period
27 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
28 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
29 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
30 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
31 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
32 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
33 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
34 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
35 2018, or July 1, 2018 to June 30, 2019 as applicable.

36 (e) The commissioner of health shall transfer for deposit to the
37 hospital excess liability pool created pursuant to section 18 of chapter
38 266 of the laws of 1986 such amounts as directed by the superintendent
39 of financial services for the purchase of excess liability insurance
40 coverage for eligible participating physicians and dentists for the
41 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
42 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
43 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
44 2007, as applicable, and the cost of administering the hospital excess
45 liability pool for such applicable policy year, pursuant to the program
46 established in chapter 266 of the laws of 1986, as amended, no later
47 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
48 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
49 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
50 2015, June 15, 2016, June 15, 2017, [~~and~~] June 15, 2018, and June 15,
51 2019 as applicable.

52 § 6. Section 20 of part H of chapter 57 of the laws of 2017, amending
53 the New York Health Care Reform Act of 1996 and other laws relating to
54 extending certain provisions thereto, is amended to read as follows:

55 § 20. Notwithstanding any law, rule or regulation to the contrary,
56 only physicians or dentists who were eligible, and for whom the super-

1 intendent of financial services and the commissioner of health, or their
2 designee, purchased, with funds available in the hospital excess liabil-
3 ity pool, a full or partial policy for excess coverage or equivalent
4 excess coverage for the coverage period ending the thirtieth of June,
5 two thousand [~~seventeen~~ eighteen, shall be eligible to apply for such
6 coverage for the coverage period beginning the first of July, two thou-
7 sand [~~seventeen~~ eighteen; provided, however, if the total number of
8 physicians or dentists for whom such excess coverage or equivalent
9 excess coverage was purchased for the policy year ending the thirtieth
10 of June, two thousand [~~seventeen~~ eighteen exceeds the total number of
11 physicians or dentists certified as eligible for the coverage period
12 beginning the first of July, two thousand [~~seventeen~~ eighteen, then the
13 general hospitals may certify additional eligible physicians or dentists
14 in a number equal to such general hospital's proportional share of the
15 total number of physicians or dentists for whom excess coverage or
16 equivalent excess coverage was purchased with funds available in the
17 hospital excess liability pool as of the thirtieth of June, two thousand
18 [~~seventeen~~ eighteen, as applied to the difference between the number of
19 eligible physicians or dentists for whom a policy for excess coverage or
20 equivalent excess coverage was purchased for the coverage period ending
21 the thirtieth of June, two thousand [~~seventeen~~ eighteen and the number
22 of such eligible physicians or dentists who have applied for excess
23 coverage or equivalent excess coverage for the coverage period beginning
24 the first of July, two thousand [~~seventeen~~ eighteen.
25 § 7. This act shall take effect immediately.

26

PART N

27 Section 1. The opening paragraph of subdivision 1 of section 1 of part
28 C of chapter 57 of the laws of 2006, establishing a cost of living
29 adjustment for designated human services, is amended to read as follows:
30 Subject to available appropriations, the commissioners of the office
31 of mental health, office of mental retardation and developmental disa-
32 bilities, office of alcoholism and substance abuse services, [~~department~~
33 ~~of health,~~] office of children and family services and the state office
34 for the aging shall establish an annual cost of living adjustment
35 (COLA), subject to the approval of the director of the budget, effective
36 April first of each state fiscal year, provided, however, that in state
37 fiscal year 2006-07, the cost of living adjustment will be effective
38 October first, to project for the effects of inflation, for rates of
39 payments, contracts or any other form of reimbursement for the programs
40 listed in paragraphs (i), (ii), (iii), (iv)[~~7~~ and (v) [~~and (vi)~~] of
41 subdivision four of this section. The COLA shall be applied to the
42 appropriate portion of reimbursable costs or contract amounts.
43 § 2. Paragraph (iv) of subdivision 4 of section 1 of part C of chapter
44 57 of the laws of 2006, establishing a cost of living adjustment for
45 designated human services, is REPEALED and paragraphs (v) and (vi) are
46 renumbered paragraphs (iv) and (v).
47 § 3. This act shall take effect immediately.

48

PART O

49 Section 1. Subdivisions 9 and 10 of section 2541 of the public health
50 law, as added by chapter 428 of the laws of 1992, are amended to read as
51 follows:

1 9. "Evaluation" means a multidisciplinary professional, objective
2 [~~assessment~~] examination conducted by appropriately qualified personnel
3 and conducted pursuant to section twenty-five hundred forty-four of this
4 title to determine a child's eligibility under this title.

5 10. "Evaluator" means a [~~team of two or more professionals approved~~
6 ~~pursuant to section twenty-five hundred fifty-one of this title~~] provid-
7 er approved by the department to conduct screenings and evaluations.

8 § 2. Section 2541 of the public health law is amended by adding three
9 new subdivisions 12-a, 14-a and 15-a to read as follows:

10 12-a. "Multidisciplinary" means the involvement of two or more sepa-
11 rate disciplines or professions, which may mean the involvement of one
12 individual who meets the definition of qualified personnel as defined in
13 subdivision fifteen of this section and who is qualified, in accordance
14 with state licensure, certification or other comparable standards, to
15 evaluate all five developmental domains.

16 14-a. A "partial evaluation" shall mean an evaluation in a single
17 developmental area for purposes of determining eligibility, and may also
18 mean an examination of the child to determine the need for a modifica-
19 tion to the child's individualized family service plan.

20 15-a. "Screening" means the procedures used by qualified personnel, as
21 defined in subdivision fifteen of this section, to determine whether a
22 child is suspected of having a disability and in need of early inter-
23 vention services, and shall include, where available and appropriate for
24 the child, the administration of a standardized instrument or instru-
25 ments approved by the department, in accordance with subdivision three
26 of section twenty-five hundred forty-four of this title.

27 § 3. Subdivision 3 of section 2542 of the public health law, as
28 amended by chapter 231 of the laws of 1993, is amended to read as
29 follows:

30 3. [~~The~~] (a) Unless an infant or toddler has already been referred to
31 the early intervention program or the health officer of the public
32 health district in which the infant or toddler resides, as designated by
33 the municipality, the following persons and entities, within two working
34 days of identifying an infant or toddler suspected of having a disabili-
35 ty or at risk of having a disability, shall refer such infant or toddler
36 to the early intervention official or the health officer [~~of the public~~
37 ~~health district in which the infant or toddler resides, as designated by~~
38 ~~the municipality~~], as applicable, but in no event over the objection of
39 the parent made in accordance with procedures established by the depart-
40 ment for use by such primary referral sources[~~, unless the child has~~
41 ~~already been referred~~]: hospitals, child health care providers, day
42 care programs, local school districts, public health facilities, early
43 childhood direction centers and such other social service and health
44 care agencies and providers as the commissioner shall specify in regu-
45 lation; provided, however, that the department shall establish proce-
46 dures, including regulations if required, to ensure that primary refer-
47 ral sources adequately inform the parent or guardian about the early
48 intervention program, including through brochures and written materials
49 created or approved by the department.

50 (b) The primary referral sources identified in paragraph (a) of this
51 subdivision shall, with parental consent, complete and transmit at the
52 time of referral, a referral form developed by the department which
53 contains information sufficient to document the primary referral
54 source's concern or basis for suspecting the child has a disability or
55 is at risk of having a disability, and where applicable, specifies the
56 child's diagnosed condition that establishes the child's eligibility for

1 the early intervention program. The primary referral source shall inform
2 the parent of a child with a diagnosed condition that has a high proba-
3 bility of resulting in developmental delay, that (i) eligibility for the
4 program may be established by medical or other records and (ii) of the
5 importance of providing consent for the primary referral source to tran-
6 smit records or reports necessary to support the diagnosis, or, for
7 parents or guardians of children who do not have a diagnosed condition,
8 records or reports that would assist in determining eligibility for the
9 program.

10 § 4. Section 2544 of the public health law, as added by chapter 428 of
11 the laws of 1992, paragraph (c) of subdivision 2 as added by section 1
12 of part A of chapter 56 of the laws of 2012 and subdivision 11 as added
13 by section 3 of part B3 of chapter 62 of the laws of 2003, is amended to
14 read as follows:

15 § 2544. Screening and evaluations. 1. Each child thought to be an
16 eligible child is entitled to [~~a multidisciplinary~~] an evaluation
17 conducted in accordance with this section, and the early intervention
18 official shall ensure such evaluation, with parental consent.

19 2. (a) [~~The~~] Subject to the provisions of this title, the parent may
20 select an evaluator from the list of approved evaluators as described in
21 section twenty-five hundred forty-two of this title to conduct the
22 applicable screening and/or evaluation in accordance with this section.
23 The parent or evaluator shall immediately notify the early intervention
24 official of such selection. The evaluator shall review the information
25 and documentation provided with the referral to determine the appropri-
26 ate screening or evaluation process to follow in accordance with this
27 section. The evaluator may begin the screening or evaluation no sooner
28 than four working days after such notification, unless otherwise
29 approved by the initial service coordinator.

30 (b) [~~the evaluator shall designate an individual as the principal~~
31 ~~contact for the multidisciplinary team~~] Initial service coordinators
32 shall inform the parent of the applicable screening or evaluation proce-
33 dures that may be performed. For a child referred to the early inter-
34 vention official who has a diagnosed physical or mental condition that
35 has a high probability of resulting in developmental delay, the initial
36 service coordinator shall inform the parent that the evaluation of the
37 child shall be conducted in accordance with the procedures set forth in
38 subdivision five of this section.

39 (c) If, in consultation with the evaluator, the service coordinator
40 identifies a child that is potentially eligible for programs or services
41 offered by or under the auspices of the office for people with develop-
42 mental disabilities, the service coordinator shall, with parent consent,
43 notify the office for people with developmental disabilities' regional
44 developmental disabilities services office of the potential eligibility
45 of such child for said programs or services.

46 3. [~~(a) To determine eligibility, an evaluator shall, with parental~~
47 ~~consent, either (i) screen a child to determine what type of evaluation,~~
48 ~~if any, is warranted, or (ii) provide a multidisciplinary evaluation. In~~
49 ~~making the determination whether to provide an evaluation, the evaluator~~
50 ~~may rely on a recommendation from a physician or other qualified person~~
51 ~~as designated by the commissioner.~~

52 (b)] Screenings for children referred to the early intervention
53 program to determine whether they are suspected of having a disability.
54 (a) For a child referred to the early intervention program, the evalu-
55 ator shall first perform a screening of the child, with parental

1 consent, to determine whether the child is suspected of having a disa-
2 bility.

3 (b) The evaluator shall utilize a standardized instrument or instru-
4 ments approved by the department to conduct the screening. If the evalu-
5 ator does not utilize a standardized instrument or instruments approved
6 by the department for the screening, the evaluator shall document in
7 writing why such standardized instrument or instruments are unavailable
8 or inappropriate for the child.

9 (c) The evaluator shall explain the results of the screening to the
10 parent and shall fully document the results in writing.

11 (d) If, based upon the screening, a child is [~~believed to be eligible,~~
12 ~~or if otherwise elected by the parent~~] suspected of having a disability,
13 the child shall, with [~~the consent of a parent~~] parental consent,
14 receive [~~a multidisciplinary evaluation. All evaluations shall be~~
15 ~~conducted in accordance with~~] an evaluation to be conducted in accord-
16 ance with the procedures set forth in subdivision four of this section,
17 the coordinated standards and procedures, and [~~with~~] regulations promul-
18 gated by the commissioner.

19 (e) If, based upon the screening, a child is not suspected of having a
20 disability, an evaluation shall not be provided, unless requested by the
21 parent. The early intervention official shall provide the parent with
22 written notice of the screening results, which shall include information
23 on the parent's right to request an evaluation.

24 (f) A screening shall not be provided to children who are referred to
25 the early intervention program who have a diagnosed physical or mental
26 condition with a high probability of resulting in developmental delay
27 that establishes eligibility for the program or for children who have
28 previously received an evaluation under the early intervention program.

29 4. The evaluation of [~~each~~] a child shall:

30 (a) include the administration of an evaluation instrument or instru-
31 ments approved by the department. If the evaluator does not utilize an
32 instrument or instruments approved by the department as part of the
33 evaluation of the child, the evaluator shall document in writing why
34 such instrument or instruments are not appropriate or available for the
35 child;

36 (b) be conducted by personnel trained to utilize appropriate methods
37 and procedures;

38 [~~(b)~~] (c) be based on informed clinical opinion;

39 [~~(e)~~] (d) be made without regard to the availability of services in
40 the municipality or who might provide such services; [~~and~~

41 ~~(d)~~] (e) with parental consent, include the following:

42 (i) a review of pertinent records related to the child's current
43 health status and medical history; and

44 (ii) an evaluation of the child's level of functioning in each of the
45 developmental areas set forth in paragraph (c) of subdivision seven of
46 section twenty-five hundred forty-one of this title[+] to determine
47 whether the child has a disability as defined in this title that estab-
48 lishes the child's eligibility for the program; and

49 (f) if the child has been determined eligible by the evaluator after
50 conducting the procedures set forth in paragraphs (a) through (e) of
51 this subdivision, the evaluation shall also include:

52 [~~(iii)~~] (i) an assessment [~~of the unique needs of the child in terms~~
53 ~~of~~] for the purposes of identifying the child's unique strengths and
54 needs in each of the developmental areas [~~set forth in paragraph (c) of~~
55 ~~subdivision seven of section twenty-five hundred forty-one of this~~

1 ~~title, including the identification of]~~ and the early intervention

2 services appropriate to meet those needs;

3 [~~(iv)~~] (ii) a family-directed assessment, if consented to by the fami-
4 ly, in order to identify the family's resources, priorities, and
5 concerns and the supports necessary to enhance the family's capacity to
6 meet the developmental needs of the child. The family assessment shall
7 be voluntary on the part of each family member participating in the
8 assessment;

9 (iii) an [evaluation] assessment of the transportation needs of the
10 child, if any; and

11 [~~(v)~~] (iv) such other matters as the commissioner may prescribe in
12 regulation.

13 5. Evaluations for children who are referred to the early intervention
14 official with diagnosed physical or mental conditions that have a high
15 probability of resulting in developmental delay. (a) If a child has a
16 diagnosed physical or mental condition that has a high probability of
17 resulting in developmental delay, the child's medical or other records
18 shall be used, when available, to establish the child's eligibility for
19 the program.

20 (b) The evaluator shall, upon review of the referral form provided in
21 accordance with section twenty-five hundred forty-two of this title or
22 any medical or other records, or at the time of initial contact with the
23 child's family, determine whether the child has a diagnosed condition
24 that establishes the child's eligibility for the program. If the evalu-
25 ator has reason to believe, after speaking with the child's family, that
26 the child may have a diagnosed condition that establishes the child's
27 eligibility but the evaluator has not been provided with medical or
28 other documentation of such diagnosis, the evaluator shall, with
29 parental consent, obtain such documentation, when available, prior to
30 proceeding with the evaluation of the child.

31 (c) The evaluator shall review all records received to document that
32 the child's diagnosis as set forth in such records establishes the
33 child's eligibility for the early intervention program.

34 (d) Notwithstanding subdivision four of this section, if the child's
35 eligibility for the early intervention program is established in accord-
36 ance with this subdivision, the evaluation of the child shall (i)
37 consist of a review of the results of the medical or other records that
38 established the child's eligibility, and any other pertinent evaluations
39 or records available and (ii) comply with the procedures set forth in
40 paragraph (f) of subdivision four of this section. The evaluation proce-
41 dures set forth in paragraphs (a) through (e) of subdivision four of
42 this section shall not be required or conducted.

43 6. An evaluation shall not include a reference to any specific provid-
44 er of early intervention services.

45 [~~6.~~] 7. Nothing in this section shall restrict an evaluator from
46 utilizing, in addition to findings from his or her personal examination,
47 other examinations, evaluations or assessments conducted for such child,
48 including those conducted prior to the evaluation under this section, if
49 such examinations, evaluations or assessments are consistent with the
50 coordinated standards and procedures.

51 [~~7.~~] 8. Following completion of the evaluation, the evaluator shall
52 provide the parent and service coordinator with a copy of a summary of
53 the full evaluation. To the extent practicable, the summary shall be
54 provided in the native language of the parent. Upon request of the
55 parent, early intervention official or service coordinator, the evalu-

1 ator shall provide a copy of the full evaluation to such parent, early
2 intervention official or service coordinator.

3 ~~[8-]~~ 9. A parent who disagrees with the results of an evaluation may
4 obtain an additional evaluation or partial evaluation at public expense
5 to the extent authorized by federal law or regulation.

6 ~~[9-]~~ 10. Upon receipt of the results of an evaluation, a service coordi-
7 nator may, with parental consent, require additional diagnostic infor-
8 mation regarding the condition of the child, provided, however, that
9 such evaluation or assessment is not unnecessarily duplicative or inva-
10 sive to the child, and provided further, that:

11 (a) where the evaluation has established the child's eligibility, such
12 additional diagnostic information shall be used solely to provide addi-
13 tional information to the parent and service coordinator regarding the
14 child's need for services and cannot be a basis for refuting eligibil-
15 ity;

16 (b) the service coordinator provides the parent with a written expla-
17 nation of the basis for requiring additional diagnostic information;

18 (c) the additional diagnostic procedures are at no expense to the
19 parent; and

20 (d) the evaluation is completed and a meeting to develop an IFSP is
21 held within the time prescribed in subdivision one of section twenty-
22 five hundred forty-five of this title.

23 ~~[10-]~~ 11. (a) If the screening indicates that the infant or toddler is
24 not an eligible child and the parent elects not to have an evaluation,
25 or if the evaluation indicates that the infant or toddler is not an
26 eligible child, the service coordinator shall inform the parent of other
27 programs or services that may benefit such child, and the child's family
28 and, with parental consent, refer such child to such programs or
29 services.

30 (b) A parent may appeal a determination that a child is ineligible
31 pursuant to the provisions of section twenty-five hundred forty-nine of
32 this title, provided, however, that a parent may not initiate such
33 appeal until all evaluations are completed. In addition, for a child
34 referred to the early intervention official who has a diagnosed physical
35 or mental condition that establishes the child's eligibility for the
36 program in accordance with subdivision five of this section, the parent
37 may appeal the denial of a request to have the evaluator conduct the
38 evaluation procedures set forth in paragraphs (a) through (e) of subdi-
39 vision four of this section, provided, however, that the parent may not
40 initiate the appeal until the evaluation conducted in accordance with
41 subdivision five of this section is completed.

42 ~~[11-]~~ 12. Notwithstanding any other provision of law to the contrary,
43 where a request has been made to review an IFSP prior to the six-month
44 interval provided in subdivision seven of section twenty-five hundred
45 forty-five of this title for purposes of increasing frequency or dura-
46 tion of an approved service, including service coordination, the early
47 intervention official may require an additional evaluation or partial
48 evaluation at public expense by an approved evaluator other than the
49 current provider of service, with parent consent.

50 § 5. Section 3235-a of the insurance law, as added by section 3 of
51 part C of chapter 1 of the laws of 2002, subsection (c) as amended by
52 section 17 of part A of chapter 56 of the laws of 2012, is amended to
53 read as follows:

54 § 3235-a. Payment for early intervention services. (a) No policy of
55 accident and health insurance, including contracts issued pursuant to
56 article forty-three of this chapter, shall exclude coverage for other-

1 wise covered services solely on the basis that the services constitute
2 early intervention program services under title two-A of article twenty-five of the public health law; provided, however, the insurer, including a health maintenance organization issued a certificate of authority under article forty-four of the public health law and a corporation organized under article forty-three of this chapter shall pay for such services to the extent that the services are a covered benefit under the policy.

9 (b) Where a policy of accident and health insurance, including a
10 contract issued pursuant to article forty-three of this chapter,
11 provides coverage for an early intervention program service, such coverage shall not be applied against any maximum annual or lifetime monetary limits set forth in such policy or contract. Any documentation obtained pursuant to subparagraph (ii) of paragraph (a) of subdivision three of section twenty-five hundred fifty-nine of the public health law and submitted to the insurer shall be considered as part of precertification, preauthorization and/or medical necessity review imposed under such policy of accident and health insurance, including a contract issued pursuant to article forty-three of this chapter. Visit limitations and other terms and conditions of the policy will continue to apply to early intervention services. However, any visits used for early intervention program services shall not reduce the number of visits otherwise available under the policy or contract for such services.

24 (c) Any right of subrogation to benefits which a municipality or provider is entitled in accordance with paragraph (d) of subdivision three of section twenty-five hundred fifty-nine of the public health law shall be valid and enforceable to the extent benefits are available under any accident and health insurance policy. The right of subrogation does not attach to insurance benefits paid or provided under any accident and health insurance policy prior to receipt by the insurer of written notice from the municipality or provider, as applicable. The insurer shall provide [~~the~~ such] municipality and service coordinator with information on the extent of benefits available to the covered person under such policy within fifteen days of the insurer's receipt of written request and notice authorizing such release. The service coordinator shall provide such information to the rendering provider assigned to provide services to the child.

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

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

48 (a) Providers of evaluations and early intervention services, hereinafter collectively referred to in this subdivision as "provider" or "providers", shall in the first instance and where applicable, seek payment from all third party payors including governmental agencies prior to claiming payment from a given municipality for evaluations conducted under the program and for services rendered to eligible children, provided that, the obligation to seek payment shall not apply to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime

1 limit specified in the insured's policy. If such a claim is denied by a
2 third party payor, the provider shall request an appeal of such denial,
3 in a manner prescribed by the department, in accordance with article
4 forty-nine of this chapter and article forty-nine of the insurance law,
5 and shall receive a determination of such appeal prior to submitting a
6 claim for payment from another third party payor or from the munici-
7 pality. A provider shall not delay or discontinue services to eligible
8 children pending payment of the claim or pending a determination of any
9 denial for payment that has been appealed.

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

14 (ii) [~~Parents~~] In a timeline and format as prescribed by the depart-
15 ment, the municipality shall request from the parent, and the parent
16 shall provide the municipality [~~and the service coordinator~~], who shall
17 provide such documentation to the service coordinator and provider,
18 with: (A) a written order, referral [~~from a primary care provider as~~
19 documentation, for eligible children, of] or recommendation, signed by a
20 physician, physician assistant or nurse practitioner, for the medical
21 necessity of early intervention evaluation services to determine program
22 eligibility for early intervention services;

23 (B) a copy of an individualized family service plan agreed upon pursu-
24 ant to section twenty-five hundred forty-five of this title that
25 contains documentation, signed by a physician, physician assistant or
26 nurse practitioner on the medical necessity of early intervention
27 services included in the individualized family service plan;

28 (C) written consent to contact the child's physician, physician
29 assistant or nurse practitioner for purposes of obtaining a signed writ-
30 ten order, referral, or recommendation as documentation for the medical
31 necessity of early intervention evaluation services to determine program
32 eligibility for early intervention services; or

33 (D) written consent to contact the child's physician, physician
34 assistant or nurse practitioner for purposes of obtaining signed
35 documentation of the medical necessity of early intervention services
36 contained within the individualized family service plan agreed upon
37 pursuant to section twenty-five hundred forty-five of this title.

38 (iii) [~~providers~~] Providers shall utilize the department's fiscal
39 agent and data system for claiming payment and for requesting appeals of
40 claims denied by third party payors, for evaluations and services
41 rendered under the early intervention program.

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

45 (d) A municipality, or its designee, and a provider shall be subrogat-
46 ed, to the extent of the expenditures by such municipality or for early
47 intervention services furnished to persons eligible for benefits under
48 this title, to any rights such person may have or be entitled to from
49 third party reimbursement. The provider shall submit any documentation
50 obtained pursuant to subparagraph (ii) of paragraph (a) of this subdivi-
51 sion and shall submit notice to the insurer or plan administrator of his
52 or her exercise of such right of subrogation upon the provider's assign-
53 ment as the early intervention service provider for the child. The right
54 of subrogation does not attach to benefits paid or provided under any
55 health insurance policy or health benefits plan prior to receipt of

1 written notice of the exercise of subrogation rights by the insurer or
2 plan administrator providing such benefits.

3 § 8. Subdivision 7 of section 4900 of the public health law, as
4 amended by chapter 558 of the laws of 1999, is amended to read as
5 follows:

6 7. "Health care provider" means a health care professional or a facil-
7 ity licensed pursuant to articles twenty-eight, thirty-six, forty-four
8 or forty-seven of this chapter [~~or~~], a facility licensed pursuant to
9 article nineteen, twenty-three, thirty-one or thirty-two of the mental
10 hygiene law, qualified personnel pursuant to title two-A of article
11 twenty-five of this chapter or an agency as defined by the department of
12 health in regulations promulgated pursuant to title two-A of article
13 twenty-five of this chapter.

14 § 9. Subdivision 1 of section 4904 of the public health law, as added
15 by chapter 705 of the laws of 1996, is amended to read as follows:

16 1. An enrollee, the enrollee's designee and, in connection with retro-
17 spective adverse determinations or adverse determinations for services
18 rendered in accordance title two-A of article twenty-five of this chap-
19 ter, an enrollee's health care provider, may appeal an adverse determi-
20 nation rendered by a utilization review agent.

21 § 10. The opening paragraph of subdivision 2 of section 4910 of the
22 public health law, as amended by chapter 237 of the laws of 2009, is
23 amended to read as follows:

24 An enrollee, the enrollee's designee and, in connection with concur-
25 rent and retrospective adverse determinations or adverse determinations
26 for services rendered in accordance with title two-A of article twenty-
27 five of this chapter, an enrollee's health care provider, shall have the
28 right to request an external appeal when:

29 § 11. Paragraph (a) of subdivision 4 of section 4914 of the public
30 health law, as amended by chapter 237 of the laws of 2009, is amended to
31 read as follows:

32 (a) Except as provided in paragraphs (b) and (c) of this subdivision,
33 payment for an external appeal, including an appeal for services
34 rendered in accordance with title two-A of article twenty-five of this
35 chapter, shall be the responsibility of the health care plan. The health
36 care plan shall make payment to the external appeal agent within forty-
37 five days from the date the appeal determination is received by the
38 health care plan, and the health care plan shall be obligated to pay
39 such amount together with interest thereon calculated at a rate which is
40 the greater of the rate set by the commissioner of taxation and finance
41 for corporate taxes pursuant to paragraph one of subsection (e) of
42 section one thousand ninety-six of the tax law or twelve percent per
43 annum, to be computed from the date the bill was required to be paid, in
44 the event that payment is not made within such forty-five days.

45 § 12. Subsection (g) of section 4900 of the insurance law, as amended
46 by chapter 558 of the laws of 1999, is amended to read as follows:

47 (g) "Health care provider" means a health care professional or a
48 facility licensed pursuant to article twenty-eight, thirty-six, forty-
49 four or forty-seven of the public health law [~~or~~], a facility licensed
50 pursuant to article nineteen, twenty-three, thirty-one or thirty-two of
51 the mental hygiene law, qualified personnel pursuant to title two-A of
52 article twenty-five of the public health law, or an agency as defined by
53 the department of health in regulations promulgated pursuant to title
54 two-A of article twenty-five of the public health law.

55 § 13. Subsection (a) of section 4904 of the insurance law, as added by
56 chapter 705 of the laws of 1996, is amended to read as follows:

1 (a) An insured, the insured's designee and, in connection with retro-
2 spective adverse determinations or adverse determinations for services
3 rendered in accordance with title two-A of article twenty-five of the
4 public health law, an insured's health care provider, may appeal an
5 adverse determination rendered by a utilization review agent.

6 § 14. The opening paragraph of subsection (b) of section 4910 of the
7 insurance law, as amended by chapter 237 of the laws of 2009, is amended
8 to read as follows:

9 An insured, the insured's designee and, in connection with concurrent
10 and retrospective adverse determinations or adverse determinations for
11 services rendered in accordance with title two-A of article twenty-five
12 of the public health law, an insured's health care provider, shall have
13 the right to request an external appeal when:

14 § 15. Paragraph 1 of subsection (d) of section 4914 of the insurance
15 law, as amended by chapter 237 of the laws of 2009, is amended to read
16 as follows:

17 (1) Except as provided in paragraphs two and three of this subsection,
18 payment for an external appeal, including an appeal for services
19 rendered in accordance with title two-A of article twenty-five of the
20 public health law, shall be the responsibility of the health care plan.
21 The health care plan shall make payment to the external appeal agent
22 within forty-five days, from the date the appeal determination is
23 received by the health care plan, and the health care plan shall be
24 obligated to pay such amount together with interest thereon calculated
25 at a rate which is the greater of the rate set by the commissioner of
26 taxation and finance for corporate taxes pursuant to paragraph one of
27 subsection (e) of section one thousand ninety-six of the tax law or
28 twelve percent per annum, to be computed from the date the bill was
29 required to be paid, in the event that payment is not made within such
30 forty-five days.

31 § 16. Paragraph 1 of subsection (c) of section 109 of the insurance
32 law, as amended by section 55 of part A of chapter 62 of the laws of
33 2011, is amended to read as follows:

34 (1) If the superintendent finds after notice and hearing that any
35 [~~authorized~~] insurer, representative of the insurer, [~~licensed~~] insur-
36 ance agent, [~~licensed~~] insurance broker, [~~licensed~~] adjuster, or any
37 other person or entity [~~licensed, certified, registered, or authorized~~
38 ~~pursuant~~] subject to this chapter, has wilfully violated the provisions
39 of this chapter or any regulation promulgated thereunder, then the
40 superintendent may order the person or entity to pay to the people of
41 this state a penalty in a sum not exceeding the greater of: (i) one
42 thousand dollars for each offense; or (ii) where the violation relates
43 to either the failure to pay a claim or making a false statement to the
44 superintendent or the department, the greater of (A) ten thousand
45 dollars for each offense, or (B) a multiple of two times the aggregate
46 damages attributable to the violation, or (C) a multiple of two times
47 the aggregate economic gain attributable to the violation.

48 § 17. Upon enactment of the amendments to paragraph (a) of subdivision
49 3 of section 2559 of the public health law made by section six of this
50 act, providers of early intervention services shall receive a two
51 percent increase in rates of reimbursement for early intervention
52 services provided that for payments made for early intervention services
53 to persons eligible for medical assistance pursuant to title eleven of
54 article five of the social services law, the two percent increase shall
55 be subject to the availability of federal financial participation.

1 § 18. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on or after April 1, 2018; provided
3 that the amendments to section 3235-a of the insurance law made by
4 section five of this act shall apply only to policies and contracts
5 issued, renewed, modified, altered or amended on or after such date.

6

PART P

7 Section 1. The opening paragraph of paragraph (b) of subdivision 5-a
8 of section 2807-m of the public health law, as amended by section 6 of
9 part H of chapter 57 of the laws of 2017, is amended to read as follows:

10 Nine million one hundred twenty thousand dollars annually for the
11 period January first, two thousand nine through December thirty-first,
12 two thousand ten, and two million two hundred eighty thousand dollars
13 for the period January first, two thousand eleven, through March thir-
14 ty-first, two thousand eleven, nine million one hundred twenty thousand
15 dollars each state fiscal year for the period April first, two thousand
16 eleven through March thirty-first, two thousand fourteen, up to eight
17 million six hundred twelve thousand dollars each state fiscal year for
18 the period April first, two thousand fourteen through March thirty-
19 first, two thousand seventeen, and up to eight million six hundred
20 twelve thousand dollars each state fiscal year for the period April
21 first, two thousand seventeen through March thirty-first, two thousand
22 [~~twenty~~] eighteen, shall be set aside and reserved by the commissioner
23 from the regional pools established pursuant to subdivision two of this
24 section to be allocated regionally with two-thirds of the available
25 funding going to New York city and one-third of the available funding
26 going to the rest of the state and shall be available for distribution
27 as follows:

28 § 2. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section
29 2807-s of the public health law, as amended by section 4 of part H of
30 chapter 57 of the laws of 2017, is amended to read as follows:

31 (xiii) twenty-three million eight hundred thirty-six thousand dollars
32 each state fiscal year for the period April first, two thousand twelve
33 through March thirty-first, two thousand eighteen, and fifteen million
34 two hundred twenty-four thousand dollars for each state fiscal year for
35 the period April first, two thousand eighteen through March thirty-
36 first, two thousand twenty;

37 § 3. Subdivision 9 of section 2803 of the public health law is
38 REPEALED.

39 § 4. This act shall take effect immediately; provided, however, that
40 the amendments to subparagraph (xiii) of paragraph (a) of subdivision 7
41 of section 2807-s of the public health law made by section two of this
42 act shall not affect the expiration of such section and shall be deemed
43 to expire therewith.

44

PART Q

45 Section 1. The public health law is amended by adding a new section
46 2825-f to read as follows:

47 § 2825-f. Health care facility transformation program: statewide III.
48 1. A statewide health care facility transformation program is hereby
49 established under the joint administration of the commissioner and the
50 president of the dormitory authority of the state of New York for the
51 purpose of strengthening and protecting continued access to health care
52 services in communities. The program shall provide funding in support of

1 capital projects, debt retirement, working capital or other non-capital
2 projects that facilitate health care transformation activities includ-
3 ing, but not limited to, merger, consolidation, acquisition or other
4 activities intended to: (a) create financially sustainable systems of
5 care; (b) preserve or expand essential health care services; (c) modern-
6 ize obsolete facility physical plants and infrastructure; (d) foster
7 participation in value based payments arrangements including, but not
8 limited to, contracts with managed care plans and accountable care
9 organizations; (e) for residential health care facilities, increase the
10 quality of resident care or experience; or (f) improve health informa-
11 tion technology infrastructure, including telehealth, to strengthen the
12 acute, post-acute and long-term care continuum. Grants shall not be
13 available to support general operating expenses. The issuance of any
14 bonds or notes hereunder shall be subject to section sixteen hundred
15 eighty-r of the public authorities law and the approval of the director
16 of the division of the budget, and any projects funded through the iss-
17 uance of bonds or notes hereunder shall be approved by the New York state
18 public authorities control board, as required under section fifty-one of
19 the public authorities law.

20 2. The commissioner and the president of the dormitory authority shall
21 enter into an agreement, subject to approval by the director of the
22 budget, and subject to section sixteen hundred eighty-r of the public
23 authorities law, for the purposes of awarding, distributing, and admin-
24 istering the funds made available pursuant to this section. Such funds
25 may be distributed by the commissioner for grants to general hospitals,
26 residential health care facilities, diagnostic and treatment centers and
27 clinics licensed pursuant to this chapter or the mental hygiene law, and
28 community-based health care providers as defined in subdivision three of
29 this section for grants in support of the purposes set forth in this
30 section. A copy of such agreement, and any amendments thereto, shall be
31 provided to the chair of the senate finance committee, the chair of the
32 assembly ways and means committee, and the director of the division of
33 the budget no later than thirty days prior to the release of a request
34 for applications for funding under this program. Projects awarded, in
35 whole or part, under sections twenty-eight hundred twenty-five-a and
36 twenty-eight hundred twenty-five-b of this article shall not be eligible
37 for grants or awards made available under this section.

38 3. Notwithstanding section one hundred sixty-three of the state
39 finance law or any inconsistent provision of law to the contrary, up to
40 four hundred and twenty-five million dollars of the funds appropriated
41 for this program shall be awarded without a competitive bid or request
42 for proposal process for grants to health care providers (hereafter
43 "applicants"). Provided, however, that a minimum of: (a) sixty million
44 dollars of total awarded funds shall be made to community-based health
45 care providers, which for purposes of this section shall be defined as a
46 diagnostic and treatment center licensed or granted an operating certif-
47 icate under this article; a mental health clinic licensed or granted an
48 operating certificate under article thirty-one of the mental hygiene
49 law; a substance use disorder treatment clinic licensed or granted an
50 operating certificate under article thirty-two of the mental hygiene
51 law; a primary care provider; a home care provider certified or licensed
52 pursuant to article thirty-six of this chapter; or an assisted living
53 program approved by the department pursuant to subdivision one of
54 section four hundred sixty one-1 of the social services law; and (b)
55 forty-five million dollars of the total awarded funds shall be made to
56 residential health care facilities.

1 4. Notwithstanding any inconsistent subdivision of this section or any
2 other provision of law to the contrary, the commissioner, with the
3 approval of the director of the budget, may expend up to twenty million
4 dollars of the funds appropriated for this program and designated for
5 community-based health care providers pursuant to subdivision three of
6 this section for awards made pursuant to paragraph (1) of subdivision
7 three of section four hundred sixty-one-1 of the social services law.

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

10 (a) the extent to which the proposed project will contribute to the
11 integration of health care services or the long term sustainability of
12 the applicant or preservation of essential health services in the commu-
13 nity or communities served by the applicant;

14 (b) the extent to which the proposed project or purpose is aligned
15 with delivery system reform incentive payment ("DSRIP") program goals
16 and objectives;

17 (c) the geographic distribution of funds;

18 (d) the relationship between the proposed project and identified
19 community need;

20 (e) the extent to which the applicant has access to alternative
21 financing;

22 (f) the extent to which the proposed project furthers the development
23 of primary care and other outpatient services;

24 (g) the extent to which the proposed project benefits Medicaid enrol-
25 lees and uninsured individuals;

26 (h) the extent to which the applicant has engaged the community
27 affected by the proposed project and the manner in which community
28 engagement has shaped such project; and

29 (i) the extent to which the proposed project addresses potential risk
30 to patient safety and welfare.

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

38 7. The department shall provide a report on a quarterly basis to the
39 chairs of the senate finance, assembly ways and means, and senate and
40 assembly health committees, until such time as the department determines
41 that the projects that receive funding pursuant to this section are
42 substantially complete. Such reports shall be submitted no later than
43 sixty days after the close of the quarter, and shall include, for each
44 award, the name of the applicant, a description of the project or
45 purpose, the amount of the award, disbursement date, and status of
46 achievement of process and performance metrics and milestones pursuant
47 to subdivision six of this section.

48 § 2. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after April 1, 2018.

50

PART R

51 Section 1. Section 1373 of the public health law is amended by adding
52 three new subdivisions 1-a, 1-b and 1-c to read as follows:

53 1-a. Every governmental unit or agency that is charged with or other-
54 wise accountable or responsible for administration and enforcement of

1 the New York state uniform fire prevention and building code, or any
2 other applicable building and fire prevention code, with respect to any
3 residential or non-residential building that is located within an area
4 designated as high risk by the commissioner pursuant to subdivision one
5 of this section, shall submit to the department aggregate reports summa-
6 rizing the outcomes of inspections and remediation conducted pursuant to
7 regulations adopted by the secretary of state pursuant to subdivision
8 seven of section three hundred eighty-one of the executive law, in a
9 format to be determined by the commissioner in consultation with the
10 secretary of state.

11 1-b. (a) The commissioner and the secretary of state shall have the
12 power to determine, individually or jointly, in such manner as he, she,
13 or they deem appropriate, the status of compliance by any governmental
14 unit or agency referred to in subdivision one-a of this section, includ-
15 ing but not limited to any city with a population of over one million,
16 with subdivision seven of section three hundred eighty-one of the execu-
17 tive law and the rules and regulations promulgated thereunder. If the
18 commissioner or the secretary of state, individually or jointly, deter-
19 mine that any such governmental unit or agency is not in compliance with
20 subdivision seven of section three hundred eighty-one of the executive
21 law or any regulations promulgated thereunder, the commissioner may take
22 any of the following actions, either individually or in combination in
23 any sequence:

24 (i) Refer, or request the secretary of state to refer, the matter to
25 the attorney general to institute in the name of the commissioner or the
26 secretary of state an action or proceeding seeking appropriate legal or
27 equitable relief to require such government unit or agency, including a
28 city with a population over one million, to comply with such rules and
29 regulations;

30 (ii) Require the governmental unit or agency in violation of subdivi-
31 sion seven of section three hundred eighty-one of the executive law, to
32 create a corrective action plan, in consultation with the local health
33 department, which shall require the government unit or agency to come
34 into compliance with subdivision seven of section three hundred eighty-
35 one of the executive law and to discontinue any paint condition condu-
36 cive to lead poisoning in any residential or non-residential building
37 located within such government unit or agency's jurisdiction;

38 (iii) Investigate and examine the actions of the governmental unit or
39 agency in violation of subdivision seven of section three hundred eight-
40 y-one of the executive law or of the rules and regulations promulgated
41 thereunder, and declare that such governmental unit or agency is main-
42 taining a public nuisance and:

43 (A) Require the jurisdictional local health department to investigate,
44 identify, and order the discontinuance of a paint condition conducive to
45 lead poisoning in any residential or non-residential building located
46 within the governmental unit or agency subject to the commissioner's
47 declaration of a public nuisance; or

48 (B) Investigate, identify and order, the discontinuance of a paint
49 condition conducive to lead poisoning in any residential or non-residen-
50 tial building located within the governmental unit or agency subject to
51 the commissioner's declaration of a public nuisance.

52 (b) The expense of an investigation pursuant to paragraph (a) of this
53 subdivision, and the discontinuance of any paint conditions conducive to
54 lead poisoning identified during such investigation, shall be paid by
55 the governmental unit or agency determined by the commissioner to have
56 maintained a public nuisance pursuant to this subdivision.

1 1-c. All paint on any residential building which is located in an area
2 designated as high risk by the commissioner pursuant to subdivision one
3 of this section and on which the original construction was completed
4 prior to January first, nineteen hundred seventy-eight, and all paint on
5 the exterior of any non-residential building which is located in an area
6 designated as high risk by the commissioner pursuant to subdivision one
7 of this section and on which the original construction was completed
8 prior to January first, nineteen hundred seventy-eight, shall be
9 presumed to be lead-based. This presumption may be overcome by a certif-
10 ication by a lead-based paint inspector or risk assessor that the prop-
11 erty has been determined through a lead-based paint inspection conducted
12 in accordance with appropriate federal regulations not to contain lead-
13 based paint, or by such other means as may be prescribed by the rules
14 and regulations adopted by the secretary of state pursuant to paragraph
15 c of subdivision seven of section three hundred eighty-one of the execu-
16 tive law.

17 § 2. Section 378 of the executive law is amended by adding a new
18 subdivision 17 to read as follows:

19 17. For any area designated as high risk by the commissioner of health
20 pursuant to subdivision one of section thirteen hundred seventy-three of
21 the public health law, a requirement that the interior and exterior of
22 any residential building that is presumed to have lead-based paint
23 pursuant to subdivision one-c of section thirteen hundred seventy-three
24 of the public health law, and the exterior of any non-residential build-
25 ing that is presumed to have lead-based paint pursuant to subdivision
26 one-c of section thirteen hundred seventy-three of the public health
27 law, be maintained in a condition such that the paint thereon does not
28 become deteriorated paint, unless the deteriorated paint surfaces
29 comprise a minimal surface area. In a city with a population of over one
30 million, such city's local building and fire prevention codes shall
31 include provisions at least as stringent as the provisions of this
32 subdivision.

33 § 3. Section 381 of the executive law is amended by adding a new
34 subdivision 7 to read as follows:

35 7. Notwithstanding any other provision of law, the secretary, in
36 consultation with the commissioner of health, shall promulgate rules and
37 regulations with respect to governmental units and agencies that are
38 charged with or otherwise accountable or responsible for administration
39 and enforcement of the New York state uniform code, or any other appli-
40 cable building and fire prevention code, with respect to any residential
41 or non-residential building located in an area designated as high risk
42 by the commissioner of health pursuant to subdivision one of section
43 thirteen hundred seventy-three of the public health law:

44 a. Requiring that such governmental unit or agency conduct inspections
45 of all residential rental buildings in such high risk areas periodically
46 and at specified times including, but not limited to, as part of an
47 application for a certificate of occupancy, a renewal of a certificate
48 of occupancy, or based upon the filing of a complaint. Such inspections
49 shall include at a minimum a visual assessment for deteriorated paint
50 and bare soil present within the dripline of the building.

51 b. Establishing remedial actions that such governmental unit or agency
52 may require the owner or other person responsible for maintenance of the
53 subject property to take to address violations of the New York state
54 uniform code provisions, and other applicable building and fire
55 prevention code provisions, adopted pursuant to subdivision seventeen of

1 section three hundred seventy-eight of this article, which shall include
2 as appropriate:

3 (i) Obtaining certification by a lead-based paint inspector or risk
4 assessor that the property has been determined through a lead-based
5 paint inspection conducted in accordance with appropriate federal regu-
6 lations not to contain lead-based paint.

7 (ii) Obtaining certification by a lead-based paint inspector or risk
8 assessor that all cited violations have been abated, or interim controls
9 implemented, and clearance has been achieved in accordance with the New
10 York state uniform code or other applicable building and fire prevention
11 codes.

12 (iii) Where exterior deteriorated paint violations, including deteri-
13 orated paint violations on an open porch, and/or bare soil violations
14 are cited, or where interior deteriorated paint violations are cited in
15 a common area, clearance may be established through a visual assessment
16 by a local code enforcement officer after reduction measures have been
17 implemented.

18 c. Establishing standards for a clearance examination and report and
19 for certifications or other documentation required to overcome the
20 presumption created by subdivision one-c of section thirteen hundred
21 seventy-three of the public health law.

22 Notwithstanding any other provision of law, the rules and regulations
23 promulgated pursuant to this subdivision shall, with respect to all
24 governmental units and agencies other than cities with a population of
25 over one million, be considered to be part of the minimum standards
26 adopted pursuant to subdivision one of this section; provided, however,
27 that the closing paragraph of subdivision one of this section shall not
28 apply to inspections required by the rules and regulations promulgated
29 pursuant to this subdivision. Any governmental unit or agency other than
30 a city with a population of over one million that fails to comply with
31 the rules and regulations promulgated pursuant to this subdivision shall
32 be subject to the actions authorized by subdivision four of this
33 section. Any governmental unit or agency, including but not limited to a
34 city with a population of over one million, that fails to comply with
35 such rules and regulations shall also be subject to the actions author-
36 ized by subdivision one-b of section thirteen hundred seventy-three of
37 the public health law.

38 § 4. Paragraphs b and c of subdivision 1 of section 223-b of the real
39 property law, as amended by chapter 584 of the laws of 1991, are amended
40 and a new paragraph d is added to read as follows:

41 b. Actions taken in good faith, by or in behalf of the tenant, to
42 secure or enforce any rights under the lease or rental agreement, under
43 section two hundred thirty-five-b of this [~~chapter~~] **article**, or under
44 any other law of the state of New York, or of its governmental subdivi-
45 sions, or of the United States which has as its objective the regulation
46 of premises used for dwelling purposes or which pertains to the offense
47 of rent gouging in the third, second or first degree; [~~or~~]

48 c. The tenant's participation in the activities of a tenant's organ-
49 ization[~~+~~]; or

50 d. The tenant's reporting of a suspected lead-based paint hazard to
51 the owner or to any state or local agency.

52 § 5. This act shall take effect on the one hundred eightieth day after
53 it shall have become a law; provided that any rules, regulations, local
54 laws, or ordinances necessary to implement the provisions of this act on
55 its effective date are authorized to be made, adopted, or enacted on or
56 before such effective date.

1

PART S

2 Section 1. This Part enacts into law major components of legislation
3 which are necessary to effectuate recommendations made as part of the
4 Regulatory Modernization Initiative undertaken by the Department of
5 Health. Each component is wholly contained within a Subpart identified
6 as Subparts A through C. The effective date for each particular
7 provision contained within such Subpart is set forth in the last section
8 of such Subpart. Any provision in any section contained within a
9 Subpart, including the effective date of the Subpart, which makes a
10 reference to a section "of this act," when used in connection with that
11 particular component, shall be deemed to mean and refer to the corre-
12 sponding section of the Subpart in which it is found. Section three of
13 this Part sets forth the general effective date of this Part.

14

SUBPART A

15 Section 1. The public health law is amended by adding a new section
16 2805-z to read as follows:

17 § 2805-z. Community paramedicine collaboratives. 1. For purposes of
18 this section:

19 (a) A "community paramedicine collaborative" shall mean an initiative
20 comprised of the participants set forth in subdivision two of this
21 section and organized to carry out a community paramedicine program as
22 defined in paragraph (b) of this subdivision.

23 (b) A "community paramedicine program" shall mean a program carried
24 out by a community paramedicine collaborative for the purpose of achiev-
25 ing objectives identified by the collaborative, pursuant to which indi-
26 viduals who are certified under regulations issued pursuant to section
27 three thousand two of this chapter shall perform community paramedicine
28 services in residential settings other than the initial emergency
29 medical care and transportation of sick and injured persons, provided
30 that such individuals are:

31 (i) certified pursuant to article thirty of this chapter;

32 (ii) employees or volunteers of an emergency medical services provider
33 that participates in the collaborative;

34 (iii) providing services that are within their education or training;
35 and

36 (iv) working under medical control as defined by subdivision fifteen
37 of section three thousand one of this title.

38 (c) "Community paramedicine services" shall mean services provided in
39 residential settings by individuals who are certified under regulations
40 issued pursuant to section three thousand two of this chapter and
41 employees or volunteers of an emergency medical services provider, other
42 than the initial emergency medical care and transportation of sick and
43 injured persons.

44 (d) An "emergency medical services provider" shall mean an ambulance
45 service or an advanced life support first response service that is
46 certified under article thirty of this chapter to provide ambulance or
47 advanced life support first response services and staffed by individuals
48 who are certified under regulations issued pursuant to section three
49 thousand two of this chapter to provide basic or advanced life support.

50 2. (a) At a minimum, a community paramedicine collaborative shall
51 include the participation of at least one hospital licensed under this
52 article, at least one physician who may but need not be employed or
53 otherwise affiliated with a hospital participating in such collabora-

1 tive, at least one emergency medical services provider and, if the
2 community paramedicine services are to be provided in a private resi-
3 dence, at least one home care services agency licensed or certified
4 under article thirty-six of this chapter.

5 (b) Where the collaborative's objectives include a focus on serving
6 individuals with behavioral health conditions and/or individuals with
7 developmental disabilities, the collaborative shall include the partic-
8 ipation of providers operated, licensed, or certified by the office of
9 mental health, the office of alcoholism and substance abuse services,
10 and/or the office for people with developmental disabilities, as appro-
11 priate.

12 (c) Such collaborative may also include additional participants such
13 as payors and local health departments.

14 3. A community paramedicine collaborative may establish a community
15 paramedicine program to provide community paramedicine services to indi-
16 viduals living in residential settings for the purpose of achieving
17 objectives identified by the collaborative such as: preventing emergen-
18 cies, avoidable emergency room visits, avoidable medical transport, and
19 potentially avoidable hospital admissions and readmissions; improving
20 outcomes following discharge from a general hospital or other inpatient
21 admission; and/or promoting self-management of health or behavioral
22 health care conditions.

23 4. A community paramedicine collaborative shall be required to provide
24 or arrange for appropriate orientation and training for staff partic-
25 ipating in the community paramedicine program. In all cases, such orien-
26 tation and training shall address the assessment of the needs of indi-
27 viduals with behavioral health conditions and individuals with
28 developmental disabilities.

29 5. An emergency medical services provider participating in a community
30 paramedicine collaborative shall: (a) ensure that the provision of
31 community paramedicine services occurs within the provider's primary
32 operating territory pursuant to article thirty of this chapter; and (b)
33 make reasonable efforts to ensure that it has sufficiently staffed the
34 provision of initial emergency medical care and transportation of sick
35 and injured persons before making staff available to provide community
36 paramedicine services.

37 6. (a) No community paramedicine collaborative shall begin providing
38 services under a community paramedicine program until it has notified
39 the department of the initiation of such collaborative by:

40 (i) identifying the participants of the collaborative and the individ-
41 ual who will serve as the point of contact;

42 (ii) describing the goals of the collaborative in carrying out a
43 community paramedicine program;

44 (iii) describing the population to be served by the community paramed-
45 icine program and the geographic area in which the program will focus;

46 (iv) identifying the services to be offered under the community param-
47 edicine program and the collaborative participants that will provide
48 such services;

49 (v) describing the collaborative's plan to assure, to the extent
50 possible, that care provided under the community paramedicine program is
51 coordinated with other providers of the individuals served;

52 (vi) describing the quality assurance and improvement procedures that
53 will be used by the collaborative in carrying out the community paramed-
54 icine program; and

55 (vii) identifying the date of the anticipated start of activities.

56 (b) A community paramedicine collaborative shall:

1 (i) promptly update the department as to any changes in the informa-
2 tion required under paragraph (a) of this subdivision; and

3 (ii) provide information to the department about the collaborative's
4 activities and outcomes at a frequency and in a manner determined by the
5 department, which at a minimum shall include an annual report.

6 7. Nothing in this section shall be deemed to prohibit the performance
7 of any tasks or responsibilities by any person licensed or certified
8 under this chapter or under title VIII of the education law or by any
9 entity licensed or certified under this article or under the mental
10 hygiene law, provided such tasks or responsibilities are permitted
11 pursuant to such statutory provisions.

12 § 2. Subdivision 15 of section 3001 of the public health law, as
13 amended by chapter 445 of the laws of 1993, is amended to read as
14 follows:

15 15. "Medical control" means: (a) advice and direction provided by a
16 physician or under the direction of a physician to certified first
17 responders, emergency medical technicians or advanced emergency medical
18 technicians who are providing medical care at the scene of an emergency
19 or en route to a health care facility; ~~and~~ (b) indirect medical
20 control including the written policies, procedures, and protocols for
21 prehospital emergency medical care and transportation developed by the
22 state emergency medical advisory committee, approved by the state emer-
23 gency medical services council and the commissioner, and implemented by
24 regional medical advisory committees; and (c) in a community paramedi-
25 cine program established by a community paramedicine collaborative
26 pursuant to section twenty-eight hundred five-z of this chapter, advice
27 and direction provided and policies, procedures, and protocols issued by
28 a physician within the collaborative who is responsible for the overall
29 clinical supervision of the community paramedicine program.

30 § 3. The public health law is amended by adding a new section 3001-a
31 to read as follows:

32 § 3001-a. Community paramedicine services. Notwithstanding any incon-
33 sistent provision of this article, an individual who is certified under
34 regulations issued pursuant to section three thousand two of this arti-
35 cle to provide basic or advanced life support may, in the course of his
36 or her work as an employee or volunteer of an ambulance service or an
37 advanced life support first response service certified under this arti-
38 cle, also participate as an employee or volunteer of such service in a
39 community paramedicine program established by a community paramedicine
40 collaborative pursuant to section twenty-eight hundred five-z of this
41 chapter.

42 § 4. Subdivision 2 of section 365-a of the social services law is
43 amended by adding a new paragraph (ff) to read as follows:

44 (ff) subject to the availability of federal financial participation,
45 community paramedicine services provided in accordance with the require-
46 ments of section twenty-eight hundred five-z of the public health law.

47 § 5. This act shall take effect immediately.

48 SUBPART B

49 Section 1. Subdivision 1 of section 2801 of the public health law, as
50 amended by chapter 397 of the laws of 2016, is amended to read as
51 follows:

52 1. "Hospital" means a facility or institution engaged principally in
53 providing services by or under the supervision of a physician or, in the
54 case of a dental clinic or dental dispensary, of a dentist, or, in the

1 case of a midwifery birth center, of a midwife, for the prevention,
2 diagnosis or treatment of human disease, pain, injury, deformity or
3 physical condition, including, but not limited to, a general hospital,
4 public health center, diagnostic center, treatment center, dental clinic,
5 dental dispensary, rehabilitation center other than a facility used
6 solely for vocational rehabilitation, nursing home, tuberculosis hospital,
7 chronic disease hospital, maternity hospital, midwifery birth
8 center, lying-in-asylum, out-patient department, out-patient lodge,
9 dispensary and a laboratory or central service facility serving one or
10 more such institutions, but the term hospital shall not include an
11 institution, sanitarium or other facility engaged principally in providing
12 services for the prevention, diagnosis or treatment of mental disability
13 and which is subject to the powers of visitation, examination,
14 inspection and investigation of the department of mental hygiene except
15 for those distinct parts of such a facility which provide hospital
16 service. The provisions of this article shall not apply to a facility or
17 institution engaged principally in providing services by or under the
18 supervision of the bona fide members and adherents of a recognized religious
19 organization whose teachings include reliance on spiritual means
20 through prayer alone for healing in the practice of the religion of such
21 organization and where services are provided in accordance with those
22 teachings. No provision of this article or any other provision of law
23 shall be construed to: (a) limit the volume of mental health or
24 substance use disorder services that can be provided by a provider of
25 primary care services licensed under this article and authorized to
26 provide integrated services in accordance with regulations issued by the
27 commissioner in consultation with the commissioner of the office of
28 mental health and the commissioner of the office of alcoholism and
29 substance abuse services, including regulations issued pursuant to
30 subdivision seven of section three hundred sixty-five-1 of the social
31 services law or part L of chapter fifty-six of the laws of two thousand
32 twelve; (b) require a provider licensed pursuant to article thirty-one
33 of the mental hygiene law or certified pursuant to article thirty-two of
34 the mental hygiene law to obtain an operating certificate from the
35 department if such provider has been authorized to provide integrated
36 services in accordance with regulations issued by the commissioner in
37 consultation with the commissioner of the office of mental health and
38 the commissioner of the office of alcoholism and substance abuse
39 services, including regulations issued pursuant to subdivision seven of
40 section three hundred sixty-five-1 of the social services law or part L
41 of chapter fifty-six of the laws of two thousand twelve.

42 § 2. Section 31.02 of the mental hygiene law is amended by adding a
43 new subdivision (f) to read as follows:

44 (f) No provision of this article or any other provision of law shall
45 be construed to require a provider licensed pursuant to article twenty-
46 eight of the public health law or certified pursuant to article thirty-
47 two of this chapter to obtain an operating certificate from the office
48 of mental health if such provider has been authorized to provide inte-
49 grated services in accordance with regulations issued by the commission-
50 er of the office of mental health in consultation with the commissioner
51 of the department of health and the commissioner of the office of alco-
52 holism and substance abuse services, including regulations issued pursu-
53 ant to subdivision seven of section three hundred sixty-five-1 of the
54 social services law or part L of chapter fifty-six of the laws of two
55 thousand twelve.

1 § 3. Subdivision (b) of section 32.05 of the mental hygiene law, as
2 amended by chapter 204 of the laws of 2007, is amended to read as
3 follows:

4 (b) (i) Methadone, or such other controlled substance designated by
5 the commissioner of health as appropriate for such use, may be adminis-
6 tered to an addict, as defined in section thirty-three hundred two of
7 the public health law, by individual physicians, groups of physicians
8 and public or private medical facilities certified pursuant to article
9 twenty-eight or thirty-three of the public health law as part of a chem-
10 ical dependence program which has been issued an operating certificate
11 by the commissioner pursuant to subdivision (b) of section 32.09 of this
12 article, provided, however, that such administration must be done in
13 accordance with all applicable federal and state laws and regulations.
14 Individual physicians or groups of physicians who have obtained authori-
15 zation from the federal government to administer buprenorphine to
16 addicts may do so without obtaining an operating certificate from the
17 commissioner. (ii) No provision of this article or any other provision
18 of law shall be construed to require a provider licensed pursuant to
19 article twenty-eight of the public health law or article thirty-one of
20 this chapter to obtain an operating certificate from the office of alco-
21 holism and substance abuse services if such provider has been authorized
22 to provide integrated services in accordance with regulations issued by
23 the commissioner of alcoholism and substance abuse services in consulta-
24 tion with the commissioner of the department of health and the commis-
25 sioner of the office of mental health, including regulations issued
26 pursuant to subdivision seven of section three hundred sixty-five-1 of
27 the social services law or part L of chapter fifty-six of the laws of
28 two thousand twelve.

29 § 4. This act shall take effect on the one hundred eightieth day after
30 it shall have become a law; provided, however, that the commissioner of
31 the department of health, the commissioner of the office of mental
32 health, and the commissioner of the office of alcoholism and substance
33 abuse services are authorized to issue any rule or regulation necessary
34 for the implementation of this act on or before its effective date.

35 SUBPART C

36 Section 1. Paragraphs (s) and (t) of subdivision 2 of section 2999-cc
37 of the public health law, as amended by chapter 454 of the laws of 2015,
38 are amended and a new paragraph (u) is added to read as follows:

39 (s) a hospice as defined in article forty of this chapter; [and]

40 (t) credentialed alcoholism and substance abuse counselors creden-
41 tialed by the office of alcoholism and substance abuse services or by a
42 credentialing entity approved by such office pursuant to section 19.07
43 of the mental hygiene law;

44 (u) providers authorized to provide services and service coordination
45 under the early intervention program pursuant to article twenty-five of
46 this chapter; and

47 (v) any other provider as determined by the commissioner pursuant to
48 regulation or, in consultation with the commissioner, by the commis-
49 sioner of the office of mental health, the commissioner of the office of
50 alcoholism and substance abuse services, or the commissioner of the
51 office for people with developmental disabilities pursuant to
52 regulation.

1 § 2. Subdivision 3 of section 2999-cc of the public health law, as
2 separately amended by chapters 238 and 285 of the laws of 2017, is
3 amended to read as follows:

4 3. "Originating site" means a site at which a patient is located at
5 the time health care services are delivered to him or her by means of
6 telehealth. Originating sites shall be limited to (a) facilities
7 licensed under articles twenty-eight and forty of this chapter~~[7];~~ (b)
8 facilities as defined in subdivision six of section 1.03 of the mental
9 hygiene law~~[7];~~ (c) private physician's or dentist's offices located
10 within the state of New York~~[7];~~ (d) any type of adult care facility
11 licensed under title two of article seven of the social services law~~[7];~~
12 (e) public, private and charter elementary and secondary schools, school
13 age child care programs, and child day care centers within the state of
14 New York; and~~[7, when a patient is receiving health care services by~~
15 ~~means of remote patient monitoring,~~ (f) the patient's place of resi-
16 dence located within the state of New York or other temporary location
17 located within or outside the state of New York; subject to regulation
18 issued by the commissioner of the office of mental health, the commis-
19 sioner of the office of alcoholism and substance abuse services, and the
20 commissioner of the office for people with developmental disabilities.

21 § 3. Subdivision 7 of section 2999-cc of the public health law, as
22 added by chapter 6 of the laws of 2015, is amended to read as follows:

23 7. "Remote patient monitoring" means the use of synchronous or asyn-
24 chronous electronic information and communication technologies to
25 collect personal health information and medical data from a patient at
26 an originating site that is transmitted to a telehealth provider at a
27 distant site for use in the treatment and management of medical condi-
28 tions that require frequent monitoring. Such technologies may include
29 additional interaction triggered by previous transmissions, such as
30 interactive queries conducted through communication technologies or by
31 telephone. Such conditions shall include, but not be limited to, conges-
32 tive heart failure, diabetes, chronic obstructive pulmonary disease,
33 wound care, polypharmacy, mental or behavioral problems, and technolo-
34 gy-dependent care such as continuous oxygen, ventilator care, total
35 parenteral nutrition or enteral feeding. Remote patient monitoring
36 shall be ordered by a physician licensed pursuant to article one hundred
37 thirty-one of the education law, a nurse practitioner licensed pursuant
38 to article one hundred thirty-nine of the education law, or a midwife
39 licensed pursuant to article one hundred forty of the education law,
40 with which the patient has a substantial and ongoing relationship.

41 § 4. This act shall take effect on the ninetieth day after it shall
42 have become a law; provided, however, that the commissioner of the
43 department of health, the commissioner of the office of mental health,
44 the commissioner of the office of alcoholism and substance abuse
45 services, and the commissioner of the office for people with develop-
46 mental disabilities are authorized to issue any rule or regulation
47 necessary for the implementation of this act on or before its effective
48 date.

49 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
50 sion, section or subpart of this act shall be adjudged by any court of
51 competent jurisdiction to be invalid, such judgment shall not affect,
52 impair, or invalidate the remainder thereof, but shall be confined in
53 its operation to the clause, sentence, paragraph, subdivision, section
54 or subpart thereof directly involved in the controversy in which such
55 judgment shall have been rendered. It is hereby declared to be the

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

3 § 3. This act shall take effect immediately; provided, however, that
4 the applicable effective date of Subparts A through C of this act shall
5 be as specifically set forth in the last section of such Subparts.

6

PART T

7 Section 1. Subdivision (a) of section 31 of part B of chapter 59 of
8 the laws of 2016, amending the social services law relating to authoriz-
9 ing the commissioner of health to apply federally established consumer
10 price index penalties for generic drugs, and authorizing the commission-
11 er of health to impose penalties on managed care plans for reporting
12 late or incorrect encounter data, is amended to read as follows:

13 (a) section eleven of this act shall expire and be deemed repealed
14 March 31, [~~2018~~] 2023;

15 § 2. Subdivision 6-a of section 93 of part C of chapter 58 of the laws
16 of 2007, amending the social services law and other laws relating to
17 adjustments of rates, as amended by section 20 of part B of chapter 56
18 of the laws of 2013, is amended to read as follows:

19 6-a. section fifty-seven of this act shall expire and be deemed
20 repealed on [~~December 31, 2018~~] March 31, 2023; provided that the amend-
21 ments made by such section to subdivision 4 of section 366-c of the
22 social services law shall apply with respect to determining initial and
23 continuing eligibility for medical assistance, including the continued
24 eligibility of recipients originally determined eligible prior to the
25 effective date of this act, and provided further that such amendments
26 shall not apply to any person or group of persons if it is subsequently
27 determined by the Centers for Medicare and Medicaid services or by a
28 court of competent jurisdiction that medical assistance with federal
29 financial participation is available for the costs of services provided
30 to such person or persons under the provisions of subdivision 4 of
31 section 366-c of the social services law in effect immediately prior to
32 the effective date of this act.

33 § 3. Section 2 of part II of chapter 54 of the laws of 2016, amending
34 part C of chapter 58 of the laws of 2005 authorizing reimbursements for
35 expenditures made by or on behalf of social services districts for
36 medical assistance for needy persons and administration thereof, is
37 amended to read as follows:

38 § 2. This act shall take effect immediately and shall expire and be
39 deemed repealed [~~two years after it shall have become a law~~] March 31,
40 2023.

41 § 4. Section 3 of chapter 906 of the laws of 1984, amending the social
42 services law relating to expanding medical assistance eligibility and
43 the scope of services available to certain persons with disabilities, as
44 amended by section 25-a of part B of chapter 56 of the laws of 2013, is
45 amended to read as follows:

46 § 3. This act shall take effect on the thirtieth day after it shall
47 have become a law and shall be of no further force and effect after
48 [~~December 31, 2018~~] March 31, 2023, at which time the provisions of this
49 act shall be deemed to be repealed.

50 § 5. Section 4-a of part A of chapter 56 of the laws of 2013, amending
51 chapter 59 of the laws of 2011 amending the public health law and other
52 laws relating to general hospital reimbursement for annual rates relat-
53 ing to the cap on local Medicaid expenditures, as amended by section 9

1 of part I of chapter 57 of the laws of 2017, is amended to read as
2 follows:

3 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
4 2807-c of the public health law, section 21 of chapter 1 of the laws of
5 1999, or any other contrary provision of law, in determining rates of
6 payments by state governmental agencies effective for services provided
7 on and after January 1, [~~2019~~] 2017 through March 31, 2019, for inpa-
8 tient and outpatient services provided by general hospitals, for inpa-
9 tient services and adult day health care outpatient services provided by
10 residential health care facilities pursuant to article 28 of the public
11 health law, except for residential health care facilities or units of
12 such facilities providing services primarily to children under twenty-
13 one years of age, for home health care services provided pursuant to
14 article 36 of the public health law by certified home health agencies,
15 long term home health care programs and AIDS home care programs, and for
16 personal care services provided pursuant to section 365-a of the social
17 services law, the commissioner of health shall apply no greater than
18 zero trend factors attributable to the 2017, 2018, and 2019 calendar
19 [~~year~~] years in accordance with paragraph (c) of subdivision 10 of
20 section 2807-c of the public health law, provided, however, that such no
21 greater than zero trend factors attributable to such 2017, 2018, and
22 2019 calendar [~~year~~] years shall also be applied to rates of payment
23 provided on and after January 1, [~~2019~~] 2017 through March 31, 2019 for
24 personal care services provided in those local social services
25 districts, including New York city, whose rates of payment for such
26 services are established by such local social services districts pursu-
27 ant to a rate-setting exemption issued by the commissioner of health to
28 such local social services districts in accordance with applicable regu-
29 lations[~~r~~]; and provided further, however, that for rates of payment for
30 assisted living program services provided on and after January 1, [~~2019~~]
31 2017 through March 31, 2019, such trend factors attributable to the
32 2017, 2018, and 2019 calendar [~~year~~] years shall be established at no
33 greater than zero percent.

34 § 6. This act shall take effect immediately.

35 PART U

36 Section 1. Section 2 of part NN of chapter 58 of the laws of 2015,
37 amending the mental hygiene law relating to clarifying the authority of
38 the commissioners in the department of mental hygiene to design and
39 implement time-limited demonstration programs, is amended to read as
40 follows:

41 § 2. This act shall take effect immediately and shall expire and be
42 deemed repealed March 31, [~~2018~~] 2021.

43 § 2. This act shall take effect immediately.

44 PART V

45 Section 1. Section 7 of part R2 of chapter 62 of the laws of 2003,
46 amending the mental hygiene law and the state finance law relating to
47 the community mental health support and workforce reinvestment program,
48 the membership of subcommittees for mental health of community services
49 boards and the duties of such subcommittees and creating the community
50 mental health and workforce reinvestment account, as amended by section
51 3 of part G of chapter 60 of the laws of 2014, is amended to read as
52 follows:

1 § 7. This act shall take effect immediately and shall expire March 31,
2 [~~2018~~] 2021 when upon such date the provisions of this act shall be
3 deemed repealed.

4 § 2. This act shall take effect immediately.

5 PART W

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

9 9. "Appropriate institution" means: (a) a hospital operated by the
10 office of mental health or a developmental center operated by the office
11 for people with developmental disabilities; ~~(b)~~ (b) a hospital licensed
12 by the department of health which operates a psychiatric unit licensed
13 by the office of mental health, as determined by the commissioner
14 provided, however, that any such hospital that is not operated by the
15 state shall qualify as an "appropriate institution" only pursuant to the
16 terms of an agreement between the commissioner and the hospital ; or (c)
17 a mental health unit operating within a correctional facility or local
18 correctional facility; provided however, that any such mental health
19 unit operating within a local correctional facility shall qualify as an
20 "appropriate institution" only pursuant to the terms of an agreement
21 between the commissioner of mental health, director of community
22 services and the sheriff for the respective locality, and any such
23 mental health unit operating within a correctional facility shall quali-
24 fy as an "appropriate institution" only pursuant to the terms of an
25 agreement between the commissioner of mental health and the commissioner
26 of corrections and community supervision. Nothing in this article shall
27 be construed as requiring a hospital, correctional facility or local
28 correctional facility to consent to providing care and treatment to an
29 incapacitated person at such hospital, correctional facility or local
30 correctional facility. In a city with a population of more than one
31 million, any such unit shall be limited to twenty-five beds. The commis-
32 sioner of mental health shall promulgate regulations for demonstration
33 programs to implement restoration to competency within a correctional
34 facility or local correctional facility. Subject to annual appropri-
35 ation, the commissioner of mental health may, at such commissioner's
36 discretion, make funds available for state aid grants to any county that
37 develops and operates a mental health unit within a local correctional
38 facility pursuant to this section. Nothing in this article shall be
39 construed as requiring a hospital, correctional facility or local
40 correctional facility to consent to providing care and treatment to an
41 incapacitated person at such hospital, correctional facility or local
42 correctional facility.

43 § 2. This act shall take effect immediately and shall be deemed to
44 have been in full force and effect on and after April 1, 2018; provided,
45 however, this act shall expire and be deemed repealed March 31, 2023.

46 PART X

47 Section 1. Section 3 of part A of chapter 111 of the laws of 2010
48 amending the mental hygiene law relating to the receipt of federal and
49 state benefits received by individuals receiving care in facilities
50 operated by an office of the department of mental hygiene, as amended by
51 section 1 of part LL of chapter 58 of the laws of 2015, is amended to
52 read as follows:

1 § 3. This act shall take effect immediately; and shall expire and be
2 deemed repealed June 30, [~~2018~~] 2021.

3 § 2. This act shall take effect immediately.

4 PART Y

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

8 10. (a) A person without a license from performing assessments such
9 as basic information collection, gathering of demographic data, and
10 informal observations, screening and referral used for general eligibil-
11 ity for a program or service and determining the functional status of an
12 individual for the purpose of determining need for services [~~unrelated~~
13 ~~to a behavioral health diagnosis or treatment plan. Such licensure~~
14 ~~shall not be required to create, develop or implement a service plan~~
15 ~~unrelated to a behavioral health diagnosis or treatment plan~~]; coun-
16 seling individuals regarding the appropriateness of benefits they are
17 eligible for; providing general counseling that is not psychotherapy and
18 assisting individuals or groups with difficult day to day problems such
19 as finding employment, locating sources of assistance, and organizing
20 community groups to work on a specific problem; providing peer services;
21 or to select for suitability and provide substance abuse treatment
22 services or group re-entry services to incarcerated individuals in state
23 correctional facilities.

24 (b) A person without a license from creating, developing or implement-
25 ing a service plan or recovery plan that is not a behavioral health
26 diagnosis or treatment plan. Such service or recovery plans shall
27 include, but are not limited to, coordinating, evaluating or determining
28 the need for, or the provision of the following services: job training
29 and employability[~~7~~]; housing[~~7~~]; homeless services and shelters for
30 homeless individuals and families; refugee services; residential, day or
31 community habilitation services; general public assistance[~~7~~]; in home
32 services and supports or home-delivered meals[~~7~~]; ~~investigations conducted~~
33 ~~or assessments made by~~; recovery supports; adult or child protective
34 services including investigations; detention as defined in section five
35 hundred two of the executive law; prevention and residential services
36 for victims of domestic violence; services for runaway and homeless
37 youth; foster care, adoption, preventive services or services in accord-
38 ance with an approved plan pursuant to section four hundred four of the
39 social services law, including, adoption and foster home studies and
40 assessments, family service plans, transition plans [~~and~~], permanency
41 planning activities, and case planning or case management as such terms
42 are defined in part four hundred twenty-eight of title eighteen of the
43 New York codes, rules and regulations; residential rehabilitation; home
44 and community based services; and de-escalation techniques, peer
45 services or skill development. [~~A license under this article shall not~~
46 ~~be required for persons to participate~~]

47 (c)(i) A person without a license from participating as a member of a
48 multi-disciplinary team to develop or implement a [~~behavioral health~~
49 ~~services or~~] treatment plan; provided [~~however,~~] that such team shall
50 include one or more professionals licensed under this article or arti-
51 cles one hundred thirty-one, one hundred thirty-nine, one hundred
52 fifty-four or one hundred sixty-three of this chapter who must directly
53 observe each patient either in person or by electronic means, prior to
54 the rendering of a diagnosis; and provided, further, that the activities

1 performed by members of the team shall be consistent with the scope of
2 practice for each team member licensed or authorized under title VIII of
3 this chapter, and those who are not so authorized may not independently
4 engage in the following restricted practices, but may assist licensed
5 professionals or multi-disciplinary team members with: the diagnosis of
6 mental, emotional, behavioral, addictive and developmental disorders and
7 disabilities; patient assessment and evaluating; the provision of
8 psychotherapeutic treatment; the provision of treatment other than
9 psychotherapeutic treatment; ~~[and/or]~~ or the development and implementa-
10 tion of assessment-based treatment plans as defined in section seventy-
11 seven hundred one of this ~~[chapter]~~ title.

12 (ii) As used in this subdivision, a treatment plan shall be limited to
13 plans for treatment within the following settings: facilities or
14 programs operating pursuant to article nineteen-G of the executive law
15 or pursuant to articles seven, sixteen, thirty-one and thirty-two of the
16 mental hygiene law.

17 (iii) As used in this subdivision, the term "assist" shall include the
18 provision of services within the practice of psychology, under the
19 supervision of a person licensed under this article.

20 (d) Provided, further, that nothing in this subdivision shall be
21 construed as requiring a license for any particular activity or function
22 based solely on the fact that the activity or function is not listed in
23 this subdivision.

24 12. Notwithstanding any other provision of law to the contrary, noth-
25 ing in this article shall be construed to prohibit or limit the activ-
26 ities or services provided by any person who is employed or who
27 commences employment in a program or service operated, regulated, fund-
28 ed, or approved by the department of mental hygiene, the office of chil-
29 dren and family services, the department of corrections and community
30 supervision, the office of temporary and disability assistance, the
31 state office for the aging and the department of health or a local
32 governmental unit as that term is defined in section 41.03 of the mental
33 hygiene law or a social services district as defined in section sixty-
34 one of the social services law on or before July first, two thousand
35 twenty. Provided, however, that any person who commences employment in
36 such program or service after July first, two thousand twenty and
37 performs services that are restricted under this article shall be appro-
38 priately licensed or authorized under this article.

39 § 2. Paragraph (f) of subdivision 1 of section 7702 of the education
40 law, as amended by chapter 230 of the laws of 2004, is amended and a new
41 paragraph (m) is added to read as follows:

42 (f) ~~[Assist]~~ General counseling that is not psychotherapy, and assist-
43 ing individuals or groups with difficult day to day problems such as
44 finding employment, locating sources of assistance, and organizing
45 community groups to work on a specific problem.

46 (m) Provide peer services.

47 § 3. Subdivision 7 of section 7706 of the education law, as added by
48 section 5 of part AA of chapter 57 of the laws of 2013, is amended and a
49 new subdivision 8 is added to read as follows:

50 7. (a) Prevent a person without a license from: performing assessments
51 such as basic information collection, gathering of demographic data, and
52 informal observations, screening and referral used for general eligibil-
53 ity for a program or service and determining the functional status of an
54 individual for the purpose of determining need for services ~~[unrelated~~
55 ~~to a behavioral health diagnosis or treatment plan. Such licensure shall~~
56 ~~not be required to create, develop or implement a service plan unrelated~~

1 ~~to a behavioral health diagnosis or treatment plan~~; counseling individ-
2 uals regarding the appropriateness of benefits they are eligible for;
3 providing general counseling that is not psychotherapy and assisting
4 individuals or groups with difficult day to day problems such as finding
5 employment, locating sources of assistance, and organizing community
6 groups to work on a specific problem; providing peer services; or to
7 select for suitability and provide substance abuse treatment services or
8 group re-entry services to incarcerated individuals in state correction-
9 al facilities.

10 (b) Prevent a person without a license from creating, developing or
11 implementing a service plan or recovery plan that is not a behavioral
12 health diagnosis or treatment plan. Such service or recovery plans shall
13 include, but are not limited to, coordinating, evaluating or determining
14 the need for, or the provision of the following services: job training
15 and employability[7]; housing[7]; homeless services and shelters for
16 homeless individuals and families; refugee services; residential, day or
17 community habilitation services; general public assistance[7]; in home
18 services and supports or home-delivered meals[7, ~~investigations conducted~~
19 ~~or assessments made by~~]; recovery supports; adult or child protective
20 services including investigations; detention as defined in section five
21 hundred two of the executive law; prevention and residential services
22 for victims of domestic violence; services for runaway and homeless
23 youth; foster care, adoption, preventive services or services in accord-
24 ance with an approved plan pursuant to section four hundred four of the
25 social services law, including, adoption and foster home studies and
26 assessments, family service plans, transition plans [~~and~~], permanency
27 planning activities, and case planning or case management as such terms
28 are defined in part four hundred twenty-eight of title eighteen of the
29 New York codes, rules and regulations; residential rehabilitation; home
30 and community based services; and de-escalation techniques, peer
31 services or skill development. [~~A license under this article shall not~~
32 ~~be required for persons to participate~~]

33 (c)(i) Prevent a person without a license from participating as a
34 member of a multi-disciplinary team to develop or implement a [~~behav-~~
35 ~~ioral health services or~~] treatment plan; provided [~~however,~~] that such
36 team shall include one or more professionals licensed under this article
37 or articles one hundred thirty-one, one hundred thirty-nine, one hundred
38 fifty-three or one hundred sixty-three of this chapter who must directly
39 observe each patient either in person or by electronic means, prior to
40 the rendering of a diagnosis; and provided, further, that the activities
41 performed by members of the team shall be consistent with the scope of
42 practice for each team member licensed or authorized under title VIII of
43 this chapter, and those who are not so authorized may not independently
44 engage in the following restricted practices, but may assist licensed
45 professionals or multi-disciplinary team members with: the diagnosis of
46 mental, emotional, behavioral, addictive and developmental disorders and
47 disabilities; patient assessment and evaluating; the provision of
48 psychotherapeutic treatment; the provision of treatment other than
49 psychotherapeutic treatment; [~~and/or~~] or the development and implementa-
50 tion of assessment-based treatment plans as defined in section seventy-
51 seven hundred one of this article.

52 (ii) As used in this subdivision, a treatment plan shall be limited to
53 plans for treatment within the following settings: facilities or
54 programs operating pursuant to article nineteen-G of the executive law
55 or pursuant to articles seven, sixteen, thirty-one and thirty-two of the
56 mental hygiene law.

1 (iii) As used in this subdivision, the term "assist" shall include the
2 provision of services within the practice of master social work or clin-
3 ical social work, under the supervision of a person licensed under this
4 article.

5 (d) Provided, further, that nothing in this subdivision shall be
6 construed as requiring a license for any particular activity or function
7 based solely on the fact that the activity or function is not listed in
8 this subdivision.

9 8. Notwithstanding any other provision of law to the contrary, nothing
10 in this article shall be construed to prohibit or limit the activities
11 or services provided by any person who is employed or who commences
12 employment in a program or service operated, regulated, funded, or
13 approved by the department of mental hygiene, the office of children and
14 family services, the department of corrections and community super-
15 vision, the office of temporary and disability assistance, the state
16 office for the aging and the department of health or a local govern-
17 mental unit as that term is defined in section 41.03 of the mental
18 hygiene law or a social services district as defined in section sixty-
19 one of the social services law on or before July first, two thousand
20 twenty. Provided however, that any person who commences employment in
21 such program or service after July first, two thousand twenty and
22 performs services that are restricted under this article shall be appro-
23 priately licensed or authorized under this article.

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

27 8. (a) Prevent a person without a license from: performing assessments
28 such as basic information collection, gathering of demographic data, and
29 informal observations, screening and referral used for general eligibil-
30 ity for a program or service and determining the functional status of an
31 individual for the purpose of determining need for services [~~unrelated~~
32 to a behavioral health diagnosis or treatment plan. Such licensure
33 shall not be required to create, develop or implement a service plan
34 unrelated to a behavioral health diagnosis or treatment plan]; coun-
35 seling individuals regarding the appropriateness of benefits they are
36 eligible for; providing general counseling that is not psychotherapy and
37 assisting individuals or groups with difficult day to day problems such
38 as finding employment, locating sources of assistance, and organizing
39 community groups to work on a specific problem; providing peer services;
40 or to select for suitability and provide substance abuse treatment
41 services or group re-entry services to incarcerated individuals in state
42 correctional facilities.

43 (b) Prevent a person without a license from creating, developing or
44 implementing a service plan or recovery plan that is not a behavioral
45 health diagnosis or treatment plan. Such service or recovery plans shall
46 include, but are not limited to, coordinating, evaluating or determining
47 the need for, or the provision of the following services: job training
48 and employability[7]; housing[7]; homeless services and shelters for
49 homeless individuals and families; refugee services; residential, day or
50 community habilitation services; general public assistance[7]; in home
51 services and supports or home-delivered meals[7, ~~investigations conducted~~
52 or ~~assessments made by~~]; recovery supports; adult or child protective
53 services including investigations; detention as defined in section five
54 hundred two of the executive law; prevention and residential services
55 for victims of domestic violence; services for runaway and homeless
56 youth; foster care, adoption, preventive services or services in accord-

1 ance with an approved plan pursuant to section four hundred four of the
2 social services law, including, adoption and foster home studies and
3 assessments, family service plans, transition plans [~~and~~], permanency
4 planning activities, and case planning or case management as such terms
5 are defined in part four hundred twenty-eight of title eighteen of the
6 New York codes, rules and regulations; residential rehabilitation; home
7 and community based services; and de-escalation techniques, peer
8 services or skill development. [~~A license under this article shall not~~
9 be required for persons to participate]

10 (c)(i) Prevent a person without a license from participating as a
11 member of a multi-disciplinary team to develop or implement a [~~behav-~~
12 ~~ioral health services or~~] treatment plan; provided [~~however,~~] that such
13 team shall include one or more professionals licensed under this article
14 or articles one hundred thirty-one, one hundred thirty-nine, one hundred
15 fifty-three or one hundred fifty-four of this chapter who must directly
16 observe each patient either in person or by electronic means, prior to
17 the rendering of a diagnosis; and provided, further, that the activities
18 performed by members of the team shall be consistent with the scope of
19 practice for each team member licensed or authorized under title VIII of
20 this chapter, and those who are not so authorized may not independently
21 engage in the following restricted practices, but may assist licensed
22 professionals or multidisciplinary team members with: the diagnosis of
23 mental, emotional, behavioral, addictive and developmental disorders and
24 disabilities; patient assessment and evaluating; the provision of
25 psychotherapeutic treatment; the provision of treatment other than
26 psychotherapeutic treatment; [~~and/or~~] or the development and implementa-
27 tion of assessment-based treatment plans as defined in section seventy-
28 seven hundred one of this chapter.

29 (ii) As used in this subdivision, a treatment plan shall be limited to
30 plans for treatment within the following settings: facilities or
31 programs operating pursuant to article nineteen-G of the executive law
32 or pursuant to articles seven, sixteen, thirty-one and thirty-two of the
33 mental hygiene law.

34 (iii) As used in this subdivision, the term "assist" shall include the
35 provision of services within the practice of mental health counseling,
36 marriage and family therapy, creative arts therapy or psychoanalysis,
37 under the supervision of a person licensed under this article.

38 (d) Provided, further, that nothing in this subdivision shall be
39 construed as requiring a license for any particular activity or function
40 based solely on the fact that the activity or function is not listed in
41 this subdivision.

42 9. Notwithstanding any other provision of law to the contrary, nothing
43 in this article shall be construed to prohibit or limit the activities
44 or services provided by any person who is employed or who commences
45 employment in a program or service operated, regulated, funded, or
46 approved by the department of mental hygiene, the office of children and
47 family services, the department of corrections and community super-
48 vision, the office of temporary and disability assistance, the state
49 office for the aging and the department of health or a local govern-
50 mental unit as that term is defined in section 41.03 of the mental
51 hygiene law or a social services district as defined in section sixty-
52 one of the social services law on or before July first, two thousand
53 twenty. Provided however, that any person who commences employment in
54 such program or service after July first, two thousand twenty and
55 performs services that are restricted under this article shall be appro-
56 priately licensed or authorized under this article.

1 § 5. Not later than July 1, 2019 the department of mental hygiene, the
2 office of children and family services, the office of temporary and
3 disability assistance, the department of corrections and community
4 supervision, the state office for the aging, or the department of health
5 (hereinafter referred to as "agencies") shall individually or collec-
6 tively consult with the state education department (hereinafter referred
7 to as "department") to develop formal guidance for service providers
8 authorized to operate under the respective agencies to identify the
9 tasks and functions performed by each agency's service provider work-
10 force categorized as tasks and functions restricted to licensed person-
11 nel including tasks and functions that do not require a license under
12 articles 153, 154 and 163 of the education law. Subsequent to such
13 consultation, and not later than December 31, 2019, the department shall
14 issue guidance to each such agency with respect to each agency's service
15 provider workforce. Each agency may issue additional guidance from time
16 to time, subject to consultation with the department. Notwithstanding
17 any provision of law to the contrary, no person shall be held liable for
18 unauthorized practice of a profession subject to licensure under arti-
19 cles 153, 154 and 163 of the education law if such person acts in
20 accordance with such agency guidance until July 1, 2020, to allow
21 further consultation on guidance as necessary. Upon issuance by such
22 state agency of guidance, the department shall have 180 days from the
23 date of the issuance of such guidance to issue a statement of disagree-
24 ment with the agency's guidance. If the department has issued a state-
25 ment of disagreement, the department and state agency shall engage in a
26 collaborative process to gather input from stakeholders to resolve the
27 issues.

28 § 6. Programs and services operated, regulated, funded, or approved by
29 the department of mental hygiene, the office of children and family
30 services, the department of corrections and community supervision, the
31 office of temporary and disability assistance, the state office for the
32 aging and the department of health or a local governmental unit as the
33 term is defined in section 41.03 of the mental hygiene law or a social
34 services district as defined in section 61 of the social services law
35 shall not be required to receive a waiver pursuant to section 6503-a of
36 the education law and, further, such programs and services shall also be
37 considered to be approved settings for the receipt of supervised experi-
38 ence for the professions governed by articles 153, 154 and 163 of the
39 education law.

40 § 7. Subdivision a of section 9 of chapter 420 of the laws of 2002
41 amending the education law relating to the profession of social work, as
42 amended by section 1 of part J of chapter 59 of the laws of 2016, is
43 amended to read as follows:

44 a. Nothing in this act shall prohibit or limit the activities or
45 services on the part of any person in the employ of a program or service
46 operated, regulated, funded, or approved by the department of mental
47 hygiene, the office of children and family services, the office of
48 temporary and disability assistance, the department of corrections and
49 community supervision, the state office for the aging, the department of
50 health, or a local governmental unit as that term is defined in article
51 41 of the mental hygiene law or a social services district as defined in
52 section 61 of the social services law, provided, however, this section
53 shall not authorize the use of any title authorized pursuant to article
54 154 of the education law, except that this section shall be deemed
55 repealed on July 1, [~~2018~~] 2020.

1 § 8. Subdivision a of section 17-a of chapter 676 of the laws of 2002,
2 amending the education law relating to the practice of psychology, as
3 amended by section 2 of part J of chapter 59 of the laws of 2016, is
4 amended to read as follows:

5 a. In relation to activities and services provided under article 153
6 of the education law, nothing in this act shall prohibit or limit such
7 activities or services on the part of any person in the employ of a
8 program or service operated, regulated, funded, or approved by the
9 department of mental hygiene or the office of children and family
10 services, or a local governmental unit as that term is defined in arti-
11 cle 41 of the mental hygiene law or a social services district as
12 defined in section 61 of the social services law. In relation to activ-
13 ities and services provided under article 163 of the education law,
14 nothing in this act shall prohibit or limit such activities or services
15 on the part of any person in the employ of a program or service oper-
16 ated, regulated, funded, or approved by the department of mental
17 hygiene, the office of children and family services, the department of
18 corrections and community supervision, the office of temporary and disa-
19 bility assistance, the state office for the aging and the department of
20 health or a local governmental unit as that term is defined in article
21 41 of the mental hygiene law or a social services district as defined in
22 section 61 of the social services law, pursuant to authority granted by
23 law. This section shall not authorize the use of any title authorized
24 pursuant to article 153 or 163 of the education law by any such employed
25 person, except as otherwise provided by such articles respectively.
26 This section shall be deemed repealed July 1, [~~2018~~] 2020.

27 § 9. Section 16 of chapter 130 of the laws of 2010, amending the
28 education law and other laws relating to the registration of entities
29 providing certain professional services and the licensure of certain
30 professions, as amended by section 3 of part J of chapter 59 of the laws
31 of 2016, is amended to read as follows:

32 § 16. This act shall take effect immediately; provided that sections
33 thirteen, fourteen and fifteen of this act shall take effect immediately
34 and shall be deemed to have been in full force and effect on and after
35 June 1, 2010 and such sections shall be deemed repealed July 1, [~~2018~~]
36 2020; provided further that the amendments to section 9 of chapter 420
37 of the laws of 2002 amending the education law relating to the profes-
38 sion of social work made by section thirteen of this act shall repeal on
39 the same date as such section repeals; provided further that the amend-
40 ments to section 17-a of chapter 676 of the laws of 2002 amending the
41 education law relating to the practice of psychology made by section
42 fourteen of this act shall repeal on the same date as such section
43 repeals.

44 § 10. This act shall take effect immediately.

45

PART Z

46 Section 1. Subparagraph (vii) of paragraph e of subdivision 3 of
47 section 364-j of the social services law, as amended by section 38 of
48 part A of chapter 56 of the laws of 2013, is amended to read as follows:

49 (vii) a person with a developmental or physical disability who
50 receives home and community-based services or care-at-home services
51 through a demonstration waiver under section eleven hundred fifteen of
52 the federal social security act, existing waivers under section nineteen
53 hundred fifteen (c) of the federal social security act, or who has char-
54 acteristics and needs similar to such persons;

1 § 2. Clause (x) of subparagraph 1 of paragraph (e) of subdivision 5 of
2 section 366 of the social services law, as added by section 26-a of part
3 C of chapter 109 of the laws of 2006, is amended to read as follows:

4 (x) "nursing facility services" means nursing care and health related
5 services provided in a nursing facility; a level of care provided in a
6 hospital which is equivalent to the care which is provided in a nursing
7 facility; and care, services or supplies provided pursuant to a waiver
8 granted pursuant to subsection (c) of section 1915 of the federal social
9 security act or successor federal waiver.

10 § 3. Section 366 of the social services law is amended by adding a new
11 subdivision 7-c to read as follows:

12 7-c. The commissioner of health in consultation with the commissioner
13 of developmental disabilities is authorized to submit the appropriate
14 waivers, including, but not limited to, those authorized pursuant to
15 section eleven hundred fifteen of the federal social security act, in
16 order to achieve the purposes of high-quality and integrated care and
17 services for a population of persons with developmental disabilities, as
18 such term is defined in section 1.03 of the mental hygiene law.

19 § 4. Paragraph (a) of subdivision 2 of section 366-c of the social
20 services law, as amended by section 68 of part A of chapter 56 of the
21 laws of 2013, is amended to read as follows:

22 (a) For purposes of this section an "institutionalized spouse" is a
23 person (i) who is in a medical institution or nursing facility and
24 expected to remain in such facility or institution for at least thirty
25 consecutive days; or (ii) who is receiving care, services and supplies
26 pursuant to a waiver pursuant to subsection (c) of section nineteen
27 hundred fifteen of the federal social security act, or successor to such
28 waiver, or is receiving care, services and supplies in a managed long-
29 term care plan pursuant to section eleven hundred fifteen of the social
30 security act; and (iii) who is married to a person who is not in a
31 medical institution or nursing facility or is not receiving waiver
32 services described in subparagraph (ii) of this paragraph; provided,
33 however, that medical assistance shall be furnished pursuant to this
34 paragraph only if, for so long as, and to the extent that federal finan-
35 cial participation is available therefor. The commissioner of health
36 shall make any amendments to the state plan for medical assistance, or
37 apply for any waiver or approval under the federal social security act
38 that are necessary to carry out the provisions of this paragraph.

39 § 5. The closing paragraph of subdivision 4 of section 366-c of the
40 social services law, as amended by section 42 of part D of chapter 58 of
41 the laws of 2009, is amended to read as follows:

42 provided, however, that, to the extent required by federal law, the
43 terms of this subdivision shall not apply to persons who are receiving
44 care, services and supplies pursuant to the following waivers under
45 section 1915(c) of the federal social security act: the nursing facility
46 transition and diversion waiver authorized pursuant to subdivision six-a
47 of section three hundred sixty-six of this title; the traumatic brain
48 injury waiver authorized pursuant to section twenty-seven hundred forty
49 of the public health law, the long term home health care program waiver
50 authorized pursuant to section three hundred sixty-seven-c of this
51 title, and the home and community based services waiver for persons with
52 developmental disabilities, or successor to such waiver, administered by
53 the office [~~of mental retardation and~~] for people with developmental
54 disabilities pursuant to an agreement with the federal centers for medi-
55 care and Medicaid services.

1 § 6. Paragraph 4 of subdivision (a) of section 16.03 of the mental
2 hygiene law, as added by section 6 of part MM of chapter 58 of the laws
3 of 2015, is amended to read as follows:

4 (4) The provision of home and community based services approved under
5 a waiver program authorized pursuant to section eleven hundred fifteen
6 of the federal social security act or subdivision (c) of section nine-
7 teen hundred fifteen of the federal social security act and subdivisions
8 seven and seven-a of section three hundred sixty-six of the social
9 services law, provided that an operating certificate issued pursuant to
10 this paragraph shall only authorize services in a home or community
11 setting.

12 § 7. Paragraph 2 of subdivision (a) of section 16.11 of the mental
13 hygiene law, as added by section 10 of part MM of chapter 58 of the laws
14 of 2015, is amended to read as follows:

15 (2) The review of providers of services, as defined in paragraph four
16 of subdivision (a) of section 16.03 of this article, shall ensure that
17 the provider of services complies with all the requirements of the
18 applicable federal home and community based services waiver program, or
19 other successor Medicaid waiver program, and applicable federal regu-
20 lation, subdivisions seven and seven-a of section three hundred sixty-
21 six of the social services law and rules and regulations adopted by the
22 commissioner.

23 § 8. Subdivision (b) of section 80.03 of the mental hygiene law, as
24 amended by chapter 37 of the laws of 2011, is amended to read as
25 follows:

26 (b) "A patient in need of surrogate decision-making" means a patient
27 as defined in subdivision twenty-three of section 1.03 of this chapter
28 who is: a resident of a mental hygiene facility including a resident of
29 housing programs funded by an office of the department or whose federal
30 funding application was approved by an office of the department or for
31 whom such facility maintains legal admission status therefor; or,
32 receiving home and community-based services for persons with mental
33 disabilities provided pursuant to section 1915 or 1115 of the federal
34 social security act; or receiving individualized support services; or,
35 case management or service coordination funded, approved, or provided by
36 the office for people with developmental disabilities; and, for whom
37 major medical treatment is proposed, and who is determined by the surro-
38 gate decision-making committee to lack the ability to consent to or
39 refuse such treatment, but shall not include minors with parents or
40 persons with legal guardians, committees or conservators who are legally
41 authorized, available and willing to make such health care decisions.
42 Once a person is eligible for surrogate decision-making, such person may
43 continue to receive surrogate decision-making as authorized by this
44 section regardless of a change in residential status.

45 § 9. Subdivision 1-a of section 84 of part A of chapter 56 of the laws
46 of 2013, amending the social services law and other laws relating to
47 enacting the major components of legislation necessary to implement the
48 health and mental hygiene budget for the 2013-2014 state fiscal year, is
49 amended to read as follows:

50 ~~[1-a. sections seventy three through eighty a shall expire and be~~
51 ~~deemed repealed September 30, 2019]~~

52 § 10. Paragraph (a-1) of subdivision 8 of section 4403 of the public
53 health law, as amended by chapter 474 of the laws of 2015, is amended to
54 read as follows:

55 (a-1) If the commissioner and the commissioner of the office for
56 people with developmental disabilities determine that such organization

1 lacks the experience required in paragraph (a) of this subdivision, the
2 organization shall have an affiliation arrangement with an entity or
3 entities that are controlled by non-profit organizations with experience
4 serving persons with developmental disabilities, as demonstrated by
5 criteria to be determined by the commissioner and the commissioner of
6 the office for people with developmental disabilities, with such crite-
7 ria including, but not limited to, residential, day, and employment
8 services such that the affiliated entity will coordinate and plan
9 services operated, certified, funded, authorized or approved by the
10 office for people with developmental disabilities or will oversee and
11 approve such coordination and planning;

12 § 11. Section 97 of chapter 659 of the laws of 1997, amending the
13 public health law and other laws relating to creation of continuing care
14 retirement communities, as amended by section 20 of part D of chapter 57
15 of the laws of 2015, is amended to read as follows:

16 § 97. This act shall take effect immediately, provided, however, that
17 the amendments to subdivision 4 of section 854 of the general municipal
18 law made by section seventy of this act shall not affect the expiration
19 of such subdivision and shall be deemed to expire therewith and provided
20 further that sections sixty-seven and sixty-eight of this act shall
21 apply to taxable years beginning on or after January 1, 1998 and
22 provided further that sections eighty-one through eighty-seven of this
23 act shall expire and be deemed repealed on December 31, ~~2019~~ 2024 and
24 provided further, however, that the amendments to section ninety of this
25 act shall take effect January 1, 1998 and shall apply to all policies,
26 contracts, certificates, riders or other evidences of coverage of long
27 term care insurance issued, renewed, altered or modified pursuant to
28 section 3229 of the insurance law on or after such date.

29 § 12. Paragraph (a-1) of subdivision 12 of section 4403-f of the
30 public health law, as amended by chapter 474 of the laws of 2015, is
31 amended to read as follows:

32 (a-1) If the commissioner and the commissioner of the office for
33 people with developmental disabilities determine that such plan lacks
34 the experience required in paragraph (a) of this subdivision, the plan
35 shall have an affiliation arrangement with an entity or entities that
36 are controlled by non-profit organizations with experience serving
37 persons with developmental disabilities, as demonstrated by criteria to
38 be determined by the commissioner and the commissioner of the office for
39 people with developmental disabilities, with such criteria including,
40 but not limited to, residential, day and employment services, such that
41 the affiliated entity will coordinate and plan services operated, certi-
42 fied, funded, authorized or approved by the office for people with
43 developmental disabilities or will oversee and approve such coordination
44 and planning;

45 § 13. Paragraph (d) of subdivision 1 of section 4403-g of the public
46 health law, as added by section 73 of part A of chapter 56 of the laws
47 of 2013, is amended to read as follows:

48 (d) "Health and long term care services" means comprehensive health
49 services and other services as determined by the commissioner and the
50 commissioner of the office for people with developmental disabilities,
51 whether provided by state-operated programs or not-for-profit entities,
52 including, but not limited to, habilitation services, home and communi-
53 ty-based and institution-based long term care services, and ancillary
54 services, that shall include medical supplies and nutritional supple-
55 ments, that are necessary to meet the needs of persons whom the plan is
56 authorized to enroll[~~, and may include primary care and acute care if~~

1 ~~the DISCO is authorized to provide or arrange for such services~~]. Each
2 person enrolled in a DISCO shall receive health and long term care
3 services designed to achieve person-centered outcomes, to enable that
4 person to live in the most integrated setting appropriate to that
5 person's needs, and to enable that person to interact with nondisabled
6 persons to the fullest extent possible in social, workplace and other
7 community settings, provided that all such services are consistent with
8 such person's wishes to the extent that such wishes are known and in
9 accordance with such person's needs.

10 § 14. Paragraph (b) of subdivision 3 of section 4403-g of the public
11 health law, as added by section 73 of part A of chapter 56 of the laws
12 of 2013, is amended to read as follows:

13 (b) A description of the services to be covered by such DISCO, which
14 must include all health and long term care services, as defined in para-
15 graph (d) of subdivision one of this section, and other services as
16 determined by the commissioner and the commissioner of the office for
17 people with developmental disabilities;

18 § 15. Paragraph (j) of subdivision 4 of section 4403-g of the public
19 health law, as added by section 73 of part A of chapter 56 of the laws
20 of 2013, is amended to read as follows:

21 (j) Readiness and capability [~~to arrange and manage covered services~~]
22 of organizing, marketing, managing, promoting and operating a health and
23 long term care services plan, or has an affiliation agreement with an
24 entity that has such readiness and capability;

25 § 16. Subdivision (c) of section 62 of chapter 165 of the laws of
26 1991, amending the public health law and other laws relating to estab-
27 lishing payments for medical assistance, as amended by section 17 of
28 part D of chapter 57 of the laws of 2015, is amended to read as follows:

29 (c) section 364-j of the social services law, as amended by section
30 eight of this act and subdivision 6 of section 367-a of the social
31 services law as added by section twelve of this act shall expire and be
32 deemed repealed on March 31, ~~2019~~ 2024 and provided further, that the
33 amendments to the provisions of section 364-j of the social services law
34 made by section eight of this act shall only apply to managed care
35 programs approved on or after the effective date of this act;

36 § 17. Subdivision (c) of section 13.40 of the mental hygiene law, as
37 added by section 72-b of part A of chapter 56 of the laws of 2013, is
38 amended to read as follows:

39 (c) No person with a developmental disability who is receiving or
40 applying for medical assistance and who is receiving, or eligible to
41 receive, services operated, funded, certified, authorized or approved by
42 the office, shall be required to enroll in a DISCO, HMO or MLTC in order
43 to receive such services until program features and reimbursement rates
44 are approved by the commissioner and the commissioner of health, and
45 until such commissioners determine that a sufficient number of plans
46 that are authorized to coordinate care for individuals pursuant to this
47 section or that are authorized to operate and to exclusively enroll
48 persons with developmental disabilities pursuant to subdivision twenty-
49 seven of section three hundred sixty-four-j of the social services law
50 are operating in such person's county of residence to meet the needs of
51 persons with developmental disabilities, and that such entities meet the
52 standards of this section. No person shall be required to enroll in a
53 DISCO, HMO or MLTC in order to receive services operated, funded, certi-
54 fied, authorized or approved by the office until there are at least two
55 entities operating under this section in such person's county of resi-
56 dence, unless federal approval is secured to require enrollment when

1 there are less than two such entities operating in such county. Notwith-
 2 standing the foregoing or any other law to the contrary, any health care
 3 provider: (i) enrolled in the Medicaid program and (ii) rendering hospi-
 4 tal services, as such term is defined in section twenty-eight hundred
 5 one of the public health law, to an individual with a developmental
 6 disability who is enrolled in a DISCO, HMO or MLTC, or a prepaid health
 7 services plan operating pursuant to section forty-four hundred three-a
 8 of the public health law, including, but not limited to, an individual
 9 who is enrolled in a plan authorized by section three hundred sixty-
 10 four-j or the social services law, shall accept as full reimbursement
 11 the negotiated rate or, in the event that there is no negotiated rate,
 12 the rate of payment that the applicable government agency would other-
 13 wise pay for such rendered hospital services.

14 § 18. Section 11 of chapter 710 of the laws of 1988, amending the
 15 social services law and the education law relating to medical assistance
 16 eligibility of certain persons and providing for managed medical care
 17 demonstration programs, as amended by section 1 of part F of chapter 73
 18 of the laws of 2016, is amended to read as follows:

19 § 11. This act shall take effect immediately; except that the
 20 provisions of sections one, two, three, four, eight and ten of this act
 21 shall take effect on the ninetieth day after it shall have become a law;
 22 and except that the provisions of sections five, six and seven of this
 23 act shall take effect January 1, 1989; and except that effective imme-
 24 diately, the addition, amendment and/or repeal of any rule or regulation
 25 necessary for the implementation of this act on its effective date are
 26 authorized and directed to be made and completed on or before such
 27 effective date; provided, however, that the provisions of section 364-j
 28 of the social services law, as added by section one of this act shall
 29 expire and be deemed repealed on and after March 31, [~~2019~~ 2024, the
 30 provisions of section 364-k of the social services law, as added by
 31 section two of this act, except subdivision 10 of such section, shall
 32 expire and be deemed repealed on and after January 1, 1994, and the
 33 provisions of subdivision 10 of section 364-k of the social services
 34 law, as added by section two of this act, shall expire and be deemed
 35 repealed on January 1, 1995.

36 § 19. This act shall take effect immediately; provided, however, that
 37 the amendments to subparagraph (vii) of paragraph e of subdivision 3 of
 38 section 364-j of the social services law made by section one of this act
 39 shall not affect the repeal of such section and shall be deemed repealed
 40 therewith; provided further, however, that the amendments to subdivision
 41 4 of section 366-c of the social services law made by section five of
 42 this act shall not affect the expiration of such subdivision and shall
 43 be deemed to expire therewith; provided further, however, that the
 44 amendments to paragraph (a-1) of subdivision 12 of section 4403-f of the
 45 public health law made by section twelve of this act shall not affect
 46 the repeal of such section and shall be deemed to be repealed therewith.

47 PART AA

48 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
 49 57 of the laws of 2006, relating to establishing a cost of living
 50 adjustment for designated human services programs, as amended by section
 51 1 of part Q of chapter 57 of the laws of 2017, are amended to read as
 52 follows:

53 3-b. Notwithstanding any inconsistent provision of law, beginning
 54 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and

1 ending March 31, [~~2018~~] 2019, the commissioners shall not include a COLA
2 for the purpose of establishing rates of payments, contracts or any
3 other form of reimbursement, provided that the commissioners of the
4 office for people with developmental disabilities, the office of mental
5 health, and the office of alcoholism and substance abuse services shall
6 not include a COLA beginning April 1, 2017 and ending March 31, 2019.

7 3-c. Notwithstanding any inconsistent provision of law, beginning
8 April 1, [~~2018~~] 2019 and ending March 31, [~~2021~~] 2022, the commissioners
9 shall develop the COLA under this section using the actual U.S. consumer
10 price index for all urban consumers (CPI-U) published by the United
11 States department of labor, bureau of labor statistics for the twelve
12 month period ending in July of the budget year prior to such state
13 fiscal year, for the purpose of establishing rates of payments,
14 contracts or any other form of reimbursement.

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, 2018; provided,
17 however, that the amendments to section 1 of part C of chapter 57 of the
18 laws of 2006 made by section one of this act shall not affect the repeal
19 of such section and shall be deemed repealed therewith.

20

PART BB

21 Section 1. Section 3302 of the public health law is amended by adding
22 a new subdivision 44 to read as follows:

23 44. "Controlled substance analog" means

24 (a) a capsule, liquid, pill, powder, product, spray, tablet or other
25 substance, however constituted:

26 (i) the chemical structure of which is derivative of, or substantially
27 similar to, the chemical structure of a controlled substance; or

28 (ii) which has a stimulant, depressant, or hallucinogenic effect on
29 the central nervous system that is substantially similar to or greater
30 than the stimulant, depressant, or hallucinogenic effect on the central
31 nervous system of a controlled substance; or

32 (iii) with respect to a particular person, which such person repres-
33 ents or intends to have the stimulant, depressant, or hallucinogenic
34 effect on the central nervous system of a controlled substance.

35 (b) "Controlled substance analog" does not include:

36 (i) a controlled substance;

37 (ii) any substance for which there is an approved new drug applica-
38 tion;

39 (iii) with respect to a particular person, any substance, if an
40 exemption is in effect for investigational use, for that person, under
41 21 USCA § 355, to the extent the conduct with respect to the substance
42 is pursuant to such exemption; or

43 (iv) any compound, mixture, or preparation that contains any
44 controlled substance or controlled substance analog that is not for
45 administration to a human being or animal, and that is packaged in such
46 a form or concentration, or with adulterants or denaturants, so that as
47 packaged it does not present any significant potential for abuse.

48 (c) Controlled substance analog treated as a Schedule I substance. A
49 controlled substance analog must be treated, for the purposes of any New
50 York State statute or regulation, as a substance included in Schedule I
51 of section thirty-three hundred six of this article.

52 § 2. Subdivision (a) of schedule I of section 3306 of the public
53 health law, as added by chapter 664 of the laws of 1985, is amended to
54 read as follows:

1 (a) Schedule I shall consist of the drugs and other substances, by
2 whatever official name, common or usual name, chemical name, or brand
3 name designated, listed in this section, and controlled substance
4 analogs as defined by subdivision forty-four of section thirty-three
5 hundred two of this article.

6 § 3. Subdivision 5 of section 220.00 of the penal law, as amended by
7 chapter 537 of the laws of 1998, is amended to read as follows:

8 5. "Controlled substance" means any substance listed in schedule I,
9 II, III, IV or V of section thirty-three hundred six of the public
10 health law other than marihuana, but including concentrated cannabis as
11 defined in paragraph (a) of subdivision four of section thirty-three
12 hundred two of such law, and including controlled substance analogs as
13 defined in subdivision forty-four of section thirty-three hundred two of
14 such law.

15 § 4. Subdivision (b) of schedule I of section 3306 of the public
16 health law is amended by adding nineteen new paragraphs 56, 57, 58, 59,
17 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73 and 74 to read as
18 follows:

19 (56) 3,4-dichloro-N-{(1-dimethylamino) cyclohexylmethyl}benzamide.

20 Some trade or other names: AH-7921.

21 (57) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fenta-
22 nyl).

23 (58) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide (Butyryl Fenta-
24 nyl).

25 (59) N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenyl-
26 propionamide (Beta-Hydroxythiofentanyl).

27 (60) N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide (Fura-
28 nyl Fentanyl).

29 (61) U-47700(3,4-Dichloro-N-{2-(dimethylaminio)cyclohexyl}-N- methyl-
30 benzamide).

31 (62) N-Phenyl-N-{1-(2-phenylethyl)piperidin-4-yl}prop-2-enamide (Acryl
32 Fentanyl or Acryloylfentanyl). Some trade or other names:

33 N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide; N-phenyl-N-{1-(2-
34 phenylethyl)-4-piperidinyl}-2-propenamamide.

35 (63) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.

36 Other names: 4-fluoroisobutyryl fentanyl, para-fluoroisobutyryl fenta-
37 nyl).

38 (64) N-(2-fluorophenyl)-N-(1-phenelthylpiperidin-4-yl)propionamide(Ort-
39 ho-Fluorofentanyl or 2-fluorofentanyl).

40 (65) N-(1-phenelthylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxami-
41 de(Tetrahydrofuranyl Fentanyl).

42 (66) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide(Methoxy-
43 acetyl Fentanyl).

44 (67) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide.

45 Some trade or other names: Cyclopropyl Fentanyl.

46 (68) N-(1-phenethylpiperidin-4-yl)-N-phenylpentamide. Some trade or
47 other names: Valeryl Fentanyl.

48 (69) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Some
49 trade or other names: Para-fluorobutyryl Fentanyl.

50 (70) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Some
51 trade or other names: Para-methoxybutyryl Fentanyl.

52 (71) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.

53 Some trade or other names: Para-chlorisobutyryl Fentanyl.

54 (72) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide. Some trade
55 or other names: Isobutyryl Fentanyl.

1 (73) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide.
2 Some trade or other names: Cyclopentyl Fentanyl.

3 (74) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide.
4 Some trade or other names: Ocfentanil.

5 § 5. Subdivision (d) of schedule I of section 3306 of the public
6 health law is amended by adding thirty-six new paragraphs 36, 37, 38,
7 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56,
8 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71 to read as
9 follows:

10 (36) 5-methoxy-N,N-dimethyltryptamine.

11 (37) Alpha-methyltryptamine. Some trade or other names: AMT.

12 (38) 5-methoxy-N,N-diisopropyltryptamine. Some trade or other names:
13 5-MeO-DIPT.

14 (39) 5-(1,1-dimethylheptyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol.
15 Some trade or other names: CP-47,497.

16 (40) 5-(1,1-dimethyloctyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol.
17 Some trade or other names: cannabicyclohexanol or CP-47,497 C8-homolog.

18 (41) 1-pentyl-3-(1-naphthoyl)indole. Some trade of other names:
19 JWH-018 and AM678.

20 (42) 1-butyl-3-(1-naphthoyl)indole. Some trade of other names:
21 JWH-073.

22 (43) 1-hexyl-3-(1-naphthoyl)indole. Some trade of other names:
23 JWH-019.

24 (44) 1-{2-(4-morpholinyl)ethyl}-3-(1-naphthoyl)indole. Some trade or
25 other names: JWH-200.

26 (45) 1-pentyl-3-(2-methoxyphenylacetyl)indole. Some trade or other
27 names: JWH-250.

28 (46) 1-pentyl-3-{1-(4-methoxynaphthoyl)}indole. Some trade or other
29 names: JWH-081.

30 (47) 1-pentyl-3-(4-methyl-1-naphthoyl)indole. Some trade or other
31 names: JWH-122.

32 (48) 1-pentyl-3-(4-chloro-1-naphthoyl)indole. Some trade or other
33 names: JWH-398.

34 (49) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole. Some trade or other
35 names: AM2201.

36 (50) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole. Some trade or other
37 names: AM694.

38 (51) 1-pentyl-3-((4-methoxy)-benzoyl)indole. Some trade or or other
39 names: SR-19 and RCS-4.

40 (52) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole. Some trade or
41 other names: SR-18 and RCS-8.

42 (53) 1-pentyl-3-(2-chlorophenylacetyl) indole. Some trade or other
43 names: JWH-203.

44 (54) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) metha-
45 none. Some trade or other names: UR-144.

46 (55) {1-(5-fluoro-pentyl)-1H-indol-3-yl}(2,2,3,3-tetramethylcycloprop-
47 yl) methanone. Some trade names or other names: 5-fluoro-UR-144, XLR11.

48 (56) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide. Some trade or
49 other names: APINACA, AKB48.

50 (57) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate. Some trade or
51 other names: PB-22; OUPIC.

52 (58) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate. Some
53 trade or other names: 5-fluoro-PB-22; 5F-PB-22.

54 (59) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazo-
55 le-3-carboxamide. Some trade or other names: AB-FUBINACA.

1 (60) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-
2 indazole-3-carboxamide. Some trade or other names: ADB-PINACA.

3 (61) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-
4 indazole-3-carboxamide. Some trade or other names: AB-CHMINACA.

5 (62) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-car-
6 boxamide. Some trade or other names: AB-PINACA.

7 (63) {1-(5-fluoropentyl)-1H-indazol-3-yl}(naphthalen-1-yl)methanone.
8 Some trade or other names: THJ-2201.

9 (64) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-
10 indazole-3-carboxamide. Some trade or other names: MAB-CHMINACA;
11 ADB-CHMINACA.

12 (65) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3, 3-di-
13 methylbutanoate. Some trade or other names: 5F-ADB; 5F-MDMB-PINACA.

14 (66) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3- carboxamido-3-methyl-
15 butanoate. Some trade or other names: 5F-AMB.

16 (67) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide.
17 Some trade or other names: 5F-APINACA, 5F-AKB48.

18 (68) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-in-
19 dazole-3-carboxamide. Some trade or other names: ADB-FUBINACA.

20 (69) methyl 2-(1-cyclohexlmethyl)-1H-indole-3-carboxamido)-3,3-dimeth-
21 ylbutanoate. Some trade or other names: MDMB-CHMICA, MMB-CHMINACA.

22 (70) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimet-
23 hylbutanoate. Some trade or other names: MDMB-FUBINACA.

24 (71) methyl-2(1-(4-flurobenzyl)-1H-indazole-3-carboxamido)-3-methylbut-
25 anoate. Some trade or other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA.

26 § 6. Section 3308 of the public health law is amended by adding a new
27 subdivision 7 to read as follows:

28 7. The commissioner may, by regulation, classify as a Schedule I
29 controlled substance in section thirty-three hundred six of this title
30 any substance listed as an opiate, a hallucinogenic substance, a canna-
31 bimimetic agent or a fentanyl-related substance in Schedule I of the
32 federal schedules of controlled substances in 21 USC §812 or 21 CFR
33 §1308.11(b), (d), (g), (h) or (i).

34 § 7. This act shall take effect on the ninetieth day after it shall
35 have become a law.

36 PART CC

37 Section 1. Subdivision 28 of section 6530 of the education law, as
38 added by chapter 606 of the laws of 1991, is amended to read as follows:

39 28. Failing to respond within [~~thirty~~ **ten**] days to written communi-
40 cations from the department of health and to make available any relevant
41 records with respect to an inquiry or complaint about the licensee's
42 professional misconduct. The period of [~~thirty~~ **ten**] days shall commence
43 on the date when such communication was delivered personally to the
44 licensee. If the communication is sent from the department of health by
45 registered or certified mail, with return receipt requested, to the
46 address appearing in the last registration, the period of [~~thirty~~ **ten**]
47 days shall commence on the date of delivery to the licensee, as indi-
48 cated by the return receipt;

49 § 2. Subdivision 4 of section 206 of the public health law, as amended
50 by chapter 602 of the laws of 2007, is amended to read as follows:

51 4. The commissioner may:

52 (a) issue subpoenas, compel the attendance of witnesses and compel
53 them to testify in any matter or proceeding before him, and may also

1 require a witness to attend and give testimony in a county where he
2 resides or has a place of business without the payment of any fees;

3 (b) require, in writing, the production of any and all relevant docu-
4 ments in the possession or control of an individual or entity subject to
5 an investigation or inquiry under this chapter. Unless a shorter period
6 is specified in such writing, as determined for good cause by the
7 commissioner, the required documents shall be produced no later than ten
8 days after the delivery of the writing. Failure by the subject individ-
9 ual or entity to produce to the department the required documents within
10 the ten day or otherwise specified period shall be a violation or fail-
11 ure within the meaning of paragraph (d) of this subdivision. Each addi-
12 tional day of non-production shall be a separate violation or failure;

13 (c) annul or modify an order, regulation, by-law or ordinance of a
14 local board of health concerning a matter which in his judgment affects
15 the public health beyond the territory over which such local board of
16 health has jurisdiction;

17 [~~(e)~~] (d) assess any penalty prescribed for a violation of or a fail-
18 ure to comply with any term or provision of this chapter or of any
19 lawful notice, order or regulation pursuant thereto, not exceeding two
20 thousand dollars for every such violation or failure, which penalty may
21 be assessed after a hearing or an opportunity to be heard;

22 [~~(d)~~] (e) assess civil penalties against a public water system which
23 provides water to the public for human consumption through pipes or
24 other constructed conveyances, as further defined in the state sanitary
25 code or, in the case of mass gatherings, the person who holds or
26 promotes the mass gathering as defined in subdivision five of section
27 two hundred twenty-five of this article not to exceed twenty-five thou-
28 sand dollars per day, for each violation of or failure to comply with
29 any term or provision of the state sanitary code as it relates to public
30 water systems that serve a population of five thousand or more persons
31 or any mass gatherings, which penalty may be assessed after a hearing or
32 an opportunity to be heard[-]; and

33 (f) seek to obtain a warrant based on probable cause from a judicial
34 officer authorized to issue a warrant. Such warrant authorizes the
35 commissioner and any person authorized by him to have the authority to
36 search all grounds, erections, vehicles, structures, apartments, build-
37 ings, places and the contents therein and to seize any books, records,
38 papers, documents, computers, electronic devices and other physical
39 objects.

40 § 3. Paragraph (b) of subdivision 12 of section 230 of the public
41 health law, as amended by chapter 599 of the laws of 1996, is amended to
42 read as follows:

43 (b) When a licensee has pleaded or been found guilty or convicted of
44 committing an act constituting a felony under New York state law or
45 federal law, or the law of another jurisdiction which, if committed
46 within this state, would have constituted a felony under New York state
47 law, or when a licensee has been charged with committing an act consti-
48 tuting a felony under New York state or federal law or the law of anoth-
49 er jurisdiction, where the licensee's alleged conduct may present a risk
50 to patients or to the public, which, if committed within this state,
51 would have constituted a felony under New York state law, or when the
52 duly authorized professional disciplinary agency of another jurisdiction
53 has made a finding substantially equivalent to a finding that the prac-
54 tice of medicine by the licensee in that jurisdiction constitutes an
55 imminent danger to the health of its people, or when a licensee has been
56 disciplined by a duly authorized professional disciplinary agency of

1 another jurisdiction for acts which if committed in this state would
2 have constituted the basis for summary action by the commissioner pursu-
3 ant to paragraph (a) of this subdivision, the commissioner, after a
4 recommendation by a committee of professional conduct of the state board
5 for professional medical conduct, may order the licensee, by written
6 notice, to discontinue or refrain from practicing medicine in whole or
7 in part or to take certain actions authorized pursuant to this title
8 immediately. The order of the commissioner shall constitute summary
9 action against the licensee and become public upon issuance. The summary
10 suspension shall remain in effect until the final conclusion of a hear-
11 ing which shall commence within ninety days of the date of service of
12 the commissioner's order, end within ninety days thereafter and other-
13 wise be held in accordance with paragraph (a) of this subdivision,
14 provided, however, that when the commissioner's order is based upon a
15 finding substantially equivalent to a finding that the practice of medi-
16 cine by the licensee in another jurisdiction constitutes an imminent
17 danger to the health of its people, the hearing shall commence within
18 thirty days after the disciplinary proceedings in that jurisdiction are
19 finally concluded. If, at any time, the felony charge is dismissed,
20 withdrawn or reduced to a non-felony charge, the commissioner's summary
21 order shall terminate.

22 § 4. This act shall take effect immediately.

23

PART DD

24 Section 1. Subdivisions 2 and 4 of section 6801 of the education law,
25 as amended by chapter 46 of the laws of 2015, are amended to read as
26 follows:

27 2. A licensed pharmacist may execute a non-patient specific regimen
28 prescribed or ordered by a physician licensed in this state or nurse
29 practitioner certified in this state, pursuant to rules and regulations
30 promulgated by the commissioner. When a licensed pharmacist administers
31 an immunizing agent, he or she shall:

32 (a) report such administration by electronic transmission or [~~facsi-~~
33 ~~mile~~] facsimile to the patient's attending primary health care practi-
34 tioner or practitioners, if any, and, to the extent practicable, make
35 himself or herself available to discuss the outcome of such immuniza-
36 tion, including any adverse reactions, with the attending primary health
37 care practitioner, or to the statewide immunization registry or the
38 citywide immunization registry, as established pursuant to section twen-
39 ty-one hundred sixty-eight of the public health law; and

40 (b) provide information to the patient or, where applicable, the
41 person legally responsible for the patient, on the importance of having
42 a primary health care practitioner, developed by the commissioner of
43 health; and

44 (c) report such administration, absent of any individually identifi-
45 able health information, to the department of health in a manner
46 required by the commissioner of health[~~-~~]; and

47 (d) prior to administering the immunization, inform the patient or,
48 where applicable, the person legally responsible for the patient, of the
49 total cost of the immunization or immunizations, subtracting any health
50 insurance subsidization, if applicable. In the case the immunization is
51 not covered, the pharmacist must inform the patient or, where applica-
52 ble, the person legally responsible for the patient, of the possibility
53 that the immunization may be covered when administered by a primary care
54 physician or practitioner; and

1 (e) administer the immunization or immunizations according to the most
2 current recommendations by the advisory committee for immunization prac-
3 tices (ACIP), provided however, that a pharmacist may administer any
4 immunization authorized under this section when specified by a patient
5 specific order.

6 4. When administering an immunization in a pharmacy, the licensed
7 pharmacist shall provide an area for the immunization that provides for
8 a patient's privacy. The privacy area should include:

9 a. a clearly visible posting of the most current "Recommended Adult
10 Immunization Schedule" published by the advisory committee for immuniza-
11 tion practices (ACIP); and

12 (b) education materials on influenza vaccinations for children as
13 determined by the commissioner and the commissioner of health.

14 § 2. Subdivision 22 of section 6802 of the education law, as amended
15 by chapter 46 of the laws of 2015, is amended to read as follows:

16 22. "Administer", for the purpose of section sixty-eight hundred one
17 of this article, means:

18 a. the direct application of an immunizing agent to adults, whether by
19 injection, ingestion, inhalation or any other means, pursuant to a
20 patient specific order or non-patient specific regimen prescribed or
21 ordered by a physician or certified nurse practitioner, who has a prac-
22 tice site in the county or adjoining county in which the immunization is
23 administered, for immunizations to prevent influenza, pneumococcal,
24 acute herpes zoster, meningococcal, tetanus, diphtheria or pertussis
25 disease and medications required for emergency treatment of anaphylaxis.
26 If the commissioner of health determines that there is an outbreak of
27 disease, or that there is the imminent threat of an outbreak of disease,
28 then the commissioner of health may issue a non-patient specific regimen
29 applicable statewide.

30 b. the direct application of an immunizing agent to children between
31 the ages of two and eighteen years of age, whether by injection, inges-
32 tion, inhalation or any other means, pursuant to a patient specific
33 order or non-patient specific regimen prescribed or ordered by a physi-
34 cian or certified nurse practitioner, who has a practice site in the
35 county or adjoining county in which the immunization is administered,
36 for immunization to prevent influenza and medications required for emer-
37 gency treatment of anaphylaxis resulting from such immunization. If the
38 commissioner of health determines that there is an outbreak of influen-
39 za, or that there is the imminent threat of an outbreak of influenza,
40 then the commissioner of health may issue a non-patient specific regimen
41 applicable statewide.

42 § 3. Section 8 of chapter 563 of the laws of 2008, amending the educa-
43 tion law and the public health law relating to immunizing agents to be
44 administered to adults by pharmacists, as amended by chapter 46 of the
45 laws of 2015, is amended to read as follows:

46 § 8. This act shall take effect on the ninetieth day after it shall
47 have become a law [~~and shall expire and be deemed repealed July 1,~~
48 ~~2019~~].

49 § 4. Section 5 of chapter 116 of the laws of 2012, amending the educa-
50 tion law relating to authorizing a licensed pharmacist and certified
51 nurse practitioner to administer certain immunizing agents, as amended
52 by chapter 46 of the laws of 2015, is amended to read as follows:

53 § 5. This act shall take effect on the ninetieth day after it shall
54 have become a law [~~and~~], provided, however, that the provisions of
55 sections one, two and four of this act shall expire and be deemed
56 repealed July 1, 2019 provided, that:

1 (a) the amendments to subdivision 7 of section 6527 of the education
2 law made by section one of this act shall not affect the repeal of such
3 subdivision and shall be deemed to be repealed therewith;

4 (b) the amendments to subdivision 7 of section 6909 of the education
5 law, made by section two of this act shall not affect the repeal of such
6 subdivision and shall be deemed to be repealed therewith;

7 (c) the amendments to subdivision 22 of section 6802 of the education
8 law made by section three of this act shall not affect the repeal of
9 such subdivision and shall be deemed to be repealed therewith; and

10 (d) the amendments to section 6801 of the education law made by
11 section four of this act shall not affect the expiration of such section
12 and shall be deemed to expire therewith.

13 § 5. Section 5 of chapter 21 of the laws of 2011, amending the educa-
14 tion law relating to authorizing pharmacists to perform collaborative
15 drug therapy management with physicians in certain settings, as amended
16 by chapter 238 of the laws of 2015, is amended to read as follows:

17 § 5. This act shall take effect on the one hundred twentieth day after
18 it shall have become a law [~~and~~], provided, however, that the provisions
19 of sections two, three, and four of this act shall expire 7 years after
20 such effective date when upon such date the provisions of this act shall
21 be deemed repealed; provided, however, that the amendments to subdivi-
22 sion 1 of section 6801 of the education law made by section one of this
23 act shall be subject to the expiration and reversion of such subdivision
24 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such
25 date the provisions of section one-a of this act shall take effect;
26 provided, further, that effective immediately, the addition, amendment
27 and/or repeal of any rule or regulation necessary for the implementation
28 of this act on its effective date are authorized and directed to be made
29 and completed on or before such effective date.

30 § 6. This act shall take effect immediately.

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

40 § 3. This act shall take effect immediately provided, however, that
41 the applicable effective date of Parts A through DD of this act shall be
42 as specifically set forth in the last section of such Parts.